



**Number: S1 1 K 003029 11 KrI**  
**Sarajevo, 8 June 2011**

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

The Court of Bosnia and Herzegovina, Section I for War Crimes, in the Panel comprised of Judge Ljubomir Kitić as the President of the Panel, and Judges Minka Kreho and Željka Marenić as members of the Panel, with the participation of Legal Advisor Amra Hodžić as the Record-taker, in the criminal case against the accused Osman Šego, for the criminal offense of War Crimes against Civilians in violation of Article 173(1)(c) and (f), as read with Article 29 and Article 180(1) of the Criminal Code of Bosnia and Herzegovina (CC of BiH), deciding upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina number: T 20 0 KT-RZ 0000604 10 dated 15 October 2010, amended on 23 May 2011, having accepted the Plea Bargain and having held a public sentencing hearing on 8 June 2011 in the presence of the Prosecutor of the BiH Prosecutor's Office-Slavica Terzić and the accused Osamn Šego, rendered and publicly delivered:

### **V E R D I C T**

**THE ACCUSED OSMAN ŠEGO**, son of Hasan and mother Dika née Bašić, born on 13 May 1966 in Oborci, Municipality of Donji Vakuf, resident of Bugojno at 41 Sultan Ahmedova St., Bosniak, citizen of Bosnia and Herzegovina, PIN 1305966191766, wood processing technician-Secondary Wood Processing and Technical School, literate, married, father of a minor child, served the compulsory military service in 1986/87 in Belgrade and Paraćin, no reserve military officer ranks, not registered in any military records, no decorations, indigent, unemployed, no prior convictions, no other criminal proceedings pending against him, currently in custody pursuant to the Decision of the Court of BiH number: S1 1 K 003029 11 KrI dated 8 June 2011.

### **IS GUILTY**

**In as much as:**

During the war in Bosnia and Herzegovina, and within an armed conflict between the Croat Defense Council /HVO/ and the Army of the Republic of Bosnia and Herzegovina in Bugojno, in the period from 26 July 1993 through late July 1993 in Bugojno, namely in the Marxist Centre - Nunnery Closter, in the place of Guvno near Bugojno, and the neighborhood of Vrbanja in Bugojno, in his capacity as a military policeman of the 307<sup>th</sup> Brigade of the RBiH Army, he acted contrary to the rules of international humanitarian law, violating Article 3(1)a) and c) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 by having committed, participated,



assisted in the preparation and execution of criminal offenses, killings torture, as well as coercion to perform forced labor, so during the above mentioned period:

1. On 26 July 1993, after the captured Croat civilians were moved from the garage of a private house located in the village of Donjići to the Marxist Center - Nunnery Closter in Bugojno, he came to the Marxist Center as a military police officer of the 307<sup>th</sup> Brigade together with other military police officers from the same Brigade of the RBiH Army, and after one of the military policemen called over Vlatko Kapetanović and Ivica Keškić to come out of the rooms where they were detained in the Marxist Center, and after they came out, he, together with other members of the same Brigade, started punching, kicking and hitting them with blunt instruments all over their bodies, inflicting on them severe physical and mental pain; as a result of these beatings Ivica Keškić fell on the floor in the corridor of this Center with evident injuries all over his body, while all of them continued beating Vlatko Kapetanović, and pushed him through the back door of the Center with their blows. Subsequently, members of the same Brigade took Mario Glišić out of the cellar of the Center using the back door to the courtyard of the Marxist Center, and he, and other members of the same Brigade started beating, kicking and hitting him with blunt instruments all over his body, inflicting severe physical and metal pain, as a result of which Mario Glišić stayed lying on the ground of the courtyard with evident injuries all over his body, while other members of the same Brigade threw Vlatko Kapetanović into the trunk of a black passenger car of Mercedes make parked there and drove him, together with other members of the military police, to the vicinity of the village of Guvno, located not far from Bugojno, and having taken Vlatko Kapetanović out of the trunk with his hands tied behind his back, they took him to a groove in the vicinity of the parked vehicle, and after one member of the Brigade ordered them to shoot Vlatko Kapetanović, he fired his automatic rifle at the back of Vlatko Kapetanović from a close distance, who fell lying prostrate, and subsequently, while Vlatko Kapetanović was still lying on the ground showing signs of life, another member of the military police, fired a short burst of fire from his automatic rifle at Vlatko Kapetanović, and thus they deprived Vlatko Kapetanović of life.
2. On 30 July 1993, in the same capacity as described under the previous count, having known that they had to take out a group of prisoners of the Marxist Center-Nunnery' Closter to collect the bodies of the murdered Bosniaks, dig graves and bury the dead bodies in the village of Vrbanja, Municipality of Bugojno, armed with an automatic rifle, he went to the Marxist Center-Nunnery Closter, together with other armed members of the Military Police of this Brigade, selected a group of prisoners, including Mario Zrno, in the basement of the Center, and took them to the village of Vrbanja, where he and the other members of the Military Police, pursuant to orders they received, ordered the prisoners to collect the dead bodies, dig the graves and bury the dead bodies, which the prisoners had to do, while he, together with the other members of the Military Police, armed with the automatic rifle, guarded them during that work,

