



of Bosanska Krupa by creating, through the use of military force, the so-called Serb Municipality of Bosanska Krupa as an area populated by an absolute Serb majority, where Serbs could assert control in all areas of power and administration and, during the same time, in the above listed capacities knowingly participated in a Joint Criminal Enterprise, which had also come into existence as of Summer 1991, together with, RADOVAN KARADŽIĆ, MOMČILO KRAJIŠNIK, VOJISLAV MAKSIMOVIĆ, GOJKO KLIČKOVIĆ and other members of the Main Board of the SDS and other members of the SDS at the national level, which Joint Criminal Enterprise was also joined by JOVAN OSTOJIĆ as of 14 July 1992, which shared a plan to link Serb-populated areas in BiH together, to gain and maintain control over these areas and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed.

MLADEN DRLJAČA, being fully aware that the execution of the plans of the above Joint Criminal Enterprises would entail either as a necessity, or as a natural and foreseeable consequence all of the crimes that form part of this indictment, by his acts and omissions planned, instigated, ordered, perpetrated (including by participating in and contributing to the above-described Joint Criminal Enterprises), or otherwise aided and abetted in the planning, preparation or execution, thereby taking an active role in furthering the purposes of the above mentioned Joint Criminal Enterprises, which resulted in the following:

1. Between 21 April and 1 May 1992, more than fifty persons of Muslim nationality, including both civilians and combatants, were detained for some time in the primary school in Jasenica receiving inadequate food and living in unhygienic conditions, including the following:

[REDACTED]

during which time:

- a. On or about 23 April, a group of about ten to fifteen well-armed soldiers in camouflage uniform entered the school where they beat and stabbed some of the detainees, including PWS-35, [REDACTED]

- b. On or about 25 April another group of 3-4 paramilitaries arrived to the school and beat PWS-35, [REDACTED] and another prisoner;
  - c. From 23 April 1992 to 30 April 1992 at least 43 prisoners were brought before the so-called Provisional Military Court, where MLADEN DRLJAČA acted as Presiding Judge, where they were questioned without being informed about the reasons for their detention or questioning, subjected to random accusations and then were arbitrarily remanded in detention, or in few cases released, without having been informed about the decision of the court nor of its grounds, thereby being deprived of their right to a fair and impartial trial;
  - d. On or about 1 May 1992, 35 detainees, who were remanded in detention by decision of the so-called Provisional Military Court, were handed over to the Military Police and transferred to the Petar Kočić School to be detained further.
2. From about 1 May 1992, until 21 August 1992, at least seventy-nine persons, including both combatants and civilians, were detained for a protracted period of time at the Petar Kočić School receiving inadequate food and living in unhygienic conditions, namely: [REDACTED]

[REDACTED] and two other unidentified males, during which time:

- a. The detainees were deprived of all their personal belongings, including identity papers, money and other valuables by some of the guards, notably by ŽELJKO SMOLJANAC;

- b. On or about 3 May twelve captives were transported to Jasenica to appear before the so-called Provisional Military Court, where MLADEN DRLJAČA acted as Presiding Judge, where they were questioned without being informed about the reasons for their detention or questioning, subjected to random accusations and then were all arbitrarily remanded in detention without having been informed about the decision of the court nor of its grounds, thereby being deprived of their right to a fair and impartial trial, whereupon they were returned to the Petar Kočić School to be detained further;
- c. Several prisoners were repeatedly severely beaten by soldiers, in particular: [REDACTED]
- d. On or about 4 May 1992, PWS-03 was raped by ŽELJKO SMOLJANAC;
- e. On 10 May 1992, 24 detainees were coercively exchanged, thereby being forcibly transferred out of the so-called Serb Municipality of Bosanska Krupa;
- f. On 22 May 1992, 16 detainees were coercively exchanged, thereby being forcibly transferred out of the so-called Serb Municipality of Bosanska Krupa;
- g. The detainees were regularly forced to perform labor, including removing corpses, digging trenches, and cleaning the streets in Bosanska Krupa, being intentionally exposed to dangers to life and limb, as follows:
- i. On a day between 4 and 22 May 1992, [REDACTED] were forced by a Serb soldier to pose with their brooms as if they were aiming rifles in direction of the BiH Army positions, so that the ABiH soldiers shoot in the direction of the two men who were forced to stand still while bullets whistled around them having been threatened to be killed if they moved;
  - ii. On another occasion between 4 and 22 May 1992 [REDACTED] was used as a 'living target' by being forced to stand on a balcony of a house in the Hum settlement, while the ABiH Army was opening fire on that part of the settlement;
  - iii. On or about 14 May 1992 [REDACTED] were forced to dig a trench on a hillock in Hum and subsequently used as 'living targets' by

being forced to stand on a porch within sight of ABiH positions on which occasion [REDACTED] was wounded;

- iv. On one or more dates between 19 June and 24 July 1992, Bosniak captives were taken to perform labor on the hill of Hum, during which [REDACTED] was forced to sit on a cannon aimed at ABiH positions, he was fired upon and died, whilst [REDACTED] were killed by Serb soldiers;
- h. On or about 24 July 1992 [REDACTED] who had been previously beaten on numerous occasions to the point that his wounds had become infected, was beaten by PETAR SENIĆ, ZRADVKO NARANČIĆ and another guard, and died a few minutes thereafter;
- i. On or about 28 July 1992 [REDACTED] who had been previously beaten on numerous occasions, was given a poison by some guards, and died about two days thereafter;
- j. On 21 August 1992 all of the detainees who had remained at the Petar Kočić School, 20 in number, were tied, blindfolded and brutally beaten, whereupon they were transferred to the detention camp of the 2<sup>nd</sup> Krajina Corps in Kamenica, having been further beaten during the journey, where they were detained until 3 November 1992, during which time they were further abused, and at least four of them died, including [REDACTED]

Therefore, within a widespread or systematic attack directed against the non-Serb civilian population of the so-called Autonomous Region of Krajina, knowing of the existence of such an attack, and knowing that by his actions he was taking part therein, with the intent to discriminate against his victims on political, racial, national, ethnic, cultural, or religious grounds, and in connection with the armed conflict on the territory of Bosnia and Herzegovina, and as part of a Joint Criminal Enterprise having the common purpose of partitioning the legally established Municipality of Bosanska Krupa by creating, through the use of military force, the so-called Serb Municipality of Bosanska Krupa as an area populated by an absolute Serb majority, where Serbs could assert control in all areas of power and administration in which Joint Criminal Enterprise he participated together with GOJKO KLIČKOVIĆ, MIROSLAV VJEŠTICA, [REDACTED]

[REDACTED] and others and as part of a Joint Criminal Enterprise having the common purpose to link Serb-populated areas in BiH together, to gain and maintain control over these areas and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed in which Joint Criminal Enterprise he participated together with RADOVAN KARADŽIĆ, MOMČILO KRAJIŠNIK, VOJISLAV MAKSIMOVIĆ, GOJKO KLIČKOVIĆ, JOVAN OSTOJIĆ and others, being a knowing participant in the implementation of the plans of the above Joint Criminal Enterprises, being fully aware that the execution of the plans of the above Joint

Criminal Enterprises would entail either as a necessity, or as a natural and foreseeable consequence all of the crimes that form part of this indictment, MLADEN DRLJAČA by his acts and omissions planned, instigated, ordered, perpetrated (including by participating in and contributing to the above-described Joint Criminal Enterprises), or otherwise aided and abetted in the planning, preparation or execution of the crimes described above;

Whereby he committed:

Persecution against the Muslim population of the Municipality of Bosansk Krupa on political, racial, national, ethnic, cultural, religious grounds, contrary to Article 172 (1) h), in connection with the following offences:

**For Count 1**

- Imprisonment, contrary to Article 172 (1) e);
- Torture, contrary to Article 172 (1) f);
- Torture and inhuman treatment, contrary to Article 173 (1) c);
- Unlawful bringing in concentration camps and other illegal arrests and detention, contrary to Article 173 (1) e);
- Deprivation of the rights to fair and impartial trial, contrary to Article 173 (1) e);
- Torture and inhuman treatment, contrary to Article 175 (1) a);
- Deprivation of the rights to fair and impartial trial, contrary to Article 175 (1) c);

**For Count 2**

- Murder, contrary to Article 172 (1) a);
- Forcible transfer, contrary to Article 172 (1) d);
- Imprisonment, contrary to Article 172 (1) e);
- Torture, contrary to Article 172 (1) f);
- Rape, contrary to Article 172 (1) g);
- Inhumane acts, contrary to Article 172 (1) k);
- Killings, contrary to Article 173 (1) c);
- Torture and inhuman treatment, contrary to Article 173 (1) c);
- Displacement, contrary to Article 173 (1) d);
- Unlawful bringing in concentration camps and other illegal arrests and detention, contrary to Article 173 (1) e);
- Deprivation of the rights to fair and impartial trial, contrary to Article 173 (1) e);
- Rape, contrary to Article 173 (1) e);
- Pillage, contrary to Article 173 (1) f);
- Forced labor, contrary to Article 173 (1) f);
- Murder, contrary to Article 175 (1) a);
- Torture and inhuman treatment, contrary to Article 175 (1) a);

- o Deprivation of the rights to fair and impartial trial, contrary to Article 175 (1) c);

All in relation to Article 180(1) of the BiH Criminal Code.

Therefore,

I hereby move the Court, pursuant to Article 23 (1) a) and (2) of the Criminal Procedure Code of Bosnia and Herzegovina, to

I.

Schedule and conduct the main trial and to summon the attendance of the following persons:

The Prosecutor of the Prosecutor's Office of BiH;

The Accused MLADEN DRLJAČA, currently detained at the KPZ Kula;

Fahrija Karkin, attorney-at-law from Sarajevo, and Milan Trbojević, attorney-at-law from Banja Luka, Defence Counsel for the Accused;

II.

Receive Evidence as Follows

n) To hear the following persons as witnesses:

1. PWS-03

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12. PWS-31

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The witnesses referred to as PWS-03, PWS-31 and PWS-89 are the subject of a request for protective measures filed with the Court of BiH on 17 March 2008. As a precautionary measure pending decision on the mentioned request, the Prosecution refers to those witnesses through the use of pseudonyms. Copies of the original examination record, featuring detailed personal information of this protected witness are contained in the supporting materials provided to the Court.

The witnesses referred to as PWS-14 and PWS-35 are the subject of protective measures ordered by the ICTY. The Prosecution has been provided with their identities, personal information and evidence under condition of confidentiality. The Prosecution has requested the ICTY to issue an order varying protective measures for those witnesses, so that the Prosecution can be granted the right to disclose and use this confidential information in this case. Upon issuance of such an order, the Prosecution will request the Court of BiH such protective measures as are necessary to comply with the conditions imposed by the ICTY on usage of these materials. As a precautionary measure pending



decision on this matter, the Prosecution refers to these witnesses through the use of pseudonyms and does not enclose their statements given to the ICTY within the supporting materials. The Prosecution is also in the possession of other statements of the witnesses referred to as PWS-14 and PWS-35 which are not covered by confidentiality. Copies of these examination records are contained in the supporting materials provided to the Court. The names and personal information of those witnesses have been redacted in order to avoid unauthorized disclosure of confidential information provided by the ICTY.

b) To inspect the following evidence:

1. Record of the Cantonal Court Bihać No. Ki.1/97-RZ og 19.03.1998 on statement of Witness [REDACTED]
2. Record of the Higher Court Bihać No. Ki.9/92-Rz / of 10.12.1993 on statement of Witness [REDACTED]
3. Death Certificate No. 2003-12-4837/2007, of 13.02.2007, issued by Bihać Municipality;
4. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 30.05.2007 on statement of Witness [REDACTED]
5. Record of the Higher Court Bihać No. Ki.9/92RZ of 29.12.1993 on statement of Witness [REDACTED]
6. Record of the Cantonal Court Bihać No. Ki.1/98-RZ/ of 18.03.1998 on statement of Witness [REDACTED]
7. Death Certificate No. 1456/2008, of 14.02.2008, issued by Bosanska Krupa Municipality;
8. Record of the Court of First Instance Bihać No. Kri 21/92 of 29.07.1992 on statement of Witness [REDACTED]
9. Record of the Higher Court Bihać of 19.08.1993 on statement of Witness [REDACTED]
10. Record of the Higher Court Bihać No. Ki.9/92 - RZ of 02.02.1994 on statement of Witness [REDACTED]
11. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 14.04.2005 on statement of Witness [REDACTED]
12. Death Certificate No. S1/2008, of 11.02.2008, issued by Bosanska Krupa Municipality;
13. Record of the Court of First Instance Bihać No. Kri.8/92 – RZ of 14.07.1992 on statement of Witness [REDACTED]
14. Death Certificate No. 03/2-11-13-84/08, of 29.02.2008, issued by Bosanska Krupa Municipality;
15. Record of the Court of First Instance Bihać No. Kri.12/92 – RZ of 20.07.1992 on statement of Witness [REDACTED]
16. Death Certificate No. 2003-12-4839/2007, of 13.02.2008, issued by Bihać Municipality;
17. Census in Bosanska Krupa broken down per nationality;

