

**BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
SARAJEVO**
Number: **KT-RZ-45/05**
Sarajevo, 28 November 2005

Суд БиХ / Суд БиХ
Кривично одјељење I Апелационо одјељење /
Кривично одјељење и Апелационо одјељење
Одјел I / Одјел II / Одјел I и Одјел II
Одјел за судску управу / Одјел за судску управу
X. **KPO/05/70**

INDICTMENT
Општина **KT-RZ-45/05**
CONFIRMED
ПОТВРЂЕНА ДАНА 07.12.2005.
*in counts 5. and 6., and
reinstated in counts 1-4.*
Sudija,
2 Byunji

Примљено / Примљено
02-12-2005
12:15 Halimovic

COURT OF BOSNIA AND HERZEGOVINA IN SARAJEVO
- Preliminary Hearing Judge -

Pursuant to Articles 35 (2) (h), 226 (1) and 227 (1) of the Criminal Procedure Code of Bosnia and Herzegovina in conjunction with Article 2 (1) and (2) of the Law on Transfer of Cases from the International Criminal Tribunal for the Former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and the Use of Evidence Collected from the International Criminal Tribunal for the Former Yugoslavia in the Proceedings Before the Courts in Bosnia and Herzegovina and in accordance with the counts of the Third Amended Indictment of the International Criminal Tribunal for the Former Yugoslavia Ref. number IT-96-23/2-PT against Radovan Stanković and the facts stated therein, I hereby file the adapted

INDICTMENT

Against:

RADOVAN STANKOVIĆ aka "Rašo", son of Todor, mother's name Joka neć Đorem, born on 10 March 1969 in the village of Trebičina, municipality of Foča, permanent resident of Miljevina, citizen of Serbia and Monte Negro, married, father of three minor children, literate, secondary school qualifications, served the army in Ljubljana in 1988/89, Personal Identity Number: 1003969131547, no prior convictions, apprehended by SFOR on 9 July 2002, taken to the ICTY Detention Unit in the Hague on 10 July 2002 and transferred to the Court of BiH Detention Unit on 29 September 2005, where he is currently detained.

MINISTARSTVO TUČAC ZA ENGLIŠKI
DANILO
SARAJEVO

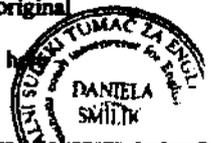
Because

Between August and October 1992, in Miljevina area and the town of Foča itself, as a member of the Miljevina Battalion commanded by Pero Elez and subordinated to Foča Tactical Brigade, as part of a systematic and widespread attack of the Army of the Serb Republic of Bosnia and Herzegovina (hereinafter "soldiers"), members of Police and paramilitary formations against the non-Serb civilian population in the wider area of Foča municipality, which lasted from April 1992 to February 1993, when those civilians were being killed, detained – men mostly in a camp – Foča Correctional Facility and other civilians in detention centers such as Miljevina Motel, Buk Bijela, Foča High School and Partizan Sports Hall, where they were subjected to physical and psychological abuse and many women often to sexual abuse, by the acts described below¹:

1. After Dragoljub Kunarac aka "Žaga" brought to Miljevina four girls, specifically FWS-75, FWS-87, FWS-190 and D.B., who had previously been detained and abused in an apartment at Osmana Đikića 16 Street in Foča, and handed them over to the Battalion Commander Pero Elez, following Elez's order, the accused Radovan Stanković together with Neđo Samardžić, Zoran Samardžić and Nikola Brčić established a women's detention center, which was referred to by the soldiers as Brothel, at the Karaman's house, a house belonging to Nusret Karaman, located in the village of Miljevina, municipality of Foča, in the immediate vicinity of the Miljevina Battalion Headquarters, where they brought and detained² and supervised the detention center, where at least nine female persons were detained, specifically: FWS-75, FWS-87, FWS-132, FWS 190, AS., AB., JB., JG., DB., most of whom were underage, while AB. and JG. were 12 year old girls, and AB. had been removed in Foča from a bus going to Goražde by the accused while her mother was with her and taken to the detention center and she has been missing since that time, they also incited other soldiers, who occasionally visited the detention center, to rape and abuse the detainees, having full control over their lives and bodies, after the Commander Pero Elez assigned FWS 190 to him, who he forced to sleep in the same bed with him but did not rape her because he did not like her, the accused claimed DB. for his own; JG. was claimed by Nikola Brčić; JB. by Neđo Samardžić, while two detainees FWS-87 and FWS-75 were claimed by Pero Elez and like AS.; FWS-132 and AB. were raped by other soldiers who occasionally visited the detention center, including soldiers and civilians who were allowed in the house by the accused Radovan Stanković, Neđo Samardžić, Zoran Samardžić and Nikola Brčić, specifically: Duško Pržulj, Miško Savić, Dragan Zelenović, Miki Živanović, Momir Skakavac, certain persons called Roko, Mlado, Pižon

