



Republic of Serbia
Office of the War Crimes Prosecutor

DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER

16 September 2005

Pursuant to my authority under Article 46 Paragraph 2 Item 3, in relation to Articles 265 Paragraph 1 and 266 of the Criminal Procedure Act, I herein amend the

INDICTMENT

Against the accused: Miroljub VUJOVIĆ, Stanko VUJANOVIĆ, Jovica PERIĆ, Ivan ATANASIJEVIĆ, Predrag MADŽARAC, Milan VOJNOVIĆ, Milan LANČUŽANIN, Marko LJUBOJA, Predrag MILOJEVIĆ, Vujo ZLATAR, Goran MUGOŠA, Đorđe ŠOŠIĆ, Miroslav ĐANKOVIĆ, Slobodan KATIĆ, Nada KALABA and Predrag DRAGOVIĆ,

With the ordering part as set forth below:

BECAUSE THEY COMMITTED THE FOLLOWING:

In the period between the afternoon hours of 20 November and the early morning hours of 21 November 1991, at the Ovčara farm, located in the Vukovar municipality, in the then Republic of Croatia being part of the former Federal Republic of Yugoslavia (hereinafter: SRJ), acting in the capacity of members of the Vukovar Territorial Defence (TO) and volunteer unit »Leva Supoderica«, both being components of the then Yugoslav People's Army (JNA), the aforementioned accused individuals killed, physically injured, degraded and otherwise brutalized war prisoners who had laid down their arms and surrendered themselves to the JNA forces, thereupon being handed over to the Vukovar TO forces; the captives, previously transported on buses from Vukovar hospital, included members of the Croatian armed forces, militias, volunteer units, organized resistance movements, persons escorting these armed forces though not immediately belonging to their ranks, as well as the JNA members who had surrendered their arms;

By committing the aforementioned, the herein accused individuals broke the rules of

international law during the armed conflict which was underway in that region and which did not have the character of an international conflict, thus acting in contravention of Art. 3, Para. 1, Items (a) and (c), and Art. 4, Paragraphs 1, 2 and 4 of the Third Geneva Convention of 1949 on the Treatment of War Prisoners, which was ratified by the then Federal People's Republic of Yugoslavia's National Assembly in 1950; and acting in contravention of Article 4 Paragraphs 1 and 2 (a, e) of the 1949 Geneva Convention Annexed Protocol on Protection of Victims in Noninternational Armed Conflicts, passed on 8 June 1977 (Official Gazette of SFRY No 16/78 – International Contracts),

And thereby the accused members of the Vukovar TO forces:

Zoran MUGOŠA aka »Kuštro« and Miroslav ĐANKOVIĆ aka »Đani«, aided and abetted by Milan BULIĆ aka »Bulidža« (against whom proceedings are being conducted within a separate case),

Along with the accused members of volunteer unit »Leva Supoderica«:

Predrag MILOJEVIĆ aka »Kinez« and Predrag DRAGOVIĆ aka »Ceca« aka »Kapetan«, aided and abetted by FNU LNU persons,

Positioned themselves in two lines and forced the war prisoners to run in between before entering the hangar, while they hit and kicked the victims as they passed, and beat them all over the body with wooden poles, metal bars, rifle butts and crutches, thereby inflicting on them serious physical injuries; all of the accused, except MILOJEVIĆ and DRAGOVIĆ, continued doing the same inside the hangar, therein joined by the accused, Milan LANČUŽANIN aka »Kameni«, who, acting in the capacity of commander of volunteer unit »Leva Supoderica«, hit and kicked the war prisoners; while both outside and inside the hangar, the accused, Nada KALABA, beat a FNU LNU war prisoner, thereafter depriving him of life by a gunshot in the head. Upon listing and identifying the war prisoners, the accused: Miroljub VUJOVIĆ, acting in the capacity of Vukovar TO commander, and Stanko VUJANOVIĆ as his deputy, ordered the killings of some of the war prisoners; concurrently, they ordered that groups of 30-40 captives be loaded on a tractor trailer and transported in 5 or 6 turns to the execution site at Grabovo, located approximately 1 km away from Ovčara, while they assigned a number of persons to supervise the transport, avert potential escapees and perform the executions thereupon;

