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**Case Number: S 1 1 K 002418 10 Kri**

**Date: Delivered 7 June 2011**

**Sent out 9 June 2011**

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**Before the Trial Panel composed of: Judge Šaban Maksumić, Presiding**

**Judge Vesna Jesenković**

**Judge Staniša Gluhajić**

**PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA**

**vs.**

**NOVICA TRIPKOVIĆ**

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**VERDICT**

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**Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina: Behajja Krnjić**

**Counsel for the Accused: Slavica Čvoro, attorney**

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**Number: S1 1 K 002418 10 Kri**

**Sarajevo, 7 June 2011**

**IN THE NAME OF BOSNIA AND HERZEGOVINA!**

The Court of Bosnia and Herzegovina, Section I for War Crimes, the Panel composed of Judge Šaban Maksumić as the Presiding Judge, Judge Staniša Gluhajić and Judge Vesna Jesenković as members of the Panel, with the participation of Legal Advisor Sabina Hota Čatović as the record-taker, in the criminal case against the Accused Novica Tripković for the criminal offence of Crimes against Humanity in violation of Article 172(1)(a), (g) and (k) in conjunction with Article 180(1) of the Criminal Code of Bosnia and Herzegovina (CC of BiH), upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina, number KT-RZ-0000769 06 of 22 December 2010, confirmed on 30 December 2010, following the deliberation and acceptance of a plea agreement and a public hearing for the pronouncement of the criminal sanction, in the presence of the Prosecutor of the Prosecutor's Office of BiH, Behajja Krnjić, the Accused Novica Tripković and his Counsel Slavica Čvoro, attorney from Istočno Sarajevo, rendered and on 7 June 2011 pronounced the following:

**VERDICT**

**THE ACCUSED:**

**NOVICA TRIPKOVIĆ**, a.k.a. *Tesla* and *Nole*, son of Jovan and mother Anđa née Zurovac, born on 13 January 1947 in the village of Vratkovići, municipality of Gacko, residing in ..., Municipality of ..., Personal Identification Number: ..., ... by ethnicity, citizen of ..., literate, highly skilled electrician, unemployed, divorced, father of three, served in the former Yugoslav National Army in 1965/66 in the Republic of Croatia, has no rank, no decorations, indigent, with no other criminal proceedings pending against him,

**I**

**IS FOUND GUILTY**

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**Inasmuch as:**

In the period between mid April 1992 and late June 1992, during a widespread and systematic attack of military, paramilitary and police forces of the so-called Serb Republic of BiH, subsequently Republika Srpska, directed against the Bosniak civilian population of the Foča Municipality, knowing about the attack and that his acts constituted part of the attack, as a member of the military forces, he committed physical and mental abuse and rape of another person, using force, threats and by direct attack on her life and limb as well as murder of another person, in as much as he:

**1.(a)** on 30 April 1992, in the evening hours, armed with a rifle and several bombs, arrived in front of the house of the victim *AI* located in the Donje Polje settlement in Foča, banged on the door, and when she opened the door he entered the house carrying three bottles of wine, sat at the table in the dining room where he drank the wine he had brought, keeping his rifle by his side at all times, and at one point he told the victim to fetch a needle, which she did, and then he pierced his finger with a needle forcing the victim to drink the blood gushing from his finger, telling her that they would become brother and sister in blood, and that he would protect her, and then he started to kiss and touch her all over the body by force, threatening to kill her unless she took off her clothes, which the victim had to do, and then he took off his trousers and raped the victim on the dining room floor, thereby insulting her, and after the rape he went to sleep in the living room, leaving the house of the victim in the morning hours, threatening her not to say anything to anyone or otherwise he would slit her throat,

**1.(b)** on an unspecified date in mid May 1992, armed with a rifle, a pistol and a knife, he came in front of the house of the victim *AI* located in the settlement of Donje Polje in Foča, banged on the door and, when the victim opened the door, he told her he brought six men to rape her and then he got into the house and asked the victim to come with him upstairs into the apartment of her brother-in-law, which she refused, and then he pulled out the knife threatening to slit her throat; thereupon Šeća Čerimi, who was also present in the house of the victim, started begging him not to harm the victim, and the underage son of the victim who was awakened by the shouting also begged him not to harm his mother, after which he sheathed his knife and then, calling the victim a whore, started hitting her with his hands and fists on the head, as a result of which she was all bruised and then he left the house and came back every few days into the house of the victim, each time mentally abusing the victim and Šeća Čerimi, telling them they had to leave Foča as there was no room for Muslims there any longer; on one occasion he broke

the door on the house of the victim using his rifle and got into the house and attempted to hit the victim with a wooden baton but she managed to defend herself by pushing him away and escape from the house,

2. on an unspecified date in the second half of June 1992, following the victim *AI* who was running before him, he came in front of the entrance to the yard of the house belonging to the victim Vejsil Delić located in the settlement of Donje Polje in Foča, and believing that the victim *AI* was hiding in that house he asked Vejsil who had just stepped outside the house and stood with him in front of the entrance door to his yard about her, whereupon Vejsil told him that she was not in his house, and then he lifted the hand in which he was holding a pistol and, with the intention to deprive the victim of his life, fired one projectile and shot Vejsil in his head, inflicting upon him injuries in the form of the upper jaw fracture as a result of a gunshot wound, fracture of the left-side facial bones, left temporal bone fracture with small bone fragments, multiple fractures of the right-side front bone and fissure fractures of the bone on the front side, and a fracture of the left coronoid process, causing the victim Vejsil Delić to die on the spot, after which he left in an unknown direction,

*therefore,*

**within a widespread and systematic attack of military, paramilitary and police forces of the so-called Serb Republic of BiH, subsequently Republika Srpska, directed against the Bosniak civilian population of the Foča Municipality, knowing about the attack and that his acts constituted part of the attack, as a member of those forces, he committed the rape of another person, by using force, threats and by a direct attack on her life and limb, as well as inhumane treatment in the form of physical and mental abuse of the same person and a murder of another person,**

whereby he committed the criminal offense of **Crimes against Humanity in violation of Article 172 (1) of the CC of BiH:**

- **sub-paragraphs g) and k) of the same Article in the acts under Sections 1.(a) and 1.(b) of the operative part of the Verdict,**
- **sub-paragraph a) of the same Article in the acts under Section 2 of the operative part of the Verdict,**

**as read with Article 180 (1) of the BiH CC.**

Therefore, for the referenced criminal offense, pursuant to Articles 39, 42, 48, 49 and 50 of the Criminal Code of Bosnia and Herzegovina, the Court

## **SENTENCES**

**him to the prison sentence of 8 (eight) years**

### **II**

Pursuant to Article 56 of the CC of BiH, the time the Accused Novica Tripković spent in custody from 6 December 2010 onwards shall be credited towards the sentence of imprisonment.

### **III**

Pursuant to Article 188(4) of the CPC of BiH, the Accused shall be entirely relieved of the duty to reimburse the costs of criminal proceedings, which shall be paid from the Court budgetary appropriations.

### **IV**

Pursuant to Article 198(2) of the CPC of BiH, all of the aggrieved parties may take civil action to pursue their claim under property law.

## **REASONING**

### **I. CRIMINAL PROCEEDINGS**

#### **A. INDICTMENT, COURSE OF THE PROCEEDINGS AND PLEA AGREEMENT**

1. By the Indictment number: KT-RZ-0000769 06 of 22 December 2010 which was confirmed on 30 December 2010, the Prosecutor's Office of Bosnia and Herzegovina charged the Accused Novica Tripković with the criminal offense of Crimes against Humanity in violation of

Article 172(1)(a), (g) and (k) of the CC of BiH, in conjunction with Article 180(1) of the same Law.

2. The Indictment alleged that, during a widespread and systematic attack of military, paramilitary and police forces of the so-called Serb Republic of BiH, subsequently Republika Srpska, directed against the Bosniak civilian population of the Foča Municipality, knowing about the attack and that his acts constituted part of the attack, as a member of the military forces, the Accused committed both the act of rape against the aggrieved party “A1”, along with inhumane treatment in the form of physical and mental abuse, and the murder of civilian Vejsil Delić.

3. The main trial commenced on 15 March 2011 with the reading of the Indictment and the Prosecution and the Defense opening statements. Afterwards, in the course of the evidentiary proceedings, the Prosecution presented its evidence. On 24 May 2011, during the Prosecution evidentiary proceedings, in the presence of his Defense Counsel, attorney Slavica Čvoro, the Accused entered into the Plea Agreement with the Prosecutor of the Prosecutor’s Office of BiH (Agreement)<sup>1</sup>. The Agreement was filed with the Court on the same day.

4. In the Plea Agreement, the Accused Novica Tripković admitted his guilt of perpetrating the offenses he has been charged with, and agreed upon the prison sentence ranging between 6(six) years and 6(six) months and 8(eight) years and 6(six) months. Besides, the Plea Agreement indicates that the Accused has accepted all legal consequences arising from the Agreement, including the claims under property law, reimbursement of the expenses of the criminal proceedings and the waiver of the right to appeal the sanction imposed.

5. Prior to entering into the Agreement, the Prosecutor conversed with the aggrieved parties and informed them of the reasons for entering into the Agreement and the range of the sanction to be imposed on the Accused. The aggrieved parties supported the conclusion of the plea agreement in its entirety and agreed upon the proposed range of the sanction. They emphasized their consent regarding their claims under property law.

6. With regard to the proposed criminal sanction, pursuant to Article 231(6)(d) of the CPC of BiH, the Court primarily had to evaluate if the agreed criminal sanction was in accordance with law. Under the law, this criminal offense carries a prison sentence of at least ten years. Article

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<sup>1</sup> Plea Agreement No. T20 0 KTRZ 0000769 06 of 24 May 2011.

