

AT

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

Case No. IT-00-41-PT

IN THE REFERRAL BENCH

Before Judge Alphons Orie, Presiding  
Judge O-Gon Kwon  
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Date Filed: 19 June 2008

THE PROSECUTOR

v.

PAŠKO LJUBIČIĆ

*PUBLIC FILING*

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PROSECUTOR'S EIGHTH PROGRESS REPORT

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The Office of the Prosecutor

Mr. Serge Brammertz

5. The OSCE has not identified any new issues that could be assessed as problematic from the perspective of human rights standards.<sup>5</sup>
6. On 29 April 2008, the BiH State Court accepted a Plea Agreement between the Prosecutor's Office of BiH ("POBiH") and the Defendant Paško Ljubičić which had been submitted by POBiH on 24 April 2008 together with an Amended Indictment against the Defendant.<sup>6</sup>
7. Following the BiH State Court's suggestion in the proceedings for admission of the guilty plea, the POBiH had amended the indictment to reflect the agreement it had reached with the Defendant.<sup>7</sup> The Amended Indictment contains one count for War Crimes Against Civilians<sup>8</sup> in connection to the crimes that took place in the village of Ahmići.<sup>9</sup> The Defendant Paško Ljubičić accepted responsibility for aiding and abetting the planning and execution of the crime, and by virtue of his position as a superior for the crimes perpetrated by his subordinates over whom he had effective control. The Plea Agreement states that the Amended Indictment does not allege that the Defendant personally abused or killed anyone in Ahmići on 16 April 1993.
8. Following a mutual agreement between POBiH and the Defendant that the grounds for custody no longer exist, the Trial Panel of the BiH State Court further terminated on 29

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<sup>5</sup> Report, p. 2.

<sup>6</sup> Report, p. 3.

<sup>7</sup> As set out on page 2 of the Report (including footnote 2), upon receipt of the Agreement on admission of guilt reached between the Prosecution and the Defence, the Presiding Judge explained at the hearing held on 21 April 2008 that the Prosecution needed to clarify the mode of participation to which the Defendant pleaded guilty and suggested that it would be easier for the Prosecution to submit an amended indictment and to note that he would drop all other charges in case the Court accepted the agreement. The Presiding Judge reiterated that these details needed to be clarified as the Court had to accept the agreement in its entirety.

<sup>8</sup> Article 173(1) (a) and (f) of the BiH Criminal Code (BiH CC), in conjunction with Articles 29 and 35 (2) and 180(1) in conjunction with paragraph (3) BiH CC.

<sup>9</sup> In the original indictment of 15 December 2006, the Defendant was charged with committing the following criminal offences: Crimes Against Humanity pursuant to Article 172(1) BiH CC in conjunction with items (a), (h), (e), (f) and (k), namely murder, persecution, imprisonment, torture and other inhumane acts; War Crimes Against Civilians pursuant to Article 173 BiH CC in conjunction with items (a) and (f), namely attacks on civilians and civilian objects, and destruction and looting of property; and Violating the Laws and Practices of Warfare pursuant to Article 179(2) BiH CC in conjunction with item (d), namely destruction or deliberate damaging of establishments devoted to religious purposes. The above offences were allegedly committed throughout the area of Central Bosnia (Vitez, Busovača, Ahmići, Nadioci, Pirići, and Šantići). As regards modes of liability, the original indictment referred to direct perpetration, command responsibility and joint criminal enterprise (i.e., the mentioned offences were committed in conjunction with Articles 29, 31, 35 and 180(1)(2) of BiH CC).

April 2008 the custody against the Defendant who had been in custody since 9 November 2001.<sup>10</sup>

9. On 28 May 2008, the BiH State Court pronounced the first instance verdict in the BCS language finding the Defendant guilty of the criminal offence of War Crimes against Civilians and sentenced him to imprisonment of 10 years.<sup>11</sup> The BiH State Court considered as mitigating circumstances the Defendant's admission of guilt, his expression of sincere remorse, his voluntary surrender, his agreement to cooperate and disclose known information and the fact that he is the father of two underage children.<sup>12</sup>
  
10. The OTP considers the guilty plea as a good outcome. The plea is the result of a very professional and responsible assessment by the prosecutor in charge of the evidence as it had come out during the course of the trial. The Prosecutor notes that the OTP was consulted before the final decision to enter into the Plea Agreement was made. Overall the Prosecutor is satisfied with the conclusion of the trial proceedings and will file another report detailing the BiH State Court findings as soon as the English translation of the Judgment becomes available.

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<sup>10</sup> Report, p. 4.

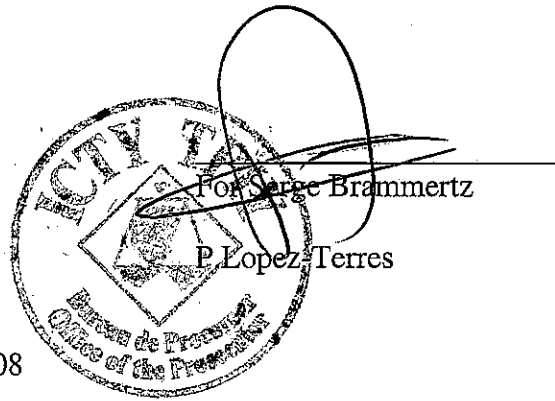
<sup>11</sup> Report, p. 3; Article 173(1)(a) and (f) BiH CC, in conjunction with Articles 29 and 35(2) and 180(1) in conjunction with paragraph (3) BiH CC. The Defendant Ljubičić was found guilty for aiding and abetting the planning and execution of the events of 15 and 16 April 1993 in Ahmici, a village populated predominantly by Bosnian Muslims. On 15 and 16 April 1993, as a commander of the 4<sup>th</sup> Military Police Battalion of the Croat Defense Council ("HVO"), which functioned in the Central Bosnia Operative Zone, the Defendant conveyed the order he received from his superior officer Tihomir Blaškić to his subordinates to attack Ahmici. The Defendant Ljubičić was aware that by conveying the order to members of his subordinate unit he could cause death of a number of persons, physical and mental suffering of a large number of persons, and destruction of property on a larger scale. Muslims civilians were expelled from Ahmici during the attack, numerous suffered serious mental and physical injuries, and two mosques were destroyed. The Defendant Ljubičić was also found responsible by virtue of his position as a superior for the offences perpetrated by his subordinates.

<sup>12</sup> Report, p. 4.

11. Attached to this report are the following annexes:

- a. Annex A: a copy of the OSCE report; and
- b. Annex B: a copy of the Agreement to Enter Plea of Guilty and Admission of Facts, dated 24 April 2008.

Word Count: 1,174



Dated this nineteenth day of June 2008  
At The Hague  
The Netherlands

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

Case No. IT-00-41-PT

THE PROSECUTOR

v.

PAŠKO LJUBIČIĆ

PUBLIC

ANNEX A  
TO  
PROSECUTOR'S EIGHTH PROGRESS REPORT



**Organization for Security and Co-operation in Europe  
Mission to Bosnia and Herzegovina**

**Seventh Report in the  
*Paško Ljubičić* Case**

**Transferred to the State Court pursuant to Rule 11bis**

**June 2008**

## SUMMARY

The case of Paško Ljubičić (hereinafter also “Accused” or “Defendant”) is the fourth case transferred from the ICTY to the BiH State Court pursuant to Rule 11*bis* of the ICTY Rules of Procedure and Evidence (RoPE). This constitutes the seventh report in this case that the OSCE Mission to Bosnia and Herzegovina (“OSCE BIH” or “Mission”) delivers to the ICTY Prosecutor, covering the period between the beginning of March 2008 and the end of May 2008.

In the reporting period, since the beginning of March 2008 to present, an Agreement on the Admission of Guilt was reached between the Prosecutor and the Defendant Paško Ljubičić. On 29 April 2008 the hearing on pronouncement of the sentence was held where the Defendant was found guilty of the criminal offence of War Crimes against Civilians and sentenced to 10 years of imprisonment.

Through its monitoring activities during the reporting period, the Mission did not note any new issues of concern that could be assessed at present as problematic from the perspective of human rights standards. The fact that the plea agreement in this case is among the first ones reached at the State level, certain observations in this regard may be important to make. But, considering that the written verdict after the plea agreement was only recently issued in local language while its translation in English is pending at the time of writing, a more comprehensive overview of the issues involved may be done when the English version is released and reviewed. Therefore, the present Report is limited to summarizing the proceedings during the reporting period and the verdict issued accepting the plea agreement, as well as annexing the relevant motions and decisions.

### Summary of the proceedings

- During the reporting period, the Court held four sessions in total.<sup>1</sup> These hearings, mainly discussed the Agreement regarding the guilty plea.
- At the hearing held on 21 April 2007, the Presiding Judge stated that the Panel received the Agreement on admission of guilt reached between the Prosecution and the Defence. However, due to certain technical flaws, the Panel required certain clarifications in order to be able to consider the agreement.<sup>2</sup>
- On 24 April 2008, the Prosecutor’s Office of BiH submitted an Amended Indictment against the Defendant together with the Agreement to enter a guilty plea to this Indictment.

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<sup>1</sup> The sessions were held on 20 March 2008; 21 April 2008 and two sessions on 29 April 2008. The hearing held on 20 March was mainly closed for the public.

<sup>2</sup> The Presiding Judge explained that the Agreement did not clearly specify as to which mode of participation in the crime the Accused plead guilty, namely in relation to Articles 29, 30 and 180 (1) and (2) of BiH CC, nor the alleged joint criminal enterprise, as it was set out in the original indictment. Further, he suggested that it would be easier for the Prosecutor to submit an amended indictment and to note that he would drop all other charges in case the Court accepts the agreement. The Presiding Judge also reiterated that the Court has to accept the agreement in its entirety, thus the aforementioned details needed to be clarified.

The Amended Indictment consists of one count for War crimes against Civilians<sup>3</sup> in connection to the crimes that took place in the village of Ahmići, for which the Accused is deemed responsible by aiding and abetting the planning and execution of the crime, and by virtue of his position as a superior for the crimes perpetrated by his subordinates over whom he had effective control.

The Plea Agreement states that the Amended Indictment does not allege that the Defendant personally abused or killed anyone in Ahmići on 16 April 1993. Furthermore, the Amended Indictment does not include several charges contained in the original indictment of 15 December 2006, which adapted to the domestic law the charges confirmed by the ICTY.<sup>4</sup>

- The Plea Agreement on the Amended Indictment was discussed and accepted on 29 April 2008. On 28 May 2008, the Trial Panel issued the written first-instance verdict in local language.
- As regards custody issues, the Court conducted its regular review of pre-trial custody on 27 March 2008, prior to the plea agreement, and held that it was still justified on the basis of the risk of flight and for the safety of the public and property.<sup>5</sup>

However, when it orally accepted the plea agreement on 29 April 2008, and upon the mutual agreement between the Prosecutor and the Defendant that the grounds for custody no longer exist, the Trial Panel terminated the custody against the Defendant.

### **Summary of the Verdict pursuant to the Plea Agreement on the Amended Indictment**

Following the consideration and acceptance of the Plea Agreement between the Prosecutor's Office of BiH and the Accused Ljubičić, on 29 April 2008, the State Court pronounced a verdict finding the Defendant guilty of the criminal offence of War Crimes against Civilians.<sup>6</sup>

<sup>3</sup> Article 173(1) (a) and (f) of the BiH Criminal Code (BiH CC), in conjunction with Articles 29 and 35 (2) and 180 (1) in conjunction with paragraph (3) BiH CC.

<sup>4</sup> In the original indictment of 15 December 2006, the Defendant was charged with committing the following criminal offences: Crimes Against Humanity pursuant to Article 172(1) BiH CC in conjunction with items (a), (h), (e), (f) and (k), namely murder, persecution, imprisonment, torture, and other inhumane acts; War Crimes Against Civilians pursuant to Article 173 BiH CC in conjunction with items (a) and (f), namely attacks on civilians and civilian objects, and destruction and looting of property; and Violating the Laws and Practices of Warfare pursuant to Article 179(2) BiH CC in conjunction with item (d), namely destruction or deliberate damaging of establishments devoted to religious purposes. The above offences were allegedly committed throughout the area of Central Bosnia (Vitez, Busovača, Ahmići, Nadioci, Pirići and Šantići) As regards modes of liability, the original indictment referred to direct perpetration, command responsibility and joint criminal enterprise [i.e. the mentioned offences were committed in conjunction with Articles 29, 31, 35, and 180(1) (2) of BiH CC].

<sup>5</sup> Article 132(1) items (a) and (d) BiH CPC.

