

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CASE NO. IT-01-2-I

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

**DRAGAN NIKOLIC,
also known as Jenki**

FIRST AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the Tribunal, charges:

DRAGAN NIKOLIC,
also known as Jenki,

with **CRIMES AGAINST HUMANITY, VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** and **GRAVE BREACHES** of the **GENEVA CONVENTIONS**, as set forth below:

BACKGROUND

1. The municipality (opstina) of Vlasenica is in eastern Bosnia and Herzegovina, approximately fifty kilometres west of the Serbian border and approximately 120 kilometres north-east of Sarajevo. According to the 1991 census, the municipality had approximately 33,817 citizens, of whom approximately 55% were Muslim, 43% were Serb, and 2% were described as "other". The town of Vlasenica is located within the municipality of the same name. In 1991, the town of Vlasenica had approximately 7500 citizens, approximately 65% of whom were Muslim and 35% were Serb.
2. In January 1992, Serbs from Vlasenica and eight neighbouring municipalities declared the area to be the "Birač Autonomous Region" within the Federal Republic of Yugoslavia. Tensions increased in the spring of 1992 with the referendum on the proposed independence of Bosnia and Herzegovina.
3. About 21 April 1992, Serb forces took over the town of Vlasenica and declared it to be a Serbian town. JNA soldiers, including soldiers from the Novi Sad Corps from Serbia, paramilitary forces and local military soldiers participated in the take-over. During the day, police vehicles drove around Vlasenica town and issued an ultimatum over loud speakers for Muslims to turn in their weapons. The Muslim population complied with the ultimatum and did not resist.
4. Once the Serbs took control of the municipality, the Crisis Staff (Krizni Stab) administered the town and appointed Serbs to all official positions. Local Serb men were mobilised and took over military responsibilities from the JNA forces. Among other things, local Serb military forces guarded important facilities and later were formed into companies and used to search surrounding

woods for armed Muslims.

5. After the take-over, conditions for Muslims and other non-Serbs in the municipality deteriorated. The Serb authorities fired Muslims and other non-Serbs from their jobs and limited their withdrawal of funds from banks. The Serb authorities did not permit the Muslims and other non-Serbs to travel without special passes. Muslim men were frequently arrested and brought to the police station for interrogation. Beatings and murders sometimes accompanied the interrogations.

6. Many Muslims and other non-Serbs fled the Vlasenica area and beginning in May 1992 and continuing until September 1992, those Muslims and other non-Serbs who had remained were either forcibly expelled or arrested. By September 1992, virtually no Muslims or other non-Serbs remained in Vlasenica.

7. The Serb forces initially held the arrested Muslims and other non-Serbs either at a local school or the local prison in Vlasenica. In approximately late May or early June 1992, the Serb forces established a detention camp at Susica, the main detention facility in the Vlasenica area, and sent the arrested Muslims and non-Serbs there. The Susica camp was run by the military and the local police militia. The camp guards were generally soldiers from the local area.

8. At the end of May or early June 1992, **DRAGAN NIKOLIC**, also known as Jenki, became the commander of Susica camp.

9. Susica camp was located approximately one kilometre from the town of Vlasenica, in a military facility that had previously been used for storage of military equipment. Men, women and children were kept in the camp, however, the women and children generally stayed for only short periods of time before being deported to nearby Muslim areas. Before being deported, non-Serbs usually had to sign a document stating that they were leaving the area voluntarily, and that they were giving up their possessions.

10. Susica camp consisted of two main buildings: a warehouse or hangar ("the hangar"), 50 metres by 30 metres, which was used to house the detainees and a second smaller building which was used for storage of uniforms and equipment. There was also a small house used by the guards and the commander of the camp to interrogate prisoners when they arrived. Between late May and October 1992, as many as 8,000 Muslim civilians and other non-Serbs from Vlasenica and the surrounding villages were detained in the hangar in Susica camp.

11. The number of detainees in the hangar at any one time varied, but was generally between 300 and 500 detainees. The building was severely overcrowded, detainees were not provided with anything to sleep on, toilet facilities were limited, and there were no showers. The food provided was sparse and often spoiled. The guards brutally beat the detainees on a daily basis. Many detainees died from the beatings by the guards.

12. Many of the detained women were subjected to sexual assaults, including rape, fellatio and anal penetration. Camp guards or other men who were allowed to enter the camp frequently took women out of the hangar at night. When the women returned, they were often in a traumatised state and other detainees observed that the women were crying, their clothes were torn and dishevelled, and their hair was tousled.

