Sud BiH / Суд БиХ
Krivično odjeljenje i Apelacionno odjeljenje /
Кривично одјељење и Апелационо одјељење
Odjel I i Odjel II / Одјел I и Одјел II
Odsjek za sudsku upravu / Одсјек за судску управу
X-KRN/05/140
PR. EVID DOK. 145

BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BIH
S A R A J E V O
No. KT - RZ - 31/05
Sarajevo, 28 December 2005

COURT OF BOSNIA AND HERZEGOVINA
- Preliminary Hearing Judge -

S a r a j e v o

Pursuant to Article 35(2)(h) and Article 226(1) of the Criminal Procedure Code of BiH, I hereby file the following

I N D I C T M E N T

AGAINST:

NIKOLA KOVAČEVIĆ (previously Daniluško Kajtez), son of Kajtez Gojko and Milka, maiden Branković, born on 19 April 1968 in the village of Kruhari, Sanski Most Municipality, completed secondary school, locksmith-welder by vocation, maintaining permanent residence in Mačvanski Pričinac, Cara Dušana bb Street, Šabac Municipality, State Union of Serbia and Montenegro, holds dual citizenship of, respectively, Serbia and Montenegro and Bosnia and Herzegovina, **in custody as of 10 October 2005** at the Detention Unit of the Court of BiH under the Decision of the Court of Bosnia and Herzegovina No. X-KRN-02/40 of 4 October 2005

For the following:

In the period between April and August 1992, as a member of the local unit known as SOS (Serb Defense Forces) which, by the conclusion of the Crisis Staff of the Serb Municipality of Sanski Most no. o0/02 of 22 April 1992, became a special unit of the Serb Territorial Defense for the Sanski Most Municipality, as part of a widespread or systematic attack of the Army of the Serb Republic of

[redacted]

Bosnia and Herzegovina, territorial defense, members of police and paramilitary formations directed against the civilian population of Bosniak and Croat ethnicities, on a wider region of Bosanska Krajina, including an attack on the territory of the Sanski Most Municipality, that commenced on 19 April 1992 by an armed attack on the Sanski Most Municipality building and continued from 25 May 1992 by apprehending intellectuals, police officers, politically active Croats and Moslems, by detaining them at the Public Security Station in Sanski Most, followed by an armed attack on the settlements of Muhići Mahala and Otoke and on the villages of Hrustovo, Vrhpolje and other areas of the municipality inhabited predominantly by Croats and Moslems, in the course of which civilian objects were shelled, the entire population was forced to leave their homes that were set to fire and pillaged, the civilian population that was forced to leave their homes was taken to locations where they were collected and separated and then detained in detention facilities formed in Sanski Most, such as the Public Security Station, Hasan Kikić Primary School, Betonirka Factory garages, Secondary School Sports Hall and other facilities in which the detained men were subjected to physical and mental abuse, after which a large number of the detained Croats and Moslems was transported to the Manjača Camp at Manjača, located in the territory of the Banja Luka Municipality, and, knowing about those attacks, he participated in them as follows:

1. In the period between May and August 1992, he, alone or together with Milan Martić and other members of the army and police, detained in detention facilities and tortured the detained civilians, particularly in the Betonirka garages, including [redacted] in a way that he hit them with his fists, legs, batons and other objects on all body parts, made them fight one another, to which he forced [redacted] he threatened [redacted] that he would cut off his body parts with a knife, and insulted them in other ways, inflicting severe bodily and mental pain and suffering.

2. In June and July 1992, together with other members of the army and police, including Dušan Šaović aka "Njunja", Dušan Mudrinić aka "Medeni", Milorad Krunić, Drago Vujanić, he participated in taking away civilians that where detained at the Public Security Station, Betonirka garages, Hasan Kikić Primary School, Secondary School Sports Hall to the Manjača Camp by overloading trucks in which they forced the exhausted detainees to get in while beating them in the process, and on arriving to the Manjača Camp, when they got off the trucks they formed a gauntlet, thereby torturing all those who were getting off the trucks, also:

2a. On 6 June 1992, after the truck with the detained civilians arrived in front of the Manjača Camp, together with the persons referred to in item 2, separated when they were getting off the truck approximately seven detainees, among them [redacted] beat them up in a particularly cruel way by

[redacted]

hitting them with fists, legs, rifle butts, batons all over their bodies, inflicting them such severe injuries that made them lay motionless in blood, after which their bodies were put back in the truck and taken in an unknown direction after which they disappeared without a trace.

2b. On 11 June 1992, after the truck with the detained civilians arrived at the Manjača Camp, together with the persons referred to in item 2, as they were beating up the detainees who were getting off the truck, he beat up [redacted] aka [redacted] with his legs and fists all over his body, and, together with Milorad Krunić aka "Mićo", beat up in a brutal manner a certain [redacted] who was then put into a truck along with five other detained civilians, including [redacted] and [redacted] from the settlement of Otoke and took them in an unknown direction after which those persons disappeared without a trace.