¹ Translation of this section faithfully reflects the language and structure of the relevant section in the original text which appears to be incomplete – translator's note.

² This segment appears to be missing a noun which should function as the object of the two verbs used here – translator's note.



and Papro, the accused himself brought some persons such as Cicmil and Radivoje Marković to the detention center whom he assigned the following detainees to rape, AS. who was raped by Cicmil and FWS-75 who was raped by Radivoje Marković.

2. At the same detention center he compelled the detainees, specifically: FWS- 75, FWS-87, FWS-132, FWS 190, AS., AB., JB., JG., DB., to forced labor which included cooking for the soldiers, cleaning the house, washing uniforms and bathing soldiers, he also ordered three detainees FWS-75, FWS-87 and DB. to do physical labor outside the detention center, which included cleaning apartments and rooms and painting window-frames in apartment blocks and apartments in Miljevina, including the cleaning of the apartment used by the accused Radovan Stanković, who would, during that time, verbally insult the detainees and call them „Bule“ or other derogatory names and threaten to have them converted to Christianity, which caused the detainees fear and great psychological suffering.

3. During the same time period, at the same detention center, from among the detainees: FWS-75, FWS-87, FWS-132, FWS 190, AS., AB., JB., JG., DB., the accused claimed the detainee DB. for his own and forcibly engaged in sexual intercourse (vaginal, oral and anal) with her in the living room, often in the presence of other people, and also in the bathroom, every night, except for a couple of days when he was wounded, on one occasion, in the presence of D.B., he raped her underage sister FWS-87 and then, in the month of October 1992, he took her from the detention center to an apartment in the center of Miljevina, where he kept her in detention for about 10 days and then moved her to an apartment in the apartment block called „Lepa Brena“ in Foča and kept her in detention in that apartment until 1 November 1992 and during this entire time of her detention he continued forcibly engaging in sexual intercourse with her, also compelling her to forced labor which included washing his clothes, cooking, cleaning the apartments where she was detained, and then, on 1 November 1992, he transported her illegally across the state border between Bosnia and Herzegovina and Monte Negro and on 2 or 3 November 1992 took her to the bus station in Nikšić and released her.

4. During the same time period, on an unknown day and date, at the detention center, during the daytime, the accused forcefully took the underage FWS-87, sister of DB., to a room upstairs in the house and forcibly raped her, while on another occasion, in the evening hours, after she was forced to drink alcohol, he took her to the living room in the house, where he had previously sent her sister DB., and ignoring the fact that FWS-87 was crying and begging him to stop, he forcibly engaged in sexual intercourse with her in the presence of her sister, he forcibly raped and abused her on several other occasions hitting her and causing visible injuries, such as bruises and swellings, to her face.



5. In the month of May, on an unknown day, in the afternoon hours, he went to the detention center located at the Miljevina Motel, municipality of Foča, where civilians from the area of Foča municipality were detained, and armed with a rifle and intoxicated he went to one of the rooms where SK. was detained, he forcibly undressed her and forcibly engaged in sexual intercourse with her despite her protests.

6. Between June and December 1992, armed with a rifle and a knife, he went to the hospital in Foča, where MB. was admitted as a patient, and forcibly took her out of the hospital and to an apartment in Foča, where he forcibly raped her and then took her back to the hospital comforting her and saying that he was going to become very good friends with her.

Consequently, as part of a widespread and systematic attack targeting civilian population in the municipality of Foča, being aware of such an attack and partaking in it, he perpetrated, abetted and aided enslavement, torture, rape and other forms of sexual abuse of the detainees DB. and FWS-87 and raped SK. and MB.

