



Republic of Serbia
Office of the War Crimes Prosecutor

DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER

28 November 2007

Pursuant to my authority under Article 46 (2.3) re Articles 3 and 4(2) of the Act on Organisation and Competence of State Authorities in War Crimes Proceedings, I raise this

INDICTMENT

Against the following individuals:

1 LJUBAN DEVETAK, born in Lovas, Vukovar municipality (Republic of Croatia), on 17 March 1947; citizen of Serbia; completed a secondary school of economics and employed as an economic technician; married and father of two; has no criminal record; no other criminal proceedings are being conducted against him; currently in detention further to the ruling Ki.V7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, effective as of 28 May 2007, when he was deprived of liberty.

2 MILAN DEVČIĆ, born in Lovas, Vukovar municipality (Republic of Croatia) on 23 January 1962; citizen of Serbia; completed a secondary school where he trained as a police officer; married and father of two; no criminal record; no other criminal proceedings conducted against him; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 29 May 2007, when he was deprived of liberty.

3 MILAN RADOJČIĆ, born in Vukovar (Republic of Croatia) on 8 July 1959; citizen of Serbia; university graduate in economics; married and father of two; no criminal record; no other criminal proceedings conducted against him; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 28 May 2007, when he was deprived of liberty.

4 ŽELJKO KRNJAJIĆ, born in Lovas, Vukovar municipality (Republic of Croatia) on 20 July 1960; citizen of Serbia; completed a secondary school where he trained as a machine technician; married and father of three; lives on a disability allowance; no criminal record; no other criminal proceedings conducted against him; pursuant to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, KRNJAJIĆ was held in detention since 28 May 2007, when he was deprived of liberty, until 24 September 2007, when he was released further to the said ruling.

5 MIODRAG DIMITRIJEVIĆ, born in Kruševac on 27 February 1939; citizen of Serbia; completed military academy, where he trained as an army officer; awarded several decorations and retired in the rank of lieutenant colonel; lives on a military pension; previously convicted for the criminal offence recognised by Article 195(3) (threat to traffic safety) of the Republic of Serbia's Criminal Act; received a fine penalty which was subsequently suspended; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 29 May 2007, when he was deprived of liberty.

6 DARKO PERIĆ, born in Valjevo on 5 August 1954; citizen of Serbia; grammar school graduate and owner of a business; married and father of two; lives on his business; previously convicted for the criminal offence recognised by Article 233(1) of the Republic of Serbia's Criminal Act; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 29 May 2007, when he was deprived of liberty.

7 RADOVAN VLAJKOVIĆ, born in village Stanina Reka (Valjevo municipality) on 22 August 1958; citizen of Serbia: a college of mechanics graduate, employed as a machine engineer; married and father of two; no criminal record; pursuant to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, VLAJKOVIĆ was held in detention since 29 May 2007, when he was deprived of liberty, until 24 September 2007, when he was released further to the said ruling.

8 RADISAV JOSIPOVIĆ, born in Valjevo on 9 June 1959; citizen of Serbia; completed a secondary school of economics and employed as an economic technician; no criminal record; no other criminal proceedings conducted against him; pursuant to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, JOSIPOVIĆ was held in detention since 29 May 2007, when he was deprived of liberty, until 24 September 2007, when he was released further to the said ruling.

9 JOVAN DIMITRIJEVIĆ, born in Zemun on 6 June 1961; citizen of Serbia; qualified as a milling machine operator; married; unemployed; no criminal record or other criminal proceedings conducted against him.

10 SAŠA STOJANOVIĆ, born in Belgrade on 8 January 1967; completed a college of mechanics, now employed as a machine engineer; married and father of a minor; no criminal record; no other criminal proceedings are being conducted against him.

11 DRAGAN BAČIĆ aka Pljoka, born in village Bačići (Vlasenica municipality) on 25 May 1961; completed eight years of primary education; unskilled worker, currently unemployed, has no income; convicted three times for fraud and theft, and duly served his terms; currently under way in Novi Sad is another criminal proceeding against him, for another criminal offence of the kind; pursuant to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, BAČIĆ was held in detention since 28 May 2007, when he was deprived of liberty, until 24 September 2007, when he was released further to the same ruling.

12 ZORAN KOSIJER, born in Ruma on 5 March 1966; completed a primary school and a training course for waiters; citizen of Serbia; married and father of two; lives on a disability allowance; no criminal record; no other criminal proceedings under way; pursuant to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, KOSIJER was held in detention since 28 May 2007, when he was deprived of liberty, until 24 September 2007, when he was released further to the same ruling.

13 PETRONIJE STEVANOVIĆ, a.k.a. Petronije, a.k.a. Pera Vaška, born in village Brežani (Srebrenica municipality, BH) on 29 September 1952; completed a primary school; formerly worked as a driver, now unemployed; married and father of two; convicted 5 times and duly served his terms; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 28 May 2007, when he was deprived of liberty.

14 ALEKSANDAR NIKOLAIDIS a.k.a. Aca Konj a.k.a. Aca Grk, born in Pančevo on 21 August 1959; citizen of Serbia; completed a primary school and two years of secondary education; formerly employed as an unskilled locksmith, now unemployed; unmarried; convicted 8 times and duly served his terms; no criminal proceedings under way; currently in detention further to the ruling Ki.V.7/07 of 30 May 2007, rendered by the investigative judge of the District Court in Belgrade – War Crimes Chamber, the ruling being effective as of 28 May 2007, when he was deprived of liberty.

GENERAL ALLEGATIONS AND CHARGES

I

The accused:

Ljuban DEVETAK, Milan DEVČIĆ, Milan RADOJČIĆ and Željko KRNJAJIĆ, in their capacity as members of the local civilian and military authorities;

Miodrag DIMITRIJEVIĆ, Darko PERIĆ, Radovan VLAJKOVIĆ and Radisav JOSIPOVIĆ, in their capacity as members of the territorial defence force, which was subordinate to the 2nd Proletarian Guards Motorised Brigade (2.PGMBR), a component of the then Yugoslav People's Army (JNA); and

Petronije STEVANOVIĆ, Aleksandar NIKOLAIDIS, Dragan BAČIĆ, Zoran KOSIJER, Jovan DIMITRIJEVIĆ and Saša STOJANOVIĆ, in their capacity as members of the volunteer armed group which called itself »Dušan Silni«

Are criminally responsible for serious breaches of the rules of international law, which are contained in the Fourth Geneva Convention on protection of civilians in warfare (Geneva Convention IV of 12 August 1949), and in its Additional Protocol on protection of victims in noninternational (internal) conflicts (Protocol II). Those breaches were committed throughout October and November 1991, during the internal armed clashes that existed in the Socialist Federal Republic of Yugoslavia (SFRJ), at the time an internationally recognised state. Parties to the conflict were the JNA forces with other armed groups under their command and control, and organised armed units of the Republic of Croatia (at the time one of the SFRJ federal units), which included members of the National Guard Assembly (ZNG) and Police force (MUP). At the time specified above, the individuals charged by this indictment were involved in the events which took place in village Lovas (Republic of Croatia), specifically:

The accused: Ljuban DEVETAK, Milan DEVČIĆ, Milan RADOJČIĆ and Željko KRNJAJIĆ engaged in a joint random attack on the village and the local civilians, who were not directly involved in the armed conflict. Through his initial contacts with some of the leaders of the Serbian National Renewal Party (SNO) in early October 1991, Ljubo DEVETAK managed to attract and organise a number of the party's members and followers, as well as some locals, among whom were Milan DEVČIĆ, Milan RADOJČIĆ and Željko KRNJAJIĆ. Those people constituted a newly formed armed group of volunteers, whose task was to launch an armed attack on Lovas, although they knew that the village was unprotected and that there were no Croat troops to offer resistance. After a group of around 60 volunteers had assembled in Nova Pazova and Šid, where the local territorial defence organisation supplied

them with infantry weapons and other equipment, Ljuban DEVETAK organised their transfer to Tovarnik. Along with members of the local territorial defence and police forces commanded by Željko KRNJAJIĆ, they formed a single combat unit that attacked the village in the morning of 10 October 1991. Among others participating in the attack were Milan DEVČIĆ, Milan RADOJČIĆ, Željko KRNJAJIĆ and several other, still unidentified, inhabitants of Lovas. Being familiar with the access routes and the site itself, these local people directed the advancement of the armed unit, which moved in smaller groups. In a state of chaos caused by their entry into the village, part of the unit opened uncontrolled random fire from their rifles, threw bombs into courtyards, houses, cellars and other premises, killed some of the civilians whom they found inside the houses, cellars and other facilities, whereas they removed others from their homes to subsequently kill them in the streets or elsewhere. In the aftermath of this indiscriminate and unjustified attack, 21 civilians were killed, whereas a number of civilian residential buildings and other facilities were damaged or destroyed. The names of those killed in the described attack are set forth below:

1. Mirko GRGIĆ
2. Mato ADAMOVIĆ
3. Danijel BADANJAK
4. Cecilija BADANJAK
5. Antun JOVANOVIĆ
6. Anka JOVANOVIĆ
7. Katarina PAVLIČEVIĆ
8. Juraj POLJAK
9. Josip KRALJEVIĆ
10. Alojzije POLIĆ
11. Mato KESER
12. Josip POLJAK
13. Ivan OSTRUN

14. Drago PEJIĆ
15. Mijo BOŽIĆ
16. Tomo SABLJAK
17. Vido KRIZMANIĆ
18. Stipe MAĐAREVIĆ
19. Pava ĐAKOVIĆ
20. Stipe PEJIĆ
21. Živan ANTOLOVIĆ.

By their participation in the described attacks, the accused: Ljuban DEVETAK, Milan DEVČIĆ, Milan RADOJČIĆ and Željko KRNJAJIĆ committed grave breaches of Article 3 of Geneva Convention IV, and Article 13 (1,2) re Article 4 (1, 2a) re Article 2 (1) of Protocol II to this Convention.

II

Upon the seizure of village Lovas, the accused: Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ established a new local government composed of civilian and military elements. Though formally director of the local agricultural community, Ljuban DEVETAK held a key position of informal, yet de facto (real) supreme village authority with almost unlimited power. Milan DEVČIĆ seized the position as police commander, whereas Milan RADOJČIĆ took command over the Lovas territorial defence force. In the subsequent period, namely until the former part of November 1991, the three issued a series of (informal) orders that were based on the criteria of ethnic origin and political commitment. As a result, humiliating and discriminatory measures were introduced against the non-Serb population (most of whom were Croats), who were obligated to mark their houses with white towels, wear white cloths around their sleeves, and respond to labour duty in return for minimal compensation and under armed supervision; moreover, they were denied freedom of movement since the village was placed under curfew. In such circumstances, the herein accused individuals, who had ultimate responsibility in the newly established local government, were supposed to conduct fair and lawful interrogations of those reasonably suspected of hiding firearms, or behaving in a manner that posed a threat to general safety. Likewise, they had a responsibility to prevent and investigate any crimes committed against civilians. However, Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ failed to fulfil their duties and responsibilities. Aided and abetted

by individuals from all of the three armed groups – territorial defence, police and the volunteer unit that called itself Dušan Silni – they ordered unlawful hauls, arrests and interrogations of civilian persons, who got tortured and mutilated in the process, whereas Ljuban DEVETAK also ordered killings. Alternatively, they failed to prevent others from such acts, whereby they encouraged, instigated and supported such behaviour.

By the foregoing acts and omissions, Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ committed grave breaches recognised by Article 3 of Geneva Convention IV, and by Article 13 (2,1) re Article 4 (1) (a,e,h) re Article 2 (1) of the Convention's Protocol II. Specifically:

a) The accused, Ljuban DEVETAK instigated some members of the armed group that called itself Dušan Silni to engage in the following:

- killing of a number of civilian persons, among whom was Snežana KRIZMANIĆ, a female local inhabitant. Ljuban DEVETAK urged Aleksandar NIKOLAIDIS to kill her (...«take her away, fuck and kill her»), which, however, the latter did not do. On another occasion, asked by three members of the said armed group (a.k.a. Aždaja, a.k.a. Kosta and a.k.a. Nikola) what they should do with citizen Zvonko MARTINOVIĆ, whom they had captured, DEVETAK answered: ... »Do whatever you are supposed to do«, whereafter this civilian did get killed by unidentified members of this armed group and found dead in the village on the subsequent day.

- removal and hiding of a number of civilians, who had previously been brutally beaten, ahead of the arrival of the new military command; later that day (18 October), all of those civilians – Đuro KRIZMANIĆ, Alojz KRIZMANIĆ, Darko PAVLIĆ, Željko PAVLIĆ, Franjo PANDŽA, Marko DAMJANOVIĆ, Andrija DEVČIĆ and Stipo DOLAČKI – were killed by unidentified members of this group.

- beating, torturing and mutilating of the civilians who had attended a HDZ rally earlier organised in Lovas. On 17 October 1991, Ljubo DEVETAK presented the audio/video recording of the rally to some members of the aforementioned armed groups, whereafter, in the night between 17 and 18 October 1991, a list was made comprising the names of those who had been seen in the recording and who had already been illegally arrested and held confined in the courtyard of the farm community. The next morning, on 18 October 1991, the listed civilians were removed into the engineering workshop inside the courtyard and, in the presence of Ljuban DEVETAK, got severely beaten by most of those who had watched the recording. Among those listed and subsequently beaten were Ivica ĐAKOVIĆ, Ivan KRALJEVIĆ, Boško BOĐANAC, Marin MAĐAREVIĆ, Nikola BADANJAK, Zlatko TOMA, Berislav FILIĆ, Marko FILIĆ, Željko SOMBORAC, Mato HODAK, Tomo SABLJAK, Ivan SABLJAK, Marko SABLJAK, Marko VIDIĆ, Luka BALIĆ, Josip

TURKALJ, Mijo ŠALAJ, Emanuel FILIĆ and others. During that same morning in the courtyard, DEVETAK called out the detainees and divided them into two groups. One group were sent to labour in the community workshop, whereas the other were told that they would go to the vineyards to »pick up grapes«. Having noticed a visibly injured Đuka LUKETIĆ among other civilians present in the group, DEVETAK ordered him and a.k.a. Kosta (a member of armed group Dušan Silni) to fetch Đuka's father and brother, namely Petar and Ante LUKETIĆ. After the two were fetched, several members of the same armed group (a.k.a. Petronije, a.k.a. Kosta and a.k.a. Marko), observed by Ljuban DEVETAK, severely beat and otherwise tortured the LUKETIĆ father and his two sons. The three victims were subsequently removed from the courtyard and killed in the village later that day.

b) As he was interrogating the civilian persons whom he had unlawfully arrested, the accused, Milan DEVČIĆ, beat, physically injured and threatened them with liquidation or displacement. Concurrently, he allowed and encouraged individuals from the aforementioned armed groups to beat and injure the victims in his presence. Thus, he:

- Broke the jaw of Đuro ANTOLOVIĆ by hitting him with a boxer;
- Hit Marko GRAČANAC with a police baton in the head, whereafter he forced the victim to lick his blood off the table;
- Intimidated Đuka RADOČAJ by threatening to arrest and butcher both him and his mother;
- urged Marko FILIĆ to move with his family out of their home, with no legal grounds or tangible reason;
- allowed individuals from the aforementioned armed groups to hit with rifle butts and kick Đuro FILIĆ, and did not prevent them from doing so; likewise, when they toppled Franjo PANDŽA on the floor and stamped on him, DEVČIĆ swore the victim's »Ustashi mother«.

