

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CASE NO: IT-98-34-PT

THE PROSECUTOR

v.

**Mladen NALETILIC also known as (a/k/a) “Tuta”
Vinko MARTINOVIC also known as (a/k/a) “Stela”**

SECOND 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 International Criminal Tribunal for the former Yugoslavia (hereinafter the Statute of the Tribunal), charges :

**Mladen NALETILIC a/k/a “Tuta”
and
Vinko MARTINOVIC a/k/a “Stela”**

with **CRIMES AGAINST HUMANITY, GRAVE BREACHES OF THE GENEVA CONVENTIONS and VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR.**

BACKGROUND

1. On 25 June 1991, Croatia declared its independence which was suspended until 8 October 1991. The Republic of Croatia was recognised by the European Community on 15 January 1992, and it was admitted as a member State of the United Nations on 22 May 1992.
2. Bosnia and Herzegovina declared its independence on 3 March 1992. The Republic of Bosnia and Herzegovina was recognised by the European Community on 6 April 1992 and by the Republic of Croatia on 7 April 1992. The Republic of Bosnia and Herzegovina was admitted as a member State of the United Nations on 22 May 1992.
3. The Croatian Community of Herceg-Bosna (HZ H-B) proclaimed its existence on 18 November 1991, and claimed to be a separate or distinct “political, cultural, economic and territorial whole” in the territory of Bosnia and Herzegovina. Its purposes included, *inter alia*, the establishment of closer ties with the Republic of Croatia. These aspirations, which were supported by the Republic of Croatia, were evidenced by the HZ H-B’s use of the Croatian currency and the Croatian language and the granting by the Republic of Croatia of Croatian citizenship to Bosnian Croats.
4. The Constitutional Court of the Republic of Bosnia and Herzegovina declared the HZ H-B illegal on 14 September 1992. Neither the self-proclaimed HZ H-B, nor the later self-proclaimed Croatian Republic of Herceg-Bosna (HR H-B) were ever internationally recognised.
5. Article 3 of the HZ H-B proclamation of 18 November 1991 designated Mostar as the capital of this community. This designation of Mostar as capital of the self -proclaimed Croat community was re-affirmed by the decree issued by the President of HZ-HB on 8 April 1992, setting up the Croatian Defence Council (hereinafter referred as HVO) as the supreme executive, administrative and

defence body of Herceg-Bosna, with its headquarters in Mostar; and the decree by such president on 28 August 1993, by which the HZ H-B declared itself the HR H-B.

6. The population of the municipality of Mostar prior to the beginning of the conflict (1991 official census) was composed of 126,628 inhabitants, of which 43,856 (34.6%) were Muslims; 43,037 (33.9%) were Croats; 23,846 (18.8%) were Serbs; 12,768 (9.9%) were Yugoslavs; and 3,121 (2.4%) were others. The city of Mostar is the historical capital and largest city of Herzegovina. The territory of the municipality of Mostar includes, among others, the following districts and villages: Rastani, Bijelo Polje, Vojno, Potoci, Rudnik, Ilici, Djikovina, Panjevina, Rodoc, Podhum, Zahum and Blagaj.

7. At all times during the relevant period the Army of the Republic of Croatia (HV) backed and supported the HVO and deployed its own units in Mostar, and other municipalities of Bosnia and Herzegovina. Among the units that were acting in connection with the authorities of the Republic of Croatia and participated in joint actions with units of the HV was the "Kaznjenicka Bojna" (Convicts' Battalion, also known as the "Punishment Battalion", "Tuticeva Brigade", "Tutici", or "Tuta's men", hereinafter referred to as KB), under the command of **MLADEN NALETILIC**.

8. As early as October 1992, the HVO launched an attack against the Bosnian Muslim population of the municipality of Prozor. Subsequently the HV and HVO participated in an armed conflict with the Armed Forces of the Government of Bosnia and Herzegovina (ABiH) until February 1994.