2c. On 7 July 1992, together with the persons referred to in item 2, they loaded on a truck approximately 60 detainees from the Betonirka garages to be taken to the Manjača Camp, where they had no space but were crammed on one another and were placed under the truck cover that the detainees were not allowed to lift because of the threats of the armed escort; as a result of enormous heat, injuries and exhaustion, at least nineteen detainees suffocated, among them: [redacted] and when the camp administration refused to accept such detainees upon arriving in front of the Manjača Camp, those detainees were returned to the truck and taken back to Sanski Most; their bodies were exhumed and identified at the mass grave site „Ušće Dabar" in Sanski Most.

2d. On the same date as referred to in item 2c, when the suffocated detainees who were being taken to the Manjača Camp were returned to the truck, the suspect and others from within the armed escort of the detainees did not turn over to the camp administration the detainees who attempted to help the persons who were suffocating; instead, approximately six of them, including [redacted] were taken in an unknown direction after which they disappeared without a trace.

Hence, as part of a widespread or systematic attack directed against the civilian population in the territory of the Sanski Most Municipality, with knowledge of such an attack and participating in it, executed, aided and abetted the persecution of Moslems and Croats, on the ground of their national, religious, political and ethnical affiliation,

Thereby:

STALNI SUDSKI PRIMAC ZA ENGLESKI JEZIK [redacted]

Committing the criminal offense of crime against humanity in violation of Article 172(1)(a), (e), (f), (h) and (k) of the Criminal Code of Bosnia and Herzegovina, in conjunction with Article 180(1) thereof.

Therefore:

I PROPOSE

I. That, upon confirmation of the Indictment, the following persons be summoned to the main trial before the Court of Bosnia and Herzegovina, which has the subject-matter and territorial jurisdiction in this case:

- Prosecutor of the Prosecutor's Office of BiH,
- The suspect NIKOLA KOVAČEVIĆ, currently at the Detention Unit of the Court of BiH, and his Defense Counsel, Ranko Dakić, a lawyer practicing in Prijedor.

II. To present the following evidence:

a) Hear the following persons as witnesses

1) [redacted]
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10)
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12)
13)

STALNI SUDSKI TUMAČ ZA ENGLESKI JEZIK
[redacted]
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14) [redacted]
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30)

c) Hear the expert witnesses:

1) [redacted]
2) [redacted]
3) [redacted]

d) Inspect the following evidence:

1) Photos of the suspect Nikola Kovačević scanned from his passport and his ID card, respectively;
2) Photos of the suspect during the war;
3) Act of MUP (Ministry of Interior), Banja Luka Public Security Center, sent to the Prijedor Public Security Station, No. 10-1-137/05 of 22 November 2005;
4) Transcript of the Decision of the Prijedor Public Security Center on the change of personal name of Daniluško Kajtez, No. 14-09/1-203-23 of 25 September 1996;

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5) Act of the Crisis Staff of the Serb Municipality of Sanski Most, No. 5/92 of 21 April 1992, sent to the Serb News Agency „Srna";

6) Conclusions from the meeting of the Crisis Staff of the Serb Municipality of Sanski Most No. 7/92 of 22 April 1992 - on duties of the Crisis Staff and engagement of SOS (Serb Defense Forces);

7) Act of the Crisis Staff of the Serb Municipality of Sanski Most, No. 7/92 of 22 April 1992 – informing Serb TO of the Serb Municipality of Sanski Most on the conclusion of the Crisis Staff of the Serb Municipality of Sanski Most to place SOS (Serb Defense Forces) at the disposal of the Commander of the Serb TO as a special unit of the Serb TO;

8) Proclamation of the Staff of SOS (Serb Defense Forces) of 13 April 1992 sent via fax 85-666;

9) Proclamation of SOS Sanski Most, No. 5/92 of 30 May 1992, sent to the Crisis Staff of SO* Sanski Most;

10) Report of 16 September 1992 on the work and activities of SOS as an intervention squad as part of the 6th Krajiska Brigade between 1 May 1991 and 16 September 1992;

11) The same report as under number 10, hand written by an unidentified author;

12) The same report as under number 10 and 11, sent via fax no. 85-666;

13) Report on the activities of SOS and participation in combat activities under the plan of the 6th Krajiška Brigade, confidential, No. 9/92 of 4 September 1992, sent via fax no. 85-666;

14) Pages 77 and 78 of the telephone directory of the 079 Sanski Most telephone area of 1990, where the Municipal Secretariat for People's Defense – Information Center is listed as the user of the number 85-666;

15) Notes of Nedeljko Rašula, President of the Crisis Staff of the Serb Municipality of Sanski Most;

16) List of members of SOS;

17) Handwritten letter of Nikola Kovačević, signed as by D. Kajtez „Hello, brother Vlado, and other gentlemen";

18) Findings and opinion of the handwriting expert Ramiz Čaldarević concerning a graphological expert examination of the handwritten content of the letter under number 28;

19) Photo-documentation of the graphological expert examination of the handwritten content of the letter under number 28 with undisputed handwriting;

20) Documentation enclosed with the graphological expert examination (6 acts);

* Translator's note: Serb Municipality

21) Conclusions of the Crisis Staff of the Serb Municipality of Sanski Most No. KŠ-23/92 of 22 May 1992;

22) Minutes of the 12th session of the Executive Committee of SO Sanski Most held on 22 August 1992;

23) Conclusion of the Executive Committee of the SO Sanski Most, No. 01-012-46 of 26 November 1992, adopted at the 4th session – ordering persons who were charged with duties in local areas to establish who among the citizens of Moslem and Croat ethnicity cannot pay for duties required upon leaving the territory of the municipality;