Whereby he committed the following offences,

Count 1, Crimes Against Humanity under Article 172 (1) (c), (f) and (g) of the CC of BiH;

Count 2, Crimes Against Humanity under Article 172 (1) (c) and (f) of the CC of BiH;

Count 3, Crimes Against Humanity under Article 172 (1) (e), (f) and (g) of the CC of BiH;

Count 4, Crimes Against Humanity under Article 172 (1) (f) and (g) of the CC of BiH;

Counts 5 and 6, Crimes Against Humanity under Article 172 (1) (g) of the CC of BiH;

Therefore,

I hereby move the Court

- 1) To schedule and conduct the main trial and summon the following persons:**



- Prosecutor of the Prosecutor's Office of BiH
- Suspect Radovan Stanković, currently in the Detention Unit of the Court of BiH, and his Defense Counsel Milenko Radović – Voja, attorney-at-law from Foča,

II) To present the following evidence:

a) Hear the following persons as witnesses:

1. FWS-90
2. FWS-96
- 3. FWS-31/31a
4. FWS-48
5. FWS-50/50a
6. FWS-51
7. FWS-74
8. FWS-88
- 9. FWS-95
- 10.FWS-33
- 11.FWS-65
- 12.AS.
- 13.FWS-132
- 14.FWS-75



15.FWS-190

16.DB.

17.FWS-87

18.FWS-175

19.FWS-191

20.BM.

21.SK.

22.CB.

23.HR.

24.SP.

Detailed addresses of the witnesses mentioned above including all personal information and the respective original witness examination records are contained in a separate sealed envelope marked as 1-a since those are witnesses under protective measures ordered by the decisions of the ICTY and the Court of BiH, whereas envelope marked as 1 contains redacted statements of the witnesses mentioned above so that once when the Indictment is accepted and confirmed they could be disclosed to the Defence.

Inspect the following evidence:

25.Record of a questioning of the suspect Radovan Stanković, No. KT-RZ-45/05 of 28 November 2005 conducted on the premises of the Prosecutor's Office of BiH;

26. ICTY Indictment against Radovan Stanković;

27.Final Judgment of the ICTY Trial Chamber in the case of Dragoljub Kunarac et al., Ref. number IT-96-23-T and IT-96-23/1-T dated February 2001;



28. Judgment of the ICTY Appellate Chamber in the case of Dragoljub Kunarac et al., Ref. number IT-96-23-T and IT-96-23/1-T dated 12 June 2001;
29. Certified transcripts of testimonies in the ICTY case IT-96-23-T and IT-96-23/1-T against Dragoljub Kunarac et al. and other witnesses DB., FWS-87 and FWS-75 (contained in a sealed envelope marked as 2-a due to transcripts not being redacted);
30. Crime scene sketch No. 14-13/1-7-257/05 dated 18 October 2005 produced during forensic examination of the house owned by Nusret Karaman;
31. Photo documentation No. 14-13/1-7-257/05 dated 18 October 2005 compiled during forensic examination of the house owned by Nusret Karaman;
32. Photo documentation compiled by the ICTY Investigator R. Schouten dated July 1996 (panoramic view of Foča, Partizan Sports Hall, Miljevina Motel, Karaman's house);
33. Konjic War Prisoners Exchange Commission records No. 01/1-114/92 dated 15 December 1992;
34. ID card issued by the International Committee of the Red Cross under number 311419 to the witness FWS-190 (enclosed with the statement in a sealed envelope);
35. Certificate of the Ilidža Municipality War Prisoners Exchange Commission number 1110/93 dated 9 November 1993 issued to the witness FWS-190 (enclosed with the statement in a sealed envelope);
36. Certificate of the State Missing Persons Commission No. 05/5-15-R-98 dated 23 March 1998 issued to the witness FWS-190 (enclosed with the statement in a sealed envelope);
37. List of occupied apartments in Miljevina dated 7 September 1992;
38. Request to station the Garrison in Foča dated 17 March 1998