c) In the course of the unlawful arrests and interrogations of a number of civilians, the accused, Milan RADOJČIĆ, brutalised Anton KRIZMANIĆ by kicking him in the back;

moreover, instead of preventing the abuses, RADOJČIĆ allowed several members of the aforementioned armed groups to physically torture Đuro ANTOLOVIĆ, while he observed the scene. Additionally, on the day of the civilians' departure for the minefields, he sought volunteers who would act as armed guard of »the Croats, who know where the minefields are.«

By their overall behaviour, which included acts and omissions as described above, the accused: DEVETAK, DEVČIĆ and RADOJČIĆ instigated and encouraged a number of still unidentified members of the aforementioned armed groups, who, in the circumstances and at the time relevant to this indictment, killed a total of 27 persons on different locations in the village. The names of the killed are as follows:

1. Darko PAVLIĆ
2. Željko PAVLIĆ
3. Anton LUKETIĆ
4. Đuka LUKETIĆ
5. Petar LUKETIĆ
6. Alojz KRIZMANIĆ
7. Đuro KRIZMANIĆ
8. Andrija DEVČIĆ
9. Stipo DOLAČKI
10. Marko DAMJANOVIĆ
11. Franjo PANDŽA
12. Ivan VIDIĆ
13. Stjepan LUKETIĆ,

All of whom had previously been unlawfully arrested and then removed from improvised prison facilities, and

14. Slavica PAVOŠEVIĆ
15. Jozefina PAVOŠEVIĆ
16. Marija PAVOŠEVIĆ
17. Ana LEMUNOVIĆ

18. Josip RENDULIĆ
19. Božo VIDIĆ
20. Marin BALIĆ
21. Katarina BALIĆ
22. Rudolf JONAK
23. Marija FIŠER
24. Zoran KRIZMANIĆ
25. Josip JOVANOVIĆ
26. Zvonimir MARTINOVIĆ
27. Petar RENDULIĆ,

Who were killed either in their homes or after being removed thereof.

III

The accused: Ljuban DEVETAK, Milan DEVČIĆ, Milan RADOJČIĆ, Miodrag DIMITRIJEVIĆ, Darko PERIĆ, Radovan VLAJKOVIĆ, Radisav JOSIPOVIĆ, Jovan DIMITRIJEVIĆ, Saša STOJANOVIĆ, Dragan BAČIĆ and Zoran KOSIJER committed serious breaches of Articles 3 and 28 of Geneva Convention IV, Article 13 (1,2) re Articles 1 and 2(a,e,h) re Article 2 (1) of Protocol II to this Convention, specifically:

In the period between 14 and 18 October 1991, Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ, in their capacity as supreme local government representatives, held a number of joint meetings with the accused, Miodrag DIMITRIJEVIĆ, a member of the Valjevo territorial defence zone staff, who had been appointed coordinator of combat activities for villages Lovas, Čakovci and Opatovac. DIMITRIJEVIĆ, who held this office in the period between 10 and 19 October 1991 and was based in Lovas throughout the time between 14 and 19 October 1991, was misinformed by Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ that part of the Croat civilian population engaged in nightly skirmishes and maintained contacts with Croat paramilitary groups outside the village, whereby they allegedly posed a threat to public safety and to the government efficiency. By suggesting that tougher measures be applied against such occurrences, DEVETAK, RADOJČIĆ and DEVČIĆ encouraged Miodrag DIMITRIJEVIĆ to issue a number of unlawful orders,

either independently or in concert with others. On his part, DIMITRIJEVIĆ failed to ascertain the received information either personally or through military intelligence services, which was his duty and which would have enabled him to establish the actual facts, namely the consequences arising from the attacks launched on a daily basis against the civilian population and their property. Instead of taking any measures within the scope of his competence in order to prevent such abuses, Miodrag DIMITRIJEVIĆ accepted all allegations and suggestions uncritically and without verification. Thus,

- On completion of a meeting held on 15 October 1991, DIMITRIJEVIĆ issued a »last warning to citizens«, which was publicly announced on posters. The warning contained suggestions of intimidation, terror and retaliation, as well as threats of mass evacuations, destructions of public and personal property and military court trials against any »suspicious« and captured members of »Ustashi« organisations or their harbourers;

- Two days later, i.e. in the morning of 17 October 1991, DIMITRIJEVIĆ held a meeting with Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ, where they jointly formulated the order for the compulsory gathering of all male citizens aged between 18 and 65 in front of the farm community building. The men were summoned on the pretext that it was necessary to establish if someone of them engaged in the armed provocations which allegedly occurred every night. In response to the order, which was publicly read out in the streets, around 70 men assembled at the place specified. Further to the orders issued by DIMITRIJEVIĆ, parts of the armed group known as Dušan Silni and those of the anti-sabotage company (a component of the Valjevo territorial defence force, who had, further to DIMITRIJEVIĆ's invitation, arrived in Lovas earlier that day), carried out individual searches of the locals at the courtyard entry. After being searched, the men were forced into the enclosed compound of the farm community and told that they would spend the night sitting still on rows of wooden benches. The men were thus unlawfully confined in the courtyard, where armed members of the aforementioned units guarded them and occasionally terrorised some of the captives by slapping them in the face. In the morning of 18 October, some members of armed group Dušan Silni (a.k.a. Petronije, a.k.a. Aca Konj, a.k.a. Nikola, a.k.a. Marko, a.k.a. Bokser etc.) engaged in the physical tortures and maltreatment of around 20 persons out of the total number of the civilian captives, by hitting them with rifle butts, metal bars and lengths of electric cable.

- In the evening of the same day, i.e. 17 October 1991, the aforementioned individuals held a meeting that was also attended by the accused Darko PERIĆ. The meeting resulted in a joint decision that on the following day, i.e. 18. October, a combined armed group consisting of members of the sabotage company (part of the Valjevo territorial defence), armed group Dušan Silni and several locals acting as guides

should carry out the reconnaissance and search operation throughout the area. The operation also involved participation of the local Croats who had been unlawfully detained the previous night, and who were supposed to act as a human shield. The decision, formally made as DIMITRIJEVIĆ's order, was carried out by the herein accused individuals, although they knew that some of those locations had been mined by the engineering unit of the 2nd Guards Motorised Brigade a few days earlier.

The accused: Darko PERIĆ, a reserve first-class captain and commander of the anti-sabotage detachment – part of the Valjevo territorial defence; Radovan VLAJKOVIĆ, a reserve colonel and commander of the anti-sabotage company; and Radisav JOSIPOVIĆ, reserve colonel and deputy commander of the same company – a component of the aforementioned detachment, are criminally responsible for the event addressed by this indictment, in the manner as set forth below:

Darko PERIĆ, who was present at the meeting with DIMITRIJEVIĆ and received the order issued thereby, passed the order to his subordinates, VLAJKOVIĆ and JOSIPOVIĆ. When the two protested saying that they had not been trained for such operations, PERIĆ remained determined that DIMITRIJEVIĆ's order be executed. Moreover, he extended the order specifying that fire ought to be opened at anyone who might attempt to take flight. Eventually, VLAJKOVIĆ and JOSIPOVIĆ gave in, although they were aware of the fact that the order itself, as well as its execution, were unlawful and impermissible, and that such an act might result in massive losses of human lives and physical integrity.

