

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-96-23/2-PT

IN THE TRIAL CHAMBER

Before: Judge Alphons Orie, Presiding
Judge Christine Van den Wyngaert
Judge Bakone Justice Moloto

Registrar: Mr. Hans Holthuis

Date Filed: 14 December 2006

THE PROSECUTOR

v.

DRAGAN ZELENOVIĆ

CONFIDENTIAL

**JOINT MOTION FOR CONSIDERATION OF PLEA AGREEMENT
BETWEEN DRAGAN ZELENOVIĆ AND THE OFFICE OF THE
PROSECUTOR PURSUANT TO RULE 62 *ter***

The Office of the Prosecutor:
Ms. Hildegard Uertz-Retzlaff
Mr. Manoj Sachdeva

Counsel for the Accused
Mr. Zoran Jovanović

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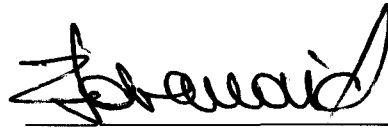
Pursuant to Rule 62 *ter* of the Rules of Procedure and Evidence, the Prosecution and the Defence jointly file herewith confidentially the following documents:

1. Plea Agreement (“Annex A”); and
2. Factual Basis (“Tab 1”).

The parties respectfully request the Trial Chamber to schedule a hearing to receive a guilty plea. The parties intend to request the Trial Chamber during the hearing to order that the documents provided in this Motion be released as public documents. Further the Prosecution will move orally during the hearing to withdraw the other charges contained in the Amended Indictment without filing a new amended version of the Amended Indictment, as the charges as well as the forms of the Accused's liability in the original indictment have been formulated in the alternative.



Hildegard Uertz-Retzlaff
Senior Trial Attorney



Zoran Jovanović
Counsel for Dragan Zelenović

Dated this 14th Day of December 2006
At The Hague
The Netherlands

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-96-23/2-PT

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ANNEX A
TO THE JOINT MOTION FOR CONSIDERATION OF PLEA AGREEMENT
BETWEEN DRAGAN ZELENOVIĆ AND THE OFFICE OF THE PROSECUTOR

PLEA AGREEMENT

INTRODUCTION

1. This constitutes the Plea Agreement (“Agreement”), pursuant to Rule 62*bis* of the Rules of Procedure and Evidence (“the Rules”), between the Accused, Dragan ZELENOVIĆ, through his Counsel Mr. Zoran Jovanović, and the Office of the Prosecutor (OTP). The purpose of this Agreement is to set forth in its entirety the understanding of the parties as to the nature of the Agreement and the possible consequences of Mr. Zelenović’s plea of guilty, and to assist the parties and the Trial Chamber in ensuring that the plea is voluntary, informed and unequivocal, and that there is a sufficient factual basis to support it according to the Rules set forth by this Tribunal. The terms of the Agreement are as follows:

SUMMARY OF INTENDED PLEAS

2. Dragan Zelenović agrees to plead guilty to a total of 7 counts of the Amended Indictment dated 20 April 2001, that is:
 - i) seven counts of Crimes Against Humanity, three of which, (Counts 5, 13, 41), charge Torture, as recognised by Article 5(f) of the Tribunal Statute and four of

which (Count 6, 14, 42, 49) charge Rape, as recognised by Article 5(g) of the Tribunal Statute;

- ii) Dragan Zelenović pleads guilty for being individually criminally responsible for the crimes enumerated above as prescribed by Article 7(1) of the Tribunal's Statute, in relation to the incidents as contained in the following paragraphs of the Amended Indictment: 5.4; 5.5; 6.6; 6.8; 6.9; 6.10; 7.13; 9.2. The particulars of these incidents are contained in the Factual Statement in Tab 1 of this Annex.

CONSIDERATION FOR DRAGAN ZELENović'S PLEA AND CO-OPERATION

3. In exchange for Dragan Zelenović's plea of guilty to the above-mentioned Counts of Crimes against Humanity (Rape and Torture), complete co-operation with the OTP as set forth in paragraphs 9 to 11 of this Agreement, and the fulfilment of all his obligations under this Agreement, the Office of the Prosecutor agrees to the following:
 - (a) At the time of the acceptance of the guilty plea by the Trial Chamber, the Prosecutor will move to dismiss without prejudice to either party the remaining charges against Dragan Zelenović, namely six counts of Violation of the Laws and Customs of War (Counts 7, 15, 16, 43, 44 and 50). Further, the Prosecutor moves to dismiss charges related to the following incidents in the Amended Indictment: 6.7; 6.11; 7.15; 7.17; 7.19; 7.20 and 7.22
 - (b) The Prosecutor will recommend to the Trial Chamber that it impose a term of imprisonment within the range of 10 to 15 years. The Defence will recommend to the Trial Chamber that it impose a term of imprisonment within the range of 7 to 10 years. Dragan Zelenović understands that the Trial Chamber is not bound to accept any recommendation and may impose a sentence above or below the range indicated.

NATURE OF THE CHARGES AND FACTUAL BASIS

4. Mr. Dragan Zelenović understands that if a trial were held the Prosecutor would be required to prove the following elements beyond reasonable doubt to secure convictions for Crimes Against Humanity (torture and rape):

5. Torture as a Crime Against Humanity:

To be proved, the crime of Torture as a Crime Against Humanity (as charged in Counts 5, 13, 41) requires (a) the infliction, by act or omission, of severe pain or suffering, whether physical or mental; (b) the act or omission must be intentional; (c) the act or omission must aim at obtaining information or a confession, or at punishing, intimidating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or third person; (d) the conduct occurred within the context of an armed conflict and was part of a widespread or systematic or large-scale attack directed against a civilian population; and (e) the Accused had knowledge of the wider context in which his conduct occurred.

6. Rape as a Crime Against Humanity

To be proved, the crime of Rape as a Crime Against Humanity, (as charged in Counts 6, 14, 42, 49), requires as the *actus reus*: (a) the sexual penetration, however slight of: (i) the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (ii) the mouth of the victim by the penis of the perpetrator; where such penetration occurs without the consent of the victim; (b) the *mens rea* consists of the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim; (c) that the conduct occurred within the context of an armed conflict and was part of a systematic or large-scale attack directed against a civilian population; and (d) the Accused had knowledge of the wider context in which his conduct occurred.

FACTUAL BASIS

7. Dragan Zelenović and the Office of the Prosecutor agree that if the Prosecution were to proceed with evidence, the facts and allegations set forth in the Factual Statement, Tab 1 to this Annex, would be proven beyond a reasonable doubt, and that those facts are true and correct and not disputed by Dragan Zelenović.
8. The Prosecution and Dragan Zelenović agree that the evidence supports a finding of guilt upon Dragan Zelenović as individually responsible for the commission of rape

and torture pursuant to Article 7(1) of the Tribunal' Statute and enumerated in Counts 5, 6, 13, 14, 41, 42 and 49 of the Amended Indictment.