24) Conclusion from the 3rd session of the Executive Committee of the SO Sanski Most No. 01-012-40/ of 21 October 1992 – accepting the Report of the Commission for relocation, displacement and moving in of population to the territory of the Sanski Most Municipality;

25) Conclusion from the extraordinary session of the Executive Committee of the SO Sanski Most No. 01-012-33/2 of 2 September 1992 – to allow the authorities to exercise power through the Command of the 6th Krajiška Brigade and the Sanski Most SJB*;

26) Order of Colonel Branko Basara, Commander of the 6th Krajiška brigade, to relocate the Command of the Brigade to the premises of the Sanus Hotel in Sanski Most on 27 and 28 August 1992;

27) Report on the activities of the Municipal Civilian Protection Staff for the period 15 July – 15 October 1992;

28) Dispatch note by the Sanski Most SJB, No. 11-14-1288/92 of 17 August 1992, sent to the Banja Luka CSB* – asking for a directive concerning the procedure of issuance of residence permits to the persons of Moslem and Croat ethnicity;

29) Dispatch note by the Sanski Most SJB, No. 11-14-1227/92 of 17 June 1992, sent to the Banja Luka CSB – for determining the status of prisons established in Sanski Most;

30) Act of the Sanski Most SJB, No. 11-14-54/92 of 20 July 1992, sent to the Banja Luka CSB; attached therewith: Report on the activities of the Sanski Most SJB in the first six months of 1992;

31) Act of the Sanski Most SJB sent to the Banja Luka Public CSB, No. 11-14 of 5 August 1992;

32) List of persons captured during the war-time operations in the territory of the Sanski Most Municipality between 18 May and 6 June 1992;

33) List of persons captured during the war-time operations in the territory of the Serb Municipality of Sanski Most;

34) List of most extreme persons from the territory of Sanski Most;

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* Translator's note: Public Security Station

* Translator's note: Public Security Center

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35) Handwriting on the processing of a person by an unidentified author;

36) Information about detained persons contained in the handwriting by an unidentified author;

37) Handwritten list of persons of non-Serb ethnicity containing marks next to the names by an unidentified author;

38) Act of the Sanski Most SJB, No. 11-14-31/92 of 6 June 1992, sent to the Command of the Manjača Military Range;

39) Act of the Sanski Most SJB, No. 11-14-sl of 23 August 1992, sent to the Manjača military-investigating authorities;

40) Certificate of the Sanski Most SJB, No. 11-14-sl of 23 August 1992, sent to the Manjača military-investigating authorities;

41) Official note drawn up on the premises of the Sanski Most SJB in respect of an interview with Ilijaz Mehmedović of 8 June 1992;

42) Official note drawn up on the premises of the Sanski Most SJB in respect of an interview with [redacted] of 25 June 1992;

43) Official note drawn up on the premises of the Manjača Camp in respect of an interview with [redacted] of 26 August 1992;

44) Official note drawn up on 4 July 1992 in respect of an interview with [redacted]

45) Official notes on conducted interviews with the detained persons during the incriminating period (42 notes);

46) Handwritten list Manjača of 3 July – 5 July 1992 by an unidentified author;

47) Handwritten list Manjača of 21 July – 24 July 1992 by an unidentified author;

48) Dispatch note by the Sanski Most SJB, No. 11-14/01-1286/92 of 14 August 1992, sent to the Banja Luka CSB;

49) Dispatch note by the Sanski Most SJB, No. 11-14/01-1316/92 of 9 September 1992, sent to the Banja Luka CSB – containing information that members of the police guard the detainees at the Manjača Center and proposal that the Prijedor SJB should take over the duties of guarding Manjača;

50) Dispatch note by the Banja Luka CSB, No. 11-1/01-OD-439 of 19 August 1992, sent to the Sanski Most SJB – it is necessary to send operatives to the Manjača Military Camp together with the collected documents and to make a selection of the detained persons;

51) Order of the Command of the 6th Partizanska Brigade, No. 1-29/92, from 6 September 1992 to 9 September 1992 with a report of the group commander;

52) Fax no. 07011606 of 30 November 1992 PRESS B. Luka to no. 07811000;

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53) Photo-documentation of the detention facilities in the territory of the Sanski Most Municipality referred to in the indictment and a map of the town of Sanski Most, No. 264/05 of 21 October 2005;

54) On-site investigation report of the Medical Board composed of [redacted] MD, and [redacted] MD, with a list of persons that died from suffocation;

55) Record of the Cantonal Court in Bihać, No. Kri-44/01 of 24 September 2005, on exhumation from a mass grave site at the locality of „Ušće Dabar";

56) Sketch of the „Ušće Dabar" exhumation location (No. 51/01);

57) Act of the Police Station 3, Sanski Most, No. 05-6/03-611/05 of 14 September 2005;

58) Official note of 11 June 1992 drawn up by Milorad Krunić;

59) Findings of DNA analysis, No. ICMP 245/02 of 6 June 2002, and a record of identification of [redacted] of 31 July 2001;

60) Findings of DNA analysis, No. ICMP 246/02 of 6 June 2002, and a record of identification of [redacted] of 17 June 2002;