The destructive effects likely to result from such an operation were also known to the accused members of armed group Dušan Silni: Jovan DIMITRIJEVIĆ, Saša STOJANOVIĆ, Dragan BAČIĆ and Zoran KOSIJER, who, ordered by noone and acting on their own initiative, joined the armed escort along with Mijo VUKOSAVLJEVIĆ and Slobodan HRNJAKI a.k.a. »Sajdžija« (both of whom have deceased). On 18 October 1991 at around 10 a.m., the herein accused individuals formed a column of around fifty captured civilians, whom they forcefully took towards the village outskirts, in the direction of Borovo factory. The column was moving under armed escort consisting of around forty members of the herein accused's company, six aforementioned members of armed group Dušan Silni, and two local residents accompanying them as guides. As they headed for the village border, the armed men were positioned on both sides of the civilians, who were moving between them. Once outside the village, the order was reversed, i.e. the civilians were moving on the sides, whereas their armed escorts were in the middle. At one point, a still unidentified armed security guard killed Boško BOĐANAC, who, having been brutally beaten in the community courtyard during the previous night and earlier that morning, was unable to proceed. As the group reached a clover field outside the village, they suspected that it might be mined. The accused, Radovan

VLAJKOVIĆ, ordered the civilians to make a line, join hands and move frontally across the field; he also instructed the captives to shuffle through the clover by dragging their feet to the left and right, and to stop if they saw a mine. As the civilians advanced across the field, their armed guards were moving behind them, at what they estimated to be a safe distance. At one point, one of the civilians, Ivica KRALJEVIĆ, who had previously been heavily beaten and injured, fell over a mine, which triggered off a series of explosions. In the chaotic situation that followed, a number of armed guards opened rifle fire on the unprotected civilians. In the aftermath of both the explosions and shooting, twenty civilians were killed, namely the following persons:

1. Marijan MARKOVIĆ
- 2 . Tomislav SABLJAK
- 3 . Darko SOLAKOVIĆ
- 4 . Ivan PALIJAN
- 5 . Zlatko PANJIK
- 6 . Slavko KUZMIĆ
- 7 . Ivan SABLJAK
- 8 . Mijo ŠALAJ
- 9 . Ivan KRALJEVIĆ
10. Petar BADANJAK
11. Zlatko BOŽIĆ
12. Antun PANJIK
13. Marko VIDIĆ
14. Luka BALIĆ
15. Marko SABLJAK
16. Mato HODAK

17. Nikola BADANJAK

18. Ivan CONJAR

19. Slavko ŠTRANGAREVIĆ and

20. Josip TURKALJ,

Whereas twelve sustained major or minor bodily injuries, namely:

Stjepan PEULIĆ, Stanislav FRANJKOVIĆ, Ivan MUJIĆ, Zlatko TOMA, Ljubo SOLAKOVIĆ, Josip GERSTNER, Mato KRALJEVIĆ, Josip SABLJAK, Emanuel FILIĆ, Milko KESER, Milan RADMILOVIĆ and Marko FILIĆ.

IV

The accused: Petronije STEVANOVIĆ and Aleksandar NIKOLAIDIS committed grave breaches of Article 3 of Geneva Convention IV, Article 13 (2) re Article 4 (1) and (2)(a,e,g) re Article 2 (1) of Protocol II to the Convention. Specifically:

On 10 October 1991, acting as members of the armed group of volunteers who called themselves Dušan Silni, the herein accused individuals participated in the attack on village Lovas, in the course of which they randomly threw bombs on a number of houses and courtyards, opened uncontrolled fire from their infantry weapons, pulled civilian persons out of their homes and took them away. Some of those persons, among whom was Mato ADAMOVIĆ, were later found dead. Furthermore, STEVANOVIĆ and NIKOLAIDIS robbed ADAMOVIĆ's wife and daughter-in-law of their money and gold jewellery to a total value of 10,000 Deutschmarks at the time. Throughout the subsequent period until mid-November of the same year, STEVANOVIĆ and NIKOLAIDIS engaged in the unlawful hauls, arrests, abuses and maltreatment of a number of civilian persons. Their brutal behaviour towards the civilians who were unlawfully confined in the farm community courtyard was particularly manifest in the morning of 18 October 1991, when, aided and abetted by a number of still unidentified members of the same armed group, they brutalised some of those civilians by beating them with riffle butts, metal bars and lengths of electric cable. Among those beaten were Ivica ĐAKOVIĆ, Ivan KRALJEVIĆ, Boško BOĐANAC, Marin MAĐAREVIĆ, Nikola BADANJAK, Zlatko TOMA, Berislav FILIĆ, Marko FILIĆ, Željko SOMBORAC and many others. Furthermore, the herein accused individuals ordered one of the local men to rob the captives of their money and other valuables. The most notorious for his brutality was the accused, Petronije STEVANOVIĆ, who stabbed a number of civilians in various parts of the body, among whom were Pero, Ante and Đuka LUKETIĆ, Ivan VIDIĆ, Ivica ĐAKOVIĆ, Zlatko TOMA, Boško BOĐANAC etc. Additionally, STEVANOVIĆ severely beat

Josip TURKALJ and cut his long hair with a knife, whereby he stripped the victim of his human dignity.

By their participation in the above described acts, all of the individuals accused in this indictment jointly committed the criminal offence recognised by Article 142 (1) (war crime against civilian population) of the FRY Criminal Act re Article 22 of the same Act.

In consideration of the foregoing, I PROPOSE that a trial be held before this Court, in view of its territorial, real and functional competence, whereto the following participants should be summoned:

1 The War Crimes Prosecutor of the Republic of Serbia;

2 The accused: Ljuban DEVETAK, Milan DEVČIĆ, Milan RADOJČIĆ, Miodrag DIMITRIJEVIĆ, Darko PERIĆ, Petronije STEVANOVIĆ, Aleksandar NIKOLAIDIS (all of whom are currently being detained in the Belgrade Central Prison), Željko KRNJAJIĆ, Radovan VLAJKOVIĆ, Radisav JOSIPOVIĆ, Dragan BAČIĆ, Zoran KOSIJER, Jovan DIMITRIJEVIĆ and Saša STOJANOVIĆ;

3 The injured parties – close relatives of the killed civilians;

4 Witnesses – injured parties:

5 Witnesses:

In addition to the foregoing, I PROPOSE that copies of the following documents be presented and read out during the trial:

- List of the exhumed bodies of Lovas inhabitants, along with the exhumation and identification records;
- Expert findings and opinions submitted to the Vukovar District Court, regarding the causes of the deaths of the persons whose bodies were exhumed from the mass grave site in Lovas;
- Report on the damage caused to St. Archangel Michael's Church in Lovas;
- List of wounded and physically tortured Lovas inhabitants, made by the Vukovar Police Headquarters and submitted to the Osijek District Court on 25 February 1993;
- Minutes taken during the village representatives' meetings with officials of the Serbian autonomous district of Slavonija, Baranja and Western Srem, held on 30

October and 3 November 1991;

- Personnel records of the Lovas territorial defence main staff and platoon, and those of the local community staffs;
- Certificates of membership for 21 volunteers serving in the Lovas territorial defence force;
- List of Lovas inhabitants killed in the minefield outside the Lovas farm community on 18 October 1991, made by the president of the Lovas local community
- List of civilians injured in an antipersonnel mine explosion on 18 October 1991;
- Documents obtained from the Military Archives;
- Record of activities entitled »Some indicators from logbooks«;
- ICTY investigator's records on interrogations conducted with persons who have deceased in the meantime, namely with: Mato KRALJEVIĆ (interrogated on 2 February 1996), Slavko LUKETIĆ (interrogated from 4 to 7 February 1996), Đuka RADOČAJ (interrogated on 4 February 1996), Marko FILIĆ (interrogated on 10 and 11 February 1996), and Andrija BALIĆ (interrogated on 11 and 12 March 1996); Witness statements provided by Janko BOŽIĆ and Nikola KRIZMANIĆ (both of whom have also deceased), during the proceedings conducted before the Vukovar District Court in case No. K 25/00;
- Reports on the herein accused individuals' criminal records.