231(3) provides for the possibility that, in case of concluding an Agreement, the Prosecutor may also choose a sentence below the prescribed minimum prison term for that offense, in which process the Prosecutor must be mindful of the limitations as to the reduction of punishment for every specific criminal offense. Considering that the proposed range in this specific case does not go below a prison sentence of 5 years, it is consistent with the CC of BiH, that is, Article 50, which foresees the limits of reduction thereof.

7. On 1 June 2011, the Court held a trial to deliberate on the Plea Agreement. In the course of the trial, the Court examined if the Accused had entered into the Agreement voluntarily, consciously and with understanding, and if he fully understood the Agreement itself and its consequences. The Accused confirmed that he had read everything stated in the Agreement and that he had concluded it consciously and voluntarily after being informed of the possible consequences, including those related to possible claims under property law and costs of the criminal proceedings. The Accused also confirmed that he admitted everything he had been charged with, and that he also understood that, by entering into the Agreement, he waived his rights to a trial and appeal from the criminal sanction to be imposed on him if the Court accepts the Agreement. Furthermore, the Accused upheld the respective arguments of his Defense Counsel and the Prosecutor.

8. Upon deliberation and voting, the Court accepted the Plea Agreement in its entirety, having found that all of the requirements set forth in Article 231(6) of the CPC of BiH had been satisfied. The Court found that the Accused Novica Tripković entered into the agreement voluntarily, consciously and with understanding, having been informed of the possible consequences, including those related to the claims under property law and costs of the criminal proceedings. Also, pursuant to the provisions of the quoted Article, the Court was satisfied that there existed sufficient evidence on the guilt of the Accused, and that the Accused understood that he thereby waived his right to a trial and to appeal the criminal sanction to be imposed on him.

9. The statement of the Accused was entered into the record pursuant to Article 231(7) of the CPC of BiH, and the hearing for the pronouncement of sentence was held the same day.

#### **B. ARGUMENTS OF THE PARTIES AND DEFENSE AT THE TRIAL FOR METING OUT THE CRIMINAL SANCTION**

10. At the trial for meting out the criminal sanction, the parties and the Defense Counsel for

the Accused presented both aggravating and extenuating circumstances on the part of the Accused. The Prosecutor stated that, when entering into the Agreement, he was mindful of the fact that the Accused had altered his initial statement in which he denied his guilt of the criminal offense committed. Regarding the aggravating circumstances, he noted the fact that the Accused had had previous criminal record while, with regard to extenuating circumstances, he pointed at his age and health.

11. The Defense Counsel for the Accused moved the Court to pronounce a minimum sentence proposed by the Agreement, considering the poor health of the Accused and his age, which she emphasized as being mitigating circumstances. On the other hand, she is of the view that the fact that he had previous criminal record should not be taken as aggravating, because he had served the sentence upon the previous judgment. The Accused agreed upon the arguments of the Defense Counsel in their entirety.

## **C. PROCEDURAL DECISIONS**

### **1. Expert evaluation of the Accused's mental and physical condition**

12. At the pretrial hearing held on 25 February 2011, pursuant to Article 233.a of the CPC of BiH, the issues relevant to the main trial were deliberated. The Defense noted that the Accused was unable to take part in the proceedings due to his suffering from mental and physical disorders, and moved the Court to provide for medical expert evaluation thereof.

13. When the issue of procedural ability was raised as a preliminary issue, the Court ordered expert evaluation to be performed by a team of expert witnesses comprising Marija Kaučić-Komšić, Head Doctor; Dr. Radojka Golijan and Omer Ćemalović, Head Doctor. It follows from the findings and opinion of the team of expert witnesses dated 9 March 2011 that the expert evaluation was conducted through direct examination of the Accused and review of the medical records. The expert witnesses unanimously offered the opinion that ...; ... he is capable of active participation in the trial, his trial ability is preserved and he can follow the course of the proceedings and may present his defense. On behalf of the team of expert witnesses, the written findings and opinion were elaborated by the expert witness Dr. Marija Kaučić-Komšić at the 15 March 2011 hearing, on which occasion she entirely adhered to the findings and opinions given in the written part of the findings. Considering the Accused's deteriorated health, a proposal was made for the duration of the hearings to be adjusted and limited to two successive hours, followed by a break. The

Panel observed and was mindful of the recommendation during the main trial.

14. Considering such a finding by the expert witnesses, to which the Court gave credence in its entirety, the Court found that there were no procedural obstacles for further trial against the Accused Novica Tripković.

## **2. Decision on granting a motion to admit the facts adjudicated in the ICTY proceedings**

15. By its decision of 5 April 2011, the Court granted the motion by the Prosecutor's Office to accept as adjudicated the facts established by the ICTY Trial Chamber in *Prosecutor versus Dragoljub Kunarac and others*<sup>2</sup> (*Kunarac et al.*) and in *Prosecutor versus Milorad Krnojelac*<sup>3</sup> (*Krnojelac*). The facts accepted are listed in Annex 1 to the Verdict. Specifically, the Panel acted in compliance with Article 4 of the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence Collected by ICTY in Proceedings before the Courts in BiH, in conjunction with Rule 94(B) of the Rules of Procedure and Evidence (ICTY) that reads: At the request of a party or *proprio motu*, a Trial Chamber may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings.

16. The Panel accepted 76 proposed facts in total, which pertained to the general context of the events in the wider area of the Municipality of Foča since April 1992. In deciding on the motion of the Prosecutor's Office, the Panel took into account that the accepted facts should satisfy certain criteria set by the jurisprudence of both the Court of BiH and the ICTY. The set criteria requires that a fact is distinct, concrete and identifiable, relevant to the trial, established and forming part of a judgment which has not been appealed or which has been finally settled on appeal, or that it falls within issues which are not in dispute during the appeal, and that it is not the subject of agreement between the Parties in the present case, or the subject of reasonable dispute between the Parties, that it does not refer to actions, conduct or mental state of the accused, and that it is restricted to factual findings and does not include legal characterizations.

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<sup>2</sup> **Prosecutor versus Kunarac and others**, case number: IT-96-23-T, Trial Chamber Judgment of 22 February 2000 and Appeals Chamber Judgment of 12 June 2002.

<sup>3</sup> **Prosecutor versus Krnojelac**, case number: IT-97-25-T, Trial Chamber Judgment of 15 March 2002 and Appeals Chamber Judgment of 17 September 2003.

17. The admissibility of a fact as being adjudicated provided the legal presumption of validity of the specific fact. Pursuant to Article 6(2) of the CPC of BiH, the Defense was offered opportunity to present evidence contesting the facts adjudicated at the relevant ICTY trial. The Court did not deny the right of the Defense to contest or give rise to doubt about any fact accepted by the Decision of 5 April 2011.

18. Commenting on the motion by the Prosecution, the Defense objected to the admissibility of some facts listed in the motion.<sup>4</sup> Notwithstanding the presumption of validity of these facts, the Panel did not find them binding. The Panel evaluated the established facts in the light of all evidence presented during the trial, and also in the light of the Accused's guilty plea, and it afterwards rendered its final decision on their relevance for the case.<sup>5</sup> Thus, the Court did not violate the presumption of innocence of the Accused as guaranteed under Article 3(1) of the CPC of BiH and Article 6(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

### **3. Decision on exclusion of the public from a part of the trial**

19. At the main trial held on 12 April 2011, pursuant to Article 235 of the CPC of BiH, the Panel rendered a decision to exclude the public from the main trial during the examination of Prosecution witness under the pseudonym "A1" in order to protect the aggrieved party's personal and intimate life. The defense did not object to the Prosecution's motion to exclude the public.

### **4. Additional protective measures for witness "A1"**

20. At the same trial, upon proposal by the Prosecution, the Panel rendered a decision to grant additional protective measures to the witness under the pseudonym "A1"<sup>6</sup>, pursuant to Article 9 of the Law on the Protection of Witnesses under Threat and Vulnerable Witnesses, which provide for the witness to testify from another room at the Court and be examined using technical means for transferring image and sound. Specifically, just before the testimony of witness "A1", the Prosecutor asked for the public to be excluded in order to reason the introduction of additional

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<sup>4</sup> Defense submission of 30 March 2011.

<sup>5</sup> Only those facts that have been listed in the Reasoning (*See* the Verdict part III-A – General Elements) did the Panel accepted as proven.

<sup>6</sup> Protective measures imposed by the Decision of the Court of BiH number: S1 1 K 002418 10 Krn of 10 December 2010, wherein, pursuant to the Law on the Protection of Witnesses under Threat and Vulnerable Witnesses, all personal details of the witness under the pseudonym "A1" are proclaimed to be confidential and will remain confidential unless otherwise decided by the Court, but not exceeding thirty years, following the day the decision became final.

protective measures for the witness. Consequently, he reasoned at the session closed for the public that the witness was concerned about her safety because she was afraid of the Accused, and even more afraid of his sons. Besides, he noted that the witness still suffered from the severe consequences and that, being in fear for her health, she believed that she could not testify undisturbed if the Accused were present in the same room with her.

21. The Defense objected to the motion that the witness be granted additional protective measures, noting that more than twenty years had passed and that there existed no evidence that the witness had ever received threats or that anyone had attempted to contact her with regard to the referenced event. Considering the circumstances about which the witness was summoned to testify, the Panel found that the witness concerned was severely traumatized, both physically and mentally, with the circumstances under which the criminal offense was committed (Article 3(2) of the Law on the Protection of Witnesses), so, accepting her reasons, it found that she required additional protection from further harassment, which would certainly result from her presence in the same room with the Accused. Furthermore, the Panel accepted the argument of the Prosecutor that there existed a justifiable concern that the presence of the Accused would affect the witness's ability to testify completely and accurately.

22. Throughout the proceedings, the Court was extremely mindful not to disclose the personal information of the protected witness, which has been declared confidential and will not be disclosed in this Verdict either, while the witness shall be addressed by using the pseudonym "A1".

