

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-02-60-PT

IN THE TRIAL CHAMBER

Before: Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphons Orié

Registrar: Mr. Hans Holthuis

Date Filed: 7 May 2003

THE PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN OBRENOVIĆ
DRAGAN JOKIĆ
MOMIR NIKOLIĆ**

**JOINT MOTION FOR CONSIDERATION OF AMENDED PLEA AGREEMENT
BETWEEN MOMIR NIKOLIĆ AND THE OFFICE OF THE PROSECUTOR**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Michael Karnavas and Ms. Suzana Tomanović for Vidoje Blagojević
Mr. David Eugene Wilson and Mr. Dušan Slijepčević for Dragan Obrenović
Mr. Miodrag Stojanović and Ms. Cynthia Sinatra for Dragan Jokić
Mr. Veselin Londrović and Stefan Kirsch for Momir Nikolić

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**THE PROSECUTOR
v.
VIDOJE BLAGOJEVIĆ
DRAGAN OBRENOVIĆ
DRAGAN JOKIĆ
MOMIR NIKOLIĆ**

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**JOINT MOTION FOR CONSIDERATION OF AMENDED PLEA AGREEMENT
BETWEEN MOMIR NIKOLIĆ AND THE OFFICE OF THE PROSECUTOR**

1. The Prosecutor and the accused, Momir Nikolić, represented by his Counsel, Veselin Londrović and Stefan Kirsch, have entered into an Agreement concerning Nikolić's plea of guilty to Count 5 of the Amended Joinder Indictment dated 27 May 2002, alleging Persecutions, a Crime Against Humanity, punishable under Article 5(h) of the Statute of the Tribunal. The terms of this Agreement have been reduced to writing and are submitted herewith (Annex A) for the Trial Chamber's consideration. The attached Agreement takes into consideration comments made by the Trial Chamber during the 6 May 2003 hearing. The "Statement of Facts and Acceptance of Responsibility" attached at Tab A, and the confidential portion of the Agreement attached at Tab B, of the 6 May 2003 Agreement have not been amended or revised and are incorporated by reference into the Amended Plea Agreement.
2. This Agreement is not meant to replace the proceedings in open court at the time of plea, during which the Trial Chamber must assure itself that the accused's plea is made in accordance with all the rights accorded him by the Statute, Rules of Procedure and Evidence, and law of the Tribunal specifically Rules 62 *bis*¹ and 62 *ter*.² This Plea Agreement is simply meant to assist the Trial Chamber in that process.

¹ Rule 62 *bis*, incorporated into the Rules of Procedure in November 1997, states that: If an accused pleads guilty in accordance with Rule 62 (vi), or requests to change his or her plea to guilty and the Trial Chamber is satisfied that:

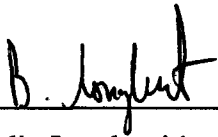
- i. the guilty plea has been made voluntarily;
- ii. the guilty plea is informed;
- iii. the guilty plea is not equivocal; and
- iv. there is a sufficient basis for the crime and the accused's participation in it, either on the basis of independent indicia or on lack of any material disagreement between the parties about the facts of the case

² Rule 62 *ter* sets forth procedures for submission of a plea agreement entered in to by the parties, clarifies that the Trial Chamber is not bound by any agreement submitted by the parties, and requires the disclosure of any such plea agreement in open session.

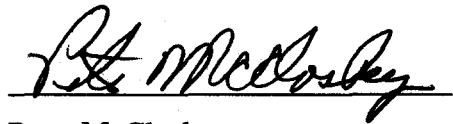
3. It is the wish of the parties that by reducing this agreement to writing it will have the effect of promoting understanding between the parties as a means to help ensure the validity of the guilty plea and to assist the Trial Chamber in reaching an appropriate sentence.

4. In the attached Agreement, the accused and the Office of the Prosecutor have made a joint recommendation to the Trial Chamber regarding sentencing of Momir Nikolić; however, this recommendation is not meant to infringe in any way on the Trial Chamber's exclusive role in determining the appropriate sentence and such recommendation is made only to assist the Trial Chamber. As noted in the Plea Agreement, the Trial Chamber may consider such a recommendation or reject it, as the Trial Chamber so chooses.

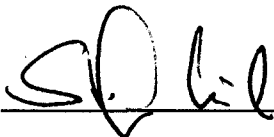
5. For the reasons stated above, the parties respectfully request that the Trial Chamber consider and accept the Plea Agreement between Momir Nikolić and the Prosecutor during both the plea and sentencing hearings.