9. In April 1993, the HVO launched a series of attacks against the Bosnian Muslim civilian population, such as the attack of Ahmici on 16 April and others in central Bosnia. At the same time, on 17 April 1993, forces of the HV and HVO, including the KB, attacked the villages of Sovici and Doljani (municipality of Jablanica) under the overall command of **MLADEN NALETILIC**, and carried out the forcible transfer of the Bosnian Muslim population and destruction of their properties. Beginning simultaneously in April 1993, in the Herzegovinian municipalities of Stolac, Capljina and Mostar, the HVO carried out the arrest of prominent Bosnian Muslims and imposed different measures of persecution against the Bosnian Muslim population, such as dismissals from work positions and public service, discrimination in the delivery of humanitarian aid, attacks against Bosnian Muslim houses and properties, and imposition of Croat language and education.

10. On 9 May 1993, the HV and HVO, including the KB, launched a large military offensive against the Bosnian Muslim population of Mostar and the positions of the ABiH in the city, provoking the start of an armed conflict with the ABiH in the municipality of Mostar. Subsequently the Bosnian Muslim population was the target of a broad campaign of violence in the areas of Mostar occupied by the HV and HVO, lasting at least until the cease-fire and peace agreements of February and March 1994. Across the confrontation line, the ABiH held section of the city was under siege by the HV and HVO forces, who were shelling intensely the area and preventing the arrival of humanitarian aid and basic supplies. **MLADEN NALETILIC**, as commander of the KB, and **VINKO MARTINOVIC**, as commander of the "Mrmak" or "Vinko Skrobo" sub-unit of the KB were leading perpetrators of this campaign against the Bosnian Muslim population.

11. The goal of this campaign by the HV and HVO forces, commonly referred to as "ethnic cleansing", was to gain control of the municipalities of Mostar, Jablanica and others in Bosnia Herzegovina and to force the Bosnian Muslim population to leave these territories or to substantially reduce and subjugate this population. The means used for this purpose included killings, beatings, torture, evictions, destruction of cultural and religious heritage, looting, deprivation of basic civil and human rights, and mass expulsions, detentions and imprisonments, all of them executed

following a systematic pattern of ethnic discrimination. As a result of this campaign, tens of thousands of Bosnian Muslims abandoned Mostar, Jablanica and other municipalities in Bosnia Hercegovina. The traditional ethnic diversity of these municipalities was virtually eliminated, and an ethnically homogeneous society and institutions were imposed in these areas.

THE ACCUSED

12. **MLADEN NALETILIC**, a.k.a. “Tuta”, son of Mate and Slavka, was born on 1 December 1946 in Listica-Siroki Brijeg, in the municipality of Siroki Brijeg, Bosnia and Herzegovina. **MLADEN NALETILIC** is by birth a Bosnian Croat who later acquired the citizenship of the Republic of Croatia, which he maintains to date. **MLADEN NALETILIC** graduated from elementary school. **MLADEN NALETILIC** left the Socialist Federal Republic of Yugoslavia in the late 1960’s or early 1970’s, and remained abroad until his return to his country of origin in 1990.

13. **VINKO MARTINOVIC**, a.k.a. “Stela”, son of Ivan, was born on 21 September 1963 in Mostar, Bosnia and Herzegovina. **VINKO MARTINOVIC** is by birth a Bosnian Croat who later acquired the citizenship of the Republic of Croatia, which he maintains to date.

SUPERIOR AUTHORITY

14. At all times material to this indictment, **MLADEN NALETILIC** was the commander of the KB, a special unit founded by him on or about June 1991. The KB was composed of approximately 200 to 300 soldiers grouped in several sub-units, called ATG or ATJ (“Anti Terrorist Group” or “Unit”) with bases in the municipalities of Mostar, Listica-Siroki Brijeg and Ljubuski. The main tasks of the KB were combat missions on the front line, expulsions and attacks against Bosnian Muslim civilians in the territories under HV and HVO occupation. The KB acted as part of, or in co-ordination with the HVO and HV.