- forwarded to JNA³ General Staff by Foča Serb Municipal Assembly;
39. Report on the escape of detainee Radovan Stanković from Foča Correctional Facility, Ref. number 56/93 dated 6 May 1993;
40. Order issued by the President of Republika Srpska, Radovan Karadžić, Ref. number 01-653/95 dated 7 April 1995 including a list of men liable for military service who are to be reassigned from the Army of RS to Ministry of Internal Affairs;
41. BiH Supreme Court Decision, Ref. number illegible, dated 9 July 1996;
42. File: Pero Elez's "Brothel" – Miljevina;
43. Information Paper on Ethnic Cleansing by Trnovo Public Security Station, Ref. number 17-11-197/92 dated 21 October 1992;
44. Order on deblocking Goražde, Ref. number 01/113-1 dated 7 July 1992, issued by the Commander of Foča Tactical Group;
45. Displaced Persons records dated 3 November 1992 regarding witness DB (enclosed with the statement in a sealed envelope);
46. International Committee of the Red Cross records on missing persons regarding the underage AB;
47. Report on Exchange by the Republic of BiH State War Prisoners Exchange Commission, Ref. number 02-153-692/93 dated 25 March 1993 (enclosed with the statement in a sealed envelope);
48. Approval for Exchange issued by the BiH State War Prisoners Exchange Commission, Ref. number 02-153-691/93 dated 24 March 1993 (enclosed with the statement in a sealed envelope);
49. Miljevina 3rd Light Infantry Brigade List of soldiers who were wounded between 6 October 1992 and 30 September 1993, Ref. number 472/93 dated 6 October 1993;

³ Local abbreviation for Yugoslav National Army. This abbreviation shall be used throughout the text of this translation – translator's note.



50. List of the 3rd Battalion Command, number unknown, dated 27 October 1995;
51. Findings and opinion of the committee of doctors in charge of the examination of persons falling under the Law on the Rights of Disabled War Veterans and Families of Killed Soldiers, Ref. number 34/95 dated 28 March 1995;
52. Certificate issued by Foča Military Post 7141, Ref. number 05-1/640 dated 29 September 1993;
53. Certificate issued by Foča Military Post 7141, Ref. number 04/1-6-165 dated 22 June 1994;
54. Document issued by East Sarajevo Public Security Center – Foča Public Security Station, Ref. number 13-1-8/02-2-248-19-479/05 dated 22 November 2005;
55. Criminal Record Certificate for the accused Radovan Stanković, Ref. number 13-1-8/02-2-248-19-479/05 dated 2 November 2005;
56. Court of BiH Order number X-KRO-05/70 dated 17 November 2005;
57. Official Record written by the authorized employees of BiH Court Police dated 21 November 2005;
58. Official Record written by the authorized employee of the Court of BiH Detention Unit, Ref. number SL-59/05;
59. CDs containing audio recordings of the testimonies of the following witnesses: AS., DB., FWS-33, FWS-65, FWS-75, FWS-191, FWS-87, FWS-132, FWS-175 and FWS-190;

Results of Investigation

Following the investigation conducted by the ICTY Office of the Prosecutor and the confirmation of the Third Amended Indictment against the accused Radovan Stanković by ICTY, it has been established that there is grounded suspicion that the accused Radovan Stanković is individually responsible for the perpetration of a criminal offence of Crimes



Humanity under Article 172 (1) (c), (e), (f) and (g) of the CC of BiH in conjunction with Article 180 (1) of the CC of BiH. Evidence supporting the charges is primarily comprised of the statements of the above mentioned protected witnesses, eyewitnesses to the incidents, who are direct victims. In the course of adapting the Indictment and examining new witnesses, evidence has been obtained showing that Radovan Stanković has committed rapes of another two Bosniak women in Foča area. This is supported by the statements given to this Prosecutor's Office by the injured parties. These statements are enclosed herein. The remaining portion of the reasoning provided in the ICTY Indictment represents the reasoning of this adapted Indictment.