18. Order of the War Presidency of the Serb Municipality of Bosanska Krupa on prohibition of entering, movement of motor vehicles and trucks owned by physical persons;
19. List of representatives in the Assembly of the Autonomous Krajina Region;
20. War Record – manuscript;
21. Reminder for work of activists, the SDS Municipal Staff of B. Krupa;
22. Information - the SDS Municipal Staff of B. Krupa;
23. Annual Report – SDS B. Krupa 26.07.1991;
24. SDS Programme – SDS Municipal Staff of B. Krupa of 27.07.1991;
25. Excerpt from a study, SDS, October 1991;
26. Decision of the SDS Municipal Staff of B. Krupa No. 1/91 of 25.10.1991;
27. Decision on conducting a plebiscite, Interim Assembly of Serb People in B. Krupa No. 2/91 of 25.10.1991;
28. Decision on conducting a referendum, Interim Assembly of Serb People in B. Krupa No. 3/91 of 25.10.1991;
29. Decision of the SDS Municipal Staff of B. Krupa No. 67/1 of 25.10.1991;
30. Decision of the SDS Municipal Staff of B. Krupa No. 4/91 of 25.10.1991;
31. Decision of the SDS Municipal Staff of B. Krupa No. 5/1 of 25.10.1991;
32. Decision of the SDS Municipal Staff of B. Krupa No. 7/1 of 25.10.1991;
33. Decision of the Assembly of Serb People in BiH of 21.11.1991;
34. Transcript from the second session of the Assembly of Serb People in BiH of 21.11.1991;
35. Report of the Serb Municipality of B. Krupa of 02.12.1991;
36. Minutes of the session of the Interim Serb Assembly of B. Krupa of 11.12.1991;
37. Decision of the Serb Municipality of B. Krupa No. 29/91 of 11.12.1991 on appointment of Štrbac Mile as the Deputy President of the Executive Board of the Serb Municipality of Bosanska Krupa;
38. Decision of the Serb Municipality of B. Krupa No. 34/91 of 11.12.1991;
39. Decision of the Serb Municipality of B. Krupa No. 35/91 of 11.12.1991 on appointment of Marčeta Zdravko for the commander of the Territorial Defense of B. Krupa;
40. Statute of the Serb Municipality of B. Krupa, November 1991;
41. Decision of the Serb Municipality of B. Krupa No. 16/91 of 11.12.1991;
42. Decision of the Serb Municipality of B. Krupa No. 34/91;
43. Excerpt from the Minutes of the 2nd Session of the Interim Assembly of the Serb Municipality of B. Krupa of 11.12.1991;
44. Excerpt from the Minutes of the 1st session of the Executive Board of the Serb Municipal Assembly of B. Krupa of 15.12.1991;
45. Excerpt from the Minutes of the 2nd session of the Executive Board of the Serb Municipal Assembly of B. Krupa dated 17.12.1991;

46. Letter of the Serb Municipal Assembly of B. Krupa to the SDA party No.:21/91 of 18.12.1991;
47. Instructions on organization and operations of Serb people authorities in BiH, SDS Main staff, 19 December 1991;
48. Letter of the Serb Municipal Assembly of B. Krupa sent to the BiH MUP No.:1/91 of 23.12.1991 on an initiative to create the Public Security of B. Krupa;
49. Letter of the Serb Municipal Assembly of B. Krupa No.:37/91 of 24.12.1991, Initiative;
50. Order of the Crisis Staff on prohibition to use firearms No.: 3/91 of 23.12.1991;
51. Order of the Crisis Staff on activation of reserve police No.:9/91 of 30.12.1991;
52. Letter of the Serb Municipal Assembly of B. Krupa No. 1/92 of 03.01.1992;
53. Letter of the Serb Municipal Assembly of B. Krupa to all local communities No. 9/92 of 28.01.1992;
54. Newspapers article "Blue and Green Land";
55. Proclamation to Serb People in BiH;
56. Call to boycott of the referendum, SDS Municipal Staff of B. Krupa;
57. Law on Internal Affairs of the Serb Republic of Bosnia Herzegovina;
58. Minutes of the 3rd session of the Serb Municipal Assembly of B. Krupa of 03.02.1992;
59. Letter of the Executive Board of the Serb Municipality of B. Krupa to the Federal Secretariat for National Defence No.:14/92 of 11.02.1992;
60. Request for weapons for Territorial Defense, Executive Board of the Municipal Assembly of B. Krupa, No. 21/92 of 10.03.1992;
61. Document of the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa of 20.02.1992 No. 19/92;
62. Transcript from the 11th session of the Assembly, 18.03.1992;
63. Transcript 14th session of the Assembly, 27.03.1992;
64. Request of the War Presidency of the Serb Municipality of B. Krupa for changed deployment of Kačavenda Borislava, Reserve Forces Lieutenant;
65. Press release, Assembly of Serb People in BiH, of 04.04.1992;
66. Request for distribution of weapons and military equipment of the Territorial Defence of Bosanska Krupa, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa, No. 20/92 of 05.04.1992;
67. Order of the Crisis Staff Commander, Gojko Kličković, to conduct general mobilization No: 26/92 of 05.04.1992;
68. Order of the Crisis Staff Commander, Gojko Kličković, to conduct general mobilization No: 28/92;
69. Order of the Crisis Staff Commander, Gojko Kličković, to conduct evacuation No. 27/92 of 05.04.1992;
70. Order of the Crisis Staff Commander, Gojko Kličković, No.: 25/92 of 05.04.1992;

71. Letter of the 2nd Military District Command sent to the 9th Corps Command No. 31/101-230 of 07.04.1992, signed by Milutin Kukanjac;
72. Decision of the Presidency of the Serb Republic of BiH of 15.04.1992 No. 03-11/92;
73. Decision of the RS Ministry of Defense of 16 April 1992 No. 1/92;
74. Diary – manuscript;
75. Letter from the War Presidency of the Serb Municipality of B. Krupa to the Banja Luka Corps Command No. 10/92 of 22.04.1992;
76. List of persons deprived of liberty 21. i 22.04.1992;
77. Decision of the War Presidency of the Municipality of B. Krupa on establishment of a Provisional Military Court No. 9/92 of 22.04.1992;
78. Telegram of the 10th Corps Command of the 2nd military District No. 19/31-442 of 23.04.1992;
79. Response of the 2nd military District to the telegram of the 10th Corps Command No. 31/104-40-1 of 24.04.1992;
80. Order of the War Presidency of the Serb Municipality of B. Krupa No. 22/92 of 24.04.1992;
81. Authorization of the War Presidency of the Serb Municipality of B. Krupa No. 16/92 of 24.04.1992;
82. Dispatch – Mass moving out of Bosanska Krupa, 25 April;
83. Order of the War Presidency of the Serb Municipality of B. Krupa No. 32/92 of 26.04.1992;
84. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 35/92 of 26.04.1992;
85. Instructions for work of members of the police detachment, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa;
86. Instructions for work of police detachment members in traffic control, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa;
87. Request for assistance in providing fuel, the War Presidency of the Serb Municipality of Bosanska Krupa No 106/92 of 28.04.1992;
88. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 134/92 of 29.04.1992;
89. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 140/92 of 29.04.1992;
90. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 141/92 of 29.04.1992;
91. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the 10th Corps No 205/92 of 01.05.1992;
92. List of persons to be exchanged, displaced persons, detained wounded persons and persons who are staying at home;
93. List of displaced persons from Bosanska Krupa and Arapusa transferred voluntarily to Kamengrad;

94. List of persons who are looked for;
95. List of prisoners for exchange;
96. Order for patrolling the town No: 47/92, for the day of 02.05.1992, Police Station of B. Krupa;
97. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No:121/92 of 03.05.1992;
98. Record on interview of prisoners of war, Provisional Military Court, 04.05.1992;
99. List of prisoners for exchange;
100. Decision of the War Presidency of the Serb Municipality of Bosanska Krupa No: 2/92 of 07.05.1992;
101. Order of the 1st Krajina Territorial Defence Brigade Command No. 100-2 of 07.05.1992;
102. Record on exchange of prisoners dated 10.05.1992;
103. Official Note of 11.05.1992, Public Security Centre Bihać;
104. Minutes of the 16th session of the Assembly of Serb People in BiH of 12 May 1992;
105. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 50/92 of 14.05.1992;
106. List of displaced persons from the left bank of the Una river, Command of Veliki Radić, No. 17/92 of 17.05.1992;
107. List of persons kept in prison until further notice, the War Presidency of the Serb Municipality of Bosanska Krupa No SL/92 of 19.05.1992 (with handwritten notes);
108. List of persons offered for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa No :SL/92 of 19.05.1992;
109. List of detained persons offered for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa No. SL/92 of 19.05.1992;
110. List of persons to be kept in prison until further notice, the War Presidency of the Serb Municipality of Bosanska Krupa of 19.05.1992;
111. List of detained persons requested for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa of 19.05.1992;
112. List of persons to be kept in prison until further notice, the Serb Municipal War Presidency of B. Krupa;
113. Record of exchange dated 22.05.1992;
114. List of persons exchanged on 22.05.1992;
115. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 405/92 of 02.06.1992;
116. Document of the War Presidency of the Serb Municipality of Bosanska Krupa No. 330/92 of 04.06.1992, the Appeal to Muslim population attached;
117. SDS work instructions in circumstances of the immediate war threat, 1992;
118. Excerpt from the Minutes of constituting SDS of Bosanska Krupa;

119. List of persons for exchange, War Presidency of the Serb Municipality of Bosanska Krupa of 03.07.1992;
120. Convening of the 5th session of the Assembly of the Serb Municipality of Bosanska Krupa No. 29/92 of 02.07.1992;
121. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 43/92 of 10.07.1992;
122. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 660/92 of 13.07.1992;
123. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 56/92 of 21.08.1992;
124. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 65/92 of 21.08.1992;
125. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 63/92 of 21.08.1992;
126. Review of issued weapons, 1st Krajina Corps Command No. 18-168/I of 31.08.1992;
127. Excerpt from the Minutes of the 7th session of the Assembly of the Serb Municipality of Bosanska Krupa of 21.10.1992;
128. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 80/92 of 21.10.1992;
129. Decision and request of the Assembly of the Serb Municipality of Bosanska Krupa No. 76/92 of 23.10.1992;
130. 3rd session of the Assembly of Serb people in BiH – Recommendation on establishment Assemblies of Municipalities of Serb people of BiH of 11.12.1991;
131. Copy of a diary of a former camp inmate from Serb camps;
132. Letter of the 11th Krupa Brigade to the Section for Intelligence and Security Affairs No. 47/45 of 15.12.1992;
133. Excerpt from the Minutes of the 3rd session of the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa of 24.12.1991;
134. Analysis of activities for 1992, 11th Krupa Brigade Command of 24.02.1993;
135. Analysis of activities for 1992, 11th Krupa Brigade Command of 26.02.1993;
136. Information on activities of the War Presidency;
137. 8th session of the Municipal Assembly of Bosanska Krupa No. 23/92 of 14.04.1993;
138. Excerpt from the Minutes of the 8th session of the Municipal Assembly of Krupa na Uni of 28.04.1993;
139. Request for submission of activity report, Professional Service of the Municipal Assembly of Krupa na Uni No.30/93 of 29.04.1993;
140. Letter from the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa to the Command of the 11th Krupa Light Infantry Brigade No. 58/93 of 10.08.1993;

