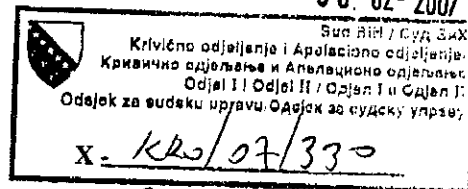


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BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA
SARAJEVO
SPECIAL DEPARTMENT FOR WAR CRIMES
Number: KT – RZ 44/07
Sarajevo, 1 February 2007

COURT OF BOSNIA AND HERZEGOVINA
SARAJEVO
Preliminary Hearing Judge

Pursuant to Article 35 (2) (h), Article 226 (1) and Article 227 (1) of the Criminal Procedure Code of Bosnia and Herzegovina, I hereby file the:

INDICTMENT

Against:

ZDRAVKO MIHALJEVIĆ a.k.a. **“Pijuk”**, son of Mate and mother Kata, née Tuka, born on 27 June 1964 in Sarajevo, PIN 2706964172002, resided in Čizma at No. 17, Kiseljak Municipality, Croat, caterer by occupation, literate, secondary school education, citizen of BiH and the Republic of Croatia, married, father of three - two underage children and one child of age, served his military term in 1983 in Šabac, registered in military records in Kiseljak, previously convicted by the Verdict of the Basic Court in Kiseljak No. K-210/87 dated 20 April 1988 for the criminal offence in violation of Article 159 (1) of the Criminal Code of the FR of BiH, currently in custody of the Penal and Correctional Facility (KPZ) “Kula” in Istočno Sarajevo by the Decisions of the Court of Bosnia and Herzegovina No. X-KRN/05/68 dated 4 August 2006, 3 September 2006 and 3 November 2006,



Because:

In the period from April 1993 through the end of June 1993, as part of a widespread and systematic attack of the army and military police of the Croat Defence Council (HVO), directed against the Bosniak civilian population in the territory of Kiseljak Municipality, knowing of such an attack, as a member of the II HVO Battalion, "Ban Josip Jelačić" Brigade from Kiseljak, in the capacity of the Commander of Special Purpose Unit (PPN) "Maturice", he carried out, participated in, and aided and abetted the persecution of the Bosniak civilian population on national, ethnic, cultural and religious grounds including killings, enforced disappearance of persons, deprivation of liberty contrary to fundamental rules of international law, torture and other inhumane acts, insofar as:

On 12 June 1993, following an artillery attack by HVO units on the place of Tulica, Kiseljak Municipality, he participated in an infantry attack on and the destruction of the place of Tulica, and together with Vlatko Trogrlić a.k.a. "Žuna" and Ante Cvijanović a.k.a. "Tana" led the members of the PPN "Maturice" and other HVO members, including Stjepan Laco a.k.a. "Pepa", Tibor Prajo, Ljubo Medić, Nikica Medić, and after taking the place of Tulica, they captured the entire Bosniak population of Tulica and rounded them up in front of the house of [REDACTED] then, in front of the captured population, the suspect deprived [REDACTED] of his life by firing from an automatic rifle at point-blank range, and ordered the Bosniak population to separate men from women and that a group of over 30 men set off towards the local graveyard in Tulica, and while armed, he escorted them along with several other soldiers including Tibor Prajo; when they reached the local graveyard he ordered the captured persons to stop and line up and after that he took prisoners out of line and, together with two more members of the PPN "Maturice", deprived them of their lives in a brutal manner by firing from an automatic rifle at point-blank range, thus depriving the following seven prisoners of their lives: [REDACTED]

[REDACTED] whilst other members of his unit and the HVO members looted the village, as part of the same attack, and killed [REDACTED] whose body was then set on fire, whereas [REDACTED] has been unaccounted for since after the attack; he then ordered the survivors from the group to go back towards the house of [REDACTED] where he ordered them to enter a "TAM" vehicle which transported them towards Kiseljak, whilst he and soldiers, the Šimić brothers, escorted them in a "Golf" vehicle; on the way to Kiseljak he ordered [REDACTED] to get off the vehicle, and the Šimić brothers to take [REDACTED] back to the place of Tulica as of when [REDACTED] has been unaccounted for, while other prisoners were taken to the barracks in Kiseljak and detained under inhumane conditions; the guards in the barracks and other HVO members took them to forced labour on a daily basis



until they were exchanged, whilst some were also subjected to torture; the bodies of the killed [REDACTED]

[REDACTED] were exhumed in February 1998 from the local graveyard in Tulica, while the mortal remains of [REDACTED] have not been found hitherto;

