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IT-95-8-I

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

THE PROSECUTOR

v.

Duško SIKIRICA

CASE NO: IT-95-8-PT

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 (“the Statute of the Tribunal”), charges:

Duško SIKIRICA also known as (a/k/a) “Sikira” with Genocide, Complicity to Commit Genocide, Crimes Against Humanity, and Violations of the Laws or Customs of War, as set forth below

BACKGROUND:

1. The municipality (opština) of Prijedor is located in northwestern Bosnia and Herzegovina. According to the 1991 census, it had a total population of 112,543: 49,351 (43.9%) identified themselves as Muslims; 47,581 (42.3%) identified themselves as Serbs; 6,316 (5.6%) identified themselves as Croats; 6,459 (5.7%) identified themselves as Yugoslavs; and 2,836 (2.5%) were identified as other nationalities. The Municipality is situated along one of the main east-west travel corridors in the former Yugoslavia. It was considered a strategic location by Serbian leaders because that corridor linked the Serbian-dominated area of the Croatian Krajina in the west with the Republic of Serbia in the east.

2. In 1991, after Slovenia and Croatia declared independence from Yugoslavia and war broke out, it appeared increasingly likely that Bosnia and Herzegovina would also declare its independence. Bosnian Serb leaders, however, wanted Bosnia and Herzegovina to remain a part of Yugoslavia. As time went by, and it became clear they would not be able

to hold Bosnia and Herzegovina in the Yugoslav federation, the Bosnian Serb authorities, led by the Serbian Democratic Party (SDS), began in earnest the creation of a separate Serbian territory in Bosnia and Herzegovina.

3. As viewed by the Bosnian Serb authorities, a major problem in the creation and control of the Serbian territory was the significant Bosnian Muslim and Bosnian Croat population that also lived in the areas being claimed. Thus, a significant aspect of the plan to create a new Serbian territory was the permanent removal or "ethnic cleansing" of nearly all of the Bosnian Muslim and Bosnian Croat population.

4. During the early morning hours of 30 April 1992, Serbian forces seized physical control of the town of Prijedor. The take-over initiated a series of events that, by year's end, would result in the death or forced departure of most of the Bosnian Muslim and Bosnian Croat population of the Municipality.

5. Immediately after the take-over of Prijedor town, restrictions were imposed on all aspects of life for Bosnian Muslims, Bosnian Croats and some other non-Serbs, including freedom of movement and the right to employment. The effect of those restrictions was the containment of Bosnian Muslims and Bosnian Croats in the villages and areas in the Municipality where they lived. Beginning in late May, those areas were then subjected to violent attacks by the Serb military, paramilitary, and police forces. The Bosnian Muslims and Bosnian Croats who survived the initial artillery and infantry attacks were seized by the Serb forces and transferred to camps and detention facilities established and operated under the direction of the Bosnian Serb authorities.

6. Between 24 May 1992 until 30 August 1992, Bosnian Serb authorities in the Prijedor municipality unlawfully segregated, detained and confined more than 7,000 Bosnian Muslims, Bosnian Croats and other non-Serbs from the Prijedor area in the Omarska, Trnopolje, and Keraterm camps. In Omarska camp the detainees included military-aged males and political, economic, social, and intellectual leaders of the Bosnian Muslim and Bosnian Croat population. There were about 37 women detained in the camp. At the Trnopolje camp the majority of detainees were Bosnian Muslim and Bosnian Croat women, children, and the elderly, although some military age men were also interned there either with their families or alone. At the Keraterm camp, the majority of the detainees were military-aged males.

7. The Omarska camp was located in a former mining complex in the village of Omarska, approximately 20-25 kilometres from the town of Prijedor. Living conditions at Omarska were brutal and inhumane. The camp was operated in a manner that resulted in the physical debilitation or death of the non-Serb detainees. The general living conditions were abject. Detainees were crowded together so badly in the various rooms of both camps, that often they could not sit or lie down. There were little or no toilets or facilities for personal hygiene. The inadequate supply of water the detainees received at the camp was usually foul. They had no change of clothing, no bedding, and virtually no medical care. The detainees were fed starvation rations once a day and were given approximately three minutes to get into the canteen area, eat, and get out. The trip to the canteen was often accompanied by beatings and other abuse.

8. Interrogations were conducted on a daily basis at the Omarska camp. The interrogations were regularly accompanied by beatings and torture. Severe beatings, torture, killings, sexual assault, and other forms of physical and psychological abuse were commonplace at Omarska camp. The camp guards and others who came to the camps used all types of weapons and instruments to beat and otherwise physically abuse the detainees. In particular, Bosnian Muslim and Bosnian Croat political and civic leaders, intellectuals, the wealthy, and non-Serbs who were considered as extremists or to have resisted the Bosnian Serbs were especially subjected to malicious beatings, torture, and/or killed. At a minimum, hundreds of detainees, whose identities are known and unknown, did not survive.