Veselin Londrović
Counsel for Momir Nikolić



Peter McCloskey
Senior Trial Attorney



Stefan Kirsch
Co-Counsel for Momir Nikolić

Dated this 7th day of May, 2003
The Hague, The Netherlands

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-02-60-PT

THE PROSECUTOR

v.

MOMIR NIKOLIĆ

ANNEX A
TO THE JOINT MOTION FOR CONSIDERATION OF PLEA AGREEMENT
BETWEEN MOMIR NIKOLIĆ AND THE OFFICE OF THE PROSECUTOR

AMENDED PLEA AGREEMENT

Introduction

1. This constitutes the Plea Agreement, pursuant to Rule 62*bis* of the Rules of Procedure and Evidence ("the Rules"), between the Accused, Momir Nikolić, through his Counsel Veselin Londrović, and the Office of the Prosecutor (OTP). The purpose of this Agreement is to clarify the understanding of the parties as to the nature and consequences of Mr. Nikolić's guilty plea and to assist the parties and the Trial Chamber in ensuring that the plea is valid, according to the Rules set forth by this Tribunal. The terms of the agreement are as follows:

Plea to Count 5 of the Indictment, Persecutions, A Crime Against Humanity

2. Momir Nikolić agrees to plead guilty to Count 5 of the Amended Joinder Indictment dated 27 May 2002, alleging Persecutions, a Crime Against Humanity, punishable under Article 5(h) of the Statute of the Tribunal, which states the following in relevant part:

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

(h) persecutions on political, racial and religious grounds

3. Momir Nikolić agrees that he is pleading guilty to Count 5 because he is in fact guilty and acknowledges full responsibility for his actions that are the subject of the Indictment.

Consideration for the Momir Nikolić's Plea and Co-operation

4. In exchange for Momir Nikolić's plea of guilty to Count 5, Persecutions, a Crime Against Humanity and his complete co-operation with the OTP as set forth in paragraphs 9-11 of this Agreement and the fulfilment of all his obligations under this Agreement, the Office of the Prosecutor agrees to the following:

- (a) That the Prosecutor will recommend to the Trial Chamber that they impose a sentence within the range of 15 to 20 years and that the Accused be given credit for the time he has served in ICTY custody. The Defence will recommend a sentence of 10 years.
- (b) That, at the time of the acceptance of the plea by the Trial Chamber, the Prosecutor will move to dismiss without prejudice to either party the remaining charges against Momir Nikolić set out in the Indictment.

Nature of the Charges

5. Momir Nikolić understands that he is pleading guilty to Count 5 of the Indictment, Persecutions, a Crime Against Humanity, specifically acknowledging and admitting his conduct as set forth in paragraphs 9-11, 15-27, 30-33, 36-45, 46.1-46.12, 47, 47.2-47.5, 51, 58, 59 of the Indictment and further described in this agreement. However, Momir Nikolić and the Prosecution agree that the following corrections are to be made to the Indictment:

1. Paragraph 31 (second sentence): As to Momir Nikolić only, delete reference to "genocide or complicity in genocide" and to "murder as a violation of the laws or customs of war". Also replace reference to "crimes against humanity (including murder, persecutions, forcible transfer, and inhumane acts)" with "crimes against humanity (persecutions)".
2. Paragraph 39 (fourth sentence): Delete second reference to Momir Nikolić.
3. Paragraph 45 (second subparagraph, third sentence): Instead of "in compliance with the orders of Vidoje Blagojević" it should say "under the authority of Vidoje Blagojević".

There are further corrections of minor character to the Indictment which will be addressed by Momir Nikolić in his "Statement of Facts and Acceptance of Responsibility".

6. Momir Nikolić understands that if a trial were held, the Prosecutor would be required to prove the following elements of Article 5 beyond a reasonable doubt:

Persecutions

- (a) an armed conflict existed during the time frame of the Indictment

It is understood and agreed by Momir Nikolić and the OTP that the armed conflict alleged in paragraph 15 of the Indictment is the armed conflict that began on 6 April 1992 and ended with the Dayton Peace Agreement, signed on 14 December 1995.