While each of the herein accused members of volunteer unit »Leva Supoderica«: Đorđe ŠOŠIĆ aka »Žorž« aka »Čiča« and Predrag MILOJEVIĆ aka »Kinez« removed one FNU LNU war prisoner from the trailer and deprived them of life by slicing their throats with knives;

Concurrently, the remaining captives were taken out in groups of 7 to 8 and lined up in front of a previously dug pit, where the accused Vukovar TO members: Jovica PERIĆ, Milan VOJNOVIĆ aka »Mićo Medonja«, Predrag MADŽARAC aka »Peđa«, Miroslav ĐANKOVIĆ aka »Đani« and Vujo ZLATAR, along with the accused members of »Leva Supoderica«: Ivan ATANASIJEVIĆ aka »Iko« (Ivica HUSNIK at the time), Milan LANČUŽANIN aka »Kameni«, Marko LJUBOJA aka »Mare«, Slobodan KATIĆ aka »Major Katić«, Predrag DRAGOVIĆ aka »Ceca« aka »Kapetan« and a number of FNU LNU persons, formed shooting platoons and, upon orders issued by the accused, Stanko VUJANOVIĆ, who also personally participated in the killings, shot the prisoners and thereby deprived them of life, whereafter the accused, Predrag MILOJEVIĆ aka »Kinez«, approached the shot persons who were still showing signs of life and killed them by gunshots in the head; subsequently, the corpses were buried in the pit and the earth flattened thereover by a bulldozer;

Whereas in the end, in front of the Ovčara hangar, the accused: Miroљub VUJOVIĆ and Stanko VUJANOVIĆ, aided and abetted by a number of FNU LNU persons, killed by shooting approximately 10 more captives, whereafter their bodies were buried in a ditch that had previously served for the positioning of artillery weapons,

Thereby depriving of life 200 (two hundred) persons, out of whom 192 (a hundred and ninety-two) have been positively identified, and whose names are set forth below:

- 1 ADŽAGA (Ilija) JOZO, born 21/05/1949
- 2 AHMETOVIĆ (Ismet) IVO, born 1968
- 3 ANDRIJANOVIĆ (Marko) VINKO, born 09/02/1953
- 4 ARNOLD (Alojz) KREŠIMIR, born 18/04/1958
- 5 ASAĐANIN (Jovan) ILIJA, born 01/01/1950
- 6 BABIĆ (Josip) DRAŽEN, born 01/10/1966
- 7 BAINRAUCH (Stjepan) IVAN, born 21/06/1956
- 8 BAINRAUCH (Franjo) TOMISLAV, born 13/12/1938
- 9 BALAŠ (Andrija) STJEPAN, born 01/05/1956
- 10 BALOG (Josip) DRAGUTIN, born 19/06/1974
- 11 BALOG (Dragutin) JOSIP, born 25/11/1928
- 12 BALOG (Ivan) ZVONIMIR, born 10/01/1958
- 13 BALVANAC (Andrija) ĐURO, born 17/07/1952
- 14 BANOŽIĆ (Drago) BORIS, born 02/02/1967
- 15 BARNJAJI (Ratko) PERO, born 19/06/1968
- 16 BARBARIĆ (Jozo) BRANKO, born 01/11/1967
- 17 BARBIR (Ivan) LOVRO, born 01/11/1935
- 18 BARIĆ (Đuro) ĐUKA, born 26/12/1950
- 19 BARIŠIĆ (Andrija) FRANJO, born 28/05/1946
- 20 BARTA (Ivan) ANĐELKO, born 31/01/1967