<sup>6</sup> Article 173(1) (a) and (f) BiH CC, in conjunction with Articles 29 and 35 (2) and 180 (1) in conjunction with paragraph (3) BiH CC. The Accused Ljubičić was found guilty for aiding and abetting the planning and execution of the events of 15 and 16 April 1993 in Ahmići, a village populated predominantly by Bosnian Muslims. On 15 and 16 April 1993, as a commander of the 4<sup>th</sup> Military Police Battalion of the Croat Defense Council (HVO), which functioned in the Central Bosnia Operative Zone, the Accused conveyed the order he received from his superior officer Tihomir Blaškić to his subordinates to attack the village of Ahmići. The Accused Ljubičić was aware that by conveying the order to members of his subordinate unit he could cause death of a number of persons, physical and mental suffering of a large



The Court accepted the Agreement in its entirety finding that the Accused entered into it consciously and with awareness of the consequences of doing so. The Accused was sentenced to imprisonment of 10 years. The Court considered as mitigating circumstances the Defendant's admission of guilt, his expression of sincere remorse, his voluntary surrender, his agreement to cooperate and disclose known information, and the fact that he is the father of two underage children.

The Defendant was relieved of the duty to pay the costs of the proceedings because of his financial status. Injured parties were referred to civil proceedings as regards any compensation claims. As the Panel stated in the written decision, such a decision is based on the fact that the criminal proceedings did not provide a reliable basis for ruling on the claims under property law.

Upon agreement between the Prosecutor and the Defendant that the grounds for custody no longer exist, custody was terminated until the verdict on the plea agreement becomes final. It may be noted that the Defendant had been in custody since 9 November 2001 until the date of his release from custody, namely for approximately six and a half years. It may be noted that, according to domestic law, a convicted person who, in general, has served one half of his sentence may be released on certain conditions.<sup>7</sup>

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number of persons, and destruction of property on a larger scale. Muslim civilians were expelled from the village of Ahmići during the attack, numerous suffered serious mental and physical injuries, and two mosques were destroyed. The Accused Ljubičić was also found responsible by virtue of his position as a superior for the offences perpetrated by his subordinates.

<sup>7</sup> See particularly Article 44 (1) and (2) BiH CC:

(1) A convicted person who has served one half of his sentence, and as an exception, a convicted person who has served one third of his sentence, may be released from serving the punishment of imprisonment under condition that he does not perpetrate another criminal offence before expiration of the time of the sentence (parole, conditional release).

(2) A convicted person who has served one-half of his sentence, may be released from serving the punishment of imprisonment if in the course of serving his sentence he has improved to the point where he can reasonably be expected to behave himself well after his release from serving the punishment of imprisonment, and particularly not perpetrate criminal offences. In determining whether to release a convicted person on parole, account shall be taken of his conduct during the term of the sentence, as well as other circumstances indicating that the purpose of the punishment has been attained.

**ANNEX**

**LIST OF RELEVANT HEARINGS - SUBMISSIONS - DECISIONS**

- (i) Main trial hearing, held on 20 March 2008
- (ii) Decision of the “out-of-hearing” Panel on review of custody, dated 27 March 2008
- (iii) Main trial hearing, held on 21 April 2008
- (iv) Amended indictment, filed on 24 April 2008
- (v) Agreement to enter Guilty Plea to the amended indictment, filed on 24 April 2008
- (vi) Hearing for deliberation on the Plea Agreement, held on 29 April 2008
- (vii) Hearing for pronouncement of the sentence, held on 29 April 2008
- (viii) Decision of the Trial panel to terminate custody against the Accused, dated 24 April 2008

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Case No. IT-00-41-PT

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PUBLIC

ANNEX B

TO

PROSECUTOR'S EIGHTH PROGRESS REPORT

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

**Case No.: KT-RZ 140/06  
24 April 2008**

**COURT OF BOSNIA AND HERZEGOVINA  
Reference No.: X-KRN-06/241**

**AGREEMENT TO ENTER PLEA OF GUILTY TO THE AMENDED INDICTMENT**

1. The Defendant, Paško Ljubičić, was charged in an Indictment confirmed by the ICTY on 27 September 2000. The Indictment was subsequently amended on 2 August 2002. On 12 April 2006, the Referral Bench of the ICTY ordered the Defendant's case be referred to Bosnia and Herzegovina for disposition according to the laws of Bosnia and Herzegovina. The Appeals Chamber affirmed the referral decision on 4 July 2006. The Defendant entered the jurisdiction of Bosnia and Herzegovina on 22 September 2006. The ICTY Indictment was adapted and presented for affirmation on 15 December 2006. The Court of Bosnia and Herzegovina affirmed the adapted Indictment on 21 December 2006. Main Trial on the Indictment commenced on 10 April 2007 and has proceeded continuously since that date.

2. The Defendant entered into custody on 9 November 2001. He was transferred to The Hague by the Croatian authorities on 21 November and made his initial appearance before the ICTY on 30 November 2001. He has been in custody in Bosnia and Herzegovina since arriving in Bosnia and Herzegovina on 22 September 2006. On the charges before the Court the Defendant has been in custody continuously for 6 years and 4 months as of the date of this agreement, of which 1 year and 5 months are attributable to Bosnia and Herzegovina as provided in Article 2(4) of the Law on Transfer. Time spent in custody from the time the Defendant was taken into custody until the date he begins any sentence imposed by this Court shall be counted as provided in Articles 56 and 57 of the Criminal Code of Bosnia and Herzegovina (CC BiH).

3. The Defendant, on advice of counsel, now approaches the Court with an agreement to enter a plea of guilty to the single count described in the Amended Indictment. The Defendant does so voluntarily, consciously and with an understanding of the consequences. Article 230(1)(a), Criminal Procedure Code of Bosnia and Herzegovina (CPC BiH). The Prosecutor believes the agreement is in the interest of the public and endorses the agreement. The terms and

conditions of the agreement are fully set forth in this document and ANNEX A which is incorporated herein by reference.

4. The Amended Indictment constitutes one count of War Crimes Against Civilians (CC BiH Article 173(1)(a) and (f), as prohibited by Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949; to wit,

### AMENDED INDICTMENT

#### Against:

**Paško Ljubičić, also known as "Toni Raić"**, son of Bono, born on 15 November 1965 in the village of Nezirovići, the Municipality of Busovača, Bosnia and Herzegovina, personal identification number 1511965450104, of Croat nationality, citizen of Bosnia and Herzegovina and the Republic of Croatia, held in custody based initially on the Decision of the Court of BiH number X-KRO-06/241 dated 22 September 2006.

#### Because:

In January 1993, Paško Ljubičić became the commander of the 4<sup>th</sup> Military Police Battalion, which functioned in the Central Bosnia Operative Zone ("CBOZ") of the HVO, and he remained in that position until 1 July 1993, therefore, he was the highest-ranking member of the HVO Military Police and he exercised both formal and legal command and control over members of the 4<sup>th</sup> Military Police Battalion, including the *Jokers*, an anti-terrorist sub-group that was part of the 4<sup>th</sup> Military Police Battalion.

On 15 and 16 April 1993, during an armed conflict in the Republic of Bosnia and Herzegovina, Paško LJUBIČIĆ acted in contravention of international humanitarian law thus violating the provisions of Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions relative to the Protection of Civilian Persons in Time of War of 12 August 1949, by conveying orders that he received from his superior officer, commander of the CBOZ Tihomir Blaškić, to his subordinates who were members of the 4th Military Police Battalion, to attack the village of Ahmići, populated predominantly by Bosnian Muslims, and to kill all Bosnian Muslim men of military-age, expel the Bosnian Muslim civilian population, and destroy the houses of Bosnian Muslims, and he assisted in the planning of such an attack which was carried out, aware that by conveying and issuing such orders to members of his subordinate unit he could cause death of a number of persons, physical and mental suffering of a larger number of persons and destruction of property on a larger scale, to which he consented; therefore, during the attack which was carried out, Bosnian Muslim civilians were expelled, more than 100 Bosnian Muslim civilians were killed, houses were destroyed,

numerous others suffered serious mental and physical injuries, and two mosques in the village of Ahmići were blown up; Thus, Paško Ljubičić by his acts and omissions aided and abetted the planning and execution of the crime described above. He is also responsible by virtue of his position as a superior for the offences perpetrated by his subordinates over whom he had effective control, and the fact that he acted upon the order of his superior commander Tihomir Blaškić does not relieve him of criminal responsibility.

**Whereby:**

**He committed the criminal offence of War Crimes against Civilians under Article 173(1) (a) and (f) of the BiH Criminal Code, in conjunction with Articles 29 and 35 (2) and 180 (1) in conjunction with paragraph (3) of the BiH Criminal Code.**

### INTRODUCTION

5. By this written agreement (See Article 231(3), CPC BiH) the Defendant, personally and on advice of counsel, and the Prosecutor as permitted and contemplated by Article 231 CPC BiH, propose that the Court accept the Defendant's desire to plead GUILTY to the Amended Indictment as more fully set forth below.

6. This agreement fully sets out the Defendant's knowing and voluntary confession of guilt as to the conduct charged in the Amended Indictment.

7. Further, this agreement also sets forth the Defendant's understanding of the rights and benefits guaranteed to him under the laws of Bosnia and Herzegovina that he is knowingly and voluntarily waiving if the Court agrees to accept his change of plea.

8. Likewise, this agreement advises the Court of all of the terms and conditions accepted by both parties in connection with this matter including all benefits and obligations that both parties accept as a consequence.

9. The Prosecutor and the Defendant confirm for the Court that there are no promises, benefits, or obligations as between the parties in relation to this matter other than those set out in this agreement. (Article 231, CPC BiH)

### COUNSEL

10. The Defendant confirms for the Court that he has had the full benefit and advice of competent counsel who are acting in his best interest in relation to this

agreement and with whom he is fully satisfied as to their advice on this matter and on the conduct of his defense.

#### AUTHORITY

11. The Prosecutor has full authority to enter into this agreement consistent with the law of Bosnia and Herzegovina and with the policies and procedures of the Prosecutor's Office of Bosnia and Herzegovina.

12. The Defendant is acting on his own authority and initiative with full advice of counsel.

#### CHANGE OF PLEA

13. By this Agreement the Defendant proposes to change his plea of NOT GUILTY to the Affirmed Indictment to GUILTY to the Amended Indictment.

14. The Defendant acknowledges he has been informed by his Counsel of all the relevant differences between the Affirmed Indictment and the Amended Indictment.

15. The Defendant, in particular, understands that:

15a. The Amended Indictment constitutes one count of *War Crimes Against Civilians* (CC BiH Article 173(1)(a) and (f)), as prohibited by Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949;

15b. The Amended Indictment alleges two modes of liability; that is, that Pasko Ljubicic aided and abetted the planning and execution of the attack on the Village of Ahmici on 16 April 1993, by receiving orders from his superior and conveying them to his subordinates, who devised a plan to implement the orders that he approved, and who then carried out the orders resulting in death and bodily injury to civilians, destruction of Bosnian Muslim houses, and the destruction of religious property in Ahmici.;

15c. The Amended Indictment does not allege that Pasko Ljubicic personally abused or killed anyone in the Village of Ahmici on 16 April 1993.

16. The Defendant's Admission of Facts is more fully set forth in ANNEX A to this agreement, which is attached, attested to by the Defendant, counsel, and the Prosecutor and is incorporated herein by reference.

17. The Defendant acknowledges that his Admission of Facts (ANNEX A) is sufficient, that is, that there is sufficient evidence proving his guilt and for the Court to find him GUILTY of a violation of War Crimes against Civilians under Article 173(1) of the BiH Criminal Code, namely, per sub-clause a) (attacks on civilians and civilian objects) and per sub-clause f) (destruction and looting of property), as prohibited by Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949, in connection with Articles 29, 35(2) and 180(1) in relation to (3) CC BiH as set forth in the Amended Indictment, and to render an appropriate sentence in his case. (Article 231(4) (b), CPC BiH)

#### **THE REMAINING ALLEGATIONS AND CHARGES IN THE INDICTMENT**

18. Should the Court accept the Defendant's plea of GUILTY to the Amended Indictment, the Prosecutor will drop the Affirmed Indictment with prejudice. (Article 283(c), CPC BiH)

#### **SENTENCE**

19. The Defendant acknowledges that the offense to which he proposes to plead GUILTY carries a term of imprisonment under the law of Bosnia and Herzegovina of between ten (10) and forty-five (45) years. (Article 173, CC BiH; Article 42, CC BiH)

20. The Defendant and Prosecutor agree, however, that if the Court accepts the Defendant's plea of GUILTY to the Amended Indictment as set forth herein, the Prosecutor will recommend that the Court sentence him to a term of imprisonment for no greater than ten (10) years, but will not oppose the Defendant's argument for sentence of no greater than eight (8) years. (Article 231(2), CPC BiH)

21. The Defendant understands that the Court can reject the agreement on the admission of guilt (including the proposed sentencing range described above). Should that occur, the Defendant understands that he can continue with the Main Trial with no prejudice; that is, statements or admissions made in connection with this matter will not be used against him and the Court will not consider them in deciding on a verdict or imposing a sentence if the Defendant is subsequently convicted. Should the Court reject the agreement in question, the Defendant agrees to continue with the Main Trial before the same Panel. (Articles 230(3) and 231(6), CPC BiH)

22. The Prosecutor acknowledges that prior to sentencing the Defendant may present mitigation in writing or orally or both as the Court deems appropriate.