61) Findings of DNA analysis, No. ICMP 6297/05P of 15 September 2002, and a record of identification of [redacted] of 1 August 2002;

62) Findings of DNA analysis, No. ICMP 248/02 of 6 June 2002, and a record of identification of [redacted] of 20 June 2002;

63) Findings of DNA analysis, No. ICMP 241/02 of 6 June 2002, and a record of identification of [redacted] of 11 June 2002;

64) Findings of DNA analysis, No. ICMP 253/02 of 6 June 2002, and a record of identification of [redacted] of 2 August 2002;

65) Findings of DNA analysis, No. ICMP 1175/02 of 6 June 2002, and a record of identification of [redacted] of 27 July 2002;

66) Findings of DNA analysis, No. ICMP 255/02 of 6 June 2002, and a record of identification of [redacted] of 6 June 2002;

67) Findings of DNA analysis, No. ICMP 257/02 of 6 June 2002 and a record of identification of [redacted] of 30 July 2002;

68) Findings of DNA analysis, No. ICMP 4042/04 of 4 August 2004, and a record of identification of [redacted] of 8 September 2001;

69) Findings of DNA analysis, No. ICMP 240/02 of 6 June 2002, and a record of identification of [redacted] of 27 July 2001;

70) Findings of DNA analysis, No. ICMP 1180/02 of 30 January 2003, and a record of identification of [redacted] of 5 March 2002;

71) Findings of DNA analysis, No. ICMP 242/02 of 6 June 2002, and a record of identification of [redacted] of 11 June 2002;

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72) Findings of DNA analysis, No. ICMP 247/02 of 6 June 2002, and a record of identification of [redacted] of 27 July 2001;

73) Findings of DNA analysis, No. ICMP 939/02 of 27 November 2002, and a record of identification of [redacted] of 30 April 2003;

74) Findings of DNA analysis, No. ICMP 243/02 of 6 June 2002, and a record of identification of [redacted] of 5 July 2002;

75) Findings of DNA analysis, No. ICMP 254/02 of 6 June 2002, and a record of identification of [redacted] of 25 August 2001;

76) Findings of DNA analysis, No. ICMP 256/02 of 6 June 2002, and a record of identification of [redacted] of 13 June 2002;

77) Findings of DNA analysis, No. ICMP 252/02 of 6 June 2002, and a record of identification of [redacted] of 26 July 2001;

78) Photo-documentation No. 170-01/01 of 8 September 2001;

79) Photo-documentation No. 181-1/01 of 8 September 2001;

80) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R-702/99 of 31 January 2001;

81) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R-388/98 of 31 August 1998;

82) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R -129/98 of 24 March 1999;

83) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R- 903/97 of 4 February 1998;

84) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted], No. R- 414/97 of 2 July 1997;

85) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R- 430/97 of 104 July 1997;

86) Decision of the Municipal Court of Sanski Most on the pronouncement of death of [redacted] No. R- 476/2000 of 22 December 2000;

87) Act of the Association of Camp Inmates of Sanski Most (list of camps in the territory of the Sanski Most Municipality and a list of registered camp inmates of Sanski Most);

88) Order of the SDS Sarajevo of 29 October 1991;

89) Conclusions of the Autonomous Province of Krajina, No. 03-297/92 of 8 May 1992;

90) Conclusions of the Autonomous Province of Krajina, No. 03-299/92 of 9 May 1992;

91) Instruction on Organization and Activities of the Serb People Authorities in Bosnia and Herzegovina in State of Emergency, No. 101-3 of 19 December 1991;

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92) Decision of the Presidency of Republika Srpska on the Return of Displaced Persons to the Territory of the Serb Republic of Bosnia and Herzegovina (Official Gazette of the Serb People in BiH of 8 June 1992);

93) Declaration of the Assembly of the Serb People of Bosnia and Herzegovina of 12 August 1992 on the Social and Political System of the State (Official Gazette of the Serb Republic of 7 September 1992);

94) Law on Serb Citizenship (Official Gazette of the Republika Srpska of 18 December 1992);

95) Decree on the Promulgation of the Law on Refugees (Official Gazette of the Republika Srpska of 30 April 1993);

96) Decision on the Strategic Goals of the Serb People in Bosnia and Herzegovina (Official Gazette of the Republika Srpska of 26 November 1993);

97) Constitution of the Republika Srpska (Official Gazette of the Republika Srpska of 31 December 1992), Partial Decision of the Constitutional Court of Bosnia and Herzegovina adopted at its session held on 28, 29 and 30 January 2000;

98) Partial Decision of the Constitutional Court of Bosnia and Herzegovina adopted at its session held on 28, 29 and 30 January 2000;

99) Partial Decisions of the Constitutional Court of Bosnia and Herzegovina adopted at the sessions held on, respectively, 18 and 19 February 2000 and 18 and 19 August 2000 with regard to the RS Constitution;

100) Partial Decision of the Constitutional Court of Bosnia and Herzegovina adopted at the session held on 30 June and 1 July 2000;

101) Decision of the BiH Presidency on Declaring the State of War (Official Gazette of the R BiH of 20 June 1992);

102) Decree on abolishment of the former Republic Territorial Defense Staff and Formation of the Republic of Bosnia and Herzegovina Territorial Defense Staff (Official Gazette of the R BiH of 9 April 1992);

