

SUD BOSNE I HERCEGOVINE



СУД БОСНЕ И ХЕРЦЕГОВИНЕ

No: X-KR-08/549-3
Date: 18 March 2010

BEFORE THE TRIAL PANEL

Composed of: Judge Minka Kreho, Presiding Judge
Judge Marjan Pogačnik
Judge Željka Marenčić

PROSECUTION

against

LJUBIŠA ČETIĆ

VERDICT

Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina:

Slavica Terzić

Defense Counsel for the Accused Ljubiša Četić:

Attorney Slobodan Perić

Record taker:

Legal Officer-Assistant Emil Pinkas

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No: X-KR-08/549-3
Sarajevo, 18 March 2010

IN THE NAME OF BOSNIA AND HERZEGOVINA

In the name of Bosnia and Herzegovina, Section I for War Crimes, in the Panel composed of Judge Minka Kreho, as the Presiding Judge, and judges Marjan Pogačnik and Željka Marenčić, as members of the Panel, with the participation of legal officer Emil Pinkas, as the record-taker-assistant, in the criminal case against the Accused Ljubiša Četić, for the criminal offense of Crimes against Humanity, under Article 172(1)(h), in conjunction with subparagraphs (a), (d), (e) and (k) of the Criminal Code of Bosnia and Herzegovina (CC BiH), all in conjunction with Article 180(1) of the same Code, deciding on the Indictment of the Prosecutor's Office of Bosnia and Herzegovina, No: KT -RZ: 48/06 of 8 January 2009, whereupon the parties signed the Plea Agreement on 9 March 2010, during a public session held on 18 March 2010, where the Accused and his Defence Counsel - Attorney Slobodan Perić, and the Prosecutor of the BiH Prosecutor's Office - Slavica Terzić were present, the Court granted the Agreement and rendered the following:

VERDICT

ACCUSED: LJUBIŠA ČETIĆ, son of Mićo and Zora, nee Kostović, born on 7 April 1969, in Ilidža, JMBG 0704969160010, residing at 101 Vojvode Stepe Stepanovića Street, in Prijedor, Serb by ethnicity, citizen of BiH, secondary school education, locksmith by occupation, employed with Railway Company *Željeznice Republike Srpske*, literate, single, served the army in 1989/1990 in Zagreb - Military Police in Zagreb, holds a rank of sergeant, does not know if he is registered in military records, no decorations, poor financial standing, previously convicted by the Verdict of the of the Municipal Court in Prijedor number: K-54/99 of 26 August 1999, for the criminal offence under Article 42(1) of the Criminal Code of Republika Srpska to a suspended sentence of 6 (six) months of imprisonment with three years on probation; by the Verdict of the Municipal Court in Prijedor number: K-47/01 of 22 November 2002 for the criminal offence under Article 222(1) of the RS CC to the sentence of imprisonment for a term of 5 (five) months, which he served; by the Verdict of the Municipal Court in Banja Luka, number: K-522/97 (K-384/06) and by

the Verdict of the District Court in Banja Luka number: Kž – 326/05 of 13 March 2006 under Article 223(2) in conjunction with paragraph 1 of the RS CC to the sentence of imprisonment for a term of two (2) years, 6 (six) months; **by the Verdict of the District Court in Banja Luka number 011-0-Kv-09-000 072 of 28 January 2010 he was sentenced to a compound sentence of 2 (two) years and 8 (eight) months of imprisonment** and he is currently serving his sentence,

IS FOUND GUILTY

Because:

Between late April and late September 1992, as part of a widespread and systematic attack of the army and police of the Serb Republic of BiH, subsequently Republika Srpska, against the Bosniak and Croat population of the Prijedor Municipality, which attack was carried out in the same period, with knowledge of such an attack, as a reserve police officer, knowingly and willingly participated in a joint criminal enterprise of civilian and military authorities of the Prijedor Municipality, with a view to persecuting and committing crimes against Bosniaks and Croats, sharing the same goal with the members of the civilian and military authorities of the Prijedor Municipality, and with the military and civil structures of the Serb Republic of BiH, subsequently Republika Srpska, the goal implying the discriminatory persecution of Bosniaks and Croats on political, national, ethnic and religious grounds from the territory controlled by the military and police of the Serb Republic of BiH, subsequently Republika Srpska; he committed, participated and aided in the preparation and commission of the crime of persecution by way of forcible transfer of population, deliberate deprivation of life (murders), inhumane treatment, thus:

On 21 August 1992, acting in the aforementioned capacity and as a member of the Prijedor Public Security Station and the Police Intervention Platoon from Prijedor, participated and aided in escorting a convoy consisting of at least 16 buses, trucks and truck-trailers carrying more than 1,200 predominantly Muslim and some Croatian civilians from the Prijedor Municipality. En route to the Travnik Municipality via the territories of the municipalities of Prijedor, Banja Luka, Kneževsko/Glavina and Travnik where the civilians were to be transported, according to a previous plan about which he knew and with a view to carrying out the plan, they seized money, gold and other valuables from the Bosniak and Croatian civilians on the convoy on several occasions, threatening to kill them; Ljubiša Četić, together with other members of the police intervention platoon and police from Prijedor, when the convoy stopped by the Ugar River on the Vlašić Mountain, knowing that the men would be separated to be killed, separated over 200 able-bodied men from other civilians on the convoy and ordered them to come out of the buses, trucks and trailer trucks, and separated over 200 able-bodied men from among the rest of the civilians on the convoy and forced these men to come out of the buses, trailers, trucks and truck-trailers, and separated over 200 men and forced these separated men to board on two buses and then took them to a location called *Korićanske stijene* on the Vlašić Mountain, where they ordered the men from

