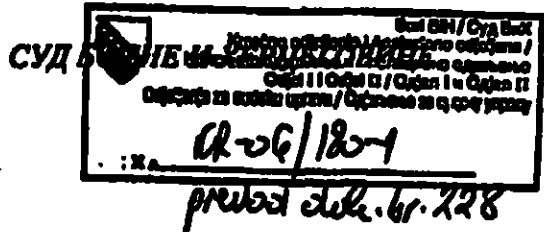


SUD BOSNE I HERCEGOVINE



Number: **X-KR-06/180-1**
Sarajevo, 22 October 2008

IN THE NAME OF BOSNIA AND HERZEGOVINA

The Court of Bosnia and Herzegovina, Section I for War Crimes, the Panel comprised of Judge Senadin Begtašević as the Panel President and Judges Vesna Jesenković and David Re as Panel members, with legal officer Sabina Hota as the minutes taker, in the criminal case of the Accused Vaso Todorović, for the criminal offence of Crimes against Humanity under Articles 172(1)(a)(d) of the Criminal Code of BiH (CC BiH), in conjunction with Article 31 CC BiH, upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina number KT-RZ-43/08 of 15 October 2008, after the hearing for consideration of the Plea Agreement and public sentencing hearing on 20 October 2008, in the presence of the prosecutor of the Prosecutor's Office of BiH, Ibro Bulić, Accused Vaso Todorović and his defense counsel Haris Bojić, attorney from Sarajevo, on 22 October 2008 rendered and publicly pronounced the following

VERDICT

ACCUSED:

TODOROVIĆ Vaso, son of Stojan and mother Mitra, nee Ristić, born on 2 March 1968, in Žabokvica, the Municipality of Srebrenica, personal ID number 0203968183123, married, father of two minor children, Serb, citizen of BiH, blue-collar worker, indigent, no prior convictions, served compulsory military service in 1989/90 in Niš and Bosilegrad, no rank, no decorations, residing in Veliki Crljeni, the Municipality of Lazarevac, Republic of Serbia,

IS GUILTY

In as much as he:

In the course of the armed conflict in Bosnia and Herzegovina, as the Army and MUP of the Republic of Srpska in the period from July 10 to July 19 1995 undertook a widespread and systematic attack on the Bosniak population within the UN Protected Zone of Srebrenica, as part of the plan to forcibly displace the Bosniak civil population, women, children and



elderly, outside the UN Protected Zone of Srebrenica, and separate, capture, and execute the men, the Accused Todorović Vaso, being aware of the attack and the plan, assisted in executing the Bosniak men and forcible transfer of the Bosniak population based on ethnic, cultural, and religious basis, in the manner that he, in the capacity of a special police member – police officer, together with a number of other members of the 2nd Detachment of the Šekovići Special Police, the Republic of Srpska MUP:

1. On July 12 1995, participated in the search of the villages populated by Bosniaks within the area of the UN Protected Zone of Srebrenica in the vicinity of Potočari with an aim to dislocate the Bosniak population, expel them from their houses and take them to the area of Potočari, where the Bosniak population was gathering, being aware that the population would be forcibly transferred from Potočari and permanently displaced to the area controlled by the R BiH Army, and on the same day in the afternoon hours and in the course of the next day, July 13, on the section of the Bratunac- Konjević Polje road at the place of Sandići, Municipality of Bratunac, participated in keeping the road communication open for the purpose of unhindered passing of the Bosniak population by buses and trucks and

2. On July 13, participated in capturing thousands of Bosniak men trying to escape from the protected zone through the woods being afraid of capturing and execution done by the RS MUP and Army, and then, participated in escorting a few hundred Bosniak men from the place of Sandići to the Agricultural Co-operative Kravica Warehouse, knowing that they would be executed, and after imprisoning the Bosniaks inside the warehouse, while the other members of the 2nd Detachment were killing the imprisoned Bosniak men with rifles, machine-guns, and hand-grenades, the Accused Vaso Todorović performed his duty of a guard, so that no prisoner under attack could escape, and on that occasion more than a thousand imprisoned Bosniak men were executed.