103) Death certificate for the person named [redacted] No. 05-13-3-663/05 of 19 December 2005;

104) Record of examination of the witness [redacted] of 7 October 2005;

105) ICTY Judgment (IT-00-398-40/01) with the indictment against Biljana Plavšić

106) ICTY Judgment (IT-95-8) in the case of Duško Sikirica, Dragan Kulundžija and Damir Došen

107) ICTY Judgment (IT-97-30) in the case of Miroslav Kvočka, Mlađo Radić, Zoran Žigić and Dragoljub Prcać;

108) ICTY Judgment (IT-94-1) in the case of Duško Tadić;

109) ICTY Judgment (IT-02-61) in the case of Miroslav Deronjić;

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110) ICTY Judgment (IT-95-9) in the case of Simo Zarić;

111) ICTY Judgment (IT-97/24) in the case of Milomir Stakić;

Investigation results

Having conducted an investigation against the suspect Nikola Kovačević on account of perpetration of the criminal actions factually described in the operative provision of this indictment, the Prosecutor's Office of BiH has found that at the time of the perpetration of the criminal offence, the suspect's name was Kajtez Daniluško aka "Dane-Četnik", that he administratively changed his name on 25 September 1996, as of when his name is Nikola Kovačević, and that there is sufficient evidence that the suspect Nikola Kovačević committed the criminal offence he is charged with, and that an indictment has been filed against the said person for committing the criminal offence of crimes against humanity in violation of Article 172(1)(a), (e), (f), (h) and (k) of the Criminal Code of Bosnia and Herzegovina, in conjunction with Article 180(1) thereof.

According to the evidence collected during the investigation, primarily based on the statements of the eyewitnesses of the incidents, as well as other material evidence, Sanski Most was a municipality where different ethnic groups lived together in harmony. There were many friendships spanned across the ethnic, religious and national borders. Tensions occurred with the appearance of armed persons wearing uniforms, inhabitants of Sanski Most, and the word was that they went to Croatian battlefields, among them the suspect too; by planting explosive in the facilities owned by Muslims, as well as by insisting to divide the territory of Sanski Most among the then ruling political parties of SDS, SDA and HDZ.

On 15 April 1992, the Public Security Station (SJB) police officers were asked to pledge loyalty to the Serb police in writing, which lead to the walk-out from the SJB building by Croat and Muslim police officers; SR BiH flag was removed from the SJB building and the Serb one was hoisted. SDA and HDZ leaders and Croats and Muslims who performed certain functions in the municipal authorities, as well as the former police officers, were accommodated in the Sanski Most municipality building. Meanwhile, the building was blocked by a local SOS unit, members of the reserve and regular police force, while the formed Crisis Staff of the Serb Municipality of Sanski Most set up an ultimatum that they were to leave the building, otherwise it would be shelled. On 19 April 1992, upon the expiration of the ultimatum, the Municipality building was shelled and the greatest number of the civilians who were inside the building evacuated themselves towards the village of Šehovci. Then, upon the initiative by the Serb Municipality of Sanski Most Crisis Staff a meeting was held with the representatives of SDA. Apart from the representatives of the Crisis Staff,

[redacted]

[redacted] and [redacted] General [redacted] Colonel [redacted] and Colonel [redacted] as the representatives of the JNA on one hand and [redacted] and [redacted] as the representatives of the non-Serbs on the other, attended the meeting initiated in such a way. The Muslims who had escaped to the village of Šehovci were then allowed to return to their homes.

The Crisis Staff of the Serb Municipality of Sanski Most continued to implement the decisions of the Autonomous Region of Krajina (ARK), such as the establishment of control over the local radio station, dismissal of Muslims and Croats from important positions in the municipal bodies and other institutions and organizations; simultaneously, calls to surrender weapons were sent out, which were, although sent out to the population in general, carried out only with respect to Muslims and Croats, while at the same time weapons were distributed to the Serb population.

On 25 May, in the early morning hours, members of the local SOS unit, army, regular and reserve police force began arresting a certain number of intellectuals, members of SDA and HDZ, who were performing certain functions in the municipal authorities or political parties, as well as Muslim police officers, confining them to the prison of the Public Security Station, where they were exposed to various physical and mental abuse. A call for all the leading SDA members to surrender was broadcast on the Sanski Most radio station. After all the leading SDA and HDZ men had been arrested, armed attacks began against the settlements and villages in the Municipality. Serb forces confined thousands of Croat and Muslim civilians to the detention centers formed at the Public Security Station, Secondary School Sports Hall, Hasan Kikić Primary School, Betonirka Factory garages. The detainees were guarded by police, soldiers of the local unit of Serb Army or the Territorial Defense or the mixed group of their members who wore uniforms and were usually armed with automatic rifles and other small arms. They cursed at the detainees calling them different insulting names; they took away their money from them and other personal items. Members of the local units of Serb Army or the Territorial Defense and the local Serbs were routinely allowed access to the detention facilities to beat, abuse and humiliate the detainees in different ways.