141. Official note of the Higher Court in Bihac No. Ki 1/96-RZ of 08.02.1992 on exhumation of Mirsad Budimlić;
142. Letter of the Municipality of Bosanska Krupa, Registry Office, to the Cantonal Court in Bihac No. 09/10-13-2000-493 of 23.11.2000, records from Register of Deaths for, [REDACTED] attached;
143. DNA test report for [REDACTED]
144. ICTY – Submission of the Corrigendum of the Expert Witness Report, [REDACTED] filed on 20 June 2002 and submission of an updated report of the Expert Witness No. IT-00-39-T of 26.11.2004;
145. List with personal data of identified and missing persons in the area of B. Krupa, Third Police Administration, No. 05-1/08-1-554/07 dated 03.09.2007;
146. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of Unsko-Sanski Canton No. KT-147/92-RZ dated 23.12.2004;
147. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of BiH No. KT-1/05-RZ dated 04.05.2005;
148. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of BiH No. KT-1/05-RZ dated 06.05.2005;
149. Transcript of the interview with Milorad Vjestica dated 27.02.2003;
150. Transcript of the interview with Milorad Vjestica dated 04.12.2002., ICTY office in Banja Luka;
151. Decision of the Transitional Assembly of the Serb Municipality of Bosanska Krupa No. 6/91 of 25.10.1991;
152. Invitation for the 5<sup>th</sup> session of the Assembly of the Serb Municipality of Bosanska Krupa No. 24/92 of 29.05.92;
153. Excerpt from the minutes of the 6<sup>th</sup> session of the Assembly of the Serb Municipality of Bosanska Krupa;
154. Report on interview of detainee Suad Sefić of 30.05.1992;
155. Banja Luka TV footage of Interview with [REDACTED] and another Bosnjak Captive;
156. Diary of [REDACTED]
157. Diary of [REDACTED]
158. Minutes of Autopsy of [REDACTED]
159. Military developments in the Bosanska Krajina, expert report by [REDACTED] 27 November 2002;
160. CD containing several amateur videos from the Municipality of Bosanska Krupa;
161. CD with video of SDS gathering;
162. CD with video interview with Gojko Kličković;
163. Order of the War Presidency No. 12/92 of 24 April 1992;
164. Order of the War Presidency No. 23/92 of 24 April 1992;
165. Order of the War Presidency No. 24/92 of 25 April 1992;

166. Order of the War Presidency No. 42/92 of 26 April 1992;
167. Letter of the War Presidency No. 200/92 of 25 May 1992, re: Response to the Appeal of Vranjč Duško;
168. Order of the War Presidency No. 217/92 of 27 May 1992;
169. Letter of the War Presidency No. 254/92 of 28 May 1992, re: Supply of Petroleum Products is requested;
170. Dispatch of the Command of the 11<sup>th</sup> Krupa Light Infantry Brigade No. 711-2/94 of 5 November 1994;
171. Set of three lists from the Commission for Exchange of Prisoners, Persons Deprived of Liberty and Killed Persons;
172. Record on interview of prisoners of war of 30.04.1992;
173. Order of the War Presidency of the Serb Municipality Bosanska Krupa No. 1533/92 of 14.09.1992;
174. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa, re: Warning on behavior and interference of certain Command departments into civilian sector;
175. Instruction for work of the members of the Municipal Board and the Krupa na Uni SDS activists and local organizations;
176. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 22 April 2005, on statement of Witness Mladen Drljača;
177. Record of the Prosecutor's Office of BiH No. KT-RZ-22/08 of 3 March 2008, on examination of Suspect Mladen Drljača;
178. Official note made by Investigator Mitar Tešić, No. KT-RZ-22/08 of 13 March 2008.

## RESULTS OF THE INVESTIGATION

### Background and developments leading to the conflict in Bosanska Krupa

#### *Ethnic composition of the Municipality*

The Municipality of Bosanska Krupa is situated in north eastern Bosnia, and is crossed by the Una river. According to the 1991 Census, the municipality had 58.320 inhabitants, of which 43.104 were Muslims, 13.841 were Serbs, 139 were Croats, 708 were classified as Yugoslavians and 508 as „others“. The area to the right of the Una river, known as Podgrmeč, was predominantly populated by persons of Serb nationality. Ostružnica, Veliki Badić, Mali Badić and a part of Bosanska Otoka, albeit located on the right bank, were predominantly Muslim settlements. Those settlements were territorially contiguous to the predominantly Muslim territories on the left bank. Deeper into the right bank, Muslims also populated five settlements which were entirely surrounded by Serb-populated territory. The settlement of Arapuša had 536 inhabitants, of which 513 were Muslims and 21 Serbs; the settlement of Veliki Dubovik had 392 inhabitants of which 291 Muslims and 98 Serbs, the settlement of Jasenica had 584 inhabitants of which 124



Muslims and 438 Serbs, Potkalinje had 284 inhabitants of which 69 Muslims and 214 Serbs and Zalin had 444 inhabitants, of which 219 Muslims and 221 Serbs.

Chronology of events: November 1990 - September 1991

When the first multi-party elections were held in November 1990, the SDA won a large majority in Bosanska Krupa. The SDA and the SDS undertook negotiations on the distribution of functions on the basis of the electoral results, which left the SDS representatives inevitably dissatisfied. MLADEN DRLJAČA, a member of the SDS municipal board, was attributed the function of Secretary of the Municipal Assembly.

In the course of 1991 several events took place in Bosanska Krupa that contributed to the raising of tension between the Bosniak and Serb communities. The first of these took place in late spring (between April and June) when a group of prominent Serbs put up a monument to the writer Branko Ćopić. Although Ćopić (who had been born in the municipality) was popular with all the national communities of the municipality, technical or administrative obstacles to the establishment of a monument remained outstanding. Ultimately a monument was erected by the Serb leadership and taken down by the municipal authorities in June 1991. This event contributed to a decision taken by the SDS leadership around that time, to *found a separate municipality „in which the Serb nation would be a majority.”* According to a later SDS document, it was at this time the

„assembly of the municipal board of the SDS of Bosanska Krupa reached a number of decisions, the most important of which was certainly that on dividing the existing municipality and forming a Serb municipality, because the events that took place around the 'Ćopić incident' announced that it will be impossible for Serbs and Muslims to live together in these areas, and that the Serb people have no prospects in that kind of co-existence.”

A later report drafted by GOJKO KLIČKOVIĆ confirms that the SDS started implementing a plan to divide the municipality already in the summer of 1991:

„In addition to developing their own plan to create the Serb Municipality of Krupa within the framework of the Serb Republic of BH, the representatives of the Serb people in the joint government were instructed to remain as long as possible within that government such as it was, and, to gradually undermine that rotten structure, which consisted of nothing but Islamic fundamentalism, and to buy time for another group of SDS people who were busy organising and arming the Serb people for the defence of their bare existence. [...] The work on the Project for partitioning Bosanska Krupa municipality and establishing the Serbian Municipality of Krupa began in the summer of 1991.”

A second incident occurred on 8 September 1991 when Milan Martić, then Minister of Internal Affairs of the so-called Republic of Serbian Krajina, and Colonel Dušan Smiljanić of the JNA were arrested in the town of Bosanska Otoka. Martić was arrested pursuant to a warrant issued by the Republic of Croatia. A crisis ensued. Martić and Smiljanić were quickly released after the intervention of a large number of senior Yugoslav and Bosnian political and military leaders, including GOJKO KLIČKOVIĆ. During the crisis some arms were distributed from the police station in Bosanska Krupa.

At that time Mehmed Mahić and GOJKO KLIČKOVIĆ toured the right bank settlements because organised paramilitary groups threatened to attack the town if Martić was not released. GOJKO KLIČKOVIĆ approached each group reassuring them that the issue was solved and that they could leave. The paramilitaries immediately obeyed KLIČKOVIĆ, as if they were under his command. On that occasion, KLIČKOVIĆ told Mahić that "they" [meaning the SDS] had 5000 men under their control.

The *Martić incident* increased the tension between Bosniaks and Serbs and prompted Serb policemen to leave, on 9 September 1991, Bosanska Krupa for Jasenica taking equipment with them. The policemen returned to Bosanska Krupa on 12 September, after negotiations conducted by a delegation headed by Šemsudin Velić, Chief of the Centre for Public Safety (SJB).

#### Chronology of events: October 1991

On 24 October 1991 in Sarajevo, the SDS and Serbian Renewal Movement and some independent delegates to the Assembly of Bosnia and Herzegovina met and established the parallel Assembly of the Serb People of Bosnia and Herzegovina (ASBiH). MIROSLAV VJEŠTICA from Bosanska Krupa was a delegate of that Assembly. During the first session of the ASBiH the SDS President, RADOVAN KARADŽIĆ, made it clear that the Bosnian Serbs were prepared to use force and fear to achieve their ends if they were otherwise unsuccessful.

The following day, 25 October 1991, the Serb leadership of Bosanska Krupa (SMBK leadership) took the decisive steps toward establishing their own Serb municipality. The SDS municipal board, which MLADEN DRLJAČA was a member of, issued a decision to establish a Transitional Assembly of the Serb People in the Municipality, as the highest organ of government of the Serb People in Serb territories. The Transitional Assembly was composed by SDS representatives, including MLADEN DRLJAČA; it was mandated to work until the establishment of a permanent Municipal Assembly of Serb People in the territory of Bosanska Krupa. On the day of its foundation the Transitional Assembly issued a decision declaring the territories on which the Serbs live and, those which belong to the Serb People as the "state territory of the Serb People of Bosanska Krupa". The decision called for non-enforcement of Republic regulations which were not compatible with the SFRY Constitution or with regulations of the Bosanska Krajina Association of Municipalities. Decision was made that the Serbian People leaving on such territory cease to pay dues to the Republic of BiH and the legally established municipality of Bosanska Krupa. The Transitional Assembly also established a commission to draft a report on socio-economic justification of the establishment of the Municipality of Serb people of Bosanska Krupa. The commission was composed of five members, led by GOJKO KLIČKOVIĆ, including MLADEN DRLJAČA. The report was to be submitted for public deliberation.

The commission led by GOJKO KLIČKOVIĆ drafted the "Report on the socio-economic justification of establishing a Serb municipality". The *Report* proposed conditions for

separation of the municipality which were obviously unacceptable to the Bosniak counterpart. The opening paragraph of the Report is quite telling:

"From a political point of view, there can be no true peace for the Serbs in the Balkans until they create their own ethnic state. There can be no peace or progress for the Serbs in Bosnia and Herzegovina until they encircle their own territories as state territories of the Serbs about which Serbs would decide as a state-building people. The Serbs residing in Bosanska Krupa are in the same situation because the only solution there is to create a municipality of their own."

The *Report* argues that the then population balance in the municipality was the consequence of "a genocidal policy [which the Serbs had been subjected to] over the centuries". Had there not been such policy the Serbs would have been the majority. On such basis the *Report* justified conditions for the division of the municipality which would have been based on criteria other than the number of population. "[S]ocially-owned property [should be divided] based on ethnic parity [so that] the Serbs in these areas would have a 50% share in the fixed assets".

The *Report* defined the borders of the municipality in a manner favorable to the Serbs: out of 780 km<sup>2</sup> in the then municipality, the Serbs municipality would obtain 491 km<sup>2</sup>, precisely most of the areas to the right bank of the river (excluding the area between Ostružnica, Badić and Oroka), as well as large areas on the left bank, towards the eastern and western borders of the legally established municipality. The SMBK would have included two Muslim enclaves (Arapuša and Veliki Dubovik) and three villages with Muslim minorities (Zalin, Jasenica and Potkalinje). The town of Bosanska Krupa was not considered in many aspect of the report because criteria for its separation had to be defined later.

The figures below, extracted from the *Report*, compare the ethnic structure of the then municipality and the new SMBK.

#### Ethnic balance in the legally established municipality

Muslims	43,365 or 74.5%
Serbs	13,765 or 23.6%
Croats	143 or 0.2%
Yugoslavs	685 or 1.2% and
Others	254 or 0.5%
<b>TOTAL:</b>	<b>58,212 - 100%</b>

#### Ethnic balance in the SMBK

Muslims	1,178 or 8.5%
Serbs	12,000 or 86.9%
Yugoslavs	500 or 3.6%
Others	127 or 1.0%
<b>TOTAL:</b>	<b>13,805 - 100%</b>

The *Report* concluded that most likely following the referendum, the SMBK would be included in the Autonomous Region of Krajina (ARK), and that this was "*the real direction to take in order to establish a Serb national state and finally resolve the Serb issue in the Balkans*".

*Chronology of events: November 1991*

In a speech given in Sarajevo on 1 November 1991, RADOVAN KARADŽIĆ instructed SDS members representing the municipalities to impose complete Bosnian Serb authority in their respective municipalities, regions and local communities.