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one of the buses to come out onto the road and then marched them to an edge of the road above an abyss, ordered them to kneel down on the very edge of the road above the abyss and then opened fire at these men lined up, whereupon the bodies of the killed men fell into the abyss; some of the men who were lined up threw themselves into the abyss to avoid death. Thereafter, they brought men from the other bus in small groups of two or three to the same site or a site nearby and opened fire at them at point blank range from pistols and then from automatic rifles. Thereafter, they threw hand grenades from the top of the precipice and opened fire at the bodies of the dead and wounded men who shrieked with pain from the abyss, killing over 200 men, including: **Enver (Avdo) Arifagić, Rasim (Sulejman) Avdić, Edin (Mehmed) Ališić, Šerif (Ramo) Bajrić, Zafir (Šerif) Bajrić, Rasim (Muharem) Bašić, Nihad (Meho) Bešić, Zilhad (Hamid) Bešić, Suvad (Mustafa) Bešlagić, Šerif (Suljo) Blažević, Ahmet (Hamdija) Blažević, Fadil (Ibrahim) Blažević, Mustafa (Edhem) Blažević, Zijad (Ibrahim) Cejvan, Besim (Smail) Čausević, Hilmija (Mehmed) Čustić, Ismet (Mehmed) Čustić, Admir (Džemal) Dergić, Fahrudin (Kasim) Elezović, Jasmin (Hajrudin) Elezović, Edin (Muharem) Elezović, Emir (Muharem) Elezović, Hajrudin (Salih) Elezović, Almir (Refik) Fazlić, Edin (Hilmija) Fazlić, Jasim (Ismet) Fazlić, Mirsad (Ismet) Fazlić, Samir (Sadik) Garibović, Kemal (Hamdija) Garibović, Mirsad (Hasan) Gutić, Vasif (Atif) Garibović, Osman (Hasan) Hasanagić, Ismet (Husein) Hirkić, Rifet (Husein) Hirkić, Šefik (Husein) Hirkić, Midhet (Fehim) Hodžić, Ahmet (Husein) Hodžić, Said (Alija) Horozović, Emsud (Alija) Horozović, Hajro (Huska) Ičić, Ibrahim Jakupović, Armin (Mustafa) Jakupović, Senad (Latif) Jusufagić, Zuhdija (Meho) Kadiric, Mehmed (Sulejman) Kahrmanović, Sejad (Mustafa) Kadirić, Elvin (Mehmed) Kauković, Uzeir (Muharem) Kahrmanović, Elvin (Mehmed) Kauković, Meho (Ahmet) Kljajić, Sakib (Ahmet) Kljajić, Ahmet (Salih) Krkić, Sabahudin (Čazim) Kuburaš, Abaz (Omer) Kulašić, Himzo (Redžo) Marošlić, Ejub (Abaz) Medić, Alija Mehmedagić, Asmir (Mehmed) Memić, Šefik (Hilmija) Medić, Himzo (Omer) Mrkalj, Idriz (Haso) Muretčehajić, Edin (Jusuf) Muretčehajić, Fahrudin (Redžep) Mujkanović, Nihad (Sulejman) Memić, Husein (Hamdija) Mujkanović, Senad (Esad) Mujkanović, Mehmed (Derviš) Muretčehajić, Faik (Osman) Rizvančević, Bajazid (Hamza) Saldumović, Kasim (Sefik) Sivac, Merzuk (Ibrahim) Sivac, Edin (Munib) Sivac, Nedžad (Munib) Sivac, Safet (Džemal) Sivac, Omer (Halil) Sljivar, Zijad (Ibrahim) Tadžić, Sakib (Bejdo) Trnjanin, Seid (Miralem) Vehabović, Ziko (Husein) Zahirović, Nedžad (Latif) Zulić, Mesud (Uzeir) Zulić, Sakib (Idriz) Žerić, while a certain number of the able-bodied men managed to survive the shooting (at least 12 of them); so far only four bodies have been recovered and identified as **Seid (Miralem) Vehabović, Edin (Hilmija) Fazlić, Elvin (Mehmed) Kauković and Ahmet (Salih) Krkić**; also, some body parts of those killed have been identified as belonging to the following victims: **Rasim (Sulejman) Avdić, Ahmet (Hamdija) Blažević, Mustafa (Edhem) Blažević, Zijad (Ibrahim) Cejvan, Hajrudin (Salih) Elezović, Jasmin (Hajrudin) Elezović, Mirsad (Hasan) Gutić, Sefik (Husein) Hirkić, Zuhdija (Meho) Kadiric, Abaz (Omer) Kulasić, Himzo (Redžo) Marošlić, Alija (Beco) Mehmedagić, Himzo (Omer) Mrkalj, Idriz (Haso) Muretcehajić, Merzuk (Ibrahim) Sivac, Kasim (Sefik) Sivac, Omer (Halil)****

Sljivar, Sakib (Bejdo) Trnjanin and Nedžad (Latif) Zulić. The remaining bodies have not been recovered to date.

Therefore, as part of a widespread and systematic attack of the military and police of the Republika Srpska, with knowledge of such an attack and aware that his acts were part of that attack, the Accused Ljubiša Četić, together with others, committed, participated and aided in the preparation and commission of the crime of persecution by way of forcible transfer of population, deliberate deprivation of life (murders), inhumane treatment, while knowingly and willingly participating in the joint criminal enterprise of the civil and military authorities of the Prijedor Municipality, including Milomir Stakić, Simo Drljača, Slobodan Kuruzović and other members of the civil and military authorities in Prijedor and the Republika Srpska, whose goal was to expel Bosniaks and Croats from the territory controlled by the Serb authorities, committing also the crimes of murder, forcible transfer, inhumane treatment;

Whereby the Accused Ljubiša Četić committed the criminal offense of Crimes against Humanity under Article 172(1)(h) as read with subparagraphs (a)(d)(e) and (k), in conjunction with Article 180(1) of the Criminal Code of Bosnia and Herzegovina,

Therefore, due to the criminal offense of Crimes against Humanity, under Article 172(1)(h) as read with subparagraphs (a)(d)(e) and (k), all in conjunction with Article 180(1) of the CC BiH, pursuant to the cited provisions and the provisions under Articles 39, 42 and 48 of the CC BiH, **the Court** hereby

**SENTENCES HIM
TO IMPRISONMENT FOR A TERM OF
13 (THIRTEEN) YEARS**

Pursuant to Article 56 of the CC BiH, the time that the Accused spent in custody shall be credited towards the pronounced term of imprisonment, for the period from 14 October 2008 to 11 November 2009.

Pursuant to Article 188(4), the Accused Ljubiša Četić shall be relieved of the duty to reimburse the costs of the criminal proceedings, which shall be paid from the budget appropriations of the Court.

Pursuant to Article 198(2) of the CPC BiH, the injured parties and families of those killed are hereby referred to take civil action in case of a claim under property law.

Reasoning

1. Charges and the Agreement

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Under the Indictment of the Prosecutor's Office of Bosnia and Herzegovina, No. KT-RZ-48/06 dated 8 January 2009, which was confirmed on 12 January 2009, the Accused Ljubiša Četić, and seven other individuals, were charged with the commission of the criminal offense of Crimes against Humanity, under Article 172(1)(h), as read with subparagraphs (a)(d)(e) and (k) of the BiH CC, that is for the persecution of Bosniak and Croat population from the territory of the Prijedor Municipality on political, national, ethnic and religious grounds. According to the Indictment, the persecution was carried out by forcible transfer and deportation, killing and inhumane treatment.

After the commencement of the main trial in this case, the Accused Damir Ivanković and Gordan Đurić concluded the Agreements on Admission of Guilt with the Prosecutor's Office of BiH, and the Court sentenced them to imprisonment of fourteen years (Damir Ivanković) and eight years (for Gordan Đurić).

Shortly before the completion of the Defense case for the Accused Ljubiša Četić, attorney Slobodan Perić informed the Court that he and his client were at the final stage of negotiations with the Prosecution and therefore he proposed a halt on the Defense evidentiary proceeding concerning the Accused Ljubiša Četić until the final outcome of the negotiations on the admission of guilt was known.

