

Sud BiH / Суд БиХ  
Кривично одјељење / Апелационо одјељење /  
Кривично одјељење и Апелационо одјељење  
Одјел I / Одјел II / Одјел I и Одјел II  
Одјел за судску управу / Одјел за судску управу  
X- KRN/06/200

PREVOD *BRANJEVA 331*

BOSNIA AND HERZEGOVINA  
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA  
SARAJEVO  
Case No: KT-RZ-91/06  
Sarajevo, 7 July 2006

Stamp: REPUBLIC OF BOSNIA AND HERZEGOVINA, SARAJEVO, SUD BIH, KRN/06/200, 14.07.2006, with signature.

COURT OF BOSNIA AND HERZEGOVINA  
- PRELIMINARY HEARING JUDGE -

Pursuant to Article 35 (2) (h), 226 (1) and 227 of the *Criminal Procedure Code of Bosnia and Herzegovina* (BiH CPC) in connection with Article 2 (1) and (2) of the *Law on Transfer of Cases from the International Criminal Tribunal for the Former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and the Use of Evidence Collected from the International Criminal Tribunal for the Former Yugoslavia in the Proceedings before the Courts in Bosnia and Herzegovina* (Law on Transfer) and in accordance with the charges laid out in the Consolidated Indictment of the International Criminal Tribunal for the Former Yugoslavia number IT-02-65 against Željko Mejakić, Momčilo Gruban, Dušan Fuštar and Duško Knežević and the facts stated therein I hereby file this adapted

**INDICTMENT**

**Against:**

**Željko Mejakić**, son of Blagoje, mother's name Milka, born on 2 August 1964 in Petrov Gaj, the Municipality of Prijedor, Bosnia and Herzegovina, formerly resident in the village of Omarska, of Serb nationality, citizen of Bosnia and Herzegovina and the Republic of Serbia, formerly employed as a police officer, graduated from Secondary School for Internal Affairs, married, father of 2 children, no previous convictions, no other criminal proceedings, deemed by law to have completed compulsory military service by virtue of completing Secondary School for Internal Affairs, no rank or decoration, held in custody based initially on the Decision of the Court of BiH number X-KRN/06/200 dated 10 May 2006, and presently on the Decision to Extend Custody issued by the Court of BiH, number X-KRN/06/200 dated 9 June 2006.

**Momčilo Gruban**, also known as "Čkalja", son of Milan, mother's name Radojka, born on 19 June 1961 in the village of Marička, the Municipality of Prijedor, Bosnia and Herzegovina, formerly resident in Belgrade, Republic of Serbia, of Serb nationality, citizen of Bosnia and Herzegovina and the Republic of Serbia, machinist – locksmith by occupation, graduated from Secondary and Post-Secondary Mechanical Engineering School and Police Academy, married, father of 2 children, no previous convictions, no other criminal proceedings, performed military service, no rank or decoration, held in custody based initially on the Decision of the Court of BiH number X-KRN/06/200 dated 10 May 2006, and presently on the Decision to Extend Custody issued by the Court of BiH, number X-KRN/06/200 dated 9 June 2006.

**Dušan Fuštar**, son of Jovan, mother's name Zdravka, born on 29 June 1954 in Bačko Dobro Polje, the Municipality of Vrbas, Vojvodina, Republic of Serbia, formerly resident in Prijedor Municipality, of Serb nationality, citizen of the Republic of Serbia, mechanic by occupation, married, father of 1 child, no previous convictions, no other criminal proceedings, performed military service, no rank or decoration, held in custody based initially on the Decision of the Court of BiH number X-KRN/06/200 dated 10 May 2006, and presently on the Decision to Extend Custody issued by the Court of BiH, number X-KRN/06/200 dated 9 June 2006.

**Duško Knežević**, also known as "Duća", son of Milan, mother's name Dragica, born on 17 June 1967 in Orlovci, the Municipality of Prijedor, Bosnia and Herzegovina, former place of residence Republika Srpska and Serbia & Montenegro, of Serb nationality, citizen of Bosnia and Herzegovina and the Republic of Serbia, waiter by occupation, performed military service, no rank or decoration, held in custody based initially on the Decision of the Court of BiH number X-KRN/06/200 dated 10 May 2006, and presently on the Decision to Extend Custody issued by the Court of BiH, number X-KRN/06/200 dated 9 June 2006.

#### **Because**

From 30 April 1992 to the end of 1992 during an armed conflict in the Republic of Bosnia and Herzegovina and in the context of a widespread or systematic attack on Bosnian Muslim, Bosnian Croat and other non-Serb civilian populations of the Prijedor municipality by members of the Army of Republika Srpska, Territorial Defence, police and paramilitary formations ("Serb forces") and armed civilians first led by the Prijedor Municipality Crisis Staff and later on by the Serb Assembly of the Prijedor Municipality, a plan was executed to permanently remove Bosnian Muslims, Bosnian Croats and other non Serb inhabitants from the territory of the planned Serbian state in Bosnia and Herzegovina and as part of this plan more than 7000 non-Serb civilians from the area of this municipality who survived the first artillery and infantry attacks, among them particularly intellectuals, economic and political leaders as well as wealthy citizens, were systematically captured and taken to and arbitrarily confined at "Omarska", "Keraterm" and Trnopolje camps, which were established and operated under the direction of the Crisis Staff of the Prijedor municipality, where they were held in inhuman conditions and subjugated to grave physical, psychological and sexual maltreatment, many of them killed on the basis of their ethnicity, religion or political affiliation, and the accused directly participated in this mistreatment and persecution in a manner that:

## THE OMARSKA CAMP

### ŽELJKO MEJAKIĆ

1. Between 24 May 1992 and 30 August 1992 ŽELJKO MEJAKIĆ was the Chief of Security and at least *de facto* Camp Commander of Omarska Camp and supervised and was responsible for all three shifts of guards in the camp and had effective control over the work and conduct of all Omarska camp guards and other persons working within the camp, as well as most camp visitors and was supervising and had full control over the conditions in the Omarska camp and the lives and limbs of more than 3000 civilians detained in the Omarska camp, participated in arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp which conditions were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at a minimum hundreds of detainees were killed or died as a result of these conditions, including:

- killings of detainees directly and personally committed by persons over whom ŽELJKO MEJAKIĆ had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 28 May 1992 [REDACTED] was beaten and then shot dead by a camp guard; on or about 30 May 1992 [REDACTED] were shot together and killed by a Serb visitor to the camp; in June or July 1992 [REDACTED] and [REDACTED] were beaten to death by [REDACTED] and other camp guards; around the middle of June 1992 [REDACTED] was shot and killed by [REDACTED] in the presence of DUSKO KNEŽEVIĆ who were both visitors to the camp; on or about 10 June 1992 [REDACTED] was shot and killed by [REDACTED] a camp guard; in early June 1992 [REDACTED] was beaten to death by [REDACTED] and other camp guards; in mid-June 1992 [REDACTED] was beaten on multiple occasions by DUŠKO KNEŽEVIĆ and [REDACTED] who were both visitors to the camp, and others and died as a result; on one night in June 1992 several men (approximately 12) with the surname [REDACTED] were beaten and then shot dead by a group of Serb soldiers visiting the camp; in June 1992 [REDACTED] was beaten to death by two uniformed men and [REDACTED] and DUŠKO KNEŽEVIĆ; on or about 10 June 1992 [REDACTED] was beaten to death by DUŠKO KNEŽEVIĆ and [REDACTED] on about 25-26 June [REDACTED] was beaten to death by camp guards; between 24 May and 6 August

1992 [redacted] was shot and killed by a camp guard; around mid-June 1992 [redacted] and another man named [redacted] were shot and killed by or in the presence of visitors to the camp including DUŠKO KNEŽEVIĆ and [redacted] in July 1992 [redacted] was shot and killed by camp guards; in late July 1992 [redacted] was shot and killed by camp guards; in July 1992 [redacted] was beaten to death by camp guards; on or about 18 June 1992 [redacted] were beaten to death by camp guards and visitors to the camp; in July 1992 [redacted] died as a result of beatings by camp guards; in early July 1992 [redacted] having already been severely beaten by camp guards including [redacted] was killed along with [redacted] on one day in late July 1992 [redacted] and [redacted] were all beaten by camp guards and then disappeared from the camp; in July 1992 [redacted] disappeared from the camp; between 25 and 30 July 1992 [redacted] disappeared from the camp having already been beaten by camp guards; in July 1992 [redacted] was beaten to death by camp guards; on one night in July 1992 [redacted] disappeared from the camp; on one evening in July 1992 approximately 30 – 40 detainees including [redacted] and several men surnamed [redacted] disappeared; in late July 1992 a large number of number of unidentified detainees including 100 – 150 detained villagers of the Hambarine village were shot dead;

- killings resulting from the described system of ill-treatment and persecution at the camp in which ŽELJKO MEJAKIĆ participated, including in June 1992 [redacted] died as a result of a lack of medication and medical treatment for diabetes;
- beatings and other physical assaults of detainees committed directly and personally by ŽELJKO MEJAKIĆ or in his immediate presence with discriminatory intent, including on or about 25 June 1992 [redacted] was beaten by two guards and after a while ŽELJKO MEJAKIĆ entered the room and kicked him in the chest;
- beatings and other physical assaults of detainees directly and personally committed by persons over whom ŽELJKO MEJAKIĆ had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about the night of 29-30 May 1992 upon their arrival at the camp [redacted] together with other new detainees were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 [redacted] was severely beaten by camp guards with whips with leather balls on their ends; during his detention between 10 June and 6 August in Omarska camp, [redacted] received a number of severe beatings from

camp guards and camp visitors including on or about 10 June 1992 he together with detainees K036, [REDACTED] were severely beaten in the same building with fists, electric cables and batons by camp guards called [REDACTED] and DUŠKO KNEŽEVIĆ, and in addition to [REDACTED] cutting [REDACTED] with a large knife, he sustained a broken skull and large wounds to his head and body from the beating and the other detainees emerged covered in blood with disfigured faces and [REDACTED] died as a result; a couple of days after the last mentioned beating [REDACTED] was taken to the "White House" by [REDACTED] where [REDACTED] showed Momčilo GRUBAN the injuries from his previous beating by [REDACTED] and asked for help and Momčilo GRUBAN told him to go inside the "White House" with [REDACTED] and said that he guaranteed that [REDACTED] would not be mistreated, however, once inside, [REDACTED] received another vicious beating from [REDACTED] that cracked his skull and covered his head and face with blood; a few days after the last mentioned beating [REDACTED] was again severely beaten by a group of visitors to the camp including a visitor called [REDACTED] to the point where he could not move for several days; in mid-June 1992 witness K022 and [REDACTED] were severely beaten on multiple occasions including on one occasion by [REDACTED] and DUŠKO KNEŽEVIĆ who used a wooden truncheon and a special baton with a metal ball attached; in mid-June 1992 the day after the last mentioned beating witness K022 and [REDACTED] together with other detainees including [REDACTED] were severely beaten by [REDACTED] and DUŠKO KNEŽEVIĆ resulting in Witness K022 losing consciousness, receiving fractures to his face and large swellings all over his body; on or about 23 June 1992 [REDACTED] was severely beaten twice by at least one camp guard resulting in bruises to his body; on or about 4 July 1992 approximately 120 detainees were beaten with sticks by camp guards upon their arrival at the Omarska camp from Keraterm Camp; on the evening of or before "Petrovdan" in mid-July 1992 a number of detainees were severely beaten by camp guards with sticks, batons and knives while being made to walk around a fire and a former football player known as [REDACTED] was forced into the fire or smoldering cinders; on or about 17 or 18 July 1992 [REDACTED] was severely beaten by camp guards with a bar hauling him up to beat him again whenever he fell; on or about 20 July 1992 [REDACTED] was beaten on the head with a police baton and punched and kicked by a camp guard rendering him comatose for at least a day;

- rapes and other forms of sexual abuse of detainees committed by persons over whom ŽELJKO MEJAKIĆ had effective control and which rapes and sexual abuse were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was raped on numerous occasions by camp guards [REDACTED] and others; witness K027 who was sexually assaulted by the shift Commander

██████████ and on another occasion in July 1992 by ██████████  
witness K040 who was sexually abused twice by camp guard ██████████