Pursuant to a decision of the ASBiH, the Serb leadership of Bosanska Krupa organized a „plebiscite of the Serb people“ on 9 and 10 November 1991, expressing their wish to remain within Yugoslavia. On the same days they also held a local referendum on establishment of the SMBK, and on its adhesion to the ARK. This was mostly a referendum for Serbs, including refugees from Croatia. A report of 2 December 1991 states that the quasi-totality of voters voted for remaining in Yugoslavia and for establishing the Serb Municipality.

On 21 November 1991, MIROSLAV VJEŠTICA enthusiastically supported these developments at the second session of the ASBiH. The Bosanska Krupa municipality had been left out of the draft „decision on verification of the declared Serb Autonomous Provinces“ and VJEŠTICA protested vigorously:

„I insist that the municipality of Bosanska Krupa should be included [...] besides the plebiscite of the Serb people of Bosnia and Herzegovina, we have held the referendum for the Serb people of Bosanska Krupa municipality and formed our own municipality called Serb municipality of Bosanska Krupa, since 63 percent of the territory of the municipality of Bosanska Krupa belongs to the Serb people.“

VJEŠTICA's plea was successful and the decision eventually issued by the ASBiH included the SMBK as part of the ARK.

*Chronology of events: December 1991*

On 11 December 1991 the third session of the ASBiH issued a decision recommending the SDS delegates in Municipal Assemblies where they constitute the minority to establish their own Serb Assemblies. On the very same day, at the 2nd session of the Transitional Assembly of the SMBK, the report on the plebiscite and referendum was adopted, the SMBK was formally proclaimed, and the Serb Assembly of Bosanska Krupa was established. MLADEN DRLJAČA was elected member of the Executive Board of the Assembly, which was chaired by GOJKO KLIČKOVIĆ. The new Serb Assembly appointed seven representatives to the Assembly of the ARK, including MLADEN DRLJAČA. The Statute of the SMBK was also adopted; it provided that the SMBK be a part of the ARK (Art 1).

On 15 December 1991 the 1st session of the Executive Board of the Assembly of the SMBK was held on the SDS premises; MLADEN DRLJAČA attended the session. As a smaller body the Executive Board would prove an important leadership body before the outbreak of war. It was decided *inter alia* that the „Report on the socio-economic justification of establishing a Serb municipality” should be sent to the ASBiH, the SDA, MOMČILO KRAJIŠNIK, RADOVAN KARADŽIĆ, VOJISLAV MAKSIMOVIĆ and the ARK Assembly. The minutes contain a note that a decision should be made to assign employees of Serb ethnicity to elementary schools in Bušević, Suvaja and Vranjska, a task which was entrusted to GOJKO KLIČKOVIĆ and MLADEN DRLJAČA.

On 17 December 1991 the 2nd session of the Executive Board was held; GOJKO KLIČKOVIĆ chaired it and other seven members attended, including MLADEN DRLJAČA. It was decided, *inter alia*, that the Executive Board should start an initiative for the establishment of an SJB within the Banja Luka CSB; that an initiative be started for territorial connection of the Municipal Territorial Defence HQ (TOHQ) with [the District TOHQ of] Banja Luka, in cooperation with the Republic TOHQ; and to prepare a decision on establishment of a National Defence Council.

On 18 December the „Report on the socio-economic justification of establishing a Serb municipality” was forwarded by the SMBK Assembly to the SDA representatives in Bosanska Krupa, inviting them to engage in discussions. The accompanying letter stated that any issue was open for discussion, except for the „firm will of the Serb people to establish their own municipality [...] over which there can be no discussion”. In a later report GOJKO KLIČKOVIĆ candidly admitted that such position of the Serb delegation gave no promise of a peaceful outcome.

On 19 December 1991 the republic-level SDS Main Board issued the „Instructions for the Organisation and Activity of the Organs of the Serb People in BiH in Extraordinary Circumstances”, a document distributed to the SDS representatives from the municipalities. The *Instructions* for municipalities where Serbs were in a minority and where the SDS did not control the assembly provided for a party secretariat to meet daily, monitoring events and taking necessary steps. On receipt of a prearranged signal from the central party leadership, the SDS municipal leaders were to form a crisis staff, commanded by the president of the SDS, which was to decide on activation of the police reserves and the territorial defense and undertake negotiations as needed with the SDA and HDZ. If not already done, the SDS was to establish its own municipal assembly consisting only of Serb delegates.

As explained in the expert report by [REDACTED]

„[t]he Crisis Staffs were one of the most important instruments of the policies of the Bosnian Serb leadership: they ensured that the actions of the police, military, and paramilitaries were coordinated with party and government policy. [...] As the governing organs of Serb Municipalities, the Crisis Staffs were the vehicles for establishing and maintaining Serb control of the territory claimed for the Serb state. They coordinated, supported, and gave orders to the various forces involved in the municipal takeovers: the armed forces, the administrative bureaucracy, and local resources.

On 27 December 1991 the 3rd session of the SMBK Executive Board was held, discussing *inter alia* the implementation of the Instruction on establishing SDS Crisis Staffs. Pursuant to that instruction, a Crisis Staff was established comprising of 11 members, including: MLADEN DRLJAČA (Chairman of the Sub-committee for Political Affairs of the SDS Municipal Board), MIROSLAV VJEŠTICA (president of the SDS Municipal Board), GOJKO KLIČKOVIĆ (vice-president of the SDS Municipal Board and Chairman of the Executive Board), [REDACTED]

#### Chronology of events: January – March 1992

On 9 January 1992, the ASBiH Assembly proclaimed the Serb Republic of Bosnia Herzegovina (SerBiH). It was composed of so-called Serbian autonomous regions and districts, which included the ARK.

A referendum on the question of independence of the SRBiH from the SFRY was held between 29 February 1992 and 1 March 1992. It was largely boycotted by the Bosnian Serbs and yielded an overwhelming majority of votes in favour of the independence of BiH. The SDS of Bosanska Krupa actively advocated boycott of the Referendum using nationalistic and inflammatory language, often referring to past atrocities against the Serb people and the danger of their reoccurrence.

#### **The Joint Criminal Enterprises**

From summer 1991 until 31 December 1992 and beyond, MLADEN DRLJAČA participated in a Joint Criminal Enterprise together with GOJKO KLIČKOVIĆ, MIROSLAV VJEŠTICA, [REDACTED]

[REDACTED] and other SDS members in the SMBK leadership. MLADEN DRLJAČA at the same time participated in a Joint Criminal Enterprise together with GOJKO KLIČKOVIĆ, RADOVAN KARADŽIĆ, MOMČILO KRAJIŠNIK, VOJISLAV MAKSIMOVIĆ and other members of the Main Board of the SDS and other members of the SDS at the national level (the SerBiH leadership).

The SMBK leadership shared a plan of partitioning the Municipality of Bosanska Krupa by creating the SMBK as an area populated by an absolute Serb majority, where Serbs could assert control in all areas of power and administration (the SMBK Plan). The plan by the SMBK leadership envisaged the use of military means to enforce the partition if that could not be achieved by peaceful means.

The SerBiH leadership shared a plan to link Serb-populated areas in BiH together, to gain control over these areas and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed (the SerBiH Plan). The SerBiH authorities knew that the Strategic Plan could only be implemented by the use of force and fear.

The plan of the SMBK leadership was to be achieved in parallel, in coordination and in furtherance of the plan by the SerBiH leadership to create a Serb state. Initially the plan of the SMBK leadership included territories to the left bank of the river Una within the territory coveted for the SMBK. On 12 May 1992 RADOVAN KARADŽIĆ publicly articulated the six strategic goals of the Serbian People of Bosnia and Herzegovina, which included the "separation from the other two national communities – separation of states" and the establishment of a border on the Una. From that moment the SMBK leadership renounced claiming any territory to the left bank of the Una, thereby adapting their plan to the plan by the SerBiH leadership.

The implementation of the plan by the SerBiH leadership entailed the permanent removal of a significant part of the non-Serb population from the territory of the planned Bosnian Serbian state. All the crimes committed in the SMBK followed the general pattern of conduct envisaged for the implementation of the plan and are a clear manifestation of thereof.

MLADEN DRLJAČA, in his capacity of member of the Bosanska Krupa SDS Municipal Board, member of the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa, member of the Crisis Staff of the Serb Municipality of Bosanska Krupa, member of the War Presidency of the Serb Municipality of Bosanska Krupa, President of the Provisional Military Court of the Serb Municipality of Bosanska Krupa, President of the Commission for Exchange of Prisoners of the Serb Municipality of Bosanska Krupa and member of the SDS Secretariat of the Serb Municipality of Bosanska Krupa, actively contributed to furthering the SMBK Plan and the SerBiH Plan.

MLADEN DRLJAČA was a knowing participant in the Joint Criminal Enterprise and in the implementation of the SMBK Plan and the SerBiH Plan. He was fully aware that the execution of the SMBK Plan and the SerBiH Plan would entail as a necessity, or as a natural and foreseeable consequence, all of the crimes that form part of this indictment

#### **The SMBK leadership's control and influence over Military and Police forces**

The main military formation involved in the events in Bosanska Krupa was the Serb TO, named 1st Podgrmečka Brigade. The TO was established and armed by the SDS-controlled authorities of the SMBK in late 1991. The TO operations were exclusively planned, coordinated, commanded and controlled by the SMBK leadership from the TO's establishment until 5 May 1992, when the command of the TO was formally taken over by Vukašin Daničić of the JNA 10th Corps. After that date, the SMBK leadership maintained a considerable influence over the Army units stationed in the territory of the SMBK. In early June the Brigade was renamed 11th Krupa light infantry Brigade and it was incorporated in the VRS 2nd Krajina Corps, based in Drvar. On 14 July 1992 Lieutenant Colonel, Jovan Ostojić took over the brigade command and remained in that role throughout most of the war.

Upon an „initiative“ launched by the Executive Board in December 1991, the SMBK authorities had established their own Serb Police, which was under the effective control

of the War Presidency. Even when the SMBK SJB was eventually subordinated to the Banja Luka CSB, the SMBK leadership controlled or closely co-ordinated the police forces in the SMBK. The Crisis Staff and the War Presidency issued numerous orders to the police. MLADEN DRLJAČA, as member of the War Presidency, personally signed some of those orders, notably a 2 June 1992 „Order to limit the movement of motor vehicles in the municipality“ and a 13 July 1992 „Order to invite all persons of mixed marriages for an informative conversation and to offer them, if they want to, to move out either individually or jointly from the area of the SMBK“.

### **The Attack on Bosanska Krupa**

#### **Preparations for the attack**

On 4 April 1992, RADOVAN KARADŽIĆ, as President of the Serb National Security Council, ordered the activation of Crisis Staffs under certain conditions. The following day, 5 April, GOJKO KLIČKOVIĆ ordered permanent duty in the SMBK Crisis Staff and ordered all the key persons in the SMBK military and police forces to report to the Crisis Staff every 2 hours. Also on 5 April GOJKO KLIČKOVIĆ, as Crisis Staff Commander ordered a partial evacuation of the population from the Serb settlements of Perna, Ljusina as well as from some other neighborhoods in Bosanska Krupa. Able-bodied males were ordered to stay and respond to the call for mobilization, seemingly issued on the same day. The reserve police was also mobilized on the same day on orders by GOJKO KLIČKOVIĆ. The Crisis Staff also reportedly issued an order preventing the BiH MUP from carrying out checks and patrols.

On 15 April a state of immediate war danger was proclaimed in the SRBiH and the mobilization of TO was ordered. In the following days the SMBK leadership sent mobilization summonses through the SDS.

On Sunday 19 April, Serbs were seen leaving Bosanska Krupa town. A later report by GOJKO KLIČKOVIĆ confirms that the SDS leadership issued some kind of covert warning to the town's Serb population to avoid the attack:

„The war events did not catch the Serbs unprepared, although there were those who hurried to their work even on 21 April, but most importantly, children, school-age youths and *most Serbs who listened to the SDS managed to leave the town in time* and escape the fate of living under blockade, thus allowing Serbian Territorial Defence units during war operations to follow an established plan.“

#### **The Arapuša Incident**

At about 4 am on 20 April, officers of the Arapuša reserve police (Muslims) shot and wounded two members of the SMBK TO from Gornji Petrovići, who had not stopped at a checkpoint at the entrance to the village. The available accounts differ as to who opened fire first. After the incident, armed Serbs gathered *en masse*, blocking off Arapuša and cutting the phone lines. Two ultimatums were issued to the residents of Arapuša from the



neighboring Serb villages, both expiring at 9 am on 21 April. Gornji Petrovići (whence came the wounded Serb TO) demanded the arrest of the people who had fired on the TO car, and the village of Donji Dubovik insisted on the surrender of all weapons. The incident in Arapuša dramatically intensified the tension and some people regard it as deliberately produced as a justification for the attack that started on 21 April.