- (b) there was a widespread or systematic attack directed against a civilian population and, in a manner related to that attack, Momir Nikolić committed acts against the civilian population that violated fundamental human rights

It is understood and agreed that the widespread or systematic attack on the civilian population of Srebrenica as alleged in paragraph 17 of the indictment and described in paragraphs 18 through 26 of the Indictment includes:

(1) the murder of over 7000 Bosnian Muslim men ages 16-60, including some women, children and elderly men, from the period beginning 12 July through 1 November 1995; (2) the cruel and inhuman treatment of Bosnian Muslim civilians, including beatings of civilians in and around Potočari and detention centres in Bratunac on 12 and 13 July 1995; (3) the terrorisation of Bosnian Muslim civilians in Srebrenica and Potočari on 12 and 13 July 1995; (4) the destruction of personal property and effects of the Bosnian Muslim population of Srebrenica and (5) the forcible transfer of the entire Bosnian Muslim population from the Srebrenica enclave.

- (c) Momir Nikolić's conduct was committed on political, racial or religious grounds and was committed with discriminatory intent.

It is understood and agreed that one of the reasons Mr. Nikolić committed the conduct described in the Indictment and herein was because the victims were Bosnian Muslims.

- (d) Momir Nikolić was aware of the wider context in which his conduct occurred.

It is understood and agreed that Mr. Nikolić was aware of the widespread or systematic abuses described in the Indictment and in this agreement and of their effect on the entire population of Bosnian Muslims from the Srebrenica enclave.

Factual Basis

7. Momir Nikolić and the Prosecution agree that if the Prosecution were to proceed with evidence, the facts and allegations as set out in paragraphs 9-11, 15-27, 30-33, 36-45, 46.1-46.12, 47, 47.2-47.5, 51, 58, 59, Annex A, Annex B, and Attachments A-E of the Amended Joinder Indictment dated 27 May 2002, would be proven beyond a reasonable doubt, and that those facts are true and correct and not disputed by Momir Nikolić (with the corrections to the Indictment made in paragraph 5 above). Specifically, Momir Nikolić acknowledges the facts set forth in the "Statement of Facts and Acceptance of Responsibility," attached to this Agreement at Tab A.
8. The Prosecution and Momir Nikolić agree that the evidence supports a finding of guilt on Count 5, Persecutions, of the Indictment.

Co-operation by Momir Nikolić

9. This Agreement is contingent upon Momir Nikolić's voluntary decision to accept responsibility for his actions and to co-operate with and to provide truthful and complete information to the Office of the Prosecutor whenever requested. In accordance with such co-operation, Momir Nikolić agrees to meet as often as necessary with members of the Office of the Prosecutor in order to provide them with full and complete information and evidence that is known to him regarding the events surrounding the attack and fall of the Srebrenica enclave July 1995. Mr. Nikolić agrees to be truthful and candid, and to freely answer all questions put to him by members of the Office of the Prosecutor. Mr. Nikolić agrees to testify truthfully in the trial of the co-Accused in this case before the Tribunal and in any other trials, hearings or other proceedings before the Tribunal as requested by the Prosecution.
10. The Prosecution and Mr. Nikolić also agree that they will jointly recommend to the Trial Chamber that sentencing of Mr. Nikolić in this matter not be set until after Mr. Nikolić has testified in the upcoming trial, in order that the full nature and scope of Mr. Nikolić's co-operation may be seen and evaluated by the Trial Chamber prior to sentencing.
11. It is understood and agreed by Momir Nikolić and the Prosecution that all information and testimony provided by Mr. Nikolić must be absolutely truthful. This means that Momir Nikolić must neither minimise his own actions nor fabricate someone else's involvement.

Maximum Possible Penalty and Sentencing

12. Momir Nikolić understands that, pursuant to Rule 101 of the Rules, he could face a sentence, if convicted after trial, of a term of imprisonment up to and including the remainder of his life.

13. Momir Nikolić understands that the Prosecution's recommendation of 15 to 20 years' and the Defence recommendation of 10 years incarceration is not binding on the Trial Chamber and that the Trial Chamber is free to sentence the Accused as it sees fit.

14. Momir Nikolić agrees that he will not appeal the sentence imposed by the Trial Chamber unless the sentence imposed is above the range recommended by the parties.

15. Momir Nikolić agrees that he will not move to withdraw his guilty plea or appeal his conviction pursuant to his guilty plea.