CO-OPERATION OF DRAGAN ZELENović

9. Dragan Zelenović agrees to accept responsibility for his actions and to co-operate with, and to provide truthful and complete information to, the Office of the Prosecutor whenever requested. In accordance with such co-operation, Dragan Zelenović agrees to meet as often as necessary with members of the Office of the Prosecutor in order to provide them with full and complete information and evidence that is known to him. Mr. Zelenović agrees to be truthful and candid, and to freely answer all questions put to him by members of the Office of the Prosecutor. If applicable, Mr. Zelenović agrees to testify truthfully at any trials, hearings, or other proceedings before the International Criminal Tribunal for the Former Yugoslavia (ICTY) as requested by the Office of the Prosecutor.
10. The Prosecution and Mr. Zelenović also agree that they will not seek to delay sentencing until after Mr. Zelenović's co-operation is complete, but will in fact proceed with sentencing as expeditiously as possible.
11. It is understood and agreed by Dragan Zelenović and the Office of the Prosecutor that all information and testimony provided by Mr. Zelenović must be absolutely truthful. This means that Dragan Zelenović must neither minimise his own actions nor fabricate someone else's involvement.

MAXIMUM POSSIBLE PENALTY AND SENTENCING

12. Dragan Zelenović understands that, pursuant to Rule 101 of the Rules, the maximum sentence that can be imposed by the Trial Chamber for a guilty plea to the charges of Crimes Against Humanity as set forth in the Amended Indictment is a term of imprisonment up to and including the remainder of the convicted person's life.

13. Dragan Zelenović understands that, pursuant Rule 62 *ter* (B), the Trial Chamber shall not be bound by any agreement between the Prosecutor and the Defence. At sentencing, the Defence may recommend any sentence it deems appropriate.
14. Dragan Zelenović agrees that regardless of the sentence imposed, he will not move to withdraw his guilty plea or appeal his conviction pursuant to his guilty plea.
15. Dragan Zelenović understands that, pursuant to Article 24 of the Statute and Rule 101(B) of the Rules, the Trial Chamber will take into account in determining the appropriate sentence such factors as the gravity of the offence and the individual circumstances of the convicted person. In addition, the Trial Chamber will take into account such factors as: any aggravating circumstances, any mitigating circumstances including the substantial co-operation with the Prosecutor by the convicted person before or after conviction, the general practice regarding prison sentences in the courts of the former Yugoslavia, and the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served. At sentencing the Prosecution will not argue any other aggravating factors than those related to the gravity of the offence. In relation to the gravity of the offence, the Prosecution will address the multiplicity of the rapes and the young age of victim FWS 87.
16. Dragan Zelenović understands that, at the sentence hearing, the Prosecution and the Defence will provide to the Trial Chamber any and all information they deem relevant to sentencing.

WAIVER OF RIGHTS

17. By pleading guilty, Dragan Zelenović understands he will be giving up the following rights:
 - (a) the right to plead not guilty and require the Prosecution to prove the charges in the Amended Indictment beyond a reasonable doubt at a fair and impartial public trial;
 - (b) the right to prepare and put forward a defence to the charges at such public trial;
 - (c) the right to be tried without undue delay;

- (d) the right to be tried in his presence, and to defend himself in person at trial or through legal assistance of his own choosing at trial;
- (e) the right to examine at his trial, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf at a trial under the same conditions as witnesses against him;
- (f) the right not to be compelled to testify against himself or to confess guilt;
- (g) the right to testify or to remain silent at trial; and
- (h) the right to appeal a finding of guilty or to appeal any pre-trial rulings.

18. It is understood that by pleading guilty Dragan Zelenović does not waive his right to be represented by Counsel at all stages of the proceedings.

VOLUNTARINESS OF THE PLEA

19. Dragan Zelenović acknowledges that he has entered this Plea Agreement freely and voluntarily, that no threats were made to induce him to enter this guilty plea, and that the only promises made to him are those set forth in this agreement.

OTHER AGREEMENTS

20. Except as expressly referenced at paragraph 3 hereto, there are no additional promises, understandings or agreements between the Office of the Prosecutor and Dragan Zelenović or his Counsel, Mr. Zoran Jovanović.

DECLARATION OF DRAGAN ZELENović

21. I, Dragan Zelenović, have read this Plea Agreement in a language that I understand and have carefully and closely reviewed every part of it with my Counsel, Zoran Jovanović. Zoran Jovanović has advised me of my rights, or possible defences, and of the consequences of entering into this Agreement and I am fully satisfied with his representation of me. No other promises or inducements have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened me or forced me in any way to enter into this Agreement. I have entered into this Agreement freely and voluntarily, and am of sound mind. I understand the terms of this Agreement, and I voluntarily agree to each of the terms.

Dragan Zelenović
Dragan Zelenović

14. 12. 2006.
Date

DECLARATION OF COUNSEL

22. I, Zoran Jovanovic, am Dragan Zelenović's Counsel. I have carefully reviewed every part of this Agreement with my client. Further, I have fully advised my client of his rights, and possible defences, of the maximum possible sentence and the consequences of entering into this Agreement. To the best of my knowledge, my client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

Zoran Jovanović
Zoran Jovanović
Counsel for Dragan Zelenović

14. 12. 2006
Date

On this 14th Day of December 2006, the undersigned parties fully agree to each and every term and condition of this Plea Agreement:

Dragan Zelenović
Dragan Zelenović
Zoran Jovanović
Zoran Jovanović
Counsel for Dragan Zelenović

Carla Del Ponte
Carla Del Ponte
Prosecutor
Hildegard Uertz-Retzlaff
Hildegard Uertz-Retzlaff
Senior Trial Attorney
Office of the Prosecutor

MEĐUNARODNI KRIVIČNI SUD
ZA BIVŠU JUGOSLAVIJU

Predmet br. IT-96-23/2-PT

TUŽILAC

protiv

DRAGANA ZELENOVIĆA

DODATAK A
ZAJEDNIČKOM ZAHTJEVU ZA RAZMATRANJE SPORAZUMA O
IZJAŠNJAVANJU O KRIVICI IZMEĐU DRAGANA ZELENOVIĆA I
TUŽILAŠTVA

SPORAZUM O IZJAŠNJAVANJU O KRIVICI

UVOD

1. Ovaj dokument predstavlja sporazum o izjašnjavanju o krivici (u daljnjem tekstu: Sporazum) prema pravilu 62bis Pravilnika o postupku i dokazima (u daljnjem tekstu: Pravilnik) između optuženog Dragana ZELENOVIĆA, kojeg zastupa njegov branilac g. Zoran Jovanović, i Tužilaštva. Svrha ovog Sporazuma jeste da se utanače sve pojedinosti dogovorene između strana u postupku u vezi sa prirodom ovog Sporazuma i mogućim posljedicama potvrdnog izjašnjavanja g. Zelenovića o krivici, da pomogne stranama i Pretresnom vijeću da osiguraju da izjašnjavanje o krivici bude dobrovoljno, nedvosmisleno i dato s punim znanjem, i da postoji adekvatna činjenična osnova za taj Sporazum u skladu s Pravilnikom ovog Međunarodnog suda. Ovaj Sporazum uređuje sljedeće:

SAŽETAK PLANIRANOG IZJAŠNJAVANJA O KRIVICI

2. Dragan Zelenović je sporazuman da se izjasni krivim po ukupno 7 tačaka Izmijenjene optužnice od 20. aprila 2001., odnosno:

Prijevod

- i) po sedam tačkaka za zločine protiv čovječnosti, od kojih ga tri (tačke 5, 13, 41) terete za mučenje, sankcionisano članom 5(f) Statuta Međunarodnog suda, i četiri (tačke 6, 14, 42, 49) za silovanje, sankcionisano članom 5(g) Statuta Međunarodnog suda;
- ii) Dragan Zelenović se potvrdno izjasnio o individualnoj krivičnoj odgovornosti za zločine koji se navode gore u tekstu, regulisanoj članom 7(1) Statuta Međunarodnog suda, u vezi s događajima koji se navode u sljedećim paragrafima Izmijenjene optužnice: 5.4; 5.5; 6.6; 6.8; 6.9; 6.10; 7.13; 9.2. Podaci o tim događajima sadržani su u Izjavi o činjenicama u separatoru 1 ovog Dodatka.