### The Attack on Bosanska Krupa

In the days up to 21 April Serb military forces were seen massing on the hills south of Bosanska Krupa; artillery units were seen about 4-5 kilometers from the town. From the morning of 21 April the Serb forces had encircled the right bank of the town, creating check points at its entrance roads. On that day, having noticed that most of the Serbs had left the town, many Muslim men evacuated their wives and children to the left bank and returned to their homes.

At 11.00 hours on 21 April 1992 the War Presidency started its work in Srpska Jasenica. As stated in a report drafted by GOJKO KLIČKOVIĆ, „this Presidency took all crucial military and civilian decisions“. That day it became known that VJEŠTICA and KLIČKOVIĆ had given an ultimatum to all Muslims to leave the town by 19.00h. MLADEN DRLJAČA was a member of the War Presidency throughout the time of its existence.

At around 18:00h, the SMBK TO started shelling Bosanska Krupa town. The attack consisted mainly of artillery shelling from all the hilltops on the right bank of the Una river, notably from Lipik and Vučjak hills, as well as from the Serb villages of Petrovići, Pučenik and Vranjska. The shelling appeared mainly directed against the Muslim areas of Sokak, Krčana, Pazaradžik, Mahala, and Hodžinac. Also the Police Station and the Municipal building were targeted. Bosanska Krupa did not contain any military object. The shelling ceased in the evening when MIROSLAV VJEŠTICA negotiated a ceasefire with [REDACTED] which was supposed to last until 8 am on 22 April.

At about about 5.00 am on 22 April MIROSLAV VJEŠTICA and [REDACTED] announced from the Bosanski Petrovac radio that negotiations on cessation of attack on Krupa were pending in Bosanski Petrovac. However, the shooting resumed shortly thereafter, and lasted for the whole day. A number of Serbs who had stayed in town after the attack were seen participating in the hostilities as snipers. Four of them were arrested on the night of the 22 April by an anti-terrorism unit coming from the CSB Bihać.

As the shelling started, the population of Bosanska Krupa sought shelter in those houses that were deemed safer, mostly in basements or garages. A small number of Serbs were also hiding with the predominantly Muslim population. Some of them were in radio contact with the forces which were attacking the town. Those hiding in the shelters were mostly civilians, although some of them were armed and few had taken part in some acts of resistance.

On 22 April the SMBK TO invited a company from the JNA 6<sup>th</sup> Infantry Brigade from Lušci Palanka to join them. That day the infantry troops entered the town supported by one or two APCs. On that day and during the days that followed the forces that entered the town systematically searched Bosniak houses, looted them and set them on fire. A witness observed through a binocular how the soldiers approaching the Mahala settlement were throwing something that resembled a can into each Bosniak house, after which that house would go on fire: all the houses in the Mahala settlement were burnt down. Another witness was brought in front of his house to see it burning. Whilst the SMBK TO also participated in these actions, a company from Lušci Palanka commanded by VUK CIMBALJEVIĆ distinguished themselves therein.

As the Serb infantry forces entered the town many Muslims tried to cross the bridges to the other side of the river. Many succeeded but others were intercepted and sent back.

Between 22 and 27 April most of the Muslims who were found in the town were subjected to arbitrary arrests by members of the Serb forces. Upon arrest the Muslims were taken to the Serb Police Detachment located in the premises of the local community in Jasenica. Some of them first transited through various premises used as collection centres, including the SUP building and the TO command in Vranjska, where MILAN ŠTRBAC was present. When women were also found they were normally separated from the men and sent towards Bihać. In some cases the Muslims were not arrested but simply urged to report to the command in Jasenica, ostensibly for their own safety.

#### Detention of Muslims in camps

##### Jasenica Elementary School, 22 April – 1 May

Upon arrival in Jasenica the Muslims who had been arrested in Bosanska Krupa from 22 April onwards were questioned at the seat of the Police Detachment [REDACTED]

[REDACTED]. The Muslims were subjected to accusations about their purported activities in the SDA, with the green berets etc. A 21-years old girl was accused of sewing uniforms for the Muslim TO. After the interrogation, most of the Muslims were placed in the nearby primary school in Jasenica. Conversely, some of them were transferred to the Muslim enclave of Arapiša, some were temporarily accommodated with Serb families, and a few elderly were allowed to return to their homes in Bosanska Krupa. The destiny of the Muslims at this initial screening was decided based upon the circumstances of their capture and the information collected during the questioning. Some people were immediately released, while others were delivered to the military police, to be held in the primary school pending court appearance. Those who were found in possession of weapons or were otherwise perceived as being "guilty for having started the war" were reserved this harsher fate. Not only potential combatants were so treated, but also Muslims who were members of the SDA, of the Club of Intellectuals, or who had been connected with the Municipal Secretariat for National Defence. Those detained included two women and a teacher.

Between 21 April and 1 May 1992, more than fifty persons of Muslim nationality, including both civilians and combatants, were detained for some time in the primary school in Jasenica, including the following:

[REDACTED]

The detainees were housed in classrooms and in the gymnasium; while there, they received inadequate food and lived in unhygienic conditions. The prisoners were guarded by approximately five elderly guardsmen, who had been provided by the War Presidency.

On or about 23 April, a group of about ten to fifteen well-armed soldiers in camouflage uniform entered the school and beat some of the detainees. They apparently belonged to the *White Eagles* paramilitary formation. PWS-35, [REDACTED] and two TO BiH members from Velika Kladuša named [REDACTED] and [REDACTED] were stabbed and beaten. Neither the guards nor the many soldiers present outside the school made any attempt to prevent the paramilitaries from entering the school, or to arrest them thereafter. The War Presidency was immediately informed of the event and several amongst the detainees were temporarily transferred to another facility in Gorinja, to spare them from future similar incidents. It also seems that the number of guards was slightly increased. Those measures were nevertheless inadequate, in fact another group of 3-4 paramilitaries arrived two or three days after the first raid and beat PWS-35, ZARIF MEHIĆ and another prisoner who were still at the school.

The War Presidency, which was based within a few metres from the Police Detachment and the School, was fully appraised with the influx of Muslims from Bosanska Krupa and the treatment they received.

On 22 April the War Presidency received from the Police Detachment a list of 12 persons who had been detained during the first two days of the conflict. Upon receiving the list the War Presidency established a Provisional Military Court (PMC) to «conduct legal procedures against prisoners of war, captured in operations for liberation of the SMBK».

MLADEN DRLJAČA was appointed President of the PMC by GOJKO KLIČKOVIĆ, whilst [REDACTED] (a butcher by profession) were appointed as Judges. MIRKO ORELJ soon resigned out of indignation, and was replaced by RAJKO KLIČKOVIĆ. BOŠA SLADAKOVIĆ was present at the PMC sessions as

typist. Both GOJKO KLIČKOVIĆ and MIROSLAV VJEŠTICA were occasionally present in the room during some of the sessions.

During their detention in Jasenica elementary School more than forty-three Muslim detainees were taken before the PMC, located at the ground floor of the Museum building, which was also the seat of the War Presidency. The first session of the PMC took place on 23 April, whilst further sessions were held in the following days until 30 April.

When they appeared before the Court the prisoners were questioned without being informed of the reasons for their detention. Some of them were accused of having provoked the war, or of having conspired to slaughter Serbs; conversely, some were questioned without being informed of any charge against them. Some detainees were shown old instruments from the Museum collection (knives, axes, etc) and were accused of having prepared them to kill or torture Serbs. They were also questioned about their involvement in the conflict and in politics, and about the possession of weapons. None of the captives who appeared before the PMC was informed of any decisions taken by the Court, they were simply returned at the school to await their fate to unfold.

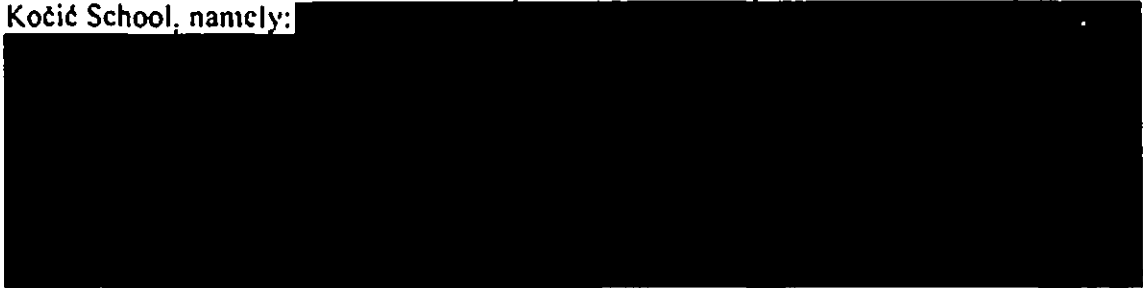
Based on the decisions of the PMC, some detainees were transported to Arapuša which served as a collection centre for Muslim "refugees" pending their final expulsion, whilst thirty-five captives remained at the school until 1 or 2 May 1992, when they were transported to the Petar Kočić Elementary School (PKS) in Bosanska Krupa. Most of the detainees in this group, which included two women, had been captured in their homes in circumstances that could not lead to any doubt as to their status of unarmed civilians.

#### Petar Kočić Elementary School, 1 May – 21 August

Besides the thirty-five captives who were brought from Jasenica, more Bosniaks, including both civilians and combatants, were arrested by policemen, soldiers or military policemen and taken to the PKS during the following months. Six Bosniak civilians were arrested on 1 May in Ostružnica, and other six were arrested in Zalug on 2 May. They were initially taken to the PKS, but then they were transported to Jasenica where they were questioned by the military police and then, on 4 May, they appeared before the PMC. After the Court hearing they were returned in detention at the PKS.

Other groups were arrested in June and July; they were first taken to Jasenica to be questioned by the police or military police and then transferred to the PKS.

From about 1 May 1992, until 21 August 1992, at least seventy-nine persons, including both combatants and civilians, were detained for a protracted period of time at the Petar Kočić School, namely:



[REDACTED]

and two other unidentified males.

The PKS was guarded by the Military Police, notably by two different platoons commanded by MOMO GRUBIŠA and MILE ĆAZIĆ. Amongst the Military Policemen who were guarding the PKS, the following were identified: ZDRAVKO NARANČIĆ, MIROSLAV DESNICA, LUKA DESNICA, PETAR TODIĆ, ĐURO BESLAĆ, ŽELIKO BRČIN, ZORAN MALEŠEVIĆ, ŽELJKO MANDIĆ, DARIO GRUBIŠA, MILE KERKEZ, VASO JEŽ, BORO ŠKORIĆ, NEBOJŠA KAČAVENDA, ZORAN BRČIN, GORAN ŠEVO, MLADEN KLJAIĆ, MIROSLAV JERKOVIĆ, RADOVAN PETROVIĆ, DUŠKO JAKŠIĆ, BRANE RAĐENOVIĆ, DRAGO SENIĆ and ZORAN MARČETA.

Upon arrival at the PKS the detainees were deprived of all their personal belongings, including identity papers, money and other valuables by some of the guards, notably by ŽELJKO SMOLJANAC.

The conditions of life in the PKS were very poor and unhygienic, the food was scarce and, at least during the initial period, the inmates had to sleep on the floor.

Beatings occurred very often at the PKS. The following persons were regularly beaten:

[REDACTED]

Sometimes the prisoners were taken to the Krušnica River to bathe and they were forced into the very cold river even if they could not swim. Forced fights and brutal games between the prisoners, or between the prisoners and the guards, were commonplace at the PKS. Soldiers of the 11<sup>th</sup> Krupa Light Infantry Brigade were allowed to enter the PKS and to abuse the prisoners at leisure. Amongst the soldiers involved in these abuses were: ŽELJKO SMOLJANAC, PETAR KARANOVIC, ŠKORO ŠTRBAC, NENAD NEDIMOVIĆ, ZDRAVKO NARANČIĆ, MILE KOTUR, VASO PELAGIĆ, PERO LNU aka "Sniper", ŽELJKO MANDIĆ, ZORAN MARČETA, DJURO BESLAĆ and an unidentified person referred to as "Inspector". The detainees were also subjected to electric shocks by ĐURO BESLAĆ, MIROSLAV DESNICA, and FNU TODIĆ.