### MOMČILO GRUBAN

2. Between 24 May 1992 and 30 August 1992 the accused MOMČILO GRUBAN was commander of one of the three guard shifts in the "Omarska" camp and in addition to supervising and effectively controlling the work and conduct of guards, other persons working within the camp and most camp visitors during his shift, he was supervising and had full control over the conditions in the Omarska camp and the lives and limbs of more than 3000 civilians detained in the Omarska camp, participated in arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp which conditions were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at a minimum hundreds of detainees were killed or died as a result of these conditions, including:

- killings of detainees directly and personally committed by persons during MOMČILO GRUBAN'S shift and over whom he had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on one night in July 1992 ██████████ disappeared from the camp; on one evening in July 1992 approximately 30 – 40 detainees including ██████████ and several men surnamed ██████████ disappeared; in late July 1992 a large number of number of unidentified detainees including 100 – 150 detained villagers of the Hambarine village were shot dead;
- killings of detainees directly and personally committed by persons outside of MOMČILO GRUBAN'S shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 28 May 1992 ██████████ was beaten and then shot dead by a camp guard; on or about 30 May 1992 ██████████ were shot together and killed by a Serb visitor to the camp; in June or July 1992 ██████████ were beaten to death by ██████████ and other camp guards; around the middle of June 1992 ██████████ was shot and killed by ██████████ in the presence of DUŠKO KNEŽEVIĆ who were both visitors to the camp; on about 25-26 June ██████████ was beaten to death by camp guards; between 24

May and 6 August 1992 [redacted] was shot and killed by a camp guard; on or about 10 June 1992 [redacted] was beaten to death by DUŠKO KNEŽEVIĆ and [redacted] who were both visitors to the camp; around mid-June 1992 [redacted] and another man named [redacted] were shot and killed by or in the presence of visitors to the camp including DUŠKO KNEŽEVIĆ and [redacted] in late July 1992 [redacted] was shot and killed by camp guards; on or about 18 June 1992 [redacted] were beaten to death by camp guards and visitors to the camp; on or about 10 June 1992 [redacted] was shot and killed by [redacted] a camp guard; in early June 1992 [redacted] was beaten to death by [redacted] and other camp guards; in mid-June 1992 [redacted] was beaten on multiple occasions by DUŠKO KNEŽEVIĆ and [redacted] who were both visitors to the camp, and others and died as a result; on one night in June 1992 several men (approximately 12) with the surname [redacted] were beaten and then shot dead by a group of Serb soldiers visiting the camp; in June 1992 [redacted] was beaten to death by two uniformed men and [redacted] and DUŠKO KNEŽEVIĆ who were both visitors to the camp; in early July 1992 [redacted] having already been severely beaten by camp guards including [redacted] was killed along with [redacted] in July 1992 [redacted] was beaten to death by camp guards; in July 1992 [redacted] died as a result of beatings by camp guards; on one day in late July 1992 [redacted] were all beaten by camp guards and then disappeared from the camp; in July 1992 [redacted] disappeared from the camp; between 25 and 30 July 1992 [redacted] disappeared from the camp having been beaten by camp guards; in July 1992 [redacted] was beaten to death by camp guards;

- killings resulting from the described system of ill-treatment and persecution at the camp in which MOMČILO GRUBAN participated, including in June 1992 [redacted] died as a result of a lack of medication and medical treatment for diabetes;
- beatings and other physical assaults of detainees directly and personally committed by persons during MOMČILO GRUBAN'S shift and over whom he had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in mid-June 1992 [redacted] was taken to the "White House" by [redacted] where [redacted] showed MOMČILO GRUBAN the injuries from his previous beating by [redacted] and others and asked for help and MOMČILO GRUBAN told him to go inside the "White House" with [redacted] and said that he guaranteed that [redacted] would not be mistreated, however, once inside, [redacted] received another vicious beating from [redacted] that cracked his skull

and covered his head and face with blood; on or about 4 July 1992 approximately 120 detainees were beaten with sticks by camp guards upon their arrival at the Omarska camp from Keraterm Camp; on or about 17 or 18 July 1992 [REDACTED] was severely beaten by camp guards with a bar hauling him up to beat him again whenever he fell; on or about 20 July 1992 [REDACTED] was beaten on the head with a police baton and punched and kicked by a camp guard rendering him comatose for at least a day; on the evening of or before "Petrovdan" in mid-July 1992 a number of detainees were severely beaten by camp guards with sticks, batons and knives while being made to walk around a fire and a former football player known as [REDACTED] was forced into the fire or smoldering cinders;

- beatings and other physical assaults of detainees directly and personally committed by persons outside of MOMČILO GRUBAN'S shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about the night of 29-30 May 1992 upon their arrival at the camp [REDACTED] together with other new detainees were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 [REDACTED] was severely beaten by camp guards with whips with leather balls on their ends; during his detention between 10 June and 6 August in Omarska camp, [REDACTED] received a number of severe beatings from camp guards and camp visitors including on or about 10 June 1992 he together with detainees K036, [REDACTED] were severely beaten in the same building with fists, electric cables and batons by camp guards called [REDACTED] and DUŠKO KNEŽEVIĆ, and in addition to [REDACTED] cutting [REDACTED] with a large knife, he sustained a broken skull and large wounds to his head and body from the beating and the other detainees emerged covered in blood with disfigured faces and [REDACTED] died as a result; several days after the last mentioned beating [REDACTED] was again severely beaten by a group of visitors to the camp including a visitor called [REDACTED] to the point where he could not move for several days; in mid-June 1992 Witness K022 and [REDACTED] were severely beaten on multiple occasions including on one occasion by [REDACTED] and DUŠKO KNEŽEVIĆ who used a wooden truncheon and a special baton with a metal ball attached; in mid-June 1992 the day after the last mentioned beating Witness K022 and [REDACTED] together with other detainees including [REDACTED] were again severely beaten by [REDACTED] and DUŠKO KNEŽEVIĆ resulting in Witness K022 losing consciousness, receiving fractures to his face and large swellings all over his body; on or about 23 June 1992 [REDACTED] was severely beaten twice by at least one camp guard resulting in bruises to his body; on or about 25 June 1992 [REDACTED] was beaten by two guards and after a while ŽELJKO MEJAKIĆ entered the room and kicked him in the chest;

- rape and other forms of sexual abuse of detainees directly and personally committed by persons during MOMČILO GRUBAN'S shift and over whom he had effective control and which rapes and sexual abuse were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was raped on numerous occasions by camp guards [REDACTED] and others; witness K040 who was sexually abused twice by camp guard [REDACTED]
- rape and other forms of sexual abuse of detainees directly or personally committed by persons outside of the shift that was under MOMČILO GRUBAN'S command but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K027 who was sexually assaulted by the shift Commander [REDACTED] and on another occasion in July 1992 by [REDACTED]

### DUŠKO KNEŽEVIĆ

3. Between 24 May 1992 and 30 August 1992 the accused DUŠKO KNEŽEVIĆ, who held no official position in the Omarska camp, regularly entered the "Omarska" camp at will and unhindered by anyone and committed killings and beatings of the detainees and by this contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at a minimum hundreds of detainees were killed or died as a result of these conditions, including:
  - killings of detainees personally and directly committed by DUŠKO KNEŽEVIĆ or in his immediate presence with discriminatory intent, including in mid-June 1992 in the "White House" [REDACTED] and a man surnamed [REDACTED] were shot and killed by or in the presence of DUŠKO KNEŽEVIĆ and [REDACTED] while they were beating [REDACTED] among others; in June 1992 in the "White House" DUŠKO KNEŽEVIĆ together with two uniformed men, [REDACTED] beat [REDACTED] to death; on or around 10 June 1992 in the "White House" DUŠKO KNEŽEVIĆ together with [REDACTED] beat [REDACTED] and his son witness K022 using a wooden baton and a special baton with an attached metal ball leaving the whole body of [REDACTED] bloody and on the following day DUŠKO KNEŽEVIĆ and [REDACTED] again came to the same room and continued to beat the same detainees forcing [REDACTED] to lick his own blood and the following day the detainee [REDACTED] died

as a result of these beatings; on or about 10 June 1992 together with camp guards called [REDACTED] and the camp visitor [REDACTED] DUŠKO KNEŽEVIĆ severely beat the detainees [REDACTED] K036, [REDACTED] in the same building with fists, electric cables and batons and [REDACTED] died as a result; around the middle of June 1992 [REDACTED] was shot and killed by [REDACTED], a visitor the camp, in the presence of DUŠKO KNEŽEVIĆ;

- killings of detainees directly and personally committed by persons other than DUŠKO KNEŽEVIĆ but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 28 May 1992 [REDACTED] was beaten and then shot dead by a camp guard; on or about 30 May 1992 [REDACTED] were shot together and killed by a Serb visitor to the camp; on or about 10 June 1992 [REDACTED] was shot and killed by [REDACTED] a camp guard; in early June 1992 [REDACTED] was beaten to death by [REDACTED] and other camp guards; on one night in June 1992 several men (approximately 12) with the surname [REDACTED] were beaten and then shot dead by a group of Serb soldiers visiting the camp; in June or July 1992 [REDACTED] were beaten to death by [REDACTED] and other camp guards; on about 25-26 June [REDACTED] was beaten to death by camp guards; in July 1992 [REDACTED] died as result of beatings by camp guards; between 24 May and 6 August 1992 [REDACTED] was shot and killed by a camp guard; in July 1992 [REDACTED] was shot and killed by camp guards; in late July [REDACTED] was shot and killed by camp guards; in July 1992 [REDACTED] was beaten to death by camp guards; on or about 18 June 1992 [REDACTED] were beaten to death by camp guards and visitors to the camp; in early July 1992 [REDACTED] having already been severely beaten by camp guards including [REDACTED] was killed along with [REDACTED] on one day in late July 1992 [REDACTED] were all beaten by camp guards and then disappeared from the camp; in July 1992 [REDACTED] disappeared from the camp; between 25 and 30 July 1992 [REDACTED] disappeared from the camp having already been beaten by camp guards; in July 1992 [REDACTED] was beaten to death by camp guards; on one night in July 1992 [REDACTED] disappeared from the camp; on one evening in July 1992 approximately 30 – 40 detainees including [REDACTED] and several men surnamed [REDACTED] disappeared; in late July 1992 a large number of unidentified detainees including 100 – 150 detained villagers of the Hambarine village were shot dead;

- killings resulting from the described system of ill-treatment and persecution at the camp in which DUŠKO KNEŽEVIĆ participated, including in June 1992 [REDACTED] died as a result of a lack of medication and medical treatment for diabetes;
- beatings and other physical assaults of detainees directly and personally committed by DUŠKO KNEŽEVIĆ or in his immediate presence with discriminatory intent, including on or about 10 June 1992 together with camp guards called [REDACTED] and the camp visitor [REDACTED] he severely beat the detainees [REDACTED] K036, [REDACTED] with fists, electric cables and batons and in addition to being stabbed with a large knife by [REDACTED] sustained a broken skull and large wounds to his head and body and the other detainees emerged covered in blood with disfigured faces and [REDACTED] died as a result; on or around 10 June 1992 in the "White House" DUŠKO KNEŽEVIĆ together with [REDACTED] beat [REDACTED] and his son witness K022 using a wooden baton and a special baton with an attached metal ball leaving the whole body of [REDACTED] bloody and on the following day DUŠKO KNEŽEVIĆ and [REDACTED] again came to the same room and continued to beat the same detainees as well as detainee [REDACTED] forcing [REDACTED] to lick his own blood;
- beatings and other physical assaults of detainees directly and personally committed by persons other than DUŠKO KNEŽEVIĆ but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about the night of 29-30 May 1992 upon their arrival at the camp [REDACTED] together with other new detainees were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 [REDACTED] was severely beaten by camp guards with whips with leather balls on their ends; on or about 25 June 1992 [REDACTED] was beaten by two guards and after a while ŽELJKO MEJAKIĆ entered the room and kicked him in the chest; during his detention between 10 June and 6 August in Omarska camp, [REDACTED] received a number of severe beatings from camp guards and camp visitors including in mid-June 1992 he was taken to the White House by [REDACTED] where [REDACTED] showed [REDACTED] GRUBAN the injuries from his previous beating by [REDACTED] and asked for help and Momčilo GRUBAN told him to go inside the White House with [REDACTED] and said that he guaranteed that [REDACTED] would not be mistreated, however, once inside, [REDACTED] received another vicious beating from [REDACTED] that cracked his skull and covered his head and face with blood; a few days after the last mentioned beating [REDACTED] was again severely beaten by a group of visitors to the camp including a visitor called [REDACTED] to the point where he could not move for several days; on or about 23 June 1992 [REDACTED] was severely beaten twice by at least one camp guard

resulting in bruises to his body; on or about 4 July 1992 approximately 120 detainees were beaten with sticks by camp guards upon their arrival at the Omarska camp from Keraterm Camp; on the evening of or before "Petrovdan" in mid-July 1992 a number of detainees were severely beaten by camp guards with sticks, batons and knives while being made to walk around a fire and a former football player known as [REDACTED] was forced into the fire or smoldering cinders; on or about 17 or 18 July 1992 [REDACTED] was severely beaten by camp guards with a bar hauling him up to beat him again whenever he fell; on or about 20 July 1992 [REDACTED] was beaten on the head with a police baton and punched and kicked by a camp guard rendering him comatose for at least a day;