Ultimately, I PROPOSE that insight be made into the video and photo recordings made at the scene of the event on 22 November 2007.

Statement of reasons

All facts and circumstances that are relevant to this indictment – and, as such, specified in its enacting terms – were established in the course of a close investigation into the events addressed thereby.

Namely, in the latter part of 1991, a state of armed conflict existed in the Republic of Croatia, which was at the time one of the SFRY republics and, formally, still a federation member. The conflict involved the armed formations of the Yugoslav People's Army (JNA), which were controlled and commanded thereby, and organised armed formations of the Republic of Croatia, which included the National Guard Assembly (ZNG) and police units (MUP).

In view of the rules of international law contained in Geneva Convention IV of 12 August 1948, which governs the protection of civilians in wartime; and those contained in the Additional Protocols to this Convention (Protocols I and II), the conflict at issue had a character of a noninternational (internal) armed conflict.

The attack on Lovas and the subsequent seizure of control over this village and its surrounding territories was only one of the military operations launched by the JNA over a larger area that included villages Tovarnik, Sotin and several others. Those operations were conducted in the framework of the event unofficially referred to as the »Vukovar Operation«. Before the breakout of the armed clashes, Lovas had a total of cca. 1,600 inhabitants, out of whom over 86 percent were ethnic Croats, cca. 8 percent were Serbs, whereas the rest declared themselves as Yugoslav or other nationalities. The village is situated in the Republic of Croatia, or more specifically in the Eastern Slavonian region, in close proximity to the border with Serbia (Western Srem) .

The foregoing facts and circumstances are generally known and therefore do not need to be explicitly corroborated by independent evidence.

The enacting terms of this indictment offer a detailed account of the following: the manner in which the attack on Lovas was planned, organised and carried out; its perpetrators and the resulting consequences for the civilian populace and their property; organisation of the newly established civilian and military structures of power; unlawful hauls and arrests; physical abuses, maltreatment and humiliation of the civilian population; unlawful searches of their homes; looting of their movable properties; damaging and destruction of their immovable properties; obligation of the civilians to mark their homes with white towels and to wear white bands around their sleeves; the regime of forced labour for everyone capable thereof; restriction of movement resulting from the curfew; threats to part of local population and pressures on them to leave the area; retaliation threats; brutal liquidations of some of the prisoners, as well as of those who were found in their homes; the use of the unlawfully confined persons as a »human shield« in the search of the area and the consequences resulting from this operation following their entry into the minefield; killings of additional three persons following the minefield incident; and ultimately, the roles of each of the accused in their individual and joint acts and omissions.

All of the foregoing facts and circumstances, which are essential for the incrimination of the criminal offence charged by this indictment, have been corroborated by the evidence obtained throughout the investigation and proposed for trial presentation.

Specifically: the data contained in the documents of the competent JNA command staffs indicate that the attack on Lovas was ordered by the command of the 1st Proletarian Guards Motorised Division (1PGMD). The order specified that the attack

operation was to be carried out by the 2nd Infantry Guards Motorised Brigade (2PGMBR). Consequently, on 9 October 1991, the Tovarnik-based Brigade's command staff issued the order that Lovas be attacked. The attack operation started in the early morning hours of 10 October 1991, when the Brigade opened a brief and low-intensity artillery fire on the village outskirts. As a result of the early attack stage, several barns and houses were damaged, whereas one civilian was killed (Milan LATAS) and another wounded (Marija VIDIĆ). It has been established beyond doubt that the aforementioned order was issued without a reliable operational knowledge of the location of military targets. This explains a cautious nature of the attack, which was of low intensity (only a few shells were fired) and of short duration, and therefore, apart from the aforementioned consequences, did not result in heavier losses of the local civilians. However, in view of the objective circumstances and military needs, there was no justification for any attack whatsoever, since there were no military targets in the village.

A series of infantry attacks launched from various directions was conducted by the volunteer force which included members of the armed group known as Dušan Silni, Tovarnik territorial defence and police. The police units mainly consisted of volunteers, former residents of Lovas and its neighbouring villages, all of whom knew that in the area there were no Croatian armed forces who would offer resistance or engage in the defence of the village. Actually, apart from sporadic fire opened by few individuals, there was no resistance at all, either on the part of the local population or on the part of any Croatian armed groups. The attackers sustained no losses other than the death of one volunteer.

The foregoing facts arise from parts of statements provided by the following individuals: some of the accused charged by this indictment, primarily Petronije STEVANOVIĆ and Aleksandar NIKOLAIDIS; some of the witnesses – members of this armed group, who participated in the attack; and ultimately, a number of local inhabitants, including both witnesses and victims of the event at issue .

In the course of the time relevant to this indictment, namely the period between 10 October and 11 November 1991, a total of seventy persons were killed, whereas more than ten were lightly or heavily wounded.

The foregoing facts have been established on the basis of the following documents: a copy of the list of exhumed bodies with records of exhumation and identification conducted between 2 and 8 June 1997; expert findings and opinion on death causes in relation to the persons whose bodies were exhumed from the mass gravesite in Lovas; a photocopy of the list of wounded and physically tortured Lovas citizens, dated 25 February 1993; a copy of the list of Lovas citizens killed in the minefield, which was made by the Lovas local community president on 18 October 1991; the list of wounded persons; and ultimately, statements provided by a number of witnesses

throughout the investigation course. Namely, a total of seventy bodies were exhumed from the mass gravesite, and a while later from two individual graves, in the Catholic cemetery in Lovas. Out of the total number of the bodies exhumed, sixty were males and ten females. Forensic findings and opinion have confirmed that all of the victims died violent deaths resulting from entrance wounds in various parts of the body, inflicted by infantry weapons or fragments of explosive devices (mines).

On the grounds of the foregoing evidence it has been established that, during the attack launched on Lovas on 10 October 1991, one person died as a result of the artillery fire, whereas twenty-one were killed during the subsequent seizure of the village by the above specified armed group. Those who fell victim to the fire from infantry weapons, bombs and other explosive devices were hit in their homes, courtyards and streets, while a number of others were removed from cellars and courtyards, taken to other locations and subsequently killed.

After being physically maltreated, tortured and unlawfully hauled, thirteen persons were pulled from improvised prisons and killed, while additional fourteen (who were seized in their homes) were killed either on the spot or at a later point, after being removed from their homes and taken to various locations in the village.

A total of 21 persons were killed in the minefield or in relation thereto. Namely, one person (Boško BOĐANAC), who had previously been severely beaten, was killed as the column moved towards the minefield; another person (Josip TURKALJ), who was injured in the minefield, died on his way to hospital; ultimately, the death toll in the minefield itself amounted to nineteen persons, who were killed by infantry weapons or detonated mines.

While it is most certain that Boško BOĐANAC was shot dead by a member of the armed escort, the identity of the perpetrator, unfortunately, still remains unknown.

The foregoing facts, which arise from the data contained in the aforementioned documents, are additionally corroborated by statements obtained from a number of injured witnesses, and partly by allegations offered by some of the individuals accused in this indictment.

Over 100 witnesses were heard throughout the investigation stage, whereas a total of 92 have been proposed for trial questioning.

Ultimately, the body of the aforementioned evidence unequivocally leads to the conclusion that all of the killed and wounded were local civilians and non-Serbs, who had no affiliation to any armed groups, and who, at the time relevant to the indictment, were not involved in combat activities whatsoever.