16. Momir Nikolić understands that, pursuant to Article 24 of the Statute and Rule 101 of the Rules, the Trial Chamber should take into account in determining the appropriate sentence such factors as the gravity of the offence and the individual circumstances of the convicted person. In addition, the Trial Chamber should take into account such factors as: any aggravating circumstances, any mitigating circumstances including the substantial co-operation with the Prosecutor by the convicted person before or after conviction, the general practice regarding prison sentences in the courts of the former Yugoslavia, and the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served.

Waiver of Rights

17. By pleading guilty, Momir Nikolić understands he will be giving up the following rights:

- (a) the right to plead not guilty and require the Prosecution to prove the charges in the Indictment beyond a reasonable doubt at a fair and impartial public trial;
- (b) the right to prepare and put forward a defence to the charges at such public trial;
- (c) the right to be tried without undue delay;
- (d) the right to be tried in his presence, and to defend himself in person at trial or through legal assistance of his own choosing at trial;
- (e) the right to examine at his trial, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf at a trial under the same conditions as witnesses against him;

- (f) the right not to be compelled to testify against himself or to confess guilt;
- (g) the right to testify or to remain silent at trial; and
- (h) the right to appeal a finding of guilty or to appeal any pre-trial rulings.

18. It is understood that by pleading guilty the Accused does not waive his right to be represented by Counsel at all stages of the proceedings.

Voluntaries of the Plea

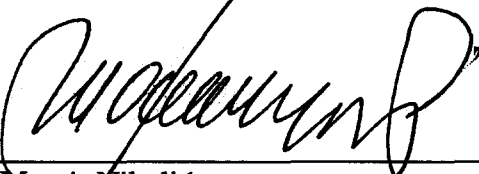
19. Momir Nikolić acknowledges that he has entered this Plea Agreement freely and voluntarily, that no threats were made to induce him to enter this guilty plea, and that the only promises made to him are those set forth in this agreement.

Other Agreements

20. Except as expressly set forth herein, there are no additional promises, understandings or agreements between the Office of the Prosecutor and Momir Nikolić or his Counsel, Veselin Londrović. Part of this Agreement is a confidential "Annex Tab B" which will be filed separately and under seal.

Declaration of Momir Nikolić

21. I, Momir Nikolić, have read this Plea Agreement in a language which I understand and have carefully reviewed every part of it with my Counsel, Veselin Londrović. Mr. Londrović has advised me of my rights, or possible defences, and of the consequences of entering into this Agreement. No other promises or inducements have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened me or forced me in any way to enter into this Agreement. I have entered into this Agreement freely and voluntarily, and am of sound mind. I understand the terms of this Agreement, and I voluntarily agree to each of the terms.

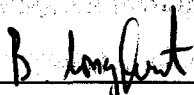


Momir Nikolić

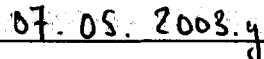
7 05 2003
Date

Declaration of Counsel

I, Veselin Londrović, am Momir Nikolić's Counsel. I have carefully reviewed every part of this Agreement with my client. Further, I have fully advised my client of his rights, and possible defences, of the maximum possible sentence and the consequences of entering into this Agreement. To my knowledge, my client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

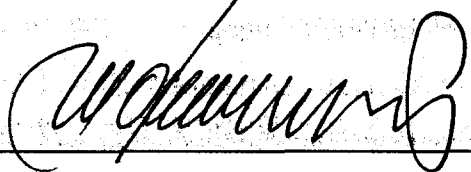


Veselin Londrović
Counsel for Momir Nikolić

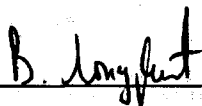


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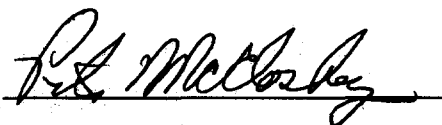
On this 7th day of May 2003 the undersigned parties fully agree to each and every term and condition of this Plea Agreement:



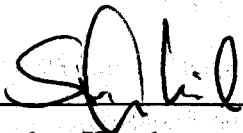
Momir Nikolić



Veselin Londrović
Counsel for Momir Nikolić



Peter McCloskey
Senior Trial Attorney
Office of the Prosecutor



Stephan Kirsch
Co-Counsel for Momir Nikolić

**MEĐUNARODNI KRIVIČNI SUD
ZA BIVŠU JUGOAVLIJU**

Predmet br. IT-02-60-PT

TUŽILAC

protiv

MOMIRA NIKOLIĆA

ANEKS A

ZAJEDNIČKOG PRIJEDLOGA ZA RAZMATRANJE

SPORAZUMA O IZJAŠNJAVANJU O KRIVICI

IZMEĐU MOMIRA NIKOLIĆA I TUŽILAŠTVA

IZMJENJENI SPORAZUM O IZJAŠNJAVANJU O KRIVICI

Uvod

1. Ovaj dokument je sporazum o izjašnjanju o krivici na osnovu pravila 62bis Pravilnika o postupku i dokazima (dalje u tekstu: Pravilnik), između optuženog Momira Nikolića, zastupanog po njegovom braniocu Veselinu Londroviću, i Tužilaštva. Svrha ovog Sporazuma jeste da se utanači sve što je između strana dogovoreno u vezi sa sadržajem i posljedicama potvrdnog izjašnjenja o krivici g. Nikolića, te da se stranama i Pretresnom vijeću pomogne da ovo izjašnjenje bude valjano, u skladu sa Pravilnikom po kojem radi ovaj Međunarodni sud. Ovim sporazumom utanačuje se sljedeće:

Izjašnjenje po tački 5 Optužnice - Progona, zločin protiv čovječnosti

2. Momir Nikolić je sporazuman s tim da se izjasni krivim po tački 5 Izmijenjene spojene optužnice od 27. maja 2002. koja ga tereti za progone, zločin protiv čovječnosti kažnjiv po članu 5(h) Statuta Međunarodnog suda koji u relevantnom dijelu utvrđuje sljedeće:

Međunarodni sud je ovlašten da krivično goni osobe odgovorne za sljedeća krivična djela kada su počinjena u oružanom sukobu, bilo međunarodnog bilo unutrašnjeg karaktera, i usmjerena protiv bilo kojeg civilnog stanovništva:

(h) progona na političkoj, rasnoj i vjerskoj osnovi

3. Momir Nikolić je sporazuman s tim da se izjasni krivim po tački 5 zato što činjenično jeste kriv, i potvrđuje da snosi punu odgovornost za svoje postupke koji su predmet Optužnice.

Razlozi za izjašnjenje o krivici i saradnju Momira Nikolića

4. Za potvrdno izjašnjenje o krivici Momira Nikolića po tački 5 Optužnice - optužba za progone, zločin protiv čovječnosti - i za njegovu punu saradnju s Tužilaštvom na način opisan u paragrafima 9-11 ovog Sporazuma, te za ispunjenje svih njegovih obaveza po ovom Sporazumu, Tužilaštvo je sporazumno s tim da postupi na sljedeći način:

(a) Tužilac će Pretresnom vijeću preporučiti kaznu u rasponu od 15 do 20 godina i da se optuženom u izvršenje kazne uračuna vrijeme koje je proveo u pritvoru MKSJ-a. Odbrana će preporučiti kaznu od 10 godina za svoje postupke koji su predmet

(b) Da, u trenutku kad Pretresno vijeće prihvati Sporazum o izjašnjavanju o krivici, tužilac, bez štete za ijednu od strana, predloži da se odbace ostale optužbe protiv Momira Nikolića sadržane u Optužnici.

Za potvrdno izjašnjenje o krivici Momira Nikolića po tački 5 Optužnice - optužba za progone, zločin protiv čovječnosti - i za njegovu punu saradnju s Tužilaštvom na način opisan u paragrafima 9-11 ovog Sporazuma, te za ispunjenje svih njegovih obaveza po ovom Sporazumu, Tužilac je sporazumno s tim da postupi na sljedeći način:

Sadržaj optužbi

Momir Nikolić je svjestan toga da se izjašnjava krivim po tački 5 Optužnice - optužba za progone, zločin protiv čovječnosti - konkretno potvrđujući i priznajući svoje postupke navedene u paragrafima 9-11, 15-27, 30-33, 36-45, 46-1-46.12, 47, 47.2-47.5, 51, 58, 59 Optužnice, i dalje opisane u ovom Sporazumu. Međutim, Momir Nikolić i optužba su sporazumno da u Optužnicu treba unijeti sljedeće ispravke:

1. Paragraf 31 (druga rečenica): Samo u odnosu na Momira Nikolića, izbrisati dijelove "genocid odnosno saučesništvo u genocidu" te "ubistvo kao kršenje zakona i običaja ratova". Pored toga, dio "zločin protiv čovječnosti (uključujući ubistvo, progone, prisilno premještanje i nehumana djela)" treba zamijeniti tekstom "zločin protiv čovječnosti (progone)".