- rape and other forms of sexual abuse of detainees directly or personally committed by persons other than DUŠKO KNEŽEVIĆ but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was raped on numerous occasions by camp guards [REDACTED] and others; witness K027 who was sexually assaulted by the shift Commander [REDACTED] and on another occasion in July 1992 by [REDACTED] witness K040 who was sexually abused twice by camp guard [REDACTED]

## **KERATERM CAMP**

### **DUŠAN FUŠTAR**

4. Between 24 May 1992 and 30 August 1992 the accused DUŠAN FUŠTAR was commander of one of the three guard shifts in the "Keraterm" camp and in addition to supervising and effectively controlling the work and conduct of guards, other persons working within the camp and most camp visitors during his shift, he was supervising and had full control over the lives and limbs of around 1500 detainees in the Keraterm camp, participated in arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp which conditions were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at a minimum hundreds of detainees were killed or died as a result of these conditions, including:

- killings of detainees personally and directly committed by DUŠAN FUŠTAR or in his immediate presence with discriminatory intent, including between late May and 19 June 1992 DUŠAN FUŠTAR, DUŠKO KNEŽEVIĆ and [REDACTED] both of whom were visitors to the camp, the camp guard [REDACTED]

██████████ and others repeatedly and severely beat ██████████ and ██████████ at one point over seven or eight consecutive days, using a baseball bat, thick electrical cable, rifle butts, and various implements and on or about 19 June 1992 this detainee died as a result of the beatings;

- killings of detainees directly and personally committed by persons during DUŠAN FUŠTAR'S shift and over whom he had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in July 1992 ██████████ was beaten to death after having been taken out of his room by the camp guard ██████████ in July 1992 ██████████ was beaten to death by DUŠKO KNEŽEVIĆ, camp guards and two detainees at the direction of the guards and DUŠKO KNEŽEVIĆ; on or about 25 July 1992 DUŠAN FUŠTAR participated in the selection of approximately twenty men including ██████████ a person called ██████████ and ██████████ brothers who were taken from where they were being detained in Keraterm Camp and shot dead;
- killings of detainees personally and directly committed by persons outside of DUŠAN FUŠTAR'S shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 23 June 1992 ██████████ beat a Serb named ██████████ to death with a baseball bat; between 9 June 1992 and 24 July 1992 ██████████ and others beat ██████████ to death; during the month of June 1992 ██████████ was beaten on multiple occasions by DUŠKO KNEŽEVIĆ, ██████████ and others and died as a result; in late June 1992 ██████████ was beaten to death by camp guards including ██████████ and DUŠKO KNEŽEVIĆ and ██████████ in late June or early July 1992 an Albanian named ██████████ was beaten to death by ██████████ and others; in July 1992 ██████████ was beaten to death after having been taken out of his room by ██████████
- beatings and other physical assaults of detainees personally and directly committed by DUŠAN FUŠTAR or in his immediate presence with discriminatory intent, including on or around 13 June 1992 he beat together with other persons detainees K05, ██████████ immediately upon their arrival from Kozarac using a cable and stabbed a detainee ██████████ with a bayonet inflicting upon them grave bodily injuries; in about mid-June 1992 two men including a military policeman from Sarajevo clubbed and kicked ██████████ in the presence of Dušan FUŠTAR who made no attempt to stop it; on 24 June 1992, ██████████ and his son ██████████ and others were beaten by DUŠAN FUŠTAR and others and after the beating, one of the guards stuck a bayonet into both legs of ██████████ between 20 and 24 July 1992 on multiple occasions DUŠAN FUŠTAR with others beat ██████████

including on the night of his arrival at the camp on 20 July 1992 DUŠAN FUŠTAR beat him with other guards; the next morning DUŠAN FUŠTAR, [REDACTED] beat [REDACTED] again together with other detainees who were forced to lie down on the 30-metre-long concrete strip known as the "pista" in the sun; between 20 and 24 July 1992 on several occasions together with others including [REDACTED] and [REDACTED] DUŠAN FUŠTAR beat [REDACTED] inflicting upon them severe bruising, head injuries and knife cuts to their bodies and faces because of which they were not able even to speak; on 20 July 1992 [REDACTED] was beaten by [REDACTED] in the presence of Dušan FUŠTAR; on or about 20 July 1992 a number of people who were brought to the Keraterm Camp from the Brdo area were beaten by camp guards upon their arrival at the camp in the presence of DUŠAN FUŠTAR, were beaten again later by camp guards and were then subsequently kept confined for three days without food or toilet facilities; on or around 25 July 1992 together with others including [REDACTED] and DUŠAN FUŠTAR took [REDACTED] and eight other detainees out of the detainees' Room No. 3 and severely beat them as a result of which they could not even walk and shortly afterwards DUŠAN FUŠTAR ordered some of the detainees to carry the detainees [REDACTED] back to the room;

- beatings and other physical assaults of detainees directly and personally committed by persons during DUŠAN FUŠTAR'S shift and over whom he had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including between 24 May 1992 and 6 August 1992, [REDACTED] were severely beaten by camp guards including a man called [REDACTED] with [REDACTED] being subjected to multiple beatings resulting in wounds to his head and body which then became infested with worms due to the lack of medical care; on the night of 16-17 June 1992 [REDACTED] beat [REDACTED] on the chest with a pistol and then together with others continued to beat him in another location within the camp; on 12 July 1992 [REDACTED] severely beat [REDACTED] on 23 July 1992 [REDACTED] was beaten by [REDACTED] on or about 22 July [REDACTED] was forced to lie on the pista and was beaten by guards, including [REDACTED] who used a police baton to beat him;
- beatings and other physical assaults of detainees directly and personally committed by persons outside of DUŠAN FUŠTAR'S shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including from 14 June 1992 DUŠKO KNEŽEVIĆ beat a detainee [REDACTED] over three consecutive days with a baton which had an iron ball attached to it and cut his neck with a knife and due to these

injuries this detainee was hospitalised; on or about 14 June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] and several guards beat approximately 10 detainees including witness K039, [REDACTED] using batons, iron bars and wooden baseball bats; on or about 14 June 1992 [REDACTED] and others beat new detainees who had arrived from Sivci that day; on or around 16 June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] beat prisoners [REDACTED] and witness K033 to the point where their faces were swollen and they were covered in blood; witness K033 was subsequently beaten by DUŠKO KNEŽEVIĆ on approximately 10 further occasions; between 30 May to 5 August 1992, together with [REDACTED] and a person called [REDACTED] DUŠKO KNEŽEVIĆ beat a detainee K05 with a metal rod, fists and feet on several occasions; in late June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] beat [REDACTED] with a baseball bat smashing both knees; in June and July 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] and [REDACTED] on several occasions beat a detainee [REDACTED] who was hospitalised as a result of these injuries; in late June 1992 DUŠKO KNEŽEVIĆ beat a detainee [REDACTED] hitting him on the head and all over his body with a baton; in June 1992 DUŠKO KNEŽEVIĆ and [REDACTED] severely beat [REDACTED] and the latter one died later that night as a result of injuries inflicted during the beating; in late June 1992 [REDACTED] beat three brothers named [REDACTED] namely, [REDACTED] and a third nicknamed [REDACTED] with a baseball bat; in late June or July 1992 DUŠKO KNEŽEVIĆ beat detainees [REDACTED] and several other unidentified detainees as a result of which they suffered bruises all over their bodies; sometime in June or July 1992 DUŠKO KNEŽEVIĆ beat [REDACTED] with a baton; on or about 5 July 1992 DUŠKO KNEŽEVIĆ together with three other soldiers known as [REDACTED] severely beat a detainee K013 using a baseball bat, a baton, and a baton with a metal ball on top of it; between 31 May 1992 and 5 August 1992 [REDACTED] beat [REDACTED] in June 1992 [REDACTED] and his brother [REDACTED] severely beat and kicked [REDACTED] between 3 June and 5 August 1992 [REDACTED] was beaten by [REDACTED] and others on multiple occasions including on one occasion when [REDACTED] made [REDACTED] lie on the ground and beat him on the head with a baseball bat; in July 1992 [REDACTED] severely beat [REDACTED] in the presence of [REDACTED] and DUŠKO KNEŽEVIĆ; on or about 21 July 1992 [REDACTED] shot [REDACTED] in the lower part of his leg and he was later taken out of the camp in a military truck and disappeared; between 9 June 1992 and 5 August 1992 [REDACTED] was beaten by [REDACTED] and others to the point where one of his arms was broken or dislocated; between 18 June 1992 and 5 August 1992 [REDACTED] beat [REDACTED] with a police club; in late June 1992 [REDACTED] severely beat [REDACTED] in July 1992 [REDACTED] was severely beaten several times during the night by [REDACTED] and others breaking his ribs and in the course of

which [REDACTED] attempted to cut off [REDACTED] left ear; on or about 20 July 1992 upon his arrival at the camp by bus [REDACTED] was beaten by [REDACTED] and others with kicks, punches, karate blows and rifle blows.

#### DUŠKO KNEŽEVIĆ

5. Between 24 May 1992 and 30 August 1992 the accused DUŠKO KNEŽEVIĆ, who held no official position in the Keraterm camp, regularly entered the Keraterm camp at will and unhindered by anyone and committed killings and beatings of the detainees and by this contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at a minimum hundreds of detainees were killed or died as a result of these conditions, including:

- killings of detainees personally and directly committed by DUŠKO KNEŽEVIĆ or in his immediate presence with discriminatory intent, including between late May and 19 June 1992 DUŠAN FUŠTAR, DUŠKO KNEŽEVIĆ, the camp guard [REDACTED] and others repeatedly and severely beat [REDACTED] at one point over seven or eight consecutive days, using a baseball bat, thick electrical cable, rifle butts, and various implements and on or about 19 June 1992 this detainee died as a result of the beatings; in late June 1992 [REDACTED] was beaten to death by camp guards including [REDACTED] and DUŠKO KNEŽEVIĆ and [REDACTED] during the month of June 1992 [REDACTED] was beaten on multiple occasions by DUŠKO KNEŽEVIĆ, [REDACTED] and others and died as a result; in July 1992 [REDACTED] was beaten to death by DUŠKO KNEŽEVIĆ, camp guards and two detainees at the direction of the guards and DUŠKO KNEŽEVIĆ;
- killings of detainees directly and personally committed by persons other than DUŠKO KNEŽEVIĆ but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 23 June 1992 [REDACTED] beat a Serb named [REDACTED] to death with a baseball bat; in late June or early July 1992 an Albanian named [REDACTED] was beaten to death by [REDACTED] and others; in July 1992 [REDACTED] was beaten to death after having been taken out of his room by the camp guard [REDACTED] on or about 25 July 1992 DUŠAN FUŠTAR participated in the selection of approximately twenty men including [REDACTED] a person called [REDACTED]

and three [REDACTED] brothers who were taken from where they were being detained in Keraterm Camp and shot dead; between 9 June 1992 and 24 July 1992 [REDACTED] and others beat [REDACTED] to death; in July 1992 [REDACTED] was beaten to death after having been taken out of his room by [REDACTED]