#### **D. EVIDENCE**

23. Upon proposal by the Prosecution, the following witnesses were examined during the evidentiary proceedings prior to entering into the plea agreement: **Hasnija Delić** (wife of killed Vejsil Delić), **Damir Delić** (son of killed Vejsil Delić), **Rukija Dikonja**, **Smail Čaušević**, **Nedo Kovač**, **Zoran Vladičić** and the aggrieved party „A1“. The Prosecution tendered into the case file thirteen written documentary pieces of evidence, as listed in Annex 2 to the Verdict. The presented documentary evidence was neither objected to nor commented on.

24. The defense did not present evidence.

## II. APPLICATION OF

## SUBSTANTIVE LAW

25. First and foremost, the Panel evaluated the issue of substantive law applicable to this specific case. Namely, it follows from the Indictment of the Prosecutor's Office that the offenses as charged were committed from April to August 1992, in which period the Criminal Code of the Socialist Federal Republic of Yugoslavia (CC of SFRY) was in force. Although the CC of SFRY includes a Chapter titled *Crimes against Humanity and International Law*, it does not contain specific provisions on the crimes against humanity.

26. The legal qualification of the criminal offenses stated in the Indictment and, by analogy, in the Verdict as well, is provided pursuant to the 2003 CC of BiH, that is, under the criminal code which was enacted after the referenced period of time, and which, in Article 4, foresees the time constrains regarding applicability, wherein the law that was in effect at the time when the criminal offence was perpetrated shall apply to the perpetrator of the criminal offence, unless the law has been amended on one or more occasions after the criminal offence was perpetrated, in which case the law that is more lenient to the perpetrator shall apply.

27. Article 3 of the CC of BiH stipulates the principle of legality, that is, no punishment or other criminal sanction may be imposed on any person for an act which, prior to being perpetrated, has not been defined as a criminal offence by law or international law, and for which a punishment has not been prescribed by law (*nullum crimen sine lege, nulla poena sine lege*).

28. However, Articles 3 and 4 of this Code shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of international law (Article 4a. of the CC of BiH).

29. The principle of legality is similarly prescribed by the provisions of the European Convention on Human Rights (the Convention). Article 7 of the Convention reads:

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.

30. As explicitly foreseen in Article II(2) of the Constitution of BiH, the rights and freedoms

set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina and shall have priority over all other laws.

31. During the referenced period of time, crimes against humanity were undoubtedly criminal under the “general principles of law recognized by civilized nations”, that is, under the “general principles of international law”. Therefore, although Crimes against Humanity were not explicitly foreseen as a criminal offense under the criminal code that was in force at the time of the commission of the criminal offenses as charged, there still existed the obligation to prosecute them.

32. In that regard, the Court was mindful of the Judgment of the Constitutional Court of BiH, number AP-1785-06 (A. Maktouf) which clearly finds that war crimes are “crimes according to international law”, so that the convictions for such offences, under the law which subsequently defined and determined certain acts as criminal and stipulated criminal sanctions, would not breach Article 7(1) of the European Convention and, by analogy, the Constitution of BiH.

33. Furthermore, with regard to the sanctions, the CC of SFRY did not stipulate long-term or life imprisonment, instead it stipulated death penalty in case of the most serious crimes and a 15 year maximum sentence in case of less serious crimes. By the abolition of death penalty, the overall sentencing system as stipulated in the CC of SFRY became inapplicable, because, as noted by the foregoing decision of the Constitutional Court of BiH, “a sanction cannot be separated from the totality of goals sought to be achieved by the criminal policy at the time of application of the law.”

34. Pursuant to the foregoing, the Panel found it necessary and justifiable to apply the Criminal Code of BiH.

### **III. COURT FINDINGS**

35. By the plea agreement, the Accused pled guilty of all criminal offenses, that is, to the criminal offense as charged by the Prosecutor’s Office of BiH. The Court was obliged to evaluate the validity of that guilty plea, which was done indeed, and to also verify if there is sufficient evidence on the Accused’s guilt.

36. The Panel presented its findings in a short factual and legal analysis comprising an analysis of a general element of the offense of *Crimes against Humanity* in violation of Article 172

of the CC of BiH, that is, the analysis of a widespread and systematic attack directed against civilians, being an objective requirement for incrimination, the analysis of the essential elements of the criminal offense, that is, the acts of *murder, rape and inhumane treatment*, and the analysis of the guilt on the part of the Accused, that is, his *mens rea*.

#### A. GENERAL ELEMENT OF THE CRIMINAL OFFENSE

##### CRIMES AGAINST HUMANITY IN VIOLATION OF ARTICLE 172 OF THE CC OF BiH

37. Analyzing the referenced criminal offenses, the Panel proceeded from the essential elements of the criminal offence the Accused has been charged with. Apart from proving the acts the Accused Novica Tripković committed as charged and his *mens rea tempore criminis*, in order for his acts to be qualified as the criminal offense of Crimes against Humanity, the Court had to evaluate if there existed sufficient evidence on their being part of a widespread and systematic attack directed against civilians, and also whether the Accused had the knowledge of a wider context in which his acts were committed and whether he knew that his acts constituted part of that attack. Therefore, the Panel shall find if, apart from the Accused's guilty plea, there exists sufficient evidence to prove that this objective requirement for incrimination under Article 172 of the CC of BiH has been satisfied.

#### 1. Widespread and systematic attack

38. In the context of this criminal offense, "attack" is defined as "a course of conduct involving the commission of acts of violence".<sup>7</sup> According to the CC of BiH, "attack" is a "commission of multiple offenses under Article 172(1) of the CC of BiH", that is, the perpetration of multiple offenses such as murder, extermination, enslavement, deportation, persecution, etc. The Panel notes that "in the context of crimes against humanity, the phrase 'attack' is not limited to the use of armed force; it also encompasses any mistreatment of the civilian population".<sup>8</sup> As reasoned in the text below, the Panel found that the attack against civilians was combined, that is, it was a predominantly military attack, which resulted in the massive exodus of the Bosniak population and excessive destruction of property and religious facilities, and was followed by an attack against the population that remained in the town and its surrounding area, a characteristic of which were

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<sup>7</sup> *Blagojević and Jokić* (Trial Chamber Judgment), 17 January 2005, para. 543.

<sup>8</sup> *Vasiljević* (Trial Chamber Judgment), 29 November 2002, para. 29 and 30.

massive illegal detentions of civilian Bosniaks, sexual violence against women, killings, beatings and their forced transfer.

39. In considering the wider context of the situation in the area of the Foča municipality, the Panel was mindful of the facts adjudicated in the proceedings before the ICTY and accepted at this trial. According to the 1991 census, the population of Foča consisted of 40,513 persons; 51.6% were Muslims, 45.3% Serbs and 3.1% of other ethnicities.<sup>9</sup> Although ethnically mixed, individual neighborhoods in Foča or the villages in the municipality could be identified as predominantly Muslim or Serb areas.<sup>10</sup> Before the armed conflict started, Muslim civilians were removed from the social and professional life, their salaries remained unpaid or they were told that their services were no longer needed.<sup>11</sup> Their complete ostracism soon followed, with their freedom to move about and to gather critically curtailed.<sup>12</sup> The SDS political propaganda grew more aggressive, and the outbursts of violence and house-burning more frequent.<sup>13</sup> The Serbs formed a separate local political structure, the Serb Municipal Assembly of Foča, and both groups established Crisis Staffs along ethnic lines.<sup>14</sup>

40. In April and May 1992, Muslims stayed in apartments in Foča under virtual house arrest, either in hiding or at the order of Serb soldiers.<sup>15</sup> This fact was also corroborated by female witnesses Rukija Dikonja and Hasnija Delić, and by witness Salem Čaušević, who lived in the settlement of Donje Polje in Foča at that time.

41. The Panel accepted and, in relation to the testimony of the examined witnesses, it also found the fact to be established that, on 8 April 1992, an armed conflict between the Serb and Muslim forces broke out in Foča.<sup>16</sup> It has been established in the criminal proceedings conducted before the ICTY that, sometime between 8.30 and 10.00 am that day, the main Serb attack on Foča town began, with a combination of infantry fire and shelling from artillery weapons in nearby Kalinovik and Miljevina. Serb forces included local soldiers as well as soldiers from Montenegro and Yugoslavia, and in particular a paramilitary formation known as the White Eagles. Most of the

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<sup>9</sup> Adjudicated fact 20 (*see* Annex I).

<sup>10</sup> Adjudicated fact 21.

<sup>11</sup> Adjudicated fact 3.

<sup>12</sup> Adjudicated fact 5.

<sup>13</sup> Adjudicated fact 6.

<sup>14</sup> Adjudicated fact 29, 30 and 31.

<sup>15</sup> Adjudicated fact 51.

<sup>16</sup> Adjudicated fact 1.

shooting and shelling was directed at predominantly Muslim neighborhoods, in particular Donje Polje, but the Serbs also attacked mixed neighborhoods such as Čohodor Mahala. The military attack resulted in large numbers of wounded civilians, most of them Muslims.<sup>17</sup>

42. Witness “A1”<sup>18</sup> testified that, on 14 April 1992, her family house in the settlement of Donje Polje was hit with a shell, on which occasion she was wounded in her right upper arm and the right hip, after which an ambulance transported her to the hospital. She spent fifteen days in the hospital, during which period she watched through the window arson and destruction of buildings, and she also saw Muslim houses on fire.