15. **MLADEN NALETILIC** exercised his control in military matters in a manner consistent with the exercise of superior authority, including the development of the organisational structure within the KB. He was involved in the management and control of the finances of the KB. **MLADEN NALETILIC** was also in charge of disbursing the salaries of members of the KB; deciding on logistical and tactical matters; ensuring the combat readiness of his troops; planning the preparation and implementation of military operations performed either by the KB alone, or in co-ordination with other HVO and HV units under the general command of both armies ; and co-ordinating with high ranking officers of the HZ H-B, the HR-HB, and the Republic of Croatia.

16. **MLADEN NALETILIC** exercised his authority over the members of the KB in a direct manner by meeting with his direct subordinates and KB sub-commanders on virtually a daily basis, interacting with the rank and file soldiers frequently, visiting the different bases of the KB, and acting as field commander for certain military actions.

17. **VINKO MARTINOVIC** was a commander in the HOS (Croatian Defence Forces) militia in Mostar in 1992, and later joined the KB. At all times material to this indictment, **VINKO MARTINOVIC** was the commander of the KB sub-unit, ATG “Mrmak”, later named “Vinko Skrobo”, and a subordinate to **MLADEN NALETILIC**. In a manner consistent with the exercise of superior authority, **VINKO MARTINOVIC** participated in military operations under the command of the KB and in co-ordination with other HVO and HV units under the general command of both armies. At all times material to this indictment in the city of Mostar **VINKO MARTINOVIC** was in command of a section of the front line in the Bulevar street, where the ATG “Mrmak”, later named “Vinko Skrobo”, was deployed under his command, and the base and facilities of this unit in

the Kalemova street.

GENERAL ALLEGATIONS

18. At all times relevant to this indictment, a state of international armed conflict and partial occupation existed on the territory of the Republic of Bosnia and Herzegovina.

19. All acts or omissions set forth as Grave Breaches of the Geneva Conventions of 1949 (hereinafter “Grave Breaches”), recognised by Article 2 of the Statute of the Tribunal, occurred during that international armed conflict and partial occupation.

20. All of the victims to whom the charges refer, whether they were civilians or prisoners of war, were, at all relevant times, persons protected by the Geneva Conventions of 1949.

21. In each paragraph charging Crimes Against Humanity, the alleged acts or omissions were part of a widespread, large-scale or systematic attack directed against the Bosnian Muslim population.

22. The accused in this indictment were required to abide by the regulations of the laws or customs of war governing the conduct of war, including the Geneva Conventions of 1949.

23. **MLADEN NALETILIC** and **VINKO MARTINOVIC** are individually responsible for the crimes with which they are charged in this indictment pursuant to Article 7(1) of the Statute of the Tribunal. Individual criminal responsibility involves planning, instigating, ordering, committing, or otherwise aiding and abetting in the planning, preparation or execution of the acts or omissions set forth below.

24. **MLADEN NALETILIC** and **VINKO MARTINOVIC** are also, or alternatively, responsible as superiors for the acts of their subordinates pursuant to Article 7(3) of the Statute of the Tribunal. A superior is responsible for the acts of his subordinates 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 the necessary and reasonable measures to prevent such further acts, or to punish the perpetrators thereof.

CHARGES

COUNT 1 PERSECUTIONS

25. On 17 April 1993, in the municipality of Jablanica, the KB, along with other HV and HVO units, attacked the villages of Sovici and Doljani and subsequently carried out the forcible transfer of the Bosnian Muslim population, destruction of their properties and destruction of the mosque of Sovici. **MLADEN NALETILIC** was the overall commander of this attack and ordered his subordinates to destroy the Bosnian Muslim properties and the mosque of Sovici, to arrest all of the Bosnian Muslim adult males and to expel and forcibly transfer Bosnian Muslim civilians to the territory under ABiH control.

26. In the municipality of Mostar, the forcible transfer and imprisonment of Bosnian Muslim civilians started simultaneously with the HV and HVO attack of 9 May 1993 and continued until at least January 1994. However, there were two large waves of forcible transfers and imprisonment:

one in the days following the 9 May 1993 attack, and a second during the first days of July 1993. Once the KB and other HVO units had identified persons of Muslim ethnic background, they arrested them, evicted them, plundered their homes and forcibly transferred them to detention centres under HVO authority, or across the confrontation lines to the territories under ABiH control.