- 21 BATARELO (Ante) ŽELJKO, born 25/10/1955
22 BAUMGERTNER (Tomislav) TOMISLAV, born 27/11/1973
23 BEGČEVIĆ (Ivo) MARKO, born 01/04/1968
24 BEGOV (Mate) ŽELJKO, born 30/09/1958
25 BINGULA (Stjepana) STJEPAN, born 15/10/1958
26 BJELANOVIĆ (Nikola) RINGO, born 24/11/1970
27 BLAŽEVIĆ (Zdenko) ZLATKO, born 24/02/1964
28 BODROŽIĆ (Marijan) ANTE, born 07/06/1953
29 BOSAK (Juraj) MARKO, born 02/07/1967
30 BOSANAC (Vladislav) DRAGUTIN, born 21/08/1919
31 BOSANAC (Antun) TOMISLAV, born 05/03/1941
32 BRAČIĆ (Ivan) ZVONIMIR, born 04/07/1970
33 BUOVAC (Ilija) IVAN, born 03/09/1966
34 BUKVIĆ (Đuro) ĐORĐE, born 03/05/1966
35 CRNJAC (Slavko) IVAN, born 18/05/1966
36 ČOLAK (Blago) IVICA, born 26/09/1965
37 ČUPIĆ (Boško) STANOJE, born 12/10/1953
38 DALIĆ (Zvonko) TIHOMIR, born 02/11/1966
39 DOLIŠNI (Petar) IVICA, born 27/11/1960
40 DRAGUN (Srećko) JOSIP, born 09/09/1962
41 DUVNJAK (Vladimir) STANKO, born 23/05/1959
42 ĐUĐAR (Đuro) SAŠA, born 05/03/1968
43 ĐUKIĆ (Ivan) VLADIMIR, born 21/02/1948
44 EBNER (Vinko) VINKO-ĐURO, born 07/04/1961
45 FRISČIĆ (Matija) DRAGUTIN, born 02/11/1958
46 FURUNDŽIJA (Danko) PETAR, born 30/11/1949
47 GAJDA (Mihajlo) ROBERT, born 27/12/1966
48 GALIĆ (Mate) MILENKO, born 10/12/1965
49 GALIĆ (Ivan) VEDRAN, born 29/05/1973
50 GAVRANOVIĆ (Ivan) BORISLAV, born 23/11/1954
51 GAVRIĆ (Pavo) DRAGAN, born 31/10/1956
52 GLAVAŠEVIĆ (Petar) SINIŠA, born 04/11/1960
53 GRAF (Vladimir) BRANISLAV, born 07/09/1955
54 GRANIĆ (Mile) DRAGAN, born 01/01/1960
55 GRUBER (Ilija) ZORAN, born 05/09/1969
56 GUDELJ (Ivan) DRAGO, born 09/09/1940
57 HEGEDUŠIĆ (Dragutin) MARIO, born 29/06/1972
58 HERCEG (Slavko) ŽELJKO, born 20/01/1962
59 HERMAN (Dragutin) IVAN, born 14/05/1969
60 HERMAN (Antun) STJEPAN, born 10/03/1955
61 HLEVNJAK (Anđelko) NEDELJKO, born 08/01/1964
62 HOLJEVAC (Ivan) NIKICA, born 10/04/1955
63 HORVAT (Josip) IVICA, born 27/11/1958