PROTUUSTUPAK ZA POTVRDNO IZJAŠNJAVANJE O KRIVICI I SARADNJU DRAGANA ZELENOVIĆA

3. U zamjenu za potvrdno izjašnjavanje o krivici Dragana Zelenovića po gorenavedenim tačkama koje ga terete za zločine protiv čovječnosti (silovanje i mučenje), potpunu saradnju s Tužilaštvom, opisanu u paragrafima od 9 do 11 ovog Sporazuma, te ispunjavanje svih njegovih obaveza prema ovom Sporazumu, Tužilaštvo je saglasno da učini sljedeće:
 - (a) Kada Pretresno vijeće prihvati potvrdno izjašnjavanje o krivici, tužilac će predložiti da se, bez nanošenja štete bilo kojoj strani u postupku, odbace preostale optužbe protiv Dragana Zelenovića, odnosno šest tačkaka kojima se optuženi tereti za kršenje zakona i običaja ratovanja (tačke 7, 15, 16, 43, 44 i 50). Nadalje, tužilac predlaže da se odbace optužbe u vezi sa sljedećim događajima iz Izmijenjene optužnice: 6.7; 6.11; 7.15; 7.17; 7.19; 7.20 i 7.22.
 - (b) Tužilac će Pretresnom vijeću predložiti da odredi kaznu zatvora u trajanju od 10 do 15 godina. Odbrana će Pretresnom vijeću predložiti da odredi kaznu zatvora u trajanju od 7 do 10 godina. Dragan Zelenović je svjestan da Pretresno vijeće nije dužno prihvatiti niti jedan prijedlog, te da može odrediti kaznu koja je duža ili kraća od navedenog raspona.

PRIRODA OPTUŽBI I ČINJENIČNA OSNOVA

4. Gospodin Dragan Zelenović je svjestan da bi Tužilaštvo, u slučaju suđenja, moralo van razumne sumnje dokazati sljedeće elemente da bi mu se izrekla osuđujuća presuda za zločine protiv čovječnosti (mučenje i silovanje):

5. Mučenje kao zločin protiv čovječnosti:

Da bi se dokazao zločin mučenja kao zločin protiv čovječnosti (za koji se optuženi tereti u tačkama 5, 13, 41) potrebno je dokazati sljedeće: (a) nanošenje, činjenjem ili nečinjenjem, teškog bola ili patnje, tjelesne ili duševne; (b) činjenje ili nečinjenje mora biti namjerno; (c) činjenje ili nečinjenje mora biti usmjereno na to da se dobiju informacije ili priznanje, da se kazni, zastraši ili prisili žrtva ili treće lice, ili da se vrši diskriminacija protiv žrtve ili trećeg lica po bilo kojoj osnovi; (d) postupanje optuženog bilo je u kontekstu rasprostranjenog i sistematskog napada usmjerenog protiv civilnog stanovništva; i (e) optuženi je bio svjestan šireg konteksta u kojem su se odvijali njegovi postupci.

6. Silovanje kao zločin protiv čovječnosti

Da bi se dokazao zločin silovanja kao zločin protiv čovječnosti (za koji se optuženi tereti u tačkama 6, 14, 42, 49) potreban je sljedeći *actus reus*: (a) seksualna penetracija, bez obzira koliko neznatna: (i) vagine ili anusa žrtve penisom počinioca ili bilo kojim drugim predmetom kojim se počinilac poslužio; ili (ii) usta žrtve penisom počinioca, kada je ta penetracija izvršena bez pristanka žrtve; (b) *mens rea* je namjera da se postigne ta seksualna penetracija i znanje da se to događa bez pristanka žrtve; (c) postupanje optuženog bilo je u kontekstu rasprostranjenog i sistematskog napada usmjerenog protiv civilnog stanovništva; i (d) optuženi je bio svjestan šireg konteksta u kojem su se odvijali njegovi postupci.

ČINJENIČNA OSNOVA

7. Dragan Zelenović i Tužilaštvo se slažu da bi, u slučaju da Tužilaštvo izvede dokaze, činjenice i navodi iz Izjave o činjenicama, separator 1 ovog Dodatka, bili dokazani van razumne sumnje, te da su te činjenice istinite i tačne, te da ih Dragan Zelenović ne osporava.

Prijevod

8. Tužilaštvo i Dragan Zelenović se slažu da ti dokazi idu u prilog presuđenju o krivici Dragana Zelenovića kao individualno odgovornog za izvršenje silovanja i mučenja navedenih u tačkama 5, 6, 13, 14, 41, 42 i 49 Izmijenjene optužnice na osnovu člana 7(1) Statuta Međunarodnog suda.

SARADNJA DRAGANA ZELENOVIĆA

9. Dragan Zelenović pristaje da preuzme odgovornost za svoje postupke, kao i da, kad god se to od njega bude tražilo, saraduje s Tužilaštvom i pruža mu istinite i potpune informacije. Dragan Zelenović se obavezuje da će se, u sklopu takve saradnje, sastati sa službenicima Tužilaštva koliko god puta to bude potrebno, kako bi im pružio potpune i detaljne informacije i dokaze koji su mu poznati. Gospodin Zelenović se obavezuje da će biti iskren i otvoren, te da će bez zadržke odgovoriti na sva pitanja koja mu postave službenici Tužilaštva. Ako to bude potrebno, g. Zelenović se obavezuje da će iskreno svjedočiti na suđenjima, pretresima ili u sklopu bilo kog postupka pred Međunarodnim sudom za bivšu Jugoslaviju (u daljnjem tekstu: MKSJ) ako to Tužilaštvo od njega zatraži.
10. Tužilaštvo i g. Zelenović se takođe slažu da neće tražiti odgodu odmjeravanja kazne dok se saradnja g. Zelenovića ne ostvari u potpunosti, već će pristupiti odmjeravanju kazne što to prije bude moguće.
11. Dragan Zelenović i Tužilaštvo shvaćaju i saglasni su da sve informacije dobivene od g. Zelenovića i njegovo svjedočenje moraju biti potpuno istiniti. To znači da Dragan Zelenović ne smije umanjivati svoja djela, kao ni izmišljati nečije tuđe učešće.