43. Witness Salem Čaušević,<sup>19</sup> who lived with his blind and ill mother in the family house in the settlement of Donje Polje, states that the shelling lasted for about ten days and that shells were launched from Bakići and Duba, and the witness believes that the Serb army were the ones who most likely shelled them. He states that the settlements of Donje Polje and Šukavac were shelled and that the inhabitants were hiding in the basements. After ten days of shelling, the Bosniak population left Foča on a massive-scale during the night, and set off towards Goražde. Then the shelling intensified and lasted for three nights. All houses were on fire and then soldiers began to descend down the hill. It has been established in the ICTY trials that Foča town fell to the Serbs somewhere between 15 and 18 April 1992, with many of the Muslims who had remained during the fighting fleeing at that time.<sup>20</sup>

44. After the Serb take-over of Foča and its environs, there was a noticeable presence of Serb soldiers and Serb paramilitary formations. Immediately after the Serb take-over, restrictions were imposed on the non-Serb inhabitants. Muslims were referred to by Serb soldiers by the derogatory term “balija”, and cursed when being arrested.<sup>21</sup> This is also described by the witness Salem Čaušević according to whom about twenty soldiers came down to Donje Polje shouting: “Balijas, surrender!”. The witness states that he stepped out of the house and surrendered and that they were afterwards detained in the house of his neighbor Neđo Kovač, after which the soldiers left.

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<sup>17</sup> Adjudicated fact 29.

<sup>18</sup> Transcript, 12 April 2011 Trial.

<sup>19</sup> Transcript, 30 March 2011 Trial.

<sup>20</sup> Adjudicated fact 34.

<sup>21</sup> Adjudicated facts 47 and 48.

45. Witness Nedo Kovač<sup>22</sup> states that shells were launched from both sides and that, before that, Muslims had begun to organize “nightwatch”. Shelling took place at night, while during the day Muslims used to come to his shop to buy stuff and everything was normal until the army arrived.

46. Once towns and villages were securely in their hands, the Serb forces – the military, the police, the paramilitaries and, sometimes, even Serb villagers – applied the same pattern: Muslim houses and apartments were systematically ransacked or burnt down, Muslim villagers were rounded up or captured, and sometimes beaten or killed in the process.<sup>23</sup> Salem Čaušević testified that one of his three brothers, who was a professor, was killed while the other two brothers went to the Foča hospital in the night when the exodus of the Bosniak population began. The illegal arrest and imprisonment of non-Serb male civilians was carried out on a massive scale and in a systematic way. Hundreds of Muslim men, as well as a few other non-Serb civilians, were detained at the KP Dom without being charged with any crime.<sup>24</sup> The bodies of civilians were seen floating in the Drina River. KP Dom detainees who were assigned to work duty at the riverbank were made to push bodies downstream using planks and sticks.<sup>25</sup>

47. Female witnesses Rukija Dikonja and Hasnija Delić, and witness Damir Delić state that they initially were hiding in the basement as they could not get out due to the shelling. When the soldiers arrived, they lined them up and took them to the *Zelengora* hotel where they stayed for about three days but were released and returned to the settlement of Donje Polje.

48. Following the successful military take-over of Foča, the attack against the non-Serb civilian population continued.<sup>26</sup> Muslim businesses were looted or burned, or had equipment confiscated.<sup>27</sup> During the attack, neighborhoods were destroyed systematically. Muslim houses were set ablaze by Serb soldiers during the battle for control of the town as well as after the town had been secured.<sup>28</sup> Donje Polje, the largely Muslim neighborhood of Šukovac, and Muslim houses in

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<sup>22</sup> Trial Transcript, 6 April 2011.

<sup>23</sup> Adjudicated fact 7.

<sup>24</sup> Adjudicated fact 71.

<sup>25</sup> Adjudicated fact 69.

<sup>26</sup> Adjudicated fact 35.

<sup>27</sup> Adjudicated fact 58.

<sup>28</sup> Adjudicated fact 59.

Kamerica and in Granovski Sokak were burned.<sup>29</sup> All the mosques in Foča were destroyed and all traces of Muslim presence and culture were wiped out of the area of Foča.<sup>30</sup>

49. It has been established in the ICTY proceedings that in May 1992 buses were organized to take civilians out of town, and at around 13 August 1992 the remaining Muslims in Foča, mostly women and children, were taken away to Rožaje, Montenegro.<sup>31</sup> The witnesses who testified at this trial also left Foča in this manner. After all the things she experienced, witness “A1” explained that she only tried to find a way to get out of “*that damned Foča*” with her children, and that she managed to board the bus and leave for Montenegro and Macedonia.

50. The referenced facts clearly indicate the pattern of behavior towards Bosniak civilians and their property, and towards religious buildings throughout the territory of the Municipality of Foča and the surrounding area.

51. The phrase “widespread” refers to the large-scale nature of the attack and the number of victims, while the phrase “systematic” refers to “the organized nature of the acts of violence and the improbability of their random occurrence.”<sup>32</sup>

52. In order to define the character of the attack against civilians, that is, if the attack was “widespread” or “systematic” (not mutually exclusive), the Panel weighed the consequences of the attack launched against the targeted civilians, the number of victims, the nature of the offense and the recognizable pattern of crimes (killings, rape, sexual slavery, unlawful imprisonment, beating, arson, setting fire on the religious facilities, etc.)

53. Having applied these criteria on the state of facts established above, the Panel found that, between May 1992 and September 1992, a widespread attack against the inhabitants of the Municipality of Foča was launched by the Bosnian Serb military and police forces and paramilitary formations. The Panel found that the attack was widespread based on the facts indicating that it was launched against the population and property in the town itself and also in the neighboring villages, such as the village of Paunci,<sup>33</sup> Pilipovići, Ustikolina,<sup>34</sup> Mješaja and Trošanj,<sup>35</sup> and also in the distant

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<sup>29</sup> Adjudicated fact 60.

<sup>30</sup> Adjudicated facts 14 and 16.

<sup>31</sup> Adjudicated fact 73.

<sup>32</sup> Trial Judgement in *Tadić*, para. 648., Appeals Judgement in *Kunarac et al*, para. 94.

<sup>33</sup> Adjudicated fact 43.

<sup>34</sup> Adjudicated fact 44.

villages of Miljevina and Jeleč.<sup>36</sup> This undoubtedly highlights the fact that the attack was widespread in nature, and that it indisputably resulted in a large number of victims and a large-scale destruction of property.

54. No doubt that the described attack was systematic as well, considering the applied pattern of crime as stated above.

## **2. The attack target – Bosniak civilians of the Municipality of Foča**

55. An attack cannot consist of an autonomous action, but of a manner of acting, while the term “directed against” is an expression which “specifies that the civilian population is the primary object of the attack.”<sup>37</sup> The massive scale of civilian victims and the level of destruction of the civilian buildings in Foča and its surrounding area was such that there is no possibility for any other conclusion except that the attack targeted the civilian population.

56. The protected value under Article 172 of the CC of BiH refers to “any” civilian population. However, pursuant to the presented evidence, correlated with the accepted facts adjudicated in the proceedings before ICTY, the Trial Panel finds that the attack was directed against the Bosniak population of the Municipality of Foča.

57. Based on the testimony of the examined witnesses, the Panel found beyond any doubt that, at the time of the Accused's direct attack, the aggrieved party Vejsil Delić whom the Accused deprived of life, and the aggrieved party “A1” against whom the Accused committed the acts of sexual violence and inhumane treatment, were civilians.

## **3. The Accused had knowledge of the attack and his acts were part of the attack (nexus)**

58. The Prosecution presented the facts charging the Accused with having forced the aggrieved party “A1” into sexual intercourse and ill-treated her physically and mentally, and with having deprived the civilian Vejsil Delić of life, which are the facts the Accused admitted. However, apart from the subjective attitude of the perpetrator towards the act underlying the crime, the Panel had to find that the Accused had the knowledge, that he was aware of the fact that the acts

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<sup>35</sup> Adjudicated fact 46, 68.

<sup>36</sup> Adjudicated fact 38-42.

<sup>37</sup> Appeals Judgment in *Kunarac et al*, para. 91.

and offenses were committed during the attack against a civilian population (whereby he should not necessarily be aware of the attack details), and that he was aware that his acts constituted part of that attack or, at least, that he accepted “the risk that his acts become part of the attack”.<sup>38</sup>

59. To this end, a causal connection between the attack and the perpetration of the crime is not required, but it is required though that the existence of the conflict or the attack considerably affected the ability of the perpetrator to commit the crime, his decision to commit it, and the manner in which it was committed.

60. The presented evidence corroborated the argument of the Indictment that, at the time as charged, Novica Tripković was a member of the armed forces of the Serb Republic of Bosnia and Herzegovina. The Panel drew such a conclusion pursuant to Exhibit T-11<sup>39</sup> and the testimony of the examined witnesses for the Prosecution who testified that, when taking the actions as stated in the operative part of the Verdict, the Accused wore military uniform and was armed.

61. The atmosphere of fear and hopelessness, large-scale killings of Bosniak civilians and rape of women undoubtedly contributed to and influenced the capability of the Accused, who took advantage of this atmosphere and perpetrated the actions as described in the operative part of the Verdict. An ongoing attack against civilian population undoubtedly made the Accused feel that his actions within that attack were legitimate and desirable and, therefore, without any fear from a possible punishment and indeed with the intent to give his personal contribution to the attack against the Bosniak civilian population, he attacked the aggrieved party Vejsil Delić and „A1“. It follows from the testimony of all examined witnesses that the Accused took the criminal actions on several occasions publicly, openly and without hiding his identity, and that he “chased” the aggrieved party ”A1” down the Foča streets and threatened her. On one of such occasions, he killed in cold blood the civilian Vejsil Delić who, according to his son and wife, had never had any disputes with the Accused. Pursuant to the testimony of the examined witnesses, the Court found that, on the critical occasion, the aggrieved party Vejsil Delić was killed for being a Bosniak, and the Accused believed that he was hiding the aggrieved party “A1” in his house. The Court is satisfied that the Accused shot the aggrieved party in the head with his pistol only or at least

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<sup>38</sup> Appeals Judgment in *Kunarac* and others, para. 91.