- 64 ILEŠ (Ivan) ZVONKO, born 12/12/1941
65 IMBRIŠIĆ (Pavle) IVICA, born 13/02/1958
66 IVEZIĆ (Ivan) ALEKSANDER, born 05/12/1950
67 JAJALO (Ivan) MARKO, born 28/10/1957
68 JAKUBOVSKI (Ivan) MARTIN, born 01/04/1971
69 JAMBOR (Dragutin) TOMO, born 03/03/1966
70 JANIĆ (Antun) MIHAEL, born 09/10/1939
71 JANTOL (Đuro) BORIS, born 21/09/1959
72 JARABEK (Kamilo) ZLATKO, born 21/04/1956
73 JEZIDŽIĆ (Stipe) IVICA, born 05/11/1957
74 JOVAN (Vlatko) ZVONIMIR, born 07/04/1967
75 JOVANOVIĆ (Todor) BRANKO, born 04/02/1955
76 JOVANOVIĆ (Đuro) OLIVER, born 08/12/1972
77 JURELA (Tomislav) DAMIR, born 25/04/1969
78 JURELA (Božo) ŽELJKO, born 30/06/1956
79 JURENDIĆ (Jure) DRAGO, born 23/04/1966
80 JURIŠIĆ (Franjo) MARKO, born 17/08/1946
81 JURIŠIĆ (Pavo) PAVAO, born 28/08/1966
82 JURIŠIĆ (Rudo) ŽELJKO, born 20/12/1963
83 KAČIĆ (Petar) IGOR, born 23/08/1975
84 KAPUSTIĆ (Josip) JOSIP, born 08/12/1965
85 KELAVA (Antun) KREŠIMIR, born 17/01/1953
86 KNEŽIĆ (Franjo) ĐURO, born 02/04/1937
87 KOLAK (Dobroslav) TOMISLAV, born 22/07/1962
88 KOLAK (Dobroslav) VLADIMIR, born 20/01/1966
89 KOMORSKI (Pero) IVAN, born 23/06/1952
90 KOSTOVIĆ (Ante) BORISLAV, born 24/12/1962
91 KOVAČ (Mate) IVAN, born 18/06/1953
92 KOVAČEVIĆ (Zlato) ZORAN, born 16/04/1962
93 KOŽUL (Franjo) JOSIP, born 08/03/1968
94 KRAINOVIĆ (Luka) Ivan, born 14/10/1966
95 KRAINOVIĆ (Ante) ZLATKO, born 04/12/1969
96 KRASIĆ (Petar) IVAN, born 18/06/1964
97 KREZO (Hrvoje) IVICA, born 10/09/1963
98 KRISTIČEVIĆ (Branko) KAZIMIR, born 13/06/1959
99 LESIĆ (Branko) MIHAJLO, born 10/05/1950
100 LET (Đuro) MIHAJLO, born 25/04/1956
101 LILI (Dragutin) DRAGUTIN, born 26/01/1951
102 LOVRIĆ (Lovre) DRAGUTIN, born 26/01/1951
103 LUCIĆ (Mijo) MARKO, born 08/09/1954
104 LUKIĆ (Marko) MATO, born 02/02/1963
105 LJUBAS (Luka) HRVOJE, born 26/01/1971
106 MAGOČ – MAMIĆ (Mihajlo) PREDRAG, born 18/12/1965

- 107 MAJOR (Stjepan) ŽELJKO, born 14/12/1960
108 MARIČIĆ (Marko) ZDENKO, born 27/09/1956
109 MARKOBAŠIĆ (Pera) RUŽICA, born 28/09/1959
110 MEĐEŠI (Janko) ANDRIJA, born 16/10/1936
111 MEĐEŠI (Andrija) ZORAN, born 09/09/1940
112 MIHOVIĆ (Gašpar) TOMISLAV, born 23/06/1952
113 MIKULIĆ (Slavko) ZDRAVKO, born 15/03/1961
114 MIŠIĆ (Marko) IVAN, born 22/12/1968
115 MLINARIĆ (Pavo) MILE, born 05/12/1966
116 MOKOŠ (Stevan) ANDRIJA, born 16/11/1955
117 MOLNAR (Stjepan) ALEKSANDAR, born 08/04/1965
118 MUTVAR (Antun) ANTUN, born 30/01/1969
119 NAĐ (Vladimir) DARKO, born 27/02/1965
120 NAĐ (Franjo) FRANJO, born 17/08/1935
121 NEJAŠMIĆ (Milan) IVAN, born 19/10/1958
122 OMEROVIĆ (Jusuf) MERSAD, born 01/01/1970
123 OMEROVIĆ (Džemal) MUFAT, born 19/11/1963
124 OREŠKI (Stjepan) VLADISLAV, born 19/05/1967
125 PAP (Andrija) TOMISLAV, born 01/01/1963
126 PATARIĆ (Nikola) ŽELJKO, born 16/07/1959
127 PAVLIĆ (Adam) SLOBODAN, born 24/09/1965
128 PAVLOVIĆ (Đura) ZLATKO, born 19/11/1963
129 PERAK (Ante) MATO, born 28/11/1961
130 PERKO (Branko) ALEKSANDAR, born 17/03/1967
131 PERKOVIĆ (Josip) DAMIR, born 28/10/1965
132 PERKOVIĆ (Jure) JOSIP, born 24/03/1963
133 PETROVIĆ (Stanko) STJEPAN, born 26/10/1949
134 PINTER (Nikola) NIKOLA, born 04/10/1940
135 PLAVŠIĆ (Mate) IVAN-ZVONIMIR, born 24/03/1939
136 POLHERT (Ivan) DAMIR, born 22/11/1962
137 POLJAK (Ignac) VJEKOSLAV, born 06/08/1961
138 POLOVINA (Vojin) BRANIMIR, born 22/06/1950
139 POSAVEC (Gustav) STANKO, born 09/04/1952
140 PODHORSKI (Stjepan) JANJA, born 17/11/1931
141 PRAVDIĆ (Pero) TOMO, born 11/01/1934
142 PUCAR (Nikola) DMITAR, born 18/01/1949
143 RAGUŽ (Antun) IVAN, born 22/04/1955
144 RADAČIĆ (Slavko) IVAN, born 01/01/1955
145 RAŠIĆ (Franjo) MILAN, born 16/04/1954
146 RATKOVIĆ (Milan) KREŠIMIR, born 04/03/1968
147 RIBIČIĆ (Ivan) MARKO, born 11/11/1951
148 RIMAC (Slavko) SALVADOR, born 06/11/1960
149 ROHAČEK (Antun) KARLO, born 21/10/1942