Consequently, as part of the widespread and systematic attack directed against the Bosniak civilian population, knowing of such an attack, he committed, participated in and aided and abetted the persecution of Bosniak civilian population, on national, ethnic, cultural and religious grounds, including: killings, enforced disappearance of persons, deprivation of liberty contrary to the fundamental rules of international law, torture and other inhumane acts,

Whereby he committed the criminal offence of Persecution as a Crime against Humanity in violation of Article 172 (1) (h) of the Criminal Code of Bosnia and Herzegovina, in conjunction with:

- 1. item a) deprivation another person of his life (murder),*
- 2. item e) imprisonment in violation of fundamental rules of international law,*
- 3. item f) torture,*
- 4. item i) enforced disappearance of persons,*
- 5. item k) other inhumane act of a similar character intentionally causing great suffering, or serious injury to body or to physical or mental health, referred to in the same Article.*

I therefore file the following,

PROPOSAL

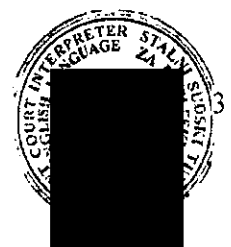
1. To summon:

- *Prosecutor of the Prosecutor's Office of BiH,*
- *The suspect Zdravko Mihaljević, detention unit of the KPZ "Kula", Istočno Sarajevo,*
- *Defence counsel for the suspect, Dušan Tomić, attorney from Sarajevo,*

2. To present evidence by:

a) Hearing witnesses:

- [REDACTED]
- [REDACTED]



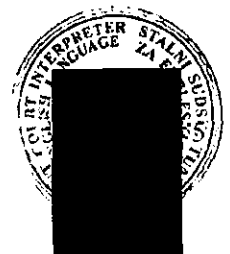


b) Reviewing:

1. *Decision of the Court of BiH on the takeover of the criminal case No. X-KRN/05/68 of 5 October 2005,*
2. *Letter of the standard marking "A" of the ICTY Office of the Prosecutor for Zdravko Mihaljević a.k.a. "Pijuk" No. 003808/GB/MAL/RR46a of 15 February 2000,*
3. *Officer Zdravko Mihaljević Personal File No. 504/64*
4. *Register File for Conscript Zdravko Mihaljević No. 1048050464,*
5. *Order of the Operations Group 2 of the Central Bosnia Operative Zone, Conf. No. 1-18/93 of 27 May 1993,*
6. *Order of the HVO Brigade "Ban Josip Jelačić" Kiseljak Conf. No. 02-1207-1/93,*
7. *List of members of the Intervention Unit "Ban Josip Jelačić" Kiseljak of 4 May 1993,*
8. *Excerpt from Criminal Records for Zdravko Mihaljević No. 02/6-3-04-2-5734/06 of 30 August 2006,*
9. *Decision on exhumation, autopsy and identification of bodies in the area of the village of Tulica, No. Kri-148/96 of 17 October 1997,*
10. *Decision on exhumation, autopsy and identification of bodies in the area of the village of Tulica, No. Kri-148/96 of 26 January 1998,*
11. *Information on progress in the case Kri-148/96 No. Kri-148/96 of 4 February 1998,*
12. *Record on Site Inspection made on 9 February 1998 in the village of Tulica, Kiseljak Municipality on the exhumation of bodies at the local graveyard Tulica, No.: Kri-148/96 of 9 February 1998,*
13. *Sketch of the site, exhumation, autopsy and identification, Tulica, Kiseljak Municipality, 9 February 1998 No. 359/98,*
14. *Photo-documentation, exhumation, autopsy and identification, Tulica, Kiseljak Municipality, 9 February 1998 No. 359/98,*