Material supporting the allegations of the Indictment:

1. Record on the statement of protected witness FWS-90
2. Record on the statement of protected witness FWS-96;
3. Record on the statement of protected witness FWS-31/31a
4. Record on the statement of protected witness FWS-48;
5. Record on the statement of protected witness FWS-50/50a;
6. Record on the statement of protected witness FWS-51;
7. Record on the statement of protected witness FWS-74;
8. Record on the statement of protected witness FWS-88;
9. Record on the statement of protected witness FWS-95;
10. Record on the statement of protected witness FWS-33;
11. Record on the statement of protected witness FWS-65;
12. Record on the statement of protected witness AS.;
13. Record on the statement of protected witness FWS-132;



14. Record on the statement of protected witness FWS-75;
15. Record on the statement of protected witness FWS-190;
16. Record on the statement of protected witness DB.;
17. Record on the statement of protected witness FWS-87;
18. Record on the statement of protected witness FWS-175;
19. Record on the statement of protected witness FWS-191;
20. Record on the statement of protected witness BM.;
21. Record on the statement of protected witness SK.;
22. Record on the statement of protected witness CB.;
23. Record on the statement of protected witness HR.;
24. Record on the statement of protected witness SP.;
25. Record of a questioning of the suspect Radovan Stanković No. KT-RZ-45/05 of 28 November 2005 conducted on the premises of the Prosecutor's Office of BiH;
26. ICTY Indictment against Radovan Stanković;
27. Final Judgment of the ICTY Trial Chamber in the case of Dragoljub Kunarac et al., Ref. number IT-96-23-T and IT-96-23/1-T dated 22 February 2001;
28. Judgment of the ICTY Appellate Chamber in the case of Dragoljub Kunarac et al., Ref. number IT-96-23-T and IT-96-23/1-T dated 12 June 2001;
29. Certified transcripts of testimonies in the ICTY case IT-96-23-T and IT-96-23/1-T against Dragoljub Kunarac et al. and other witnesses.



FWS-87 and FWS-75 (contained in a sealed envelope marked as 2-a due to transcripts not being redacted);

30. Crime scene sketch No. 14-13/1-7-257/05 dated 18 October 2005 produced during forensic examination of the house owned by Nusret Karaman;
31. Photo documentation No. 14-13/1-7-257/05 dated 18 October 2005 compiled during forensic examination of the house owned by Nusret Karaman;
32. Photo documentation compiled by the ICTY Investigator R. Schouten dated July 1996 (panoramic view of Foča, Partizan Sports Hall, Miljevina Motel, Karaman's house);
33. Konjic War Prisoners Exchange Commission records No. 01/1-114/92 dated 15 December 1992;
34. ID card issued by the International Committee of the Red Cross under number 311419 to the witness FWS-190 (enclosed with the statement in a sealed envelope);
35. Certificate of the Ilidža Municipality War Prisoners Exchange Commission number 1110/93 dated 9 November 1993 issued to the witness FWS-190 (enclosed with the statement in a sealed envelope);
36. Certificate of the State Missing Persons Commission No. 05/5-15-R-98 dated 23 March 1998 issued to the witness FWS-190 (enclosed with the statement in a sealed envelope);
37. List of occupied apartments in Miljevina dated 7 September 1992;
38. Request to station the Garrison in Foča dated 17 March 1992 and forwarded to JNA General Staff by Foča Serb Municipal Assembly;
39. Report on the escape of detainee Radovan Stanković from Foča Correctional Facility, Ref. number 56/93 dated 6 May 1993;
40. Order issued by the President of Republika Srpska, Radovan Karadžić, Ref. number 01-653/95 dated 7 April 1995 including a list of missing persons.



for military service who are to be reassigned from the Army of RS to Ministry of Internal Affairs;