2. Paragraf 39 (četvrta rečenica): izbrisati drugo navođenje imena Momira Nikolića.

3. Paragraf 45 (drugi stav, treća rečenica): dio "u skladu sa naredenjima Vidoja Blagojevića" zamijeniti tekstom "pod starješinstvom Vidoja Blagojevića".

Postoje još neke sitnije ispravke teksta Optužnice koje će Momir Nikolić navesti u dokumentu pod naslovom "Izjava o činjenicama i prihvatanje krivice".

6. Momir Nikolić je svjestan toga da bi se na suđenju od tužioca zahtijevalo da van razumne sumnje dokaže sljedeće elemente iz člana 5:

Progoni

(a) da je u vremenu na koje se odnosi Optužnica postojao oružani sukob

Momir Nikolić i Tužilaštvo utanačuju i saglasni su s tim da se navod o oružanom sukobu iz paragrafa 15 Optužnice odnosi na oružani sukob koji je započeo 6. aprila 1992., a završio Daytonskim mirovnim sporazumom potpisanim 14. decembra 1995.

(b) da je postojao rasprostranjeni ili sistematski napad usmjeren protiv civilnog stanovništva i da je Momir Nikolić, na način povezan s tim napadom, počinio djela protiv civilnog stanovništva koja predstavljaju kršenje temeljnih ljudskih prava

Utanačuje se i postoji saglasnost o tome da rasprostranjeni ili sistematski napad usmjeren protiv civilnog stanovništva Srebrenice naveden u paragrafu 17 Optužnice i opisan u paragrafima od 18 do 26 Optužnice uključuje:

(1) ubistvo preko 7.000 bosanskih Muslimana u dobi od 16 do 60 godina, uključujući izvjestan broj žena, djece i starijih osoba, u periodu od 12. jula do 1. novembra 1995.; (2) okrutno i nečovječno postupanje sa civilima, bosanskim Muslimanima, uključujući premlaćivanje civila u Potočarima i njihovoj okolini i u zatočeničkim centrima u Bratuncu, 12. i 13. jula 1995.; (3) terorisanje civila, bosanskih Muslimana, u Srebrenici i Potočarima, 12. i 13. jula 1995.; (4) uništavanje lične imovine i predmeta u vlasništvu bosanskomuslimanskog stanovništva Srebrenice, i (5) prisilno premještanje cjelokupnog bosanskomuslimanskog stanovništva iz srebreničke enklave.

(c) da je ponašanje Momira Nikolića imalo političku, rasnu ili vjersku osnovu, kao i traženu diskriminacionu namjeru.

Utanačuje se i ostvarena je saglasnost o tome da je jedan od razloga ponašanja g. Nikolića opisanog u Optužnici i ovdje u tekstu bilo to što su žrtve bile upravo bosanski Muslimani.

(d) Momir Nikolić je bio svjestan šireg konteksta u kojem se odvija njegovo ponašanje.

Utanačuje se i postoji saglasnost o tome da je g. Nikolić bio svjestan rasprostranjenih ili sistematskih nedjela opisanih u Optužnici i u ovom Sporazumu, te njihovih posljedica za cjelokupno bosanskomuslimansko stanovništvo iz srebreničke enklave.

Činjenični osnov

7. Momir Nikolić i optužba saglasni su o tome da bi optužba u dokaznom postupku van razumne sumnje dokazala činjenice i navode sadržane u paragrafima 9-11, 15-27, 30-33, 36-45, 46.1-46.12, 47, 47.2-47.5, 51, 58, 59, u Dodatku A, Dodatku B, i Prilozima A-E Izmijenjene spojene optužnice od 27. maja 2002., da su te činjenice istinite i tačne, te da ih Momir Nikolić ne osporava (s tim da se u tekst Optužnice unesu ispravke navedene u paragrafu 5. gore). Konkretno, Momir Nikolić potvrđuje činjenice koje iznosi u dokumentu pod naslovom "Izjava o činjenicama i prihvatanje odgovornosti" priloženom ovom Sporazumu s oznakom "Tab A".
8. Optužba i Momir Nikolić su saglasni o tome da dokazni materijal ide u prilog konstataciji krivice po tački 5 Optužnice - Progona.