15. *Report on Crime Scene Search and Forensic Examination, Exhumation, Autopsy and Identification, Tulica, Kiseljak Municipality, 9 February 1998, [REDACTED] et al, No. 359/98 of 9 February 1998,*
16. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
17. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
18. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
19. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
20. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
21. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
22. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
23. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
24. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
25. *Record on Identification of Body for [REDACTED] of 11 February 1998,*
26. *Official Note No. 01/2.5-2-B/98 of 17 February 1998,*
27. *Record on examination of expert witnesses [REDACTED] No. Kri: 148/96 of 23 February 1998,*
28. *Death Certificate for [REDACTED]*
29. *Death Certificate for [REDACTED]*
30. *Death Certificate for [REDACTED]*
31. *Death Certificate for [REDACTED]*
32. *Death Certificate for [REDACTED]*
33. *Death Certificate for [REDACTED]*
34. *Death Certificate for [REDACTED]*
35. *Death Certificate for [REDACTED]*
36. *Death Certificate for [REDACTED]*
37. *Death Certificate for [REDACTED]*
38. *Death Certificate for [REDACTED]*
39. *Death Certificate for [REDACTED]*
40. *Report on the Operation of the Kiseljak Military Police Municipal Staff of 12 June 1993,*
41. *Report on the Operation of the Kiseljak Military Police Municipal Staff of 13 June 1993,*
42. *Report for 12/13 June 1993 of the Command of the 3rd Company of the Military Police Kiseljak No. 02-4/3-07/3-104/93 of 14 June 1993,*
43. *ICTY Judgement in the case against Dario Kordić and Mario Čerkez No. IT-95-14/2-T of 26 February 2001,*
44. *ICTY Judgement in the case against Dario Kordić and Mario Čerkez No. IT-95-14/2-A of 17 December 2004,*
45. *Decision of the Presidency of the Republic of Bosnia and Herzegovina to declare the state of war ("Official Gazette of the R BiH", issue 7/92),*



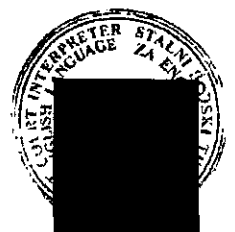
46. Revised version of the Decision on establishment of the Croatian Community of Herceg-Bosna ("Official Gazette of the Croatian Community of Herceg-Bosna", issue 1/92),
47. Constitution of the Federation of Bosnia and Herzegovina – so-called The Washington Agreement ("Official Gazette of the FBiH", issue 1/94),
48. Decision of the Presidency of the Republic of Bosnia and Herzegovina to terminate the state of war ("Official Gazette of R BiH", issue 50/95),

Results of the investigation:

Results of the investigation indisputably corroborate the justifiability of this Indictment, or allegations that the suspect, together with other members of the PPN "Maturice" and the HVO, participated in and led the attacks on the village of Tulica which was then set on fire and looted, and aided and abetted other members of the HVO and the PPN "Maturice" to transport and detain the captured population in the barracks in Kiseljak where they were subjected to inhumane living conditions, tortured and used in forced labour, which included digging trenches and communication trenches at the frontline, while in the course of the attack, the members of his unit and other members of the HVO deprived [REDACTED] of their lives in a brutal manner, the former of which was then burnt, whereas [REDACTED] has been unaccounted for since the attack; and he alone deprived [REDACTED] of his life, and along with the members of his unit deprived [REDACTED] of their lives, in the manner, at the time, in the place and under circumstances as mentioned in the operative part of the Indictment. Consequently, the results of the investigation suggest that the suspect committed, participated in and aided and abetted the execution of criminal acts mentioned in the operative part of the Indictment, which contain all essential elements of the criminal offence of Crimes against Humanity in violation of Article 172 (1) (h) in conjunction with items a), e), f) i) and k) of the same Article of the Criminal Code of Bosnia and Herzegovina.

The collected body of evidence containing the statements of witnesses, surviving eyewitnesses and the witnesses who are family members of the killed villagers, and the witnesses who buried the killed villagers, as well as physical evidence demonstrate that there exists a sufficient degree of grounded suspicion for this Indictment to be filed.

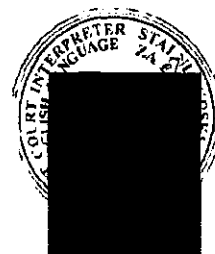
Furthermore, the Judgement of the ICTY Trial Chamber No. IT-95-14/2-T dated 26 February 2001, in the case against Dario Kordić and Mario Čerkez, reads that Central Bosnia included also Kiseljak Municipality and that in Kiseljak municipality the population in 1991 was 52 percent Croat and 40 percent Muslim of a total population of



over 24,000. The HVO in Kiseljak was established on 23 April 1992. The JNA having left the barracks, the HVO moved in. There was an agreement that the weapons and ammunition would be divided but it was never implemented. According to [REDACTED] the TO received about 5 percent of the poorest weapons and the rest were taken by the HVO. The HVO were not fighting the VRS at the time and would not allow the TO through the municipality when the TO wanted to try to raise the siege of Sarajevo. On 25 May 1992 the HVO passed a decision to abolish the TO in Kiseljak. On 25 June 1992 there was a decision to re-name the Executive Committee Municipal Assembly as the Croat Defence Council (HVO) of Kiseljak. No Muslims were left on the Municipal Staff. The HVO assumed "absolute power, absolute domination and control" in the municipality. (para. 504, page 153)