23. The Defendant acknowledges that under the law of Bosnia and Herzegovina, Article 188, CPC, when the Court finds him guilty pursuant to this agreement it must declare in the verdict that he is required to reimburse the costs of the criminal proceeding, but understands as well that the Court may render a decision in the verdict that settles the issue of costs and relieves him of the duty to reimburse all or part of the costs of the criminal proceedings. (Articles 186 and 188, CPC BiH)

24. The Defendant acknowledges that under the law of Bosnia and Herzegovina, Article 193 to Article 198, CPC, he may be subject to claims under property law for damages to property caused by the conduct which he will admit when he changes his plea of NOT GUILTY to GUILTY as set forth herein. (Article 231(4)(a), CPC BiH)

### **APPEAL**

25. If the Court accepts Defendant's proposal to plead GUILTY to the Amended Indictment as set forth herein, and if the Court sentences him to a term of imprisonment within the range set forth herein, he will not appeal the verdict or the sentence. (Article 294, CPC BiH)

26. If the Court accepts Defendant's proposal to plead GUILTY to the Amended Indictment as set forth herein, and if the Court sentences him to a term of imprisonment within the range set forth herein, the Prosecutor will not appeal the verdict or the sentence. (Article 294, CPC BiH)

### **STATEMENT OF REMORSE AND RECONCILIATION**

27. As part of this agreement, the Defendant will, upon acceptance by the Court of his proposal to plead GUILTY to the Amended Indictment as set forth herein, at a time deemed appropriate by the Court, but before sentence is imposed, make a *personal* statement of remorse and reconciliation orally and in writing to the victims of the conduct that is the subject of this agreement.

### **FULL AND COMPLETE DISCLOSURE**

28. As part of this agreement the Defendant will, upon acceptance by the Court of his proposal to plead GUILTY to the Amended Indictment as set forth herein, at times and in places to be determined by the Prosecutor, and at the discretion of the Prosecutor, make full, truthful and complete disclosure to the Prosecutor or any authorized official of the Prosecutor's Office of Bosnia and Herzegovina, or to the ICTY of his knowledge of any matters related to the events that occurred in April 1993 in or around the Lasva Valley, and make similar full, truthful and complete disclosure of his knowledge of any other matters of interest to the

Prosecutor's Office or the ICTY occurring in Bosnia and Herzegovina or elsewhere between 1992 and 1995, or as to other times and places if deemed of interest to the Prosecutor's Office or the ICTY. Such disclosure will include production and explanation of any documentary or other evidence that is in the possession or under the control of the Defendant.

29. The Defendant understands and acknowledges that he is bound and will comply in future with all requirements of the Criminal Procedure Code of Bosnia and Herzegovina.

#### DEFENDANT'S WAIVER OF RIGHTS

30. The Defendant acknowledges that by seeking to plead GUILTY to the Amended Indictment as set forth herein, he is knowingly and voluntarily waiving his right to a trial of the matters alleged in the Indictment and all of the benefits that derive therefrom.

31. The Defendant confirms for the Court that he has been fully advised by counsel regarding his rights and benefits and about the rights and benefits he will be waiving if the Court accepts his proposal, and chooses to proceeding notwithstanding. These rights include the presumption of innocence (Article 3, CPC BiH), the right against self-incrimination (Article 6, CPC BiH), the right to present his own defense (Article 7, CPC BiH), and the right to call witnesses and present evidence (Article 261, CPC BiH). The Defendant confirms that he is waiving such rights on his own initiative.

#### VICTIMS

32. The Prosecutor spoke with victims who testified before the Court during the Prosecutor's Case-In-Chief to notify them of the Defendant's intention to plead GUILTY to the Amended Indictment as set forth herein. Further, he spoke with others who were affected or injured by the conduct. Their concerns and considerations were taken into account in the Prosecutor's decision to agree to the terms and conditions set forth in this agreement. (Article 231(7), CPC BiH)

#### ICTY

33. As this is a matter referred to Bosnia and Herzegovina pursuant to Rule 11bis, ICTY Rules, the Prosecutor notified the Office of the Prosecutor of the ICTY of the Defendant's intention to plead GUILTY to the Amended Indictment as set forth herein. The Office of the Prosecutor notified the Referral Bench of the ICTY. No objections were voiced regarding the terms and conditions of this agreement.

**IN THE EVENT THAT THE AGREEMENT IS REJECTED**

34. If the Court rejects the Defendant's agreement as set for herein, the Prosecutor will withdraw his motion made pursuant to Article 275 CPC BiH for the Court to accept the Amended Indictment and the matter shall proceed on the original Affirmed Indictment.

**ATTESTATION AND DECLARATION OF PASKO LJUBICIC**

I, Pasko Ljubicic, have read this Agreement in my own language, and have carefully reviewed every aspect of it with my two Defense Counsel, Branka Praljak and Tomislav Jonjić. They have advised me of my rights, of possible defenses, and of the consequences of entering into this plea agreement. I am satisfied with the advice I have received from my two Defense Counsel regarding this Agreement and I am satisfied with their conduct of my defence as a whole. No other promises or inducements have been made to me, other than those contained in this document and the Annex. Furthermore, no one has threatened me or forced me in anyway to enter into this Agreement and I have entered into this Agreement freely and voluntarily. I am of sound mind. I understand the terms of this Agreement and I freely and voluntarily agree to each of the terms.

ATTEST

Paško Ljubičić  
Defendant

**ODVJETNIK**  
Branka Praljak  
S.Radića 13 Novi Travnik  
Tel: 010238 510  
Counsel for Defendant

**ODVJETNIK**  
TOMISLAV JONJIĆ  
BUDSKI TUMAČ ZA NIJEMACKI JEZIK  
10000 ZAGREB - MEDIMURSKA 18  
Tomislav Jonjić  
Counsel for the Defendant

David Schwendiman  
Deputy Chief Prosecutor  
Special Department for War Crimes  
Prosecutors Office of Bosnia and Herzegovina

**BOSNA I HERCEGOVINA  
TUŽILAŠTVO- TUŽITELJSTVO BOSNE I HERCEGOVINE  
SARAJEVO**

**Predmet broj: KT-RZ 140/06  
24. travnja 2008. godine**

**SUD BOSNE I HERCEGOVINE  
Na broj : X-KRN-06/241**

**SPORAZUM O PRIZNANJU KRIVNJE PO IZMIJENJENOJ OPTUŽNICI**

1. Protiv optuženog Paška Ljubičića podignuta je optužnica koju je MKSJ potvrdio dana 27. rujna 2000. godine. Optužnica je nakon toga izmijenjena 2. kolovoza 2002. godine. Dana 12. travnja 2006. godine, Vijeće za ustupanje predmeta pri MKSJ-u donijelo je naredbu da se predmet protiv optuženog ustupi Bosni i Hercegovini na dalje postupanje sukladno zakonima Bosne i Hercegovine. Žalbeno vijeće je tu odluku o ustupanju predmeta potvrdilo dana 4. srpnja 2006. godine. Optuženi je prebačen u nadležnost Bosne i Hercegovine dana 22. rujna 2006. godine. Optužnica MKSJ-a prilagođena je i podnesena na potvrđivanje dana 15. prosinca 2006. godine. Sud Bosne i Hercegovine je prilagođenu optužnicu potvrdio na dan 21. prosinca 2006. godine. Glavni pretres po Optužnici je počeo 10. travnja 2007. godine i od tada se odvija bez prekida.

2. Optuženi se nalazi u pritvoru od 9. studenog 2001. godine. Njega su 21. studenog hrvatske vlasti prebacile u Hag, a pred MKSJ-om se prvi puta pojavio dana 30. studenog 2001. godine. U pritvoru u Bosni i Hercegovini nalazi se od 22. rujna 2006. godine, kada je stigao u Bosnu i Hercegovinu. Zbog djela koja mu se pred ovim Sudom stavljaju na teret optuženi je do dana sklapanja ovoga Sporazuma kontinuirano proveo u pritvoru 6 godina i 4 mjeseca, od kojih 1 godinu i 5 mjeseci u Bosni i Hercegovini sukladno članku 2. stavak 4. Zakona o ustupanju predmeta. Vrijeme provedeno u pritvoru, od dana kada je optuženom određen pritvor pa do dana kada počne izdržavati kaznu koju izrekne ovaj Sud, računa se sukladno članku 56. i članku 57. Kaznenog zakona Bosne i Hercegovine (KZ BiH).

3. Optuženi, po savjetu branitelja, podnosi Sudu na razmatranje Sporazum o priznanju krivnje u odnosu na jedinu točku Optužnice opisanu u Izmijenjenoj optužnici. Optuženi to čini dragovoljno, svjesno i razumije posljedice. Članak 230. stavak (1) točka a) Zakona o kaznenom postupku Bosne i Hercegovine (ZKP BiH). Tužitelj smatra da je sporazum u interesu javnosti i podržava ga. Uvjeti Sporazuma su u potpunosti regulirani ovim dokumentom i DODATKOM A koji je sastavni dio ovog dokumenta i na koji se dokument poziva.



4. Izmijenjena optužnica sadrži jednu točku koja se odnosi na ratne zločine protiv civilnog stanovništva (članak 173. stavak 1. točke a) i f) KZ-a BiH, zabranjenih temeljem članka 4. stavak 2. točka g), članka 13. stavak 2. i članka 14. Dodatnog protokola II Ženevskih konvencija od 12. kolovoza 1949. godine, to jest:

### IZMIJENJENA OPTUŽNICA

#### Protiv:

**Paška Ljubičića, zvanog "Toni Raić"**, sina Bone, rođenog 15. studenog 1965. godine u selu Nezirovići, općina Busovača, Bosna i Hercegovina, JMB: 1511965450104, Hrvat po nacionalnosti, državljanin Bosne i Hercegovine i Republike Hrvatske, koji je u pritvoru temeljem prvobitnog Rješenja Suda BiH broj X-KRO-06/241 od 22. rujna 2006. godine.

#### Što je:

U siječnju 1993. godine, Paško Ljubičić postao je zapovjednikom Četvrte bojne Vojne policije, koja je funkcionirala u Operativnoj zoni Srednja Bosna (OZSB) HVO-a i na toj dužnosti ostao je do 1. srpnja 1993. godine, dakle bio je pripadnik Vojne policije HVO-a na najvišem položaju, te je i formalno i pravno zapovijedao i imao kontrolu nad pripadnicima Četvrte bojne Vojne policije u čijem sastavu je bila i antiteroristička podskupina «Džokeri».

Dana 15. i 16. travnja 1993. godine, tijekom oružanog sukoba u Republici Bosni i Hercegovini, Paško Ljubičić je postupao protivno odredbama međunarodnog humanitarnog prava kršeći odredbe članka 4. stavak 2. točka g), članka 13. stavak 2. i članka 14. Dodatnog protokola II uz Ženevsku konvenciju o zaštiti civilnih osoba u vrijeme rata od 12. kolovoza 1949. godine, na taj način što je svojim podređenim pripadnicima Četvrte bojne Vojne policije prenio naredbe koje je primio od svog nadređenog zapovjednika OZSB Tihomira Blaškića za napad na selo Ahmiće, koje je bilo naseljeno pretežno bosanskim Muslimanima, da se pobije sve vojno sposobno stanovništvo bosanskih Muslimana, istjera civilno stanovništvo bosanskih Muslimana i unište njihove kuće, te pomogao u planiranju tog napada koji je izveden, svjestan da prenoseći i izdajući takve zapovijedi pripadnicima postrojbe kojom je zapovijedao, može prouzrokovati smrt više osoba, duševne i fizičke patnje većeg broja osoba i uništenje imovine većih razmjera, na što je pristao, pa su tijekom provedenog napada bošnjački civili protjerani, više od 100 bošnjačkih civila lišeno života, kuće su uništene, mnogima nanesene teške duševne i tjelesne povrede, a u selu Ahmići dvije džamije dignute su u zrak.



Dakle, Paško Ljubičić je svojim radnjama i propustima pomogao i podržavao planiranje i izvršenje gore opisanog kaznenog djela. On je odgovoran i temeljem svog položaja nadređenog za kaznena djela počinjena od strane njegovih podređenih, nad kojima je imao efektivnu kontrolu, od koje odgovornosti ga ne oslobađa ni činjenica da je on postupao po naređenju njemu nadređenog zapovjednika OZSB Tihomira Blaškića.