- beatings and other physical assaults of detainees directly and personally committed by DUŠKO KNEŽEVIĆ or in his immediate presence with discriminatory intent including between 30 May to 5 August 1992 together with [REDACTED] and a person called [REDACTED] DUŠKO KNEŽEVIĆ beat a detainee K05 with a metal rod, fists and feet on several occasions; from 14 June 1992 DUŠKO KNEŽEVIĆ beat a detainee [REDACTED] over three consecutive days with a baton which had an iron ball attached to it and cut his neck with a knife and due to these injuries this detainee was hospitalised; on or about 14 June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] and several guards beat approximately 10 detainees including witness K039, [REDACTED] using batons, iron bars and wooden baseball bats; on or around 16 June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] beat prisoners [REDACTED] and witness K033 to the point where their faces were swollen and they were covered in blood; Witness K033 was subsequently beaten by DUŠKO KNEŽEVIĆ on approximately 10 further occasions; in late June 1992 DUŠKO KNEŽEVIĆ beat a detainee [REDACTED] hitting him on the head and all over his body with a baton; in June 1992 DUŠKO KNEŽEVIĆ and [REDACTED] severely beat [REDACTED] and the latter one died later that night as a result of injuries inflicted during the beating; in late June 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] beat [REDACTED] with a baseball bat smashing both knees; in June and July 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] on several occasions beat a detainee [REDACTED] who was hospitalised as a result of these injuries; in late June or July 1992 DUŠKO KNEŽEVIĆ beat detainees [REDACTED] and several other unidentified detainees as a result of which they suffered bruises all over their bodies; sometime in June or July 1992 DUŠKO KNEŽEVIĆ beat [REDACTED] with a baton; on or about 5 July 1992 DUŠKO KNEŽEVIĆ together with [REDACTED] and three other soldiers known as [REDACTED] severely beat a detainee K013 using a baseball bat, a baton, and a baton with a metal ball on top of it; in July 1992 [REDACTED] severely beat [REDACTED] in the presence of [REDACTED] and DUŠKO KNEŽEVIĆ;

- beatings and other physical assaults of detainees directly and personally committed by persons other than DUŠKO KNEŽEVIĆ but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including between 24 May 1992 and 6 August 1992 [REDACTED]

██████████ were severely beaten by camp guards including a man called ██████████ with ██████████ being subjected to multiple beatings resulting in wounds to his head and body which then became infested with worms due to the lack of medical care; on or around 13 June 1992 together with other persons DUŠAN FUŠTAR beat detainees K05, ██████████ immediately upon their arrival from Kozarac using a cable and stabbed a detainee ██████████ with a bayonet inflicting upon them grave bodily injuries; on or about 14 June 1992 ██████████ and others beat new detainees who had arrived from Sivci that day; on the night of 16-17 June 1992 ██████████ beat ██████████ on the chest with a pistol and then together with others continued to beat him in another location; in about mid-June 1992 two men including a military policeman from Sarajevo clubbed and kicked ██████████ in the presence of DUŠAN FUŠTAR who made no attempt to stop it; on 24 June 1992 ██████████ and his son ██████████ and others were taken out of Room 3, and beaten by DUŠAN FUŠTAR and others and after the beating one of the guards stuck a bayonet into both legs of ██████████ in June 1992 ██████████ and his brother ██████████ severely beat and kicked ██████████ in late June 1992 ██████████ beat three brothers named ██████████ namely, ██████████ and a third nicknamed ██████████ with a baseball bat; between 20 and 24 July 1992 on multiple occasions DUŠAN FUŠTAR with others beat ██████████ including on the night of his arrival at the camp on 20 July 1992 DUŠAN FUŠTAR beat him with other guards, the next morning DUŠAN FUŠTAR, ██████████ beat ██████████ again together with other detainees who were forced to lie down on the 30-metre-long concrete strip known as the "pista" in the sun; the next morning ██████████ was again forced to lie on the pista and was once more beaten by guards, including ██████████ who used a police baton to beat him; between 20 and 24 July 1992 on several occasions together with others ██████████ DUŠAN FUŠTAR beat ██████████ inflicting upon them severe bruising, head injuries and knife cuts to their bodies and faces because of which they were not able even to speak; on or around 25 July 1992 together with others including ██████████ and DUŠAN FUŠTAR took ██████████ and eight other detainees out of the detainees' Room No. 3 and severely beat them as a result of which they could not even walk and shortly afterwards DUŠAN FUŠTAR ordered some of the detainees to carry the detainees ██████████ back to the room; on 12 July 1992 ██████████ severely beat ██████████ on 20 July 1992 ██████████ was beaten by ██████████ in the presence of Dušan FUŠTAR; on 23 July 1992 ██████████ was beaten by ██████████ on or about 20 July 1992 upon his arrival at the camp by bus ██████████ was beaten by ██████████ and ██████████ and others with kicks, punches, karate blows and rifle blows; on or about 20 July 1992 a number of people who were brought to the

Keraterm Camp from the Brdo area were beaten by camp guards upon their arrival at the camp in the presence of DUŠAN FUŠTAR, were beaten again later by camp guards and were then subsequently kept confined for three days without food or toilet facilities; between 31 May 1992 and 5 August 1992 [REDACTED] beat [REDACTED] between 3 June and 5 August 1992 [REDACTED] was beaten by [REDACTED] and others on multiple occasions including on one occasion when [REDACTED] made [REDACTED] lie on the ground and beat him on the head with a baseball bat; between 9 June 1992 and 5 August 1992 [REDACTED] was beaten by [REDACTED] and others to the point where one of his arms was broken or dislocated; between 18 June 1992 and 5 August 1992 [REDACTED] beat [REDACTED] with a police club; in late June 1992 [REDACTED] severely beat [REDACTED] in July 1992 [REDACTED] was severely beaten several times during the night by [REDACTED] and others breaking his ribs and in the course of which [REDACTED] attempted to cut off [REDACTED] left ear; on or about 21 July 1992 [REDACTED] shot [REDACTED] in the lower part of his leg and he was later taken out of the camp in a military truck and disappeared.

Thus, as described above, within a widespread or systematic attack against a civilian population from the wider territory of Prijedor municipality, with knowledge of such attack, and knowing that they were participating in it:

- Within the Omarska Camp, ŽELJKO MEJAKIĆ and MOMČILO GRUBAN by their acts and omissions and DUŠKO KNEŽEVIĆ by his acts, planned, ordered, instigated, perpetrated, or otherwise aided and abetted the crimes described above with discriminatory intent; ŽELJKO MEJAKIĆ and MOMČILO GRUBAN and DUŠKO KNEŽEVIĆ acting in concert with [REDACTED] among others, also participated in the joint criminal enterprise of the Omarska Camp to ill-treat and persecute Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and are therefore responsible for the crimes described above all of which were either committed within the object of the joint criminal enterprise or were the natural and foreseeable consequence of the execution of the joint criminal enterprise; ŽELJKO MEJAKIĆ and MOMČILO GRUBAN are also responsible by virtue of their position as superiors for offences perpetrated by their subordinates over whom they had effective control, when they knew or had reason to know that their subordinates were about to commit such acts, or had done so, and they failed to take the necessary and reasonable measures to prevent or punish the perpetrators thereof;
- Within the Keraterm Camp, DUŠAN FUŠTAR by his acts and omissions and DUŠKO KNEŽEVIĆ by his acts, planned, instigated, ordered, perpetrated, or otherwise aided and abetted the crimes described above with discriminatory intent; DUŠKO KNEŽEVIĆ and DUŠAN FUŠTAR acting in concert with [REDACTED]

[REDACTED] among others, also participated in the joint criminal enterprise of the Keraterm Camp to ill-treat and persecute Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and are therefore responsible for the crimes described above all of which were either committed within the object of the joint criminal enterprise or were the natural and foreseeable consequence of the execution of the joint criminal enterprise; DUŠAN FUŠTAR is also responsible by virtue of his position as a superior for offences perpetrated by his subordinates over whom he had effective control, when he knew or had reason to know that his subordinates were about to commit such acts, or had done so, and he failed to take the necessary and reasonable measures to prevent or punish the perpetrators thereof.

Whereby:

As to COUNT 1, ŽELJKO MEJAKIĆ committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina namely, per sub-clause a) murder (killings), per sub-clause e) imprisonment (arbitrary and unlawful confinement of camp detainees), per sub-clause f) torture (beatings and other physical assaults), per sub-clause g) sexual violence (rapes and other forms of sexual abuse), per sub-clause k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse), and per sub-clause h) persecution (all acts and omissions as described in Count 1)

As to COUNT 2, MOMČILO GRUBAN committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina namely, per sub-clause a) murder (killings), per sub-clause e) imprisonment (arbitrary and unlawful confinement of camp detainees), per sub-clause f) torture (beatings and other physical assaults), per sub-clause g) sexual violence (rapes and other forms of sexual abuse), per sub-clause k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse) and per sub-clause h) persecution (all acts and omissions as described in Count 2)

As to COUNTS 3 and 5, DUŠKO KNEŽEVIĆ, the criminal offence of Crimes against Humanity under Article 172(1) namely, per sub-clause a) murder (killings), per sub-clause f) torture (beatings and other physical assaults), per sub-clause k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse) and per sub-clause h) persecution (all acts as described in Counts 3 and 5) and as to COUNT 3 only per sub-clause g) sexual violence (rapes and other forms of sexual abuse).

As to COUNT 4, DUŠAN FUŠTAR committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and

Herzegovina namely, per sub-clause a) murder (killings), per sub-clause e) imprisonment (arbitrary and unlawful confinement of camp detainees), per sub-clause f) torture (beatings and other physical assaults), per sub-clause k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse) and per sub-clause h) persecution (all acts and omissions as described in Count 4)

and ŽELJKO MEJAKIĆ, MOMČILO GRUBAN and DUŠAN FUŠTAR all being in connection with Articles 29 and 180(1) and (2) of the BiH CC and DUŠKO KNEŽEVIĆ being in connection with Article 29 Articles and 180(1) of the BiH CC.

Therefore,

I hereby move the Court 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 Željko Mejakić, Momčilo Gruban, Dušan Fuštar and Duško Knežević, all currently detained in the detention unit of the Court of BiH in Sarajevo;

The defence counsel for the Accused:

- Jovan Simić, attorney-at-law from Belgrade, Serbia, Defence Counsel for the accused Željko Mejakić.
- Duško Panić, attorney-at-law from Dobož, Defence Counsel for the accused Momčilo Gruban.
- Dragan Ivetić, attorney-at-law from Chicago, Illinois, USA, Defence Counsel for the accused Dušan Fuštar.
- Nebojša Pantić, attorney-at-law from Banja Luka, Defence Counsel for the accused Duško Knežević.

II. Receive evidence as follows

a) To hear the following persons as witnesses:

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- 31.
- 32.
33. Witness K01
34. Witness K03
35. Witness K05
36. Witness K07
37. Witness K08
38. Witness K012
39. Witness K013
40. Witness K014
41. Witness K018
42. Witness K019
43. Witness K021
44. Witness K022
45. Witness K023
46. Witness K027

47. Witness K029
48. Witness K031
49. Witness K033
50. Witness K034
51. Witness K035
52. Witness K036
53. Witness K037
54. Witness K038
55. Witness K039
56. Witness K040

The addresses and personal data of the protected witnesses listed above by pseudonym are contained in Confidential Ex Parte Annex I. Annex I will be provided solely to the Court, because the witnesses named therein are the subject of protective measures ordered by decisions of the ICTY and by decisions of the Court of Bosnia and Herzegovina, namely by written decision, Reference number X-KRN-05/200, dated 3 July 2006, and by decision at the hearing held on 7 July. The addresses and personal data of the other above-mentioned witnesses are contained in Confidential Ex Parte Annex II, which shall be provided solely to the Court, because the Prosecutor's Office is bound to respect the protective measures ordered by the ICTY which granted non-disclosure to the defence of the current whereabouts of all witnesses.

