



**Republic of Serbia**  
**Office of the War Crimes Prosecutor**

**DISTRICT COURT IN BELGRADE**  
**WAR CRIMES CHAMBER**

23 August 2006

Pursuant to my authority under Articles 46 §2(3), 265 §1 and 266 of the Criminal Procedure Code, I herein raise the

**I N D I C T M E N T**

Against the following persons:

SRETEN POPOVIĆ a.k.a. «Pop», from Niš, employed at the Ministry of Interior (MUP), throughout 1999 commanding a reconnaissance-diversionary platoon of the Special Police Units (PJP) – the Operational Pursuit Groups (OPJ), which formed a component of the 124th Intervening Brigade, currently assigned to the Gendarmerie in the rank of a lieutenant colonel;

MILOŠ STOJANOVIĆ a.k.a. «Šešelj», from Kruševac, police officer, throughout 1999 a section commander within the aforementioned reconnaissance-diversionary platoon of the Special Police Units – the Operational Pursuit Groups, which formed a component of the 124th Intervening Brigade, currently assigned to the Gendarmerie in the rank of a senior sergeant;

**ON THE CHARGES SET FORTH BELOW:**

In the first part of July 1999, in the course and context of, and in close relation to the armed conflict existing since January 1998 between the FRY military forces, the FRY Army and the Republic of Serbia's police forces on one side, and members of the armed military organisation called the Kosovo Liberation Army (KLA) on the other, the stated conflict not having ended by a peaceful solution;

Acting as members of a party to the conflict, namely members of the Operational Pursuit Groups, which formed a component of the PJP 124th Intervening Brigade, the herein suspected: Sreten POPOVIĆ in the capacity of OPG platoon commander, and Miloš STOJANOVIĆ in the capacity of section commander within the same platoon;

Acting in contravention of Articles 3 §1(d) and 4 §1, juncto Article 5 (treatment of war prisoners) of the Third Geneva Convention of 1949, ratified by the FPRY National

Assembly in 1950, juncto Article 76 §6 (protection of victims of noninternational armed conflicts) of the Geneva Conventions Annexed Protocol of 12 August 1949 (Protocol I); and in contravention of Article 2 §2 juncto Articles 5 and 6 (protection of victims of noninternational armed conflicts) of the Geneva Conventions Annexed Protocol of 12 August 1949 (Protocol II);

The aforementioned suspected persons deprived their victims of the right to an impartial and fair trial, namely the herein injured: Ylli Bytyqi, Agron Bytyqi and Mehmet Bytyqi, the three being members of the so-called «Athlantic Brigade», a volunteer unit formed in late March 1999 in New York (U.S.A.); the unit, consisting of 400 members – U.S.A. citizens of Albanian ethnic backgrounds, illegally crossed the border of the Republic of Albania and entered into the territory of Kosovo, whereupon, in April 1999, the unit joined one of the parties to the armed conflict, namely the KLA;

Specifically, on 8 July 1999, taking advantage of a situation when the herein injured persons were leaving the premises of the District Prison in Prokuplje, where they had completed serving a sentence previously imposed on them for a misdemeanor;

Sreten POPOVIĆ ordered Miloš STOJANOVIĆ to seize the three in front of the Prokuplje District Prison building and transfer them to a training camp based in Petrovo Selo, whereas,

Having engaged the members of his section: Aleksandar NIKOLIĆ and Dejan STAMENKOVIĆ, Miloš STOJANOVIĆ, aided and abetted by the two, seized, arrested and handcuffed the victims; subsequently, he transported the bound-handed victims to the training camp, where he delivered them to Sreten POPOVIĆ; the latter placed them in a room with a metal door inside an unfinished structure situated below the runway, wherein he held them confined until 9 July 1999; in the late evening hours of the stated date, STOJANOVIĆ handed the victims to a number of still unidentified members of the Republic of Serbia's MUP and Special Antiterrorist Units (SAJ), who, having tied them up with wire, forced the victims before a wastepit located at around 500 metres behind the training camp, thereafter discharging a number of missiles in the back of the head of each of the three, which resulted in the latters' deaths;