The same Judgement established that in the period depicted in the operative part of this Indictment, units of the Croat Defence Council, including the members of the HVO Military Police, carried out a widespread and systematic attack against the Bosniak civilian population in the territory of Kiseljak Municipality. The Trial Chamber concluded that the weight of the evidence clearly suggests the persecution of Bosniaks in the municipalities of Central Bosnia in which the HVO took over the power, including the municipalities of Kiseljak, Busovača and Vitez. Such conclusions of the Trial Chamber in relation to the mentioned municipalities have been upheld by the conclusions of the ICTY Appeals Chamber in the same case by its Judgement No. IT-95-14/2-A dated 17 December 2004. The Appeals Chamber upheld that the HVO units carried out an attack on the territory of Central Bosnia including the municipalities of: Busovača, Vitez and Kiseljak (Rotilj, Svinjarevo, Gomionica, Višnjica, Polje Višnjica, Behrići, Gromljak, Tulica, Han Ploča, Grahovci) (para. 668, page 175), against Bosniak inhabitants, that the attack was characterised as widespread, systematic and directed against the civilian population (para. 669, page 175), that it was committed in an armed conflict between the HVO and ARBiH (para. 670, page 175), and that the crimes committed in the course of the attack amount to persecution (para. 676, page 176).

In the case of *Prosecutor v. Dario Kordić and Mario Čerkez*, the ICTY Trial Chamber stated the following in its Judgement No. IT-95-14/2-T dated 26 February 2001: On 12-13 June 1993 the HVO attacked villages in the Kiseljak municipality, beginning with Tulica on 12 June (para. 720, page 241). Tulica is about 15 kilometres from Kiseljak, towards Sarajevo to the south. Before the war it had a population of about 350, all Muslim, but surrounded by villages with Croat or Serb populations. During the war Tulica found itself between the positions of the HVO and the VRS and was subject to intermittent shelling. Some of the inhabitants left and the population was reduced to 250. The Chamber further stated that the prosecution case is that, on 12 June 1993, Tulica was attacked by the HVO, resulting in the deaths of at least 12 villagers and the destruction of the village. The attack began with heavy shelling of the village from about 10 a.m. to midday. The shelling



was followed by an infantry attack on the village from several directions. ...The soldiers were in black or camouflage uniforms and had white ribbons around their arms: those in black were identified as coming from the "Apostoli" and "Maturice" units, based in Kiseljak, and those in camouflage as members of the HVO (para. 721, page 241-242).

The Trial Chamber also found that the attack on Tulica was part of a sustained HVO attack in which civilians were murdered and subjected to inhumane treatment, whilst the place of Tulica was looted, burnt and destroyed. Such a conclusion of the Trial Chamber was upheld by the ICTY Appeals Chamber in the same case by its Judgement No. IT-95-14/2-A dated 17 December 2004 (para. 570-577, page 148-150).

The existence of the final ICTY judgement establishing that in the territory of Central Bosnia crimes against humanity were committed on national, ethnic, cultural and religious grounds against Bosniak people speaks in favour of the only logical conclusion that the committed criminal offence with which the suspect Zdravko Mihaljević "Pijuk" has been charged by this Indictment was not part of an isolated incident or a crime being an exception during war times, but an established and planned model of behaviour against Bosniak civilians, their lives, freedom and property.

Furthermore, the behaviour of the suspect Mihaljević on the occasion of the attack best described by the witnesses examined by the Prosecutor's Office who say that the suspect "cursed Alija" to them, named them "Balijas", told them "you want Jamahiriya", as well as other physical evidence such as evidence on the suspect's membership in the HVO units ever since late 1991 and his performing command duties in the HVO units suggest the discriminatory intention of the suspect, as well as that the suspect Mihaljević followed the policy of the HVO units, as a military organisation, resulting in, as established in the above-mentioned final ICTY judgement, the widespread or systematic attack of the HVO units, with the undoubted knowledge of the suspect, which was carried out in the territory of Kiseljak, against the Bosniak civilian population, and which resulted in numerous crimes committed against the population in the territory of Kiseljak Municipality. In addition, it is important to mention that the same final judgement also established the following: "The fact that there may have been persecution of Croats by Bosniaks in other municipalities does not detract from this finding and in no way justifies the HVO persecution" (para. 520, page. 158).