- 150 ROHAČEK (Karlo) ŽELJKO, born 16/05/1971
151 SPUDIĆ (Ivan) PAVAO, born 17/07/1965
152 STANIĆ (Mate) MARKO, born 02/08/1958
153 STANIĆ (Niko) ŽELJKO, born 23/06/1968
154 STEFANKO (Vasilj) PETAR, born 05/05/1942
155 STOJANOVIĆ (Živko) IVAN, born 19/03/1949
156 STUBIČAR (Vladimir) LJUBOMIR, born 12/07/1954
157 ŠARIK (Štefan) STJEPAN, born 02/04/1955
158 ŠIMUNIĆ (Marko) PERO, born 30/09/1943
159 ŠINDILJ (Vladimir) VJEKOSLAV, born 01/11/1971
160 ŠRENK (Gabrijel) ĐURO, born 21/04/1943
161 ŠTEFULJ (Juraj) DRAŽEN, born 01/01/1963
162 TADIĆ (Jozo) TADIJA, born 26/08/1959
163 TARLE (Jozo) DUJO, born 06/05/1950
164 TEREK (Božidar) ANTUN, born 06/10/1940
165 TIŠLJARIĆ (Toma) DARKO, born 01/06/1971
166 TIVANOVAC (Pavo) IVICA, born 22/02/1963
167 TOMAŠIĆ (Albin) TIHOMIR, born 04/07/1963
168 TORDINAC (Ivan) ŽELJKO, born 14/12/1961
169 TOT (Eugen) TOMISLAV, born 06/06/1967
170 TRALJIĆ (Petar) TIHOMIR, born 17/07/1967
171 TURK (Petar) PETAR, born 30/06/1947
172 TURK (Antun) MIROSLAV, born 12/04/1950
173 TUSTONJIĆ (Jozo) DANE, born 10/10/1959
174 UŠAK (Martin) BRANKO, born 17/07/1958
175 VAGENHOFER (Josip) MIRKO, born 03/06/1937
176 VARENICA (Franjo) ZVONKO, born 19/05/1957
177 VARGA (Josip) VLADIMIR, born 09/08/1944
178 VASIĆ (Đorđe) MIHAJLO, born 12/12/1963
179 VEBER (Vladimir) SINIŠA, born 22/02/1969
180 VIDOŠ (Mate) GORAN, born 04/10/1960
181 VIRGES (Antun) ANTUN, born 09/06/1953
182 VLAHO (Drago) MATE, born 03/02/1959
183 VLAHO (Marko) MIROSLAV, born 30/12/1967
184 VOLODER (Ljubo) ZLATAN, born 23/11/1960
185 VUJEVIĆ (Antun) ZLATKO, born 28/10/1951
186 VUKOJEVIĆ (Josip) SLAVEN, born 23/06/1970
187 VUKOVIĆ (Rudolf) RUDOLF, born 18/11/1961
188 VULIĆ (Ante) IVAN, born 18/07/1946
189 ZERA (Vaselj) MIHAJLO, born 07/08/1955
190 ZELJKO (Danko) JOSIP, born 14/03/1953
191 ŽERAVICA (Stjepan) DOMINIK, born 11/11/1959
192 ŽUGEČ (Mato) BORISLAV, born 21/11/1963,

Thereby committing a criminal offence of War Crime against War Prisoners recognized by Article 144 of the FRY Criminal Code, in relation to Article 22 of the FRY Criminal Code.