MAKSIMALNA MOGUĆA KAZNA I ODMJERAVANJE KAZNE

12. Dragan Zelenović je svjestan toga da je, prema pravilu 101 Pravilnika, maksimalna kazna koju Pretresno vijeće može izreći osobi koja se potvrdno izjasnila o krivici po optužbama za zločin protiv čovječnosti, navedenim u Izmijenjenoj optužnici, kazna zatvora, uključujući i doživotni zatvor.
13. Dragan Zelenović je svjestan da, u skladu s pravilom 62ter(B), nikakav sporazum tužioca i odbrane ne obavezuje Pretresno vijeće. Prilikom odmjeravanja kazne, odbrana može predložiti bilo koju kaznu koju bude smatrala primjerenom.

Prijevod

14. Dragan Zelenović se obavezuje da, bez obzira na izrečenu kaznu, neće tražiti da povuče svoje potvrdno izjašnjavanje o krivici niti uložiti žalbu na osuđujuću presudu koja se zasniva na njegovom potvrdnom izjašnjavanju o krivici.
15. Dragan Zelenović je svjestan da će Pretresno vijeće prilikom odmjeravanja odgovarajuće kazne, u skladu s članom 24 Statuta i pravilom 101(B) Pravilnika, uzeti u obzir faktore kao što su težina krivičnog djela i lične prilike osuđenika. Pretresno vijeće će, osim toga, uzeti u obzir faktore kao što su to: sve otežavajuće okolnosti; sve olakšavajuće okolnosti, uključujući i značajnu saradnju osuđenog s tužiocem prije ili poslije izricanja presude; opšta praksa izricanja zatvorskih kazni na sudovima bivše Jugoslavije; eventualno vrijeme koje je osuđena osoba već izdržala od kazne za isto djelo koju je eventualno izrekao nacionalni sud. Prilikom odmjeravanja kazne, Tužilaštvo neće iznijeti niti jedan drugi otežavajući faktor osim onih u vezi s težinom krivičnog djela. U vezi s težinom krivičnog djela, Tužilaštvo će govoriti o višestrukosti silovanja i nježnom uzrastu žrtve FWS 87.
16. Dragan Zelenović je svjestan da će, na raspravi o kazni, Tužilaštvo i odbrana Pretresnom vijeću pružiti sve eventualne informacije koje budu smatrani relevantnim za odmjeravanje kazne.

ODRICANJE OD PRAVA

17. Dragan Zelenović je svjestan da će se potvrdnim izjašnjavanjem o krivici odreći sljedećih prava:
 - (a) prava da se izjasni da nije kriv i da zahtijeva od Tužilaštva da dokaže navode iz Izmijenjene optužnice van razumne sumnje na pravičnom i nepristranom javnom suđenju;
 - (b) prava da pripremi i iznese svoju odbranu od optužbi na takvom javnom suđenju;
 - (c) prava da mu se sudi bez nepotrebnog odlaganja;
 - (d) prava da mu se sudi u njegovom prisustvu i da se na suđenju brani lično ili putem pravnog zastupnika po vlastitom izboru;

Prijevod

- (e) prava da na svom suđenju ispita ili da se u njegovo ime ispitaju svjedoci koji ga terete, kao i da se svjedoci odbrane dovedu i ispitaju na suđenju pod istim uslovima kao i svjedoci koji ga terete;
 - (f) prava da se ne prisiljava da svjedoči protiv sebe ili da prizna krivicu;
 - (g) prava na svjedočenje i prava na šutnju na suđenju; i
 - (h) prava na ulaganje žalbe na presuđenje o krivici ili na bilo koju pretpretresnu odluku.
18. Podrazumijeva se da se potvrdnim izjašnjavanjem o krivici Dragan Zelenović ne odriče prava da ga u svim fazama postupka zastupa branilac.

DOBROVOLJNOST IZJAŠNJAVANJA O KRIVICI

19. Dragan Zelenović potvrđuje da je Sporazum o izjašnjavanju o krivici sklopio slobodno i dobrovoljno, da mu niko nije prijetio da bi ga prisilio da se pristane potvrdno izjasniti o krivici, te da mi nisu dana nikakva obećanja osim onih koja su sadržana u ovom Sporazumu.

DRUGI DOGOVORI

20. Osim onih koji su izričito navedeni u paragrafu 3 ovog Sporazuma, ne postoje druga obećanja, dogovori ili sporazumi između Tužilaštva i Dragana Zelenovića ili njegovog branioca, g. Zorana Jovanovića.

IZJAVA DRAGANA ZELENOVIĆA

21. Ja, Dragan Zelenović, pročitao sam ovaj Sporazum o izjašnjavanju o krivici na jeziku koji razumijem i pažljivo sam sa svojim braniocem Zoranom Jovanovićem pregledao svaki njegov dio. Zoran Jovanović me je upoznao s mojim pravima, s mojim mogućim strategijama odbrane i sa posljedicama sklapanja ovog Sporazuma. Potpuno sam zadovoljan načinom na koji me zastupa. Nisu mi data nikakva obećanja ni podsticaji osim onih koji su sadržani u ovom Sporazumu. Nadalje, niko mi nije prijetio niti me na bilo koji način prisilio da pristanem na ovaj Sporazum. Ovaj Sporazum sam sklopio slobodno i dobrovoljno i pri zdravoj pameti. Razumijem uslove iz ovog Sporazuma i dobrovoljno pristajem na svaki od tih uslova.

Prijevod

Zeleni Duzo
Dragan Zelenović

14.12.2006
Datum

IZJAVA BRANIOCA

22. Ja, Zoran Jovanović, branilac sam Dragana Zelenovića. Pažljivo sam sa svojim klijentom pregledao svaki dio ovog Sporazuma. Nadalje, svog klijenta sam potpuno upoznao s njegovim pravima, mogućim strategijama odbrane, maksimalnom mogućom kaznom i posljedicama sklapanja ovog Sporazuma. Koliko mi je poznato, moj klijent je pri zdravoj pameti i odluku da sklopi ovaj Sporazum donio je dobrovoljno i sa punim znanjem.

Zoran Jovanović
Zoran Jovanović,
branilac Dragana Jovanovića

14.12.2006
Datum

Dana 14. decembra 2006, nižepotpisane strane se u potpunosti slažu sa svim uslovima i odredbama ovog Sporazuma.

Zeleni Duzo
Dragan Zelenović
Zoran Jovanović
Zoran Jovanović,
branilac Dragana Zelenovića

Carla Del Ponte
Carla Del Ponte,
tužilac
H. Pütz-Retzler
Hildegard Uerz-Retzlaff,
viši zastupnik Tužilaštva
Tužilaštvo

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-96-23/2-PT

THE PROSECUTOR

v.

DRAGAN ZELENOVIĆ

TAB 1

FACTUAL STATEMENT

INTRODUCTION

1. The purpose of this factual statement is to demonstrate that there exists an adequate factual basis for Dragan Zelenović's plea of guilty to Counts 5, 6, 13, 14, 41, 42 and 49 of the Amended Indictment dated 20 April 2001, *The Prosecutor v. Dragan Zelenović*, Case No. IT-96-23-PT ("Amended Indictment"). This factual statement does not contain all of the facts concerning Dragan ZELENOVIĆ's conduct relative to the Amended Indictment, and does not preclude additional agreed or proven facts being brought to the attention of the Trial Chamber at the time of sentencing.