<sup>39</sup> Certificate of the Foča Municipality General Administration Department, number: 04-835-1-158/10 of 7 December 2010.

predominantly because of the fact that he was a Bosniak, and that the killing, raping, detention, persecution and ill-treatment of Bosniaks were daily and usual incidents in Foča at that time.

62. For the same reasons, the Accused committed the criminal actions against the aggrieved party “A1”, being guided with the knowledge that she was a Bosniak woman, alone in the house with two underage children, and that, due to previously sustained injuries caused by shelling and the developments in the town of Foča, her mental state was extremely difficult and sensitive, and she had no protection at all.

#### **4. Conclusion**

63. The Trial Panel is satisfied that, during the period covered by the Indictment, in the territory of the Municipality of Foča, the Serb forces launched a widespread and systematic attack against the Muslim civilian population, and that the Accused Novica Tripković, beyond doubt, knew that such an attack was underway and that the actions he took were undoubtedly part of the attack, that is, there was a nexus between the attack and his actions against the aggrieved parties (killing, rape and inhumane treatment), wherein the attack considerably influenced his ability to commit the crime in the first place and his decision to commit it in the manner as described in the operative part of the Verdict.

### **B. THE UNDERLYING OFFENSE**

#### **1. Rape and inhumane treatment (sections 1a and 1b of the operative part of the Verdict)**

64. As for the very act of perpetration under Counts 1a and 1b of the Indictment, the charges were entirely grounded on the testimony of witness “A1” who testified that, in 1992, she lived in Foča with her husband and three children. At the time of the attack, her husband and one of her daughters were in another place. Due to being wounded, the witness spent fifteen days in the Foča hospital, and her son and daughter were with her. She left the hospital on the eve of the 1<sup>st</sup> of May and came across a man who introduced himself as Vojvoda (Duke) Mišić, whom she knew by sight. The witness states that he was bearded, looked terrifying and had a Yugoslav flag.

65. While describing the appearance of that man from before the war, the witness states that she used to see him before on the street and, considering that her brother-in-law worked in the KP Dom (Correctional Facility) Foča, she knew that the man had previously served his sentence in the KP Dom Foča and that he was married to one Zora, who worked as a hospital cleaning lady. Before

the war, he did not have beard and was black- haired and of medium height, and she knew that his name was Novica Tripković.

(a) Section 1a) of the operative part of the Verdict

66. The witness stated that, upon her discharge from the hospital, Novica Tripković attempted to break open the door of her brother-in-law's flat on the second floor in the same house in which she lived. Then he said to her that he would protect her and her children and, the same evening, he came to her door and she opened as she did not expect anything bad to happen. He brought three liters of wine with him and he put them on the kitchen table and then asked her to fetch a needle, which she did, and then he pierced "his finger with a point and without a nail" forcing her to drink the blood gushing from his finger, telling her that they would become brother and sister in blood. The witness stated that her son was sleeping, while her daughter was awoken and was with her when the Accused started to "pull and kiss her" by force and, as her daughter did not know what was going on, she said that she would tell her father everything. After her daughter fell asleep, the witness stated that the Accused forced her to drink alcohol as well, although she had never consumed alcohol before. She wore a tracksuit, top and bottoms, and the Accused forced her to undress, threatening to "*slaughter all of them*" and not to say anything to anyone. Then he unzipped his trousers and raped her on the kitchen floor, between the working top and the kitchen table, which was followed by his words that "*he had never raped a better Balija woman before*". Then he went to the bathroom and laid on the couch and fell asleep. When he woke up, he threatened her not to say anything to anyone or otherwise he would slit her throat. Because of this threat, she did not dare report the event to the police nor did she tell her friends and neighbors anything of what had happened.

(b) Section 1b) of the operative part of the Verdict

67. The witness further states that, after this event, she received in her house her neighbor Šeća whose house was burned down. Several days later, in the evening hours, Novica Tripković came in front of her house and knocked on the door. After she opened the door, he said: "*What is Šeća doing here?*" He began to abuse them, pulled out his pistol and then a knife saying that he brought six other men to slaughter her. Her neighbor Šeća cried: "For the love of your Jovan, don't slaughter her". The witness described that the Accused was punching and slapping her in the face in the same room in which her neighbor Šeća and her son were, with her son having just woken up and

asked him why he was harassing his mamma. Then the Accused left and told her to lock the door. In the morning, her cheeks were black and blue from the blows she had received.

68. One week later, according to the witness, the Accused passed by on the street threatening her, and he came in front of her house and broke the door locks with the rifle butt as she did not want to open the door. He carried a wooden pole and “forced” her against the working top, but she pushed him away using an iron stick. He fell over the stove and the aggrieved party rushed from the house, and so did her daughter who ran away to their neighbor Vejsil, while Šeća and the witness’s son stayed in the house.

69. Other witnesses did not have any knowledge about the intercourse and what had happened between the Accused and the aggrieved party, except for the witness Hasnija Delić who testified that, before her husband Vejsil Delić was killed, the aggrieved party “A1” occasionally visited their place to chat over a cup of coffee, on which occasions she told them that someone had been harassing her, but she did not mention the rape itself. However, the rumors reached her through other persons. Witness Salem Čaušević stated that “he was not interested in that” but, on one occasion when the shelling ceased, the Accused came to his place asking for cigarettes and then he said to him that he had visited the aggrieved party “A1” and “put some nylon on the windows of her house”.

70. The statements of these witnesses are entirely consistent with the part of the testimony of the aggrieved party “A1” in which she described the event of 24 June when she was running away from the Accused who chased her, and when Vejsil Delić was killed. Therefore, having evaluated the testimony of this witness in its entirety, the Panel found it to be credible and reliable.

71. The Prosecution tendered into the case file the Forensic-Psychiatric Report<sup>40</sup> which states that ....

(c) **Conclusion**

72. The Court found that, in addition to the Accused’s guilty plea, there also exists ample evidence that, at the time and in a manner as described in the operative part of the Verdict, the Accused Novica Tripković, coerced the aggrieved party “A1” into sexual intercourse *by threat of*

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<sup>40</sup> Exhibit T-8 – Forensic-Psychiatric Report, Head Doctor Senadin-Ljubović, of 5 June 2008

*immediate attack upon her life or limb.* It follows from the testimony of the aggrieved party that the Accused took the action without her consent, which resulted in the injury of her physical and mental integrity, and her personal dignity, due to which the aggrieved party suffers from severe mental trauma and anguish.

73. During the identification of the Accused as a person who committed the criminal acts against her, the witness's testimony did not leave any room for doubt, considering that she provided sufficient information on the appearance and characteristic features of that person, which information matches the description and the features of the Accused and is consistent with the description provided by other witnesses. All witnesses, including the aggrieved party, knew him from before. Apart from the fact that she herself recognized him, the aggrieved party also stated that her neighbor Neđo Kovač addressed him by the name of Novica during his breaking and entering the flat at the upper floor of the house.

74. The testimony of the aggrieved party is reliable concerning the fact that she did not consent to sexual intercourse and, as reasoned above, such testimony is consistent with the facts that, at the time of the perpetration of the offense, the Accused came to the house of the aggrieved party under arms and said to her that other soldiers were around the house, that he committed the crime during the night, in a house without electricity or other lighting except for a candle, that he knew that the aggrieved party was alone with her two underage children and that her husband was not in Foča (which he found out earlier that day when he attempted to break open the door at her brother-in-law's flat).

75. When viewed in the light of the fact that the aggrieved party was aware that, due to the attack on the Bosniak population, there remained almost no Bosniaks in the Donje Polje settlement in Foča at that time, and that life and physical integrity of those who stayed in the town were constantly jeopardized and that she could not escape from the house because "*there was shooting around and the houses were ablaze*", the only possible conclusion is that the threat by the Accused that "*he would slaughter everyone in the house*" justifiably caused the aggrieved party to fear for her life and the lives of her two underage children. The Panel found that the Accused committed the offense on a discriminatory ground, using abusing language directed against her religion and ethnicity, knowing that the aggrieved party was a Bosniak and that the attack on the Bosniak civilian population of the Municipality of Foča was underway, and intending the actions he was taking against the aggrieved party to be part of and contribute to the attack.

76. The Court was satisfied that, along with the guilty plea by the Accused, there existed ample evidence that the Accused Novica Tripković had committed the actions as described and punishable under Article 172(1)(g) of the CC of BiH (rape).

77. Likewise, the Court found that, in the manner as the aggrieved party “A1” described, the Accused threatened to slit her throat on one of the occasions when he came to her house, and that he slapped her in the head several times and her “cheeks were black and blue” as a consequence, that he mentally abused her on several occasions in the presence of her children using abusive language, and that all actions against the aggrieved party he undertook with the *intent to violate the health* of the aggrieved party, whose condition was already considerably deteriorated due to being wounded with shell fragments and *with the intent to inflict serious mental injuries* upon her.

78. The Panel was satisfied that, along with the Accused’s guilty plea, there existed ample evidence that the Accused Novica Tripković undertook the actions described and punishable under Article 172(1)(k) of the CC of BiH (other inhumane acts).

## **2. Killing of Vejsil Delić (Section 2 of the Operative Part of the Verdict)**

79. Those who eye-witnessed the referenced event in the settlement of Donje Polje, on which occasion civilian Vejsil Delić was killed, were his wife Hasnija Delić and his neighbor Salem Čaušević. Other examined witnesses were in the close vicinity, but not on the spot. However, these witnesses as well possessed information important for determination of the state of facts concerning the relevant event.