**Therefore,**

During the war in Bosnia and Herzegovina, within an armed conflict between the HVO and the Army of RBiH, violating the rules of international humanitarian law, specifically,



Article 3(1)(a) and (c) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, he committed, participated, and assisted in the execution and preparation of the criminal offences of killings and torture, and coercion to perform forced labor,

**Whereby:**

he committed the criminal offense of War Crimes against Civilians in violation of Article 173(1)(c) and (f) of the CC of BiH, as read with Articles 29 and 180(1) of the CC of BiH,

therefore, for the referenced criminal offense, and pursuant to Articles 39, 42, 48, 49 and 50 of the CC of BiH, by applying Article 231(3) of the Criminal Procedure Code of Bosnia and Herzegovina (the CPC of BiH), the Court

**SENTENCED HIM TO  
IMPRISONMENT OF 5 (FIVE) YEARS**

Pursuant to Article 56(1) of the CC of BiH, the time the Accused spent in custody shall be credited toward the sentence of imprisonment imposed, more specifically the period from 8 June 2011 onwards.

Pursuant to Article 186(1) and Article 188(4) of the CPC of BiH, the accused Osman Šego shall be fully relieved from the duty to reimburse the costs of the criminal proceedings which will be paid from the budget appropriations of the Court.

Pursuant to Article 198(2) of the CPC of BiH, the injured parties shall be instructed that they may pursue their claims under property law in a civil action.

**R e a s o n i n g**

Under the Indictment of the Prosecutor's Office of Bosnia and Herzegovina, Special Department for War Crimes, number: T 20 0 KT-RZ 0000604 dated 15 October 2010, confirmed on 7 March 2011 and amended on 23 May 2011, the accused Osman Šego was charged with the commission of the criminal offense of War Crimes against Civilians in violation of Article 173(1)(c) and (f) of the CC of BiH, as read with Article 29 and Article 180(1) of the CC of BiH.

At the plea hearing held on 4 April 2011 the Accused pled not guilty of the referenced charges. Thereupon, on 5 April 2011, the case record was transferred to the Trial Panel to take further action. On 23 May 2011, the BiH Prosecutor's Office filed with the Court the amended Indictment and a Plea Bargain concluded on the same day between the BiH Prosecutor's Office, the Accused and his Defense Counsel, Attorney Emir Karača.

Under the referenced Plea Bargain, the accused Osman Šego admitted the guilt for the criminal offense charged against him and agreed with the Prosecutor's Office that he be sentenced for the referenced criminal offense to imprisonment of 5 (five) years, and that he could be required to bear the costs of the criminal proceedings. The Accused was also



notified of possible consequences related to claims under property law. Furthermore, the Accused committed himself to truthfully and entirely recount to the Prosecutor or other authorized official persons from the BiH Prosecutor's Office all he knew about the events that took place in the territory of the Municipality of Bugojno during the 1992-1995 period, as well as any other issues of possible interest for the BiH Prosecutor's Office in relation to the events in BiH during the same period. The Accused also agreed that he would testify at trials before the Court of BiH or any other court, disclose information and offer documentary or other evidence in the possession or under the control of the Accused.