The witnesses examined by the Prosecutor's Office in the course of the investigation support the above-mentioned. Thus, witness [REDACTED] states that terrifying shelling was launched on the village on that day and a shell fell in front of his house as a result of which he was wounded in the area of his back. Witness [REDACTED] who was underage at the time of the commission of the referenced criminal offence, states that on that morning in June heavy shelling was launched on the village, whereupon the HVO



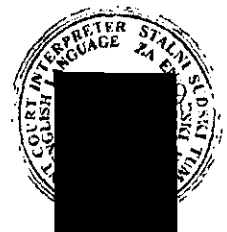
members entered the village and imprisoned all the villagers. Other examined witnesses, including the [REDACTED]

[REDACTED] state that on 12 June 1993, the artillery attack on Tulica was followed by the entering of armed HVO members in the village wearing camouflage uniforms and "the Blackshirts" who imprisoned and rounded up the villagers who had failed to escape, as well as all women, children and the elderly and military-aged men in one place in the village.

The statements of the mentioned witnesses support other factual allegations described in the operative part of the Indictment claiming that the suspect Zdravko Mihaljević a.k.a. "Pijuk" participated in the attack on the village of Tulica, deprived the old man [REDACTED] of his life by firing from an automatic weapon, also that the suspect separated men from women and, alongside other soldiers, marched the men towards the local graveyard in Tulica where, together with other soldiers deprived [REDACTED]

[REDACTED] of their lives in a brutal manner by firing from an automatic rifle at point-blank range; and then after one of the HVO members interfered he stopped killing the prisoners, and ordered the survivors to go back in front of the house of [REDACTED] and climb on the "TAM" vehicle, wherefrom they were transported to the HVO barracks in Kiseljak where they were imprisoned and subjected to living under inhumane conditions, whilst the guards in the barracks and other HVO members subjected them to torture and taking to forced labour to the frontline on a daily basis; on the way to the barracks he ordered [REDACTED] to get off the "TAM" and that the Šimić brothers who then accompanied him take him back to Tulica as of when he has been unaccounted for. All the witnesses are consistent in confirming that [REDACTED] were killed during the attack on Tulica, whilst [REDACTED] has been unaccounted for since after the attack, as well as that following the attack carried out by the HVO units in such a manner, the place of Tulica was looted, burnt and destroyed to a great extent as proved by photographs enclosed to the Indictment showing destroyed houses in the village.

Other physical evidence enclosed to the Indictment such as Record on Site Inspection made on 9 February 1998 in the village of Tulica, Kiseljak Municipality on exhumation of bodies at the local graveyard Tulica, No.: Kri-148/96 of 9 February 1998, Sketch of the site, Photo-documentation, Record on examination of expert witnesses [REDACTED] No. Kri: 148/96 of 23 February 1998, Records on the Identification of Bodies, as well as photographs of destroyed houses and other facilities in the village of Tulica, supports the allegations in the operative part of the Indictment.

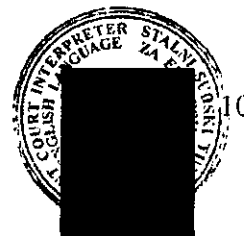


The allegations of the imprisonment of surviving Bosniaks in the barracks in Kiseljak, which the suspect Mihaljević aided and abetted by imprisoning them and escorting the vehicle by which they were transported to the barracks, wherein some of the prisoners were subjected to torture by the guards in the barracks and other HVO members, as well as used in forced labour at the frontline to which they were forced to go on a daily basis, are best supported by the Reports on the Operation of the Kiseljak Military Police Municipal Staff of 12 June 1993 and of 13 June 1993, the Report for 12/13 June 1993 of the Command of the 3rd Company of the Military Police Kiseljak No. 02-4/3-07/3-104/93 of 14 June 1993, and the statements of witnesses [REDACTED] and other witnesses examined in the course of the investigation.

In his defence, given voluntarily and in the presence of his attorney, the suspect Mihaljević states that he arrived in Tulica on 12 June 1993 after the operation was completed, however he did not enter the village but met the soldiers returning from Tulica on the road, and he also states that he knew nothing about the events in Tulica. Furthermore, the suspect did not deny that he was a member of the HVO Brigade "Josip Ban Jelačić" and the PPN "Maturice".