**Čime je:**

**Počinio kazneno djelo Ratni zločin protiv civilnog stanovništva iz članka 173. stavak 1. točke a) i f) Kaznenog zakona BiH u vezi s člankom 29. i člankom 35. stavak 2., te člankom 180. stavak 1. u vezi sa stavkom 3. Kaznenog zakona BiH.**

#### UVOD

5. Ovim pismenim Sporazumom (vidi članak 231. stavak 3. ZKP-a BiH) optuženi, osobno i po savjetu branitelja, te tužitelj, kako je dozvoljeno i predviđeno člankom 231. ZKP-a BiH, predlažu da Sud prihvati želju optuženog da se izjasni KRIVIM u odnosu na Izmijenjenu optužnicu, kako je detaljnije navedeno u daljem tekstu.

6. U ovom je Sporazumu u cjelosti izneseno svjesno i dragovoljno priznanje krivnje optuženog za radnje koje mu se stavljaju na teret u Izmijenjenoj optužnici.

7. Nadalje, u ovom Sporazumu također je utvrđeno da su optuženome poznata prava i pogodnosti zagarantirane zakonima Bosne i Hercegovine, a kojih se svjesno i dragovoljno odriče ukoliko Sud pristane prihvatiti izmjenu njegovog izjašnjenja.

8. Ovim se Sporazumom također Sud upoznaje sa svim uvjetima koje su prihvatile obje strane u svezi sa ovom stvari, uključujući i sve pogodnosti i obveze koje obje strane prihvataju kao njegovu posljedicu.

9. Tužitelj i optuženi potvrđuju za Sud da između strana nema nikakvih drugih obećanja, pogodnosti ili obveza u svezi sa ovom stvari, osim onih koje su navedene u ovom Sporazumu. (članak 231. ZKP-a BiH)

#### BRANITELJI

10. Optuženi potvrđuje za Sud da je u potpunosti iskoristio i primio savjete kompetentnih branitelja koji na najbolji način zastupaju njegove interese u svezi sa ovim Sporazumom i sa čijim je savjetima po ovom pitanju optuženi u potpunosti zadovoljan kao i sa vođenjem njegove odbrane.



## OVLASTI

11. Tužitelj ima potpuno ovlaštenje da sklopi ovaj Sporazum sukladno zakonima Bosne i Hercegovine te politici rada i procedurama Tužiteljstva Bosne i Hercegovine.

12. Optuženi postupa svojom voljom i na vlastitu inicijativu uz savjetovanje branitelja u punoj mjeri.

## PROMJENA IZJAŠNJENJA

13. Ovim Sporazumom optuženi predlaže izmjenu svoga izjašnjenja da NIJE KRIV po Potvrđenoj optužnici na način da se izjašnjava KRIVIM u odnosu na Izmijenjenu optužnicu.

14. Optuženi potvrđuje da su ga njegovi branitelji obavijestili o svim relevantnim razlikama između Potvrđene optužnice i Izmijenjene optužnice.

15. Optuženi naročito shvata da:

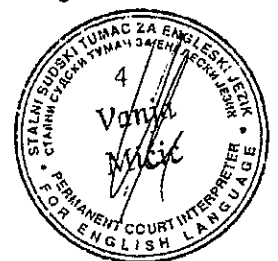
15a. Izmijenjena optužnica sadrži jednu točku koja se odnosi na ratne zločine protiv civilnog stanovništva (članak 173. stavak 1. točke a) i f) KZ-a BiH), zabranjenih temeljem članka 4. stavak 2. točka g), članka 13. stavak 2. i članka 14. Dodatnog protokola II Ženevskih konvencija od 12. kolovoza 1949. godine;

15b. U Izmijenjenoj optužnici navode se dva oblika odgovornosti, odnosno, da je Paško Ljubičić pomagao i podržavao planiranje i izvršenje napada na selo Ahmići dana 16. travnja 1993. godine, tako što je primio naredbe od svoga nadređenog i prenio ih svojim podređenima koji su potom napravili plan za izvršenje tih naredbi, a on taj plan odobrio, te su zatim njegovi podređeni sproveli te naredbe, što je rezultiralo smrću i nanošenjem tjelesnih povreda civilima, uništenjem kuća bosanskih Muslimana i uništenjem vjerskih objekata u Ahmićima;

15c. U Izmijenjenoj optužnici se ne navodi da je Paško Ljubičić toga 16. travnja 1993. godine osobno zlostavljao ili ubio nekoga u selu Ahmići.

16. Prihvatanje činjenica od strane optuženog je detaljnije navedeno u DODATKU A uz ovaj Sporazum, koji se nalazi u prilogu, a koji su potvrdili optuženi, branitelji i tužitelj, te on čini sastavni dio ovoga Sporazuma i Sporazum se na njega poziva.

17. Optuženi uviđa da je njegovo Prihvatanje činjenica (DODATAK A) dovoljno, to jest, da postoji dovoljno dokaza o njegovoj krivnji da ga Sud može oglasiti



KRIVIM za ratne zločine protiv civilnog stanovništva, što predstavlja kršenje članka 173. stavak 1. Kaznenog zakona BiH, odnosno točke a) (napadi na civilno stanovništvo i civilne objekte), i točke f) (uništavanje i pljačkanje imovine), što je zabranjeno člankom 4. stavak 2. točka g), člankom 13. stavak 2. i člankom 14. Dodatnog protokola II Ženevskih konvencija od 12. kolovoza 1949. godine, a u svezi sa člankom 29., člankom 35. stavak 2. i člankom 180. stavak 1. u svezi sa stavkom 3. Kaznenog zakona BiH, kako je navedeno u Izmijenjenoj optužnici, te da može izreći odgovarajuću kaznu u predmetu protiv njega. (članak 231. stavak 4. točka b) Zakona o kaznenom postupku BiH)

## PREOSTALI NAVODI I OPTUŽBE IZ OPTUŽNICE

18. Ukoliko Sud prihvati izjašnjenje optuženog da je KRIV prema Izmijenjenoj optužnici, tužitelj odustaje od Potvrđene optužnice i ta odluka je konačna. (članak 283. stavak c) ZKP-a BiH).

## KAZNA

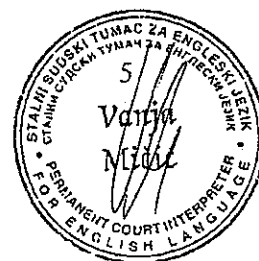
19. Optuženi prihvata da je za djelo za koje predlaže da se izjasni KRIVIM predviđena kazna zatvora od deset (10) do četrdeset i pet (45) godina sukladno zakonu Bosne i Hercegovine. (članak 173. KZ-a BiH; članak 42. KZ-a BiH)

20. Međutim, optuženi i tužitelj su suglasni da će, ukoliko Sud prihvati izjašnjenje optuženog da je KRIV prema Izmijenjenoj optužnici kako je navedeno u ovom Sporazumu, tužitelj predložiti Sudu da optuženog osudi na kaznu zatvora od najviše deset (10) godina, ali se neće suprotstaviti zahtjevu optuženog za kaznu zatvora od najviše osam (8) godina. (članak 231. stavak 2. ZKP-a BiH)

21. Optuženi razumije da Sud može odbaciti Sporazum o priznanju krivnje (uključujući i gore opisani prijedlog raspona kazne). Ukoliko se to desi, optuženi razumije da može nastaviti sa glavnim pretresom bez štetnih posljedica; odnosno, izjave i priznanja koji su dati u svezi sa ovim pitanjem neće se koristiti protiv njega i Sud iste neće razmatrati prilikom odlučivanja o presudi ili odmjeravanju kazne, ukoliko nakon toga optuženi bude osuđen. Ukoliko Sud odbije pomenuti Sporazum, optuženi je suglasan da se nastavi sa glavnim pretresom pred istim Vijećem. (članak 230. stavak 3. ZKP-a BiH; članak 231. stavak 6. ZKP-a BiH)

22. Tužitelj prihvata da prije utvrđivanja kazne optuženi može iznijeti olakšavajuće okolnosti pismeno ili usmeno, odnosno na oba načina, ovisno od toga što Sud bude smatrao odgovarajućim.

23. Optuženi prihvata da, sukladno zakonima Bosne i Hercegovine, članku 188. Zakona o kaznenom postupku BiH, kada ga Sud oglasi krivim prema ovom





Sporazumu, Sud mora objaviti u presudi da optuženi ima nadoknaditi troškove kaznenog postupka, ali također shvata da Sud u presudi može donijeti rješenje o troškovima kojim ga oslobađa obveze da nadoknadi sve ili dio troškova kaznenog postupka. (članak 186. i članak 188. ZKP-a BiH)

24. Optuženi prihvata da prema zakonu Bosne i Hercegovine, člancima od 193. do 198. ZKP-a BiH, može biti predmetom imovinskopravnih zahtjeva zbog imovinske štete nastale usljed radnji koje će priznati kada svoju prvobitnu izjavu kojom se izjašnjava da NIJE KRIV zamijeni izjašnjenjem o PRIZNANJU KRIVNJE, kako je to utvrđeno ovim Sporazumom. (članak 231. stavak 4. točka a) ZKP-a BiH)

### ŽALBA

25. Ukoliko Sud prihvati prijedlog optuženog da se izjasni KRIVIM prema Izmijenjenoj optužnici sukladno ovom Sporazumu, te ukoliko mu Sud odredi kaznu zatvora u rasponu utvrđenom u ovom Sporazumu, optuženi neće ulagati žalbu na presudu ili na kaznu. (članak 294. ZKP-a BiH)

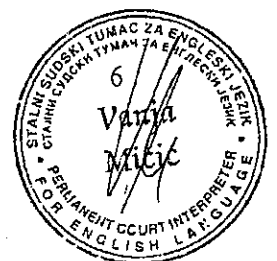
26. Ukoliko Sud prihvati prijedlog optuženog da se izjasni KRIVIM prema Izmijenjenoj optužnici sukladno ovom Sporazumu, te ukoliko mu Sud odredi kaznu zatvora u rasponu utvrđenom u ovom Sporazumu, tužitelj neće ulagati žalbu na presudu ili na kaznu. (članak 294. ZKP-a BiH)

### IZJAVA O POKAJANJU I POMIRENJU

27. U sklopu ovog Sporazuma optuženi će, nakon što Sud prihvati njegov prijedlog da se izjasni KRIVIM prema Izmijenjenoj optužnici sukladno ovom Sporazumu, u vrijeme koje Sud smatra odgovarajućim, ali prije određivanja kazne, osobno dati svoju izjavu o pokajanju i pomirenju, usmeno i pismeno, za žrtve njegovih radnji koje su predmet ovog Sporazuma.

### POTPUNO I CJELOVITO OTKRIVANJE INFORMACIJA

28. U sklopu ovog Sporazuma, nakon što Sud prihvati prijedlog optuženog da se izjasni KRIVIM prema Izmijenjenoj optužnici sukladno ovom Sporazumu, u vrijeme i na mjestu koje će odrediti tužitelj prema svom diskrecionom pravu da o tome odluči, optuženi će u potpunosti, istinito i cjelovito otkriti tužitelju ili drugoj ovlaštenoj službenoj osobi Tužiteljstva Bosne i Hercegovine ili Međunarodnog kaznenog suda u Hagu (MKSJ) sve što mu je poznato u svezi sa događajima koji su se desili u travnju 1993. godine u Lašvanskoj dolini i u njejoj okolici, te na sličan način u potpunosti, istinito i cjelovito otkriti sve što mu je poznato o svim drugim pitanjima za koja Tužiteljstvo BiH ili MKSJ budu zainteresirani u odnosu



na događaje u Bosni i Hercegovini ili drugdje u periodu od 1992. do 1995. godine, ili u odnosu na drugi vremenski period i druga mjesta za koja Tužiteljstvo BiH ili MKSJ budu zainteresirani. To otkrivanje informacija podrazumijeva i pružanje svih materijalnih ili drugih dokaza koji su u posjedu ili pod kontrolom optuženog, kao i njihovo obrazloženje.

29. Optuženi razumije i prihvata da je u obvezi ubuduće se pridržavati svih uvjeta iz Zakona o kaznenom postupku Bosne i Hercegovine.

#### ODRICANJE OPTUŽENOG OD NJEGOVIH PRAVA

30. Optuženi prihvata da se svojim zahtjevom da se izjasni KRIVIM po izmijenjenoj optužnici sukladno ovom Sporazumu svjesno i dragovoljno odriče svog prava na suđenje u stvarima navedenim u Optužnici i svih pogodnosti koje iz njega proizilaze.