9. The Trnopolje camp was located in the village of Trnopolje, approximately ten kilometres from the town of Prijedor. The conditions in the Trnopolje camp were also abject and brutal. The general living and hygiene facilities were grossly inadequate. Minimal rations were only provided on a sporadic basis. At various points, detainees were allowed to leave the camp to forage for food in the surrounding area. Both male and female detainees were killed, beaten and otherwise physically and psychologically maltreated by the camp personnel and others who were allowed into the camp for the purpose of inflicting serious bodily and mental harm on the detainees.

10. In addition, many of the women detained at the Trnopolje camp were raped, sexually assaulted, or otherwise tortured by camp personnel, who were both police and military personnel, and by others, including military units from the area who came to the camp for that specific purpose. In many instances, the women and girls were taken from the

camp and raped, tortured, or sexually abused at other locations. Some of the Bosnian Muslims and Bosnian Croats who were detained at Trnopolje had fled to the camp because they believed they were even less likely to survive if they stayed in their own homes and villages. Trnopolje camp served as the staging point for most of the convoys that were used to forcibly transfer or deport the Bosnian Muslims, Bosnian Croats and other non-Serbs from Prijedor municipality.

11. The Keraterm camp was located on the site of a ceramics factory located on the "new" Prijedor-Banja Luka road, just outside the centre of the town of Prijedor. Detainees were confined in four storage rooms which faced the road. Like the Omarska camp, the Keraterm camp was operated in a manner that resulted in the physical debilitation or death of the non-Serb detainees. The general living conditions were brutal and inhumane. Detainees were crowded together so badly in the various rooms of the camp that often they could not all sit or lie down. There were little or no toilets or facilities for personal hygiene. The water supply was inadequate. They had no change of clothing, no bedding, and with very rare exception, no medical care. The detainees were fed starvation rations once a day.

12. Interrogations were conducted on a daily basis at the Keraterm camp. The interrogations were regularly accompanied by beatings and torture. Severe beatings, torture, killings, sexual assault, and other forms of physical and psychological abuse were commonplace at Keraterm camp. The camp guards and others who came to the camps used all types of weapons and instruments to beat and otherwise physically abuse the detainees. In particular, Bosnian Muslim and Bosnian Croat political and civic leaders, intellectuals, the wealthy, and non-Serbs who were considered as extremists or to have resisted the Bosnian Serbs were especially subjected to beatings, torture, and/or killed. At a minimum, hundreds of detainees, whose identities are known and unknown, did not survive.

GENERAL ALLEGATIONS:

13. Unless otherwise specified, all acts and omissions set forth in this Indictment took place between 24 May 1992 and 30 August 1992.

14. Where torture is alleged, the 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; and/or for any reason based upon discrimination of any kind.

15. In each paragraph charging Crimes Against Humanity, the alleged acts or omissions were part of a widespread or systematic attack directed against a civilian population, specifically the Bosnian Muslim and Bosnian Croat populations of the Prijedor municipality.

16. The Accused is individually responsible for the crimes charged against him in this Indictment, pursuant to Article 7(1) of the Statute of the Tribunal. As defined by Article 7(1), individual criminal responsibility includes planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of any acts or omissions set forth below. The term "participation", as used in the Counts hereunder, is intended to incorporate any and all forms of individual criminal responsibility as set forth in Article 7(1).

17. In addition, **Duško SIKIRICA** is also, or alternatively, criminally responsible for acts of subordinates with respect to the crimes charged in the Indictment by virtue of his position of superior authority in the camp, pursuant to Article 7(3) of the Statute of the Tribunal. As defined by Article 7(3), a person in a position of superior authority is responsible for the criminal acts of his subordinates, if the superior authority knew or had reason to know that his subordinates were about to commit such acts, or had done so, and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the subordinates.

18. Paragraphs 1 through 19 are re-alleged and incorporated into each of the charges set forth below.

THE ACCUSED:

19. **Duško SIKIRICA** a/k/a "**SIKIRA**", born 23 March 1964 in the Čirkin Polje area of Prijedor municipality, Bosnia and Herzegovina. He was the Commander of the Keraterm camp. As the Commander he was in a position of superior authority to everyone else present in the camp.

THE CHARGES:**COUNTS 1 and 2
(GENOCIDE; and COMPLICITY IN GENOCIDE)**

20. Beginning in the spring of 1992, the Bosnian Serb authorities ordered and implemented a plan designed to expel the Bosnian Muslim and Bosnian Croat populations from the Prijedor Municipality and the area of Bosnia and Herzegovina that had been proclaimed as Serbian territory. The execution of that plan, as described in paragraphs 4 through 12, above, included: (1) the killing of Bosnian Muslims and Bosnian Croats; (2) causing serious bodily or mental harm to Bosnian Muslims and Bosnian Croats; and, (3) deliberately inflicting on the Bosnian Muslims and Bosnian Croats conditions of life calculated to bring about the physical destruction of a part of the Bosnian Muslim and Bosnian Croat populations.

