



Republic of Serbia
Office of the War Crimes Prosecutor

DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER

14 April 2008

Pursuant to my authority under articles 46 (2.3), 265 (1) and 266 of the Criminal Procedure Code, re articles 3 and 4 (2) of the Act on Organisation and Competence of State Authorities in War Crimes Proceedings, I hereby bring this

INDICTMENT

Against the individuals whose names and personal details are set forth below:

1 Željko ĐUKIĆ a/k/a Brko with residence in Šid; born on 25 February 1968 in Vukovar (Croatia); Serb; married and father of four minor children; literate, completed a secondary traffic engineering school, traffic technician by occupation; war invalid; no criminal record; currently in detention pursuant to ruling Ki.V. 12/07 of 19 October 2007, rendered by the War Crimes Chamber investigative judge, effective as of 19 October 2007 at 6:00 a.m., when he was deprived of liberty.

2 Dragan MEDIĆ a/k/a Guljo with residence in village Stejanovci (Ruma municipality); born on 8 December 1970 in Vinkovački Banovci; Serb; farmer by occupation; literate; completed his primary education; unmarried; has no children; did not do military service; has no criminal record; currently in detention pursuant to ruling Ki.V. 12/07 of 19 October 2007, rendered by the War Crimes Chamber investigative judge, effective as of 19 October 2007 at 6:30 a.m., when he was deprived of liberty.

3 Dragan BOROJEVIĆ, with residence in Šid; born on 9 July 1970 in village Kabavna (Donji Miholjac municipality); Serb; literate; completed his primary education; unskilled worker by occupation; married and father of a minor child; does not own immovable possessions; criminal record: sentenced to one year's imprisonment for the criminal offence recognized by articles 62 (1) and 23 (1) of the RS Criminal Act, and article 33 (1) of the Act on Illegal Possession and Carrying of Weapons, further to the verdict rendered by the Sremska Mitrovica District Court; sentenced to eight

months' imprisonment for the criminal offence recognized by article 140 (1) (extortion) of the Republic of Croatia's Penal Code, further to verdict K 81/96 of 25 November 1996, rendered by the Beli Manastir District Court; sentenced to 1.5 year's imprisonment for the criminal offence recognized by art. 198 (2) re (1) (violent conduct) of the Republic of Croatia's Penal Code, further to verdict K 155/95-54 of 19 March 1997, rendered by the Donji Miholjac Municipal Court; sentenced to 12 years imprisonment for the criminal offence recognized by article 34 (1) (murder) of the Republic of Croatia's Penal Code, further to verdict Ki.V.12/07 of 19 October 2007, rendered by the Vukovar District Court; currently in detention pursuant to ruling Ki.V. 12/07 of 19 October 2007, rendered by the War Crimes Chamber investigative judge, effective as of 19 October 2007 at 6:00 a.m., when he was deprived of liberty.

4 Miodrag ŠOLAJA a/k/a Zicko, resident of village Vašice (Šid municipality); born on 16 March 1979 in Sremska Mitrovica; literate; completed his primary education; seasonal worker by occupation; unmarried; has no children; criminal record: 8 months' sentence suspended for two years, for the criminal offence recognized by article 177 (1) of the Republic of Croatia's Penal Code, further to verdict K 631/03 of 18 April 2004, rendered by the Vinkovci Municipal Court; 1.5 years' sentence for the criminal offence recognized by article 350 (3) re (2) (illegal movement across state boundaries and human smuggling) of the Republic of Serbia's Criminal Act, further to first-instance verdict KP 8/06 of 26 October 2007, rendered by the Belgrade District Court's Special Chamber for Organized Crime; currently in detention pursuant to ruling Ki.V. 12/07 of 19 October 2007, rendered by the War Crimes Chamber investigative judge, effective as of 19 October 2007 at 6:00 a.m., when he was deprived of liberty.

BACKGROUND AND CHARGES

At all times relevant to this indictment a state of international armed conflict – air raids conducted by the NATO coalition forces – existed in the territory of the then Federal Republic of Yugoslavia (FRY). Concurrently underway were hostilities between the FRY military forces (consisting of troops from Serbia and Montenegro) and RS police units on one side, and the so-called Kosovo Liberation Army (KLA) – armed formations of ethnic Albanians inhabiting the Serbian Autonomous Province of Kosovo and Metohija – on the other.