80. Witness **Salem Čaušević** states that, in the month of July, he was in the house with his mother who was .... Considering the situation in Foča and the settlement of Donje Polje, he spent whole days going from one window to another watching the developments. As for the referenced event, he states that he was in the room facing the house of Bećir Dikonja, when he heard Nole (whom he identified as the Accused) going down the street and singing. After he heard the uproar, he saw Rukija and Ibro jumping through the window of Bećir Dikonja's house, on which occasion Ibro sustained a sprained foot, and he also saw “A1” in tears, running extremely fast through the garden of Ibro Krkalić. Then he saw Novica running after her and yelling: “*Whore.....you cannot outrun me*”. He wore a camouflage uniform and had two ammunition belts and a grenade. While going through Ibro’s garden, he called Vejsil out shouting: “*You are hiding her, get out*”. Vejsil got out and they met on the street and Vejsil said: “*She is not at my place*”. Since all windows were

broken, the witness claims that he could hear everything and that he saw Novica raising his hand in which he had a pistol which he waived around saying: “*Why are you lying to me?*” and he shot once next to Vejsil’s head, then he shot Vejsil in the head and he fell down immediately. Just before that, he shouted to the neighbors Neđo Kovač and Milka Kovač: “*Two crosses cannot live together*”.

81. The aggrieved party, witness **Hasnija Delić**, stated that, on the referenced day, on 24 June 1992, she was washing dishes when she spotted a woman who ran by and a child who was screaming and crying while following her. At that point in time the witness did not recognize her, but found out later on that it was witness “A1” who lived in the neighborhood and who used to visit them to have a cup of coffee with them. Her sister-in-law Rukija Dikonja, wife of her brother Ibro Dikonja, came to the door running and screaming: “*My Ibro got killed*”. The witness rushed from the house looking for her children and, on her way out of the yard, a man with a black scarf and a pointed pistol jumped out in front of her, cursed at God and said: “*As you are hiding her during the night, you will not hide her during the day*”. Her husband Vejsil came out with his hands up, then that man shot him in the head. She did not know the man and, later on, her brother told her that it was Novica Tripković who had done that.

82. Witness **Damir Delić**<sup>41</sup> states that, on 24 June 1992, he was in the house of his cousin Bećir Dikonja together with his uncle Ibro, aunt Rukija and their son Elvir, when he heard a shot. He opened the door and saw Novica Tripković. He got frightened because Novica was armed, slammed the door, jumped through the window and began to run towards his house, and his cousin Elvir followed him running. He reached the lower side of his house and climbed on the balcony. Shots were heard from the outer part of the frontyard, everybody was looking at the frontyard and someone shouted: “*There, they killed the uncle.*” He and Elvir started running again and they were fleeing until they reached a flat in which a woman treated his cuts. When they came back home, he found there his cousins, his uncle Ibro was lying on the bed and his mother was crying, his father was absent. When he got out, he saw his father lying, covered with a blanket and with an entry-and-exit wound on his forehead. Later on, their neighbors Neđo and Branko arrived and helped him to bury his father’s body in the courtyard of the mosque.

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<sup>41</sup> Transcript, 23 March 2011 Trial.

83. His testimony is entirely consistent with the testimony of witness **Rukija Dikonja** who states that she, her husband Ibro, daughter, son Elvir and cousin Damir were in the house of Bećir Dikonja, when the children shouted: *“Here comes Novica.”* They all jumped out through the window, on which occasion her husband broke his leg. Elvir and Damir ran away and an armed man wearing something around his head approached and told her not to run away as he would not injure her. She ran through Vejsil’s yard towards the basement in which Vejsil, Hasnija and her two elder sons, as well as Ejub Musić, were. She heard someone shouting: *“As you are hiding her during the night, you will not hide her during the day....”* and *“Two crosses cannot .....”*. The witness shouted that Ibro got killed, then Vejsil and Hasnija came out, and Vejsil said: *“Why are you scared? It is Novica and he will do us no harm.”* Then Vejsil and Hasnija stepped on the street and a shot was heard.

84. Witness “**A1**” testifies that, on 24 June 1992, she was sweeping the area in front of her house in which her children and her neighbor Šeća were, when Novica Tripković came along and cursed her “Ustasha’s mother” from the gate and said: *“You will not push me away with a pole now. I shall kill you”*. He had on his head some hairy cap from which something was hanging and was uniformed and armed with a rifle. She started running away below the house and he went to the house of Bećir Dikonja looking for her. She was running towards the KP Dom with her little son who was crying all the way, and she came across Vejsil and Rukija’s children and her daughter, and they told her to flee. On her way back later on, she met her schoolmate Jovan Ivanović who told her that he had just conducted an on-site investigation, after which she saw Vejsil’s dead body covered with a blanket next to his gate.

85. Mortal remains of the victim Vejsil Delić were exhumed in 2001 from the Musluk mosque locality in the territory of the Municipality of Foča. The autopsy established that the death was violent and caused directly because of a head injury inflicted by firearm projectiles.<sup>42</sup>

(a) **Conclusion**

86. In evaluating the testimonies of these witnesses in connection with each other, the Court finds that they are more or less consistent concerning the key details, and the Panel attributes the minor discrepancies in their testimonies to the period of time lapsed from the referenced event and

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<sup>42</sup> Set of evidence under T-9.

the age of the witnesses, considering that some of them were children at the that time<sup>43</sup>, while the others who testified before the Trial Panel were in their advanced age<sup>44</sup>, or their physical and mental health condition<sup>45</sup> considerably deteriorated so that they were unable to interpret their memories in a sufficiently accurate manner, nor could they remember all of the details.

87. The Court finds that the testimonies are not contradictory either in isolation or in connection with each other, and that they, the testimony of witness Salem Čaušević in particular, due to being clear and unambiguous, do not leave any room for doubt about the identity of the Accused, being a person whom they had known from before and who, on 24 June 1992, in the Foča settlement of Donje Polje, chased the aggrieved party “A1” who was running together with her underage child, and that he, upon arriving in front of the house of Vejsil Delić, waived his pistol around shouting and that, at one point in time, he raised the pistol and fired a bullet into the head of the victim.

88. By this act, the Accused inflicted on the aggrieved party an injury in a form of ...<sup>46</sup>, causing death of the victim Vejsil Delić and by which action he satisfied the elements of the criminal offense in violation of Article 172(1)(a) of the CC of BiH (murder).

### **C. GUILT OF THE ACCUSED**

89. The Court is satisfied that there exist sufficient evidence that, along with the Accused’s guilty plea, leads to the conclusion that the Accused perpetrated all of the criminal offenses with direct intent, as he was aware of his offense and was willing to commit it. In rendering such a conclusion, the Court was mindful of the persistence of the Accused in abusing and persecuting the aggrieved party “A1”, and the fact that he killed Vejsil Delić in cold blood.

90. Having evaluated all of the stated circumstances, the Court found that the actions taken by the Accused comprised all essential elements of the criminal offence of Crimes against Humanity in violation of Article 172(1)(a), (g) and (k) of the CC of BiH in conjunction with Article 180(1) of the CC of BiH.

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<sup>43</sup> Witness Damir Delić was 14.

<sup>44</sup> Witness Hasnija Delić was born in 1938.

#### IV. SENTENCING

91. At the trial to pronounce a sentence as stipulated under the provisions on the plea agreement, the parties stated that they adhered to the Guilty Plea Agreement in its entirety, and presented the extenuating and aggravating circumstances that could affect the meting out of punishment. The Accused expressed his remorse for the crimes he had committed and apologized to the families of the victims.

92. Having evaluated all of the circumstances on the part of the Accused (both aggravating and extenuating) and the framework range of punishment under the Guilty Plea Agreement entered into, for the criminal offense of Crimes against Humanity in violation of Article 172(1)(a), (g) and (k) in conjunction with Article 180(1) of the Criminal Code of Bosnia and Herzegovina, the Court sentenced the Accused to a prison sentence of 8 (eight) years.

93. In meting out the punishment, upon the sentencing trial, the Court was mindful of the gravity of the criminal offense of which the Accused pled guilty, and the fact that he had had previous criminal record, and it also weighed extenuating circumstances on the part of the Accused. The Accused's guilty plea and his sincere regret constitute extenuating circumstances. The Panel primarily holds that his pleading guilty is considerably important as a humane gesture and from the aspect of the consequences for the victims of the crime. This is particularly so as the Accused pleaded guilty in a manner and under the circumstances that indicate his unreserved assumption of his personal responsibility, which certainly may be a sign of his sincere regret. The Panel evaluates that pleading guilty by the Accused and his conduct after the events as charged show his sincere regret. The Panel is of the view that his pleading guilty and regret could positively influence the rehabilitation of the victims of the committed crimes and their wider community, and the general acceptance of the facts concerning these crimes.

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<sup>45</sup> During the testimony of witness Rukija Dikonja, the trial was adjourned on several occasions to provide her with medical assistance.

<sup>46</sup> Set of evidence under T-9.

94. Thus, the Court finds his pleading guilty of the criminal offense in the context of the foregoing facts and his sincere regret to be highly extenuating circumstances, and it therefore applied the provisions on a lesser punishment as stipulated in Article 49(b) of the CC of BiH.

95. The Court was also mindful of other extenuating circumstances, that is, the fact that the Accused is in the seventh decade of his life, that the expert evaluation found him to be of poor health, and the fact that he is a father of three children and that he behaved properly during the trial.

96. The Court is satisfied that the purpose of the punishment provided in Article 39 of the CC of BiH will be attained and that it will influence the Accused not to commit the criminal offenses in the future and to deter others from perpetrating criminal offenses. The Panel finds this punishment to be adequate and proportional to the gravity of the offense and the degree of the criminal responsibility of the Accused.

97. The Accused has been in custody since 6 December 2010 and, pursuant to the application of the legal regulations under Article 56(1) of the CC of BiH, the time the Accused spent in custody shall be credited towards the imposed sentence of imprisonment.