Whereby:

As part of the wide-spread and systematic attack aimed against the civilian Bosniak population, being aware of the attack, the Accused assisted in depriving other people of their lives (murders) and forcible displacement of the Bosniak population on political, national, ethnic, cultural, and religious basis,



Vaso Todorović committed the criminal offence of Crimes against Humanity in violation of Article 172(1)(a) and (d) in conjunction with Article 31 of the Criminal Code of BiH.

Therefore, pursuant to Article 231(3) of the Criminal Procedure Code (CPC BiH) and Article 39 and 48 of the CC BiH, the Court

**SENTENCES HIM
TO PRISON SENTENCE OF 6 (six) YEARS**

Pursuant to Article 56 CC BiH, the Accused will be credited for his time in custody from 28 May 2007 onwards.

Pursuant to Article 198(2) CPC BiH, the Court refers the injured parties to take civil action under property law for any potential claims.

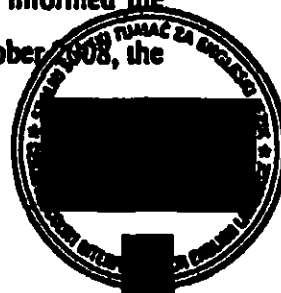
Pursuant to Article 188(4) CPC BiH Vaso Todorović is entirely exempted from the payment of costs of the proceedings which will be covered from the budget.

Reasoning

- I. The Indictment and Plea Agreement

The Prosecutor's Office of Bosnia and Herzegovina in the Indictment number KT-RZ-43/08 of 27 May 2008, as confirmed on 3 June 2008, charged Vaso Todorović with the criminal offence of Genocide under Article 171 CC BiH, in conjunction with Articles 29 and 180(1) of the Code. At the plea hearing held on 23 June 2008, the Accused Todorović entered a plea of not guilty to the offences charged against him.

At the status conference on 17 September 2008, the parties to the proceedings informed the Court that plea bargaining was ongoing. At the main trial hearing held on 15 October 2008, the



defense proposed that the Accused should present his defense, in other words, that he should testify as a witness. Following the prosecutor's consent to that proposal, the Panel made a decision to change the order of evidence pursuant to Article 261(2) CPC BiH, and the Accused Vaso Todorović was heard as a witness. The prosecutor presented evidence by submitting and reading the Suspect Examination Record number KT-RZ-43/08 of 8 April 2008, and the Record number KT-RZ-43/08 of 18 April 2008 and filed an Amended Indictment at the hearing. The Amended Indictment charged the Accused with the criminal offence of Crimes against Humanity under Article 172(1)(a) and (d) in conjunction with Article 31 of the Criminal Code of BiH.¹

On 16 October 2008, the Accused entered into a Plea Agreement with the Prosecutor's Office of BiH, in the presence of his defense counsel, attorney Haris Bojić. The Plea Agreement along with the Statement of Facts and Admission of Guilt, documentary evidence and Motion to admit facts established in the final judgments of the International Criminal Tribunal for Former Yugoslavia (ICTY) was filed on the same day.²

Under the Agreement the Accused Vaso Todorovic pleaded guilty of the commission of the offence he was charged with and agreed to the prison sentence between 5 (five) and 10 (ten) years. In addition the Agreement indicates that the Accused accepts all legal consequences arising from the Agreement, including claims under property law and costs of the criminal proceedings.

Following the deliberation and voting, the Court accepted the Agreement in its entirety. The Court was satisfied that all requirements under Article 231(6) CPC BiH were met. The Court was satisfied that the Accused Vaso Todorovic concluded the Agreement voluntarily, consciously and with understanding, after he had been informed of possible consequences relative to claims under property law and costs of the criminal proceedings. The Court was also satisfied that there was ample evidence of the guilt of the Accused and that the Accused

¹ Amended Indictment number KT-RZ-43/08 of 13 October 2008.

² Plea Agreement number KT-RZ-43/08 of 16 October 2008.



understood that by the Court accepting the Agreement, he waived his right to trial and could not appeal the criminal sanction he would be imposed.

2. Evidence submitted

In reaching its verdict the Court examined and assessed all evidence tendered in the course of the proceedings including that specifically detailed below. The evidence submitted falls into three categories, namely, established facts from ICTY judgments,³ specified in Annex 1 which is an integral part of this Verdict, the testimony and statement of Vaso Todorović, and the evidence submitted by the Prosecutor with the Plea Agreement, specified in Annex 2, which is also an integral part of this Verdict.