On 2 June 2011, the Court held a hearing at which the referenced Plea Bargain was considered pursuant to Article 231(4) and Article 6 of the CPC of BiH. The Accused confirmed at this hearing that he signed the Plea Bargain which he had previously read, that his Defense Counsel explained to him the terms of the Plea Bargain, that he had been informed of the contents of each provision thereof, that he waived certain statutory and constitutional rights to a trial related to his right to present his defense by contesting the evidence against him and presenting evidence in his favor, and also that he waived the right to appeal the sanction which will be imposed on him if the Court accepted the Plea Bargain. The Accused also confirmed that he was in good mental and physical health, that he had no health problems, that at the time of the Plea Bargain conclusion and at the hearing he used no narcotic drugs that might have affected his awareness and will, and that no one pressured him into concluding the Plea Bargain.

At this hearing, the BiH Prosecutor's Office presented and tendered to the Court the following documentary evidence: Witness Examination Record for Ivan Kapetanović, number KT-RZ 125/07 dated 9 April 2007 and the transcript of the testimony of witness Ivan Kapetanović of the Court of BiH dated 19 January 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Mario Glišić, number KT-RZ 162/05 dated 29 June 2006 and the transcript of the testimony of witness Mario Glišić of the Court of BiH dated 19 January 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Ivan Keškić, number KT-RZ 162/05 and KT-RZ 125/07 dated 14 August 2007 and the transcript of the testimony of witness Ivica Keškić of the Court of BiH dated 11 February 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Ivica Đikić, number KT-RZ-162/05 and KT-RZ-125/07 dated 13 August 2007 and the transcript of the testimony of witness Ivica Đikić of the Court of BiH dated 8 April 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Dragan Kasalo number KT-RZ 125/07, KT-RZ 162/05 and KT-RZ 128/07 dated 18 June 2007, and the transcript of the testimony of witness Dragan Kasalo of the Court of BiH dated 15 April 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Stipica Đapić number KT-RZ 162/05 dated 23 June 2006 and the transcript of the testimony of witness Stipica Đapić of the Court of BiH dated 18 March 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Ante Kapetanović, number KT-RZ-162/05, KT-RZ-125/07 and KTA-RZ and KTA-RZ-105/07 and KTA-RZ-105/07 dated 22 May 2007 with attachments and the transcript of the testimony of witness Ante Kapetanović of the Court of BiH dated 18 February 2010 in the *Alija Osmić* case number X-KR-09/781-1; Witness Examination Record for Željko Miloš, number KT-RZ 162/05 dated 15 March 2007 with attachments, and the transcript of the testimony of witness Željko Miloš of the Court of BiH dated 18 February 2010 in the *Alija Osmić* case number X-KR-09/781-1; Transcript of the testimony of witness Alija Osmić of