31. Optuženi potvrđuje za Sud da su ga branitelji detaljno poučili o njegovim pravima i pogodnostima, te pravima i pogodnostima kojih će se odreći ako Sud prihvati njegov prijedlog, te da je bez obzira na to odlučio nastaviti ovaj postupak. Ta prava obuhvataju pretpostavku nevinosti (članak 3. ZKP-a BiH), pravo da ne iznosi dokaze koji ga terete (članak 6. ZKP-a BiH), pravo da iznese svoju obranu (članak 7. ZKP-a BiH), te pravo da poziva svjedoke i izvodi dokaze (članak 261. ZKP-a BiH). Optuženi potvrđuje da se odriče tih prava na osobnu inicijativu.

#### ŽRTVE

32. Tužitelj je razgovarao sa žrtvama koje su svjedočile pred Sudom tijekom izvođenja dokaza optužbe kako bi ih obavijestio o namjeri optuženog da se izjasni KRIVIM prema izmijenjenoj optužnici sukladno ovom Sporazumu. Nadalje, razgovarao je i sa drugima koji su pogođeni ili oštećeni njegovim postupanjem. Njihovi su interesi i stavovi uzeti u obzir kada je tužitelj donosio odluku da se suglasi sa uvjetima utvrđenim ovim Sporazumom. (vidi članak 231. stavak 7. ZKP-a BiH)

#### MKSJ

33. Budući da je ovo predmet koji je Bosni i Hercegovini ustupljen sukladno pravilu 11*bis* Pravilnika MKSJ-a, tužitelj je obavijestio Tužiteljstvo MKSJ-a o namjeri optuženog da se izjasni KRIVIM prema izmijenjenoj optužnici sukladno ovom Sporazumu. Tužiteljstvo MKSJ-a je o tome obavijestilo Vijeće za ustupanje predmeta MKSJ-a. Nije bilo primjedbi na uvjete ovog Sporazuma.



## U SLUČAJU DA SE SPORAZUM ODBIJE

34. Ako Sud odbije ovaj Sporazum s optuženim, tužitelj će povući svoj prijedlog podnesen sukladno članku 275. ZKP-a BiH kojim se od Suda traži da prihvati izmijenjenu optužnicu, a postupak će se nastaviti sukladno prvobitnoj Potvrđenoj optužnici.

## POTVRDA I IZJAVA PAŠKA LJUBIČIĆA

Ja, Paško Ljubičić, pročitao sam ovaj Sporazum o priznanju krivnje na svom jeziku i sa svojim braniteljima, Brankom Praljak i Tomislavom Jonjićem, i pažljivo sam proučio svaki njegov aspekt. Moji branitelji su me poučili o mojim pravima, mogućoj obrani i posljedicama sklapanja ovog Sporazuma o priznanju krivnje. Zadovoljan sam savjetima koje sam u svezi sa ovim Sporazumom dobio od mojih dvoje branitelja, a zadovoljan sam i njihovim vođenjem obrane u cjelini. Nisu mi data nikakva druga obećanja ili poticaji, osim onih koji se nalaze u ovom Sporazumu i njegovom Dodatku. Nadalje, niko mi nije prijetio, niti me na bilo koji način prisiljavao da zaključim ovaj Sporazum i ja sam ovaj Sporazum zaključio slobodno, dragovoljno i pri čistoj svijesti. Razumijem uvjete ovoga Sporazuma i slobodno i dragovoljno izražavam suglasnost sa svakim od tih uvjeta.

DOKUMENT POTVRĐUJU

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Optuženi

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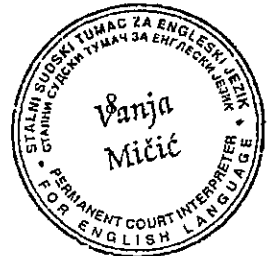
ODVIJETAČ

David Schwendiman  
Zamjenik glavnog tužitelja  
posebni odjel za ratne zločine  
Tužiteljstvo Bosne i Hercegovine



Potvrđujem da ovaj prijevod u potpunosti odgovara izvorniku sačinjenom na engleskom jeziku.  
Sarajevo, 24. travnja 2008. godine  
Vanja Mičić  
Stalni sudski tumač za engleski jezik

*Vanja Mičić*



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

**Case No.: KT-RZ 140/06  
24 April 2008**

**COURT OF BOSNIA AND HERZEGOVINA  
Reference No.: X-KRN-06/241**

**AGREEMENT TO ENTER PLEA OF GUILTY TO THE AMENDED INDICTMENT**

**ANNEX A  
ADMISSION OF FACTS**

**RELEVANT PROVISIONS OF THE CRIMINAL CODE OF BOSNIA AND  
HERZEGOVINA (CC BiH)**

1. The relevant portions of Article 173, Criminal Code of Bosnia and Herzegovina (CC BiH) read as follows:

**War Crimes against Civilians**

**Article 173**

1. Whoever in violation of rules of international law in time of war, armed conflict or occupation, orders or perpetrates any of the following acts:

a. Attack on civilian population, settlement, individual civilians or persons unable to fight, which results in the death, grave bodily injuries or serious damaging of people's health;

.....

f. Forced labor, starvation of the population, property confiscation, pillaging, illegal and self-willed destruction and stealing on large scale of property that is

not justified by military needs, taking an illegal and disproportionate contribution or requisition, devaluation of domestic money or the unlawful issuance of money, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

2. The relevant portions of Article 29 and 35 CC BiH, read as follows:

### **Accomplices**

#### **Article 29**

If several persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence, each shall be punished as prescribed for the criminal offence.

### **Intent**

#### **Article 35**

- (1) A criminal offence may be perpetrated with direct or indirect intent.
- (2) The perpetrator acts with direct intent when a perpetrator was aware of his deed but still desired its perpetration.
- (3) The perpetrator acts with indirect intent when a perpetrator was aware that a prohibited consequence might have resulted from his action or omission to act but nevertheless consented to its occurrence.

3. The relevant portions of Article 180, CC BiH, read as follows:

### **Individual Criminal Responsibility**

#### **Article 180**

(1) A person who planned, instigated, ordered, perpetrated or otherwise aided and abetted in the planning, preparation or execution of a criminal offence referred to in Article 171 (*Genocide*), 172 (*Crimes against Humanity*), 173 (*War Crimes against Civilians*), 174 (*War Crimes against the Wounded and Sick*), 175 (*War Crimes against Prisoners of War*), 177 (*Unlawful Killing or Wounding of the Enemy*), 178 (*Marauding the Killed and Wounded at the Battlefield*) and 179 (*Violating the Laws and Practices of Warfare*) of this Code, shall be personally responsible for the criminal offence. The official position of any accused person, whether as Head of State or Government or as a responsible Government official person, shall not relieve such person of criminal responsibility nor mitigate punishment.

(2) The fact that any of the criminal offences referred to in Article 171 through 175 and Article 177 through 179 of this Code was perpetrated by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

(3) The fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the court determines that justice so requires.

## ELEMENTS

4. Before the Court can be satisfied that the Defendant is GUILTY of violating Article 173 as contemplated in the Agreement and the Amended Indictment, the Defendant must admit and the Court must find facts that establish the following:

The existence of an armed conflict

That the Defendant in violation of international law, ordered or otherwise perpetrated

An attack on a civilian population, settlement, individual civilians or persons unable to fight,

That the attack resulted in death, grave bodily injuries or serious damaging of people's health;

Property confiscation, pillaging, illegal and self-willed destruction and stealing on large scale of property that is not justified by military needs.

## FACTS

5. I, Paško Ljubičić, the Defendant in this matter, voluntarily, consciously, and with full understanding of the consequences of my admissions, and upon advice of counsel, and upon waiver of my right not to provide evidence against myself and to have these matters fully contested in trial, acknowledge and admit the following facts and conclusions of law, and admit and accept that they constitute sufficient evidence and sufficient grounds for the Court to find me guilty and render a verdict, including sentence, as set forth in the Agreement of which this Annex is a part.

## ARMED CONFLICT

6. On 16 April 1993, there was an armed conflict between the forces of the Croatian Defense Council (HVO) and the Army of Bosnia and Herzegovina (ARBiH). Although the first clashes between the HVO and the ARBiH began in October 1992, towards the end of January 1993, there was an outbreak of open hostilities between the two forces.

7. My role as a soldier and as a commander of the Fourth Military Police Battalion of the HVO, put me in a position to know that an armed conflict existed between the HVO forces and the ARBiH. The facts of which I was aware as a consequence of my position and my experience gave me personal knowledge of the armed conflict.

## IN VIOLATION OF INTERNATIONAL LAW

8. Article 4 of Additional Protocol II to the Geneva Conventions of 12 August 1949, which was binding insofar as conduct occurring in and around Ahmići in April 1993 was concerned, and which applied to my conduct, prohibited acts against all persons who did not take a direct part or who had ceased to take part in hostilities which, among other things, at any time and in any place, amounted to violence to life, health and physical or mental well-being of persons, in particular murder, and including pillage.

9. The attack on Ahmići on 16 April 1993 was a violation of Article 4 of Additional Protocol II to the Geneva Conventions of 12 August 1949.

10. Article 13 of Additional Protocol II to the Geneva Conventions of 12 August 1949, which was binding insofar as conduct occurring in and around Ahmići in April 1993 was concerned, and which applied to my conduct, made it a violation of international law to make a civilian population the object of attack in armed conflict. This prohibition extended to attack on individual civilians.

11. The attack on Ahmići on 16 April 1993 was a violation of Article 13 of Additional Protocol II to the Geneva Conventions of 12 August 1949.

12. Article 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949, which was binding insofar as conduct occurring in and around Ahmići in April 1993 was concerned, and which applied to my conduct, made it a violation of international law to fail to protect objects indispensable to the survival of the civilian population.

13. The attack on Ahmići on 16 April 1993 was a violation of Article 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949.

#### DEFENDANT ORDERED OR OTHERWISE PERPETRATED

14. I was made the Commander of the Fourth Military Police Battalion in January 1993. As Commander, I was the most senior officer in all of the units of the HVO military police in the operations zone of central Bosnia.

15. In my position as Commander of the Fourth Military Police Battalion, I was responsible for both implementing and executing the decisions and orders handed down by my senior commanders.

16. As Commander of the Fourth Military Police Battalion, I had the authority to pass orders and instructions from my superiors to the members of my battalion, including the Jokers, an anti-terrorist platoon within the First Active-Service Company of the Fourth Military Police Battalion.

16a. On the afternoon of 15 April 1993, Tihomir Blaškić, Commander of the Central Bosnia Operations Zone, held a meeting with Croat political leaders in Vitez, and informed them of the intention to attack ARBiH units and Muslim settlements in the Municipality of Vitez.

17. After the meeting with Croat political leaders in Vitez, on that same day, Colonel Blaškić had a meeting with commanders of military units at the Hotel Vitez. During the meeting, the attack on some parts of the town of Vitez controlled by the ARBiH, as well as on Ahmići and other villages of the Lašva Valley was ordered. In that meeting, held between 17:30 and 19:30 hours, the order to attack was issued. Along with all others who attended the meeting, I received the order to attack from my superior officer, Tihomir Blaškić, and I was instructed to pass it on to my subordinates.

18. The order I was given involved the attack on Ahmići and the surrounding villages, and it was ordered to commence on 16 April 1993, at 0530 that morning. The order was to attack and take control of certain villages including Ahmići, to burn the houses and property belonging to the Muslim inhabitants of the villages, to kill Muslim men able to carry a weapon, but not to touch women and children. Anyone who was left alive was to be expelled. I knew that the order was an illegal order, but felt I had no alternative but to pass it on to my subordinates.

18a. The commanders of the subordinate units who attended the meeting held on 15 April 1993, between 17:30 and 19:30 hours, warned Blaškić of the content of the given order and insisted it be issued in writing. Conjuring up the drama of



the situation, Blaškić promised he would issue the order in writing, but that never happened.

18b. The Croat political leadership of Vitez Municipality, specifically, Željko TOPALOVIĆ, Franjo ALILOVIĆ, Stipo KRIŽANAC, Blaž KESIĆ, Vlado ALILOVIĆ, Marijan SKOPLJAK, Pero SKOPLJAK, Josip MARIĆ, Marko KNEZOVIĆ, Ivan ŠANTIĆ, Bruno BUZUK and Dragan RADOŠ, opposed Blaškić's order, first verbally, and then in writing as well, and requested that it be revoked or altered, warning him that this order, if executed, would have catastrophic consequences for the population of Vitez Municipality and for the relations between Croats and Muslims.

18c. By his order, the Commander of the Central Bosnia Operations Zone, Colonel Blaškić, put all the units subordinate to him (the *Vitezovi* Special Purpose Unit, the *Tvrtko* Special Purpose Unit, the Fourth Military Police Battalion, the *Žuti* Special Purpose Unit) at the disposal of the Viteška Brigade to assist local units of that brigade that covered the territory of the Vitez Municipality. Accordingly, parts of the Fourth Military Police Battalion were also engaged in the attack in the area of the village of Ahmići, on 16 April 1993.