The defense of the Accused adduced evidence at the hearing on 15 October 2008, by hearing the Accused as a witness.

3. Procedural decisions

Admission of established facts from ICTY cases

On 16 October 2008, the Prosecution moved the Court, pursuant to Article 4 of the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence collected by the ICTY in Proceedings before the Courts in BiH, to accept 87 facts as established facts.⁴ All 87 facts are listed in the table in Annex 1.⁵

Vaso Todorović and his counsel consented to the motion. Defense counsel submitted that it could even be considered a "joint motion". After deliberation the Court has accepted the facts.

The main aim of accepting established facts is to ensure the expediency of the proceedings while preserving the right of the Accused to a fair, public and expeditious trial or sentence

³ International Criminal Tribunal for the Former Yugoslavia.

⁴ "Motion for Acceptance of Facts Established in Final Judgments of the ICTY" filed 15 October 2008.

⁵ The numbering of the facts and the supporting explanation for each fact is set out in the motion.



hearing, as guaranteed by Article 13 of the CPC BiH and Article 6 (1) of the European Convention on Human Rights and Fundamental Freedoms.

The Court of BiH has generally utilized Rule 94 (B) of the ICTY's Rules of Procedure and Evidence as a guideline to evaluate the facts to be established. Following this practice, the Court has admitted the 87 facts as meeting the following criteria:

- The fact must be distinct, concrete and identifiable;
- The fact must be relevant to the current proceedings;
- The fact forms part of an original judgment which has not been appealed, has been finally settled on appeal or falls within issues which are not in dispute during the appeal;
- The fact must not be based on an agreement between the parties; and
- The fact is not subject of reasonable dispute between the parties.

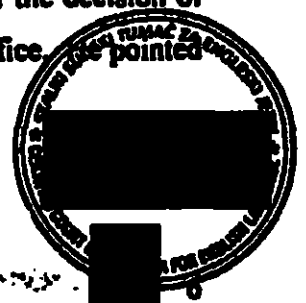
The Court has also adopted the following criteria, although the practice of the panels of the Court of BiH has varied in relation to its interpretation:

- The facts must not relate to the acts, conduct or mental state of the Accused; and
- The fact must be restricted to factual findings and does not include legal characterizations.

4. Closing arguments – entertained at the sentencing hearing

At the sentencing hearing, the parties submitted that they maintained the Pica Agreement in its entirety and presented extenuating and aggravating circumstances that might affect the sentence. The prosecution and the defense urged the Court to exercise leniency in imposing sentence.

The Prosecutor pointed out the utility to the criminal justice system in BiH of the decision of the Accused to plead guilty and to provide his assistance to the Prosecutor's Office.



out that the Kravica trial had been tried over three years and, in one year, had occupied 70 court days.⁶ He submitted that the facts of the present case were very similar and a lengthy trial could be expected if Vaso Todorović had elected to go to trial. The two survivors of the warehouse massacre would have had to testify again.

He also submitted that the Court's acceptance of the Plea Agreements struck the correct balance between the interests of justice and that of the victims in that it would encourage other suspects to take advantage of this to admit their guilt. Taking such a course would create a climate of trust and reconciliation. In addition, the Prosecutor emphasized that prior to the conclusion of the agreement, he informed the representatives of the injured parties, namely the association "Movement of Mothers of Srebrenica and Žepa Enclaves" who consented to this agreement.

Vaso Todorović has also undertaken to testify in similar cases. The Prosecutor submitted that he had co-operated substantially with the Prosecution and had been truthful in his co-operation. The Prosecutor described Vaso Todorović's assistance to the Prosecution as of "great value". The Prosecutor attached large significance to the value of his testimony against others who may have participated in the events in Srebrenica.

The Prosecutor submitted the following mitigating features applied to this case: Vaso Todorović was of modest education; he was a lowest ranking member of his unit; he tried to do as little damage as possible; he is married with two children of minor age; his failing to murder the prisoners resulted in his and his family facing numerous problems afterwards; he had co-operated with the Prosecution in other cases; he had confessed early; and, he had expressed his remorse.