27. Between April 1993 and until at least January 1994, thousands of Bosnian Muslim civilians were interned in the detention centres under HVO authority in the area of Mostar and neighbouring municipalities. Beatings, torture, killings, were common and persistent in these detention facilities.

28. The HELIODROM compound, located in Rodoc, municipality of Mostar, was the main detention centre in the area. Bosnian Muslim civilians and prisoners of war arrested under the command of **MLADEN NALETILIC** and **VINKO MARTINOVIC** were interned in the HELIODROM. Members of the KB mistreated and tortured Bosnian Muslim detainees at the HELIODROM. Furthermore, throughout the relevant period, subordinates to **MLADEN NALETILIC** and **VINKO MARTINOVIC** regularly took detainees from the HELIODROM to the front lines to force them to perform labour and use them as human shields.

29. Throughout this period, **MLADEN NALETILIC** visited on numerous occasions the HELIODROM camp and had knowledge of the existence of Bosnian Muslim civilian prisoners, and the inhumane conditions of this camp and the mistreatment of detainees. **MLADEN NALETILIC** was in contact with the commanders of the HELIODROM, had access to the main facilities of the compound and exerted command over the KB troops based in the compound.

30. In the Kalemova street of the city of Mostar, the KB maintained the base of the sub-unit called ATG "Mrmak", later named "VINKO SKROBO", under the command of **VINKO MARTINOVIC**. Bosnian Muslim detainees were kept in this base, which was used as centre for the attacks against Bosnian Muslim civilians, particularly evictions, looting, expulsions across the front lines and use of detainees for forced labour and human shield purposes. **MLADEN NALETILIC** regularly visited these premises to meet **VINKO MARTINOVIC** and other KB members.

31. **MLADEN NALETILIC** knew of the existence of detention centres in Mostar and neighbouring municipalities other than the HELIODROM in which Bosnian Muslim civilians were interned and mistreated. In particular, **MLADEN NALETILIC** had knowledge of the detention centres located in the municipality of Listica - Siroki Brijeg, such as the primary school of DOBRKOVICI, the MUP POLICE STATION, and the bases of the KB in Listica - Siroki Brijeg, Ljubuski and Mostar where Bosnian Muslims were also detained. Bosnian Muslim detainees of the primary school of DOBRKOVICI were forced to work in **MLADEN NALETILIC**'s private estate.

32. Under the command of **MLADEN NALETILIC** and **VINKO MARTINOVIC**, the KB forcibly transferred Bosnian Muslim civilians to the confrontation line in the municipality of Mostar and forced them to cross the confrontation line towards the ABiH side. **MLADEN NALETILIC** and **VINKO MARTINOVIC** gave orders to expel the Bosnian Muslim population and loot and destroy their houses and properties.

33. Throughout this period, **MLADEN NALETILIC** and **VINKO MARTINOVIC** repeatedly tortured Bosnian Muslim detainees, ordered their subordinates to torture Bosnian Muslims and by their example instigated their subordinates to commit and carry out torture. Severe physical and mental suffering was intentionally inflicted on Bosnian Muslims for the following purposes: to obtain from them information; to punish them; to retaliate due to adverse developments in the front lines; to intimidate them; or based on their ethnicity or religion.

34. Between about April 1993 and at least January 1994, **MLADEN NALETILIC**, as commander of the KB, and **VINKO MARTINOVIC**, as commander of the “Mrmak” or “Vinko Skrobo” sub-unit of the KB, together with other leaders, agents and members of the HV and HVO, planned, instigated, ordered or committed, or aided and abetted the planning, preparation or execution of a crime against humanity, through the widespread or systematic persecutions of Bosnian Muslim civilians on political, racial, ethnic or religious grounds, throughout the territory claimed to belong to the HZ H-B and HR H-B by the following means, including, as applicable, the acts and conduct described in Counts 2 through 22 below:

(a) unlawfully confining, detaining, forcibly transferring and deporting Bosnian Muslim civilians, including as described in paragraphs 53 and 54;

(b) subjecting Bosnian Muslims to torture and inhumane acts, inhuman and cruel treatment, murdering and wilfully killing them, wilfully causing them great suffering, using them to perform unlawful and forced labour, including on the confrontation lines in Mostar, and using them as human shields, which in some instances resulted in their death, including as described in paragraphs 35 to 52;

(c) destroying and wantonly devastating Bosnian Muslim dwellings and buildings, including as described in paragraphs 55, 56 and 58; and

(d) plundering public and private property of Bosnian Muslims, including as described in paragraph 57.