## **V. DECISION ON COSTS**

98. The Accused Novica Tripković has been warned of the consequence of entering into the Guilty Plea Agreement pertaining to the obligation to reimburse the costs of the criminal proceedings. However, he moved the Court, in case the Agreement is granted, to relieve him entirely of the duty to reimburse the costs due to his adverse financial situation and his incapability of reimbursing them. The Prosecutor also supported the motion. The Court decided for the costs of the proceedings to be paid from the budget appropriations pursuant to Article 188(4) of the CPC of BiH, bearing in mind that the Accused was unemployed and indigent and that the reimbursement would jeopardize his self-support and the support of others he might potentially have a duty to support.

## **VI. DECISION ON CLAIMS UNDER PROPERTY LAW**

99. Pursuant to Article 198(2) of the CPC of BiH the Court instructed the aggrieved parties to pursue their claims under property law in civil proceeding given the fact that data gathered during these proceedings did not provide a reliable ground to the Panel either for complete or partial adjudication and also having in mind the fact that the aggrieved parties themselves proposed to pursue their claims in civil proceedings.

**Record taker:**

**PRESIDING JUDGE**

**JUDGE**

**Sabina Hota Ćatović**

**Šaban Maksumić**

*[signature affixed]*

*[signature and stamp affixed]*

**LEGAL REMEDY:** This Verdict may be appealed with the Panel of the Appellate Division of the Court within 15 days after the receipt thereof. Since the Verdict was delivered based on the Guilty Plea Agreement, no Appeal lies from the sentence.

## VII. ANNEX 1

| NO. OF<br>AF <sup>47</sup> | ACCEPTED FACT ESTABLISHED BY THE<br>LEGALLY BINDING ICTY JUDGMENT <sup>48</sup>  | PARAGRAPH<br>FROM THE<br>ICTY<br>JUDGMENT | FACT NO.<br>IN THE<br>MOTION |
|----------------------------|--|---|------------------------------|
| 1.                         | On 8 April 1992, an armed conflict between the Serb and Muslim forces broke out in Foča.   | Kunarac-567                               | 1                            |
| 2.                         | It took a week for the Serb forces to secure Foča town and about ten more days for them to be in complete control of Foča municipality.  | Kunarac-567                               | 2                            |
| 3.                         | Before the armed conflict started, Muslim civilians were removed from their social and professional lives, their salaries remained unpaid or they were told that their services were no longer needed.   | Kunarac-571                               | 3                            |
| 4.                         | Most Muslim men were disarmed  | Kunarac-571                               | 4                            |
| 5.                         | Complete ostracism of Muslims soon followed with their freedom to move about and to gather critically curtailed.   | Kunarac-571                               | 5                            |
| 6.                         | The SDS political propaganda grew more aggressive and the outbursts of violence and house-burning more frequent.   | Kunarac-572                               | 6                            |
| 7.                         | Once towns and villages were securely in their hands, the Serb forces - the military, the police, the paramilitaries and, sometimes, even Serb villagers – applied the same pattern: Muslim houses and apartments were systematically ransacked or burnt down, Muslim villagers were rounded up or captured and sometimes beaten or killed in the process. | Kunarac-573                               | 7                            |
| 8.                         | The women were kept in various detention centers where they had to live in intolerably unhygienic conditions, where they were mistreated in many ways including, for many of them, being raped repeatedly.   | Kunarac-574                               | 8                            |
| 9.                         | Serb soldiers or policemen would come to these detention centers, select one or more women, take them out and rape them. Many women and girls were raped in that way.  | Kunarac-574                               | 9                            |

<sup>47</sup> Ordinal number of established fact in this case (established fact Novica Tripković).

<sup>48</sup> *Prosecutor v. Kunarac et al.*, Case No. IT-96-23-T, ICTY Trial Judgment of 22 February 2000 and Appeals Judgment of 12 June 2002; *Prosecutor v. Krnojelac*, Case No. IT-97-25-T, Trial Judgment of 15 March 2002 and Appeals Judgment of 17 September 2003.

|     |  |              |    |
|-----|--|--------------|----|
| 10. | Some of these women were taken out of these detention centers to privately owned apartments and houses where they had to cook, clean and serve the residents, who were Serb soldiers. They were also subjected to sexual assaults.   | Kunarac-574  | 10 |
| 11. | In particular, the Muslim civilians held at Kalinovik School, Foča High School and Partizan Sports Hall were kept in unhygienic conditions and without hot water. They were provided with insufficient food. Their freedom of movement was curtailed. They were not allowed to go to any other territory or to go back to their houses. Most of their houses were burnt down or ransacked. They were guarded and lived in an atmosphere of intimidation. | Kunarac-575  | 11 |
| 12. | All this was done in full view, in complete knowledge and sometimes with the direct involvement of the local authorities, particularly the police forces.  | Kunarac-576  | 12 |
| 13. | After months of captivity, many women were expelled or exchanged.  | Kunarac-577  | 13 |
| 14. | All traces of Muslim presence and culture were wiped out of the area of Foča.  | Kunarac-577  | 14 |
| 15. | Some men spent as much as two years and a half in detention for no reason other than their being Muslims.  | Kunarac-577  | 15 |
| 16. | All mosques in Foča were destroyed.  | Kunarac-577  | 16 |
| 17. | Almost all the remaining Muslim men and women from Foča, Gacko and Kalinovik were arrested, rounded up, separated and imprisoned or detained at several detention centers like Buk Bijela, Kalinovik High School, Partizan, Foča High School as well as the KP Dom in Foča, in accordance with a recurring pattern. Some of them were killed, raped or severely beaten.  | Kunarac-577  | 17 |
| 18. | The sole reason for this treatment of the civilians was their Muslim ethnicity.  | Kunarac-577  | 18 |
| 19. | In January 1994, the Serb authorities crowned their complete victory - their "gaining supremacy" over the Muslims - by renaming Foča "Srbinje", literally "the town of the Serbs".   | Kunarac-577  | 19 |
| 20. | According to the 1991 Census, the population of Foča consisted of 40,513 persons: 51.6% were Muslim, 45.3% Serb and 3.1% of other ethnicities.   | Krnojelac-13 | 1  |
| 21. | Although ethnically mixed, individual neighborhoods in Foča town or villages in the municipality of Foča could be identified as predominantly Muslim or Serb areas.  | Krnojelac-13 | 2  |

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| 22. | The Serbs armed themselves surreptitiously at first, distributing weapons by truck in the evenings or from local private businesses. Immediately prior to the outbreak of the conflict, the distribution of arms to Serbs was done openly.  | Krnojelac-16 | 3  |
| 23. | The Serbs also began to deploy heavy artillery weapons on the elevated sites around Foča controlling not only heavy weapons which belonged to the JNA /Yugoslav People's Army/, but also the weaponry of the Territorial Defense too.   | Krnojelac-16 | 4  |
| 24. | The Serbs formed a separate local political structure, the Serb Municipal Assembly of Foča, and both groups established Crisis Staffs along ethnic lines.   | Krnojelac-16 | 5  |
| 25. | On 7 April 1992, following pressure from the SDS leadership, the local police were divided along ethnic lines and stopped functioning as a neutral force.   | Krnojelac-16 | 6  |
| 26. | Immediately prior to the outbreak of the conflict, Serbs began evacuating their families and children from Foča, generally to Serbia or to Montenegro.  | Krnojelac-18 | 7  |
| 27. | Although many Muslims had Serb friends, neighbors and relatives, few were warned about the coming attack. Even for those who did get away, leaving Foča was not easy with frequent military check-points en route to different destinations.  | Krnojelac-18 | 8  |
| 28. | On 8 April 1992, an armed conflict broke out in Foča, mirroring events unfolding in other municipalities.   | Krnojelac-20 | 9  |
| 29. | Sometime between 8.30 and 10.00 am, the main Serb attack on Foča town began, with a combination of infantry fire and shelling from artillery weapons in nearby Kalinovik and Miljevina. Serb forces included local soldiers as well as soldiers from Montenegro and Yugoslavia, and in particular a paramilitary formation known as the White Eagles. | Krnojelac-20 | 10 |
| 30. | Most of the shooting and shelling was directed at predominantly Muslim neighborhoods, in particular Donje Polje, but the Serbs also attacked mixed neighborhoods such as Čohodor mahala.  | Krnojelac-20 | 11 |
| 31. | The military attack resulted in large numbers of wounded civilians, most of them Muslims.   | Krnojelac-20 | 12 |
| 32. | During the conflict, many civilians hid in their houses, apartments, basements of their apartment buildings, or with relatives in other areas of town; others left Foča altogether, thinking they would be safer.   | Krnojelac-21 | 13 |
| 33. | The attack continued for six or seven days, although the worst shelling and damage took place in the first few days.  | Krnojelac-21 | 14 |

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| 34. | Foča town fell to the Serbs somewhere between 15 and 18 April 1992 with many of the Muslims who had remained during the fighting fleeing at that time.  | Krnojelac-21 | 15 |
| 35. | Following the successful military take-over of Foča town, the attack against the non-Serb civilian population continued.  | Krnojelac-22 | 16 |
| 36. | Outside the town, Serb forces carried on their military operations to take over or destroy Muslim villages in the Foča municipality.  | Krnojelac-22 | 17 |
| 37. | Villages in Foča municipality sustained attacks until some time in early June.  | Krnojelac-23 | 18 |
| 38. | Serb forces in Miljevina, approximately 18 kilometers from Foča in the direction of Kalinovik and Sarajevo, set the surrounding Muslim villages on fire, and arrested male Muslim civilians.  | Krnojelac-24 | 19 |
| 39. | Jeleč, about 22 kilometers from Foča near Miljevina, was shelled and then attacked by infantry and taken over by Serb forces on 4 or 5 May 1992.  | Krnojelac-24 | 20 |
| 40. | When Serb forces set the village on fire, the population fled to a nearby forest Muslims who stayed in their homes or who tried to escape were killed.  | Krnojelac-24 | 21 |
| 41. | Other male Muslim villagers were captured and detained in the Kalinovik and Bileća barracks and then transferred to the Foča KP Dom.  | Krnojelac-24 | 22 |
| 42. | From Jeleč it was possible to see houses burning, and to see people fleeing from other villages.  | Krnojelac-24 | 23 |
| 43. | Muslim houses in Pilipovići and the neighboring village of Paunci were burned to the ground around 25 or 26 April 1992.   | Krnojelac-25 | 24 |
| 44. | Around 28 April 1992, Serb troops attacked Ustikolina where some Muslims had tried to form a resistance.  | Krnojelac-25 | 25 |
| 45. | After taking the village, Serb forces set fire to Muslim houses. From there, Serb forces continued attacking and destroying Muslim villages along the left bank of the Drina, downstream from Ošanica, while the population fled or was killed. | Krnojelac-25 | 26 |
| 46. | On 3 July 1992, the Muslim village of Mješaja, Trošanj, situated between Foča and Tjentište, was attacked by Serb forces.   | Krnojelac-26 | 27 |
| 47. | After the Serb take-over in and around Foča, there was a noticeable presence of Serb soldiers and Serb paramilitary formations.   | Krnojelac-27 | 28 |
| 48. | Immediately after the Serb take-over, restrictions were imposed on the non-Serb inhabitants. Muslims were referred to by Serb soldiers by the derogatory term “balija”, and cursed when being arrested.   | Krnojelac-27 | 29 |