The Court accepted the Motion of Defense Counsel Slobodan Perić and the Prosecution submitted the Agreement on the Admission of Guilt on 11 March 2010, concluded with the Accused Ljubiša Četić and his Defense Counsel Slobodan Perić and also moved the Court to render a decision to sever the proceedings as regards the Accused Ljubiša Četić in accordance with the principle of purposefulness.

Under the submitted Agreement number KT-RZ 48/06 of 9 March 2010, the Accused Ljubiša Četić pleaded guilty for the criminal offense of Crimes against Humanity, under Article 172(1)(h) as read with subparagraphs (a), (d), (e) and (k) of the CC BiH, that is for the participation in the killing of more than two hundred men in "*Koričanske stijene*". The Accused Ljubiša Četić additionally committed himself in accordance with the Agreement to cooperate with the Prosecution in respect of solving the killing of more than two hundred men on the locality known as "*Koričanske stijene*" and to share with the Prosecution any information regarding other events of interest to the Prosecutor which took place anywhere in the territory of Bosnia and Herzegovina in the period between 1992 and 1995.

In accordance with the submitted Agreement, the Prosecution agreed that the Accused Ljubiša Četić be pronounced the sentence of imprisonment ranging from 11 (eleven) and 13 (thirteen) years for the criminal offence of Crimes against Humanity under Article 182(1)(h) in conjunction with sub-paragraphs a), d), e) and k) of the BiH CC.

The hearing to consider the submitted Agreement was held on 15 March 2010, on which occasion the Court ruled on whether all requirements under Article 231(6) of the BiH CPC had been met, that is whether the Accused Ljubiša Četić concluded the Agreement voluntarily, consciously and with understanding, whether he had been previously informed of all consequences of his admission, if he was aware that he was to waive his right to trial and appeal regarding the criminal sanction and if there existed enough evidence of the guilt of the Accused Ljubiša Četić.

After Ljubiša Četić testified in the case that pursued against the remaining five accused persons in this case, on 16 March 2010, the Panel announced that all statutory grounds were fulfilled and that the concluded Agreement was accepted.

Upon the announcement of the decision on admissibility of the submitted Agreement, the hearing to pronounce the criminal sanction was resumed. At this hearing, Defense Counsel Slobodan Perić introduced two pieces of evidence confirming some health conditions of his client, while Ljubiša Četić expressed remorse for the crime committed and said that he would like to apologize to the survivors and families of those killed.

2. Presented evidence

The Panel was satisfied that there was sufficient evidence on the guilt of the Accused, particularly in the following witness testimonies given during the main trial: Boško Peulić, Milan Komljenović, Čedo Vuković, Živorad Pelengić, Radovan Đukarić, Slobodan Udovičić, Zoran Babić, Drago Slavnić, Nenad Krejić, Melisa Bejrić; witness A, Milivoj Pavičić, Dragomir Marković, Nebojša Pantić; witness B, Jevto Janković, Jusuf Žerić, Vlado Beben, witness KS 1; witness KS 2; Ostoja Barišić, Muniba Sivac, witness K 1; Hakija Elezović, Nedžad Bašić, Sadik Suhonjić; Bekira Mujagić, Husejin Jakupović, Berislav Herceg, witness KO 12; the Accused Damir Ivanković; the Accused Gordan Đurić; Hasan Elkaz, Ranko Mijić; witness KO 5, Ferid Kovačević, Enes Džaferagić; witness K3; the Accused Gordan Đurić; witness KO 7; Erna Kadirić; Šefik Šanto; Luka Gnjatović; Vitomir Lakić; witness KO 8; Edin Mujadžić; expert witness Miroslav Rakočević, expert witness Sabiha Silajdžić Brkić; witness KO 15; Savo Krejić and then based on the physical evidence presented by the Prosecution and admitted in the case file, as follows: Record on examination of the witness Boško Peulić, No.KT-RZ-48/06 of 27 March 2008; Interim Report, operative number 21/8, 22 Light Infantry Brigade Headquarters, dated 21 June 1992; Record on examination of witness Milan Komljenović No.KT-RZ-48/06 of 27 March 2008; Appointment Book; Record on examination of witness Čedo Vuković, No.KT-RZ-48/06 dated 28 March 2008; Record on examination of witness Živorad Pelengić, No. KT-RZ-48/06 dated 28 March 2008; Record on examination of witness Radovan Đukarić, No. KT-RZ-48/06 dated 25 March 2008; Record on examination of witness Slobodan Udovičić, No. KT-RZ-48/06 dated 28 March 2008; Record on examination of witness Zoran Babić, No.KT-RZ-48/06 dated 27 April 2006; Record on

examination witness Drago Slavnić, No.KT-RZ-48/06 dated 3 April 2005; Record on examination of witness Nenad Krejić, No.KT-RZ-48/06 dated 27 March 2008; Record on examination of witness Melisa Bajrić, No. KT-RZ-48/06 dated 18 July 2008; Record on examination of witness A, No. KT-RZ-48/06 dated 6 April 2006 - CONFIDENTIAL; Record on examination of witness Milivoj Pavičić, No. KT-RZ-48/06 dated 24 April 2006; record on examination of witness Dragomir Marković, No. KT-RZ-48/06 dated 19 May 2008; Record on examination of witness Nebojša Pantić, No. KT-RZ-48/06 dated 7 May 2008; Record on examination of witness B, No.KT-RZ-48/06 dated 13 March 2008-CONFIDENTIAL; Record on examination of witness Jevto Janković, No.KT-RZ-48/06 dated 7 May 2008; Record on examination of witness Jusuf Žerić, No. 17-04/2-2-04-2-1044/08 dated 22 October 2008; Record on examination of witness Vlado Beben, No. KT-RZ-48/06 dated 4 April 2006-CONFIDENTIAL; Record on examination of witness KS-1, No. KT-RZ-48/06 dated 26 March 2008-CONFIDENTIAL; Record on examination of witness KS-1, No. KT-RZ-48/06 dated 13 August 2008- CONFIDENTIAL; Record on examination of witness KS-2, no. KT-RZ-48/06 dated 26 March 2008- CONFIDENTIAL; Record on examination of witness KS-2, No. KT-RZ-48/06 dated 13 August 2008-CONFIDENTIAL; Record on examination of witness KS-2, No. KT-RZ-48/06 dated 9 July 2008-CONFIDENTIAL; Record on examination of witness Ostoja Barišić, No. KT-RZ-48/06 dated 25 March 2008; Record on examination of witness Munib Sivac, No.KT-RZ-48/06 dated 15 July 2008; Record on examination of witness K-1, No.KT-RZ-48/06 dated 26 June 2008; Record on examination of witness K-1, No. KT-RZ-48/06 dated 30 October 2008; Record on examination of witness Hakija Elezović, No. KT-RZ-48/06 dated 6 April 2006; Record on examination of witness Nedžad Bašić, No. KT-RZ-48/06 dated 26 March 2008; Record on examination of witness Sadik Suhonjić, No.KT-RZ-48/06 dated 5 April 2006; Record on examination of witness Bekir Mujagić, No. KT-RZ-48/06 dated 12 March 2008; Record on examination of witness Husein Jakupović, No. KT-RZ-48/06 dated 12 June 2008; Record on examination of witness Berislav Herceg, No. KT-RZ-48/06 dated 15 May 2008; Record on examination of witness KO-12, No. KT-RZ-48/06 dated 17 October 2008-CONFIDENTIAL; Record on examination of the witness (the Accused) Damir Ivanković, No. KT-RZ-48/06 dated 16 June 2009-CONFIDENTIAL; A, B and C-three photographs; Record on examination of witness Gordan Đurić, No. KTA-RZ-120/07 dated 3 July 2009-CONFIDENTIAL; Record on examination of witness Hasan Elkaz, No.17-04/2-2-04-2-1035/08 dated 16 October 2008; Record on examination of witness Ranko Mijić, No, KT-RZ-48/06 dated 25 March 2008 and 4 December 2008; Record on examination of witness KO-5 dated 16 July 2008-CONFIDENTIAL; Record on examination of witness Ferid Kovačević dated 20 February 2008-Confidential; Record on examination of witness Enes Džaferagić dated 15 August 2008-Confidential; Record on examination of witness K-3 dated 18 December 2008-Confidential; Record on examination of witness (the Accused) Gordan Đurić dated 31 August 2009-CONFIDENTIAL; Record on examination of protected witness KO-7-CONFIDENTIAL; Record on examination of witness Erna Kadirić dated 24 December 2009-CONFIDENTIAL; Record on examination of witness Šefik Šanto dated 17 July 2008-CONFIDENTIAL; Record on examination of witness Luka