**POSITIONS AND FUNCTIONS OF DRAGAN ZELENOVIĆ DURING THE
WAR**

2. Dragan ZELENOVIĆ, a/k/a "Zeljka" and "Zeleni", son of Bogdan, was born on 12 February 1961 in Foča and lived at Nurije Pozderca 21 as of June 1996. He worked as an electrician in Miljevina before the war. During the war he was a member of the "Dragan Nikolić Unit" a military unit in Foča which, in the beginning of the war was part of the Serb Territorial Defence ("TO") and from summer 1992 onwards part of the Army of Republika Srpska ("VRS"). Dragan ZELENOVIĆ was a soldier and a *de facto* military policeman.

WIDESPREAD AND SYSTEMATIC ATTACK ON THE NON-SERB POPULATION IN FOČA

3. The city and municipality of Foča are located south-east of Sarajevo, in the Republic of Bosnia and Herzegovina and borders Serbia and Montenegro. According to the 1991 census, the population of Foča consisting of 40,513 persons was 52 % Muslim, 45.3 % Serbian and 3.1% others. The political and military take-over of the municipality of Foča started with the first military actions in the town of Foča on 8 April 1992. The Serb forces used heavy artillery to shell the town. The attack on Foča and its surrounding villages were part of an armed conflict that took place at that time throughout Bosnia and Herzegovina between forces of the government of Bosnia and Herzegovina and Serb forces comprised of units of the Yugoslav Peoples Army (JNA), the Bosnian Serb Territorial Defence (later VRS), the Serb police and other irregular Serb military formations. These Serb forces effected the forcible removal of the majority of the non-Serb civilian population from the municipality through violence. The take-over of Foča town was complete by mid-April 1992. The attack on the surrounding villages, most of which were undefended and contained no military targets, continued until mid-July 1992.

4. During the take-over or as soon as the Serb forces had taken control over parts of Foča town and its surrounding villages and municipalities, Muslim and other non-Serb inhabitants were subjected to a widespread and systematic pattern of abuse, designed to remove the majority of them from the municipality. Muslim and other non-Serb inhabitants were methodically rounded up. In the course of their capture, civilians were frequently brutalised, beaten and sometimes even killed. Men and women and children were separated and transported to different detention facilities, such as schools, community buildings and the Foča prison. In the detention facilities the detainees were subjected to humiliating and degrading conditions of life. After extended periods of detention, the detainees were deported or forcibly transferred to Montenegro or locations controlled by the government of Bosnia and Herzegovina. The remaining non-Serb population outside the detention

facilities were subjected to discriminatory measures that made their stay in Foča unbearable. Their movements were restricted, their homes were searched arbitrarily, they were beaten and killed arbitrarily, the homes plundered and destroyed, as well as their cultural and religious monuments.

5. As a consequence of the concerted effort of the attack upon the civilian population of Foča and its surrounding municipalities, all traces of Muslim presence in the area were effectively wiped out. Muslim civilians, but for a handful, had been expelled from the region. Out of the 52% of Muslims that resided in Foča according to the 1991 Census, only ten remained at the end of the conflict. In January 1994, Foča was renamed Srbinje by reference to the fact that it is now almost exclusively inhabited by Serbs.

ACTIVITIES OF DRAGAN ZELENOVIĆ DURING THE INDICTMENT PERIOD

6. As a member of the “Dragan Nikolić Unit” and a *de facto* military policeman in Foča, Dragan ZELENOVIĆ was involved in the attack on Foča and its surrounding villages and in the subsequent arrest of civilians from mid-April to mid-July 1992.

BUK BIJELA

7. On 3 July 1992, Dragan ZELENOVIĆ, along with the co-perpetrators Gojko Janković, Janko Janjić and Zoran Vuković, who were Bosnian Serb soldiers, arrested a group of about 60 Muslim women, children and a few elderly men from Tosanj and Mjesaja and took them to a temporary detention facility called Buk Bijela. Buk Bijela was a settlement on a hydro-electric dam construction site on the road from Brod to Miljevina by the river Drina which was turned in to a local military headquarters and barracks for the Serb forces after the April 1992 take-over of Foča and its surrounding villages.

8. During their detention, these Muslim civilians were threatened with death or rape or were otherwise humiliated by the armed soldiers. Dragan ZELENović, along with the other three co-perpetrators separated the women from their children and interrogated them on the hiding places of the male villagers and weapons. The women were threatened with sexual assault and murder if they lied. On or about 3 July 1992, during and after the interrogation, Dragan ZELENović and the other co-perpetrators gang raped several of the women they suspected of lying, in particular:
 9. Victim FWS-75 was interrogated by Dragan ZELENović and Gojko Janković about her village and whether the villagers had weapons. Janković warned the victim not to lie otherwise she would be raped by soldiers and be killed afterwards. As FWS-75 did not answer the questions adequately, in the presence of Dragan ZELENović, she was taken by a soldier to another room where ten unidentified soldiers raped her in turn. The nature of the rape included vaginal penetration and fellatio. FWS-75 eventually lost consciousness after the tenth soldier sexually assaulted her. The incident lasted between one to two hours. Although Dragan ZELENović did not personally rape FWS-75 in this instance, he knew that his actions in respect of the interrogation and his omission to act in the face of the threats of death and rape by Gojko Janković, and the eventual transfer of FWS-75 to the other room to be gang-raped by the ten men, substantially assisted in the commission of the rape of FWS-75. (Incident contained in paragraph 5.4 of Amended Indictment).
 10. On that same day, Dragan ZELENović and three unidentified soldiers also interrogated victim FWS-87 in a room at Buk Bijela. During the interrogation, Dragan ZELENović, and the other soldiers, accused FWS-87 of not telling the truth. Dragan ZELENović proceeded to rape her, as did the other three soldiers. The nature of the rape was vaginal penetration. During the rape, one of the soldiers threatened the witness by putting a gun to her head. FWS-87 experienced severe pain during the assault, followed by heavy vaginal bleeding. (Incident contained in paragraph 5.5 of the Amended Indictment).

FOČA HIGH SCHOOL

11. During the take-over of the Foča, the Foča High School, situated in the Aladža area, functioned as a barracks for Serb soldiers, and as a short term detention facility for Muslim women, children and the elderly. Between 3 and about 13 July 1992, about 70 Muslim inhabitants of Foča were detained in the two classrooms at the Foča High School, including those women, children and the elderly who had earlier been detained at Buk Bijela, mentioned above. On or about 13 July 1992, all detainees were transferred from the High School to the Partizan Sports Hall in Foča.

12. During their detention in Foča High School, many of the female detainees were subjected to sexual abuse, including gang rape, by Serb soldiers. Dragan ZELENović was among this group of soldiers. On or about 6 or 7 July 1992, Dragan ZELENović in concert with other co-perpetrators, selected four women and girls from the class room in which the detainees were kept, among them FWS-75 and FWS-87. Dragan ZELENović led them to another classroom where other unidentified soldiers stood waiting. Then Dragan ZELENović decided which women should go to which man. Dragan ZELENović vaginally raped FWS-75, while the other co-perpetrators vaginally raped the other women and girls. (Incident contained in paragraph 6.6 in the Amended Indictment).