By these acts and omissions, **MLADEN NALETILIC** and **VINKO MARTINOVIC** committed:

COUNT 1: persecutions on political, racial and religious grounds, a **CRIME AGAINST HUMANITY**, as recognised by Articles 5(h), 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 2 to 8
UNLAWFUL LABOUR AND HUMAN SHIELDS AS INHUMAN TREATMENT AND
WILFUL KILLING

35. Between about April 1993 and at least through January 1994, **MLADEN NALETILIC**, **Vinko MARTINOVIC** and their subordinates forced Bosnian Muslim detainees from the various detention centres under the authority of the HVO to perform labour in military operations and to be used as human shields on the Bulevar and Santiceva streets; Rastani; Stotina; and other locations along the front line in the municipality of Mostar.

36. Following the HV and HVO attack on the city of Mostar on 9 May 1993, the confrontation line with the ABiH was settled along the Bulevar and Santiceva streets. From May 1993 to February 1994, the KB was engaged in fighting along the Bulevar and Santiceva streets and had control over particular sections of this confrontation line. This confrontation line was both the scene of intense small arms fire and artillery exchanges between the opposing factions, and it was the main site to which Bosnian Muslim prisoners were taken to perform forced labour and to be used as human shields.

37. From May 1993 through at least January 1994, on a regular basis, detainees were taken from the HELIODROM camp and other detention centres to the bases of the KB, in the city of Mostar, for eventual transfer to the confrontation lines. The detainees were forced, at great risk to their lives, to

perform various dangerous military support tasks benefiting the HV and HVO; including: digging trenches, building defences with sandbags, carrying wounded or killed HV or HVO soldiers, carrying ammunition and explosives across the confrontation line, and placing them in front of ABiH positions. These tasks were often performed by the detainees, under conditions which exposed them directly to hostile fire, and thereby served the purpose of protecting HVO soldiers. Consequently, the detainees were turned into human shields. On other occasions, the KB used detainees exclusively to protect the KB and other HV and HVO soldiers from hostile fire or to attract hostile fire on the detainees in order to ascertain the ABiH positions.

38. The circumstances of intense fire exchange and the direct exposure of the detainees and prisoners to such fire, adding to the short distance between the two warring factions, presented a high likelihood of death or serious injury to the detainees and prisoners. **MLADEN NALETILIC** and **VINKO MARTINOVIC** were aware of these circumstances. The knowing exposure of the Bosnian Muslim detainees to these conditions resulted in their inhuman treatment and, in some instances, injuries and death.

39. From May 1993 to January 1994, **MLADEN NALETILIC** repeatedly visited the HELIODROM camp and the bases of the KB in the city of Mostar, where he met his subordinates and detainees. **MLADEN NALETILIC** had knowledge of the use of prisoners and detainees for forced labour and human shields and was also aware of the resulting injuries and deaths, based on his presence at the relevant sites and the reports he received from his subordinates.

40. Throughout this period, **VINKO MARTINOVIC**, as the commander of the sub-unit “Mrmak” or “Vinko Skrobo”, regularly used detainees for forced labour in military operations and as human shields along the confrontation lines in the city of Mostar.

41. On 17 September 1993, the HV and HVO launched an offensive on the positions of the ABiH along the Bulevar and Santiceva streets in the city of Mostar. As part of this offensive, **VINKO MARTINOVIC** ordered and directed the use of Bosnian Muslim detainees for military attack purposes in the part of the Bulevar front-line under his command. Following the orders of **VINKO MARTINOVIC**, several detainees were given imitation wooden rifles and military clothing and were forced to walk alongside a tank moving towards the enemy positions. The purpose of this action was to prompt fire from the ABiH positions against the disguised detainees in order that the attacking HVO tank could ascertain these enemy positions.