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Gnjatović dated 21 March 2006; Record on examination of witness Vitomir Lakić dated 22 March 2006; Record on examination of witness KO 8 dated 16 July 2008-CONFIDENTIAL; Record on examination of witness Edin Mujadžić dated 14 July 2008; Death Certificate for Enver Arifagić; Death Certificate for Rasim Avdić; Death Certificate for Šerif Bajrić, Death Certificate for Zafir Bašić; Death Certificate for Rasim Bašić; Death Certificate for Nihad Bešić; Death Certificate for Suvad Bešlagić; Death Certificate for Besim Čaušević; Death Certificate for Hilmija Čustić; Death Certificate for Ismet Čustić; Death Certificate for Admir Dergić; Death Certificate for Edin Elezović; Death Certificate for Emir Elezović; Death Certificate for Hajrudin Elezović; Death Certificate for Jasim Fazlić; Death Certificate for Mirsad Fazlić; Death Certificate for Kemal Garibović; Death Certificate for Osman Hasanagić; Death Certificate for Ismet Hirkić; Death Certificate for Rifet Hirkić; Death Certificate for Midhet Hodžić; Death Certificate for Ahmet Hodžić; Death Certificate for Hajro Ičić; Death Certificate for Armin Jakupović; Death Certificate for Sakib Kljajić; Death Certificate for Himzo Marošlić; Death Certificate for Ejub Medić; Death Certificate for Asmir Memić; Death Certificate for Idriz Muratčehajić; Death Certificate for Nihad Memić; Death Certificate for Husein Mujkanović; Death Certificate for Senad Mujkanović; Death Certificate for Mehmed Muratčehajić; Death Certificate for Bajazit Sazdumović; Death Certificate for Nedžad Zulić; Death Certificate for Šerif Blažević; Decision of the Basic Court in Prijedor declaring Šerif Blažević dead; Death Certificate for Fadil Blažević; Decision of the Basic Court in Prijedor declaring Fadil Blažević dead; Record of the Basic Court in Prijedor on pronouncement of Fadil Blažević dead; Death Certificate for Almir Fazlić; Decision of the Basic Court in Prijedor declaring Almir Fazlić dead; Record of the Basic Court in Prijedor on pronouncement of Almir Fazlić dead; Death Certificate for Seid Vehabović; Death Certificate for Edin Fazlić; Death Certificate for Elvin Kauković; Death Certificate for Ahmo Krkić in Ivanković case (made out to Ahmed); Record on examination of dead bodies in Korićanske stijene (T56); Copy of the photo documentation on the remains of bones exhumed in the location of Korićanske stijene; Copy of the photo documentation on the remains of bones exhumed in the location of Korićanske stijene; Copies of the photograph; List of intervention platoons containing the names of protected witnesses-CONFIDENTIAL; List of the members of the Prijedor police, the calculation of salaries; Report on overtime work hours of the Prijedor Police Station employees in the English language; List of the members of the Reserve Police-CONFIDENTIAL/; List of the employed members of the Reserve Police for July 1992; List of the unemployed members of the Reserve Police for July 1992; Objection to the calculation of salary for Miroslav Paraš; List of authorized employees of the Prijedor Police Station dated 13 August 1992 (Exhibit of the Hague Tribunal-certified copy); Copy of the Hague Tribunal seal - List of the unemployed members of the Prijedor Public Security Station (ICTY Exhibit)-CONFIDENTIAL; List of the members of the Reserve Police of the PSS Prijedor for September 1992 (ICTY Exhibit) -CONFIDENTIAL; List of conscripts, members of the PSS Prijedor from September (ICTY Exhibit); Original military card for Zoran Babić; Certified copy of the vacancy application with the RS MUP in the name of Zoran Babić; certified copy of Certificate for Zoran Babić- Ministry of Defence Prijedor;