21. To effect this plan, the Prijedor Crisis Staff first established restrictions on movement that confined the Bosnian Muslim and Bosnian Croat population to the villages and areas where they lived. Those areas were then attacked by combined forces of the 343rd Brigade and other units of the Yugoslav Peoples Army (JNA) and the Army of Republika Srpska (VRS), Territorial Defence (TO) units from Prijedor, regular and reserve police members from Prijedor, and paramilitary units organised and equipped by the Serbian Democratic Party (SDS).

22. The attacks on the Bosnian Muslim and Bosnian Croat villages and areas usually began with heavy artillery bombardments that targeted homes and businesses, killing many. Following the bombardments, the Bosnian Serb and Serb forces moved in to round up the survivors. As the forces went through the villages they executed many of the Bosnian Muslims and Bosnian Croats and looted and destroyed their homes. After large groups of the Bosnian Muslim and Bosnian Croat civilians had been rounded up and were being marched to assembly points for transfer to camps, men who were considered of military age or had served as policeman were often pulled out of the groups and executed. The attacks on villages and other areas of the Municipality where Bosnian Muslims and Bosnian Croats were congregated continued throughout June and July 1992.

23. The Bosnian Muslims and Bosnian Croats who were seized by the Bosnian Serb and Serb forces and not killed immediately were taken to one of the detention camps which had been established by order of the Crisis Staff, including the Keraterm camp. Throughout the summer there

was co-ordination and transfer of detainees between the camps. During the operation of the camps, including the Keraterm camp, the Bosnian Serb military and police personnel in charge of these camps, their staff, and other persons who visited the camps, killed hundreds of the Bosnian Muslim and Bosnian Croat detainees.

24. The Bosnian Serb military and police personnel in charge of these camps, their staff, and other persons who visited the camps also caused serious bodily and mental harm to the Bosnian Muslim and Bosnian Croat detainees by subjecting them to sexual assaults, torture, beatings and robbery, as well as other forms of mental and physical abuse. In Keraterm, severe beatings, torture, and killing of prisoners were commonplace.

25. The Keraterm, Omarska and Trnopolje camps were deliberately operated in a manner designed to inflict upon the detainees conditions intended to bring about their physical destruction with the intent to destroy, in part, the Bosnian Muslim and Bosnian Croat peoples as national, ethnic or religious groups. The conditions were abject and brutal. Daily food rations, when provided to detainees, amounted to starvation rations. Medical care for the detainees was insufficient or non-existent and the general hygienic conditions were grossly inadequate. In all camps, including the Keraterm camp, detainees were continuously subjected to or forced to witness inhumane acts, including murder, rape and sexual assaults, torture, beatings and robbery, as well as other forms of mental and physical abuse.

26. Between 29 April 1992 and 30 August 1992, Bosnian Serb authorities planned, organised, ordered, and implemented a campaign to expel the Bosnian Muslim and Bosnian Croat populations from the Prijedor Municipality and the area of Bosnia and Herzegovina that had been proclaimed as Serbian territory by the Bosnian Serb leadership. A central aspect of this campaign was to kill a part of the Bosnian Muslim and Bosnian Croat populations to ensure the remainder would not want to return. This was accomplished through the killing and execution of members of those groups, subjecting others to serious bodily and mental harm, and the detention of Bosnian Muslims and Bosnian Croats from the Municipality of Prijedor in the Keraterm, Omarska, and Trnopolje camps under conditions calculated to bring about the physical destruction of the detainees; all of these acts being done with the intent to destroy part of the Bosnian Muslim and Bosnian Croat groups in Prijedor, as such.

27. Between 24 May 1992 and 30 August 1992, **Duško SIKIRICA**, instigated, committed or otherwise aided and abetted the killing of Bosnian Muslims and Bosnian Croats, causing serious bodily or mental harm to Bosnian Muslims and Bosnian Croats, and deliberately inflicting on the Bosnian Muslims and Bosnian Croats conditions of life calculated to bring about the physical destruction of a part of the Bosnian Muslim and Bosnian Croat populations, with the intent to destroy the Bosnian Muslims and Bosnian Croats, in part, as national, ethnic or religious groups. **Duško SIKIRICA** participated in the above acts through his direct participation in such acts and through his instigation, approval, encouragement, acquiescence, and assistance in the development and continuation of the conditions in the camp and the on-going commission of crimes against the prisoners in the Keraterm camp.