⁶ *Prosecutor's Office of BiH v Miloš Šupar, Milenko Trifunović, Brano Džinić, Aleksandar Radovanović, Slobodan Jakovljević, Veljko Maksimović, Dragiša Živanović, Branislav Medan and Milovan Matić, X-KR-05/24, "First Instance verdicts", 28 July 2008.*



Defense counsel submitted that the circumstances of this case were similar to those of Drazen Erdemović, sentenced by the ICTY on a plea of guilty to Crimes against Humanity, and that the Court should impose a *similarly lenient sentence*.⁷

Vaso Todorović addressed the Court and said that he wished to apologize to the victims and their families. He expressed his personal regret at being present when the victims were murdered.

The Prosecutor referred to the possible consequences of Vaso Todorović failing to obey the orders including possible exposure to "very serious criminal sanction" by military courts in the Republika Srpska. Both parties submitted that the Court could consider as a mitigating factor Vaso Todorović's potential fear of facing very serious criminal sanction if failed to carry out the orders to participate in the deportation and forcible transfer and murder of the entire Bosniak civilian population of the Srebrenica enclave. In support of this argument the Prosecutor referred to the mobilization decrees issued by Radovan Karadžić as the Supreme Commander of the VRS on 16 June 1995.

5. Findings

Under the Plea Agreement, the Accused confessed guilt for all criminal offences charged in the Indictment of the Prosecutor's Office of BiH number KT-RZ-43/08. However, the Court was obliged to evaluate the authenticity of that confession, which it did, and to check whether sufficient evidence existed of the Accused's guilt.

A. General information

On 16 April 1993, the UN Security Council, by Resolution 819/1993 declared the area of Srebrenica in eastern Bosnia and Herzegovina a "'safe area' that should be free from armed attack or any other hostile act". The population, within territory held by the VRS (Bosnian Serb

⁷ Counsel mistakenly submitted that Erdemović had received a sentence of seven years; the correct figure was 10 years.

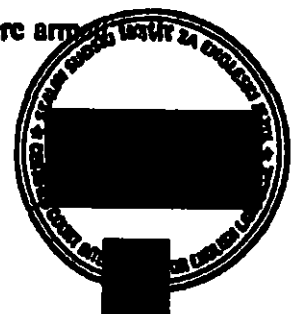


Army), was predominantly Bosniak. The village of Kravica is on the main road between Konjević Polje and Bratunac, near the village of Sandići. An Agricultural Cooperative in Kravica had four buildings including a large warehouse or sometimes also described as a "hangar".

aa) The facts established and admitted into evidence

The established facts are set out in full in Annex 1. Those most relevant to the Court's assessment of the evidence appear directly below. The Court has assessed each in determining the guilt of Vaso Todorović.

- There was an armed conflict in eastern Bosnia between 11 July and 1 November 1995. The attack was widespread or systematic. In July 1995, following the take-over of Srebrenica, Bosnian Serb forces executed several thousand Bosnian Muslim men. The total number is likely to be within the range of 7,000 to 8,000 men.
- The attack, carried out by the VRS and MUP [Ministry of Interior] was planned and defined in the "Krivaja 95" order.
- The civilian police of the Republika Srpska was organized under the MUP. In July 1995, Tomislav Kovač was the acting Minister of Interior. The civilian police was organized in two sections: the regular police force and the special police brigade. The Special Police Brigade was a combat unit of the MUP. Colonel Goran Sarić was the commander and Colonel Ljubiša Borovčanin was the deputy commander. The normal activities of this brigade included securing airports and providing security for important events.
- The Special Police Brigade consisted of approximately eight Detachments, including the 2nd Detachment from Šekovići commanded by Miloš Stupar, and a Training Centre at Jahorina, commanded by Duško Jević. Members of the Detachments were armed.



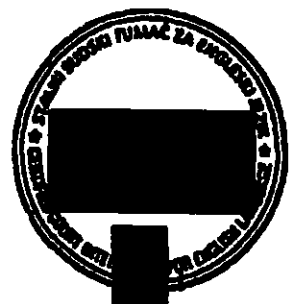
automatic and semi-automatic weapons and were trained differently than the regular police force. The Detachments also had heavy weapons and vehicles, such as tanks, armored personnel carriers ("APCs") and Pragas.