Apart from these salient facts and circumstances which determine the event addressed by this indictment as a criminal offence recognised by Article 142 (war crime against civilian population) of the Yugoslav Criminal Act, a number of collateral facts and circumstances have been established, which stand apart from the criminal offence at issue, and yet provide a closer explanation thereof.

All of the developments described here resulted from the mutual relations and operational principles of the three power structures existing at the time: formally, the two structures in power were the military (JNA) and the local military-civilian establishment, whereas actual (though informal) power rested with the third structure, notably the armed group which called itself Dušan Silni.

It is a generally known fact that at the time relevant to this indictment, the JNA was faced with considerable problems trying to mobilise its reserve forces in Serbia. In such circumstances, the »mobilisation issue« was removed from the JNA competence to that of other structures, some political parties in the first place. The transfer of competence also occurred in this particular case, with the Serbian National Renewal Party (SNO) mobilising its members and followers, and subsequently sending them to mobilisation points, where they were placed under the JNA command. It is evident that such reinforcements of the JNA units occurred beyond the official, i.e. legally recognised system. The military accepted the volunteers, who were then sent to war zones in Croatia, in this particular case to the area of Lovas municipality. Superior military commands would issue orders to their subordinates in the field, whereby the latter were obligated to accept the volunteer groups, place them under the control and command of their units, and warn them to comply with military laws and international conventions. In practice, however, such orders were largely disrespected. Military commands in the areas of conflict exercised little control over these armed groups; moreover, due to a poor and confusing communication among the subordinate commands, they lacked the overall control of the situation, while their cooperation with the local civil and military authorities was almost nonexistent. As a result of such circumstances, the military commands were faced with numerous problems regarding their exercise of power in the territories under their control.

The local civilian and military authorities, embodied in the personalities of DEVETAK, DEVČIĆ and RADOJČIĆ, acted in an autocratic and uncontrollable manner. Following the seizure of Lovas, they were supposed to demonstrate a sense of organisation and responsibility by employing their armed structures, notably the territorial defence and police, to collect any weapons that may have remained hidden and conduct lawful interrogations of any locals reasonably suspected of connections with the Croatian paramilitary forces or involvement in the alleged nightly skirmishes. Instead of doing so, the herein accused individuals ordered or allowed parts of their armed groups to search civilians' homes and plunder their possessions, to make unlawful arrests of citizens based on their ethnic backgrounds, political

commitment or previous relationships; the interrogations of those arrested were commonly accompanied by physical maltreatment and severe beatings, and at times even by physical liquidations.

In the context of this particular event, the armed group which called itself Dušan Silni was a phenomenon per se.

It is an established fact that this group was founded by the Serbian National Renewal Party (SNO). The military authorities accepted this unit, provided its members with weapons and other equipment, and sent them to the area of conflict, notably to village Lovas. And this is the whole truth about its status. Formally, pursuant to the orders issued by the military authorities in charge of the area, this group was part of the military, under their command and control. Factually, however, the military authorities did not have command or necessary control of the unit in this particular case. Although it is true that, upon the unit's arrival in Lovas, some of its members were included into the local territorial defence and police forces, an overwhelming majority of them remained outside any military or civilian structures of power. On the other hand, the unit lacked internal structure of any kind. Thus, it did not include smaller organisational units, nor did it have a commanding structure. Some of its members enjoyed certain reputation within the group, based on the criteria of personal capabilities or previous war experience (e.g. STUPAR's group, or a.k.a. BATA's group). However, in terms of formal or actual hierarchy, neither anyone of those individuals nor any other member of the civilian or military authorities had command of the unit, and consequently could not issue orders thereto. Any member of the unit could individually choose whether he would obey orders, requests or suggestions made by the above structures, and most members did so on most occasions. For the foregoing reasons, this armed group did not have essential characteristics of a paramilitary armed formation in the broad sense of the term.

The above circumstances can offer insight into a broader context of the events charged by this indictment. However, it is not the purpose of these or any similar proceedings to establish socio-historical and, inherently, political or ethnic causes and consequences of the tragic events which occurred in the former Yugoslavia, and more specifically in the Republic of Croatia, at the time relevant to this indictment.

These levels of individual guilt of civilian and military officials, i.e. their responsibility for certain acts and omissions (command responsibility), as well as the consequences arising thereof, have been addressed by the Hague Tribunal and, partly, by competent judicial authorities in the region. The goal of these proceedings is to elucidate the events which occurred at the place and time relevant to this indictment, examine relevant facts and establish individual guilt, whereupon each of the accused individuals should be sentenced as required by statute.

The criminal offence recognized by Article 142 (war crime against civilian population) of the Yugoslav Criminal Act, which applies to the case in question, can be perpetrated solely at the time of war, armed conflict or occupation. The hereby charged criminal offence is determined by these objective conditions. Apart from international armed conflicts, the term armed conflict also refers to internal armed conflicts, as specified by Annexed Protocol II (1977) to Geneva Convention IV (August 1949) on protection of civilian persons at wartime. Along with Additional Protocol I to the same Convention, Protocol II provides detailed regulations governing the status of civilians at the times of war, armed conflict or occupation. The commission of the criminal offence charged by this indictment involves several interrelated acts directed against any of the following: life or physical integrity, freedom, personal possessions and other basic human rights, notably the rights of the civilian population as a whole and those of every individual. Since each of the foregoing acts is recognised as a criminal offence under our national legislation, which thereby incorporates the essential provisions of the aforementioned Geneva Conventions, the case addressed by this indictment constitutes a blanket criminal offence.

Being aware of their acts and willfully engaging therein in the above described manner, all of the accused individuals committed serious breaches of the said Geneva Convention and its Additional Protocols, whereby they are criminally responsible as charged, notably for the criminal offence recognised by Article 142 (1) (war crime against civilian population) of the Yugoslav Criminal Act .

In their defence cases made during the investigation, all of the accused admitted being present in Lovas when the events occurred and the crimes committed at the time, yet they denied their participation therein or their guilt thereof. Thus:

The accused, Ljuban DEVETAK, denies his role or involvement in the commission of the aforesaid criminal offence on each of the four basic counts contained in this indictment. In the first place, DEVETAK states that he did not plan or organise the campaign intended to assemble the SNO members and followers, as well as part of the local population, with a view to forming an armed group that would subsequently join the JNA in their attack on village Lovas.

Such defence is ungrounded since, on the one hand, DEVETAK failed to indicate a single proof in support of his allegations, whereas on the other, his involvement in the described acts is substantiated by unambiguous, convincing and coinciding statements provided, among others, by the accused: Aleksandar NIKOLAIDIS, Petronije STEVANOVIĆ and Borislav MIHAJLOVIĆ, as well as those obtained by numerous witnesses and victims.

Secondly, DEVETAK states that, at the time of the events, he was only the managing

director of the local farm community (which is anyhow an unquestionable fact), and that in such a capacity he supervised and participated in production, selling and other operational activities of the company for the benefit of all citizens of Lovas regardless of their ethnic backgrounds. He further states that he was not the »civilian commander« of the village, whom everyone reported to and who had the final say in everything. It has been established beyond doubt that, at the time relevant to this indictment, DEVETAK formally was the director of the Lovas farm community, and acted in that capacity. However, all other allegations offered by him are unfounded. The fact that Ljuban DEVETAK was actual commander of Lovas at the time when the crimes were committed against Croatian civilians in that village, has been supported by a number of statements obtained from some of the accused, as well as those given by victims and witnesses. The fact that several days after the seizure of Lovas, Ljuban DEVETAK addressed those gathered in the local cultural centre by introducing himself not only as the managing director of the farm community, but also as the »key person« responsible for the village defence, has been corroborated by a number of statements. The authenticity of these and all other statements related to the factual status of Ljuban DEVETAK as the village's topmost civilian authority is corroborated by the data contained in the records of meetings between officials of SAO Krajina (Independent Autonomous Region of Slavonija, Baranja and Western Srem) and the village representatives. All of these documents were signed by DEVETAK, with his command function specified below the signature. The said statements and records unequivocally indicate that the involvement and competences of Ljuban DEVETAK extended far beyond the scope of an ordinary farm community manager solely responsible for production and sales issues .