By their participation in the above detailed acts, the herein accused individuals, acting as co-perpetrators, committed a criminal offence recognized by Article 144 (war crime against war prisoners) of the FRY Criminal Act;

IN VIEW OF THE FORGOING, I HEREIN PROPOSE

That a public trial be scheduled and held before the War Crimes Chamber of this

Court, with the following participants to be summoned:

1. War Crimes Prosecutor;
2. The accused: Sreten POPOVIĆ and Miloš STOJANOVIĆ, to be taken from the Belgrade District Prison;
3. The witnesses:

I further propose that the detention term previously administered to Sreten POPOVIĆ and Miloš STOJANOVIĆ be extended on the grounds of Article 14 §2(5) of the Criminal Procedure Code.

#### Statement of Reasons

The existence of a criminal offence under Article 144 (war crime against war prisoners) of the FRY Criminal Act, as well as the herein accused individuals' criminal responsibility for the same, have been established through the investigation findings obtained by the investigating judge of the Belgrade District Court - War Crimes Chamber, through the records of respective investigation in the case Kri.V-2/05, through the investigation files Kri 6/01, 7/01 of the Negotin District Court, and on the grounds of the contents of written evidence contained in the files.

Interrogated within the pre-trial proceedings, both of the accused, Sreten POPOVIĆ and Miloš STOJANOVIĆ, unanimously admitted having «taken over» the victims in front of the Prokuplje District Prison building, whereof the victims had been released as they had completed a term served for a misdemeanor; according to both of the herein accused, Sreten POPOVIĆ ordered Miloš STOJANOVIĆ to arrest the victims and transfer them to the training camp held by the Republic of Serbia's MUP and based in Petrovo Selo; further to these orders, STOJANOVIĆ, along with some members of his unit whom he had engaged for assistance, took over the victims, arrested and handcuffed them; subsequently, he transported the bound-handed victims to the training camp, where he delivered them to Sreten POPOVIĆ; the latter placed them in a room with a metal door inside an unfinished structure situated below the runway, wherein he held them confined until the night when, allegedly ordered by general Đorđević, STOJANOVIĆ handed over the victims to a number of still unidentified persons.

In their justification, the herein accused individuals alleged that they had been obeying the orders issued by their superiors, unaware that the FNU LNU persons to whom they had delivered the victims were going to kill them in the immediate vicinity of the training camp.

However, such justification of the accused contradicts the evidence presented throughout the investigation, and is therefore to be dismissed as ungrounded and calculated to the evasion of criminal responsibility.

In the above described circumstances, the herein accused individuals, in their capacity of staff of the Republic of Serbia's MUP, engaged in the acts of «summoning» and «detaining and provisional restriction of movement», as defined by the then applicable Act on Interior Affairs; while engaging in the stated acts, the herein accused administered force upon the victims, whom they handcuffed, forced into a vehicle and subsequently transported to Petrovo Selo, whereafter the victims were locked up in a provisional storage room and held confined. By undertaking such activities without their superiors' written order or a relevant court's decision, the herein accused individuals denied basic human rights and freedoms to the victims while wilfully disrespecting the usual, constitutionally and legally determined procedure, as well as the standards established by the European Convention on Protection of Human and Basic Freedoms.

In view of the above, the fact that the accused acted further to the orally issued orders of their superiors does not exculpate the accused from responsibility for their omissions.

Considering the fact that the victims were members of the so-called «Atlantic Brigade», a volunteer unit formed in New York by U.S. citizens mainly of Albanian descent; and considering the fact that members of this brigade, having illegally crossed the state border, i.e. having left the Republic of Albania to enter into the territory of Kosovo, joined the KLA and actively participated in military actions against the Serbian forces and OPG PJP members, among whom were the herein accused;

At the moment of their being seized at a police checkpoint, the victims were in the possession of the following: KLA-issued personal documents with their photographs in KLA uniforms; three metal tags, i.e. KLA military identification tags; their photographs in KLA uniforms; and two travel documents, again with the victims' photographs in KLA uniforms, issued by the Albanian Embassy to the U.S.A. The above listed documents clearly indicated the victims' affiliation with a party to the conflict and their ethnicity.