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Request for issuance of the Certificate in the name of Zoran Babić; Certificate for Zoran Babić, sent to the PSS Prijedor for practical training; Report card on the completed course for Zoran Babić; State exam Certificate for Zoran Babić; Decisions of the Sarajevo MUP in the name of Zoran Babić, deployed in the Prijedor PSS; Certified copy of personal sheet for Zoran Babić; Decision of the Sarajevo MUP RS dated 20 October 1995 on promotion of Zoran Babić; Certificate of MO Prijedor dated 4 December 2002 on acknowledgement of Zoran Babić's participation in the war; Decision of the FOND PIO RS, branch office Prijedor dated 26 March 2004; Decision of the MUP RS dated 13 May 2004; Photograph of the JNA member, Zoran Babić; Master file and Unit record for Zoran Babić; Decision of the Department for war veterans' care for Milorad Radaković dated 12 November 2002; Certified copy, Master file and Unit record for Milorad Škrbić; Original military card for Ljubiša Četić; Document of the SB Banja Luka dated 12 February 2004 with the Record on exhumation; Copy of the photo documentation of the Bihać Cantonal Ministry of Interior number: 72/03 – exhumation of 4 unidentified bodies dated 3 October 2003; Report on autopsy of Seid Vehabović; Report on autopsy of Edin Fazlić; Report on re-autopsy of Elvin Kauković; Report on re-autopsy of Ahmed Krkić; Decision of the Public Security Centre dated 17 June 1992 in the name of Dušan Janković; Sheet of the Central Agency for Dušan Janković dated 29 December 1992, Prijedor; Decision of the Bijeljina MUP in the name of Dušan Janković dated 27 October 1993; Decision of the Sarajevo MUP RS dated 3 November 1993 in the name of Dušan Janković; Decision of the Sarajevo MUP RS Sarajevo dated 27 May 1994 in the name of Dušan Janković; Decision of the Sarajevo MUP RS Sarajevo dated 27 May 1994 in the name of Dušan Janković; Personal sheet of the MUP in the name of Dušan Janković dated 15 October 1994 where he is identified as the MUP commanding officer; Personal sheet of the MUP CSS Prijedor dated 19 October 1995 in the name of Dušan Janković; Decision on the rank establishment dated 20 October 1995 pertaining to Dušan Janković; Decision of the RS MUP Bijeljina in the name of Dušan Janković dated 24 April 1996; Decision of the RS MUP on promotion into higher rank of Dušan Janković dated 1997; Certificate of the MUP CSS Prijedor dated 14 April 1997 in the name of Dušan Janković; Order to award decoration in the name of Dušan Janković (Hague Exhibit); Supplement to data on Order to award decoration dated 26 April 1995 (Hague Exhibit), which also mentions the name of Dušan Janković; Awarding of Miloš Obilić decoration; Master file and Unit record in the name of Dušan Janković; Decision of the RS MUP dated 1 September 1990 in the name of Željko Stojnić; Decision of the MUP RS Sarajevo dated 1 January 1994 in the name of Željko Stojnić; Personal sheet of the MUP CSS Prijedor in the name of Željko Stojnić dated 14 September 1995; Proposal on extraordinary promotion of the MUP Prijedor in the name of Željko Stojnić dated 23 October 1995; Decision on extraordinary promotion in the name of Željko Stojnić dated 20 October 1995; Master file and Unit record of the Prijedor CSS in the name of Željko Stojnić; Combat report of the Command of the First Krajina Corps dated 28 February 1998; Regular combat report by the Command of the First Krajina Corps dated 2 August 1998; Dispatch note dated 1 September 1992 of the Prijedor CSS; Dispatch note of the Banja Luka CSS dated 11 September 1992 (Hague Exhibit); Dispatch note of the Banja Luka CSS dated 14 September 1992

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(Hague Exhibit); Dispatch note of the Banja Luka CSS dated 7 October 1992 (Hague Exhibit); Coded Dispatch note of the Banja Luka CSS dated 13 October 1992 (Hague Exhibit)-CONFIDENTIAL; Criminal report of the Banja Luka CSS on the unknown perpetrators, dated 8 September 1992 (Hague Exhibit); Motion for undertaking certain investigative actions by the Banja Luka Basic Public Prosecutor's Office, dated 8 September 1992 (Hague Exhibit); Document of the Basic Court in Banja Luka dated 24 September 1992 (Hague Exhibit); Request by the Banja Luka Basic Public Prosecutor's Office, dated 30 September 1992; Document of the 1st Krajina Corps Command dated 16 October 1992 (Hague Exhibit)-CONFIDENTIAL; Instruction on organization and operations of the Serb people, dated 19 December 1992-(Hague Exhibit); Official gazette RS with the Decision on strategic goals of the Serb people in B-H, dated 9 May 1992; Order of the Prijedor CSS Chief, dated 1992; Dispatch note of the Banja Luka CSS dated 21 August 1992; Information on the implementation of conclusions and decisions the Executive board of the Prijedor CSS dated 3 September 1992 (Hague Exhibit); the January 2003 Report on the work of the Prijedor CSS (Hague Exhibit); Excerpt from the criminal records for Damir Ivanković dated 4 August 2008; Excerpt from the criminal records dated 15 September 1992; Excerpt from the criminal records for Ljubiša Četić dated 15 October 2008; Excerpt from the criminal records for Milorad Radaković dated 15 October 2008; Record on examination of the suspect Zoran Babić dated 28 May 2008-CONFIDENTIAL; Record on examination of the suspect Milorad Radaković dated 14 October 2008-CONFIDENTIAL; Record on examination of the suspect Milorad Škrbić dated 15 October 2008; Record on examination of Ljubiša Četić dated 14 October 2008-CONFIDENTIAL; Record on examination of the suspect Dušan Janković dated 27 May 2008; Record on examination of the suspect Željko Stojnić dated 30 May 2008; Forensic analysis by forensic expert witness Sabiha Silajdžić-Brkić under number; Record on exhumation by the Cantonal Court Travnik and the 2003 photo documentation of the SBK, with the 2003 sketch of the site; Photo-documentation of the MUP SBK - examination of the remains of bones exhumed in the location of the Visoko town cemetery, Korićanske stijene; DNA report for Rasim Avdić (son of Sulejman), dated 24 November 2003; DNA report for Ahmet Blazević (son of Hamdija) dated 24 November 2003; DNA report for Mustafa Blažević (son of Edhem), dated 2 March 2004; DNA report for Zijad Čejvan (son of Ibrahim) dated 13 November 2003; DNA report for Hajrudin Elezović (son of Salih) dated 10 November 2003; DNA report for Jasmin Elezović (son of Hajrudin) dated 3 June 2005; DNA report for Mirsad Gutić (son of Hasan) dated 8 November 2003; DNA report for Šefik Hirkić (son of Husein) dated 26 November 2003; DNA report for Zuhdija Kadirić (son of Meho) dated 14 September 2004; DNA report for Abaz Kulašić (son of Omer) dated 24 November, 8 November and 8 March 2003; DNA report for Himzo Marošlić (son of Ibro) dated 6 May, 8 March and 8 December 2003; DNA report for Alija Mehmedagić (son of Bećo) dated 8 December 2003; DNA report for Himzo Mrkalj (son of Omer) dated 16 April 2004 and 13 February 2004; DNA report for Mirsada Muratčehajić dated 6 May 2003; DNA report for Merzuka Sivac (son of Ibrahim) dated 21 January 2003; DNA report for Kasim Sivac dated 18 February 2005; DNA report for Omer Šljivar dated 8 November 2003; DNA report for Sakib Trnjanin dated 11 February 2005; DNA report for Nedžad Zulić dated 11 December and 2 December 2003; DNA report for Emir and Edin Elezović (son of

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Muharem) dated 8 November 2003; DNA report for Edin and Nedžad Sivac dated 6 May 2004; Record on examination of witness KO-15 and one (1) photo album number KT-RZ-48/06 dated 19 December 2008-CONFIDENTIAL; Record on examination of Ljubiša Četić number KTA-RZ-48/06 dated 9 March 2010-CONFIDENTIAL.