The membership in the HVO Brigade "Josip Ban Jelačić" and the PPN „Maturice“, as well as the capacity of the suspect Mihaljević, are best demonstrated by physical evidence the Prosecutor's Office collected in the course of the investigation. The evidence includes: Order of the Operations Group 2 of the Central Bosnia Operative Zone, Conf. No. 1-18/93 of 27 May 1993, signed by Commander Ivica Rajić ordering that intervention units named "Maturice" be formed for each battalion down to the platoon level, Order of the HVO Brigade "Ban Josip Jelačić" Kiseljak Conf. No. 02-1207-1/93 establishing intervention units named "Maturice" and appointing Zdravko Mihaljević as the commander of the "Maturice" intervention unit within the area of responsibility of the II Battalion, "B.J.J" Brigade, the List of members of the Intervention Unit made by the "Ban Josip Jelačić" Brigade Command of 4 May 1993, mentioning Zdravko Mihaljević as the Commander of the 3rd Intervention Group numbering 19 members; Officer Zdravko Mihaljević Personal File No. 504/64, and Register File for Conscript No. 1048050464. All these pieces of evidence support the allegations of the Prosecutor's Office stated in the operative part of the Indictment with regard to the suspect Mihaljević's capacity and membership in the military units.

The "Rules of the Road" Unit of the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia gave the standard marking "A" for Zdravko Mihaljević a.k.a. "Pijuk" in its Letter No. 003808/GB/MAL/RR46a of 15 February 2000, which means that there exists sufficient evidence that Zdravko Mihaljević a.k.a. "Pijuk" committed serious violation of international humanitarian law.



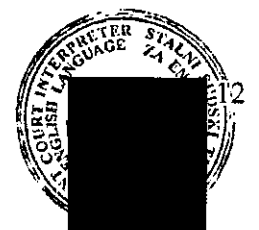
Considering the above-mentioned, a conclusion can be drawn from the body of evidence collected in the course of the investigation that there exists a sufficient degree of grounded suspicion that the suspect committed the criminal acts with which he has been charged by the Indictment, and I therefore believe that the Indictment is justified and based on law in its entirety, and propose that the Preliminary Hearing Judge of the Court of BiH confirm the Indictment.

Material to substantiate the allegations of the Indictment

- *Record on examination of witness Zdravko Mihaljević No. KT-RZ 130/05 of 3 August 2006,*
- *Record on examination of witness [REDACTED] of 17 August 2006,*
- *Record on examination of witness [REDACTED] of 16 June 2006,*
- *Record on examination of witness [REDACTED] of 31 August 2006,*
- *Record on examination of witness [REDACTED] of 31 October 2006,*
- *Record on examination of witness [REDACTED] of 30 January 2007,*
- *Record on examination of witness [REDACTED] of 30 January 2007,*
- *Record on examination of witness [REDACTED] of 31 January 2007,*
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- *Record on examination of [REDACTED]*
- *Record on examination of [REDACTED]*
- *Record on examination of [REDACTED]*
- *Decision of the Court of BiH on the takeover of the criminal case No. X-KRN/05/68 of 5 October 2005,*
- *Letter of the standard marking "A" of the ICTY Office of the Prosecutor for Zdravko Mihaljević a.k.a. "Pijuk" No. 003808/GB/MAL/RR46a of 15 February 2000,*
- *Officer Zdravko Mihaljević Personal File No. 504/64,*



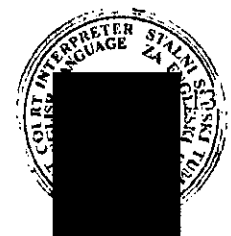
- Register File for Conscript No. 1048050464,
- Order of the Operations Group 2 of the Central Bosnia Operative Zone, Conf. No. 1-18/93 of 27 May 1993,
- Order of the HVO Brigade "Ban Josip Jelačić" Kiseljak Conf. No. 02-1207-1/93,
- List of members of the Intervention Unit "Ban Josip Jelačić" Kiseljak of 4 May 1993,
- Decision on exhumation, autopsy and identification of bodies in the area of the village of Tulica, No. Kri-148/96 of 17 October 1997,
- Decision on exhumation, autopsy and identification of bodies in the area of the village of Tulica, No. Kri-148/96 of 26 January 1998,
- Information on progress in the case Kri-148/96 No. Kri-148/96 of 4 February 1998,
- Record on Site Inspection made on 9 February 1998 in the village of Tulica, Kiseljak Municipality on exhumation of bodies at the local graveyard Tulica, No.: Kri-148/96 of 9 February 1998,
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- Photo-documentation, exhumation, autopsy and identification, Tulica, Kiseljak Municipality, 9 February 1998 No. 359/98,
- Report on Crime Scene Search and Forensic Examination, Exhumation, Autopsy and Identification, Tulica, Kiseljak Municipality, 9 February 1998, [REDACTED] et al, No. 359/98 of 9 February 1998,
- Record on Identification of Body for [REDACTED] of 11 February 1998,
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- Official Note No. 01/2.5-2-B/98 of 17 February 1998,
- Record on examination of expert witnesses [REDACTED] No. Kri: 148/96 of 23 February 1998,
- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
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- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]



- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
- Death Certificate for [REDACTED]
- CD with photographs of destroyed houses in the village of Tulica during the attack by HVO units,
- Outline of houses destroyed in the village of Tulica in the attack by the HVO units,
- Legend of outline of houses destroyed in the village of Tulica in the attack by the HVO units,
- Report on the Work of the Kiseljak Military Police Municipal Staff of 12 June 1993,
- Report on the Work of the Kiseljak Military Police Municipal Staff of 13 June 1993,
- Report for 12/13 June 1993 of the Command of the 3rd Company of the Military Police Kiseljak No. 02-4/3-07/3-104/93 of 14 June 1993,
- ICTY Judgement in the case against Dario Kordić and Mario Čerkez No. IT-95-14/2-T of 26 February 2001,
- ICTY Judgement in the case against Dario Kordić and Mario Čerkez No. IT-95-14/2-A of 17 December 2004,
- Decision of the Presidency of the Republic of Bosnia and Herzegovina to declare the state of war ("Official Gazette of the R BiH", issue 7/92),
- Revised version of the Decision on establishment of the Croatian Community of Herceg-Bosna ("Official Gazette of the Croatian Community of Herceg-Bosna", issue 1/92),
- Constitution of the Federation of Bosnia and Herzegovina – so-called The Washington Agreement ("Official Gazette of the FBiH", issue 1/94),
- Decision of the Presidency of the Republic of Bosnia and Herzegovina to terminate the state of war ("Official Gazette of R BiH", issue 50/95),
- Excerpt from Criminal Records for Zdravko Mihaljević No. 02/6-3-04-2-5734/06 of 30 August 2006.

Motion of the Prosecutor's Office for acceptance of adjudicated facts

Pursuant to Article 4 of the Law on Transfer of Cases from the ICTY, and Article 15 of the Criminal Procedure Code of BiH, the Prosecutor's Office of BiH moves the Court of BiH to accept as proven the facts established by legally final and binding decisions in proceedings by the ICTY, and to admit as evidence the ICTY Trial Chamber and Appeals Chamber Judgements in the case against Dario Kordić and Mario Čerkez No. IT-95-14/2-T of 26 February 2001 (para. 520 and other paragraphs of the Judgement pertaining to the widespread and systematic attack in the area of municipalities of Kiseljak, Busovača and Vitez) and No. IT-95-14/2-A of 17 December 2004 (para. 667, 668, 669, 670, 676 and



other paragraphs of the Judgement pertaining to the widespread and systematic attack in the area of municipalities of Kiseljak, Busovača and Vitez).

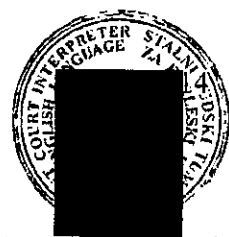
To wit, it was established under the cited paragraphs of the judgements that attacks were carried out by the forces of the HVO against the Bosniak civilian population in the Central Bosnia municipalities of Kiseljak, Busovača and Vitez, and that those attacks need to be defined as widespread, systematic and directed against the Bosniak civilian population. The ICTY Appeals Chamber under paragraphs 667 and 668 of the Judgement, stated that in the course of these attacks, crimes were committed in Busovača, Ahmići village, Šantići village, villages of Nadioci and Pirići, Gačice village, village of Večeriska/Donja Večeriska, Očehnići village, villages in the area of the Municipality of Kiseljak, namely: Rotilj, Svinjarevo, Gomionica, Višnjica, Polje Višnjica, Behrići, Gromljak, Tulica, Han Ploča, Grahovci, as well as Kaonik, Primary School in Dubravice, "SDK" building (Public Auditing Service), Cinema in Vitez, Barracks in Kiseljak and in the town hall building in Kiseljak:

In its Motion to accept as proven the facts from the above stated Judgements, the Prosecutor's Office primarily has in mind that these do not prove the criminal liability of the accused; that the ICTY Trial Chamber Judgement in relation to the municipalities of Kiseljak, Busovača and Vitez was upheld by the ICTY Appeals Chamber, i.e. that the Judgement is final, and that the acceptance of facts of the stated judgements does not eliminate the respect of presumption of innocence of the accused, given that these will be reviewed jointly with other evidence presented at the main trial. Moreover, the accused's right to trial without delay shall also be hereby respected, as set forth in Article 13 of the CPC of BiH and Article 6 (1) of the European Convention on Human Rights and Fundamental Freedoms, which prescribes the principle of trial within a reasonable time.