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| 49. | Restrictions were placed on the movement of non-Serbs. A police car with a loudspeaker went through the town announcing that Muslims were not allowed to move about the town. A similar announcement was made over the radio. | Krnojelac-29 | 30 |
| 50. | Muslims were forbidden to meet with each other, and had their phone lines cut off.  | Krnojelac-29 | 31 |
| 51. | In April and May 1992, Muslims stayed in their apartments in Foča under virtual house arrest, either in hiding or at the order of Serb soldiers.  | Krnojelac-29 | 32 |
| 52. | Houses such as “Planika’s” and “Šandal’s” were used as interim detention centers by the Serb military.  | Krnojelac-29 | 33 |
| 53. | People wishing to leave Foča were required to get papers from the SUP (Secretariat of the Interior) permitting them to go.  | Krnojelac-29 | 34 |
| 54. | Military checkpoints were established, controlling access in and out of Foča and its surrounding villages.  | Krnojelac-29 | 35 |
| 55. | In April and May 1992, Muslim households were searched by the Serb military police or soldiers for weapons, money and other items.  | Krnojelac-30 | 36 |
| 56. | Serb houses were not searched or at most were searched superficially.   | Krnojelac-30 | 37 |
| 57. | Muslims were ordered to surrender their weapons while Serbs were allowed to keep theirs.  | Krnojelac-30 | 38 |
| 58. | Muslim private businesses were looted or burned, or had equipment confiscated.  | Krnojelac-30 | 39 |
| 59. | During the attack, neighborhoods were destroyed systematically. Muslim houses were set ablaze by Serb soldiers during the battle for control of the town as well as after the town had been secured.                          | Krnojelac-31 | 40 |
| 60. | Donje polje, the largely Muslim neighborhood of Šukovac, and Muslim houses in Kamerici and in Granovski sokak were burned.  | Krnojelac-31 | 41 |
| 61. | The old town neighborhood of Prijeka čaršija, with its oriental-Islamic style market, was burned down on or around 12 April 1992.   | Krnojelac-31 | 42 |
| 62. | As Muslim houses burned, fire engines protected Serb houses.  | Krnojelac-31 | 43 |
| 63. | Other Muslim houses were dismantled for the materials or reallocated to Serbs who had lost their own homes.   | Krnojelac-32 | 44 |
| 64. | The Aladža mosque dating from 1555 and under UNESCO protection was blown up, and the mosque in the Granovski sokak neighborhood was destroyed.  | Krnojelac-33 | 45 |
| 65. | Serb fire brigades stood by and watched as mosques burned.  | Krnojelac-33 | 46 |
| 66. | Following the Serb take-over of Foča town, non-Serb civilians were physically beaten by Serb soldiers and military police.  | Krnojelac-34 | 47 |

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| 67. | In mid-June 1992, about 27 Muslim civilians, mostly women and children, were killed in the ethnically mixed Čohodor mahala neighborhood.  | Krnojelac-35  | 48 |
| 68. | More civilians were killed in Jeleč, Mješaja/Trošanj and Pilipovići.  | Krnojelac-35  | 49 |
| 69. | The bodies of other civilians were found floating in the Drina River. KP Dom detainees who were assigned to work duty at the riverbank were made to push bodies downstream using planks and sticks.   | Krnojelac-35  | 50 |
| 70. | Non-Serbs were arrested throughout the municipality of Foča. Muslim men were rounded up in the streets, separated from the women and children and from the Serb population.   | Krnojelac-36  | 51 |
| 71. | The illegal arrest and imprisonment of non-Serb civilian males was carried out on a massive scale and in a systematic way. Hundreds of Muslim men, as well as a few other non-Serb civilians, were detained at the KP Dom without being charged with any crime. | Krnojelac-41  | 52 |
| 72. | Initially there was a military order preventing citizens from leaving Foča. However, most of the non-Serb civilian population was eventually forced to leave Foča.  | Krnojelac-49  | 53 |
| 73. | In May 1992, buses were organized to take civilians out of town, and around 13 August 1992 the remaining Muslims in Foča, mostly women and children, were taken away to Rožaje, Montenegro.   | Krnojelac-49  | 54 |
| 74. | In exhumations conducted in the Foča area, 375 bodies were identified by the State Commission for the Tracing of Missing Persons. All but one of these were Muslim. The remaining one was a Montenegrin who had been married to a Muslim.                       | Krnojelac-49  | 55 |
| 75. | Between 10 April 1992 and the beginning of June 1992, large-scale arrests of non-Serb civilian men, mostly of Muslim ethnicity, were carried out throughout Foča and its environs. Subsequent to their arrest, the men were transferred to the KP Dom.          | Krnojelac-116 | 56 |

## VIII. ANNEX 2

### LIST OF THE PROSECUTION DOCUMENTARY EXHIBITS

| Number | Name  | Date admitted |
|--------|---|---------------|
| T-1    | Record of Examination of Witness Hasnija Dellić dated 20 March 2008   | 23 March 2011 |
| T-2    | Record of Examination of Witness Damir Delić dated 20 March 2008  | 23 March 2011 |
| T-3    | Record of Examination of Witness Rukija Dikonja dated 20 March 2008   | 30 March 2011 |
| T-4    | Record of Examination of Witness Salem Čaušević dated 25 March 2008   | 30 March 2011 |
| T-5    | Record of Examination of Witness Neđo Kovač dated 14 December 2010  | 6 April 2011  |
| T-6    | Record of Examination of Witness Zoran Vladičić dated 14 December 2010  | 6 April 2011  |
| T-7    | Record of Examination of Protected Witness A-1 dated 19 March 2008  | 19 April 2011 |
| T-8    | Court Psychiatric Report compiled by the expert witness Senadin Ljubović dated 5 June 2008  | 11 May 2011   |
| 9      | <ul style="list-style-type: none"> <li>- Decision by the Cantonal Court in Sarajevo number Kri-254/01 dated 2 July 2001 ordering the exhumation of Vejsil Delić;</li> <li>- Record of Exhumation compiled on the site in Foča (cemetery of Muslučka mosque) about exhumation of mortal remains of 1 unknown corpse, No. Kri-254/01 dated 11 July 2001;</li> <li>- Autopsy Report number Kri-254/01 dated 17 July 2001 compiled by the expert witness, doctor Hamza Žujo;</li> <li>- Official Note number 03/1.3-242/01 dated 26 July 2001 made on the premises of the Crime Police Department 03 Sarajevo Canton Ministry of Internal Affairs about exhumation at the location of Muslučka mosque;</li> <li>- Report on crime-technical inspection of the site number 1749/01 dated 11 July 2001 with two sets of photo documentation number 1749/01 dated 29 August 2001 pertaining to exhumation, autopsy and identification of one corpse KRI 254/01;</li> <li>- Official Note number 03/1.3.-406/01 dated 17 October 2001 made on the premises of the Crime Police Department 03 Sarajevo Canton Ministry of Internal Affairs about identification of one unknown corpse that was exhumed at the location of Muslučka mosque, Municipality of Foča, under the Decision by the Cantonal Court in Sarajevo number Kri-254/01 dated 2 July 2001;</li> <li>- Record by the Sarajevo Crime Police Sector, Sarajevo Canton Ministry of Internal Affairs, dated 18 September 2001 on establishing the identity of exhumed corpse, which was identified as body of aggrieved party Vejsil Delić;</li> </ul> | 11 May 2011   |

|             |   |             |
|-------------|---|-------------|
| <b>T-10</b> | <ul style="list-style-type: none"> <li>- Order of Preliminary Proceedings Judge number S1 1 K 002418 10 Krn dated 6 December 2010, ordering to conduct body examination of the suspect;</li> <li>- Report by the Institution for Health Care of Employees of the Sarajevo Canton Ministry of Internal Affairs number 01-661/10 dated 8 December 2010, compiled upon the Order of Preliminary Proceedings Judge in relation to observed injuries, that is, marks on the body of the suspect Novica Tripković;</li> </ul> | 11 May 2011 |
| <b>T-11</b> | Certificate of the Foča Municipality Department for General Administration number 04-835-1-15810 dated 7 December 2010  | 11 May 2011 |
| <b>T-12</b> | Letter of the Foča Penal-Correctional Institution number 03/240-190/10 dated 10 December 2010, with data from the criminal record stating that the Accused had served his term in that Penal-Correctional Institution.  | 11 May 2011 |
| <b>T-13</b> | Record on hand-over of the Accused Novica Tripković to the relevant prosecutor number 17-04/2-04-2-23-1/10 dated 6 December 2010  | 11 May 2011 |