During the proceedings, the Court introduced *ex officio* the following evidence: List submitted to the Court by the protected witness O-3; Photo-documentation and the sketch of the site-SIPA- Korićanske stijene-Kneževo Municipality dated 2 June 2009, DVD and DVD cassette.

During the proceedings, the Defense for the Accused Ljubiša Četić examined the following witnesses; Damir Ivanković; Gordan Đurić, witness KO 8; Milovan Đurđević, witness 04; Đuro Radinović; Mirjana Četić; Desimir Grujičić; Miro Jovanović, Želimir Knežević and the expert witness Željko Popović and introduced the following physical evidence; Copy of the map of the Kozarac area with the marking P000632 ; copy of the Gk area of Kozarac P0056533, certified by the Archive of the Republic Centre for investigation of war crimes; Original map of Zenica 1; Copy of the map for the region of the Ilimska river and the Ugar river; Findings and opinion of the expert witnesses Popović and Gligorić; 04-6-Instruction on procedure with imprisoned persons dated 13 June 1992; Order on application of rules of laws of war in the RS army dated 13 June 1992; Order number 01-42/91 dated 19 September 1991; Letter of the SDA-Prijedor; Lists of armed attacks on Prijedor and of members of Kozarac dated 6 June 1992; Notes of official persons, Notes with testimonies of Moslem ethnicity persons; Reinforcement of defense units of MZ Kozaruša; Note of the SJB B. Gradiška dated 28 May 1992; Criminal report number 11-12/02-KU-211/92 dated 7 June 1992; Verdict of the Military Court in Banja Luka number IK1/92 dated 15 December 1992; Official Note of the CSS Banja Luka number SZ/2-129 dated 22 April 1993; Official note dated 1 September 1992; Official Note of the CSS Banja Luka number SZ/2-77 dated 25 March 1993 and a handwritten statement by Hamdija Bešlagić dated 12 March 1993; Report of the operative department for 22 August 1992; the Decision of the Prijedor Municipality. War veterans and disability care number 03-568-3054/00 dated 2 December 2002; Verdict of the District Court Banja Luka number 011-0-KV-09-000072 dated 28 January 2010 and the Decision of the District Court Banja Luka on correction of the verdict number 011-0-KV-09-000072 dated 2 March 2010.

3. Closing arguments - presented during the hearing on the range of sentence

In presenting his closing arguments and of circumstances that might affect the decision by the Court concerning the criminal sanction, the Prosecutor stated that the conclusion of the Agreement on the Admission of Guilt would contribute to the faster and more efficient prosecution of war crimes. Furthermore, the Prosecutor particularly noted that sincere remorse of the Accused Ljubiša Četić, his cooperation

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with the Prosecution and his testimony in other cases constituted grounds which had motivated the Prosecutor to conclude the plea agreement.

The Defense Counsel for Ljubiša Četić, attorney Slobodan Perić, in presenting his closing arguments, stated that he would not analyze individual evidence as would be the case in the presentation of closing arguments in a regular proceeding, but he only introduced the evidence which, in his opinion, might be of relevance in meting out the punishment. On this occasion, as mentioned earlier, the Defense Counsel introduced two pieces of evidence confirming that Ljubiša Četić suffered from some psychological problems.

The Accused Ljubiša Četić stated that he felt remorse for all he had done and apologized to the victims and their families.

4. Applicable law

As regards the criminal offence for which the Accused Ljubiša Četić accepted to be found guilty by signing the Plea Agreement, it is important to note that the criminal offence of Crimes against Humanity is at issue, which had not been set forth as such in the Criminal Code of the Socialist Federative Republic of Yugoslavia. However, this fact by itself does not mean that this criminal offence did not exist at the material time. More exactly, the Crime against Humanity did constitute the criminal offence in accordance with the international law, and therefore the fact that it was not codified by applicable legal norms of the SFRY CC then in force, is not of particular relevance.

Furthermore, with regard to the application of Article 4a) of the BiH CC foreseeing that relevant provisions of the Criminal Code of Bosnia and Herzegovina may be applied to criminal offences committed during the war in Bosnia and Herzegovina in the period 1992-1995, it should be noted that this is not a retroactive application of the criminal code. In the present case, the Criminal Code of Bosnia and Herzegovina does not originally criminalize individual actions and conduct, but in its essence it constitutes legal consolidation and codification of criminal offences stipulated under international law. Therefore, by applying Article 172 of the BiH CC in the context of Article 4a) of the same Code, the Court does not establish whether the actions committed as in this case, on 21 August 1992, constitute the criminal offence under the applicable legislation but if they constituted the criminal offence under international law at the time when they were committed.

That such an application of Article 4)a of the BiH CC is acceptable and that it does not violate the rights of the Accused/convicted persons, it is corroborated by the

Decision of the Constitutional Court of BiH in the case against Abduladhim Maktouf¹.

Therefore, by accepting the decision of the Constitutional Court of Bosnia and Herzegovina and the case law of this Court, it was established that the Plea Agreement concluded by the Accused Ljubiša Četić with the Prosecution was acceptable concerning the legal qualification of the criminal offence with which this Accused pleads guilty.

5. Findings of the Court

a) General elements of Crimes against Humanity

Under the Indictment of the BiH Prosecutor's Office number: KT-RZ; 48/06 dated 8 January 2009, among others, the Accused Ljubiša Četić is charged with the criminal offense of Crimes against Humanity, under Article 172(1)(h), as read with subparagraphs (a), (d), (e) and (k) of the Criminal Code of Bosnia and Herzegovina, which states as follows:

Whoever, as part of a widespread or systematic attack directed against any civilian population, with knowledge of such an attack perpetrates any of the following acts:

- a) depriving another person of his life (murder);*
- d) deportation or forcible transfer of population;*
- e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;*
- h) persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognized as impermissible under international law, in connection with any offence listed in this paragraph of this Code, any offence listed in this Code or any offence falling under the competence of the Court of Bosnia and Herzegovina;*
- k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to physical or mental health,*

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

This legal definition means that in order to find a person guilty of Crimes against Humanity it is necessary to establish four general elements as follows:

- a) the existence of a widespread and systematic attack
- b) that the criminal offense was committed as a part of that attack
- c) that the attack was directed against any civilian population
- d) that the Accused had knowledge of such an attack or that there existed the relevant state of mind on the part of the Accused

¹ Decision on inadmissibility and meritum of the Constitutional Court of BiH in case of Abduladhim Maktouf, number AP 1785/06 dated 30 March 2007.

a) Existence of a widespread and systematic attack

To discuss the criminal offence of war crimes, it is necessary to establish the existence of a widespread and systematic attack. As regards the attack itself, it should be taken into account that it does not solely include the use of armed force but that it can encompass any other mistreatment of the population. Furthermore, as regards the existence of the armed conflict, it should be noted that the attack may precede, coincide or follow after the armed conflict.² In addition, in the context of the interpretation of the legal provision under Article 172(1) of the BiH CC, it is not sufficient to prove the existence of any attack, but it must be established that the concrete attack in its character was widespread or systematic. Only after the existence of an attack and its character have been established, it can be concluded that some general elements of the criminal offence of crimes against humanity have been satisfied. With reference to the discussion on the existence of the attack and its character, it should be noted that the Panel analyzed the evidence presented and in that context it interpreted the facts accepted by the Decision number X-KR-08/549 dated 29 June 2009.