Saradnja Momira Nikolića

9. Ovaj Sporazum je uslovljen dobrovoljnom odlukom Momira Nikolića da prihvati odgovornost za svoje postupke, te da saraduje sa Tužilaštvom i dostavlja mu istinite i potpune informacije kad god se to od njega bude zatražilo. U skladu s tom saradnjom, Momir Nikolić pristaje da se, koliko god često to bude potrebno, sastaje sa članovima Tužilaštva kako bi im dostavio cjelovite i potpune informacije i njemu poznatu dokaznu građu u vezi s okolnostima napada na srebreničku enklavu i njenog pada u julu 1995. godine. Gospodin Nikolić pristaje da bude iskren i otvoren i da bez zadržke odgovori na svako pitanje koje mu postave članovi Tužilaštva. Gospodin Nikolić pristaje da na zahtjev optužbe iskreno svjedoči pred Međunarodnim sudom na suđenju saoptuženima u ovom predmetu i u bilo kojem drugom suđenju, raspravi ili postupku druge vrste pred Međunarodnim sudom
10. Optužba i g. Nikolić takođe su se sporazumjeli o tome da će Pretresnom vijeću podnijeti zajednički prijedlog da se s postupkom izricanja kazne g. Nikoliću u ovoj stvari pričeka dok se ne završi njegovo svjedočenje u predstojećem suđenju, kako bi Pretresno

vijeće imalo uvid u cijeli sadržaj i obim saradnje g. Nikolića i moglo donijeti ocjenu o njoj prije nego što mu izrekne kaznu.

11. Momir Nikolić i optužba utanačuju i sporazumni su o tome da sve informacije i iskaz g. Nikolića moraju biti sasvim istiniti. To znači da Momir Nikolić niti smije minimizirati svoje postupke, niti iznositi neistine o učešću drugih.

Najveća moguća kazna i odmjeravanje kazne

12. Momir Nikolić je svjestan toga da bi mu, ako bi bio osuđen po sprovedenom sudskom postupku, na osnovu pravila 101 Pravilnika mogla biti izrečena kazna dugotrajnog zatvora uključujući i doživotni zatvor.

13. Momir Nikolić je svjestan toga da preporuka optužbe da se izrekne kazna zatvora u trajanju od 15 do 20 godina, odnosno preporuka odbrane za kaznu u trajanju od 10 godina, nisu obavezujuće za Pretresno vijeće i da Pretresno vijeće ima punu slobodu da optuženom odmjeri kaznu koju ono smatra primjerenom.

14. Momir Nikolić pristaje na to da žalbu na presudu o kazni koju mu bude izreklo Pretresno vijeće uloži samo u slučaju da mu bude izrečena kazna veća od raspona koji su predložile strane.

15. Momir Nikolić je saglasan s tim da neće podnijeti zatjev za povlačenje svog potvrdnog izjašnjenja o krivici, niti se žaliti na osuđujuću presudu donesenu po potvrdnom izjašnjenju o krivici.

16. Momir Nikolić je svjestan toga da, shodno članu 24 Statuta i pravilu 101 Pravilnika, Pretresno vijeće prilikom odmjeravanja primjerene kazne treba da uzme u obzir faktore kao što su težina krivičnog djela i lične prilike osuđenog lica. Pored toga, Pretresno vijeće treba da uzme u obzir faktore kao što su: eventualne otežavajuće okolnosti, eventualne olakšavajuće okolnosti uključujući znatnu saradnju osuđenika sa tužiocem prije ili poslije izricanja osude, opštu praksu izricanja zatvorskih kazni na sudovima bivše Jugoslavije, te vrijeme koje je po presudi suda bilo koje države osuđeno lice već provelo na izdržavanju kazne za isto djelo.