For the foregoing reasons, I

P R O P O S E

That a public trial be scheduled and held before this Court, whereto the following subjects should be summoned:

I – War Crimes Prosecutor

II – Defendants:

Milan LANČUŽANIN

Marko LJUBOJA

Predrag MILOJEVIĆ

Božo LATINOVIĆ

Vujo ZLATAR

Goran MUGOŠA

Dorđe ŠOŠIĆ

Miroslav ĐANKOVIĆ

Slobodan KATIĆ

Nada KALABA

Milan BULIĆ

Who are to be transferred to the Court from the District Prison in Belgrade, and assisted by their defence counsels

III – Witnesses:

IV – Forensic experts

Within the evidentiary procedure the following documents should be read:

Death records for Mirko VOJNOVIĆ, Dragica MASTIKOSA and Slobodan MILIVOJEVIĆ

Files Ki 578/98 from the Military Court in Belgrade

Interrogation Records for the detainee, Spasoje PETKOVIĆ, taken by the Republic of Serbia's MUP on 18 December 2003, along with the Ruling No. Kv 1/04 of 5 January 2004, rendered by the Belgrade District Court War Crimes Chamber

Reports of the SRJ Federal Government Committee for Humanitarian Issues and Missing Persons, submitted on 3 October 1996 and 15 November 1996

Report of the Belgrade Astronomical Observatory - Institute for Astronomical Research, of 9 January 1998

Report on expert findings and opinion with supplementing data, issued by the Forensic Medical Institute in Novi Sad and dated April-May 2004

Discharge Report issued by the Military Medical Academy - Clinic for Urology

Discharge Report with Epicrisis for Vujo ZLATAR, issued by the Hospital Ward of the »Selters« Rehabilitation Institute in Mladenovac

Documents obtained from the Ministry for Foreign Affairs of Serbia and Montenegro – National Council for Cooperation of Serbia and Montenegro with ICTY

List of identified remains of the bodies exhumed at »Ovčara«

The Republic of Croatia's Government Regulation regarding captured and missing persons,

Along with the presentation of other documents attached to the court files.

Pursuant to the provision under Art. 33 Para. 6 of the Criminal Procedure Act, comprehensive proceedings should be conducted and a common judgement rendered upon this indictment and the indictment Ref. No. KTRZ 3/04, raised by this Prosecutor's Office, and further to which criminal proceedings No. K.V. 1/03 are being conducted before this Chamber, given the fact that both cases refer to the same criminal event with the available common evidence.

I further propose that detention should be extended for all of the accused.

Statement of Reasons

The existence of the criminal offence of War Crimes against War Prisoners recognized by Art. 144 of the FRY Criminal Code in the time, manner and place specified in the ordering part of this indictment, as well as the criminal responsibility of each of the defendants for the commission of this criminal offence, were established within the investigation conducted against the defendants.

Before the Investigating Judge, the defendants denied committing a criminal offence. The accused: Milan LANČUŽANIN, Marko LJUBOJA, Predrag MILOJEVIĆ and Miroslav ĐANKOVIĆ claimed that, at the time relevant to the indictment, they had been at Ovčara, where they had witnessed the captives being removed from the hangar and loaded on the tractor trailer; however, the aforementioned persons stated that, anticipating what was going to happen, they had left that location prior to the critical event. Likewise, they denied participating in the liquidation of the war prisoners, and claimed to have learnt thereof only at some later point.