The garages in the Betonirka Factory compound, in the very centre of the town, may have been among the most notorious detention facilities. In each of the three garages 6 by 4 meters in size there were up to 30 detainees, Croat and Muslim civilian males, who were confined in horrible conditions and daily suffered brutalities to which they were systematically subjected. The detainees were frequently forced to relieve themselves in the garages where they were held captive. During the summer months, the garages were stuffy and the windows were closed. The mid garage had no windows while the door was kept closed by the order.

The detainees were called out for interrogation, and a guard would take them to the premises of an administration building which was located directly behind the garages. Interrogations took place both during day and night, but those in the night were especially brutal when some of the detainees would be

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seriously beaten up. The procedure differed from one detainee to another, but it seemed to have depended more on the roughness of an individual interrogator or others who attended the interrogation rather than on the behavior of the detainee himself. The detainees were not called out only for interrogation. Frequently, uniformed men from outside the prison would appear and beat the detainees in the garages or call out certain detainees from the garages and then assaulted them with various objects and beat them up.

When the attack against the civilian population began, women, children, and old men were brought to the Secondary School Sports Hall, and they were eventually allowed to leave the School building; however, not to go to their homes, but to go to the villages with the majority non-Serb population, against which an attack was to be carried out later on as well.

In early June 1992, the Serb authorities, escorted by armed local units or the TO* and police, took away the captured civilians to the Manjača Camp in the territory of the Banja Luka Municipality. The soldiers and the police officers would form a gauntlet and the detainees would walk through the lines, they would be beaten up and boarded on trucks under the truck cover. Regardless of their health, conditions and duration of the trip, they were not allowed to lift the cover, they were not allowed to take any water or anything that would alleviate their trip and, due to the exhaustion, physical injuries, overcrowding and unbearable heat, it was not certain that they would all survive. Upon arrival to Manjača, before the detainees were admitted by the camp administration, they had to walk again through the gauntlet to be beaten as they pass. Some of them were called out and separated and brutally beaten while some were only separated. None of them passed through the gate of the Manjača Camp but were taken by the escort from Sanski Most after which some of the detainees disappeared without a trace. The witnesses that were examined during the investigation, some of whom were close relatives of those detainees, assumed that they had been killed.

It follows from the statements of the witnesses that the persons who were deprived of liberty in the manner described in the indictment were not actively involved in the hostilities at the relevant time. Most of them were taken away from their homes and imprisoned by the Serb forces during the attacks on the settlements where there was no armed resistance. Therefore, they enjoyed protection under the rules of the international humanitarian law.

A large number of the witnesses examined during the investigation pointed out that the suspect Nikola Kovačević participated in the described attack against the civilian population, that even prior to the commencement of the attack against the Muslim and Croat civilian population he was particularly notorious for being a person belonging to a certain group which was suspected of planting explosives in the facilities owned by Muslims, that he walked around the town wearing a cockade and that he was one of those who in 1991, during the attack by JNA against Croatia, he went to that battlefield, and when the attacks against the civilian population in Sanski Most began, he displayed an

* Translator's note: Territorial Defense

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extremist behavior toward persons of non-Serb ethnicity. A witness who used to be his colleague from work described the suspect as a person who was notorious for being a nationalist already at the very beginning of the war in Croatia and that he bragged about having undergone training in Knin.

The suspect did not deny in his defense that he had become a member of the local unit called SOS. However, he spoke almost nothing about the events that took place or the actions he was suspected of having committed during the incriminating period or he spoke about it in the context of self-defense; that he visited some of the detention facilities, but he helped on that occasion some of the detainees, including [redacted] that he visited the detention facilities upon orders of some persons, among whom were the following: Mirko Vručinić, Mićo Krunić from the Public Security Station (SJB), as well as the civilian authority with active participation of Vlado Vrkeš and Nedeljko Rašula.

Bearing in mind the fact that the suspect was among the first ones who were engaged in the local unit of SOS that pursued the SDS policy and the discriminatory manner of its implementation, as well as the overall circumstances in which the attack against the civilian population occurred and the engagement of the unit of SOS, it can be concluded that the suspect was aware of a widespread or systematic attack against the civilian population of different national, ethnic, religious and political affiliation from his own, and that he took an active role in such an attack in the manner described in the operative provision of the indictment, whereby all elements of the criminal offense he has been charged with in the Indictment, concur in his actions.

The identity of the suspect Nikola Kovačević has been confirmed by the witnesses who had personally known the suspect even before the incriminating events in such a manner that, pursuant to Article 85(3) of the BiH CPC, they were presented with a series of photographs, including the suspect's photograph, the investigative action of identification being conducted by the Prosecutor.

Pursuant to the Rules of the Road, the suspect Kovačević Nikola, formerly known as Kajtez Daniluško-Dane, has been classified in the category with a standard marking „A" by the ICTY Office of the Prosecutor as a person with regard to whom there is sufficient evidence for reasonable grounds for believing that he has violated the international humanitarian law.