19. After the meeting of the commanders of the military units with Colonel Blaškić, in the TV room of the Vitez Hotel, I passed on Blaškić's command to Vladimir Šantić, the Commander of the First Active-Service Company of the Fourth Military Police Battalion, ordering that all available personnel should gather that evening in the building called "The Bungalow". I told Vladimir Šantić and other members of the Military Police who were present there that our unit, according to Blaškić's command, was in charge of the attack operations in the direction of Ahmići and towards Pirići. The operations were to be taken in concert with local units of the Viteška Brigade, which was tasked to attack all other Muslim villages in the area and hamlets with Muslim inhabitants.

20. On 15 April 1993, shortly before midnight, I met with the members of the Fourth Military Police Battalion who were going to participate in the attack. The meeting took place in a building known as "The Bungalow" in Nadioci. At that meeting, I repeated the order I had received from Tihomir Blaškić; that is, that they were to participate in the attack on Ahmići, they were to burn the houses and property belonging to the Muslim inhabitants of the village, to kill Muslim men able to carry a weapon, but not to touch women and children. I repeated what I had been told, that is, that anyone who was left alive was to be expelled. Among others, Nikica Šafradin, Ilija Šantić, Miroslav Bralo a.k.a. Cicko and Anto Furundžija were present and they received this order from me.

20a. In the period covered by the ICTY Indictment, the District Military Prison Kaonik was under the direct authority of the Commander of the Central Bosnia Operations Zone, Colonel Tihomir Blaškić. On 15 April 1993, Colonel Blaškić issued an order to release all persons of Croat nationality detained in the Kaonik

Prison for disciplinary violations or criminal offences and to have all those persons join the Croatian Defense Council units which were supposed to take part in the attack operations the following day.

20b. Pursuant to the order issued by Tihomir Blaškić, Miroslav Bralo a.k.a. Cicko was also released from the Kaonik prison. A number of documents have shown that, in the course of 1992, Miroslav Bralo was a member of the *Alpha Forces* Special Purpose Unit, whereas in 1993/1994 he was a member of the Viteška Brigade. However, there is no doubt that he participated in the attack on Ahmići on 16 April 1993.

20c. After my meeting with the members of the Fourth Military Police Battalion, which was held shortly before the midnight of 15/16 April 1993, the Commander of the First Active-Service Company of the Fourth Military Police Battalion (Vladimir Šantić) and the Commander of the Viteška Brigade local forces (Nenad Šantić) developed an operative action plan in "The Bungalow", pursuant to which all the available persons were deployed in groups and their movement and attack directions were determined

21. On 16 April 1993, before dawn, I had another meeting with the Commander of the First Active-Service Company of the Fourth Military Police Battalion, Vladimir Šantić, who was my subordinate, and he presented the operative plan, which he had prepared a few hours earlier. I gave approval for the operative plan implementing the order I had been given by Tihomir Blaskić and passed to my subordinates. During this meeting, I repeated the order I had been given by Tihomir Blaškić and reiterated that civilians not covered by the order who would be expelled from their homes should not be killed. In this way I assisted in and made a decisive contribution, that is, aided and abetted the planning and execution of the attack that followed.

22. When this meeting finished, the Commander of the First Active-Service Company of the Fourth Military Police Battalion, Vladimir Šantić, left "The Bungalow" to join the Fourth Military Police Battalion members who participated in the attack operations in the direction of Ahmići, in order to take direct command over their actions.

23. I knew that the order I had been given by Tihomir Blaškić, the order I passed on, was an illegal order, I gave my approval to the plan that was developed to carry it out, I expected it to be carried out, and I knew that when it was that the death of non-combatants was likely to occur, that non-combatants were likely to suffer grievous bodily injury, and that protected property would be destroyed. I took no measures to prevent the plan from being carried out.

**ATTACK ON CIVILIAN POPULATION, ETC.**

24. Pursuant to Tihomir Blaškić's order of 15 April 1993, the attack on the village of Ahmići was conducted by the local units of the HVO Viteška Brigade and parts of the Fourth Military Police Battalion. The attack began on 16 April 1993 at approximately 0530 hours. Pursuant to the order, the HVO forces simultaneously attacked Ahmići, Nadioci, Šantići, Pirići, Novaci, Putiš and Donja Večeriska. Members of my battalion participated in the attack. The Jokers, a special anti-terrorist platoon within my battalion, were involved in the attack on the village of Ahmići.

24a. All the activities during the attack were led by the Commander of the Central Bosnia Operations Zone, Tihomir Blaškić, who coordinated the HVO operations in the area of the municipality of Vitez from his command post located in the basement of the Vitez Hotel.

25. By the end of 1992, the HVO had disarmed the Muslim forces stationed in the villages in the area which was attacked on 16 April 1993. There were, however, pockets of resistance and some firearms still in possession of members of the Territorial Defense in the area which were considered a potential source of threat to the HVO forces in the area.

26. At the time the attack began on 16 April 1993, the majority of the Muslim inhabitants of the village of Ahmići were civilians or poorly armed members of the ARBiH.

27. During the attack on 16 April 1993, HVO soldiers, including the members of the Fourth Military Police Battalion under my command, used, among other things, grenades, explosives and incendiary ammunition to assault targets in Ahmići. The targets included military targets as well as houses, religious buildings, livestock and people.

28. The attack on Ahmići on 16 April 1993 was part of the coordinated attack on the units of the ARBiH as well as Muslim civilian population in Ahmići and in the Lašva Valley generally that occurred between 16 April and 20 April 1993.

**RESULTED IN DEATH, GRAVE BODILY INJURY**

29. At least 103 people were killed during the attack on Ahmići and its environs. The dead were primarily Muslim men of military age, but who were not members of any military unit or engaged in combat prior to the attack, or if they had been, were no longer engaged in active combat, when the attack occurred. A number of women and children were also killed in the attack. Some civilians were trapped

inside burning houses and died as a result. Several civilians also sustained grievous bodily injuries.

30. Civilians killed or injured in the attack on Ahmići included the following persons:

Abdulah Ahmić  
Hasim Ahmić  
Fahrudin Ahmić  
Mustafa Puščul  
Nazif Ahmić  
Islam Ahmić  
Šefik Ahmić  
Elvedin Ahmić  
Adem Siljak  
Munib Heleg  
Mujo Ahmić  
Nedžad Džidić  
Muharem Džidić  
Mustafa Pezer  
Šefik Pezer  
Ahmed Pezer  
Sakib Pezer  
Mevludin Pezer  
Muris Ahmić  
Latifa Ahmić  
Alija Ahmić  
Muhamed Džidić  
Ismail Ahmić  
Muhamed Neslanović  
Esad Ahmić  
Mustafa Dedić  
Mujo Dedić  
Fariz Dedić  
Mehmed Hrnjić  
Admir Hrnjić  
Munib Ribo  
Smaila Ahmić  
Ibrahim Pezer  
Samir Mrkonja  
Sabahudin Mrkonja

30a. All persons arrested or apprehended during the attack, as organized and supervised by the Viteška Brigade and units subordinated to it, were placed in detention centers in the area of the Vitez Municipality (Dubravica Elementary School, Vitez Cinema, SDK Vitez, Vet Station Vitez etc). By the time of their

exchange and release those persons were under the supervision of the Command of the Central Bosnia Operations Zone or the Viteška Brigade Command.

### PROPERTY DESTROYED

31. During the attack on Ahmići on 16 April 1993, HVO soldiers, including the members of the Fourth Military Police Battalion under my command, moved through the village of Ahmići and actively participated in burning houses known to be owned by Muslims. 180 of the existing 200 Muslim houses in Ahmići were burned during the attack. According to the order, the HVO did not attack houses owned by Croat families. Soldiers under my command also participated in setting fire to the stables and killed livestock owned by Muslim families in Ahmići.

32. Those who participated in the attack also blew up the mosque in Donji Ahmići and the *matif mesjid* in Gornji Ahmići, property which belonged to the Muslim community in Ahmići.

33. Property deliberately burned or otherwise destroyed during the attack on Ahmići on 16 April 1993 included residences, outbuildings, and other real property that belonged to the following people:

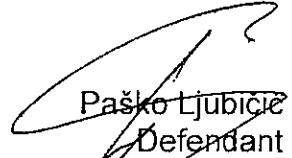
Hasim Ahmić  
 Rasim Ahmić  
 Mustafa Puščul  
 Nazif Ahmić  
 Islam Ahmić  
 Šefik Ahmić  
 Nesib Ahmić  
 Adem Siljak  
 Mustafa Ahmić  
 Mujo Ahmić  
 Mehmed Ahmić  
 Sabiha Džidić  
 Muharem Džidić  
 Mustafa Pezer  
 Šefik Pezer  
 Sakib Pezer  
 Witness B  
 Fahrudin Ahmić  
 Sulejman Ahmić

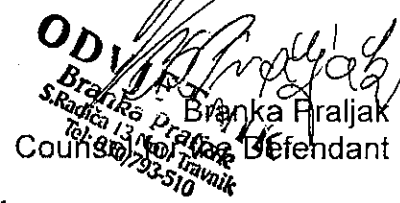
33a. Muslim-owned houses and business facilities were also set on fire in the days after 16 April 1993.

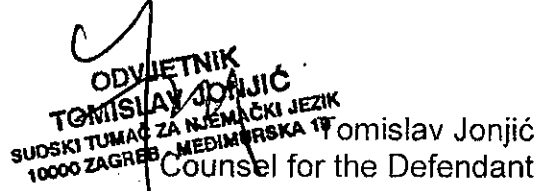
33b. Except for the role he played as a mid-ranked Commander in passing the orders issued by his superior commanders, the Defendant Paško Ljubičić did not directly participate using arms either in the attack on Ahmići or in any other military operation conducted by the HVO in Central Bosnia.

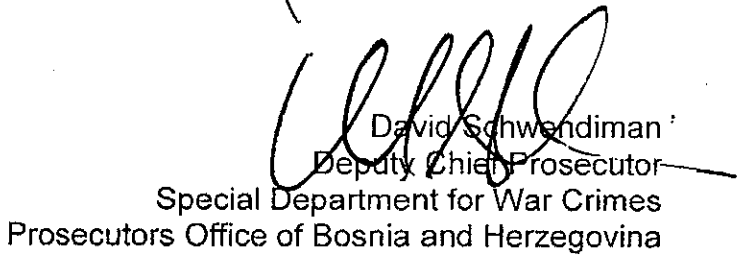
33c. An investigation of the attack on Ahmići was initiated under the pressure of the international community. Under such pressure, Tihomir Blaškić issued two orders to conduct the investigation spuriously, but those orders were fake and their only purpose was to prevent any future conduct of a proper investigation.

ATTEST

  
Paško Ljubičić  
Defendant

  
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Special Department for War Crimes  
Prosecutors Office of Bosnia and Herzegovina

**BOSNA I HERCEGOVINA  
TUŽILAŠTVO- TUŽITELJSTVO BOSNE I HERCEGOVINE  
SARAJEVO**

Predmet broj: KT-RZ 140/06  
24. travnja 2008. godine

**SUD BOSNE I HERCEGOVINE  
Na broj: X-KRN-06/241**

**SPORAZUM O PRIZNANJU KRIVNJE PO IZMIJENJENOJ OPTUŽNICI**

**DODATAK A  
PRIHVATANJE ČINJENICA**

**RELEVANTNE ODREDBE KAZNENOG ZAKONA BOSNE I HERCEGOVINE  
(KZ BiH)**

1. U relevantnim dijelovima članka 173. Kaznenog zakona Bosne i Hercegovine (KZ BiH) navodi se sljedeće:

**Ratni zločini protiv civilnog stanovništva**

**Članak 173.**

1. Ko kršeći pravila međunarodnog prava za vrijeme rata, oružanog sukoba ili okupacije naredi ili učini koje od ovih djela:

a. Napad na civilno stanovništvo, naselje, pojedine civilne osobe ili osobe onesposobljene za borbu, a taj je napad posljedovao smrću, teškom tjelesnom ozljedom ili teškim narušenjem zdravlja ljudi;

.....

f. Prisiljavanje na prinudni rad, izgladnjivanje stanovništva, konfiskaciju imovine, pljačkanje imovine stanovništva, protupravno, samovoljno i vojnim potrebama neopravdano uništavanje ili prisvajanje imovine u velikim razmjerama, uzimanje



nezakonite i nesrazmjerno velike kontribucije i rekvizicije, smanjenje vrijednosti domaće novčane jedinice ili protuzakonito izdavanje novca, kaznit će se kaznom zatvora od najmanje deset godina ili kaznom dugotrajnog zatvora.

2. U relevantnim dijelovima članka 29. i članka 35. KZ-a BiH navodi se sljedeće:

### Saučinitelji

#### Članak 29.

Ako više osoba, učestvovanjem u učinjenju krivičnog djela ili preduzimajući što drugo čime se na odlučujući način doprinosi učinjenju krivičnog djela, zajednički učine krivično djelo, svaka od njih kaznit će se kaznom propisanom za to krivično djelo.