The accused: Slobodan KATIĆ, Đorđe ŠOŠKIĆ, Vujo ZLATAR and Nada KALABA denied committing the criminal offence they are charged with, stating in their defence that on the day relevant to the indictment they had not been present either at Ovčara, or at the Grabovo pit. The accused, Vujo ZLATAR, claimed that at the time relevant to the indictment he had been in Serbia for a post-wounding rehabilitation treatment, whereas the accused, Đorđe ŠOŠKIĆ, claimed to have returned the weapons he had signed for and left Vukovar prior to the critical event. The accused, Nada KALABA, claimed that, at the time relevant to the indictment, she had not even known where Ovčara was, while the accused, Slobodan KATIĆ, claimed to have never visited that place.

The accused: Božo LATINOVIĆ, Goran MUGOŠA and Milan BULIĆ admitted that they had been at Ovčara, where they, with the exception of Milan BULIĆ, saw the war prisoners passing between two lines of people, who were beating them as they passed through to the hangar. The accused, Božo LATINOVIĆ, claimed not to have ordered, or himself participated in the shooting of the prisoners, while the accused: Milan BULIĆ and Goran MUGOŠA denied beating the captives, and only admitted that they, further to the JNA orders, had searched the captives at the entrance into the hangar, thereupon depositing their confiscated possessions on a pile.

However, the defence of the accused, whereby they either denied the commission of the criminal offence, or downsized their personal responsibility thereof, stands in contrast to the proposed evidence, i.e. to the results obtained within the investigation, and therefore such defence is to be rejected as unfounded, or intended

to either deny or downsize their criminal responsibility for the offence they are charged with.

Namely, further to the statement given by the witness-collaborator, Spasoje PETKOVIĆ, the herein accused individuals committed the criminal offence they are charged with, at the time and in the manner specified in the ordering part of the indictment. The time and venue of the event, the role of each of the accused in the criminal offence, as well as the manner of its commission, were detailed and clarified by the aforementioned witness-collaborator, who specifically referred to the following: how the captives were removed from the bus and made to pass through the two lines of people, when and how they were beaten, how they entered and stayed in the hangar and how they were later removed thereof. Likewise, the aforementioned witness-collaborator also specified the names of the accused individuals who ordered and performed the foregoing actions, detailing the size of the groups being loaded onto the tractor trailer and transported to the firing range, whereafter, in several consecutive turns, the tractor would return empty to pick up a new group. The same witness further specified the way in which the captives were taken out in groups for liquidation, detailing the names of the accused members of the shooting platoon who performed the executions.

On the other hand, the allegations given by the accused themselves substantiate those presented by the witness-collaborator. Thus the accused, Božo LATINOVIĆ, claims that Nada KALABA was present at Ovčara on the date relevant to the indictment, whereas the accused, Goran MUGOŠA, claims the same in respect of Slobodan KATIĆ. Likewise, the statement of the witness-collaborator coincides with the contents of the herein proposed written documents, particularly with the report on forensic findings and the report submitted by the Federal Government Committee for Humanitarian Issues and Missing Persons concerning the number of autopsies performed on the Ovčara victims, along with the data on each victim's gender and age, cause of death and the type of weapons whereby they were injured or killed.

Additionally, relevant facts related to this case are established on the basis of the evidence provided in the investigation stage, by the witnesses proposed in this indictment.

Thus, for example, witness Žarko KOJIĆ charges the accused, Goran MUGOŠA, with beating the war prisoners, while the witnesses: Dragutin BERHOVER and Emil ČIKALIĆ claim to have seen the accused, Milan BULIĆ, beating a captive both outside and inside the hangar.

The results of the investigation offer grounds for the conclusion that, at the time relevant to the indictment, in the territory of the Eastern Slavonian region – the Vukovar municipality, in the then Federal Republic of Yugoslavia, there was an

armed conflict between the JNA, Vukovar TO and volunteer units on one side, and Croatian armed forces on the other, the latter including volunteers, National Guard units, Croatian police forces, TO members, civil protection units, defenders of Croatia and persons escorting these formations. This conflict was not international by its character, given the fact that the Republic of Croatia was recognized as an independent state in the course of 1992, whereby the issue provoking the armed conflict was definitely resolved.