13. The detainees at Susica camp were guarded at all times by armed Serb soldiers under the command of **DRAGAN NIKOLIC**.

14. Beginning at the end of June 1992, the Serb forces began to transfer large numbers of the male detainees at Susica camp to the larger Batkovic detention camp near Bijeljina in north-eastern Bosnia and Herzegovina. Most of the women and children detainees were transferred either to Kladanj or Cerska in Bosnian Muslim controlled territory.

THE ACCUSED

15. **DRAGAN NIKOLIC**, born on 26 April 1957, is from the town of Vlasenica, Bosnia and Herzegovina. Before the war, he worked at the Alpro aluminium factory in Vlasenica. He lived with his family on Zarka Vukovica Street in the Krusevik section of Vlasenica. In late May or early June 1992, **DRAGAN NIKOLIC** became the commander of Susica detention camp in Vlasenica.

SUPERIOR AUTHORITY

16. **DRAGAN NIKOLIC**, in his capacity as commander of the Susica camp, was the person in charge of the detention and the release of Muslim and other non-Serb detainees. He was responsible for the living conditions of the detainees from about the end of May 1992, until about the end of September 1992. **DRAGAN NIKOLIC** exercised powers and duties indicative of his superior position. Men subordinate to **DRAGAN NIKOLIC** guarded the detainees in the Susica camp. As the person responsible for the welfare of the non-Serb detainees, **DRAGAN NIKOLIC** was responsible for the acts of the guards at the Susica camp. **DRAGAN NIKOLIC** knew or had reason to know that the detainees were killed, beaten and subjected to sexual assaults at the Susica camp.

GENERAL ALLEGATIONS

17. At all times relevant to this indictment, a state of international armed conflict and partial occupation existed in what was then the Republic of Bosnia and Herzegovina in the territory of the former Yugoslavia.

18. All acts or omissions set forth herein as grave breaches and recognised by Article 2 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (Statute of the Tribunal) occurred during that armed conflict and partial occupation.

19. At all times relevant to this indictment the victims referred to in the charges were persons protected by the Geneva Conventions of 1949.

20. At all times relevant to this indictment, the accused was required to abide by the laws or customs governing the conduct of war.

21. In each count charging torture, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person. In addition, such acts were committed by, or at the instigation of, or with the consent or acquiescence of, an official or person acting in an official capacity, and for one or more of the following purposes: to obtain information or a confession from the victim or a third person; to punish the victim for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim or a third person; and/or for any reason based upon discrimination of any kind.

22. In each count charging crimes against humanity, a crime recognised by Article 5 of the Statute of the Tribunal, the acts or omissions were part of a widespread, large-scale or systematic attack

against a civilian population, specifically the Muslim population of the Vlasenica municipality.

23. In this indictment acts of sexual assault are alleged. Such acts include forcible sexual penetration and sexual abuse. Sexual penetration includes penetration, however slight, of the vagina, anus or oral cavity, by the penis. Sexual penetration of the vulva or anus is not limited to the penis, but includes objects and other parts of the body. Sexual abuse may also include forced nudity or any other act of sexual humiliation or assault which does not involve actual penetration.

24. The terms "Serb forces" or "Serb authorities" used in this indictment refer to persons of Serbian descent, who were either citizens of Bosnia and Herzegovina or citizens from any other part of the former Yugoslavia.

25. Some witnesses and victims are identified in this indictment using pseudonyms.

26. **DRAGAN NIKOLIC** is individually responsible for the crimes charged against him in this indictment, pursuant to Article 7(1) of the Statute of the Tribunal. Individual criminal responsibility includes committing, planning, initiating, ordering or aiding and abetting in the planning, preparation or execution of any acts or omissions set forth below.

27. Regarding counts 8, 9, 10, 19-51, 55-60, and 73-80, **DRAGAN NIKOLIC** is also, or alternatively, criminally responsible as a superior for the acts of his subordinates pursuant to Article 7(3) of the Statute of the Tribunal. Superior criminal responsibility is the responsibility of a superior officer for the acts of his subordinate if the superior knew or had reason to know that his subordinate was about to commit such acts or had done so and the superior failed to take necessary and reasonable measures to prevent such further acts or to punish the subordinates thereof. By failing to take the actions required of a person in superior authority **DRAGAN NIKOLIC** is responsible for all the crimes set out in the respective counts pursuant to Article 7(3) of the Statute of the Tribunal.