**b) to inspect the following evidence:**

1. Consolidated ICTY Indictment in the case against *Mejakić et al*, IT-02-65, dated 5 July 2002; and Submission of Amended Consolidated Indictment Schedules A Through F, with Confidential Annex in the case against *Mejakić et al*, IT-02-65, dated 13 January 2005
2. Sentencing Judgment of the ICTY Trial Chamber in the case against *Sikirica et al*, IT-95-8-S, dated 13 November 2001
3. Sentencing Judgment of the ICTY Trial Chamber in the case against *Predrag Banović*, IT-02-65/1-S, dated 28 October 2003
4. Joint Motion for the Consideration of a Plea Agreement between Predrag Banović and the Office of the Prosecutor in the case against *Mejakić et al*, IT-02-65-PT, dated 18 June 2003, with attached Plea Agreement, dated 2 June 2003, Annex 1 of the Plea Agreement (Factual Basis of Plea Agreement), dated 2 June 2003, and Annex 2 to Plea Agreement, dated 2 June 2003
5. ICTY Trial Chamber Order for Release of Confidential Plea Agreement in the case against *Predrag Banović*, IT-02-65/1-S, dated 27 June 2003

6. Judgment of the ICTY Trial Chamber in the case against *Kvočka et al*, IT-98-30/1-T, dated 2 November 2001
7. Judgment of the ICTY Appeals Chamber in the case against *Kvočka et al*, IT-98-30/1-A, 28 February 2005
8. Judgment of the ICTY Trial Chamber in the case against *Stakić*, IT-97-24-T, dated 31 July 2003
9. Judgment of the ICTY Appeals Chamber in the case against *Stakić*, IT-97-24-A, dated 22 March 2006
10. Judgment of the ICTY Trial Chamber in the case against *Tadić*, IT-94-1-T, dated 7 May 1997
11. Judgment of the ICTY Appeals Chamber in the case against *Tadić*, IT-94-1-A, dated 15 July 1999
12. Judgment of the ICTY Trial Chamber in the case against *Brdjanin*, IT-99-36-T, dated 1 September 2004
13. Records of the statements of deceased witness [REDACTED] dated 04.11.1995, 2.02.2002
14. Rules on the internal organisation of the Republican Secretariat of the Interior, January 1990
15. "Serbs outside the Bosnian Pot", Parts 1 and 2, an interview with [REDACTED] [REDACTED] 9 November 1990, *NIN*
16. Census of the Prijedor municipality by local communes, No. 02-074-1-16/91. 1991.
17. Results of 1993 census in Prijedor municipality (by local communes), undated.
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87. List of Prijedor Police Station employees who signed and did not sign the solemn declaration, 29 May 1992.
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110. Exhumation report, list of individuals allegedly killed at Keraterm camp in late July 1992 (ICTY No. 0184-3960-01884-4285).
111. Exhumation report, list of individuals allegedly killed in Bišćani in July 1992 (ICTY No. 0184-3960-01884-4285).
112. Exhumation report, list of individuals allegedly killed in Briševo on or about 24 July 1992 (ICTY No. 0184-3960-01884-4285).
113. Exhumation report, list of individuals allegedly killed in Čarakovo and surrounding areas in July 1992 (ICTY No. 0184-3960-01884-4285).
114. Exhumation report, list of individuals allegedly killed in Hambarine from May through July 1992 (ICTY No. 0184-3960-01884-4285).
115. Exhumation report, list of individuals allegedly killed in Jaskići on or about 14 June 1992 (ICTY No. 0184-3960-01884-4285).

116. Exhumation report, list of individuals allegedly killed in Kozarac and the surrounding areas between May and June 1992 (0184-3960-01884-4285).
117. Exhumation report, list of individuals allegedly killed in [REDACTED] house in Kamičani on or about 26 May 1992 (ICTY No. 0184-3960-0184-4285).
118. Exhumation report, list of individuals allegedly killed in Prijedor town in late May / early June 1992 (ICTY No. 0184-3960-0184-4285).
119. Exhumation report, list of individuals allegedly killed in the Ljubija football stadium on or about 25 July 1992 (ICTY No. 0184-3960-0184-4285).
120. Exhumation report, list of individuals allegedly killed in the military barracks at Benkovac in late May 1992 (ICTY No. 0184-3960-0184-4285).
121. Exhumation report, list of men killed in Keraterm camp on 24 – 25 July 1992. (0184-3960-01884-4285).
122. Exhumation report, list of individuals allegedly killed at Omarska camp in late July 1992, following the cleansing of the Brdo area (ICTY No. 0184-3960-0184-4285).
123. Exhumation report, list of individuals from Keraterm and Omarska killed on or about 05 August 1992. The remains of some of them were exhumed at Hrastova Glavica (ICTY No. 0184-3960-0184-4285).
124. Exhumation report, list of individuals killed at Keraterm camp between 24 May and 05 August 1992 (ICTY No. 0184-3960-0184-4285).
125. Exhumation report, list of individuals killed at Omarska camp between 27 May and 21 August 1992 (ICTY No. 0184-3960-0184-4285).
126. Exhumation report, list of individuals killed in Trnopolje camp between 25 May and 30 September 1992 (ICTY No. 0184-3960-01884-4285).
127. Exhumation report, list of individuals killed outside Manjača camp on or about 6 August 1992 (ICTY No. 0184-3960-01884-4285).
128. Exhumation report, list of individuals who were executed near Korićanske Stijene on or about 21 August 1992 (ICTY No. 0184-3960-01884-4285).
129. List of individuals allegedly killed in the Ljubija Iron Ore Mine (Redak or Kipe) on or about 25 July 1992.
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131. Exhumation report, list of men and women from Omarska who were taken on a bus and killed in late July 1992. Some of them were exhumed from Jama Lisac in Krupa Na Uni municipality (ICTY No. 0184-3960-01884-4285).
132. Video of Manjača Camp, Kula Prison and Omarska Camp (ICTY No. V000-3190).
133. Video of BiH Assembly Session, featuring [REDACTED] BiH Television, 14 and 15 October 1991. (ICTY No. V000-0270)
134. ITN report from Omarska and Trnopolje detention camps, ITN, London, 5 August 1992 (ICTY No. V000-0401).
135. „Dispatches – A Town Called Kozarac“, includes interview with [REDACTED] Channel 4, London, 1 January 1994 (ICTY No. V000-3873).
136. Transcript of „Dispatches – A Town Called Kozarac“, includes interview with [REDACTED] (ICTY No. 0305-8479-0305-8488).
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142. Transcript of „Bosnia, the Hidden Horrors“, ABC News Nightline, part I (ICTY No. 0003-9733-0003-9753).
143. Video of interview with Željko Mejakić, RTV Belgrade (ICTY No. V000-2046).
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  148. Video footage of Omarska and Trnopolje, Bosnian Camps Roll 6, ITN, 5 August 1992 (ICTY No. V000-0664).
  149. Transcript of Video footage of Omarska and Trnopolje, Bosnian Camps Roll 6, ITN, 5 August 1992 (ICTY No. 0305-8493-0305-8507).
  150. Aerial footage of Prijedor including Omarska camp, Trnopolje, Jaskići, Siveci, Kamičani, Keraterm, Prijedor, six villages in Brdo Region, Hambarine, Čarakovo, Sana River, 22 July 2001 (ICTY No. V000-4075).
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  152. Video footage of Omarska and Trnopolje, Bosnian Camps Roll 4, ITN, 5 August 1992 (ICTY No. V000-0662).
  153. Video footage containing Prijedor-related material and interviews (ICTY No. V000-0444).
  154. Transcript of Video footage containing Prijedor-related material and interviews (ICTY No. 0306-5755-0306-5784).
  155. Video footage of ITN meeting with Prijedor officials regarding visit to Omarska camp (ICTY No. V000-1402).
  156. Transcript of Video footage of ITN meeting with Prijedor officials regarding visit to Omarska camp (ICTY No. L007-5858-L007-5861).
  157. Excerpt from video shot at Kevljani mass grave site in 1999, Jama Lisac and Donji Dubovik mass grave sites in 2000. (ICTY No. V000-3985).
  158. Interviews with [REDACTED] videotape 2, January 1993 (ICTY No. V000-4035).
  159. Transcript of part of V000-4035 (ICTY No. L008-4864-L008-4869).
  160. Excerpt of „Bosnia, The Hidden Horror“, ABC News Nightline ((ICTY No. V000-2843).
  161. Video tape of Swedish TV program entitled “Dokumentaren: [REDACTED]” about [REDACTED] trip to Prijedor (R65W-34.17).

162. Video tape of a wedding, date on the tape is 17 August 1991 (R65W-53.12).
163. Video footage of re-burial of Croats, dated 20 September 1998 (R65W-59.25).
164. Scale models of Keraterm and Omarska camps, both to be provided to the Court as soon as they are delivered from the ICTY to the BiH Prosecutor's Office.
165. Legend of the model of Keraterm camp, 29 June 2000 (ICTY No. 0100-2417-0100-2418).
166. Photograph of the model of Keraterm camp (ICTY No. 0100-2416).
167. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996 (ICTY No. 0200-6265).
168. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996 (ICTY No. 0200-6269).
169. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6266).
170. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6263).
171. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6262).
172. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6264).
173. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6268).
174. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6270).
175. Photograph of Keraterm camp, Dutch Police for ICTY, 12 March 1996, (ICTY No. 0200-6267).
176. Photograph of Keraterm camp with annotations of room dimensions (ICTY No. 0336-4943).
177. Aerial photo of Omarska Mine, 1 June 2000, (ICTY No. 0100-2444).
178. Aerial photo of Omarska Mine, 1 June 2000, (ICTY No. 0100-2443).

179. Aerial photo of Omarska Mine, 1 June 2000, (ICTY No. 0100-2441).
180. Floor plans of Omarska camp, diagram of the hangar and garage (ICTY No. 0045-4062-0045-4063).
181. Set of 12 photographs, Dutch Police for ICTY (ICTY No. 0040-9592-0040-9603)
182. Set of 10 photographs of Omarska camp (ICTY No. 0109-7404-01097413).
183. Set of 10 photographs of detainees in Omarska camp, photos of [REDACTED] and [REDACTED] (ICTY No. 0104-8430-0104-8439).
184. Set of 18 photos of Omarska (0203-0295-0203-0312).
185. Photos of beds in Omarska (ICTY No. 0212-3687).
186. Photo Showing Corridor running length of 1<sup>st</sup> floor of Administration Building in Omarska (ICTY No. 0123-9999).
187. Photo of a guard in camouflage uniform (ICTY No. 0039-6501).
188. Photograph of [REDACTED] bruises, taken at Trnopolje (ICTY No. 0039-8782).
189. Photograph of a yellow TAM truck at the Hangar in Omarska camp (ICTY No. 0039-3770).
190. Photograph of a first floor interior at Omarska camp (ICTY No. 0039-4067).
191. Photograph of restaurant in Omarska camp (ICTY No. 0105-6517).
192. Photograph of [REDACTED] in the glass house (ICTY No. 0045-2452).
193. Photograph of [REDACTED] at Omarska (ICTY No. 0045-2467).
194. Photograph of [REDACTED] (ICTY No. 0040-7541).
195. Black and white photo of [REDACTED] (ICTY No. 0105-6516).
196. Photo of [REDACTED] body at the Kevljani mass grave (ICTY No. 0081-2965-12A).
197. Photo of [REDACTED] skeleton at the Visoko mortuary (ICTY No. 0092-5054-23).

198. Photo of [REDACTED] body at the Kevljani mass grave (ICTY No. 0081-2965-06A).
199. Photo of [REDACTED] clothes (ICTY No. 0326-1687-0326-1690).
200. Photo of [REDACTED] identification document (ICTY No. 0092-5062-34A).
201. Photo of handwritten note found near body of [REDACTED] (ICTY No. 0092-5062).
202. Translation of handwritten note found near body of [REDACTED] (ICTY No. 0092-6907).
203. Photograph of [REDACTED] body inside the cave at the Jama Lisac mass grave (ICTY No. 0103-7652).
204. Photograph of [REDACTED] body outside the cave at the Jama Lisac mass grave (ICTY No. 0103-7696-0103-7697).
205. Floor plans of the ground and first floors of the Administration building at Omarska camp (ICTY No. 0100-5923-0100-5924).
206. Diagram of the ground floor of the Administration building at Omarska camp, with annotations by [REDACTED] (0106-7887).
207. Map of Municipalities (ICTY No. 0229-6710).
208. Large map of Prijedor (ICTY No. 0046-4993).
209. Prijedor map with photos (ICTY No. 0124-8887).
210. Map of Prijedor ethnic composition (ICTY No. 0216-9347).
211. Prijedor map with photos, with description (ICTY No. 0216-6220).
212. Map showing location of Kevljani and Donji Dubovik mass grave sites in relation to Prijedor and Omarska (ICTY No. 0105-6518).
213. Overview of Briševo village (ICTY No. 0203-3350).
214. Photograph close-up of the [REDACTED] family house (ICTY No. 0107-4764).
215. Photograph of the Catholic church in Briševo (ICTY No. 0107-4759).