42. On the same day and about the same time, approximately fifteen prisoners and detainees were deployed as human shields in an adjacent section of the Bulevar front line under the command of **VINKO MARTINOVIC** in order to protect attacking HVO soldiers. Approximately ten detainees were killed as a result of their use as human shields, including the following:

1. **COLAKOVIC Aziz**
2. **COLAKOVIC Hamdija**
3. **PAJO Enis**

43. On 23 September 1993, **MLADEN NALETILIC** commanded an attack by the KB on the village of Rastani, municipality of Mostar. In the course of the attack Bosnian Muslim detainees taken from the HELIODROM were forced to walk in front of the attacking forces, and to enter and search enemy positions. The detainees were forced to perform these tasks exposed to the on-going exchange of fire at great risk to their lives.

44. Throughout this period, **MLADEN NALETILIC**, **VINKO MARTINOVIC** and their

subordinates also forced Bosnian Muslim detainees to perform labour in locations other than the front lines. The Bosnian Muslim detainees were forced, *inter alia*, to engage and participate in the following works: building, maintenance and reparation works in private properties of the members and commanders of the KB; digging trenches, building defences in the positions of the KB or other HV and HVO forces; and assisting the KB members in the process of looting houses and properties of Bosnian Muslims.

By these acts and omissions, **MLADEN NALETILIC** and **VINKO MARTINOVIC** committed:

COUNT 2: inhumane acts, a **CRIME AGAINST HUMANITY**, as recognised by Articles 5(i), 7 (1) and 7(3) of the Statute of the Tribunal.

COUNT 3: inhuman treatment, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, as recognised by Articles 2(b) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 4: cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR** under Statute Articles 3 as recognised by Article 3(1)(a) of the Geneva Conventions and Statute Articles 7 (1) and 7(3).

COUNT 5: unlawful labour, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR** under Statute Article 3 as recognised by Article 51 of Geneva Convention IV and Articles 49, 50 and 52 of Geneva Convention III, and Statute Articles 7(1) and 7(3).

COUNT 6: murder, a **CRIME AGAINST HUMANITY** as recognised by Articles 5 (a), 7(1) and 7 (3) of the Statute of the Tribunal.

COUNT 7: wilful killing, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, as recognised by Articles 2 (a), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 8: murder, a **VIOLATION OF THE LAW OR CUSTOMS OF WAR** under Statute Article 3 as recognised by Article 3 (1) (a) of the Geneva Conventions, and Statute Articles 7(1) and 7(3).

COUNTS 9 to 12
TORTURE
AND
WILFULLY CAUSING GREAT SUFFERING

45. Beginning in May 1993 and at least through January 1994, **MLADEN NALETILIC**, **VINKO MARTINOVIC** and their subordinates tortured or wilfully caused great suffering to Bosnian Muslim civilians and prisoners of war captured by the KB or detained under the authority of the HVO. Severe physical and mental suffering was intentionally inflicted on Bosnian Muslim detainees for the following purposes: to obtain from them information; to punish them; to retaliate due to adverse developments in the front lines; or to intimidate them, based on their ethnicity or religion. Throughout this period, **MLADEN NALETILIC** and **VINKO MARTINOVIC** repeatedly committed, aided and abetted torture, wilfully caused great suffering, and by their example instigated and encouraged their subordinates to torture or cause great suffering on Bosnian Muslim detainees.

46. **MLADEN NALETILIC** committed and instigated the commission of torture or the infliction of great suffering on Bosnian Muslim detainees on 20 April 1993 following the attack against the Bosnian Muslim population of Sovici and Doljani carried out by HV and HVO forces under his overall command.

47. In the context of the preparations of the HV and HVO attack on Mostar, on 7 May 1993, unidentified members of the KB arrested in Mostar witness "B", whom at the time was a prominent figure within the Bosnian Muslim community, and took him to a base of the KB in Listica - Siroki Brijeg. At that base **MLADEN NALETILIC** and his subordinates tortured witness "B", causing severe injuries.