13. Between or about 8 July and about 13 July 1992, on three occasions, FWS-75 and FWS-87 were taken from Foča High School to an apartment building called Brena in the centre of Foča. The building was near the Zelengora hotel, a military headquarters of the Bosnian Serb forces. The first time the women went to an apartment owned by Dragan ZELENović. He and Janko Janjić and two other unidentified soldiers raped FWS-75 (vaginal and anal penetration and fellatio). Dragan ZELENović also vaginally raped FWS-87 on that occasion. (Incident contained in paragraph 6.8 of the Amended Indictment).

14. Between or about 8 July and about 13 July 1992, on two further occasions Dragan ZELENović and several other unidentified soldiers took FWS-75 and FWS-87 to an apartment in the Brena block and raped them. Dragan ZELENović raped FWS-75 (vaginal and anal penetration and fellatio) and FWS-87 vaginally. (Incident contained in paragraph 6.9 of the Amended Indictment).
15. Between or about 8 July and about 13 July 1992, on another occasion, Dragan ZELENović took FWS-75, FWS-87 to an abandoned house of a Muslim policeman in Gornje Polje where he vaginally raped FWS-87. (Incident contained in paragraph 6.10 of the Amended Indictment)
16. The physical and psychological health of many of the female detainees seriously deteriorated as a result of these sexual assaults. The detainees lived in constant fear. Some of the sexually abused women became suicidal. Others became indifferent as to what happened to them and suffered from depression.

PARTIZAN SPORTS HALL

17. Partizan Sports Hall ("Partizan"), situated in the centre of town and close to the police station, functioned as a detention centre for women, children and the elderly from on or about 13 July 1992 until 13 August 1992. The detainees held at Partizan, during this time period, numbered about 70. The detainees were all Muslim civilians from villages in the municipality of Foča.
18. Living conditions in Partizan were brutal. The detention was characterised by inhumane treatment, unhygienic facilities, overcrowding, starvation, and physical and psychological torture, including sexual assaults.
19. Immediately after the transfer of women to Partizan, a pattern of sexual assaults commenced. Armed soldiers, mostly in groups of three to five, entered Partizan, usually in the evenings, and removed women. The soldiers took the women from Partizan to houses, apartments or hotels for the purpose of sexual assault and rape. One of them was Dragan ZELENović. During

July 1992, Dragan ZELENović took victim FWS-87 from Partizan and gang-raped her along with three other co-perpetrators. (Incident contained in paragraph 7.13 of the Amended Indictment).

20. On or around 13 August 1992, most detainees were released from Partizan and deported to Montenegro. The women who left on the 13 August 1992 convoy received medical care for the first time in Montenegro. All the women who were sexually assaulted suffered psychological, physical and emotional harm; some remain traumatised

FISH RESTAURANT IN FOČA

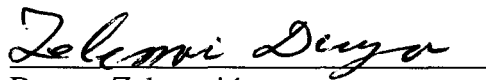
21. Victims FWS-87 and FWS-75 were taken from Partizan Sports Hall on or about 3 August 1992 and detained in house close to the Miljevina Hotel known as Karaman's house.
22. On or about 30 October 1992, FWS-75, FWS-87, and two other females were taken from Karaman's house to Foča by DRAGAN ZELENović, Gojko Janković and Janko Janjić. Dragan ZELENović and his co-perpetrators took the four women and girls an apartment near the Fish Restaurant in Foča. There, Dragan ZELENović raped FWS-87 while the co-perpetrators raped the other victims. (Incident contained in paragraph 9.2 of the Amended Indictment).
23. These women continued to be detained at different houses and apartments, and continued to be subjected to sexual assaults by different group of soldiers.

GENERAL ALLEGATIONS AND INTENT

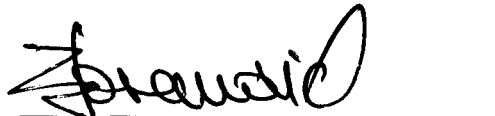
24. At all times relevant to the Amended Indictment, an armed conflict existed in the Republic of Bosnia and Herzegovina in the territory of the former Yugoslavia, and at all times Dragan ZELENović was required to abide by the laws or customs governing the conduct of war.

25. Dragan ZELENOVĆ's criminal acts or omissions were part of a widespread or large scale or systematic attack against civilian population, specifically the Muslim population of the Foča municipality.

26. Dragan ZELENović was aware of the existence of this armed conflict and of the widespread and systematic attack on the non-Serb, primarily Muslim civilian population. He was aware that his conduct occurred within and contributed to this attack



Dragan Zelenović



Zoran Jovanović
Counsel for Dragan Zelenović

MEĐUNARODNI KRIVIČNI SUD
ZA BIVŠU JUGOSLAVIJU

Predmet br. IT-96-23/2-PT

TUŽILAC
protiv
DRAGANA ZELENOVIĆA

SEPARATOR 1

IZJAVA O ČINJENICAMA

UVOD

1. Ovom Izjavom o činjenicama želi se pokazati da postoji adekvatna činjenična osnova za potvrdno izjašnjavaње Dragana Zelenovića o krivici po tačkama 5, 6, 13, 14, 41, 42 i 49 Izmijenjene optužnice od 20. aprila 2001., *Tužilac protiv Dragana Zelenovića*, predmet br. IT-96-23-PT (dalje u tekstu: Izmijenjena optužnica). Ova Izjava o činjenicama ne sadrži sve činjenice u vezi s ponašanjem Dragana ZELENOVIĆA relevantne za Izmijenjenu optužnicu i ne isključuje mogućnost da se Pretresnom vijeću prilikom odmjeravanja kazne predoče dodatne činjenice o kojima je postignut dogovor ili dokazane činjenice.

POLOŽAJI I FUNKCIJE DRAGANA ZELENOVIĆA ZA VRIJEME RATA

2. Dragan ZELENOVIĆ, zvani "Zelja" i "Zeleni", od oca Bogdana, rođen je 12. februara 1961. u Foči, a od juna 1996. stanovao je na adresi Nurije Pozderca 21. Prije rata je radio u Miljevini kao električar. Za vrijeme rata bio je pripadnik "Jedinice Dragana Nikolića", vojne jedinice iz Foče koja je početkom rata bila u sastavu srpske Teritorijalne odbrane (dalje u tekstu: TO), a od ljeta 1992. bila je u sastavu Vojske Republike Srpske (dalje u tekstu: VRS). Dragan ZELENOVIĆ je bio vojnik i *de facto* vojni policajac.