216. Photograph of graves of the Briševo victims buried at the Rajjaš Catholic church (ICTY No. 0203-3351).
217. Photograph of Mass grave and execution site in Redak (ICTY No. 0203-3348).
218. Photograph of Rajjaš Catholic church (ICTY No. 0203-3352).
219. Photograph of the remains of the house of [REDACTED] (ICTY No. 0107-4761).
220. Photograph of the remains of the house of [REDACTED] (ICTY No. 0107-4760).
221. Photograph of the remains of the house of [REDACTED] from a different angle (ICTY No. 0107-4762).
222. Photograph of the remains of [REDACTED] family house (ICTY No. 0107-4763).
223. Photograph of the house of [REDACTED] (ICTY No. 0107-4765).
224. Photograph of the house of [REDACTED] from another angle (ICTY No. 0107-4766).
225. Photo documentation of evidence of mass murder found in Hrastova Glavica – Podvidača, 16 photographs (ICTY No. 0068-1229-0068-1272).
226. Photographs of and around the Kevljani mass grave site, 203 photographs (ICTY No. 0081-2961-0081-2966).
227. Photographs taken at the exhumation site in Kevljani, 152 photographs (ICTY No. 0082-7467-0082-7475).
228. 44 rolls of film of the ICTY mortuary photos regarding the Kevljani mass grave, 1485 photographs, June – August 1999 (ICTY No. 0092-5049-0092-5091).
229. 13 rolls of film regarding the Redak exhumation site, 378 photographs (ICTY No. 0100-6958-0100-6970).
230. Photographs of artefacts and relevant data, 288 photographs and 70 documents, Sanski Most morgue, 2001 (ICTY No. X017-2764-X017-3349).
231. 26 rolls of film with photographs taken at the mortuary in Visoko relating to exhumation of the Redak mass grave site, 923 photographs (ICTY No. 0102-9121-0102-9146).
232. 14 rolls of film with photographs of autopsies performed on remains recovered from the Jama Lisac / Donji Dubovik site, ICTY mortuary, 506 photographs, July – August 2000 (ICTY No. 0103-7444-0103-7457).

233. Photographs of exhumation sites at Redak, Pašinac Cemetery and Ljubija, 198 photographs, ICTY (ICTY No. 0107-4667-0107-4674).
234. Digital photographs of various sites in the former Autonomous Region of Krajina, including the Tomašica and Benkovac exhumation sites in Prijedor, 47 photographs, ICTY (ICTY No. 0219-4058-0219-4104).
235. Digital photographs of an exhumation at Korićanske Stijene, BiH Federal Commission for Missing Persons, 67 photographs, 15 – 21 May 2003 (ICTY No. 0295-2142-0295-2208).
236. Photographs of the exhumation at Korićanske Stijene, 24 photographs (ICTY No. 0297-9309-0297-9309).
237. Digital photographs of clothes associated with the exhumation at the Kevljani mass grave site, 115 photographs (ICTY No. 0326-1653-0326-1767).
238. Digital photographs of the Korićanske Stijene exhumation, 100 photographs (ICTY No. 0402-0753-0402-0852).
239. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 18 documents (ICTY No. D000-0221).
240. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 17 documents (ICTY No. D000-0222).
241. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 16 documents (ICTY No. D000-0223).
242. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 24 documents (ICTY No. D000-0224).
243. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 23 documents (ICTY No. D000-0225).
244. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 10 documents (ICTY No. D000-0226).
245. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 18 documents

(ICTY No. D000-0227).

246. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 24 documents (ICTY No. D000-0228).
247. Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 4 documents (ICTY No. D000-0229).
248. Redak Grave Site, Report of the Chief Pathologist, ICTY Operations in Bosnia-Herzegovina, 2000 Season, 15 February 2001, ██████████ Emeritus Professor of Anthropology, University of Sydney (ICTY No. D000-0595).
249. Redak 1 mass grave site – 3D image of the bodies in the grave, including 3D image program (ICTY No. D000-0596).
250. One electronic folder containing 5313 documents.
251. Documents from CDROM marked „Stari Kevljani Mass Grave, Exhumation, Preparation for Autopsy“, Bihać MUP, 430 photographs (ICTY No. D000-1661). Following, from numbers 28 through 31, are the also photographs included in this CD ROM:
252. Bodies and artefacts on site, 719 photographs (ICTY No. D000-1661).
253. Bodies in bags prior to washing, 484 photographs (ICTY No. D000-1661).
254. Artefacts recovered in the course of washing, 154 photographs (ICTY No. D000-1661).
255. Photographs taken at the Jakarina Kosa exhumation site, 439 photographs, ICTY (ICTY No. D000-0757).
256. Part 1 of video entitled „Aerials Exhumation Sites, 16 April 2002“ and including suspected mass grave sites at Gornja Plitska (Kotor Varoš), Tomašica (Prijedor) and Benkovac (Prijedor), SFOR (ICTY No. V000-3882).
257. Part 2 of video entitled „Aerials Exhumation Sites, 16 April 2002“ and including suspected mass grave sites at Gornja Plitska (Kotor Varoš), Tomašica (Prijedor) and Benkovac (Prijedor), SFOR (ICTY No. V000-3883).
258. Video footage of exhumation and excavation at Tomašica in Prijedor municipality, ICTY (ICTY No. V000-3961).

259. Video footage of exhumation and excavation at Benkovac in Prijedor municipality, ICTY (ICTY No. V000-3962).
260. Video footage of exhumation and excavation at Pašinci Cemetery in Prijedor municipality, ICTY (ICTY No. V000-3963).
261. Part 1 of video footage of exhumation and excavation at Redak 1 and 2 in Prijedor municipality, ICTY (ICTY No. V000-3964).
262. Part 2 of video footage of exhumation and excavation at Redak 1 and 2 in Prijedor municipality, ICTY (ICTY No. V000-3965).
263. Annexe G to the [REDACTED] report dated 9 January 2004 – video footage of exhumations at various grave sites (ICTY No. V000-4667).
264. Video footage related to exhumations in BiH, conducted at various locations, the original title is „Video film: Ekshumacije masovnih grobnica s nekoliko različitih lokaliteta“ (ICTY No. V000-6210).
265. Video footage of excavation and exhumation works at the Kevljani grave site, possibly June 1999 (ICTY No. V000-6211).
266. Video footage of exhumation material (ICTY No. V000-3893).
267. Video footage of exhumation material (ICTY No. V000-3894).
268. Video footage of exhumation material (ICTY No. V000-3895).
269. Video footage of exhumation material (ICTY No. V000-6278).
270. Video footage of exhumation material (ICTY No. V000-6279).
271. Video footage of exhumation material (ICTY No. V000-6280).
272. Another DVD of exhumation material is to be provided to the Court as soon as it is delivered from the ICTY to the BiH Prosecutor's Office.

### **Results of the investigation**

Upon the conducted investigation of the ICTY OTP and confirmation of the Consolidated Indictment of International Criminal Tribunal for the Former Yugoslavia, IT-02-65, against Željko Mejakić, Momčilo Gruban, Dušan Fuštar and Duško Knežević, it has been established that there is grounded suspicion that Željko Mejakić, Momčilo Gruban and Dušan Fuštar are responsible for the commission of the criminal offence Crimes against Humanity (Article 172 (1), in connection with Articles 29, 180 (1) and (2) of the BiH CC,

whereas Duško Knežević is responsible for the commission of the criminal offence Crimes against Humanity (Article 172 (1), in connection with Articles 29 and 180 (1) of the BiH CC. In the course of the investigation evidence has been gathered corroborating the following facts:

After the first multi-party elections held in BiH November 1990, when Yugoslav republics began to secede from the SFRY, it became clear to the nationally based Serb Democratic Party (SDS) that they would be unable to prevent BiH from taking the same path as Slovenia and Croatia and separating from the Yugoslav Federation. Subsequently the Serbian political leadership developed the plan to establish a Serbian state on BiH territory as a member of the Yugoslav Federal State.

On 24 October 1991, Serb delegates to the BiH Parliament Assembly sat as a separate body and proclaimed "The Assembly of the Serbian People of Bosnia and Herzegovina", immediately calling for a plebiscite of the Serbian people of BiH on the question of whether they wished to remain in the Yugoslav Federal State. The results of this plebiscite (held on 9 November 1991) as reported by the SDS were overwhelmingly in favour of remaining in Yugoslavia. On 21 November 1991, the Assembly passed a resolution declaring all territories where the majority of those Serbs who had participated in the plebiscite had voted in favor of remaining in Yugoslavia to be part of the Yugoslav Federation.

In order to provide instruments for the establishment of distinct Serb-controlled territories and to seize power in the municipalities, the SDS Main Board on 19 December 1991 issued "Instructions for the Organisation and Activities of the Organs of the Serb People in Bosnia Herzegovina in a State of Emergency" directing the municipal SDS boards to immediately establish "Crisis Staffs" designed to take over all prerogatives and functions of municipal assemblies "in times of war" whenever they are not able to convene: that is, to form an assembly of the Serbian people and to prepare for the seizure of police facilities and the formation of other municipal government bodies.

On 9 January 1992, the Serb assembly proclaimed the Serbian Republic of BiH ("SerRBH") said to consist out of the so-called "Serb Autonomous Regions" ("SAO") and other Serb ethnic areas, defined as those in which Serbs had voted in the plebiscite and those in which Serbs were in the minority as a result of genocide committed against them during World War II.

From speeches given by Serb politicians in 1991 and 1992 and from documentary evidence, it appears that "separation" from and the "disappearance" of the other two national communities in BiH was the first strategic goal to be achieved in the implementation of the overall plan of the Serb political leadership. The successful accomplishment of the plan required contributions from many participants and institutions, in particular the engagement of Serb political, judicial, military and security forces at all levels.

Following the forcible takeover of Prijedor on 30 April 1992, the Prijedor municipal Crisis Staff imposed severe restrictions on all aspects of life for non-Serbs, including movement and employment, resulting in the containment of non-Serbs in villages and areas in the municipality where they lived. Beginning in late May 1992, those areas were then subjected to violent large-scale attacks by the Army of Republika Srpska, paramilitary forces, Territorial Defence forces, police units, and civilians armed by these forces.

In May 1992, the Prijedor municipal Crisis Staff established three major detention camps in the municipality of Prijedor: Keraterm, Omarska and Trnopolje.

Hambarine, located in the broader area of the municipality of Prijedor, was the first Muslim village subjected to an attack targeting civilian houses and the civilian population. In the course of this attack the civilian population of Hambarine was pursued into the woods by Serb forces. On 24 May, Kozarac, a predominantly Muslim village, was attacked by Serb forces, who destroyed homes, mosques and churches. The civilian population fled into the neighbouring villages or nearby forests and mountains where the great majority of them were captured or surrendered to Serb forces. On 26 May 1992, the population was rounded up, taken to collection points and segregated by gender. Most of the men were taken to either Keraterm or Omarska camps and some persons, (mostly women and children) were taken to the Trnopolje camp. The area between Kozarac and Trnopolje was cleansed by Serb forces between 20 May and mid-June 1992. On 14 June 1992, armed men entered the village of Sivci, located between Kozarac and Trnopolje, and forcibly took all non-Serb men to the Keraterm camp. The Brdo area was cleansed by Serb forces between 20 and 27 July 1992. Those residents who were captured rather than killed were sent to the camps.

The attacks resulted in the death, flight, capture, or deportation of almost all Muslim and Croat people who had resided in the Prijedor Municipality. By June 1993, the Muslim population of 49,351 had been reduced to 6,124, while the Croat population had been reduced from 6,316 to 3,169. In that time, the Serb population in the municipality increased from 47,581 to 53,654.