41. BiH Supreme Court Decision, Ref. number illegible, dated 9 July 1996;
42. File: Pero Elez's "Brothel" – Miljevina;
43. Information Paper on Ethnic Cleansing by Trnovo Public Security Station, Ref. number 17-11-197/92 dated 21 October 1992;
44. Order on deblocking Goražde, Ref. number 01/113-1 dated 7 July 1992, issued by the Commander of Foča Tactical Group;
45. Displaced Persons records dated 3 November 1992 regarding witness DB (enclosed with the statement in a sealed envelope);
46. International Committee of the Red Cross records on missing persons regarding the underage AB;
47. Report on Exchange by the Republic of BiH State War Prisoners Exchange Commission, Ref. number 02-153-692/93 dated 25 March 1993 (enclosed with the statement in a sealed envelope);
48. Approval for Exchange issued by the BiH State War Prisoners Exchange Commission, Ref. number 02-153-691/93 dated 24 March 1993 (enclosed with the statement in a sealed envelope);
49. Miljevina 3rd Light Infantry Brigade List of soldiers who were wounded between 6 October 1992 and 30 September 1993, Ref. number 472/93 dated 6 October 1993;
50. List of the 3rd Battalion Command, number unknown, dated 27 October 1995;
51. Findings and opinion of the committee of doctors in charge of the examination of persons falling under the Law on the Rights of Disabled War Veterans and Families of Killed Soldiers, Ref. number 34/95 dated 28 March 1995;
52. Certificate issued by Foča Military Post 7141, Ref. number 05



dated 29 September 1993;

53. Certificate issued by Foča Military Post 7141, Ref. number 04/1-6-165 dated 22 June 1994;

54. Document issued by East Sarajevo Public Security Center – Foča Public Security Station, Ref. number 13-1-8/02-2-248-19-479/05 dated 22 November 2005;

55. Court of BiH Order number X-KRO-05/70 dated 17 November 2005;

56. Official Record written by the authorized employees of BiH Court Police dated 21 November 2005;

57. Official Record written by the authorized employee of the Court of BiH Detention Unit, Ref. number SL-59/05;

58. Criminal Record Certificate for the accused Radovan Stanković, Ref. number 13-1-8/02-2-248-19-479/05 dated 2 November 2005;

59. CDs containing audio recordings of the testimonies of the following witnesses: AS., DB., FWS-33, FWS-65, FWS-75, FWS-191, FWS-87, FWS-132, FWS-175 and FWS-190;

Proposal to accept as proven facts established by legally binding decisions by the ICTY

Pursuant to Article 4 of the Law on Transfer of Cases from the International Criminal Tribunal for the Former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and the Use of Evidence Collected from the International Criminal Tribunal for the Former Yugoslavia in the Proceedings Before the Courts in Bosnia and Herzegovina, the Prosecution moves the Court to, after hearing the parties, accept as proven those facts that are established by the legally binding Judgment of the ICTY Trial Chamber IT-96-23-T and IT-96-23/1-T of 22 February 2001 in the case of the Prosecutor versus Dragoljub Kunarac et al. and the Judgment of the Appellate Chamber in the same case.



Proposal for pretrial detention following the adapted and confirmed Indictment

Based on the results of the investigation conducted by the ICTY and the Prosecutor's Office of BiH and based on the confirmation of the Third Amended Indictment against the accused Radovan Stanković by ICTY, there is grounded suspicion that the accused Radovan Stanković has committed the criminal offence he is charged with. By Decision of the Preliminary Hearing Judge of the Court of BiH, Ref. number X-KRO-05/70, dated 29 September 2005, it was decided that the detention ordered against the accused Radovan Stanković by Order of the ICTY Trial Chamber II in the case of the Prosecutor versus Janković et al. (IT-96-23/2) shall remain effective pending the Court of BiH decision on the acceptance of the adapted Indictment filed by the Prosecutor's Office of BiH. At the same time, the Court granted the Prosecutor's Office of BiH 40 days to adapt the ICTY Indictment to the BiH Criminal Procedure Code. Following the Prosecutor's Office of BiH request, this deadline was extended for another 15 days by a Decision of the Preliminary Hearing Judge of the Court of BiH, Ref. number X-KRO-05/70, dated 9 November 2005, effective as of 14 November 2005. At the same time, it was decided that the detention ordered against the accused Radovan Stanković by Order of the ICTY Trial Chamber II in the case of the Prosecutor versus Janković et al. (IT-96-23/2) shall remain effective pending the Court of BiH decision on the acceptance of the adapted Indictment filed by the Prosecutor's Office of BiH. Based on the Decision reference to which is made above, Prosecutor's Office of BiH is under an obligation to state their position with regards to the detention upon the expiration of the above mentioned deadline.

Pursuant to Articles 227 (3) and 137 (1) of the CPC of BiH, the Prosecutor's Office of BiH proposes that, following the adaptation and confirmation of the Indictment, the accused Radovan Stanković's detention be extended pursuant to Article 132 (1) (a), (b) and (d) of the CPC of BiH.