CHARGES

COUNT 1 (PERSECUTIONS)

28. **DRAGAN NIKOLIC**, while acting as the commander at the Susica camp, from about late May 1992 until about 30 September 1992, persecuted the Muslim persons detained at the camp on racial, political and religious grounds.

29. **DRAGAN NIKOLIC** persecuted the Muslim persons detained at the Susica camp by subjecting them to prolonged and routine imprisonment and confinement, repeated torture and beatings, countless killings, repeated rapes and other kinds of sexual assaults, and inhumane conditions within the camp. As part of the persecutions, **DRAGAN NIKOLIC** assisted in the deportation or expulsion of the majority of Muslim and non-Serb persons detained at the camp from the Vlasenica municipality.

By his participation in the acts or omissions described in paragraph 29, **DRAGAN NIKOLIC** committed:

Count 1:

Persecutions on political, racial and/or religious grounds, a **CRIME AGAINST HUMANITY**, punishable under Article 5(h) of the Statute of the Tribunal.

**COUNTS 2-13
(WILFIL KILLINGS/MURDERS AT SUSICA CAMP)**

Deaths of Durmo HANDZIC and Asim ZILDZIC

30. One evening between about 13 June 1992 and about 24 June 1992, **DRAGAN NIKOLIC** and other prison guards at Susica camp entered the hangar building and called out Durmo HANDZIC and Asim ZILDZIC. After taking them outside the building, **DRAGAN NIKOLIC** and the guards subjected Durmo HANDZIC and Asim ZILDZIC to severe physical abuse, including punching, kicking and beatings with weapons such as lengths of wood. The guards beat the two men for at least 45 minutes, during which time the two men repeatedly begged for the beating to stop.

31. When the beating concluded, both prisoners were brought back to the hangar. Asim ZILDZIC died shortly after returning. The following morning, upon the order of **DRAGAN NIKOLIC**, two detainees buried Asim ZILDZIC.

32. Later that morning, **DRAGAN NIKOLIC** entered the hangar and approached Durmo HANDZIC. Although HANDZIC was in severe agony from being beaten the night before, **DRAGAN NIKOLIC** demanded information regarding Durmo HANDZIC'S son. Durmo HANDZIC died shortly after this encounter and was buried that day by other prisoners.

33. By the foregoing acts and omissions, in relation to Durmo HANDZIC and Asim ZILDZIC, described in paragraphs 30-32, **DRAGAN NIKOLIC** committed:

COUNT 2:

Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 5(a) of the Statute of the Tribunal;

COUNT 3:

Wilful killing, a **GRAVE BREACH** punishable under Article 2(a) of the Statute of the Tribunal;
and

COUNT 4:

Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Death of Mevludin HATUNIC

34. Mevludin HATUNIC, his wife and daughter were detained in Susica camp in early July 1992. Between about 3 July and 7 July 1992, while detained in the camp, Mevludin HATUNIC offered his

house to a Serb in exchange for moving his family out of the area. HATUNIC was then permitted to leave the camp to arrange the transfer of the house. Upon his return, **DRAGAN NIKOLIC** accused HATUNIC of having told the Serb to whom he had given his house that HATUNIC would "wait for his opportunity to get even." That evening, because he had allegedly made such a statement, **DRAGAN NIKOLIC** beat Mevludin HATUNIC. The next morning **DRAGAN NIKOLIC** beat Mevludin HATUNIC again, until Mevludin HATUNIC lost consciousness. Later that evening, **DRAGAN NIKOLIC** returned and, finding that Mevludin HATUNIC had regained consciousness, beat him a third time. A short time later Mevludin HATUNIC died as a result of the beatings. His body was placed in a plastic bag and was removed from the hangar by other prisoners.

35. By the foregoing acts and omissions, in relation to Mevludin HATUNIC described in paragraph 34, **DRAGAN NIKOLIC** committed:

COUNT 5:

Murder, **A CRIME AGAINST HUMANITY** punishable under Article 5(a) of the Statute of the Tribunal;

COUNT 6:

Wilful killing, a **GRAVE BREACH** punishable under Article 2(a) of the Statute of the Tribunal;
and

COUNT 7:

Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Deaths of Rasid FERHATBEGOVIC, Muharem KOLAREVIC, Dzevad SARIC, and Ibrahim ZEKIC

36. During the night of 23 and 24 June 1992, **DRAGAN NIKOLIC** entered the hangar and ordered Muharem KOLAREVIC and Dzevad SARIC taken outside. Sometime after that, other guards also removed Ibrahim "Musa" ZEKIC from the hangar. For approximately thirty minutes after the men were taken from the hangar, detainees inside heard cries of pain and then gunshots that came from a location close to the hangar.