### **THE OMARSKA AND KERATERM CAMPS**

**The Omarska camp** was operational from 27 May 1992.

The Omarska camp was located in a former mining complex in the village of Omarska, approximately 20 kilometers from the town of Prijedor. The detainees included military-aged males and political, economic, social, and intellectual leaders of the Bosnian Muslim and Bosnian Croat population. Between May and August 1992, over 3000 detainees were held in the camp, among them witnesses 1, 2, 6, 7, 8, 13, 17, 18, 22, 26, 29-36, 38, 40, 42, 45, 46, 48, 50, 51, 52, 53, and 57. About 37 women were detained in the camp. Detainees were kept in inhumane conditions and an atmosphere of extreme mental and physical violence pervaded the camp. The majority of the detainees were housed in the "hangar", which was the largest of four buildings on the site of the camp.

There were three other main buildings in the Omarska camp: the administration building, a building known as the "white house", and a building known as the "red house". In between the hangar and the administration building was an L-shaped, 30-metre-long concrete strip known as the "pista", and to the west of the hangar was a grassy area, on the far side of which stood the white house and the red house.

Conditions in the camp were brutal and degrading. Interrogations were conducted on a daily basis at the Omarska camp, frequently accompanied by beatings. Killings, severe beatings and other forms of physical and psychological abuse, including sexual assault, were commonplace. The camp guards and visitors who came frequently to the camp used all types of weapons and instruments to beat and otherwise physically abuse the detainees. Bosnian Muslim and Bosnian Croat political and civic leaders, intellectuals, the wealthy, and those considered as extremists or considered to have resisted the Bosnian Serbs were especially subjected to beatings and mistreatment, which often resulted in death. In addition to being directly subjected to mistreatment, most detainees also witnessed the abuse of other detainees. The beatings, torture, and other cruel treatment and humiliating acts were generally inflicted in full view of other detainees, and detainees were sometimes made to beat each other. The arrival of new detainees, mealtimes, and the use of toilet facilities provided ongoing opportunities for mistreatment. This created an atmosphere of terror and the detainees lived in the constant fear of selection for mistreatment.

Brutal living conditions were imposed on the detainees. There was a deliberate policy of overcrowding and detainees were made to live in unhygienic and cramped conditions. Every area that was used to house detainees was packed beyond capacity. In some rooms the detainees were so crammed that they had to stand and could not move or sit down. Detainees were fed starvation rations and given polluted water to drink. There were two toilet facilities for use by all the detainees. There was insufficient or non-existent medical care. The detainees all suffered serious psychological and physical deterioration and were in a state of constant fear.

According to a Serb document, "between 27 May and 16 August 1992 a total of 3,334 persons were brought to Omarska. Out of these detainees 37 were women, 28 persons were under eighteen years of age and 68 persons were over 60 years of age." Almost all of the detainees held in the Omarska camp were non-Serbs, who were either arrested or transferred to the camp, or rounded up when predominantly Bosnian Muslim or Bosnian Croat villages were attacked and cleansed. Around 20 July 1992 several busloads of detainees were transferred from Keraterm to Omarska. On 6 August 1992, all but 170 of the prisoners were transferred either to Manjača or Trnopolje camps. Omarska was disbanded on 21 August 1992 after a visit by the international television and newspaper journalists.

In accordance with [REDACTED] order of 31 May 1992, security in the camp was provided by personnel from the Omarska police station whose chief at that time was Željko Mežakić. Mixed groups of state security (SNB), Public Security (SJB) and military security investigators were charged with interrogations and categorisation of

detainees. The guards under Željko Mejačić's authority were drawn from the ranks of regular police, reserve police, reserve army, and active duty army units in the area and organized into three shifts of approximately 30 men each. Each shift lasted 12 hours, changing at 7 a.m. and 7 p.m., followed by a 24 hour break. The three shift leaders were Momčilo Gruban, [REDACTED]

The areas used to house the detainees were packed beyond capacity. In a space called the "Garage" which measured approximately 5 x 6 meters 150 – 300 people were detained. The detainees had to stand in crowded conditions and could not move or sit down. The air was sticky, and the temperature was so high that some detainees fainted.

Many prominent detainees were held in a room on the ground floor of the administration building called "Mujo's room". Mujo was a well-known local who was as a leader of the room and acted as a liaison between the detainees and the guards in this room. Frequently the detainees were called out of "Mujo's room" to be interrogated and mistreated.

The two buildings known as "the white house" and "the red house" served as the location for the most serious mistreatment and torture of detainees. Many detainees that were taken to "the white house" or "the red house" did not survive. Their bodies were on occasion piled up behind "the white house" before being taken away by truck.

To receive their food, detainees once a day were led to the restaurant section where they were forced to eat inadequate food in three minutes. Often the detainees chose to forgo eating to avoid the beatings that commonly occurred on the way to and from the restaurant section.

There were two toilet facilities in the hangar building for between 1000 and 2000 detainees to use. However, detainees mostly chose to relieve themselves in their clothing in order to avoid the regular beatings that occurred on their way to and from toilet facilities. Even if the detainees chose to risk the beatings to use the toilet, the conditions were deplorable. In other buildings no toilet facilities existed at all.

Hundreds of detainees were held for days or weeks on the pista without any shelter from weather conditions. The detainees were often forced to lie down on their stomachs on the asphalt for hours at the time to prevent them from seeing certain occurrences in the camp.

Upon their arrival at Omarska new detainees were physically and verbally abused by the guards on duty. The detainees were forced to stand with their arms outstretched against the wall using their three fingers for greeting, while their bodies were searched for valuables that were taken from them.

In the room located on the first floor interrogations were carried out by inspectors/investigators from the Banja Luka State Security Centre (CSB) and the Prijedor SNB, SJB and the military. During interrogations, the detainees were frequently subjected to severe physical violence, and in many cases other detainees could hear screams and cries emanating from the interrogation rooms. Guards who were present

during interrogations would beat detainees with metal bars and other instruments. According to the interrogation results the detainees were divided into three categories. The detainees who fell into category 1, defined as "people who had directly organized and taken part in the armed rebellion", were subjected to the worst treatment in the Omarska camp. Many of them did not survive.

During the course of the investigations implemented by the ICTY Office of the Prosecutor, declarations of deaths were collected in respect of about 145 individuals who were either last seen or killed in Omarska. In addition, the bodies of at least 14 persons killed or last seen at Omarska have subsequently been exhumed from various gravesites.

As to the individual incidents the accused are alleged to have committed in Omarska camp, reference is made to the operational part of the Indictment in order to avoid repetition.

**The Keraterm camp** began operating on 23 May 1992 and held as many as 1500 detainees. On 27 May 1992, pursuant to an order of the Prijedor Crisis Staff, a number of detainees were transferred from the Keraterm camp to the Omarska camp.

The Keraterm camp was located on the site of a ceramics factory on the Prijedor-Banja Luka road, just outside the centre of the town of Prijedor. There were four rooms in the camp, with Room 2 being the largest and Room 3 the smallest. Up to 1500 detainees were held at the camp, among them witnesses 3, 4, 9, 10, 11, 14, 15, 16, 18, 19, 20, 21, 23, 24, 25, 27, 28, 37, 39, 41, 44, 45, 50, 54 and 58. A few women were detained at the Keraterm camp.

Conditions at the camp were brutal, inhumane and degrading, and the camp was operated in a manner that resulted in the physical debilitation or death of the detainees. Interrogations were frequently accompanied by beatings. Killings, severe beatings, and other forms of physical and psychological abuse, including sexual assault, were commonplace. The camp guards and visitors who came to the camp frequently used all types of weapons and instruments to beat and otherwise physically abuse the detainees. In addition to being directly subjected to mistreatment, most detainees also witnessed the abuse of other detainees. The beatings were accompanied by derogatory and humiliating comments to the victims or their families, and threats. Detainees were forced to load the lifeless bodies of their fellow detainees onto trucks for their transportation out of the camp. This created an atmosphere of terror and the detainees lived in the constant fear of selection for mistreatment.

Brutal living conditions were imposed on the detainees. There was a deliberate policy of overcrowding. Between 200 and 500 detainees were packed in each room. Often, the detainees could not lie down. They received starvation rations of food and only polluted water to drink. There was insufficient or non-existent medical care. The detainees all suffered serious psychological and physical deterioration and were in a state of constant fear.

There were four rooms in the camp where prisoners were detained. Room 1 was 6 to 7 meters wide and 15 to 20 meters long, with the ceiling 3 to 4 meters high. Between 200-350 prisoners were generally accommodated in this room. Room 2 was 15 to 20 meters wide, 18 to 20 meters long, and about 2.5 – 3 meters high. Between 250 and 500 persons were generally kept in this room, with the peak occurring in the month of July 1992, when detainees from Room 3 were transferred into Room 2. A count taken on 27 or 28 July revealed that there were 570 people in Room 2. Room 3 was approximately 6 meters by 8–10 meters, L-shaped, and divided in the middle. It was next to the toilet facilities, which leaked into Room 3 and produced a terrible stench. There were about 250 to 400 people in Room 3 on approximately 20 July 1992, and later the number rose to 570. Room 4 was roughly the same size as Room 3. It was overcrowded, with a population that eventually reached 400 – 500 persons.

Upon arrival at the Keraterm camp, many of the detainees had any remaining personal property confiscated and were beaten prior to being forced into one of the four storage rooms. In the storage rooms, they were locked behind metal doors during the height of the summer. It was often the case that the detainees could not lie down and could not freely move about. Whether they were detained in the room or in the open area, the detainees were only allowed to move when specifically permitted to do so, usually only to receive the starvation rations. They were not provided with the opportunity to exercise and there was no routine whereby they would be even permitted to regularly go outside of the rooms for fresh air.

The Keraterm camp had few toilets and no other facilities for personal hygiene. The portions of food provided were grossly insufficient. Water supply for the detainees was inadequate, particularly during the hot summer months of 1992. They had no change of clothing, no bathing and limited medical care. The camp personnel routinely yelled ethnic insults at the detainees.

The majority of the detainees at the Keraterm camp were called for interrogation at some time during their incarceration. Serb inspectors from the Banja Luka CSB and the Prijedor SJB carried out formal interrogations. Detainees were regularly beaten on their way to and from interrogations. As a result of the interrogations, detainees were “classified” and either transferred to the Omarska camp or placed back in a specific room at Keraterm, according to their new “classification”.

The Keraterm authorities and camp visitors regularly subjected the detainees to killings, severe beatings, and other forms of physical and psychological mistreatment, in which all types of weapons were used. At times beatings and/or other cruel or humiliating acts were inflicted in full view of other detainees and were accompanied by derogatory and humiliating comments to the victims or their families and general threats to the other detainees. After they were beaten, the detainees received little or no medical attention.

Detainees whose identities are both known and unknown did not survive the Keraterm camp. Frequently, bodies of detainees would be placed in or next to a garbage container

that was located at the end of the factory building, in the vicinity of Room 4. When the corpses were taken out of the camp the detainees were forced to load them into vehicles.

On 27 May 1992 the Prijedor Crisis Staff ordered that all prisoners from the Keraterm facility be transferred to the facility in the Omarska ore-mine complex. Around 5 August 1992, a majority of detainees were transferred to Manjača, Trnopolje or Omarska camps. The Keraterm camp was disbanded on or about 5 August 1992, or very soon thereafter.

Declarations of death were collected in relation to individuals who were either killed or last seen in the Keraterm camp. In addition, the bodies of 33 former prisoners from Keraterm were exhumed from a gravesite at Hrastova Glavica.

As to the individual incidents the accused are alleged to have committed in Keraterm camp, reference is made to the operational part of the Indictment in order to avoid repetition.