the Court of BiH dated 8 July 2010 and 1 July 2010 *in the case of Alija Osmić* number X-KR-09/781-1; Examination Record for Protected Witness “B-2” KT-RZ-162/05 dated 3 September 2010; Statement of witness Marko Krajinović given before the International Criminal Court for the Former Yugoslavia dated 17 January 2001 and 9 April 2001; Excerpt from the Register of Deaths for Marko Krajinović number: 04/18-13-3-1177/2010 dated 7 October 2010; Municipality of Bugojno; Decision of the Presidency of the Republic of Bosnia and Herzegovina on Proclaiming the State of War (Official Gazette of the RBiH, No. 7/92 dated 20 June 1992); Decision of the Presidency of the Republic of Bosnia and Herzegovina on Terminating the State of War (Official Gazette of the RBiH, No 50/95 of 28 December 1995; Constitution of the Federation of Bosnia and Herzegovina (Official Gazette of the FBiH No. 1/94 of 21 July 1994); Interim Report of the Operations Organ of the Unified Command of the Army in Bugojno No. 02/788-6 dated 11 July 1993, Combat Report of the Military Police of the 307<sup>th</sup> Motorized Brigade for the period from 18-31 July 1993 No. 1100-1083/93 dated 10 August 1993; Daily Operations Bulletin Strictly Conf. No. 04/516-93 dated 23 July 1993; Daily Bulletin of the 3rs Corps Press Center of dated 25 July 1993; Regular Combat Reports of the Defense Staff of the Bugojno Municipality Number: 02-263-80 of 26 July 1993; 10 copied photos depicting Željko Miloš; Review of Captured Soldiers of I Battalion, Command of the 307<sup>th</sup> Motorized Brigade, Municipal Staff Bugojno, No. 307-13-496/93 dated 1 August 1993; Permit of the Security Organ of the 307<sup>th</sup> Motorized Brigade No. 307-13-971/93 dated 30 September 1993; Order of the Security Organ of the 307<sup>th</sup> Motorized Brigade No. 307-13-1104/93 dated 23 September 1993; No. 307-13-1108/93 dated 23 October 1993, No. 307-13-689/93 dated 12 August 1993; No. 307-13-541/93 dated 3 August 1993; Orders of the Security Organ of the 307<sup>th</sup> Motorized Brigade No. 307-13-969/93 dated 4 August 1993; Daily Reports of the Military Police OG West numbers: 307/653 dated 17 November 1993, 307/657 dated 19 November 1993; 307/786 dated 9 January 1994; List of a number of Units of Operations Group Zapad (West) of the RBiH Army dated 5 February 1994; List of a number of Units of OG West of the RBiH Army dated 4 March 1994; Personal Record Card for Osman Šego, number 492060800861 dated 19 August 1992, Bugojno; Unit File for Osman Šego; Excerpt from the Register of Deaths for Vlatko Kapetanović No. 04/18-13-3-1178/2010 dated 7 October 2010, Municipality of Bugojno; Excerpt from the Register of Deaths for Mario Zrno No. 04/18-13-3-1176/2010 dated 7 October 2010, Municipality of Bugojno; Excerpt from the Criminal Record for Osman Šego No. 02/5-4-04-2-1354/10 dated 6 October 2010; Questioning Record for Accused Osman Šego No. T20 0 KTRZ 0000604 10 dated 6 October 2010.

At the hearing, the Prosecutor stated that she had advised the aggrieved parties of the Plea Agreement, and that they should file civil actions to pursue their possible claims under property law.

The Defense for the Accused had neither comments nor objections to the documentary evidence presented by the Prosecution. The Defense for the Accused presented and tendered as evidence the following documents: a list of household members for Osman Šego No. 04-13-415/2011 dated 9 May 2011; Certificate of the Employment Bureau of Central Bosnia Canton, Branch Office Bugojno No. 08-37-1-938/2011 dated 25 May 2011; Certificate of the Employment Bureau of Central Bosnia Canton, Branch Office Bugojno No. 08-37-1-937/2011 dated 25 May 2011; FBiH Tax Administration Certificate, Tax Branch Office Bugojno No. 13-6/3-7322/853 dated 26 May 2011, Decision of the Municipal Service for



Economy and Social Affairs No. 04-41-00059-11 dated 16 May 2011; Certificate of Municipality of Bugojno-Department for Urbanism, Construction, Geodesic/Cadastré and Property/Legal Issues No. 05-30-1/255 dated 26 May 2011; Certificate of Cadastré Office, Municipal Court in Bugojno No. Rz-2680/11 dated 26 May 2011; Discharge Later from the Clinical Center of the University in Sarajevo dated 30 April 2003, 23 October 2003 and 22 September 2003.

Taking into account all the foregoing, and pursuant to Article 231(5) of the CPC of BiH, the Court accepted the Plea Bargain, and found that the Plea Bargain concluded between the Prosecutor's Office, the accused Osman Šego and the Defense Counsel for the Accused, Attorney Emir Karča, was made voluntary, willingly and with understanding. The Court also concluded that the Accused had been notified prior to this of all possible consequences resulting from the Plea Bargain, including the consequences concerning possibilities that he might be ordered to compensate the damage, that the ill-gotten gains obtained might be confiscated and that he might be ordered to bear the costs of the criminal proceedings.