37. After the gunshots were heard, a guard called two prisoners from the hangar and ordered them to bury the bodies of Muharem KOLAREVIC and Dzevad SARIC behind the hangar. After disposing of the bodies, **DRAGAN NIKOLIC** then ordered the two prisoners to wash away the blood on the ground where they had been beaten.

38. After attempting to wash away the blood, the two prisoners waited outside the hangar. As **DRAGAN NIKOLIC** sat inside the nearby guard house, the two men watched the same guard who had called them out of the hangar shoot and kill Ibrahim ZEKIC.

39. Shortly after Ibrahim ZEKIC was killed, **DRAGAN NIKOLIC** and the guard who had shot ZEKIC entered the hangar with some local police. The police pointed at Rasid FERHATBEGOVIC and asked if he was the one who was running away. The guard who had shot Ibrahim ZEKIC said

"yes." Rasid FERHATBEGOVIC was then taken outside, and shortly thereafter the other prisoners heard one shot.

40. Early the next morning, **DRAGAN NIKOLIC** entered the hangar and again called out the two prisoners who had disposed of the bodies the day before. They went to the area of the camp that was being used as a toilet and found the body of Muharem KOLAREVIC slumped over a fence caught in wire. The guard who had shot Ibrahim ZEKIC the day before then shot KOLAREVIC again. The two prisoners then took the body of Muharem KOLAREVIC to where they had left the other bodies the previous evening and there they saw the body of Rasid FERHATBEGOVIC with a bullet hole in the centre of his forehead.

41. By the foregoing acts and omissions in relation to Rasid FERHATBEGOVIC, Muharem KOLAREVIC, Dzevad SARIC, and Ibrahim ZEKIC described in paragraphs 36-40, and by virtue of his position as a commander of the Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 8:

Murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a) and 7(3) of the Statute of the Tribunal;

COUNT 9:

Wilful killing, a **GRAVE BREACH** punishable under Articles 2(a) and 7(3) of the Statute of the Tribunal; and

COUNT 10:

Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Death of Ismet DEDIC

42. On or about 6 July 1992, **DRAGAN NIKOLIC** took Ismet DEDIC out of the hangar at Susica camp and closed the door behind them. Detainees inside the hall then heard Ismet DEDIC scream. A few minutes later, **DRAGAN NIKOLIC** directed two detainees to drag Ismet DEDIC inside the hangar, where the other prisoners could see that Ismet DEDIC's body was covered in blood, his body was barely recognisable and he appeared to have suffered serious injuries. Ismet DEDIC died shortly thereafter. His body was placed in a plastic bag and removed by other detainees.

43. By the foregoing acts and omissions in relation to **Ismet DEDIC**, described in paragraph 42, **DRAGAN NIKOLIC** committed:

COUNT 11:

Murder, a **CRIME AGAINST HUMANITY** punishable under Article 5(a) of the Statute of the Tribunal;

COUNT 12:

Wilful killing, a **GRAVE BREACH**, punishable under Article 2(a) of the Statute of the Tribunal;
and

COUNT 13:

Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

**COUNTS 14-51
(SEXUAL ASSAULTS AT SUSICA CAMP)**

Sexual Assault of Saha BERBIC

44. On or about 3 June 1992 through about August 1992, **DRAGAN NIKOLIC** entered the hangar and took Saha BERBIC, a young woman approximately 13 to 15 years old, out of the hangar at the Susica camp where she was being detained, forced her to go with him to a house outside the camp and then forcibly sexually penetrated her. Despite Saha BERBIC's attempts to resist, **DRAGAN NIKOLIC** took Saha BERBIC from the hangar almost every night during her detention and forcibly sexually penetrated her. When she returned on these occasions, her hair was tousled, her clothes were torn and dishevelled, and she often looked like she had been beaten. One evening **DRAGAN NIKOLIC** took Saha BERBIC from the hangar and she never returned. Her family has not seen her since her detention at Susica camp.