As regards the legal grounds for detention prescribed under Article 132 (1) (a) of the CPC of BiH, we would like to note that the accused Radovan Stanković did not surrender voluntarily but instead was apprehended by SFOR members on 9 July 2002, after being surrounded by the armed SFOR members for several hours. This was confirmed by the accused during his first appearance before the Preliminary Hearing Judge of the Court of BiH on 29 September 2005. The Prosecution would also like to note that in his submission of 23 February 2005, the accused stated that he did not believe that the Court of BiH would try his case in an independent, objective and unbiased manner. This opinion was reiterated several times by the accused during the Hearing on Referral of the Case Under Rule 11 bis. On the other hand, following



summons of the Prosecutor's Office of BiH and the Court of BiH Order No. X-KRO-05/70 dated 17 November 2005, the accused, who is currently detained at the Court of BiH Detention Unit, refused to leave the cell saying that he had nothing to do with the Prosecutor's Office of BiH and that the authorized officials could only carry him out of the cell handcuffed, which points to the fact that there is no prospect of the accused responding to the Court of BiH summonses voluntarily. The foregoing allegations lead to the conclusion that there are circumstances and valid reasons to fear that the accused, if released, might flee and be unavailable for the Court of BiH during the criminal proceedings. Therefore, the Prosecutor's Office of BiH submits that the grounds for detention under Article 132 (1) (a) of the CPC of BiH exist.

The Prosecutor's Office of BiH further submits that the grounds for detention under Article 132 (1) (b) of the CPC of BiH exist because there are valid reasons to fear that the accused, if released, might hinder the proceedings by influencing the witnesses. In regards to that, the Prosecutor's Office of BiH would like to note that the Indictment is mainly based on the statements of witnesses, women who are direct victims of the rapes perpetrated by the accused and his co-perpetrators, whose identity the accused is well familiar with, so the accused, if released, could easily influence the witnesses mentioned above and contact the other co-perpetrators, some of which are still at large, and in that way hinder further criminal proceedings.

In addition to that, the Prosecutor's Office of BiH would like to note that the accused Radovan Stanković's detention is necessary for the reasons stipulated under Article 132 (1) (d) of the CPC of BiH given the fact that the accused is charged with the criminal offence of Crimes Against Humanity under Article 172 of the CC of BiH which carries a minimum penalty of ten years or long term imprisonment. The gravity of the offence, as well as its consequences, especially because this is the case of systematic enslavement and rape of women, even young girls, most of whom come from the Foča region, also including pronounced constant infliction of psychological and physical suffering which resulted in severe trauma and in some cases even tragic outcome, destroying the youth of the above referenced persons and inflicting severe suffering upon the families of victims, close and distant relatives, as well as the previous conduct of the accused during the criminal proceedings give valid reason to suppose the risk that the accused, if released, would reveal the identity of the victims – protected witnesses not only to his co-perpetrators but also to the general public. For the reason stated above and pursuant to Article 132 (1) (d) of the CPC of BiH, detention is necessary in order to protect the safety of the citizens.



Based on the foregoing, the Prosecutor's Office of BiH moves the Preliminary Hearing Judge of the Court of BiH to accept counts 1 through 4 of this adapted Indictment of the ICTY Office of the Prosecutor pursuant to Article 2 (1) of the Law on Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence Collected from the ICTY in the Proceedings Before the Court of BiH and confirm counts 5 and 6 pursuant to Article 2 (2) of the cited Law and Article 228 (1) of the CPC of BiH, since these represent new counts of the Indictment.

Pursuant to Article 235 of the CPC of BiH, we hereby move the Court of BiH Trial Panel to exclude the public from the entire main trial for the purpose of protecting personal intimate lives of the injured parties, as well as the witnesses, some of whom were very young girls at the time of the commission of the offence, while most of them were underage.

DEPUTY CHIEF PROSECUTOR of the
PROSECUTOR'S OFFICE OF BIH

Vaso Marinković

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

Sarajevo, 2 December 2005
Daniela Smiljić
Certified Court Interpreter for English Language

Daniela Smiljić