Odricanje od prava

17. Momir Nikolić je svjestan toga da se potvrdnim izjašnjavanjem o krivici odriče sljedećih prava:

- (a) prava da se izjasni da nije kriv i da od optužbe zahtijeva da van razumne sumnje dokaže navode iz optužnice, na pravičnom i nepristrasnom javnom suđenju;
- (b) prava da pripremi i da na tom javnom suđenju iznese svoju odbranu na te optužbe;
- (c) prava da mu se sudi bez nepotrebnog odlaganja;
- (d) prava da mu se sudi u njegovom prisustvu i da se na suđenju brani sam ili putem pravnog zastupnika po sopstvenom izboru;
- (e) prava da na svom suđenju ispita ili da se u njegovo ime ispituju svjedoci koji ga terete, kao i da se na suđenje dovedu svjedoci odbrane i ispituju u njegovo ime pod istim uslovima kao i svjedoci koji ga terete;
- (f) prava da se ne prinuđuje da svjedoči protiv sebe ili da prizna krivicu;
- (g) prava da svjedoči na suđenju ili da se brani šutnjom; i
- (h) prava žalbe na presuđenje o krivici, kao i žalbe na sva sudska rješenja donesena u preliminarnoj fazi postupka.

18. Utanačuje se da se optuženi potvrdnim izjašnjenjem o krivici ne odriče prava da ga u svim fazama postupka zastupa branilac.

Dobrovoljnost izjašnjenja

19. Momir Nikolić potvrđuje da je ovaj Sporazum o izjašnjavanju o krivici sklopio po svom slobodnom izboru i dobrovoljno, da mu nisu upućivane prijetnje da bi se on naveo na ovo potvrdno izjašnjenje o krivici, te da su jedina obećanja koja su mu data ona koja su iznesena u ovom Sporazumu.

Drugi sporazumi

20. Izuzev onog što je ovdje izričito navedeno, između Tužilaštva i Momira Nikolića, odnosno njegovog branioca Veselina Londrovića, ne postoje nikakva druga obećanja, dogovori ili sporazumi. Dio ovog Sporazuma, "Aneks Tab B", povjerljiv je i biće zaveden posebno i pod pečatom.

Izjava Momira Nikolića

21. Ja, Momir Nikolić, pročitao sam ovaj Sporazum o izjašnjanju o krivici na jeziku koji razumijem i pažljivo sam sa svojim braniocem Veselinom Londrovićem pregledao sve njegove dijelove. Gospodin Londrović upoznao me s mojim pravima, sa mogućnostima odbrane i s posljedicama sklapanja ovog Sporazuma. Osim onih koji su sadržani u ovom Sporazumu, nisu mi davana nikakva druga obećanja ni podsticaji. Niko mi nije ni prijetio niti me na bilo koji način prisiljavao da sklopim ovaj Sporazum. Ovaj Sporazum sam sklopio po svom slobodnom izboru i dobrovoljno i zdrave sam svijesti. Razumijem odredbe ovog Sporazuma i na svaku od njih pristajem dobrovoljno.

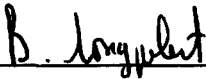


Momir Nikolić

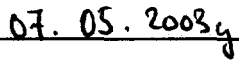
7. 05 2003 god.
Datum

Izjava branioca

Ja, Veselin Londrović, branilac sam Momira Nikolića. Sa svojim klijentom pažljivo sam pregledao sve dijelove ovog Sporazuma. Takođe, svog klijenta sam upoznao sa svim njegovim pravima, sa mogućnostima odbrane, te sa najvećom mogućom kaznom i posljedicama sklapanja ovog Sporazuma. Koliko mi je poznato, moj klijent je pri zdravoj svijesti i svoju odluku da sklopi ovaj Sporazum je donio sa punim uvidom i dobrovoljno.

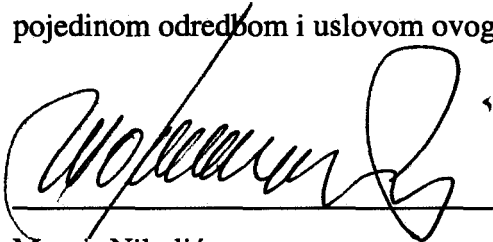


Veselin Londrović,
branilac Momira Nikolića

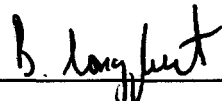


Datum

Danas, 7. maja 2003., nižepotpisani potvrđuju da su u potpunosti saglasni sa svakom pojedinom odredbom i uslovom ovog Sporazuma o izjašnjanju o krivici:



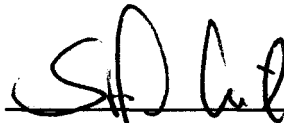
Momir Nikolić



Veselin Londrović,
branilac Momira Nikolića



Peter McCloskey,
viši zastupnik optužbe,
Tužilaštvo



Stephan Kirsch,
ko-branilac Momira Nikolića