45. By the foregoing acts and omissions, in relation to Saha BERBIC, described in paragraph 44, **DRAGAN NIKOLIC** committed:

COUNT 14:

Rape, a **CRIME AGAINST HUMANITY** punishable under Article 5(g) of the Statute of the Tribunal;

COUNT 15:

Torture, a **CRIME AGAINST HUMANITY** punishable under Article 5(f) of the Statute of the Tribunal;

COUNT 16:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Article 2(b) of the Statute of the Tribunal;

COUNT 17:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Article 2(c) of the Statute of the Tribunal; and

COUNT 18:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3 (1)(c) of the Geneva Conventions.

Sexual Assault of Su-023

46. On or about 2 June 1992, Serb soldiers took Su-023 to Susica camp. About 6 or 7 June 1992, four or five days later, a guard at the camp took Su-023 out of the hangar to the guard house where there were about 6 or 7 other guards under the control of **DRAGAN NIKOLIC**. The men in the guard house forced Su-023 to drink numerous glasses of cognac. After Su-023 drank the liquor, the guard who had taken her out of the hangar took her into a separate room of the guard house, forcibly sexually penetrated her, vaginally and anally, and forced her to perform fellatio on him. When the guard was finished, the other men in the guard house then each forcibly sexually penetrated Su-023, vaginally and anally, and forced her to perform fellatio on them. During the sexual assaults, the men punched her with their fists, knocking out two of her teeth.

47. By the foregoing acts and omissions in relation to Su-023, described in paragraph 46, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 19:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 20:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 21:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal

COUNT 22:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 23:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3 (1)(c) of the Geneva Conventions.

Sexual Assault of Su-010

48. On or about 2 June 1992, Serb forces took Su-010 to Susica camp. In the early morning hours of

3 June 1992, Su-010 and two other women were taken out of the hangar. Su-010 was taken to the guard house, while the other two women were taken to some vacant houses outside the camp across the road. A guard in the guard house forcibly sexually penetrated Su-010, while another guard waited outside. During the sexual assault, the guard slapped her, shouted at her and insulted her with comments such as, "Now you will see how a Serb is doing this. It is all your fault, you stupid Muslims."

49. By the foregoing acts and omissions in relation to Su-010 described in paragraph 48, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 24:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 25:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 26:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 27:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 28:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

Sexual Assault of Su-139

50. On or about 5 June 1992, Serb forces took Su-139 to Susica camp. On a date between about 6 June and 16 June 1992, Su-139 was allowed to leave the hangar building to take her young son to the toilet. She approached a guard and two other men for directions. As she walked to a shed at the rear of the hangar the two men ran towards her. One man grabbed her son and the other, her former teacher, grabbed her and threw her on the ground. Su-139 lost consciousness, but can remember feeling someone lying on top of her. When she regained consciousness after about ten minutes, she found her "dimije" pants down to her knees and her former teacher still present. Before he left her, her former teacher made a comment to the effect, "What happened to you is what happens to Muslim women."

51. By the foregoing acts and omissions, in relation to Su-139 described in paragraph 50, and by

virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 29:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 30:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 31:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 32:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 33:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

Sexual Assault of Su-063

52. On a date between about 3 June and 5 June 1992, Serb forces took Su-063 to Susica camp. That night, a guard took Su-063 and a friend of hers out of the hangar. The guard and another man forced the two women into a car, drove off, and stopped not far from the camp. The other man in the car took Su-063's friend out of the car and back to the Susica camp. The man who had taken Su-063 from the hangar stayed with her in the car after the other two people left. The man then pulled down his trousers, forcefully took off Su-063's jeans, and forcibly sexually penetrated her while still inside the car.

53. By the foregoing acts and omissions, in relation to Su-063 described in paragraph 52, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 34:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 35:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 36:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 37:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 38:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

Sexual Assault of Su-137

54. During the summer of 1992, between June and August 1992, Serb forces took Su-137 to Susica camp. On or about the fourth day of her detention, Su-137 and some other women were ordered out of the hangar. Outside the hangar, she was met by a camp guard who then took her behind the hangar, pulled down his pants, grabbed Su-137 and tore apart her blouse. The guard then forcibly sexually penetrated Su-137 on the ground, while other soldiers stood nearby. During the rape, the guard bit and scratched Su-137. When he was finished, the guard left Su-137 lying on the ground and walked away without saying a word.