### Umišljaj

#### Članak 35.

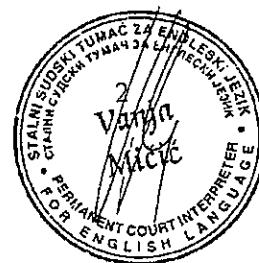
- (1) Krivično djelo može biti učinjeno s direktnim ili eventualnim umišljajem.
- (2) Učinitelj postupa s direktnim umišljajem kada je bio svjestan svog djela i htio njegovo učinjenje.
- (3) Učinitelj postupa s eventualnim umišljajem kada je bio svjestan da zbog njegovog činjenja ili nečinjenja može nastupiti zabranjena posljedica, ali je pristao na njeno nastupanje.

3. U relevantnim dijelovima članka 180. KZ-a BiH navodi se sljedeće:

### Individualna kaznena odgovornost

#### Članak 180.

(1) Osoba koja planira, pokrene, naredi, učini ili podstrekava ili pomaže u planiranju, pripremanju ili učinjenju krivičnih djela iz člana 171. (*Genocid*), 172. (*Zločini protiv čovječnosti*), 173. (*Ratni zločin protiv civilnog stanovništva*), 174. (*Ratni zločin protiv ranjenika i bolesnika*), 175. (*Ratni zločin protiv ratnih zarobljenika*), 177. (*Protupravno ubijanje i ranjavanje neprijatelja*), 178. (*Protupravno oduzimanje stvari od ubijenih i ranjenih na ratištu*) i 179. (*Povrede zakona ili običaja rata*) ovog zakona, individualno je odgovorna za to krivično djelo. Službeni položaj bilo kojeg okrivljenog, bilo da se radi o šefu države ili vlade, ili o odgovornoj službenoj osobi vlade, ne oslobađa takvu osobu krivične odgovornosti niti utječe na ublažavanje kazne.





(2) Činjenica da je neko od krivičnih djela iz člana 171. do 175. i člana 177. do 179. ovog zakona učinjeno od strane podređenog, ne oslobađa njemu nadređenu osobu od krivične odgovornosti ukoliko je ta nedređena osoba znala ili je mogla znati da se njen podređeni sprema učiniti takvo djelo, odnosno da je već učinio takvo djelo, a nadređena osoba je propustila da preduzme nužne i razumne mjere da spriječi učinjenje krivičnog djela, odnosno da učinitelj tog djela bude kažnjen.

(3) Činjenica da je neka osoba postupala po naređenju vlade ili neke njoj nadređene osobe, ne oslobađa je krivične odgovornosti, ali može utjecati na ublažavanje kazne ako sud smatra da to interesi pravičnosti zahtijevaju.

## BICE DJELA

4. Prije nego što se Sud uvjeri da je optuženi KRIV za kršenje članka 173., kako je to predviđeno u ovome Sporazumu i Izmijenjenoj optužnici, optuženi mora priznati, a Sud utvrditi činjenice koje potvrđuju sljedeće:

Postojanje oružanog sukoba

Da je optuženi, kršeći odredbe međunarodnog prava, naredio ili na drugi način počinio

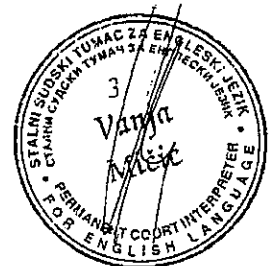
Napad na civilno stanovništvo, naselje, pojedine civilne osobe ili osobe onesposobljene za borbu,

Da je taj napad posljedovao smrću, teškom tjelesnom ozljedom ili teškim narušenjem zdravlja ljudi;

Konfiskaciju imovine, pljačkanje imovine stanovništva, protupravno, samovoljno i vojnim potrebama neopravdano uništavanje ili prisvajanje imovine u velikim razmjerama.

## ČINJENICE

5. Ja, Paško Ljubičić, optuženi u ovome predmetu, dragovoljno, svjesno i uz puno razumjevanje posljedica moga priznanja krivnje, nakon savjetovanja sa svojim braniteljima, te odričući se prava da ne podnosim dokaze koji me terete, kao i prava da navodi u ovoj stvari budu u potpunosti osporeni na suđenju, prihvatam i priznajem sljedeće činjenice i pravne zaključke, te priznajem i prihvatam da isti čine dostatne dokaze i dovoljan osnov za Sud da me oglasi



krivim i donese presudu, te utvrdi kaznu, kako je navedeno u Sporazumu čiji je sastavni dio ovaj Dodatak.

## ORUŽANI SUKOB

6. Dana 16. travnja 1993. godine došlo je do oružanog sukoba između snaga Hrvatskog vijeća obrane (HVO) i Armije Bosne i Hercegovine (ARBiH). Iako su prvi sukobi između HVO-a i ARBiH počeli u listopadu 1992. godine, koncem siječnja 1993. godine izbila su otvorena neprijateljstva između tih dviju oružanih snaga.

7. Kao vojnik i zapovjednik Četvrte bojne Vojne policije HVO-a, bio sam u poziciji da znam za postojanje oružanog sukoba između snaga HVO-a i ARBiH. Zbog činjenica kojih sam temeljem svoga položaja i iskustva bio svjestan, imao sam osobna saznanja o postojanju oružanog sukoba.

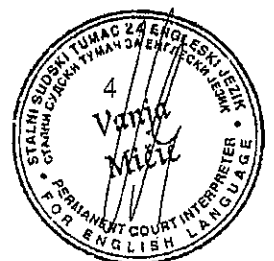
## KRŠENJE ODREDBI MEĐUNARODNOG PRAVA

8. Člankom 4. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine koji je bio obvezujući kada je riječ o postupcima u Ahmićima i u okolici Ahmića iz travnja 1993. godine, i koji je bio primjenjiv i u odnosu na moje postupke, zabranjene su radnje usmjerene protiv svih osoba koje ne uzimaju direktno učešće u neprijateljstvima, ili koje su prestale učestvovati u njima, a koje, između ostalog, u svako doba i na svakom mjestu, predstavljaju nasilje nad životom, zdravljem i fizičkom ili mentalnom dobrobiti ljudi, naročito ubojstvo, a uključujući i pljačkanje.

9. Napad na Ahmiće koji se desio 16. travnja 1993. godine predstavljao je kršenje odredbi iz članka 4. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine.

10. Temeljem članka 13. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine, koji je bio obvezujući kada je riječ o postupcima u Ahmićima i u okolici Ahmića iz travnja 1993. godine, i koji je bio primjenjiv i u odnosu na moje postupke, smatra se kršenjem odredbi međunarodnog prava učiniti civilno stanovništvo predmetom napada u okviru oružanog sukoba. Ova zabrana se odnosi i na napad na pojedince civile.

11. Napad na Ahmiće dana 16. travnja 1993. godine predstavljao je kršenje odredbi iz članka 13. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine.



12. Temeljem članka 14. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine, koji je bio obvezujući kada je riječ o postupcima u Ahmićima i u okolici Ahmića iz travnja 1993. godine, i koji je bio primjenjiv i u odnosu na moje postupke, smatra se kršenjem odredbi međunarodnog prava ne zaštititi objekte koji su prijeko potrebni za preživljavanje civilnog stanovništva.

13. Napad na Ahmiće dana 16. travnja 1993. godine predstavljao je kršenje odredbi iz članka 14. Dopunskog protokola II Ženevske konvencije od 12. kolovoza 1949. godine.

### OPTUŽENI JE NAREDIO ILI NA DRUGI NAČIN POČINIO SLJEDEĆE

14. Za zapovjednika Četvrte bojne Vojne policije postavljen sam u siječnju 1993. godine. Kao zapovjednik, bio sam najviši po činu časnik u svim jedinicama Vojne policije HVO-a u Operativnoj zoni Srednja Bosna.

15. Kao zapovjednik Četvrte bojne Vojne policije bio sam odgovoran za sprovođenje i izvršavanje odluka i naredbi koje su donosili moji pretpostavljeni.

16. Kao zapovjednik Četvrte bojne Vojne policije, imao sam ovlasti da pripadnicima moje bojne, uključujući i Džokere – antiteroristički vod u sastavu Prve djelatne satnije Četvrte bojne Vojne policije, prenosim naredbe i upute kojih nadređenih.

16a. Dana 15. travnja 1993. godine, u popodnevnim satima, zapovjednik Operativne zone Srednja Bosna Tihomir Blaškić održao je sastanak s političkim vodstvom Hrvata u Vitezu, te ih upoznao s namjerom napada na postrojbe Armije BiH i muslimanska naselja u općini Vitez.

17. Nakon tog sastanka s političkim vodstvom Hrvata u Vitezu, istog je dana u hotelu "Vitez" održan sastanak pukovnika Blaškića sa zapovjednicima vojnih postrojbi. Tijekom tog sastanka naređen je napad na dijelove grada Viteza pod nadzorom Armije BiH, te Ahmiće i ostala sela u Lašvanskoj dolini. Na tom sastanku, koji je održan između 17:30 i 19:30 sati izdana je zapovijed za napad. Zajedno sa svima ostalima koji su prisustvovali tom sastanku, od svoga pretpostavljenog Tihomira Blaškića primio sam zapovijed za napad i dobio upute da tu zapovijed prenesem svojim podređenima.

18. Zapovijed koju sam dobio odnosila se na napad na Ahmiće i okolna sela, a naređeno je da taj napad počne dana 16. travnja 1993. godine, u 5:30 sati ujutro. Naredba je glasila da se napadnu određena sela, uključujući i Ahmiće, te da se preuzme kontrola nad tim selima, da se spale kuće i imovina muslimanskog stanovništva u tim selima, da se ubiju muškarci Muslimani koji mogu nositi oružje, ali da se žene i djeca ne diraju. Sve koji ostanu živi trebalo je protjerati. Ja



sam znao da je ta naredba bila protuzakonita naredba, ali sam smatrao da nemam druge mogućnosti nego da tu naredbu prenesem svojim podređenima.

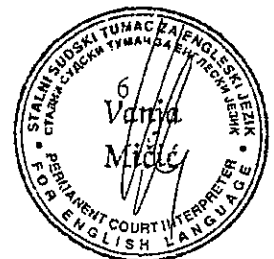
18a. Zapovjednici podređenih postrojbi, koji su bili nazočni na sastanku 15. travnja 1993. godine od 17:30 do 19:30 sati, upozorili su Blaškića na sadržaj izdane zapovijedi i inzistirali da ona bude izdana u pisanom obliku. Pozivajući se na dramatičnost trenutka, Blaškić je obećao da će zapovijed izdati u pismenom obliku, ali se to nikad nije dogodilo.

18b. Političko vodstvo Hrvata u općini Vitez, konkretno Željko TOPALLOVIĆ, Franjo ALILOVIĆ, Stipo KRIŽANAC, Blaž KESIĆ, Vlado ALILOVIĆ, Marijan SKOPLJAK, Pero SKOPLJAK, Josip MARIĆ, Marko KNEZOVIĆ, Ivan ŠANTIĆ, Bruno BUZUK i Dragan RADOŠ, se najprije usmeno, a onda i pismeno, usprotivilo Blaškićevoj zapovijedi, te je zahtijevalo da se ona ukine ili izmijeni, upozoravajući ga na katastrofalne posljedice za građane općine Vitez i za odnose između Hrvata i Muslimana, za slučaj da ona bude izvršena.

18c. Zapovjednik Operativne zone Srednja Bosna, pukovnik Blaškić, svojom je zapovijedi sve njemu podređene postrojbe (PPN Vitezovi, PPN Tvrtko, Četvrta bojna Vojne policije, PPN Žuti) stavio na raspolaganje Viteškoj brigadi, kao pomoć lokalnim postrojbama te brigade koja je pokrivala područje općine Vitez. U skladu s time su i dijelovi Četvrte bojne Vojne policije bili angažirani 16. travnja 1993. godine u napadnim djelovanjima u području sela Ahmići.

19. Nakon sastanka zapovjednika vojnih postrojbi kod pukovnika Blaškića, u televizijskoj dvorani hotela "Vitez" prenio sam Blaškićevu zapovijed zapovjedniku Prve djelatne satnije Četvrte bojne Vojne policije, Vladimiru Šantiću, određivši da se raspoloživo ljudstvo okupi u večernjim satima u objektu "Bungalov". Vladimiru Šantiću i drugim nazočnim pripadnicima Vojne policije rekao sam da je naša postrojba, prema Blaškićevoj zapovijedi, zadužena za napadna djelovanja u smjeru Ahmića prema Pirićima. Ta djelovanja treba poduzeti u suradnji s lokalnim postrojbama Viteške brigade, koja je dobila zadaću napasti sva ostala muslimanska sela na tom području, te zaseoke s muslimanskim stanovništvom.