Thirdly, the accused, Ljuban DEVETAK, argues that he did not order, request or propose unlawful arrests, tortures, physical maltreatment or killings of any Croatian civilians. I deem the defence arguments offered by this accused individual to be unfounded for a number of reasons. Namely, such arguments are in contradiction to the fact that DEVETAK, being the de facto civilian commander of the village, made all decisions and had the final say in everything. Furthermore, the testimonies of some of the herein accused individuals lend support to the conclusion that DEVETAK had a crucial role at the place and time relevant to this indictment .

In addition to the above, the criminal involvement of Ljuban DEVETAK is further supported by a number of witnesses, who testify that this accused decided whom of the local people he would have hauled, detained and interrogated based on the seized video recordings of the HDZ Lovas board meetings. The statements obtained from these witnesses, i.e. the herein injured parties, leave no doubt to the conclusion that the most prominent HDZ members, who were the first to come under attack, got arrested, beaten and otherwise tortured, whereas a number of them were killed in the process. The above described acts of Ljuban DEVETAK, as well as those of all the other individuals charged by this indictment, were basically motivated by the

victims' ethnic backgrounds and their HDZ party membership.

Fourthly, and last, Ljuban DEVETAK denies his role whatsoever in the assembling of the local male population in front of the village farm community in the afternoon of 17 October 1991, in their detention and physical maltreatment, and ultimately in the decision to employ them as a »human shield« in the planned mine clearing operation outside the village. However, these defence arguments are thoroughly groundless. Namely, some of the herein accused individuals unambiguously confirm that, alongside the aforementioned representatives of the armed unit called Dušan Silni, Ljuban DEVETAK was present at all meetings with Lieutenant Colonel DIMITRIJEVIĆ, where he was actively involved in discussions about safety measures due to be taken. Thus, DEVETAK attended the meetings of 15 October 1991 (which resulted in a number of notices displayed on houses and trees, informing the local population of a series of restrictive and retaliatory measures), and of 17 October 1991 (mostly attended by the same participants, and resulting in the decision that all men aged between 18 and 65 assemble in front of the farm community building). DEVETAK also participated in another meeting held later that day (17 October), when it was decided that the captured civilians be used for a mine clearing operation outside the village, which was due to be undertaken the following day. Following that meeting, DEVETAK went to the farm community and informed the detained civilians that they would remain there overnight, and that the following morning they would be taken to work. Having made it clear that they would not be released before they had disclosed who had been shooting at the army, DEVETAK went on to call out the names of those who had specific assignments in the farm community. The foregoing facts and circumstances have been confirmed by a number of witnesses. In the morning of 18 October 1991, DEVETAK arrived in front of the community building in the company of some local Serbs and several soldiers. He read out the names of between 10 and 15 persons and said that they would remain within the farm community compound as they were needed for some specific jobs. The decision about whether someone would stay or join a separate group lay within the exclusive competence of this accused individual. The foregoing facts have been confirmed by several witnesses. Shortly after this event, all of the three formerly mentioned LUKETIĆ family members were killed. The detainees who remained outside the separated group were informed by DEVETAK that they were going to the vineyards to »pick up grapes«.

All of the above facts arise from the statements of numerous witnesses – dwellers of village Lovas.

Apart from denying his guilt for the events that took place in Lovas at the said time, DEVETAK also states that the responsibility for the above described tragic consequences lies with the military authorities and individuals, yet he fails to offer any evidence in support of his allegations, or names of any individuals that he might

deem responsible.

In their defence cases, the accused. Milan DEVČIĆ, Milan RADOJČIĆ and Željko KRNJAJIĆ state that, since they were inhabitants of Lovas (Željko KRNJAJIĆ was also commander of the Tovarnik territorial defence and police), they joined other locals in their attack on the village and its (as they put it) »liberation«. While the accused do not challenge the stated consequences – the destruction and damaging of a substantial number of civilian, residential and other objects, and deaths of 21 persons, they deny their guilt therefore, saying that they did not indicate any particular targets, whether individuals or houses and other objects in the possession of local Croats; the accused further allege that they did not shoot, or order others to do so, at any local civilians, whether inside the houses and courtyards or in the streets. The accused do not challenge the fact that immediately following the village liberation, they were appointed to top positions, namely Milan DEVČIĆ as local police commander, and Milan RADOJČIĆ as local territorial defence commander.

The accused do not admit committing a single crime charged by this indictment in the period between 10 October and 11 November 1991. Consequently, they state that they do not feel responsible for the consequences of the described events. While they do not dispute these consequences, the accused maintain that at the time they were not aware of what was going on (discriminatory treatment of local Croats, unlawful arrests and interrogations, damage to private and public property, and ultimately, murders of numerous local civilians).

The Prosecution holds that such defence allegations as offered by the accused are entirely groundless. Acting as armed members of the said group, the accused participated in the attack on an inhabited area and its residents, although they were positively aware of the fact that the attacked could offer no resistance, which was particularly true for the unarmed people in their homes, in the courtyards and streets. In that context it is irrelevant whether or not they engaged in the shooting, whether they hit or killed someone, and possibly damaged or destroyed someone's property. All essential elements of the charged criminal offence are involved in the acts and omissions of the accused, resulting from the very fact that they participated in an attack on an undefended village and its civilian population. This fact is not conditioned by whether they were aware of the international legal breaches arising from their acts, since the breach of international law constitutes an objective prerequisite to culpability. Likewise, the Prosecution deems the latter part of their defence case to be equally groundless. Namely, the unambiguously established facts regarding the consequences of the events which occurred between 10 October and 11 November 1991, offer reasonable grounds for the conclusion that the aforesaid discriminatory measures against non-Serbs, which included arrests, interrogations, tortures and other physical abuses, could be ordered only by the local topmost military and civilian structures, whereas it is an undisputable fact that the accused:

Ljuban DEVETAK, Milan DEVČIĆ and Milan RADOJČIĆ, in their respective capacities as de facto village commander, police commander, and local territorial defence commander, were the highest officials within these structures. The stated facts are further supported by a number of witness statements. The fact that Milan DEVČIĆ and Milan RADOJČIĆ personally interrogated the detainees, whom they also physically tortured in the process, has partly been confirmed by the accused Aleksandar NIKOLAIDIS, and ultimately corroborated by the statements of numerous eyewitnesses – victims of the herein charged crime.

Finally, the fact that formal and factual power rested with the three accused individuals (DEVETAK, DEVČIĆ and RADOJČIĆ) points to the reasonable conclusion that by their acts and omissions they aided and abetted the commission of the crimes which resulted in the deaths of a large number of civilians.