55. By the foregoing acts and omissions, in relation to Su-137 described in paragraph 54, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 39:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 40:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 41:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 42:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 43:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

Sexual Assault of Su-140

56. On or about 6 June 1992, Serb forces took Su-140 to Susica camp. On the night of her arrival, a camp guard came to the hangar where she was detained, grabbed and slapped her and then pulled Su-140 out of the hangar. The guard took Su-140 in the direction of the forest behind the hangar and ordered her to undress. She refused and the guard then forcibly removed her trousers. The guard pushed Su-140 to the ground and forcibly sexually penetrated her. During the sexual assault, the soldier said to her, "Now you Muslim women would conceive and give birth to Chetnik babies." On or about 7 June 1992, the same guard took Su-140 out of the hangar again and forcibly sexually penetrated her at the same location. On or about 8 June 1992, the same guard took Su-140 out of the hangar and forcibly sexually penetrated her a third time. During the third sexual assault, the guard made comments similar to the ones he had made on the first night.

57. By the foregoing acts and omissions, in relation to Su-140 described in paragraph 56, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 44:

Rape, a **CRIME AGAINST HUMANITY** punishable under Articles 5 (g) and 7(3) of the Statute of the Tribunal;

COUNT 45:

Torture, a **CRIME AGAINST HUMANITY** punishable under Articles 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 46:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 47:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 48:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

Sexual Assault of Su-032

58. On or about 8 July 1992, Serb forces took Su-032 to Susica camp. On or about 9 July 1992, in the evening, **DRAGAN NIKOLIC** ordered Su-032 out of the hangar and took her to the guard house. When Su-032 entered the guard house, she saw a camp guard whom she had known before the war. After **NIKOLIC** left, the guard hugged and touched Su-032 and removed her T-shirt. The guard then undressed himself and told Su-032 to put his penis in her mouth. Su-032 began to cry and begged to be let go. The guard then forced Su-032 to touch his penis with her hands. After spending one hour with him in the guard house, Su-032 went back to the hangar.

59. By the foregoing acts and omissions, in relation to Su-032 described in paragraph 58, and by virtue of his position as a commander of the Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 49:

Other inhumane acts, a **CRIME AGAINST HUMANITY** punishable under Articles 5(g) and 7(3) of the Statute of the Tribunal;

COUNT 50:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 51:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c) of the Geneva Conventions.

COUNTS 52-78

(TORTURE AND SERIOUS PHYSICAL ASSAULTS IN SUSICA CAMP)

Physical Assault of Galib MUSIC

60. From about the second week of July 1992, over a seven-day period, **DRAGAN NIKOLIC** beat Galib MUSIC, a 60-year old detainee by, among other things, kicking him and beating him with a metal pipe. During the beatings, **DRAGAN NIKOLIC** accused Galib MUSIC of asking a Muslim organisation to come expel the Serbs from Vlasenica. Each time **DRAGAN NIKOLIC** beat Galib MUSIC, MUSIC lost consciousness and, after approximately seven days, Galib MUSIC died.

61. By the foregoing acts and omissions, in relation to Galib MUSIC described in paragraph 60, **DRAGAN NIKOLIC** committed:

COUNT 52:

Torture, a **CRIME AGAINST HUMANITY**, punishable under Article 5(f) of the Statute of the Tribunal;

COUNT 53:

Torture or inhuman treatment, a **GRAVE BREACH** punishable under Article 2(b) of the Statute of the Tribunal; and

COUNT 54:

Cruel treatment and torture, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Torture and Physical Assault of Fikret "Cice" ARNAUT

62. From about 1 June to about 18 July 1992, **DRAGAN NIKOLIC** beat Fikret "Cice" ARNAUT, by kicking him, stomping on him and punching him with metal "knuckles" on his fists. The beatings took place both inside and outside the hangar. Several of the beatings took place in a corner of the hangar known as the "punishment" corner.

63. On one occasion, **DRAGAN NIKOLIC** came into the hangar and told Fikret ARNAUT to kneel on the floor, put his hands behind his head and tilt his head back. **DRAGAN NIKOLIC** then put a bayonet in his mouth and asked him about his brother, who **DRAGAN NIKOLIC** claimed had joined a group of "ustasa". Later that same day, two men came to the hangar and took Fikret ARNAUT outside. When Fikret ARNAUT returned, he had been beaten severely and was bleeding from his mouth. Shortly thereafter, **DRAGAN NIKOLIC** came to Fikret ARNAUT in the hangar and said words to the effect, "What? They did not beat you enough; if it had been me, you would not be able to walk. They are not as well trained to beat people as I am."