Based on the evidence presented during the proceedings but also based on the established facts accepted by the Decision of the Court number X-KR-08/549 dated 29 June 2009, the Panel established that there existed an attack on the civilian population in the territory of the Prijedor Municipality at the material time, which had several aspects of mistreatment of the civilian population. Thus, it was almost a regular practice that Muslims and Croats were fired from work, that their houses were marked for demolition, that certain persons were unlawfully imprisoned and that the persons of Muslim and Croat ethnicity could not move freely. Therefore, all these facts and circumstances confirm the conclusion that there existed an attack at the relevant time. That it was a widespread and systematic attack, it can be concluded based on the fact that the described mistreatments of the population occurred in the whole area of the Prijedor Municipality and that the civilian authorities and all other structures in the Prijedor Municipality participated in it, including the companies from which the Muslims and Croats were fired.

b) That the criminal offense was committed as part of that attack

The next requirement for the existence of the criminal offense of Crimes against Humanity is that actions of the Accused be part of a widespread and systematic attack. Therefore, there has to be a *nexus* between the actions of the Accused and the attack. As regards this issue, two requirements must be met:

- committed offences in their nature or consequences objectively constitute a part of the attack;
- the Accused has a knowledge of such an attack on the civilian population and his acts are part of the attack.

² Judgement of the Appellate Chamber in the case Kunarac, et al (June 2002), paragraph 86

In the case at hand, considering that the killing of more than two hundred male civilians took place, which was preceded by their imprisonment, forcible transfer of population and infliction of great suffering, it can be concluded with certainty that those acts, by their nature and consequences, constituted part of that attack.

Furthermore, taking into account the fact that the Accused Ljubiša Četić was a member of the intervention platoon of the PSS Prijedor, he had to be aware of the attack on the civilian population in the area of Prijedor Municipality. Furthermore, it is obvious that he knew that the formation of the convoy in Prijedor, its escorting to Vlašić, separating and shooting of more than two hundred men in the locality called “Korićanske stijene” objectively constituted an act that was committed in the context of all other events in Prijedor during the relevant period of time and that it was only one of the acts committed within a widespread and systematic attack on the civilian population..

c) That the attack was directed against any civilian population

For the existence of Crime against Humanity it is further necessary to establish that the attack, whose elements are defined above, was directed against any civilian population. To establish against whom the attack was launched, it is important to define the meaning of the term “the civilian population”. There were different positions about the definition of this term, but the Appeals Chamber in the Blaškić case took the position that “civilians” are all persons except those who are members of the armed forces, and members of militias or volunteer corps forming part of such armed forces, or organized resistance groups, under certain conditions, given that the presence of soldiers within the civilian population does not alter the civilian nature of that population.

In this context, the term population implies a certain and sufficient number of individuals and does not mean the entire population of a region, that is, it must be established that it is not a limited and randomly selected number of individuals.

Finally, it is necessary that the civilian population is the primary but not a secondary target of the attack. The time of the armed conflict may be interpreted precisely in this context, or whether the attack existed at the time of armed conflict or if it practically started upon its completion.

In the case at hand, all presented evidence clearly lead to the conclusion that the target of the attack was the Bosniak and Croat civilian population of Prijedor Municipality. Actually, some evidence were presented confirming the existence of an armed conflict, but, as elaborated several times, the armed conflict should be considered separately from the attack on the civilian population. It is a fact that the attack on the civilian population happened precisely during the armed conflict and it does not exclude in any case the existence of the criminal offence

of Crimes against Humanity. The status of persons killed in the locality of “*Korićanske stijene*” should be also considered in this context. As regards these persons, based on all evidence presented, it can be established that they were civilians. That was confirmed by all witnesses, including those who participated in the convoy and its escort, as well as those who visited the locality of “*Korićanske stijene*” in the following days.

Finally, the Accused himself also confirmed that those were civilians.

d) That the Accused had knowledge of such an attack or that there existed the relevant state of mind on the part of the Accused

For the existence of this general element of Crimes against Humanity, it is necessary that the perpetrator knows that his actions are a part of a widespread or systematic attack directed against civilian population. Therefore, the perpetrator must be aware of the widespread or systematic attack on the civilian population and that he must at the very least accept the risk that his actions are part of that attack. On the other hand, the motives of the Accused to commit a specific criminal offence may be completely independent from the reasons for which the attack was launched, but, for instance, they may be exclusively of personal nature. It is not decisive whether the acts of the Accused were directed against civilian population or against his victims, but it is only important that the Accused committed specific crimes, at the very least accepting the risk that they might constitute integral part of the attack on the civilian population.

In the case at hand, it is clear that the Accused Ljubiša Četić knew that the killing of the men constituted a part of a widespread and systematic attack on the civilian population, but, if considered in the context of Crimes against Humanity, it is not of particular relevance whether he participated in the killing of more than two hundred men for the same reasons for which the attack was launched.

6. The acts of perpetration and other elements

The charges allege that the Accused Ljubiša Četić consciously and willingly participated in the joint criminal enterprise of the civilian and military authorities of the Prijedor Municipality during the relevant period, for the purpose of persecution of Bosniak and Croat population on political, national, ethnic and religious grounds by way of a) depriving another person of his life (murder), d) deportation or forcible transfer of population, e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, and k) other inhumane acts of similar character intentionally causing great suffering, or serious injury to body or to physical or mental health.

As regards the notion of persecution, it should be noted that this is an intentional and serious denial of basic rights, contrary to international law, on the grounds of

affiliation to a group or community. Accordingly, the Accused Ljubiša Četić is charged with the perpetration of a number of different criminal offences, all of which were committed against specific persons because of their affiliation to that category. In other words, the men, civilians who were shot on the locality of "Korićanske stijene", were shot only because they were members of the specific group, or because, in the case at hand, they were of Muslim and Croat ethnicity. The same refers to all other actions whose perpetration would constitute a criminal offence even without the existence of a discriminatory intent. Therefore, taking into account that it follows from the presented evidence that all offences with which Ljubiša Četić is charged and found guilty were committed with a discriminatory intent, the Panel found him guilty of persecution in connection with the criminal offences: (1) deprivation of another persons of their lives (Murder); (2) deportation or forcible transfer of population; (3) Imprisonment of or other severe deprivation of physical liberty in violation of fundamental rules of international law and (4) other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to physical or mental health.