Having evaluated all pieces of the tendered evidence, the Court concluded that the quality of the evidence was such that it constituted a sufficient basis for the conclusion that the Accused had indeed committed the criminal offense charged against him and that he was guilty. This particularly concerns quite a detailed confession to the commission of the criminal offense made by the Accused in his statement given in the Prosecutor's Office. The Accused gave an account of his participation in the murder of one civilian, and in taking other civilians detained in the territory of the Municipality of Bugojno in July 1993 to perform forced labor. In their relevant parts, his assertions were confirmed by the witnesses: Alija Osmić, who eye-witnessed the killing of Vlatko Kapetanović, and who described in his statement the circumstances under which this person was taken to the Guvno territory, how the accused Osman Šego pointed his weapon at him, fired first, hit Vlatko Kapetanović in the heart area and killed him. The protected witness B-2 confirmed these assertions in his statement. He also stated that the Accused, together with other members of the RBiH Army, had taken a group of civilians from the Marxist Center to perform forced labor in the Vrbanja territory, where the civilians had collected dead bodies, dug graves and buried the dead bodies, that Osman Šego as a military police officer from the 307<sup>th</sup> Brigade of the RBiH, he had been armed and that he had provided security on the site where the labour had been performed together with other members of the RBiH Army.

Furthermore, witnesses Marko Krajinović, who gave his statement to the ICTY investigators, Stipica Đapić, Ivica Đikić, Ivan Kapetanović, Željko Miloš, Ante Kapetanović, Dragan Kasalo, confirmed in essential parts of their statements that Vlatko Kapetanović had been taken away from the Marxist Center and thereupon found dead, that the detained civilians had been taken to perform forced labor in the place of Vrbanja. The witnesses-aggrieved parties Ivan Keškić and Mario Glišić also testified about severe physical and mental pain and suffering inflicted on them by members of the Army of the RBiH. It ensues from the testimony of the protected witness B-2 that the Accused Osman Šego also committed these acts against Mario Glišić. Among other things, these averments were also confirmed by the other evidence presented to the Court by the Prosecution. All the evidence adduced undoubtedly suggests the conclusion that the acts of the Accused, described in more detail in the Operative Part of the Amended Indictment, have satisfied all the statutory essential elements of the criminal offense of War Crimes against Civilians



under Article 173(1)(c) and (f) of the CC of BiH, that the Accused committed the criminal offense as a co-perpetrator in concert with other persons in terms of Article 29 of the CC of BiH, and that accordingly he is guilty based on his individual responsibility in terms of Article 180(1) of the CC of BiH.

Elements of the criminal offense of War Crimes against Civilians charged against the Accused are set out in Article 173(1)(c) and (f) of the CC of BiH and they include the following general elements:

- i. the offense of the perpetrator must be committed in violation of the rules of international law;
- ii. violations must be committed in time of war, armed conflict or occupation;
- iii. the offense of the perpetrator must be related to war, armed conflict or occupation;
- iv. the perpetrator must order or commit the offense.

**i. The offense of the perpetrator must be committed in violation of the rules of international law** – in order to establish violations of the rules of international law it is necessary to establish against whom the commission was directed, that is, whether the offense was directed against a particular category of population protected under Article 3(1) of the Geneva Convention. According to the definition of the notion of protected category referenced to in Article 3(1) of the Geneva Convention, civilians refers to persons: “*taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause*”<sup>1</sup>

Bearing in mind the referenced definition of “civilians”, it clearly follows that the persons mentioned in the referenced Indictment, namely with whose death, torture and forced labor the Accused was charged, were civilians, more specifically, the persons who laid down their arms and those “placed hors de combat”. This undoubtedly ensues from the List of Captured Soldiers of the 1<sup>st</sup> Battalion of the Command of the 307<sup>th</sup> Motorized Brigade dated 1 August 1993 and the testimony of the witnesses, who were as such protected by international law.