The evidence corroborating the standpoint of the Prosecutor's Office that the suspect, by carrying out his actions, committed crimes against humanity that are characterized, among other things, by a widespread or systematic quality of the attacks also arise from the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia in The Hague in respect of the judgments against the perpetrators of war crimes committed in the territory of Bosanska krajina, a part of which is Sanski Most, the municipality where the crime which is the subject of this indictment, was committed. The final judgments against Biljana Plavšić (IT-00-39&40/1-S), Duško Sikirica, Dragan Kulundija, Damir Došen (IT-95-8), Miroslav Kvočka, Mlađo Radić, Zoran Žigić, Dragoljub Prcać,(IT-97-30), Duško Tadić (IT-94-1), the first-instance judgment against

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Radoslav Brđanin (IT-99-36) and others where it was established that, at the time when the crimes that Nikola Kovačević has been charged with were committed in the territory of West Bosnia, i.e. Bosanska Krajina, a campaign of persecution of the civilian population was underway. Its purpose was to eliminate for good its non-Serb inhabitants from the Municipality of Sanski Most, as well as the neighboring municipalities of Prijedor, Ključ and others, regardless of whether or not they actively participated in the hostilities.

The existence of the final judgments of the ICTY in which it was established that, in the territory of BiH, crimes against humanity and persecutions on ethnic, religious and other grounds against members of Croat and Muslim population had been committed, supports the only logical conclusion that in the case of the criminal offence committed by the suspect Nikola Kovačević, too, it was not about some isolated incident or a crime as an exception in those times of war, but that a specific way of conduct towards life, freedom and property of persons, based on discriminatory grounds, was in question.

In the ICTY judgments against Miroslav Deronjić (IT-02-61), Simo Zarić (IT-95-9) and Milomir Stakić (IT-97/24), the role of the Crisis Staffs of the Serb people has been established, some of which were transformed into the SDS Crisis Staffs. It was proven that the Crisis Staffs were under the obligation to monitor the situation in the municipalities, as well as wider political, military and security events, and they undoubtedly opted for the policy of creating Serb ethnic territories in Bosnia and Herzegovina, and subsequently for the use of force aimed at eliminating non-Serbs from the territory which were proclaimed Serb territories. In addition, one should point out the facts arising from the ICTY Judgment against Biljana Plavšić who pleaded guilty before the International Criminal Tribunal for the Former Yugoslavia for, among other things, crimes against humanity that were committed in the territory of Sanski Most (supplement to the Indictment against Biljana Plavšić).

One of the elements qualifying the criminal offence of crimes against humanity as an international crime is that it was committed with participation or tolerance by a country or a political organization, which had political power *de facto* or *de iure*. This criterion set out in the provision of Article 7(2)(a) of the Rome Statute and in Article 172(2)(a) of the BiH CC has been met in the present case, which clearly arises from the abovementioned ICTY judgments and other material evidence contained in the file, following therefrom that the political and military leadership of the Serb people conducted a discriminatory policy against Croats and Muslims and other non-Serb population during the war in Bosnia and Herzegovina (1992-1995) in the territories controlled by the Bosnian Serbs.

We are of the opinion that the file contains sufficient evidence that the suspect Nikola Kovačević, acting in awareness with a discriminatory intention, also committed persecution as a form of crime against humanity and that he committed the actions he is charged with in the indictment only because of the affiliation of victims to a certain national, religious, ethnic group, which arises both

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from the aforementioned judgments and the statements of numerous witnesses about the persecution.

In view of all of the above, a logical conclusion can be drawn that the case at issue concerns a widespread and systematic attack directed against the civilian population of which the suspect was aware. The suspect knew the attack was directed against the civilian population of non-Serb ethnicity and he took an active role in it, carrying out, aiding and abetting such an attack, whereby all the elements of the criminal offense of crimes against humanity in violation of the provisions of Article 172(a), (e), (f), (h) and (k) of the Criminal Code of Bosnia and Herzegovina in conjunction with Article 180(1) thereof, have met.

Materials corroborating the allegations in the indictment

1) Act of the General Service for Geodetic and Property-Legal Issues of the Municipality of Sanski Most, No. 06-31-2659/2005;
2) Record of examination of the witness (identification) [redacted] – KT-RZ-31/05 of 30 November 2005;
3) Record of examination of the witness (identification) [redacted] – KT-RZ-31/05 of 29 November 2005;
4) Record of examination of the witness (identification) [redacted] KT-RZ-31/05 of 30 November 2005;
5) Record of examination of the witness (identification) [redacted] KT-RZ-31/05 of 30 November 2005;
6) Record of examination of the witness (identification) [redacted] – KT-RZ-31/05 of 30 .11.2005;
7) Record of examination of the witness (identification) [redacted] KT-RZ-31/05 of 30 November 2005;
8) Record of examination of the witness (identification) [redacted] – KT-RZ-31/05 of 29 November 2005;
9) Record of examination of the witness (identification) [redacted] KT-RZ-31/05 of 1 December 2005;
10) Photo documentation for the investigative action of identification pursuant to Article 85(3) of the BiH CPC
11) Record of questioning of the suspect Nikola Kovačević – Prosecutor's Office of BiH, KT-RZ-31/05 of 30 September 2005;
12) Record of questioning of the suspect Nikola Kovačević – Prosecutor's Office of BiH, KT-RZ-31/05 of 1 October 2005;

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13) Record of questioning of the suspect Nikola Kovačević – Prosecutor's Office of BiH, KT-RZ-31/05 of 31 October 2005;

14) Record of questioning of the suspect Nikola Kovačević – Prosecutor's Office of BiH, KT-RZ-31/05 of 4 November 2005;

15) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 20 October 2005;

16) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 19 October 2005;

17) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 15 October 2005;

18) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 28 November 2005;

19) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 18 October 2005;

20) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 17 October 2005;

21) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 15 October 2005;

22) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 20 October 2005;

23) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 21 October 2005;

24) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 11 November 2005;

25) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 2 December 2005;

26) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 30 November 2005;

27) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 14 October 2005;

28) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 19 October 2005;

29) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 17 October 2005;

30) Record of examination of the witness [redacted] – Prosecutor's Office of BiH,KT-RZ-31/05 of 20 October 2005;

31) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 14 October 2005;

32) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 29 November 2005;

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33) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 16 October 2005;

34) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 16 October 2005;

35) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 17 October 2005;

36) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 1 December 2005;

37) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 16 October 2005;

38) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 15 October 2005;

39) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 2 December 2005;

40) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 1 December 2005;

41) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 30 November 2005;

42) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 20 October 2005;

43) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 18 October 2005;

44) Record of examination of the witness [redacted] – Prosecutor's Office of BiH, KT-RZ-31/05 of 14 October 2005;

Motion to extend custody:

The results of the investigation and the collected evidence confirm existence of a grounded suspicion that the accused Nikola Kovačević committed the criminal offense of crime against humanity in violation of Article 172(1)(a), (f), (e), (h) and (k) of the Criminal Code of BiH in conjunction with Article 180 thereof.

Regardless of the fact that the suspect approached this Prosecutor's Office of his own accord, I consider that there are grounds for ordering custody provided for under item (a) of Article 132 of the CPC of BiH.

The suspect Nikola Kovačević holds dual citizenship; namely, he is a citizen of Bosnia and Herzegovina and Serbia and Montenegro. The fact that he owns no real estates in Sanski Most where he lived, that he resides in Šabac, the territory of Serbia and Montenegro, and that he is unemployed, all constitute the circumstances that make the suspect a potential fugitive to the territory of Serbia

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and Montenegro if released from custody. He could not be prosecuted in that case due to the well-known fact that the state bodies of the State Union of Serbia and Montenegro, according to their regulations on extradition, are not obliged to extradite its citizen to Bosnia and Herzegovina.

Regardless of the fact that the suspect surrendered voluntarily, there is a possibility that he might change his opinion and take to flight if at liberty.

That the suspect is prone to changing his opinion in respect of his custody and criminal prosecution is suggested by the fact that at the time of his surrender he stated that he had the information the proceedings were pending against him in Banja Luka and added that he put his trust in the Court of BiH and wanted the proceedings to be conducted before that Court, which is why he waived his right to file an appeal against the Decision of that Court on takeover of the case.

In the meantime, he changed his opinion and filed a motion with the Court of BiH to have his case transferred to Banja Luka because this would, in his opinion, be better for him. At the time of his surrender, the suspect demonstrated his will to cooperate with the Prosecutor's Office. Thereupon, he changed his opinion and decided to retain the right to silence only to change his opinion once again and state his defense.

Furthermore, I consider that the grounds under items (b) and (d) of Article 132 of the CPC that existed at the time of issuance of the Decision extending custody, are still in place.

Particular circumstances indicating that the suspect might hinder the inquiry if at liberty is the fact that the co-perpetrators as well as the persons who ordered the criminal offense are still at large, especially the members of the Crisis Staff such as Vlado Vrkeš, whom the suspect addressed with his letter while in custody in Banja Luka. The fact that the custody against the suspect was terminated in Banja Luka and that there is an indictment from 1993 with the proceedings upon that indictment still pending, suggests that Vlado Vrkeš together with other persons mentioned in the said letter had an interest in the suspect not remaining in custody. Therefore, it is fairly certain to expect that the suspect could influence his co-perpetrators and accomplices if at liberty.

Moreover, the fact that the injured parties and the suspect have different places of residence does not, in itself, mean that the possibility of contact between the suspect and the injured parties is ruled out given that the suspect, while in custody, attempted to contact certain persons from Sanski Most.

All of that indicates to a possibility that the suspect, if at liberty, might hinder the inquiry by influencing co-perpetrators and accomplices, as well as the witnesses, whereby the requirements for ordering custody under Article 132(b) of the CPC of BiH have been met.

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In addition, the suspect's release from custody would, to a great extent, cause uncertainty and anxiety among the citizens, especially among the victims and their family members, given the fact that the suspect is charged with having committed the criminal offense punishable by a term of imprisonment of ten (10) years or more, particularly when one bears in mind that the criminal offense was committed in a brutal manner by killing, beating up, inflicting mental and psychical suffering to victims as well as other inhumane treatment carried out by the suspect. Uncertainty and disturbance of citizens caused by the suspect' being at liberty would certainly give rise to fear of testifying in the prosecution of war crimes. One should bear in mind that this concerns citizens whose personal integrity and human dignity have been seriously violated as a result of torture, inhumane and degrading punishment and treatment carried out by the suspect, which resulted in grave breaches of the standards of the international humanitarian law.

The abovementioned circumstances justify the grounds for ordering custody under item 8d) of Article 132 of the CPC of BiH.

PROSECUTOR
PROSECUTOR'S OFFICE OF BiH
Džemila Begović
/seal and signature duly affixed/

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

Sarajevo, 12 January 2006
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Certified Court Interpreters for English