64. On one occasion, **DRAGAN NIKOLIC** took Fikret ARNAUT outside the hangar and beat Fikret ARNAUT with metal "knuckles". Fikret ARNAUT fell to the ground and **DRAGAN NIKOLIC** kicked his ribs and back around the kidney area. During this beating, **DRAGAN NIKOLIC** accused Fikret ARNAUT of organising the Muslims.

65. On a subsequent occasion, **DRAGAN NIKOLIC** approached Fikret ARNAUT in the hangar and said words to the effect, "I can't believe how an animal like this can't die; he must have two hearts." **DRAGAN NIKOLIC** then beat Fikret ARNAUT again and stomped on his chest.

66. By the foregoing acts and omissions, in relation to Fikret "Cice" ARNAUT described in paragraphs 62-65, and by virtue of his position as the commander of Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 55:

Torture, a **CRIME AGAINST HUMANITY**, punishable under Article 5(f) and 7(3) of the Statute of the Tribunal;

COUNT 56:

Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Article 5(i) and 7(3) of the Statute of the Tribunal;

COUNT 57:

Torture, a **GRAVE BREACH** punishable under Article 2(b) and 7(3) of the Statute of the Tribunal;

COUNT 58:

Wilfully causing great suffering, a **GRAVE BREACH** punishable under Article 2(c) and 7(3) of the Statute of the Tribunal;

COUNT 59:

Torture, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions; and

COUNT 60:

Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Torture, Physical Assault and Disfigurement of Suad MAHMUTOVIC

67. From about 13 June to about 3 July 1992, Suad MAHMUTOVIC suffered frequent, sometimes daily beatings by **DRAGAN NIKOLIC** at Susica camp. **DRAGAN NIKOLIC** beat Suad MAHMUTOVIC with iron bars, rifle butts and rubber tubing with lead inside. During one beating, seven of Suad MAHMUTOVIC's ribs were broken. On a separate occasion, **DRAGAN NIKOLIC** kicked Suad MAHMUTOVIC in the face with his boot which caused a cut that left permanent scars.

68. On one occasion, **DRAGAN NIKOLIC** placed a cocked pistol inside Suad MAHMUTOVIC's mouth. **DRAGAN NIKOLIC** tried to force Suad MAHMUTOVIC to admit that his neighbour had a weapon, but Suad MAHMUTOVIC refused. **DRAGAN NIKOLIC** then pulled the trigger, but the gun was not loaded.

69. By the foregoing acts and omissions, in relation to Suad MAHMUTOVIC described in paragraphs 67-68, **DRAGAN NIKOLIC** committed:

COUNT 61:

Torture, a **CRIME AGAINST HUMANITY**, punishable under Article 5(f) of the Statute of the Tribunal;

COUNT 62:

Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under article 5(i) of the Statute of the Tribunal;

COUNT 63:

Torture, a **GRAVE BREACH**, punishable under Article 2(b) of the Statute of the Tribunal;

COUNT 64:

Serious injury to body or health, a **GRAVE BREACH**, punishable under Article 2(c) of the Statute of the Tribunal;

COUNT 65:

Torture, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal, and recognised by Article 3(1)(a) of the Geneva Conventions; and

COUNT 66:

Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal, and recognised by Article 3(1)(a) of the Geneva Conventions.

Torture of Mubin MUSIC

70. On about 8 or 9 June 1992, Mubin MUSIC was outside the hangar of Susica camp. **DRAGAN NIKOLIC** approached Mubin MUSIC and put a bayonet into his mouth. **DRAGAN NIKOLIC** then questioned Mubin MUSIC concerning the whereabouts of a rifle.

71. By the foregoing acts and omissions, in relation to Mubin MUSIC described in paragraph 70, **DRAGAN NIKOLIC** committed:

COUNT 67:

Torture, a **CRIME AGAINST HUMANITY**, punishable under Article 5(f) of the Statute of the Tribunal;

COUNT 68:

Torture, a **GRAVE BREACH** punishable under Article 2(b) of the Statute of the Tribunal; and

COUNT 69:

Torture, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Physical Assault of Sead AMBESKOVIC and Hajrudin OSMANOVIC

72. On 13 June 1992, Sead AMBESKOVIC was arrested in Vlasenica. Police first interrogated him and then took him to Susica camp. Once in the camp, **DRAGAN NIKOLIC** and others beat Sead AMBESKOVIC, using axe handles, iron bars and rifle butts.