On or about 4 May PWS-03 was raped by ŽELJKO SMOLJANAC whilst detained at the PKS.

The Bosniaks detained at the PKS were regularly forced to perform various forms of labor, including removing corpses, digging trenches, and cleaning the streets in Bosanska Krupa. Whilst doing labor the captives were intentionally exposed to dangers to life and

limb. On some occasions the guards opened fire in the direction of the ABiH positions so that the ABiH soldiers would fire back on the detainees while they were working. Various incidents occurred while the detainees were performing forced labor:

- Between 4 and 22 May, [REDACTED] were forced by a Serb soldier to pose with their brooms as if they were aiming rifles in direction of the BiH Army positions. The ABiH soldiers began to shoot, and the two men had to stand still while bullets whistled around them and the Serb soldiers threatened to kill them if they moved.
- On another occasion between 4 and 22 May [REDACTED] had to stand on a balcony of a house in the Hum settlement, while the ABiH was opening fire on that part of the settlement.
- On or about 14 May [REDACTED] and [REDACTED] were taken out of the PKS, forced to dig a trench on a hillock in Hum and subsequently used as 'living targets' by being forced to stand on a porch within sight of ABiH positions. [REDACTED] was wounded on that occasion, whereupon he was transferred to a hospital.

Forty captives from the PKS, largely civilians, were exchanged in two exchanges that took place on 10 May 1992 and 22 May 1992 in Ripač and Pritoka, respectively. Through the means of the exchanges, the former captives were forcibly transferred out of the SMBK, being prevented from returning to their homes after the exchange. Their detention conditions constituted a coercive environment that left them no choice at all about being exchanged.

Approximately 10 captives remained in the PKS after 22 May, 8 of them were there in consequence of the order of 19 May signed by MLADEN DRILJAČA. A total of 26 other Muslims were arrested by the army and taken to the PKS during the following two months. The detention regime worsened after the exchanges and the worst crimes took place after this time:

- On one or more dates between 19 June and 24 July 1992, at a house on the hill of Hum, [REDACTED] was forced to sit on a cannon aimed at ABiH positions, he was fired upon and died, whilst [REDACTED] were killed by Serb soldiers. Their corpses were buried by Muslim prisoners in Lipik where [REDACTED] is still buried, while the bodies of [REDACTED] were exchanged in 1994 and are buried in Bihać.
- [REDACTED] was often heavily beaten, and his wounds became infected. On or about 24 July 1992 some detainees asked the guards to call a doctor to treat [REDACTED] and another guard took [REDACTED] away to another room where they severely beat him. MIRSAD [REDACTED] was then returned with the other captives and died a few minutes thereafter. His body was buried by Muslim prisoners in Lipik, from where it was exhumed on 8 February 1996.

- [REDACTED] was often heavily beaten by the guards. On a date around 28 July 1992 some guards administered him some purported medicine, ostensibly to heal his wounds. His conditions deteriorated and he died about two days thereafter. His body was buried by Muslim prisoners in Lipik, from where it was exhumed in 1996.

On 21 August 1992 all of the detainees who had remained at the Petar Kočić School, 20 in number, were tied, blindfolded and brutally beaten, whereupon they were transferred to the detention camp of the 2<sup>nd</sup> Krajina Corps in Kamenica, having been further beaten during the journey, where they were detained until 3 November 1992, during which time they were further abused, and at least four of them died, including [REDACTED] all of whom were exhumed from the mass grave "Jama Golubnjača", in Drvar, in 2001.

#### Control by the SMBK leadership over the Detention of Muslims in camps

The investigation has established that the SMBK leadership, under the command of GOJKO KLIČKOVIĆ, and with the direct and prominent participation of MLADEN DRLJAČA, took a key role in detaining Muslim civilians as well as combatants in the Jasenica school and at the PKS, in exchanging them or otherwise transferring them in furtherance of the plan to remove the Muslim population from the territories of the SMBK, in order to create an ethnically pure Serb State. In particular:

- The school in Jasenica was guarded by the police together with some elderly guards who had been provided by the War Presidency.
- The premises of the PKS belonged to the municipal authorities. Those premises were made available to the Army by the SMBK leadership. Later on, the SMBK leadership ordered the Army to vacate the PKS.
- The PKS was guarded by the Military Police which was under the effective control of the SMBK leadership until at least mid-May 1992.
- Forty-seven prisoners were detained upon decision of the PMC, which MLADEN DRLJAČA was the President of.
- The exchanges were decided by the War Presidency and carried out by the Exchange Commission. MLADEN DRLJAČA, as the President of the Exchange Commission, in consultation with the War Presidency, planned, organized and carried out the exchange of 40 prisoners, on 10 and 22 May 1992.
- Upon remanding Muslims in detention at the PKS, MLADEN DRLJAČA had a positive duty to enquire as to the conditions of detention. At all times MLADEN DRLJAČA should have known that the Muslim prisoners who were detained in the PKS upon decision of the PMC could have been subjected to abuses, as that was a reasonable and foreseeable course of events. MLADEN DRLJAČA was positively informed of the abuses during the negotiations regarding the exchanges.

- On 19 May 1992, despite knowing that the prisoners in the PKS were suffering serious abuses, MLADEN DRLJAČA, as a member of the War Presidency, signed an order remanding nine captives in detention indefinitely, thereby condemning them to a harsher fate. Due to intense pressures, the order was modified to allow for the exchange of [REDACTED]. Seven out of those eight detainees were killed whilst in detention.
- The War Presidency, and MLADEN DRLJAČA in particular, had a continuing power to release the prisoners detained at the PKS, whether or not they had previously appeared before the PMC, as it is documented by his involvement in the negotiations for a further exchange in July 1992.
- All the foregoing is confirmed by an admission contained in GOJKO KLIČKOVIĆ's 1993 Report to the Assembly, where it is stated that amongst the tasks carried out by the War Presidency was that of "resolving the issue of captured Muslims".

The mistreatment and abuses that the Muslim detainees suffered while detained in Jasenica and at the PKS were a natural and foreseeable consequence of their detention. The SMBK leadership, and in particular MLADEN DRLJAČA, accepted the occurrence of those crimes as a possible consequence of the implementation of the plan.

#### Existence of an International Armed Conflict

At all times between 1 April and 31 December 1992 there was an international armed conflict on the territory of BiH, in the ARK and in the SMBK.

#### Widespread or Systematic Attack

The campaign of persecutions in Bosanska Krupa in 1992 was part of a larger widespread and systematic attack on the Bosniak and Croatian populations of the ARK. In the case of *The Prosecutor vs. Radoslav Brđanin* (Case No. IT-99-36), the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia established that:

[T]here was a widespread or systematic attack against the Bosnian Muslim and Bosnian Croat civilian population in the Bosnian Krajina during the period [between 1 April 1992 and 31 December 1992]. The attack took many forms. By the end of 1992, nearly all Bosnian Muslims and Bosnian Croats had been dismissed from their jobs in, amongst others, the media, the army, the police, the judiciary and public companies. Numerous crimes were committed against Bosnian Muslims and Bosnian Croats, including murder, torture, beatings, rape, plunder and the destruction of property. Villages were shelled, houses were torched and looted. In the spring of 1992, a number of detention camps where Bosnian Muslim and Bosnian Croat civilians were arrested and detained *en masse* were established throughout the ARK. In several instances, mass killings of civilians took place. Moreover, a policy of "ethnically cleansing" the ARK of its non-Serb population was systematically implemented by the Bosnian Serbs.



Indeed, tens of thousands of Bosnian Muslims and Bosnian Croats were forcibly expelled from the ARK by the Bosnian Serbs and taken in convoys of buses and trains to Bosnian Muslim held territory in BiH or to Croatia.

#### **MATERIAL SUPPORTING THE ALLEGATIONS OF THE INDICTMENT**

1. Record of the Court of First Instance Bihać No. Kri.28/92 of 27.08.1992 on statement of Witness PWS-03;
2. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 29.05.2007 on statement of Witness [REDACTED]
3. Record of the Higher Court Bihać No. Ki.9/92-Rz of 04.09.1992 on statement of Witness [REDACTED]
4. Record of the Higher Court Bihać No. Ki.9/92-Rz of 18.09.1992 on statement of Witness [REDACTED];
5. Record of the Court of First Instance Bihać No. Kri.23/92 of 04.08.1992 on statement of Witness [REDACTED]
6. Record of the Higher Court Bihać No. Ki.9/92-Rz of 02.02.1994 on statement of Witness [REDACTED]
7. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 15.02.2005 on statement of Witness [REDACTED]
8. Record of the Cantonal Court Bihać No. Ki:1/97-RZ of 27.09.2000 on statement of Witness PWS-14;
9. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 11.02.2005 on statement of Witness PWS-14;
10. Record of the Court of First Instance Bihać No. Kri-20/92 of 28.07.1992 on statement of Witness [REDACTED]
11. Record of the Higher Court Bihać No. Ki.9/92-Rz of 17.01.1994 on statement of Witness [REDACTED]
12. Record of the Cantonal Court Bihać No. 1/98-RZ of 18.03.1998 on statement of Witness [REDACTED]
13. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 14.02.2005 on statement of Witness [REDACTED]
14. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 07.02.2005 on statement of Witness [REDACTED]
15. Record of the Higher Court Bihać No. Ki:1/97-RZ of 30.10.2000 on statement of Witness [REDACTED]
16. Record of the Cantonal Court Bihać No. Ki:1/97-RZ of 19.03.1998 on statement of Witness [REDACTED]
17. Record of the Court of First Instance Bihać No. Kri.26/92 of 06.08.1992 on statement of Witness [REDACTED]
18. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 17.02.2005 on statement of Witness [REDACTED]

19. Record of the Court of First Instance Bihac No. Kri. 17/92 of 27.07.1992 on statement of Witness [REDACTED];
20. Record of the Higher Court Bihac No. Ki.9/92-RZ of 19.07.1995 on statement of Witness [REDACTED];
21. Record of the Higher Court Bihac No. Ki. 9/92 – RZ of 17.05.1995 on statement of Witness [REDACTED];
22. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 30.05.2007, on statement of Witness PWS-31;
23. Record of the Court of First Instance Bihac No. Kri. 15/92 - RZ of 21.07.1992, on statement of Witness PWS-31;
24. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 11.02.2005 on statement of Witness [REDACTED];
25. Record of the Court of First Instance Bihac No. Kri. 14/92 – RZ of 21.07.1992 on statement of Witness [REDACTED];
26. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 01.06.2007 on statement of Witness [REDACTED];
27. Record of the Court of First Instance Bihac No. Kri. 10/92 – RZ of 14.07.1992 on statement of Witness [REDACTED];
28. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 08.02.2005 on statement of Witness PWS-35;
29. Record of the Cantonal Court Bihac No. Ki. 1/97 – RZ of 27.09.2000 on statement of Witness PWS-35;
30. Record of the Cantonal Court Bihac No. Ki. 1/97 – RZ of 27.09.2000 on statement of Witness [REDACTED];
31. Record of the Prosecutor's Office of BiH No. KT-RZ-9/05 of 07.02.2005 on statement of Witness [REDACTED];
32. Record of the Cantonal Court Bihac of 01.11.2000 on statement of Witness [REDACTED];
33. Record of the Court of First Instance Bihac No. Kri.7/92 - RZ of 13.07.1992 on statement of Witness [REDACTED];
34. Record of the Court of First Instance Bihac No. Kri.11/92 – RZ of 15.07.1992 on statement of Witness [REDACTED];
35. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 10.02.2005 on statement of Witness [REDACTED];
36. Record of the Court of First Instance Bihac No. Kri.16/92-RZ of 23.07.1992 on statement of Witness [REDACTED];
37. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 29.05.2007 on statement of Witness [REDACTED];
38. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 31.05.2007 on statement of Witness [REDACTED];
39. Record of the Prosecutor Office of BiH No. KT-RZ-01/05 of 08.02.2008 on statement of Witness [REDACTED];

40. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 19.04.2005 on statement of Witness [REDACTED]
41. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 31.05.2007 on statement of Witness [REDACTED]
42. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 21.11.2007 on statement of Witness PWS-89;
43. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 23.01.2008 on statement of Witness [REDACTED]
44. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 17.01.2008 and 24.01.2008 on statement of Witness [REDACTED]
45. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 07.02.2008 on statement of Witness [REDACTED]
46. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 08.02.2008 on statement of Witness [REDACTED]
47. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 08.02.2008 on statement of Witness [REDACTED]
48. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 09.02.2008 on statement of Witness [REDACTED]
49. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 09.02.2008 on statement of Witness [REDACTED]
50. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
51. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
52. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
53. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 04.03.2008 on statement of Witness [REDACTED]
54. Record of the Cantonal Court Bihac No. Ki.1/97-RZ of 19.03.1998 on statement of Witness [REDACTED];
55. Record of the Higher Court Bihac No. Ki.9/92-Rz / of 10.12.1993 on statement of Witness [REDACTED];
56. Death Certificate No. 2003-12-4837/2007, of 13.02.2007, issued by Bihac Municipality;
57. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 30.05.2007 on statement of Witness [REDACTED]
58. Record of the Higher Court Bihac No. Ki.9/92RZ of 29.12.1993 on statement of Witness [REDACTED]
59. Record of the Cantonal Court Bihac No. Ki.1/98-RZ/ of 18.03.1998 on statement of Witness [REDACTED]
60. Death Certificate No. 1456/2008, of 14.02.2008, issued by Bosanska Krupa Municipality;

61. Record of the Court of First Instance Bihać No. Kri 21/92 of 29.07.1992 on statement of Witness [REDACTED]
62. Record of the Higher Court Bihać of 19.08.1993 on statement of Witness [REDACTED]
63. Record of the Higher Court Bihać No. Ki.9/92 - RZ of 02.02.1994 on statement of Witness [REDACTED]
64. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 14.04.2005 on statement of Witness [REDACTED]
65. Death Certificate No. S1/2008, of 11.02.2008, issued by Bosanska Krupa Municipality;
66. Record of the Court of First Instance Bihać No. Kri.8/92 – RZ of 14.07.1992 on statement of Witness Mehic Zarif;
67. Death Certificate No. 03/2-11-13-84/08, of 29.02.2008, issued by Bosanska Krupa Municipality;
68. Record of the Court of First Instance Bihać No. Kri.12/92 – RZ of 20.07.1992 on statement of Witness [REDACTED]
69. Death Certificate No. 2003-12-4839/2007, of 13.02.2008, issued by Bihać Municipality;
70. Census in Bosanska Krupa broken down per nationality;
71. Order of the War Presidency of the Serb Municipality of Bosanska Krupa on prohibition of entering, movement of motor vehicles and trucks owned by physical persons;
72. List of representatives in the Assembly of the Autonomous Krajina Region;
73. War Record – manuscript;
74. Reminder for work of activists, the SDS Municipal Staff of B. Krupa;
75. Information - the SDS Municipal Staff of B. Krupa;
76. Annual Report – SDS B. Krupa 26.07.1991;
77. SDS Programme – SDS Municipal Staff of B. Krupa of 27.07.1991;
78. Excerpt from a study, SDS, October 1991;
79. Decision of the SDS Municipal Staff of B. Krupa No. 1/91 of 25.10.1991;
80. Decision on conducting a plebiscite, Interim Assembly of Serb People in B. Krupa No. 2/91 of 25.10.1991;
81. Decision on conducting a referendum, Interim Assembly of Serb People in B. Krupa No. 3/91 of 25.10.1991;
82. Decision of the SDS Municipal Staff of B. Krupa No. 67/1 of 25.10.1991;
83. Decision of the SDS Municipal Staff of B. Krupa No. 4/91 of 25.10.1991;
84. Decision of the SDS Municipal Staff of B. Krupa No. 5/1 of 25.10.1991;
85. Decision of the SDS Municipal Staff of B. Krupa No. 7/1 of 25.10.1991;
86. Decision of the Assembly of Serb People in BiH of 21.11.1991;
87. Transcript from the second session of the Assembly of Serb People in BiH of 21.11.1991;

88. Report of the Serb Municipality of B. Krupa of 02.12.1991;
89. Minutes of the session of the Interim Serb Assembly of B. Krupa of 11.12.1991;
90. Decision of the Serb Municipality of B. Krupa No. 29/91 of 11.12.1991 on appointment of Štrbac Mile as the Deputy President of the Executive Board of the Serb Municipality of Bosanska Krupa;
91. Decision of the Serb Municipality of B. Krupa No. 34/91 of 11.12.1991;
92. Decision of the Serb Municipality of B. Krupa No. 35/91 of 11.12.1991 on appointment of Marčeta Zdravko for the commander of the Territorial Defense of B. Krupa;
93. Statute of the Serb Municipality of B. Krupa, November 1991;
94. Decision of the Serb Municipality of B. Krupa No. 16/91 of 11.12.1991;
95. Decision of the Serb Municipality of B. Krupa No. 34/91;
96. Excerpt from the Minutes of the 2nd Session of the Interim Assembly of the Serb Municipality of B. Krupa of 11.12.1991;
97. Excerpt from the Minutes of the 1st session of the Executive Board of the Serb Municipal Assembly of B. Krupa of 15.12.1991;
98. Excerpt from the Minutes of the 2nd session of the Executive Board of the Serb Municipal Assembly of B. Krupa dated 17.12.1991;
99. Letter of the Serb Municipal Assembly of B. Krupa to the SDA party No.:21/91 of 18.12.1991;
100. Instructions on organization and operations of Serb people authorities in BiH, SDS Main staff, 19 December 1991;
101. Letter of the Serb Municipal Assembly of B. Krupa sent to the BiH MUP No.:1/91 of 23.12.1991 on an initiative to create the Public Security of B. Krupa;
102. Letter of the Serb Municipal Assembly of B. Krupa No.:37/91 of 24.12.1991, Initiative;
103. Order of the Crisis Staff on prohibition to use firearms No.: 3/91 of 23.12.1991;
104. Order of the Crisis Staff on activation of reserve police No.:9/91 of 30.12.1991;
105. Letter of the Serb Municipal Assembly of B. Krupa No. 1/92 of 03.01.1992;
106. Letter of the Serb Municipal Assembly of B. Krupa to all local communities No. 9/92 of 28.01.1992;
107. Newspapers article "Blue and Green Land";
108. Proclamation to Serb People in BiH;
109. Call to boycott of the referendum, SDS Municipal Staff of B. Krupa;
110. Law on Internal Affairs of the Serb Republic of Bosnia Herzegovina;
111. Minutes of the 3rd session of the Serb Municipal Assembly of B. Krupa of 03.02.1992;
112. Letter of the Executive Board of the Serb Municipality of B. Krupa to the Federal Secretariat for National Defence No.:14/92 of 11.02.1992;
113. Request for weapons for Territorial Defense, Executive Board of the Municipal Assembly of B. Krupa, No. 21/92 of 10.03.1992;

114. Document of the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa of 20.02.1992 No. 19/92;
115. Transcript from the 11th session of the Assembly, 18.03.1992;
116. Transcript 14th session of the Assembly, 27.03.1992;
117. Request of the War Presidency of the Serb Municipality of B. Krupa for changed deployment of Kačavenda Borislava, Reserve Forces Lieutenant;
118. Press release, Assembly of Serb People in BiH, of 04.04.1992;
119. Request for distribution of weapons and military equipment of the Territorial Defence of Bosanska Krupa, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa, No. 20/92 of 05.04.1992;
120. Order of the Crisis Staff Commander, Gojko Kličković, to conduct general mobilization No: 26/92 of 05.04.1992;
121. Order of the Crisis Staff Commander, Gojko Kličković, to conduct general mobilization No: 28/92;
122. Order of the Crisis Staff Commander, Gojko Kličković, to conduct evacuation No. 27/92 of 05.04.1992;
123. Order of the Crisis Staff Commander, Gojko Kličković, No.: 25/92 of 05.04.1992;
124. Letter of the 2nd Military District Command sent to the 9th Corps Command No. 31/101-230 of 07.04.1992, signed by Milutin Kukanjac;
125. Decision of the Presidency of the Serb Republic of BiH of 15.04.1992 No. 03-11/92;
126. Decision of the RS Ministry of Defense of 16 April 1992 No. 1/92;
127. Diary – manuscript;
128. Letter from the War Presidency of the Serb Municipality of B. Krupa to the Banja Luka Corps Command No. 10/92 of 22.04.1992;
129. List of persons deprived of liberty 21.i 22.04.1992;
130. Decision of the War Presidency of the Municipality of B. Krupa on establishment of a Provisional Military Court No. 9/92 of 22.04.1992;
131. Telegram of the 10th Corps Command of the 2nd military District No. 19/31-442 of 23.04.1992;
132. Response of the 2nd military District to the telegram of the 10th Corps Command No. 31/104-40-1 of 24.04.1992;
133. Order of the War Presidency of the Serb Municipality of B. Krupa No. 22/92 of 24.04.1992;
134. Authorization of the War Presidency of the Serb Municipality of B. Krupa No. 16/92 of 24.04.1992;
135. Dispatch – Mass moving out of Bosanska Krupa, 25 April;
136. Order of the War Presidency of the Serb Municipality of B. Krupa No. 32/92 of 26.04.1992;
137. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 35/92 of 26.04.1992;

138. Instructions for work of members of the police detachment, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa;
139. Instructions for work of police detachment members in traffic control, Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa;
140. Request for assistance in providing fuel, the War Presidency of the Serb Municipality of Bosanska Krupa No 106/92 of 28.04.1992;
141. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 134/92 of 29.04.1992;
142. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 140/92 of 29.04.1992;
143. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the Logistics Base of the 10th Corps No 141/92 of 29.04.1992;
144. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa to the 10th Corps No 205/92 of 01.05.1992;
145. List of persons to be exchanged, displaced persons, detained wounded persons and persons who are staying at home;
146. List of displaced persons from Bosanska Krupa and Arapuša transferred voluntarily to Kamengrad;
147. List of persons who are looked for;
148. List of prisoners for exchange;
149. Order for patrolling the town No: 47/92, for the day of 02.05.1992, Police Station of B. Krupa;
150. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No: 121/92 of 03.05.1992;
151. Record on interview of prisoners of war, Provisional Military Court, 04.05.1992;
152. List of prisoners for exchange;
153. Decision of the War Presidency of the Serb Municipality of Bosanska Krupa No: 2/92 of 07.05.1992;
154. Order of the 1st Krajina Territorial Defence Brigade Command No. 100-2 of 07.05.1992;
155. Record on exchange of prisoners dated 10.05.1992;
156. Official Note of 11.05.1992, Public Security Centre Bihać;
157. Minutes of the 16th session of the Assembly of Serb People in BiH of 12 May 1992;
158. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 50/92 of 14.05.1992;
159. List of displaced persons from the left bank of the Una river, Command of Veliki Radić, No. 17/92 of 17.05.1992;
160. List of persons kept in prison until further notice, the War Presidency of the Serb Municipality of Bosanska Krupa No SL/92 of 19.05.1992 (with handwritten notes);

161. List of persons offered for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa No :SL/92 of 19.05.1992;
162. List of detained persons offered for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa No. SL/92 of 19.05.1992;
163. List of persons to be kept in prison until further notice, the War Presidency of the Serb Municipality of Bosanska Krupa of 19.05.1992;
164. List of detained persons requested for exchange, the War Presidency of the Serb Municipality of Bosanska Krupa of 19.05.1992;
165. List of persons to be kept in prison until further notice, the Serb Municipal War Presidency of B. Krupa;
166. Record of exchange dated 22.05.1992;
167. List of persons exchanged on 22.05.1992;
168. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No. 405/92 of 02.06.1992;
169. Document of the War Presidency of the Serb Municipality of Bosanska Krupa No. 330/92 of 04.06.1992, the Appeal to Muslim population attached;
170. SDS work instructions in circumstances of the immediate war threat, 1992;
171. Excerpt from the Minutes of constituting SDS of Bosanska Krupa;
172. List of persons for exchange, War Presidency of the Serb Municipality of Bosanska Krupa of 03.07.1992;
173. Convening of the 5th session of the Assembly of the Serb Municipality of Bosanska Krupa No. 29/92 of 02.07.1992;
174. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 43/92 of 10.07.1992;
175. Order of the War Presidency of the Serb Municipality of Bosanska Krupa No 660/92 of 13.07.1992;
176. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 56/92 of 21.08.1992;
177. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 65/92 of 21.08.1992;
178. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 63/92 of 21.08.1992;
179. Review of issued weapons, 1st Krajina Corps Command No. 18-168/I of 31.08.1992;
180. Excerpt from the Minutes of the 7th session of the Assembly of the Serb Municipality of Bosanska Krupa of 21.10.1992;
181. Decision of the Assembly of the Serb Municipality of Bosanska Krupa No. 80/92 of 21.10.1992;
182. Decision and request of the Assembly of the Serb Municipality of Bosanska Krupa No. 76/92 of 23.10.1992;
183. 3rd session of the Assembly of Serb people in BiH – Recommendation on establishment Assemblies of Municipalities of Serb people of BiH of 11.12.1991;