RASPROSTRANJENI I SISTEMATSKI NAPAD NA NESRPSKO STANOVNIŠTVO FOČE

3. Grad i opština Foča nalaze se u Republici Bosni i Hercegovini, jugoistočno od Sarajeva, na granici sa Srbijom i Crnom Gorom. Prema popisu stanovništva iz 1991. godine, Foča je imala 40.513 stanovnika: 52 % Muslimana, 45,3% Srba i 3,1% ostalih nacionalnosti. Političko i vojno preuzimanje opštine Foča počelo je prvim vojnim akcijama u gradu, 8. aprila 1992. Srpske snage su teškom artiljerijom granatirale grad. Napad na Foču i okolna sela bio je dio oružanog sukoba između snaga vlade Bosne i Hercegovine i srpskih snaga koje su činile jedinice Jugoslovenske narodne armije (dalje u tekstu: JNA), Teritorijalna odbrana bosanskih Srba (kasnije VRS), srpska policija i druge neregularne srpske vojne formacije, koji se u to vrijeme odigravao širom Bosne i Hercegovine. Te srpske snage su iz ove opštine upotrebom sile protjerali većinu nesrpskog civilnog stanovništva. Zauzimanje grada Foče okončano je do sredine aprila 1992. godine. Napad na okolna sela, koja uglavnom nisu bila branjena i u kojima nije bilo vojnih ciljeva, nastavio se do sredine jula 1992.
4. Tokom tog zauzimanja ili odmah nakon što su srpske snage zauzele dijelove grada Foče, okolnih sela i opština, muslimansko i drugo nesrpsko stanovništvo podvrgnuto je rasprostanjenom i sistematskom tipu zlostavljanja, s ciljem da se većina protjera iz te opštine. Muslimansko i drugo nesrpsko stanovništvo je sistematski okupljano. Prilikom zarobljavanja, civili su često bili zlostavljani, premlaćivani, a katkada čak i lišavani života. Muškarci, žene i djeca su odvajani i transportovani u različite zatočeničke objekte, poput škola, mjesnih zajednica i zatvora u Foči. U zatočeničkim objektima zatočenici su bili podvrgavani ponižavajućim i degradirajućim životnim uslovima. Nakon dužih perioda u zatočeništvu, zatočenici su deportovani ili prisilno premješteni u Crnu Goru ili na mjesta koja su bila pod kontrolom vlade Bosne i Hercegovine. Preostalo nesrpsko stanovništvo izvan zatočeničkih objekata izloženo je diskriminatornim mjerama zbog kojih im je život u Foči postao nepodnošljiv. Kretanje im je bilo ograničeno, domovi su im pretraživani bez naloga, premlaćivani su i ubijani bez naloga, a njihovi domovi, kulturni i vjerski objekti pljačkani su i razarani.

Prijevod

5. Kao posljedica sinhronizovanog napada na civilno stanovništvo u Foči i okolnim opštinama svaki trag muslimanskog prisustva na tom području efikasno je izbrisan. Civilni Muslimani, osim njih nekoliko, istjerani su iz te regije. Od 52 % Muslimana, koliko ih je prema popisu stanovništva iz 1991. godine živjelo u Foči, na kraju sukoba ostalo ih je samo desetak. U januaru 1994. Foča je preimenovana u Srbinja, što pokazuje da sada u njoj gotovo isključivo žive Srbi.

AKTIVNOSTI DRAGANA ZELENOVIĆA U PERIODU NA KOJI SE ODNOSI OPTUŽNICA

6. Kao pripadnik "Jedinice Dragana Nikolića" i *de facto* vojni policajac u Foči, Dragan ZELENOVIĆ je učestvovao u napadu na Foču i okolna sela, kao i kasnijem hapšenju civila u periodu od sredine aprile do sredine jula 1992.

BUK BIJELA

7. Dana 3. jula 1992., Dragan ZELENOVIĆ je, zajedno sa saizvršiocima iz redova vojske bosanskih Srba Gojkom Jankovićem, Jankom Janjićem i Zoranom Vukovićem, uhapsio grupu od približno 60 žena, djece i nekoliko staraca muslimanske nacionalnosti iz Trošnja i Mješaja i odveo ih u privremeni zatočenički objekt u Buk Bijeloj. Buk Bijela je naselje na gradilištu hidro-elektrane na rijeci Drini na putu Brod - Miljevina, koje je, nakon preuzimanja vlasti u Foči i okolnim selima u aprilu 1992., pretvoreno u lokalni vojni štab i kasarnu za srpske snage.
8. Naoružani vojnici su tim muslimanskim civilima tokom njihovog zatočeništva prijetili smrću ili silovanjem i na druge načine ih ponižavali. Dragan ZELENOVIĆ je, zajedno s još tri saizvršioca, odvajao žene od njihove djece i ispitivao ih o tome gdje su skriveni muškarci iz sela i oružje. Ženama su prijetili ubistvom i seksualnim nasiljem ako budu lagale. Dana 3. jula 1992. ili približno tog datuma, za vrijeme i poslije ispitivanja, Dragan ZELENOVIĆ i drugi saizvršiocu grupno su silovali nekoliko žena za koje su sumnjali da lažu, konkretno:

Prijevod

9. Gojko Janković i Dragan Zelenović ispitivali su svjedokinju FWS-75 o njenom selu i o tome da li mještani sela imaju oružje. Janković je upozorio svjedokinju da ne laže, inače će je vojnici silovati, a zatim ubiti. Budući da odgovor FWS-75 na pitanja nije bio zadovoljavajući, jedan vojnik ju je, u prisustvu Dragana ZELENOVIĆA, odveo u drugu prostoriju. Tamo su je redom silovala deseterica neidentifikovanih vojnika. Silovanje je uključivalo vaginalnu penetraciju i *fellatio*. FWS-75 je izgubila svijest nakon što ju je deseti vojnik seksualno napastvovao. Taj događaj je trajao između jednog i dva sata. Premda Dragan ZELENOVIĆ tom prilikom nije lično silovao FWS-75, bio je svjestan da su njegovi postupci u vezi s ispitivanjem i njegov propust da reaguje na prijetnje Gorana Jankovića smrću i silovanjem, kao i konačno odvođenje FWS-75 u drugu prostoriju gdje su je grupno silovala deseterica vojnika, značajno doprinijeli silovanju FWS-75. (Taj događaj se navodi u paragrafu 5.4 Izmijenjene optužnice.)
10. Istoga dana, Dragan ZELENOVIĆ i tri neidentifikovana vojnika ispitivali su i žrtvu FWS-87 u jednoj prostoriji u Buk Bijeloj. Za vrijeme ispitivanja Dragan ZELENOVIĆ i drugi vojnici optužili su FWS-87 da ne govori istinu. Dragan ZELENOVIĆ ju je potom silovao, a to su učinila i ostala tri vojnika. Silovanje je bilo vaginalnom penetracijom. Za vrijeme silovanja, jedan od vojnika je prijetio ovoj svjedokinji uperivši joj pištolj u glavu. FWS-87 je prilikom tog zlostavljanja pretrpjela žestoke bolove, nakon čega je uslijedilo obilno vaginalno krvarenje. (Taj događaj se navodi u paragrafu 5.5 Izmijenjene optužnice.)

GIMNAZIJA U FOČI

11. Za vrijeme preuzimanja vlasti u Foči, gimnazija u Foči, koja se nalazi u naselju Aladža, služila je kao kasarna za srpske vojnike i kao objekt za kratkoročno zatočenje muslimanskih žena, djece i staraca. Od 3. jula do približno 13. jula 1992., približno 70 stanovnika Foče muslimanske nacionalnosti bilo je zatočeno u dvije učionice u gimnaziji u Foči, među njima i žene, djeca i starci koji su ranije bili zatočeni u gore pomenutoj Buk Bijeloj. Dana 13. jula 1992., ili približno tog datuma, svi zatočenici prebačeni su iz gimnazije u sportsku dvoranu "Partizan" u Foči.