Motion to extend custody

Considering that it can be concluded based on the results of the investigation and evidence collected that there exists grounded suspicion that Zdravko Mihaljević committed the criminal offence of Crimes against Humanity in violation of Article 172 (1) (h) in conjunction with items a), e), f), i) and k) of the CC of BiH, and believing that the grounds for custody at the time when custody was ordered and extended during the investigation continue to exist, pursuant to Article 227 (3) and Article 137 (1) of the CPC of BiH, I move the Court, should it confirm this Indictment, to extend the custody against the accused Zdravko Mihaljević on the grounds as under Article 132 (1) (b) and (d) of the CPC of BiH.

In the Indictment, the Prosecutor's Office of BiH moved that witnesses be examined at the main trial, some of whom have returned to reside in the area of the Municipality of



Kiseljak, or in fact to the place where the criminal offence at issue was committed, while other witnesses did not return to the place where the criminal offence at issue was committed as their pre-war place of residence, yet they do reside in the areas of neighbouring municipalities. The Prosecutor's Office deems that all witnesses should give their accounts at the main trial without pressure or fear for themselves or their families due to possible consequences that their testimonies could bring about upon them. The accounts of witnesses given in the course of the investigation are of no value if witnesses do not repeat their accounts at the main trial without any pressure or fear whatsoever. That there is a threat of influencing the witnesses is also indicated by the fact that some witnesses have already been given protective measures in accordance with the Law on Protection of Witnesses under Threat and Vulnerable Witnesses. The accused is already aware of the full names of some witnesses interviewed in the course of the investigation, and their addresses will also be available to him upon confirmation of the Indictment. I believe that there is still risk that the accused, should he be released, would hinder the criminal proceedings by influencing the witnesses. Furthermore, the Prosecutor's Office of BiH reiterates that it is also conducting an investigation against other members of the HVO Special Purpose Unit "Maturice" [REDACTED]

[REDACTED] The Court can be convinced of these allegations by inspecting the Decision on the Takeover of the Case of the Court of BiH No. X-KRN/05/68 of 5 October 2005 and 13 June 2006. Therefore, I find that there is still risk that, should the accused Zdravko Mihaljević be released, it could come to mutual contacts and attempt to reconcile stories between the accused Mihaljević and other suspects so as to avoid being held liable for the criminal offence as charged. I am of the opinion that the above circumstances continue to present the ground for ordering custody regulated by provision of Article 132 (1) (b) of the CPC of BiH.

The Prosecutor's Office of BiH has issued the Indictment against Zdravko Mihaljević on grounded suspicion that he committed the criminal offence of Crimes against Humanity in violation of Article 172 (1) (h) in conjunction with items a), e), f), i) and k) of the same Article of the CC of BiH, for which ten (10) years or a more severe punishment (long-term imprisonment) can be pronounced according to the law. Having in mind the gravity of the criminal offence and the manner of the commission of the criminal offence at issue, i.e. that the accused is charged with having committed the offence he has been indicted for in an exceptionally brutal manner, namely that by firing automatic weapons at point-blank range, by himself or jointly with his fellow members from the Unit, he killed a number of persons in the presence of their neighbours and family members, many of whom still reside in the settlement of Tulica, while he was bringing in the surviving locals of the settlement of Tulica to the Barracks in Kiseljak, and on this occasion he "pulled off" a person from a vehicle in the presence of a significant number of locals of the village of Tulica and took this person away in an unknown direction, since when the person has been unaccounted for, hence I deem that the ordering of further custody is necessary also



for the sake of the public safety. The safety is needed for the sake of witnesses, their families and neighbours, most of whom, as stated above, are survivors of the commission of the criminal offence, and returnees to their pre-war place of residence, specifically the settlement of Tulica, Kiseljak Municipality, wherein the criminal offence at issue was committed. I find it justified to anticipate that the release of the accused Zdravko Mihaljević would cause significant unrest with the witnesses and other inhabitants of Tulica. Therefore, in the opinion of the Prosecution, these circumstances continue to present grounds for ordering custody regulated by the provision laid down in Article 132 (1) (d) of the CPC of BiH.

**PROSECUTOR OF
THE PROSECUTOR'S OFFICE OF BIH**

Slavica Terzić

(signature and stamp affixed)

I hereby confirm that this document is a true translation of the original written in Bosnian/Croatian/Serbian.

Sarajevo, 7 February 2007

██████████
Certified Court Interpreter for English