**ii. Violations must be committed in time of war, armed conflict or occupation** – pursuant to Article 173 of the CC of BiH, a criminal offense must be related to a violation of rules of international law in time of armed conflict, *inter alia*, which occurs whenever armed forces are used between states or prolonged armed violence between the state authorities and organized armed groups, or among such groups within one state.

The documentary evidence presented and tendered to the Court by the BiH Prosecutor’s Office undoubtedly confirmed the fact that armed conflict was an ongoing at the critical time in the relevant territory. This undoubtedly ensues from the Decision of the Presidency of the Republic of Bosnia and Herzegovina Proclaiming the State of War<sup>2</sup> which was effective all through 22 December 1995, the Decision of the Presidency of the Republic of

<sup>1</sup> *Prosecutor v. Blagojević*, case No. IT-02-60-T, Judgment dated 17 January 2005, para.544.

<sup>2</sup> Decision of the Presidency of the Republic of Bosnia and Herzegovina on Proclaiming the State of War- Official Gazette of the RBiH No. 7/92 dated 20 June 1992;



Bosnia and Herzegovina Terminating the State of War<sup>3</sup>, and also from the Witness Examination Records.

**iii. The offense of the perpetrator must be related to war, armed conflict or occupation**

- Taking into account the tendered evidence, the Court finds that the nexus between the acts of the Accused and the armed conflict is sufficient, particularly bearing in mind the fact that at the critical time the Accused was a member of the 307<sup>th</sup> Brigade of the Army of the RBiH. This undoubtedly ensues from the List of several Units of the OG West of the Army RBiH dated 5 February 1994 and 4 March 1994, verified copies of the personal and unit file record to the name of Osman Šego. Given the foregoing facts, the Court finds that there is no doubt about the knowledge of the Accused about the armed conflict and his participation therein.

**iv. The perpetrator must order or commit the offense** – All the evidence adduced undoubtedly suggests the conclusion that as a member of the 307<sup>th</sup> Motorized Brigade, in concert with other members of the Army of the RBiH, the accused Osman Šego committed the criminal offenses of killings, torture and coercion to perform forced labor against detained civilians, that were charged against him under the Indictment, and of which he was found guilty. Specifically, the commission of the criminal offense of murder is confirmed by the testimony of witness Alija Osmić and the protected witness B-2 who have given an identical account of the deprivation of life of Vlatko Kapetanović, more specifically, how the accused Šego first fired a shot into Kapetanović's heart area and thereby killed him. This was confirmed by the Accused himself. The testimony of witnesses Alija Osmić, Marko Krajnović, Stipica Đapić, Ivica Đikić, Ivan Kapetanović, Željko Miloš, Ante Kapetanović, Dragan Kasalo, Ivan Keškić, Mario Glišić and the protected witness B-2 undoubtedly indicate that the Accused committed and participated in inflicting severe physical and mental pain and suffering on the captured civilians, in taking them to perform forced labor and in securing them while they performed forced labor. In addition to the testimony of the referenced witnesses, the protected witness B-2 and the statement of the Accused, these allegations are also supported by the other documentary evidence filed in the case record. Therefore, the Court concludes that the acts of the Accused have satisfied all the statutory elements of the criminal offense of War Crimes against Civilians under Article 173(c) and (f) of the CC of BiH, namely that the Accused committed the criminal offense as a co-perpetrator, in concert with other persons in terms of Article 29 of the CC of BiH, and that therefore he is guilty based on his individual responsibility in terms of Article 180(1) of the CC of BiH.

Furthermore, the Court establishes that the Accused understands that by entering a Plea Bargain and by admitting his guilt he waives his right to a trial and the right to present his defense and evidence by which he would contest the evidence of the adverse party against him, that he has understood that thereby he also waives his right to file an appeal from the decision on sentence that will be imposed on him pursuant to the Plea Bargain.