While the accused Miodrag DIMITRIJEVIĆ does not dispute a majority of incriminating facts, he denies any responsibility for the consequences of his acts. Specifically, DIMITRIJEVIĆ does not deny his role in the public announcement of 15 October 1991, whereby local residents were threatened by a series of restrictive and retaliatory measures. DIMITRIJEVIĆ also admits attending the meeting of 17 October 1991, and his role in the decision rendered at the time, further to which all local men of Croatian ethnic background were assembled in front of the farm community building and subsequently detained inside the community compound during the night. The operation was allegedly intended to identify possible participants in armed provocations that occasionally occurred throughout the area. On the following day, i.e. 18 October 1991, DIMITRIJEVIĆ ordered a reconnaissance and search operation of the area around manufacturing compound Borovo, which would also include the vineyards and orchards on the village outskirts. The order was to be carried out by 1st class captain Darko PERIĆ and part of his unit which had arrived in Lovas the previous day, along with a few local people who were familiar with the area. While confirming the foregoing facts, DIMITRIJEVIĆ maintains that his duty as armed operations coordinator did not involve command authority, and that consequently he could not issue orders to either the local civilian and military staffs or to the JNA armed formations present in the village on the day of the event. Further to DIMITRIJEVIĆ's allegations, his duty was to give recommendations and advice rather than orders. Such defence allegations are thoroughly groundless, and even contradictory at times: within his description of a particular situation, this accused at some points states that he advised or recommended certain actions, whereas at others he makes references to orders issued by himself. Still, the accused Darko PERIĆ, as well as a number of witnesses, testify that Miodrag DIMITRIJEVIĆ, being the highest-ranking army officer and topmost military commander in Lovas at the time, had an unquestioned authority to issue orders, both to the local civilian and military governing structures, and to parts of the JNA units provisionally deployed in Lovas. Beside the aforementioned threats of retaliation, his order of 15 October

1991, entitled »Notice to Lovas Citizens«, contains a series of political derogations including »Ustashes' Organisation« as an allusion to the HDZ Party. Such random and unjustified labelling on ideological grounds, which soon became a prevailing attitude, resulted in the hostility to almost all the local participants in the celebration of the HDZ election victory, who could be seen in the recordings taken during the event and subsequently seized in the Party's local headquarters.

The accused Darko PERIĆ testifies that, while ordering the reconnaissance and search operation (which was intended to locate possible presence of the Croatian paramilitary force and due to be conducted the following day), the accused DIMITRIJEVIĆ was aware that certain locations in the area had been mined by the said brigade's engineering unit. PERIĆ further testifies that DIMITRIJEVIĆ alerted his personnel to that effect, and ordered that the previously detained local Croats move as a »human shield« in front of the military, allegedly to deter possible attacks by the Croatian paramilitary forces .

While he denies issuing any such order, the accused DIMITRIJEVIĆ states that, during the meeting which addressed the planning of the reconnaissance and search operation, he only put forward the proposal that the said operation be joined and assisted by a few locals who had knowledge of the surrounding area.

The defence case presented by DIMITRIJEVIĆ is unfounded, given the fact that it is in flat contradiction to the statement provided by the accused Darko PERIĆ. The truthfulness of PERIĆ's allegations is corroborated by the undoubted facts relating to the manner in which as many as 50 civilian detainees were used during the stated operation, as well as its subsequent consequences in the minefield.

While he basically admits all factual allegations set forth in this indictment, Darko PERIĆ denies ordering his subordinates to shoot at any civilians who might try to lie down on the ground or escape. Again, we deem such defence allegations as presented by PERIĆ to be unfounded in the light of the developments following the first mine explosion. Specifically, in the chaotic situation caused by the explosion, some of the soldiers opened fire at the civilians in the minefield. In the context of that event, it is irrelevant whether or not this accused individual thought of his acts in terms of their permissibility or appropriacy.

In their defence allegations, the accused Radovan VLAJKOVIĆ and Radisav JOSIPOVIĆ unanimously maintain that they opposed PERIĆ's order further to which the two were supposed to take their unit to the reconnaissance and search operation in the morning of the critical day. Explaining the reasons for opposing PERIĆ's request, VLAJKOVIĆ and JOSIPOVIĆ say that they were aware of mines having been laid over some parts of the area, and therefore thought that their operation might be responded by fire on the part of the Croatian paramilitary. Furthermore,

these two accused say that they had never been trained to conduct such operations, nor did they have appropriate equipment therefore. Thus, despite PERIĆ's insisting, VLAJKOVIĆ and JOSIPOVIĆ ultimately refused to obey his order. The refusal meant that the two did not take their company to the said operation or assume command in the process; still, »for moral reasons«, they joined the operation with cca. 40 members of their unit, whereas they referred command to some members of armed group Dušan Silni. VLAJKOVIĆ and JOSIPOVIĆ deny their command role in the positioning or moving of the civilians, and allege that, as they reached what they rightly thought to be a minefield, they proceeded and acted in the same manner as any ordinary soldier.

The defence allegations of these two accused individuals, who deny their command responsibility, i.e. participating in the above described actions (removal of the detained civilians from the farm community courtyard, and their use as a »human shield« during the search operation), are false and therefore should be dismissed as unfounded. The same conclusion applies to their allegations that they referred command to an unknown member of unit Dušan Silni, who then allegedly diverted the civilians from the road, arranged them in a line, and ordered them to move frontally across the clover field.

Primarily, the above defence allegations are in contradiction to the statement offered by the accused Darko PERIĆ. Despite the fact that VLAJKOVIĆ and JOSIPOVIĆ were but reserve officers, both must have been aware of at least three facts: first, that they could not leave command with an anonymous noncommissioned officer while they were present; second, that the use of civilians as protection against enemy attacks (the so-called »human shield«) was impermissible (irrespective of a particular regulation or rule of international law governing this issue); and third, the fact that the attacks were ordered by their superiors did not release them from personal responsibility. In addition to the aforementioned, even on the assumption that they might not have known that they had reached a minefield, by making the civilians move ahead of them at what they thought to be a safe distance, they demonstrated caution about their own safety and compliance with possible risks to the civilians' lives.

All of the foregoing facts and circumstances lead to the unambiguous conclusion that both VLAJKOVIĆ and JOSIPOVIĆ are criminally responsible for the events charged by this indictment.

The defence case of the accused: Jovan DIMITRIJEVIĆ, Saša STOJANOVIĆ, Dragan BAČIĆ and Zoran KOSIJER, all of whom belonged to unit Dušan Silni, focuses on the events which took place in the minefield and in relation thereto. While these accused admit participating in a joint action with Mijo VUKOSAVLJEVIĆ and Slobodan HRNJAKI aka Sajdžija (both deceased), which involved the handover of the

detained civilians and their subsequent use in the search operation, they deny having command over the operation or ordering the civilians to enter into the clover field which, as it turned out, had been mined.

In his account of the same event, Jovica DIMITRIJEVIĆ states that he was also wounded as he stepped over a limpet mine. The allegations of Saša STOJANOVIĆ, who points out his unhesitating response to the chaos and his substantial assistance in the deactivation of the remaining mines, have been proven to be true.

Nonetheless, the Prosecution holds that the guilt of DIMITRIJEVIĆ and STOJANOVIĆ arises from the fact that they willingly participated in the described events, and that they did so as a result of their personal decision rather than anyone's orders. In the light of this fact, as it has already been mentioned, it is not of essential relevance whether or not they knew that their acts constituted a breach of international law.

The accused Petronije STEVANOVIĆ and Aleksandar NIKOLAIDIS partly admit their role in the events charged – specifically in the attack on Lovas and, in that context, the throwing of explosive devices on houses and courtyards, opening random fire from infantry weapons and minor physical abuses of some civilians. In the Prosecution's view, however, the part of their defence case whereby they deny their criminal responsibility for other acts charged against them is unfounded, since it clearly contradicts the statements obtained from a number of victims and witnesses. This is particularly true in the case of Petronije STEVANOVIĆ, whose brutal treatment of some of the civilians has been almost unanimously confirmed by both the victims and the accused.

In conclusion, the Prosecution holds that all of the foregoing reasons prove beyond doubt that both Petronije STEVANOVIĆ and Aleksandar NIKOLAIDIS acted in the above specified manner, whereby they committed the criminal offence as charged by this indictment.

WAR CRIMES PROSECUTOR
Vladimir Vukčević