48. Following the HV and HVO attack on Mostar, on 10 May 1993, **MLADEN NALETILIC** physically assaulted Witness "M", who was a prisoner of war captured in Mostar by **MLADEN NALETILIC**'s subordinates. **MLADEN NALETILIC** hit repeatedly witness "M" in an open area of the streets of Mostar, in presence of his subordinates and other commanders of the HVO.

49. Throughout this period, **VINKO MARTINOVIC** repeatedly beat in the presence of his subordinates Bosnian Muslim detainees in the area under his command and Bosnian Muslim civilians in the process of their eviction and deportation.

50. Throughout this period, the beatings and torture of Bosnian Muslim civilians and prisoners of war became a common practice of the members of the KB. Beatings and torture of Bosnian Muslim civilians and prisoners of war were committed by a large number of members of the KB, including commanders. These beatings and tortures were committed at different bases of the KB in Mostar, Listica - Siroki Brijeg and Ljubuski. Beatings and tortures were also inflicted at other detention centres and camps under the authority of the HVO, such as the Ljubuski prison, the HELIODROM camp. Beatings and tortures were additionally inflicted at several other locations following the capture of prisoners. **MLADEN NALETILIC** and **VINKO MARTINOVIC** knew, or had reason to know, that their subordinates were about to commit such acts, or had done so, and they failed to take the necessary and reasonable measures to prevent such further acts, or to punish the perpetrators thereof.

By the acts and omissions alleged in Paragraphs 45 - 48 and 50, **MLADEN NALETILIC** committed:

COUNT 9: torture, a **CRIME AGAINST HUMANITY**, under Articles 5(f), 7 (1) and 7(3) of the Statute of the Tribunal.

COUNT 10: torture, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, under Statute Article 2 (b), and 7(1) and 7(3) of the Statute of the Tribunal.

By the acts and omissions alleged in Paragraphs 45 - 50, **MLADEN NALETILIC** committed, and by the acts and omissions alleged in Paragraphs 45, 49 and 50, **VINKO MARTINOVIC** committed:

COUNT 11: cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, under Statute Article 3 as recognised by Article 3 (1)(a) of the Geneva Conventions, and Articles 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 12: wilfully causing great suffering or serious injury to body or health, a **GRAVE**

BREACH OF THE GENEVA CONVENTIONS OF 1949, under Articles 2 (c), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 13 to 17

MURDER, WILFUL KILLING AND WILFULLY CAUSING GREAT SUFFERING OF NENAD HARMANDZIC

51. Nenad HARMANDZIC, son of Salko, born in Mostar on 19 February 1947, was taken in July 1993 with a group of approximately fifty detainees from the HELIODROM camp to the base of the sub-unit of the KB under the command of **VINKO MARTINOVIC**, known as ATG (Anti Terrorist Group) “Mrmak” or “Vinko Skrobo”, located in the Kalemova street in the city of Mostar. **VINKO MARTINOVIC** was present at the base and was exercising direct command when the group of prisoners, including Nenad HARMANDZIC, arrived.

52. On the same day, following the arrival of Nenad HARMANDZIC at the facilities of the Kalemova street, he met **VINKO MARTINOVIC** and was thereafter the subject of severe beatings by subordinates under the command of **VINKO MARTINOVIC**. Later on the same day, Nenad HARMANDZIC was killed by subordinates of **VINKO MARTINOVIC**.

By these acts and omissions, **VINKO MARTINOVIC** committed:

COUNT 13: murder, a **CRIME AGAINST HUMANITY**, as recognised by Articles 5(a), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 14: wilful killing, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, as recognised by Articles 2 (a), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 15: murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR** under Statute Article 3 as recognised by Article 3(1)(a) of the Geneva Conventions and Articles 7(1) and 7 (3) of the Statute of the Tribunal.

Alternatively,

COUNT 16: cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, under Statute Article 3 as recognised by Article 3(1)(a) of the Geneva Conventions and Articles 7(1) and 7 (3) of the Statute of the Tribunal.