184. Copy of a diary of a former camp inmate from Serb camps;
185. Letter of the 11th Krupa Brigade to the Section for Intelligence and Security Affairs No. 47/45 of 15.12.1992;
186. Excerpt from the Minutes of the 3rd session of the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa of 24.12.1991;
187. Analysis of activities for 1992, 11th Krupa Brigade Command of 24.02.1993;
188. Analysis of activities for 1992, 11th Krupa Brigade Command of 26.02.1993;
189. Information on activities of the War Presidency;
190. 8th session of the Municipal Assembly of Bosanska Krupa No. 23/92 of 14.04.1993;
191. Excerpt from the Minutes of the 8th session of the Municipal Assembly of Krupa na Uni of 28.04.1993;
192. Request for submission of activity report, Professional Service of the Municipal Assembly of Krupa na Uni No.30/93 of 29.04.1993;
193. Letter from the Executive Board of the Assembly of the Serb Municipality of Bosanska Krupa to the Command of the 11th Krupa Light Infantry Brigade No. 58/93 of 10.08.1993;
194. Official note of the Higher Court in Bihać No. Ki 1/96-RZ of 08.02.1992 on exhumation of Mirsad Budimlić;
195. Letter of the Municipality of Bosanska Krupa, Registry Office, to the Cantonal Court in Bihać No. 09/10-13-2000-493 of 23.11.2000, records from Register of Deaths for, [REDACTED] attached;
196. DNA test report for [REDACTED];
197. ICTY – Submission of the Corrigendum of the Expert Witness Report, [REDACTED] filed on 20 June 2002 and submission of an updated report of the Expert Witness No. IT-00-39-T of 26.11.2004;
198. List with personal data of identified and missing persons in the area of B. Krupa, Third Police Administration, No. 05-1/08-1-554/07 dated 03.09.2007;
199. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of Unsko-Sanski Canton No. KT-147/92-RZ dated 23.12.2004;
200. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of BiH No. KT-1/05-RZ dated 04.05.2005;
201. Record of suspect examination – Vjestica Miroslav, Prosecutor's Office of BiH No. KT-1/05-RZ dated 06.05.2005;
202. Transcript of the interview with Milorad Vjestica dated 27.02.2003;
203. Transcript of the interview with Milorad Vjestica dated 04.12.2002., ICTY office in Banja Luka;
204. Decision of the Transitional Assembly of the Serb Municipality of Bosanska Krupa No. 6/91 of 25.10.1991;
205. Invitation for the 5<sup>th</sup> session of the Assembly of the Serb Municipality of Bosanska Krupa No. 24/92 of 29.05.92;

206. Excerpt from the minutes of the 6<sup>th</sup> session of the Assembly of the Serb Municipality of Bosanska Krupa;
207. Report on interview of detainee [REDACTED] of 30.05.1992;
208. Banja Luka TV footage of Interview with [REDACTED] and another Bosnjak Captive;
209. Diary of [REDACTED]
210. Diary of [REDACTED]
211. Minutes of Autopsy of [REDACTED]
212. Military developments in the Bosanska Krajina, expert report by [REDACTED] 27 November 2002;
213. CD containing several amateur videos from the Municipality of Bosanska Krupa;
214. CD with video of SDS gathering;
215. CD with video interview with Gojko Kličković;
216. Order of the War Presidency No. 12/92 of 24 April 1992;
217. Order of the War Presidency No. 23/92 of 24 April 1992;
218. Order of the War Presidency No. 24/92 of 25 April 1992;
219. Order of the War Presidency No. 42/92 of 26 April 1992;
220. Letter of the War Presidency No. 200/92 of 25 May 1992, re: Response to the Appeal of Vranješ Duško;
221. Order of the War Presidency No. 217/92 of 27 May 1992;
222. Letter of the War Presidency No. 254/92 of 28 May 1992, re: Supply of Petroleum Products is requested;
223. Dispatch of the Command of the 11<sup>th</sup> Krupa Light Infantry Brigade No. 711-2/94 of 5 November 1994;
224. Record on interview of prisoners of war of 30.04.1992;
225. Order of the War Presidency of the Serb Municipality Bosanska Krupa No. 1533/92 of 14.09.1992;
226. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa, re: Warning on behavior and interference of certain Command departments into civilian sector;
227. Instruction for work of the members of the Municipal Board and the Krupa na Uni SDS activists and local organizations;
228. Set of three lists from the Commission for Exchange of Prisoners, Persons Deprived of Liberty and Killed Persons;
229. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 22 April 2005, on statement of Witness Mladen Drljača;
230. Record of the Prosecutor's Office of BiH No. KT-RZ-22/08 of 3 March 2008, on examination of Suspect Mladen Drljača;
231. Official note made by Investigator Mitar Tešić, No. KT-RZ-22/08 of 13 March 2008.

## PROPOSAL FOR PRE-TRIAL DETENTION FOLLOWING CONFIRMATION OF THE INDICTMENT

Based upon the results of the investigation conducted by the Prosecutor's Office of BiH there is grounded suspicion that the Accused Mladen Drljača committed the criminal offence with which he is charged.

The pre-trial custody of the Accused was initially granted by the Decision of the Court of BiH – Preliminary Proceedings Judge – on 3 March 2008, on the grounds referred to in Article 132 (1) (b) for a period of one month, in accordance with Article 135 (1).

Pursuant to Articles 227 (3) and 137 (1) of the BiH CPC the Prosecutor's Office of BiH proposes that, following confirmation of the Indictment, the detention of the Accused, Mladen Drljača, be granted for the duration specified in Article 137 (2) (d) for the grounds provided for in Articles 132 (1) (a) and (b) of the BiH CPC.

### Article 132 (1) (a): Risk of Absconding

With regard to the legal grounds for detention prescribed under Article 132 (1) a) of the BiH CPC the Prosecution strenuously maintains that circumstances exist that suggest a realistic possibility of flight. The Accused was one of only five men who were official members of the War Presidency, which was all-powerful and exercised all of the executive, administrative and judicial functions in the Municipality. When the Accused acted as a Judge and as President of the Exchange Commission that specific power and authority was enhanced by his general weight and status. If convicted, his seniority is likely to aggravate any sentence. The crime of Persecution carries a minimum penalty of 10 years imprisonment or long term imprisonment. As a lawyer he will appreciate all this. War crime carries great stigma. Conviction will bring disgrace to him and his family and threaten his career and his family's well-being. For all these reasons he is likely to flee.

The fact that the Accused has resided in Banja Luka until now without flight is not at all decisive in this case. The Accused predictably claims he did foresee prosecution but did not flee. It is respectfully submitted that he did not foresee a true likelihood of prosecution. The risks of staying in this country were low. Examination of all BiH final and binding verdicts within his Municipality since the end of the war reveals that no-one from Bosanska Krupa was convicted of war crimes. Until March 2003 this Court was not operating – and thereafter the process of selection of cases based on sensitivity delayed action. In April 2005 the Appellant was interviewed as a witness in the Miroslav Vještica investigation and from then on had confident reason to expect that he was very unlikely to be prosecuted. Furthermore, as this indictment clearly shows, his liability is complex, within a joint criminal enterprise, and derives more from decisions he unlawfully made or failed to make than from more obviously direct actions

Fresh information discovered on 13 March 2008 confirms that the Accused is a citizen of Serbia, a country that does not extradite its citizens, The Accused obtained Serbian citizenship in 2003, the year this Court was set up. He maintains that he never collected a

passport because he never had a wish to live in Serbia. To seek citizenship of a country without an interest in living there makes no sense. The Prosecution argues that to apply for citizenship for a country from which there is no extradition and in which the Accused does not want to live very strongly suggests that obtaining Serbian citizenship was a precautionary measure done to facilitate flight by the Accused should it ever be necessary.

Not only is there a risk of flight, but it is also the case that lesser measures than custody are not appropriate. Fear of hindering witnesses, accessories and accomplices rightly applies under Article 132 (1) (b) of the CPC of BiH in this case and cannot be adequately deterred by lesser measures than custody. For this reason Article 126 (1) of the CPC of BiH relates special measures to fear of flight using words very similar to the provisions of Article 132 (1) (a).

House arrest is of no value since the Serbian border is a short drive away and no effective policing of lesser measures could prevent flight. Whenever, as here, an Accused has citizenship of a closely located country house arrest can be violated with the greatest of ease. 'Occasional' reporting to the Police is no barrier at all to flight. The Prosecution intention is to seek joint proceedings in this case and the case against the Accused's War Presidency colleague, Gojko Kličević. The joinder of these matters is very vulnerable to delay. The Accused is fully aware of this and has been in court when the Prosecution raised this issue in the original pre-trial custody hearing. If he flees the jurisdiction even for a few months he ensures that no joint proceedings can take place

Taking into consideration all these circumstances and considerations, the Prosecution concludes that there is a real risk, and not only a mere possibility, to fear that the Accused, if released, would not voluntarily respond to a Court summons and that he would either hide within the jurisdiction or flee across the border to Serbia and thus become unavailable to the Court of BiH. Accordingly, the Prosecution submits that there are grounds for ordering custody under Article 132 (1) (a) of the CPC of BiH.

Article 132 (1) (b); Risk of Hindering the Inquiry.

Insider witnesses are always a strong reason to apply Article 132 (1) (b) and insider evidence is paramount in this trial. This is no fault of the Prosecution. Proving war crimes frequently compels reliance on hostile witnesses. In this Prosecution, although the hearings conducted by the Provisional Military Court, the actions of the military police and the existence of the exchange commission are described by many victim witnesses the details of the inner workings and precise roles of these organs are things known only to the Accused and his various colleagues within those organs or within the War Presidency hierarchy. All these persons are extremely hostile to the Prosecution. They will do anything and everything that can possibly be done to falsify facts and evidence to assist the Accused; to assist him is in all their mutual interests. If the Accused is released his capacity to harmonise, coordinate and refine false evidence to be given by his former colleagues will cause colossal damage to the Prosecution case and could easily alter the

result of the Trial. There is no doubt that witness influencing and document misuse will be very much simpler if the Accused is at liberty. He will be uniquely placed and at leisure to wrongly influence the outcome of this case. He is a lawyer and he is motivated to do it. This influence can cover with-holding of testimony, with-holding of relevant details in testimony, false testimony and removal or hiding of documents. The Accused is on very close terms with almost all of the insider witnesses. They are all within his potential reach either here on in nearby Serbia.

The fears described above will endure throughout the whole trial. The Accused can far better construct false explanations and defences for use in his defence if he is free rather than in custody. Although the investigation phase of the proceedings is over the building of the defence case is just beginning. If not in custody he has obvious motives to work carefully with a circle of sympathetic witnesses to create a credible but false defence. This is just as much the case whether or not he chooses to defend himself by silence. In fact the choice of that option would make it even more vital to harmonise what his witnesses should say. The fear expressed is not alarmist or unrealistic. The effect and harm caused by contrived and rehearsed false evidence is seen almost every day in this Court and is strikingly obvious in cases where the Accused are not in custody.

Taking into consideration all these circumstances and considerations, the Prosecution concludes that there is a real risk, and not only a mere possibility, that the Accused, if released, will hinder the criminal proceedings by influencing witnesses, accomplices or accessories. Accordingly, the Prosecution submits that there are grounds for ordering custody under Article 132 (1) (b) of the BiH CPC

The Prosecutor therefore respectfully requests the Preliminary Hearing Judge to order the custody of the Accused Mladen Drljača during the course of the main trial.

Based on the foregoing, the Prosecutor further requests the Preliminary Hearing Judge to confirm this Indictment with respect to all the charges against MLADEN DRILJAČA contained in Counts 1 and 2.

Respectfully submitted,

Prosecutor's Office of BiH  
International Prosecutor

  
Philip King Alcock