The conclusion arising from the files is that the herein accused individuals were members of the Vukovar TO armed forces and volunteer units, thereby constituting the latter party to the stated conflict. On the date of 18 November 1991, a number of troops within the Croatian armed forces laid down their weapons and surrendered themselves to the JNA forces, whereafter they were transferred to the Ovčara farm and subsequently taken over by the Vukovar TO members. In view of these facts, it is evident that the surrendered and captured persons had the status of war prisoners. By taking these war prisoners over from the JNA forces, the herein accused individuals, being members of the Vukovar TO forces and volunteer units and therefore constituting the opposing party to the conflict, gained full control over the war prisoners, whereupon they were obliged to treat them in accordance with the rules of international law governing the conduct of war.

Namely, the government representatives of the states participating in the Geneva Diplomatic Conference, held between 21 April and 12 August 1949 and resulting in the passage of the Convention on Protection of Civilians in a State of War, agreed and obliged themselves pursuant to Article 1 of this Convention, to universally respect and apply its provisions. Further to Article 3 of this Convention, the Signing Parties agreed that, should an armed conflict that is not international by its character break out in their territory, each party to the conflict is obliged to treat the subjects who are not directly involved in the conflict in a humane and non-discriminatory manner on all occasions. To this end, it is at all times and places forbidden to treat war prisoners, these not being directly involved in the armed conflict, in a manner infringing their life or physical integrity, which specifically refers to all kinds of killing, mutilation, brutality and torture.

Pursuant to Article 4 of the Annexed Protocol to the Geneva Conventions of 1949 (Official Gazette of SFRY, International Agreements No. 16/78), all those who are not, or have ceased to be, directly involved in hostilities, are entitled to the respect of their personal dignity, and thereby it is at any time or place forbidden to infringe their lives, health, physical or mental integrity, which specifically refers to the commission of murders, brutality, all forms of physical punishment, violation of human dignity, humiliating and degrading acts, as well as any improper attacks.

In view of this, each of the victims of the crimes the herein accused persons are

charged with, i.e. each of the captives at the Ovčara farm, had the status of »protected subjects« pursuant to the Geneva Conventions, since they, being members of one party to the conflict, surrendered their arms and placed themselves under the control of the other – TO Vukovar members.

Such a status was to have been retained until the captives' final release or repatriation, whereby the accused persons were obliged to provide the victims with certain rights arising from their status, and to guarantee them the implementation of such rights.

However, such rights were neither respected nor guaranteed by the accused, who positioned themselves in two lines and forced the captives to pass in between, beating them as they passed with objects suitable for inflicting serious physical injuries, such as metal bars, clubs and rifle butts; thereafter they continued brutalizing their victims inside the hangar building, with the intention to humiliate, torture and injure them, thus infringing their dignity and acting in contravention of Article 27 of the Fourth Geneva Convention, which prescribes humane treatment of protected subjects at all times.

Beside such breaches, all of the herein accused committed the killings of war prisoners in the manner specified in the ordering part of this indictment.

Considering the fact that the acts described by the aforementioned Convention and its Annexed Protocol are also incriminated by the national legislation further to the Convention ratification, all of the herein accused committed, in the previously described manner, a criminal offence of war crime against war prisoners recognized by Article 144 of the SFRY Criminal Code, the stated offence constituting a war crime against humanity and international law.

The defendants committed this criminal offence with direct premeditation, since they were fully aware of their act and determined to perform it, as they knew that in the particular case they were perpetrating a criminal offence against persons who had the status of war prisoners. Participating in a joint enterprise, all of the accused acted towards the achievement of a common goal, which was unlawful, thus directly taking part in the commission of the criminal offence which is the subject of the accusation act, and therefore all of the accused are to be regarded as co-perpetrators of the stated criminal offence under Article 22 of the SFRY Criminal Code.

In view of a sentence anticipated for this criminal offence, there are substantial grounds for their extended detention, pursuant to Article 142, Paragraph 1, Item 1 of the Criminal Procedure Act.

Considering the aforementioned, I find that the collected data referring to the

criminal offence and to the defendants themselves as perpetrators of this offence, offer sufficient grounds for the raising of this indictment.

WAR CRIMES PROSECUTOR

Vladimir Vukčević