- The attack continued after the fall of Srebrenica and affected the approximately 40,000 people who lived within the Srebrenica enclave at the time of the attack.
- The attack was clearly directed against the Bosnian Muslim civilian population in the Srebrenica enclave. Although the younger and older men could still be capable of bearing arms, they did not present a serious military threat. The massacred men amounted to about one fifth of the overall Srebrenica community.
- Almost to a man, the thousands of Bosnian Muslim prisoners captured, following the take-over of Srebrenica, were executed. Some were killed individually or in small groups by the soldiers who captured them and some were killed in the places where they were temporarily detained. Most, however, were slaughtered in carefully orchestrated mass executions, commencing on 13 July 1995, in the region just north of Srebrenica.
- Prisoners not killed on 13 July 1995 were subsequently bussed to execution sites further north of Bratunac, within the zone of responsibility of the Zvornik Brigade.
- The large-scale executions in the north took place between 14 and 17 July 1995. Most of the mass executions followed a well-established pattern. The men were first taken to empty schools or warehouses. After being detained there for some hours, they were loaded onto buses or trucks and taken to another site for execution. Usually, the execution fields were in isolated locations. The prisoners were unarmed and, in many cases, steps had been taken to minimize resistance, such as blindfolding them, binding their wrists behind their backs with ligatures or removing their shoes.
- Once at the killing fields, the men were taken off the trucks in small groups, lined up and shot. Immediately afterwards, and sometimes even during the executions, capti

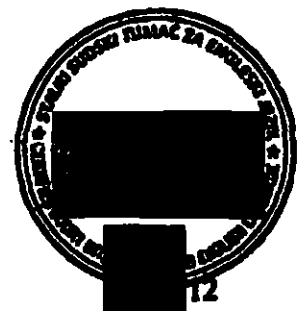


moving equipment arrived and the bodies were buried, either in the spot where they were killed or in another nearby location.

- On 11 July 1995, before the VRS found out about the formation and movement of the Bosnian Muslim column, the Main Staff ordered the Drina Corps to take pre-emptive steps, "by arrangement and co-operation with the MUP" to block the passage of Bosnian Muslims to and from the enclave.
- Plans to transport the Bosnian Muslim civilians out of the enclave crystallized at this second meeting. [...] it was General Mladić who initiated the meetings at the Hotel Fontana when he made it abundantly clear that he wanted the Bosnian Muslims out of the area.
- On 12 July 1995, as the bus convoys were being organized, General Mladić was heard to say during an intercepted conversation: "They've all capitulated and surrendered and we'll evacuate them all – those who want to and those who don't want to." [...] the Bosnian Muslim refugees were not consulted or given a choice about their final destination.
- An intercepted conversation on 13 July 1995 indicates that about 6,000 men had been captured by 17:30 hours. The soldiers guarding the men forced them to drop their belongings into big piles and to hand over their valuables. The Bosnian Serb forces on the scene began shepherding the men out of the meadow. Some were put on buses or marched towards the nearby Kravica Warehouse.
- Others were loaded on buses and trucks and taken to Bratunac and other nearby locations. [...] on 13 July 1995, MUP forces were deployed along the stretch of road between Konjević Polje and Bratunac where the bulk of the Bosnian Muslim prisoners were captured from the column.



- A series of intercepted conversations shows close co-operation and co-ordination between MUP units and Drina Corps units, particularly the Engineers Battalion, who were jointly engaged in action to block the Bosnian Muslim column. The Drina Corps Command was also in contact with the MUP unit along the Bratunac-Konjević Polje road, monitoring their progress.
- The largest groups of Bosnian Muslim men from the column were captured on 13 July 1995 (...) In some places, ambushes were set up and, in others, the Bosnian Serbs shouted into the forest, urging the men to surrender (...).
- Identification papers and personal belongings were taken away from both Bosnian Muslim men at Potočari and from men captured from the column; their papers and belongings were piled up and eventually burnt.
- Between 1,000 and 1,500 Bosnian Muslim men from the column fleeing through the woods, who had been captured and detained in the Sandići meadow, were bussed or marched to the Kravica Warehouse on the afternoon of 13 July 1995.
- A conversation, intercepted on 13 July 1995 at 20:40 hours, reveals that General Krstić spoke to Colonel Borovčanin, the Deputy Commander of the MUP unit, and asked how things were going and stated that he would be in touch.
- On 14 July 1995, the UN Security Council expressed concern about the forced relocation of civilians from the Srebrenica "safe area" by the Bosnian Serbs, asserting it was a clear violation of their human rights. [...] General [Mladić] ordered Major Obrenović to take urgent steps to ensure he did not "let anything through".
- On 14 July 1995, Bosnian Muslim prisoners, who had been detained in Bratunac and Kravica, were taken by bus to the Petkoveci School in the Zvornik municipality.