20. Nešto prije ponoći 15. travnja 1993. godine sastao sam se s pripadnicima Četvrte bojne Vojne policije koji su trebali sudjelovati u napadu. Sastanak je održan u objektu u Nadiocima, poznatom kao "Bungalov". Na tom sastanku sam ponovio zapovijed koju sam dobio od Tihomira Blaškića; a to je da trebaju sudjelovati u napadu na Ahmiće, spaliti kuće i imovinu muslimanskog stanovništva iz toga sela, ubiti muškarce Muslimane koji mogu nositi oružje, ali da ne diraju žene i djecu. Ponovio sam ono što mi je bilo rečeno, a to je da se protjeraju svi koji ostanu. Pored ostalih, tu su bili i Nikica Šafradin, Ilija Šantić, Miroslav Bralo zvaní Cicko i Anto Furundžija i oni su od mene primili ovu naredbu.



20a. U vrijeme obuhvaćeno optužnicom MKSJ-a, Okružni vojni zatvor Kaonik nalazio se pod izravnom nadležnošću zapovjednika Operativne zone Srednja Bosna, pukovnika Tihomira Blaškića. Pukovnik Blaškić je 15. travnja 1993. godine izdao zapovijed da se iz zatvora Kaonik puste sve osobe hrvatske nacionalnosti, koje su tamo bile pritvorene zbog počinjenih stegovnih prijestupa ili kaznenih djela, te da se te osobe priključe postrojbama Hrvatskog vijeća obrane koje su sutradan imale sudjelovati u napadnim aktivnostima.

20b. U skladu s tom zapovijedi Tihomira Blaškića, iz zatvora Kaonik pušten je i Miroslav Bralo zv. Cicko. Niz dokumenata pokazuje da je Miroslav Bralo tijekom 1992. godine bio pripadnik postrojbe za posebne namjene "Alpha Forces", a 1993./94. pripadnik Viteške brigade. No, nesporno je da je 16. travnja 1993. godine sudjelovao u napadu na Ahmiće.

20c. Nakon sastanka kojeg sam malo prije ponoći 15./16. travnja 1993. godine održao s pripadnicima Četvrte bojne Vojne policije, u "Bungalovu" su zapovjednik Prve djelatne satnije Četvrte bojne Vojne policije (Vladimir Šantić) i zapovjednik lokalnih snaga Viteške brigade (Nenad Šantić) pristupili izradi operativnog plana akcije, u sklopu kojega je raspoloživo ljudstvo raspoređeno u skupine, te su određeni smjerovi njihova kretanja i napada.

21. Pred zoru 16. travnja 1993. godine održao sam još jedan sastanak sa sebi podređenim zapovjednikom Prve djelatne satnije Četvrte bojne Vojne policije Vladimirom Šantićem, koji mi je izložio operativni plan kojega je pripremio prethodnih sati. Dao sam odobrenje za operativni plan izvršenja naredbe koju mi je izdao Tihomir Blaškić i koju sam prenio svojim podređenima. Tijekom toga sastanka ponovio sam naredbu koju mi je izdao Tihomir Blaškić i naglasio da se ne ubijaju civili na koje se ova naredba ne odnosi, a koji budu protjerani iz svojih domova. Time sam pomogao i dao svoj presudni doprinos, odnosno, pomogao i podržao planiranje i izvršenje napada koji je uslijedio.

22. Po završetku ovoga sastanka, zapovjednik Prve djelatne satnije Četvrte bojne Vojne policije Vladimir Šantić napustio je objekt "Bungalov" i pridružio se ljudstvu Četvrte bojne Vojne policije koje je sudjelovalo u napadnom djelovanju na pravcu Ahmići, kako bi neposredno rukovodio djelovanjem tog ljudstva.

23. Znao sam da je naredba koju mi je izdao Tihomir Blaškić, a koju sam ja prenio, bila protuzakonita naredba, dao sam svoje odobrenje za sprovođenje pripremljenog plana i očekivao sam izvršenje tog plana i znao sam da će tom prilikom vjerojatno doći do smrti osoba koje nisu bile sudionici u borbi, da će osobe koji nisu bile sudionici u borbi vjerojatno zadobiti teške tjelesne povrede, a da će zaštićena imovina biti uništena. Nisam poduzeo nikakve mjere da spriječim izvršenje toga plana.



## NAPAD NA CIVILNO STANOVNIŠTVO, I DRUGO

24. Prema zapovijedi Tihomira Blaškića od 15. travnja 1993. godine, napad na selo Ahmiće izvele su lokalne postrojbe Viteške brigade HVO-a i dijelovi Četvrte bojne Vojne policije. Napad je počeo 16. travnja 1993. godine oko 5:30 sati ujutro. Sukladno zapovijedi, snage HVO-a su istodobno napale Ahmiće, Nadioke, Šantiće, Piriće, Novake, Putiš i Donju Večerisku. Pripadnici moje bojne učestvovali su u tom napadu. Džokeri, posebni antiteroristički vod u sastavu moje bojne, bili su uključeni u napad na selo Ahmiće.

24a. Svim aktivnostima tijekom napada rukovodio je zapovjednik Operativne zone Srednja Bosna Tihomir Blaškić, koji je djelovanje HVO-a na području općine Vitez koordinirao iz svoga zapovjednog mjesta, smještenog u podrumu hotela "Vitez".

25. Do konca 1992. godine, HVO je razoružao muslimanske snage stacionirane u selima na tom području koje je napadnuto dana 16. travnja 1993. godine. Međutim, bilo je džepova u kojima je bilo otpora, a pripadnici Teritorijalne obrane iz tog područja su još uvijek imali nešto vatrenog oružja i to se smatralo potencijalnom opasnošću za snage HVO-a na tom području.

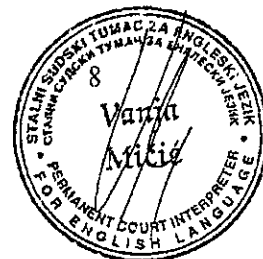
26. U vrijeme početka napada na dan 16. travnja 1993. godine, većina muslimanskih stanovnika sela Ahmići bili su civili ili slabo naoružani pripadnici ARBiH.

27. Tijekom napada 16. travnja 1993. godine, vojnici HVO-a, uključujući i pripadnike Četvrte bojne Vojne policije pod mojim zapovjedništvom, koristili su, između ostalog, i granate, eksploziv i zapaljivu municiju kako bi izvršili napad na ciljeve u Ahmićima. Mete njihova napada su bili vojni ciljevi, te kuće, vjerski objekti, stoka i ljudi.

28. Napad na Ahmiće od 16. travnja 1993. godine bio je dio koordiniranog napada na postrojbe ARBiH, kao i na muslimansko civilno stanovništvo u Ahmićima i Lašvanskoj dolini uopće, do kojega je došlo u periodu između 16. travnja i 20. travnja 1993. godine.

### IMAO JE KAO POSLJEDICU SMRT I TEŠKE TJELESNE POVREDE

29. Najmanje 103 osobe su ubijene tijekom napada na Ahmiće i njegovu okolicu. Među mrtvima je najviše bilo vojno sposobnih muškaraca Muslimana koji, međutim, prije toga napada nisu bili pripadnici nijedne vojne postrojbe, niti su aktivno učestvovali u borbi, a ako su ranije i sudjelovali u borbi, u vrijeme napada oni više nisu bili aktivno uključeni u borbu. U tom napadu ubijen je i određeni broj



žena i djece. Neki civili su bili zarobljeni u kućama koje su gorjele i od toga su i umrli. Nekoliko civila je također zadobilo teške tjelesne povrede.

30. Među civilima koji su ubijeni ili povrijeđeni u napadu na Ahmiće bile su sljedeće osobe:

Abdulah Ahmić  
 Hasim Ahmić  
 Fahrudin Ahmić  
 Mustafa Puščul  
 Nazif Ahmić  
 Islam Ahmić  
 Šefik Ahmić  
 Elvedin Ahmić  
 Adem Siljak  
 Munib Heleg  
 Mujo Ahmić  
 Nedžad Džidić  
 Muharem Džidić  
 Mustafa Pezer  
 Šefik Pezer  
 Ahmed Pezer  
 Sakib Pezer  
 Mevludin Pezer  
 Muris Ahmić  
 Latifa Ahmić  
 Alija Ahmić  
 Muhamed Džidić  
 Ismail Ahmić  
 Muhamed Neslanović  
 Esad Ahmić  
 Mustafa Dedić  
 Mujo Dedić  
 Fariz Dedić  
 Mehmed Hrnjić  
 Admir Hrnjić  
 Munib Ribo  
 Smaila Ahmić  
 Ibrahim Pezer  
 Samir Mrkonja  
 Sabahudin Mrkonja

30a. Sve osobe koje su u tijeku napada uhićene ili privedene, u organizaciji i pod nadzorom Viteške brigade i njoj podređenih postrojbi smještene su u detencijske centre na području općine Vitez (Osnovna škola Dubravica, Kino Vitez, SDK Vitez, Veterinarska stanica Vitez i sl.). Do njihove razmjene i puštanja te su



osobe bile pod nadzorom zapovjedništva Operativne zone Srednja Bosna, odnosno zapovjedništva Viteške brigade.

### UNIŠTENJA IMOVINA

31. Za vrijeme napada na Ahmiće dana 16. travnja 1993. godine, vojnici HVO-a, uključujući i pripadnike Četvrte bojne Vojne policije pod mojim zapovjedništvom, kretali su se kroz selo Ahmići i aktivno učestvovali u spaljivanju kuća za koje se znalo da pripadaju Muslimanima. Od ukupno 200 muslimanskih kuća u Ahmićima, njih 180 je spaljeno tijekom toga napada. Sukladno zapovijedi, HVO nije napadao kuće u vlasništvu hrvatskih obitelji. Vojnici koji su bili pod mojim zapovjedništvom sudjelovali su i u paljenju štala i ubijanju stoke u vlasništvu muslimanskih obitelji iz Ahmića.

32. Sudionici u tom napadu su također digli u zrak džamiju u Donjim Ahmićima i mektef-mesdžid u Gornjim Ahmićima, a ti objekti pripadali su muslimanskoj zajednici u Ahmićima.

33. Među imovinom koja je namjerno zapaljena tijekom napada na Ahmiće 16. travnja 1993. godine bile su i kuće, pomoćni objekti, te ostala imovina čiji su vlasnici bili:

Hasim Ahmić  
 Rasim Ahmić  
 Mustafa Puščul  
 Nazif Ahmić  
 Islam Ahmić  
 Šefik Ahmić  
 Nesib Ahmić  
 Adem Siljak  
 Mustafa Ahmić  
 Mujo Ahmić  
 Mehmed Ahmić  
 Sabiha Džidić  
 Muharem Džidić  
 Mustafa Pezer  
 Šefik Pezer  
 Sakib Pezer  
 Svjedok B  
 Fahrudin Ahmić  
 Sulejman Ahmić

33a. Muslimanske kuće i gospodarski objekti u Ahmićima spaljivani su i idućih dana nakon 16. travnja 1993. godine.





33b. Osim uloge koju je kao srednje rangirani zapovjednik imao u prenošenju zapovijedi nadređenih zapovjednika, optuženi Paško Ljubičić nije neposredno oružjem sudjelovao ni u napadu na Ahmiće ni u kojoj drugoj vojnoj operaciji HVO-a u Srednjoj Bosni.

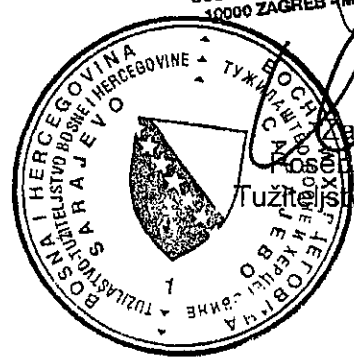
33c. Istraga o napadu na Ahmiće potaknuta je pod pritiskom međunarodne zajednice. U sklopu tog pritiska, Tihomir Blaškić je izdao dvije zapovijedi kojima se prividno nalaže provedba istrage, ali su te zapovijedi bile fingirane i njihova je jedina svrha bila da se prava istraga nikad ne provede.

DOKUMENT POTVRĐUJU

*[Signature]*  
Paško Ljubičić  
Optuženi

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S. Radića, 13 Nov. Travnika  
Tel: 060 71 51 19  
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Hajlića optuženog

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*[Signature]*  
David Schwendiman  
Glavnik glavnog tužitelja  
Posebni odjel za ratne zločine  
Tužilaštvo Bosne i Hercegovine

Potvrđujem da ovaj prijevod u potpunosti odgovara izvorniku sačinjenom na engleskom jeziku.  
Sarajevo, 24. travnja 2008. godine  
Vanja Mičić  
Stalni sudski tumač za engleski jezik

*[Signature]*  
Vanja Mičić