In considering a sentence anticipated under the Plea Bargain, that is the sentence of imprisonment of 5 (five) years, the Court concluded that such punishment is in accordance

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<sup>3</sup> Decision of the Presidency of the Republic of Bosnia and Herzegovina on Terminating the State of War (Official Gazette of the RBiH No. 50/95 dated 28 December 1995;



with Article 231(3) of the CPC of BiH, or Article 42, Article 42(b), Article 49 and Article 50(1)(a) of the CC of BiH. Specifically, the Court concludes that this sentence indeed is a minimum statutory sentence that may be imposed for this criminal offense, namely the sentence as can be imposed under the law using all possibilities to reduce the statutory sentence of imprisonment.

The Court also concluded that the aggrieved parties were notified that they may pursue their claims under property law in civil action as indicated by the Prosecution during the main trial.

Bearing in mind the characteristics plea bargain as an instrument, and the fact that the plea bargain is considered in a summarized, extraordinary judicial procedure in which the accused unreservedly admits his guilt and knowingly waives his right to a regular trial during which he could present his defense, the duty of the Court to rely exclusively on the verification of the admission, and the existence of sufficient evidence, the Court did not analyze in detail each piece of the presented evidence, did not correlate it with the acts of the Accused and the essential elements of the criminal offense, which is generally done in regular court trials. The Court evaluated the evidence to the extent in which it can be satisfied that the scope and quality of such evidence is sufficient to ascertain whether the acts of the Accused have satisfied all the essential elements of the criminal offense charged against him, and whether the Accused is guilty of this criminal offense.

After the acceptance of the Plea Bargain, the sentencing hearing was held at which the parties and the Defense Counsel for the Accused presented the circumstances and the evidence relevant for the length of the sentence. These circumstances were identically presented, and they concern the behavior of the Accused before the Court, his admission that he committed the criminal offense, and the promised cooperation with the Prosecutor's Office regarding the clarification and information about the events that took place in the territory of the Municipality of Bugojno and other parts of BiH during the 1992-1995 period, the testimony at the main trial before the Court of BiH and other courts, and the special family and personal circumstances of the Accused. Bearing in mind the foregoing, the Court found a number of mitigating circumstances on the part of the Accused, namely: the Accused's correct behavior and his admission given in the early stage of the proceedings "*which most benefit the judicial system*"<sup>4</sup>, his honest remorse showed, and the Accused's consent to cooperate with the BiH Prosecutor's Office under the Plea Bargain. Furthermore, the Court took into account the family and personal circumstances of the Accused, primarily that he is a family person, father of an underage child has a serious health condition, and that he has no prior records. In their entirety, these circumstances justify the sentence imposed on the Accused all the more so because the Court has found no aggravating circumstances on the part of the Accused except that this is a severe criminal offense that is not subjected to the statute of limitation.

Considering all the foregoing, the Court found that the purpose of punishment of the Accused has been fully achieved by the sentence of imprisonment of five years. Therefore, pursuant to Articles 39, 42, 48, 49 and 50 of the CC of BiH, the Court decided as stated in the Operative Part of this Verdict. Pursuant to Article 56(1) of the CC of BiH, the time the

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<sup>4</sup> OSCE publication „The Processing of Cases Referred to Bosnia and Herzegovina by the ICTY in accordance with Rule 11bis“, January 202, p.25.



Accused spent in custody from 8 June 2011 onwards shall be credited toward the sentence of imprisonment as imposed.

Bearing in mind the family circumstances of the Accused and the fact that the Accused is unemployed, the Court relieved the Accused of the duty to reimburse the costs of the criminal proceedings pursuant to Article 188(4) of the CPC of BiH given that if the Accused bore the costs of the proceedings the subsistence of the Accused and members of his family would have come into question.

In instructing the aggrieved parties to file civil action to pursue their possible claims under property law, the Court relied on the fact that consideration of claims under property law would require a fairly long period of time, and that this would prolong the criminal proceedings. Therefore, the decision is made pursuant to Article 198(2) of the CPC of BiH and the aggrieved parties are instructed to pursue their property claims in civil action.

**Record-taker-Legal Advisor**  
**Amra Hodžić**

**President of the Panel**  
**Ljubomir Kitić**

**NOTE ON LEGAL REMEDY:**

An appeal from this Verdict may be filed within 15 days after the day of receipt of the Verdict, but not in relation to the decision on sentence.