Prijevod

12. Za vrijeme zatočeništva u gimnaziji u Foči srpski vojnici su mnoge zatočenice podvrgnuli seksualnom zlostavljanju, uključujući grupna silovanja. Dragan ZELENOVIĆ je bio u toj grupi vojnika. Dana 6. ili 7. jula 1992., ili približno tih datuma, Dragan ZELENOVIĆ je, zajedno s drugim saizvršiocima, iz grupe zatočene u jednoj od učionica izdvojio četiri žene i djevojke, među kojima i FWS-75 i FWS-87. Dragan ZELENOVIĆ ih je odveo u drugu učionicu, gdje su čekali neidentifikovani vojnici. Zatim je Dragan ZELENOVIĆ odlučio koja će žena pripasti kojem muškarcu. Dragan ZELENOVIĆ je vaginalnom penetracijom silovao FWS-75, dok su drugi saizvršioци vaginalnom penetracijom silovali druge žene i djevojčice. (Taj događaj se navodi u paragrafu 6.6 Izmijenjene optužnice.)
13. U periodu od približno 8. jula do približno 13. jula 1992., FWS-75 i FWS-87 su u tri navrata odvođene iz gimnazije u Foči u stambenu zgradu zvanu Brena u centru Foče. Zgrada je bila u blizini hotela "Zelengora", u kojem je bio vojni štab snaga bosanskih Srba. Prvi put su te dvije žene bile u stanu Dragana Zelenovića. On je, zajedno s Jankom Janjićem i dva neidentifikovana vojnika silovao FWS-75 (vaginalna i analna penetracija i *fellatio*). Tom prilikom Dragan ZELENOVIĆ je vaginalnom penetracijom silovao i FWS-87. (Taj događaj se navodi u paragrafu 6.8 Izmijenjene optužnice.)
14. U periodu od približno 8. jula do približno 13. jula 1992., Dragan ZELENOVIĆ i nekoliko neidentifikovanih vojnika su u još dva navrata odveli FWS-75 i FWS-87 u zgradu Brena i silovali ih. Dragan ZELENOVIĆ je silovao FWS-75 (vaginalna i analna penetracija i *fellatio*) i FWS-87 (vaginalna penetracija). (Taj događaj se navodi u paragrafu 6.9 Izmijenjene optužnice.)
15. U periodu od približno 8. jula do približno 13. jula 1992., jednom drugom prilikom, Dragan ZELENOVIĆ je odveo FWS-75, FWS-87 u napuštenu kuću jednog policajca Muslimana u Gornjem Polju, gdje je on vaginalnom penetracijom silovao FWS-87. (Taj događaj se navodi u paragrafu 6. 10 Izmijenjene optužnice.)
16. Kao posljedica ovog seksualnog nasilja, fizičko i mentalno zdravlje mnogih zatočenica ozbiljno je narušeno. Zatočenice su živjele u stalnom strahu. Kod nekih od seksualno zlostavljanih žena javile su se samoubilačke ideje. Ostale su postale ravnodušne prema sopstvenoj sudbini i patile su od depresije.

SPORTSKA DVORANA "PARTIZAN"

17. Sportska dvorana "Partizan" (dalje u tekstu: "Partizan"), koja se nalazi u centru Foče u blizini policijske stanice, služila je kao zatočenički centar za žene, djecu i starce od 13. jula 1992., ili približno tog datuma, do 13. avgusta 1992. U tom periodu u "Partizanu" je bilo zatočeno približno 70 zatočenika. Svi zatočenici su bili civili muslimanske nacionalnosti iz sela u opštini Foča.
18. Životni uslovi u "Partizanu" bili su surovi. Zatočeništvo je bilo obilježeno nečovječnim uslovima, nehygijenskim objektima, natrpanošću, izgladnjivanjem, fizičkim i psihičkim mučenjem, koje je uključivalo seksualno zlostavljanje.
19. Odmah po dovođenju žena u "Partizan" počelo je redovno seksualno zlostavljanje. Naoružani vojnici, obično u grupama od tri do pet, ulazili su u "Partizan", obično naveče, i odvodili žene. Vojnici su žene iz "Partizana" odvodili u kuće, stanove i hotele kako bi ih seksualno zlostavljali i silovali. Dragan ZELENOVIĆ je bio jedan od tih vojnika. U julu 1992., Dragan ZELENOVIĆ je odveo žrtvu FWS-87 iz "Partizana" i, zajedno s još tri saizvršioca, grupno je silovao. (Taj događaj se navodi u paragrafu 7.13 Izmijenjene optužnice.)
20. Dana 13. avgusta 1992., ili približno tog datuma, većina zatočenika puštena je iz "Partizana" i deportovana u Crnu Goru. Ženama koje su otišle konvojem 13. avgusta 1992. u Crnoj Gori je prvi put ukazana ljekarska pomoć. Sve seksualno zlostavljane žene pretrpjele su povrede psihičke, fizičke i emotivne prirode, a neke su i danas traumatizovane.

RIBLJI RESTORAN U FOČI

21. Žrtve FWS-87 i FWS-75 odvedene su iz sportske dvorane "Partizan" 3. avgusta 1992., ili približno tog datuma, i zatočene u kući u blizini hotela "Miljevina", poznatog kao Karamanova kuća.
22. Dana 30. oktobra 1992., ili približno tog datuma, DRAGAN ZELENOVIĆ, Gojko Janković i Janko Janjić odveli su FWS-75, FWS-87, i još dvije žene iz Karamanove kuće u Foču. Dragan ZELENOVIĆ i njegovi saizvršiocci odveli su te četiri žene i

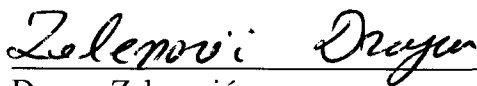
Prijevod

djevojčice u stan u blizini ribljeg restorana u Foči. Tamo je Dragan ZELENOVIĆ silovao FWS-87, dok su njegovi saizvršioци silovali druge žrtve. (Taj događaj se navodi u paragrafu 9.2. Izmijenjene optužnice.)

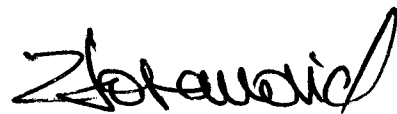
23. Te žene su ostale u zatočeništvu u različitim kućama i stanovima, te su ih razne grupe vojnika i dalje su ih seksualno zlostavljale.

OPŠTI NAVODI I NAMJERA

24. Tokom cijelog perioda na koji se odnosi Izmijenjena optužnica u Republici Bosni i Hercegovini, na teritoriji bivše Jugoslavije, postojalo je stanje oružanog sukoba i Dragan ZELENOVIĆ je bio dužan da se pridržava zakona i običaja koji regulišu vođenje rata.
25. Krivično činj enje i nečinjenje Dragana ZELENOVIĆA bilo je dio rasprostranjenog i sistematskog napada usmjerenog protiv civilnog stanovništva, konkretno muslimanskog stanovništva opštine Foča.
26. Dragan ZELENOVIĆ je znao za postojanje tog oružanog sukoba, te za rasprostranjeni i sistematski napad na nesrpsko, primarno muslimansko, civilno stanovništvo. Bio je svjestan da je njegovo ponašanje dio tog napada i da mu doprinosi.



 Dragan Zelenović



 Zoran Jovanović
 branilac Dragana Zelenovića