It is an established fact that the accused «took over» the victims along with the documents and personal possessions found with them; the action was detailed in three Records on the seizure of objects, made by the Prokuplje District Prison authorities; the Records, dated 27 June 1999, contain the official note of 8 July 1999, stating that the seized objects, unambiguously identifying the victims as a party to the conflict, had been returned. This particular fact leads to a clear conclusion that

the herein accused individuals, being aware of the victims' affiliation with one of the conflicted parties, undertook the activities as detailed in the enacting terms hereof; namely, the victims were seized and detained on the grounds of the assumption that their belonging to the opposite party represented a menace to the Serbian forces in the whole, as well as on the grounds of their Albanian ethnic identity.

In their specific capacity of war prisoners, the herein injured persons had a status of «protected persons» under the Geneva Conventions, such a status being stipulated by Article 4 (1) of the Geneva Convention III, wherein war prisoners are defined as such members of parties to a conflict who, at any time and in any manner, have been captured by the opposite party and thereby fallen under the control of the enemy, in this case of the Serbian armed forces.

In respect of the definition above, the herein accused were obligated to grant the victims, i.e. protected persons, certain rights arising from and warranted by their protected status.

The application of International Humanitarian Law in this particular case is not challenged by the fact that the capturing of the victims and the subsequent crime committed against them occurred in a territory that was not immediately affected by the armed conflict, given the fact that the crime was closely related to the hostilities, and committed within the context of the armed conflict being underway in Kosovo; likewise, the application of the stated Law remains unchallenged by the time distance, i.e. by the fact that the particular event occurred following the conclusion of the Military – Technical Agreement on Suspension of Hostilities in Kosovo.

Namely, the duration of a protected status warranted to war prisoners is addressed by Article 5 of the Convention, wherein it is expressly prescribed that the Convention shall apply to persons from Article 4 as of the moment of their being taken captive, up to their final release and repatriation, i.e. their return to the homeland; furthermore,

Article 75 (6) of Protocol I explicitly states that persons arrested, detained or interned for the reasons related to an armed conflict shall be granted full protection as anticipated by this Article, up to their final release, repatriation or relocation, even following the termination of the armed conflict; additionally, Article 2 (2) of Protocol II prescribes that persons who have been deprived of liberty or whose liberty has been restricted following a conflict, shall for the same reasons be granted a protected status.

The victims' capacity of war prisoners implies that they were entitled to all rights granted to war prisoners, including that to a regular and impartial trial. Pursuant to the Geneva Conventions, this primarily refers to the victims' right that, in the case of

any such uncertainty, their capacity be determined by a competent court, whereas no punishment is to be pronounced or executed on them prior to a trial conducted on the part of a regular court.

Contrary to the above, the victims were killed, evidently as a punishment for their capacity and possible involvement in the war activities. At all times relevant to this Indictment, from the moment of the victims' seizure in front of the prison building, through their confinement at the training camp, to their delivery to FNU LNU persons in the midst of the night and their subsequent execution, the herein accused individuals engaged in the enforcement of a punishment without a previous regular court's trial, whereby the victims' right to a correct and fair trial was infringed. By acting in the described manner, the herein accused individuals committed a war crime under Article 144 of the Basic Criminal Act.

Consequently, proofs of concrete and individual activities performed by each of the herein accused are grounded on the established objective circumstances, whereby, along with the facts and circumstances disclosed in the proposed witnesses' statements, it has been established that such activities contain all relevant elements of the criminal offence under Article 144 (war crime against war prisoners) of the FRY Criminal Act.

WAR CRIMES PROSECUTOR  
*Vladimir Vukčević*