73. In the morning of 14 June 1992, guards took Sead AMBESKOVIC and Hajrudin OSMANOVIC from the hangar. The two men were ordered to kneel with their hands behind their heads. **DRAGAN NIKOLIC** and others then beat them with iron bars, wooden bats and rifle butts for approximately one and one-half hours. As a result of this beating, the back of Sead AMBESKOVIC's head was cut, four teeth on the left side of his mouth were knocked out, and three ribs were broken.

74. On about 16 June 1992, **DRAGAN NIKOLIC** again called Sead AMBESKOVIC and Hajrudin OSMANOVIC out of the hangar. Once outside, **DRAGAN NIKOLIC** and two other guards immediately began beating them with bats for 15 to 20 minutes.

75. On 3 July 1992, Hajrudin OSMANOVIC was taken from the Susica camp to perform forced labour; he has never been seen since.

76. By the foregoing acts and omissions, in relation to Sead AMBESKOVIC and Hajrudin OSMANOVIC, described in paragraphs 72-75, **DRAGAN NIKOLIC** committed:

COUNT 70:

Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable by Article 5(i) of the Statute of the Tribunal;

COUNT 71:

Wilfully causing great suffering, a **GRAVE BREACH**, punishable under Article 2(c) of the Statute of the Tribunal; and

COUNT 72:

Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Physical Assault of Redjo CAKISIC

77. Redjo CAKISIC was arrested on 2 June 1992 and taken to Susica camp. Upon arrival, **DRAGAN NIKOLIC** and other guards searched him. He was then taken to the hangar where, with other detainees, he was ordered to line up and lean against the wall with his hands behind his back. **DRAGAN NIKOLIC** then hit Redjo CAKISIC and other detainees with his rifle butt and kicked them with his boots.

78. Approximately ten days later, **DRAGAN NIKOLIC** called Redjo CAKISIC from the hangar during the night. Two men were waiting outside with **DRAGAN NIKOLIC**. **NIKOLIC** said to them words to the effect, "Here, I brought you something for dinner." The two men, who were not camp guards, hit Redjo CAKISIC in the back with rifle butts, and kicked him in the stomach and sides. During this beating **DRAGAN NIKOLIC** was approximately five metres away in the guard

house. The beating continued for about 20 minutes.

79. By the foregoing acts and omissions, in relation to Redjo CAKISIC, described in paragraphs 77-78, and by virtue of his position of commander of the Susica camp, **DRAGAN NIKOLIC** committed:

COUNT 73:

Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(3) of the Statute of the Tribunal;

COUNT 74:

Inhuman treatment, a **GRAVE BREACH**, punishable under Articles 2(b) and 7(3) of the Statute of the Tribunal; and

COUNT 75:

Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Physical Assault of Hasna CAKISIC

80. Hasna CAKISIC, a 70-year old woman, was arrested on 24 June 1992 and taken to Susica camp. While at the camp, guards took her for interrogation three times, during which she was questioned about her son. **DRAGAN NIKOLIC** was present and participated in these interrogations. During the interrogations, the interrogators slapped Hasna CAKISIC on the face and hit her hands with a police baton.

81. By the foregoing acts and omissions, in relation to Hasna CAKISIC, described in paragraph 80, and by virtue of his position of commander of the Susica camp, **DRAGAN NIKOLIC** has committed:

COUNT 76:

Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(3) of the Statute of the Tribunal;

COUNT 77:

Wilfully causing great suffering, a **GRAVE BREACH**, punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 78:

Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(c)

of the Geneva Conventions.

**COUNTS 79-80
(INHUMANE CONDITIONS)**

82. Between May and October 1992, the detainees at Susica camp were subjected to an atmosphere of terror created by the killing and physical abuse of other detainees and to inhumane living conditions by being deprived of adequate food, water, medical care, sleeping and toilet facilities. As a result of these conditions the detainees suffered severe psychological and physical trauma. **Dragan NIKOLIC** directly participated in creating and maintaining these conditions. **Dragan NIKOLIC** also knew or had reason to know that persons in positions of subordinate authority to him were about to commit acts resulting in the inhumane conditions, or had already committed such acts and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators after the acts had been committed.

83. By the foregoing acts and omissions described in paragraph 82, and by virtue of his position of commander of the Susica camp, **DRAGAN NIKOLIC** has committed:

COUNT 79:

Wilfully causing great suffering, a **GRAVE BREACH**, punishable under Articles 2(c) and 7(3) of the Statute of the Tribunal; and

COUNT 80:

Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Graham Blewitt
Deputy Prosecutor