COUNT 17: wilfully causing great suffering or serious injury to body or health, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, under Articles 2 (c), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 18

FORCIBLE TRANSFER

53. On about 17 April 1993, following the plans and under the overall command of **MLADEN NALETILIC**, the KB, along with other HV and HVO forces, attacked the villages of Sovici and Doljani in the municipality of Jablanica. After the capture of Sovici, the attacking forces forcibly interned several hundreds of Bosnian Muslim civilians in the local primary school on 18 and 19 April 1993. On the following days, the forces under the command of **MLADEN NALETILIC**

confined the whole of the Bosnian Muslim civilian population of Sovici, around 450 women, children and elderly, to the hamlet of Junuzovici, and forcibly transferred them subsequently to the territory of Gornji Vakuf under control of the ABiH.

54. In the municipality of Mostar, **MLADEN NALETILIC** and **VINKO MARTINOVIC** were responsible for and ordered the forcible transfer of Bosnian Muslim civilians that started on the 9 May 1993 and continued until at least January 1994. The KB members under their command were prominent in the eviction, arrest and forcible transfers of Bosnian Muslim civilians throughout the relevant period, and particularly during the two large waves of forcible transfers that took place in May and July 1993. Once the KB and other HVO units had identified persons of Muslim ethnic background, they arrested them, evicted them, plundered their homes and forcibly transferred them across the confrontation lines to the territories under ABiH control. The ABiH held a section of the city which was under siege by the HV and HVO forces, who were shelling intensely the area and preventing the arrival of humanitarian aid and basic supplies. **MLADEN NALETILIC** and **VINKO MARTINOVIC** commanded operations for this purpose and gave orders to their subordinates to proceed with the forcible transfers.

By these acts or omissions, **MLADEN NALETILIC** and **VINKO MARTINOVIC** committed:

COUNT 18: unlawful transfer of a civilian, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, as recognised by Articles 2(g), 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 19 to 22 **DESTRUCTION AND PLUNDER OF PROPERTY**

55. Following the capture of Sovici and Doljani on 17 April 1993, **MLADEN NALETILIC** ordered the destruction of all the Bosnian Muslim houses in the area. The systematic destruction of the Bosnian Muslim houses was carried out by the forces under the authority of **MLADEN NALETILIC**, who at the relevant time was in command over the area occupied by the HV and HVO forces.

56. Following the capture of Sovici and Doljani on 17 April 1993, **MLADEN NALETILIC** ordered the destruction of the mosque of Sovici. The mosque was destroyed by the forces under the authority of **MLADEN NALETILIC**, who at the relevant time was in command over the area occupied by the HV and HVO forces.

57. Following the HV and HVO attack on Mostar of 9 May 1993 and in the context of the subsequent campaign of persecutions against the Bosnian Muslim population, the units under the command of **MLADEN NALETILIC** and **VINKO MARTINOVIC** plundered systematically the Bosnian Muslim houses and properties.

58. Following the capture of the village of Rastani, municipality of Mostar on 23 September 1993, the forces under the command of **MLADEN NALETILIC** destroyed the Bosnian Muslim houses of the village.

By the acts and omissions alleged in Paragraphs 55, 56 and 58, **MLADEN NALETILIC** committed:

COUNT 19: extensive destruction of property, a **GRAVE BREACH OF THE GENEVA**

CONVENTIONS, recognised by Articles 2(d), 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 20: wanton destruction not justified by military necessity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Articles 3(b), 7(1) and 7(3) of the Statute of the Tribunal.

By the acts and omissions alleged in Paragraph 57, **MLADEN NALETILIC** and **VINKO MARTINOVIC** committed:

COUNT 21: plunder of public or private property, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Articles 3(e), 7(1) and 7(3) of the Statute of the Tribunal.

By the acts and omissions alleged in Paragraph 56, **MLADEN NALETILIC** committed :

COUNT 22: seizure, destruction or wilful damage done to institutions dedicated to religion, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Articles 3(d), 7(1) and 7(3) of the Statute of the Tribunal.

Carla Del Ponte Prosecutor

Dated this ____ September 2001
The Hague, The Netherlands