Furthermore, in the context of the above used terms, it should be noted that

-Murder as defined in Article 172 (1)a) of the BiH CC, implies that the death was the result of the Accused's action or his failure to act, meaning that the conduct of the Accused caused the death of the victim,

-Unlawful deportation, including forcible transfer, refers to violent evacuation of the population legally residing in the area, if it is not justified by international law. If the population is transferred across the state border, the term used is deportation, but if the transfer is made within the borders of the same country, then the term used is forcible transfer;

-Imprisonment or other severe deprivation of physical liberty contrary to the basic rules of international law, along with other general elements, refers to unlawful deprivation of liberty of one or more persons. As regards *mens rea*, there has to be intent to deprive an individual arbitrarily of his or her physical liberty or a reasonable knowledge that his act or omission is likely to cause arbitrary deprivation of physical liberty;

-And finally, as regards other inhumane acts of a similar nature, committed to cause great suffering or a serious bodily and mental injuries, it should be noted that this is a specific blanket legal norm which only sets forth specific objective criteria based on which it may be established whether in a specific case, certain actions may be characterized as Crime against Humanity. In view of the above, as regards the state of mind of the Accused, it is important that it implied his intent to cause great mental sufferings, which means that the actions of the Accused were directed towards causing such consequences.

Furthermore, as regards the form of criminal responsibility of Ljubiša Četić, it should be taken into account that he is charged with type 1 of joint criminal

enterprise, which implies that all co-perpetrators, including the Accused Ljubiša Četić possessed the same intent to effect the common purpose and that they took certain actions to achieve that.³

It follows from the testimonies of all witnesses examined so far and from all documentary evidence presented, that the Accused Ljubiša Četić, together with other persons, consciously and willingly participated in the plan to unlawfully imprison and afterwards forcibly transfer and deport on a convoy persons of Muslim and Croat ethnicity, on 21 August 1992, together with other civilians from the territory of Prijedor Municipality, to expose the people on the convoy during the escort to various inhumane acts, to separate a group consisting of more than two hundred men from the column and execute them at the locality of “Korićanske stijene” .

Therefore all presented evidence and the facts established in other proceedings before the ICTY which were accepted by this Panel, confirm that Ljubiša Četić consciously and willingly participated in the escort of the convoy, sharing the intent of other members of the joint criminal enterprise with a view to persecuting Bosniak and Croat civilians, as follows: a) depriving them of life (murder); (2) deporting and forcibly transferring, (3) imprison or depriving of physical liberty in some other manner in violation of fundamental rules of international law and (4) exposing them to other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to physical or mental health.

Therefore, it follows from all evidence presented before the Panel during the proceedings that there exists sufficient evidence on the guilt of the Accused Ljubiša Četić for the persecution of the Bosniak and Croat population and perpetration of crimes against them, including shooting of civilians as stated in the Indictment.

Therefore, the Panel finds beyond a reasonable doubt that the actions of the Accused Ljubiša Četić satisfy all elements of the criminal offense of Crimes against Humanity, under Article 172(1)(h), as read with subparagraphs (a), (d), (e) and (k) of the CC BiH, and that he is individually responsible for the perpetration of the crime, as set forth in Article 180(1) of the CC BiH.

7. Meting out the punishment

As regards the criminal sanction imposed on the Accused, we should point out that the Panel first viewed the gravity of the crime with which the Accused Ljubiša Četić is charged, and the degree of his criminal responsibility, and then the purpose of punishment, as well as all aggravating and mitigating circumstances, and sentenced him to imprisonment for a term of thirteen years.

³ Judgment of the Appeals Chamber in the case Kvočka, et al (February 2005), paragraph 82

In meeting out the punishment, the Panel particularly took into consideration the actions of the Accused Ljubiša Četić in relation to the convicted Damir Ivanković, who was pronounced a sentence of imprisonment for a term of fourteen years. Specifically, at the material time, the Accused Ljubiša Četić used a small caliber rifle, whose characteristics and purpose were discussed by the expert witness Željko Popović, while the convicted Damir Ivanković used an automatic rifle, whose lethal power is almost ten times bigger. Therefore, according to the Panel, this circumstance justifies the sentence of imprisonment for Ljubiša Četić which is one year shorter than the one pronounced to the convicted Damir Ivanković

It is also necessary to note that in meeting out the criminal sanction, the Court took into account that by pleading guilty, the Accused faced the consequences of what he had done, which is a key aspect of the plea of guilty, even if he, as in this case, did it through the Plea Agreement.

The punishment imposed may appear to be too lenient; however, this Panel concluded that the sentence of imprisonment for a term of thirteen years was adequate and that it would meet the purpose of punishment taking into consideration his admission of guilt, the cooperation with the Prosecution in further detection of crimes in the territory of Prijedor and beyond, and his expressed remorse.

The Panel further considered that the admission of the Accused to the offences as charged will contribute much more not only to the reconciliation in this region but also to the finding of truth about the crimes committed in the past war, than would be the case with a court judgment reached without the admission of guilt.

Finally, the Court also considered two pieces of evidence clearly showing that the Accused Ljubiša Četić suffered from certain health problems.

Therefore, all these grounds motivated the Panel to accept the Agreement concluded by the Accused Ljubiša Četić with the Prosecutor's Office of Bosnia and Herzegovina and to pronounce the sentence of imprisonment for a term of thirteen years for the criminal offense of Crimes against Humanity, in violation of Article 172(1)(h), in conjunction with subparagraphs (a), (d), (e), and (k) of the CC BiH

Since the Accused Ljubiša Četić spent some time in custody, it was decided that the period spent in custody from 14 October 2008 to 11 November 2009 would be credited towards the pronounced sentence of imprisonment pursuant to Article 56 of the BiH CC.

8. Decision on the costs of proceedings and the claim under property law

Pursuant to Article 188(4) of the BiH Criminal Procedure Code, the Accused is relieved of the duty to reimburse the costs of the proceedings, since the evidence on his financial standing indicate that the Accused Ljubiša Četić will lose his job when the Verdict becomes final and thus remain without regular monthly income.

When referring the aggrieved parties and the families of those killed to take civil action in case of a claim under property law, the Court took cognizance of the fact that the data of criminal proceedings do not provide a reliable basis for either a complete or partial award as foreseen under Article 198(2) of the BiH CPC.

**RECORD TAKER -
LEGAL ADVISOR-ASSISTANT
EMIL PINKAS**
/hand signature affixed/

**PRESIDING JUDGE
MINKA KREHO**
/signed and stamped/

LEGAL REMEDY: This Verdict may be appealed within the period of 15 days following the day of the reception of this Verdict; however, the imposed criminal sanction may not be appealed.