#### **Material supporting the allegations of the Indictment**

1. Record of the statement of witness [REDACTED] dated 5.01.1996
2. Record of the statement of witness [REDACTED] dated 20.10.2000 (with annexes)
3. Record of the statement of witness [REDACTED] dated 21.01.1995
4. Copy of photograph of Omarska camp model, with annotations by [REDACTED]
5. Diagram of Restaurant building/Administration building, with annotations by [REDACTED]
6. Records of the statements of witness [REDACTED] dated 3.07.2002, 19.01.1995
7. Sanski Most Court ruling declaring [REDACTED] dead, dated 10.07.1997
8. Record of the statement of witness [REDACTED] dated 19.01.1995
9. Record of the statement of witness [REDACTED] dated 28.10.1994
10. Record of the statement of witness [REDACTED] dated 19.10.1994
11. Record of the statement of witness [REDACTED] dated 2.11.1994
12. Records of the statements of witness [REDACTED] dated 17.08.2000, 7.11.1995
13. Records of the statements of witness [REDACTED] dated 20.01.1995, 23.08.2000, 19.01.2002

14. List of detainees held in Room 4 at Keraterm, handed over by [REDACTED] with investigator's note, dated 30.11.1998
15. Photo-board identification procedure report relating to [REDACTED] dated 11.06.1999
16. Record of the statement of witness [REDACTED] dated 17.11.1994
17. Decision on termination of employment of [REDACTED] dated 4.07.1992
18. Loan contracts by [REDACTED] dated 15.09.1992, 16.09.1992
19. Certificate of marriage between [REDACTED] dated 12.05.1975
20. Certificate for [REDACTED] dated 1.02.1975
21. Permission from [REDACTED] regarding use of apartment, dated 16.09.1992
22. Decision regarding [REDACTED] dated 11.09.1991
23. Records of the statements of witness [REDACTED] dated 12.04.2002, 9.12.1994
24. Record of the statement of witness [REDACTED] dated 8.12.1994
25. Records of the statements of witness [REDACTED] dated 18.06.1995, 8.03.2003
26. Record of the statement of witness [REDACTED] dated 01.03.1999
27. Photo-board identification report relating to [REDACTED] dated 28.02.1999
28. Medical diagnosis and opinion for [REDACTED] dated 19.08.1992
29. Hospital release form for [REDACTED]
30. Record of the statement of witness [REDACTED] dated 13.10.2000
31. Record of the statement of witness [REDACTED] dated 31.10.1994
32. Record of the statement of witness [REDACTED] dated 2.07.2002
33. Record of the statement of witness [REDACTED] dated 1.07.2002
34. Records of the statements of witness [REDACTED], dated 28.08.2000, 5.03.2002

35. Record of the statement of witness [REDACTED] dated 28.08.2000 (with attachments and explanation)
36. Record of the statement of witness [REDACTED] dated 20.01.2004
37. Record of the statement of witness [REDACTED] dated 12.03.1999
38. Record of the statement of witness [REDACTED] dated 30.01.1999
39. Photo-board identification reports relating to [REDACTED] 30.01.1999, 28.08.1998
40. Records of the statements of witness [REDACTED] dated 10.12.1994, 17.06.1995
41. Records of the statements of witness [REDACTED] dated 2.07.2002
42. Records of the statements of witness [REDACTED] dated 16.11.1994, 16.10.1995
43. Records of the statements of witness [REDACTED] dated 26.02.1995, 15.10.1995
44. Records of the statements of witness [REDACTED] dated 14.01.1995, 19.01.1995, 29.08.2000, 18.01.2002
45. Record of the statement of witness [REDACTED] dated 14.09.2000
46. Record of the statement of witness K01, dated 12.09.2001
47. Photo-board identification procedure report relating to witness K01, dated 12.09.2001
48. Record of the statement of witness K03, dated 3.01.1996
49. Records of the statements of witness K05, dated 26.09.2000, 8.05.2002
50. Records of the statements of witness K07, dated 7.03.2001, 5.03.2002
51. 6 decisions of Sanski Most Municipal Court re deaths of Keraterm camp detainees
52. Records of the statements of witness K08, dated 24.08.2000, 18.01.2002
53. Record of the statement of witness K012, dated 12.10.1995
54. Record of the statement of witness K013, dated 15.09.2000
55. Record of the statement of witness K014, dated 26.09.1994

56. 2 certificates regarding witness K014
57. Record of the statement of witness K018, dated 5.03.1999
58. Photo-board identification report relating to witness K018, dated 3.03.1999
59. Record of the statement of witness K019, dated 1.11.2002
60. Ruling of Sanski Most Municipal Court re death of Omarska camp detainee
61. Records of the statements of witness K021, dated 28.08.2000, 22.03.1995
62. Notes made by witness K021 while he was detained in Omarska
63. Records of the statements of witness K022, dated 20.01.1995, 25.03.2002
64. Decision on war presidencies, Official Gazette of RBiH
65. Record of the statement of witness K023, dated 29.10.2001
66. Records of the statements of witness K027, dated 14.02.1995, 7.03.2003
67. Decision of Ministry of Defence of Serbian Republic of Bosnia and Herzegovina relating to witness K027
68. Records of the statements of witness K029, dated 24.04.2002, 2.03.1999
69. Photo-board identification report relating to witness K029, dated 16.01.1999
70. Record of the statement of witness K033, dated 9.01.1996
71. Photo-board identification reports relating to witness K033, dated 23.08.1998, 19.05.1999
72. Record of the statement of witness K034, dated 9.12.2000
73. Record of the statement of witness K035, dated 14.12.1994
74. Photo-board identification report relating to witness K035, dated 19.04.2000
75. Record of the statement of witness K036, dated 24.04.1996
76. Photo-board identification report relating to witness K037, dated 23.02.2000

77. Records of the statements of witness K038, dated 15.03.2000, 15.01.1995, 10.01.2002
78. Record of the statement of witness K039, dated 8.12.1994
79. Record of the statement of witness K040, dated 26.01.1999
80. Photo-board identification reports relating to witness K040, dated 28.08.1998
81. Certified transcripts of testimony by proposed witnesses who testified previously in the ICTY cases against Kvočka et al, Sikirica et al, Stakić, Tadić, Brđanin and Milošević, as listed in the attached Confidential Annex III, which is available for the Court and the defence. Given that some witnesses testified with protective measures before the ICTY, it is necessary to ensure that the fact they have testified previously is not revealed to the public. For this reason, the list of all prior testimony of witnesses is submitted in an annex, rather than listed herein.
82. All items listed above in the proposal of evidence are hereby also incorporated as material supporting the charges in the indictment.

#### **Proposal for pre-trial detention following the adapted indictment**

Based upon the results of the investigation conducted by the ICTY and based on the ICTY Consolidated Indictment against the Accused, there is grounded suspicion that the accused committed the offences with which they are charged. By Decision of the Preliminary Proceedings Judge of the Court of BiH, Reference Number X-KRN-06/200, dated 10 May 2006, as corrected by Procedural Decision, dated 11 May 2006, custody was ordered against the Accused for a period of one month, calculated as of 9 May 2006. The Decision of the Preliminary Proceedings Judge was confirmed by Decisions of the Special Panel, dated 13 May 2006 and 16 May 2006. By Decision of the Panel of the Court of BiH, Reference Number X-KRN-06/200, dated 9 June 2006, custody was extended for one month to 9 July 2006. The Decision of the Panel was confirmed by Decision of the Appellate Panel, Reference Number X-KRN-06/200, dated 27 June 2006.

Pursuant to Articles 227(3) and 137(1) of the BiH CPC, the Prosecutor's Office of BiH proposes that following the acceptance of the adapted Indictment, custody of all of the Accused be extended, as provided for in Article 132(1) a) and d) of the BiH CPC.

#### **Flight**

There are grounds for custody under Article 132(1) a) of the BiH CPC, as circumstances suggest a possibility of flight. Taking into consideration: that several years passed between the time when the Accused were indicted by the ICTY and the time when they surrendered to the ICTY, in the case of Željko Mejakić more than 8 years, Momčilo

Gruban and Duško Knežević more than 7 years, and Dušan Fuštar more than 2 years;<sup>1</sup> the fact that all of the Accused are citizens of Serbia and Montenegro; in particular, the fact that Duško Knežević moved from Prijedor to the Federal Republic of Yugoslavia two days after his then co-accused [REDACTED] were arrested on 9 April 1998, and that he obtained the citizenship of Serbia and Montenegro in January 2005; that Momčilo Gruban and Željko Mejakić only recently obtained the citizenship of Serbia and Montenegro, in July 2004 and June 2005 respectively; that Momčilo Gruban and Duško Knežević formerly resided in Serbia for a number of years,<sup>2</sup> and would have thereby established ties; that the Constitution of the Republic of Serbia excludes the possibility of extraditing its citizens; that Željko Mejakić and Dušan Fuštar do not possess significant material values in Bosnia and Herzegovina; that by fleeing across the border, the Accused can make themselves unavailable to the authorities of Bosnia and Herzegovina and thereby thwart the course of the criminal proceedings before the BiH Court; and considering also the gravity and nature of the charges against the Accused and the considerable prison sentences they will face if convicted, it is clear that the Accused have both motives for flight, as well as concrete and actual possibilities to carry it out.

The prosecutor principally relies upon these grounds, which alone support the conclusion reached by the Appellate Panel on 27 June 2006 namely that *“extending custody at this point is the only adequate measure to ensure the presence of the suspects and successful conduct of the criminal proceedings, and that the same purpose cannot be achieved by ordering another measure..”*. The relevant circumstances have not changed since this very recent decision.

#### **Public security**

There are also grounds for extension of custody under Article 132(1) d) of the BiH CPC. Article 132(1)(d), permits a court, upon finding there is grounded suspicion that the defendant has committed a criminal offense, to order him or her into custody if the offense is punishable by a sentence of ten years or more, . . . *where the manner of commission or the consequences of the criminal offense requires that custody be ordered for the reason of public or property security*. The term “public security” is not defined. Where neither the code nor the Court have given the term a specific meaning, it is reasonable to resort to the plain meaning of the words to interpret the code. The word security is defined variously, but next to being defined as freedom from risk or danger, it is also defined as freedom from doubt, anxiety and fear. Ordering a person into custody whose unrestrained presence in the community creates a real risk that he or she will cause extraordinary doubt, anxiety or fear in those who suffered through the commission of the offenses charged and have lived with the consequences ever since, or a likelihood that knowing that he is free within the community will affect the confidence of those who may be witnesses, is fully within the meaning of Article 132(1)(d). Moreover, the extraordinary manner in which these offences were committed and their extraordinary consequences justify extraordinary measures in cases like these. The Court is entitled to


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<sup>1</sup> Although the 20 August 1999 indictment against Dušan Fuštar and corollary arrest warrants were initially held under seal, an ICTY “Wanted” Poster naming Dušan Fuštar existed from at least 23 August 2000.

<sup>2</sup> *Prosecutor v. Mejakić et al.*, Case No. IT-02-65-PT, “Joint Defence Response to the Prosecutor’s Supplemental Submission,” 10 June 2005, at paras. 5-6.

take notice of these extraordinary features. The way these offences were committed, the fact that they were committed and the consequences for thousands of people are indisputable. These factors include: the operation of these two camps impacted upon thousands of persons from Prijedor; hundreds lost their lives, frequently under cruel and torturous circumstances and left families and others who remember these outrageous crimes as vividly today as they did more than 10 years ago; those who survived suffered severe physical and psychological harm, leaving many profoundly and permanently traumatised; the crimes were not just committed upon individuals but amounted to a wholesale attack upon an entire ethnic community; these crimes are also universally notorious and in addition to the sheer number of direct victims associated with these camps, the nation as a whole was and continues to be affected by them and accordingly by this trial. It is also the first major trial of these heinous crimes to be held in a domestic court in Bosnia and Herzegovina. The immediacy of the trial itself will inevitably revive the trauma and outrage associated with these crimes within the regions most affected and in Bosnia and Herzegovina as a whole. There is a real risk that should any of the accused be granted release from detention, this would generate anxiety and fear within the community at large and inflame inter-ethnic fears, tensions and divisions, the outcome of which may be unpredictable. There is a real risk that it will result in a public outcry, and thereby have a significant detrimental impact on public security. This risk is all the greater if their release occurs so early in the proceedings in Bosnia and Herzegovina and so soon after their hand-over to the authorities in Bosnia and Herzegovina; premature release may well undermine the community's confidence in the capacity of the Bosnian justice system to process highly sensitive war crimes cases.

**Based on the foregoing, the Prosecutor's Office of BiH moves the Preliminary Hearing Judge of the Court of BiH to accept this adapted Indictment pursuant to Article 2(1) of the Law on Transfer.**

  
Prosecutor  
Prosecutor's Office of BiH  
Peter Kidd