28. Furthermore, between 24 May 1992 and 30 August 1992, **Duško SIKIRICA**, knew or had reason to know that Bosnian Serb and Serb forces under his control at the Keraterm camp were killing Bosnian Muslims and Bosnian Croats, causing serious bodily or mental harm to Bosnian Muslims and Bosnian Croats, and deliberately inflicting on the Bosnian Muslims and Bosnian Croats conditions of life calculated to bring about the physical destruction of the Bosnian Muslims and Bosnian Croats in the Keraterm camp, with the intent to destroy the Bosnian Muslims and Bosnian Croats, in part, as national, ethnic or religious groups, or had done so, and he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

By these acts and omissions, **Duško SIKIRICA** committed:

Count 1: GENOCIDE, punishable under Articles 4(3)(a), 7(1), and 7(3) of the Statute of the Tribunal; and,

Count 2: COMPLICITY TO COMMIT GENOCIDE, punishable under Articles 4(3)(e), 7(1), and 7(3) of the Statute of the Tribunal.

**COUNTS 3 to 5
(PERSECUTIONS; INHUMANE ACTS; and
OUTRAGES UPON PERSONAL DIGNITY)**

29. Between 24 May 1992 and 30 August 1992, **Duško SIKIRICA**, participated in the persecution of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor area, and specifically in the Keraterm camp, on political, racial or religious grounds.

30. The persecutions included the following means:

(a) the murder of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor municipality, including those detained in the Keraterm camp;

(b) the torture and beating of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor municipality, including those detained in the Keraterm camp;

(c) the sexual assault and rape of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor municipality, including those detained in the Keraterm camp;

(d) the harassment, humiliation and psychological abuse of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor municipality, including those detained in the Keraterm camp; and,

(e) the confinement of Bosnian Muslims, Bosnian Croats and other non-Serbs in inhumane conditions in the Keraterm camp.

31. **Duško SIKIRICA** instigated, committed or otherwise aided and abetted the persecutions of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor area, on political, racial or religious grounds, as well as the commission of the other crimes charged in this indictment, through his direct participation in crimes and through his instigation, approval, encouragement, acquiescence, and assistance in the development and continuation of the conditions in the Keraterm camp and the on-going commission of crimes as described in paragraph 29 against the prisoners in the Keraterm camp, including those described in paragraph 34 below.

32. As the Camp Commander **Duško SIKIRICA** had the authority to alter the conditions of confinement that existed in the Keraterm camp. He had the authority to control the conduct of the guards in the camp and to prevent or control the conduct of visitors to the camp. He had the authority to set the daily regimen of the prisoners and to grant them more freedoms and rights within the camp, including access to potable water, reasonable living conditions and hygienic standards, and contact with their families or friends to receive clothing, hygienic supplies, food and medicines. In addition, as a policeman on active duty, **Duško SIKIRICA** had an independent duty to uphold the laws in force on the territory of Bosnia and Herzegovina and to safeguard the lives and property of civilians.

33. In addition, between 24 May and 30 August 1992, **Duško SIKIRICA**, knew or had reason to know that persons subordinate to him in the Keraterm camp were about to participate in the persecution of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor municipality on political, racial or religious grounds, including the acts described in paragraph 34 below, or had done so, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.

By these acts and omissions, the accused **Duško SIKIRICA**, committed:

Count 3: Persecutions on political, racial or religious grounds, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(h) and 7(1) of the Statute of the Tribunal.

Count 4: Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(1) of the Statute of the Tribunal;

Count 5: Outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(c) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) of the Statute of the Tribunal.

In addition, the accused **Duško SIKIRICA** is criminally responsible for the crimes set forth in **Counts 3 to 5** pursuant to Article 7(3) of the Statute of the Tribunal.

COUNTS 6 to 9

(MURDER; INHUMANE ACTS; and CRUEL TREATMENT)

34. On around 25 July 1992, the day after approximately 150-200 detainees were killed in Room 3 of the camp, **Duško SIKIRICA** participated in ordering approximately twenty surviving detainees from Room 3 to be selected as being responsible for the alleged escape of detainees during the killing of the detainees in Room 3. The selected detainees were then brought outside the room and summarily executed.

As a result of his participation in the above acts, and by being a superior responsible for the acts of his subordinates, **Duško SIKIRICA** thereby committed:

Count 6: Murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a), 7(1), and 7(3) of the Statute of the Tribunal; and

Count 7: Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1), and 7(3) of the Statute of the Tribunal;

or, in the alternative,

Count 8: Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i), 7(1) and 7(3) of the Statute of the Tribunal; and

Count 9: Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) and 7(3) of the Statute of the Tribunal.

Graham T. Blewitt
Deputy Prosecutor
for the Prosecutor

Dated this twenty-fourth day of August 1999
The Hague, The Netherlands