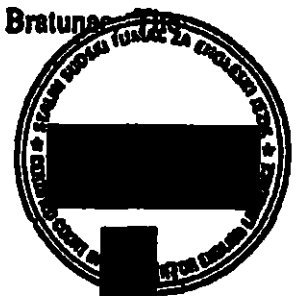
- In April 1996 they [i.e. the ICTY's Office of the Prosecutor, "the OTP"] commenced forensic examinations of suspected execution points and exhumation of mass graves. Forensic evidence showed that there were two types of mass graves, "primary graves", in which individuals were placed soon after their deaths and "secondary graves", into which the same individuals were later reburied.
- Exhumations conducted between 7 August and 20 October 2000 at the primary gravesite of Glogova I also revealed matches between broken masonry and door frames, and other artifacts found at both the gravesite and at the Kravica Warehouse execution site, suggesting that some of the victims from the Kravica Warehouse were buried there. ... there was close co-operation and co-ordination between the MUP and Drina Corps units.

ab) Evidence and statement of Vaso Todorović and other evidence submitted by the Prosecutor

Vaso Todorović testified before the Court. The Prosecution also tendered into evidence a signed statement "Statement regarding facts and confession of guilt – Todorović Vaso". Vaso Todorović's statement and testimony provided the evidence establishing his knowledge and participation in the events charged. Evidence from other sources is interspersed below.

In early July 1995 Vaso Todorović was a member of the 15 to 20 member 3rd platoon of the 2nd Detachment of the Šekovići Special Police in Srednje. The commander of the 2nd platoon, Rade Čuturić, issued an order to platoon commanders, from Ljubomir Borovčanin, that the platoon should go to Srebrenica to expel the Bosniak women and children from the UN safe haven and to capture the men and to execute them, and that the assignment should be kept secret. Čuturić conveyed this order to the 3rd platoon commander, Milenko Trifunović, who in turn issued it to the members of the Skelani platoon.

Vaso Todorović testified that the unit's assignment was to round up civilians in villages in the area of Srebrenica and bring them to the collection centers in Potočari and Bratunac.



military objective of this assignment was to expel all Bosniak civilians from the area and to execute the men and expel and exile the women. This objective was known to all members of the platoon the day before going to search the villages.

Vaso Todorović's unit carried out a house to house search for Bosniaks but found none. The 2nd Detachment then went through Potočari past Bosniak people. Vaso Todorović saw buses and trucks coming and women and children boarding them. Other members of the Detachment told him that the men were being separated from women and children in order to be executed.

Milenko Pepić, a member of the 2nd platoon of the same Detachment, gave a statement to the Prosecutor's Office, stating that on 12 July 1995 his unit searched terrain around Potočari for several hours but without seeing anyone. His unit was then deployed along the road between Sandići and Kravica.

Petar Mitrović – another member of the Skelani platoon, gave a statement to the Prosecutor's Office stating that the unit was transferred to Kravica and deployed along the road to intercept surrendering Bosniaks.⁸

Marko Aleksić, the acting commander of the 1st platoon, gave a statement to the Prosecutor's Office saying his unit was ordered to secure the road to prevent Bosniaks from Srebrenica crossing over the road and to allow the passage of the convoys of women and children out of Srebrenica. He saw members of the CJB (Public Security Sector) Special Purposes Unit from Zvornik using megaphones to call on Bosniaks in the woods to surrender.⁹

While in Potočari, Vaso Todorović found out that the women and children would be transported to Tuzla and Kladanj and the men of military age would be separated and executed. He concluded that the plan he learned of in Srednje, about expelling women and children and execution of men of military age, was being implemented.

⁸ Record of questioning of the suspect, KT-RZ-10/05 dated 21 June 2005.

⁹ Witness Examination Record, ref. number 14-04/2-327/05 dated 12 October 2005, State Investigation and Protection Agency (SIPA).