All of the accused in this indictment were at the time members of the unit known as the Scorpions, which was a component of the Republic of Serbia's police force (MUP). On 28 March 1999, the Scorpions arrived in Podujevo and settled in the local residential houses, whereupon the herein accused individuals entered the courtyard of the Gashi family house, situated at 7 Rahman Morina Street. Aided and abetted by Saša CVJETAN (finally convicted on 17 June 2005, pursuant to verdict No. K.1823/04 rendered by the Belgrade District Court), and by several FNU LNU MUP members,

the herein accused individuals fired several missiles from their 7.62 automatic rifles into a group of civilians gathered in the courtyard, with a clear intention to deprive them of life. The civilians, mostly women and children – local Albanians who were not involved in the hostilities – had previously been taken from the streets and forced into the Gashi courtyard. The above described operation resulted in the deaths of 14 persons, out of whom 7 were under age. The victims' names and years of birth are set forth below:

Nore Bogojevci (1984); Shpend Bogojevci (1986); Shpetim Bogojevci (1989); Dafine Duriqi (1990); Arber Duriqi (1992); Mimose Duriqi (1995); Albion Duriqi (1997); Shefqate Bogojevci (1956); Fezdrie Liugaliu (1978); Nefise Lugaliu (1945); Sala Bogojevci (1960); Shehide Bogojevci (1932); Isme Duriqi (1930); and Fitnete Duriqi (1963).

The operation also resulted in the serious wounding of 5 children, namely the following:

Saranda Bogojevci (1985); Fatos Bogojevci (1986); Jehona Bogojevci (1988); Lirie Bogojevci (1990); and Genc Bogojevci (1993).

Having learnt of the above described incident, the Podujevo-based police station command staff provided medical care and treatment for the wounded, and withdrew the Scorpions from the Kosovo-Metohija territory.

By their participation in the foregoing incident, the individuals accused in this indictment acted in violation of international legal rules set out in the following acts and provisions:

Article 2 (1, 3.1a) of the Geneva Convention on protection of civilians in warfare (Geneva Convention IV) of 12 August 1949, ratified by the Federal People's Republic of Yugoslavia (FPRY), FPRY Official Gazette No. 24/50;

Article 51 (1, 2, 3) of Additional Protocol I to the Geneva Conventions of 12 August 1949, on protection of victims in international armed conflicts, ratified by the Socialist Federal Republic of Yugoslavia (FPRY), FPRY Official Gazette – International Contracts No. 16/78; and

Articles 1 (1) and 4 (1, 2a) of Additional Protocol II to the Geneva Conventions of 12 August 1949, on protection of victims in noninternational armed conflicts, ratified by the Socialist Federal Republic of Yugoslavia (SFRY), SFRY Official Gazette – International Contracts No. 16/78.

Furthermore, by their joint engagement in the described incident, all of the accused

committed the criminal offence recognised by article 142 (1) (war crime against civilian population) of the FRY Criminal Act.

In view of the foregoing, I PROPOSE that a public trial be scheduled and conducted before this Court, whereto the following parties and participants should be summoned:

1 RS War Crimes Prosecutor;

2 The accused: Željko ĐUKIĆ, Dragan MEDIĆ, Dragan BOROJEVIĆ and Miodrag ŠOLAJA;

3 Injured parties: Sevatin Bogojevci, Lirie Bogojevci, Jehona Bogojevci, Fatos Bogojevci, Saranda Bogojevci, Safet Bogojevci, Enver Duriqi;

4 Witnesses: _ _ _

I further propose that the following documents be read out as trial evidence:

- Witness Statement – written record of the testimony provided by witness S.C., taken before the investigative judge of the Belgrade District Court's War Crimes Chamber on 13 November 2007;

- Witness Statement – written record of the testimony provided by witness G.S., taken before the investigative judge of the Belgrade District Court's War Crimes Chamber within the investigative proceedings in case Ki.V.11/05 against D. D.;

- Documents and writs contained in the files of Belgrade District Court's case No. K.1823/04 against acc. Saša CVJETAN, as follows:

Judgment in case No.1823/04, rendered by the Belgrade District Court and dated 17 June 2005;

Scene inspection record dated 30 March 1999, with photographs and sketch of the scene attached thereto;

Letter sent by the Forensic Medical Institute, and dated 3 June 1999;

Report on 19 bodies found in Podujevo area, dated 9 April 1999;

Report issued by the RS Ministry of the Interior (MUP), dated 11 March 1999;

Ballistic report issued by the Security Institute;

Letter of the UN International Criminal Court Prosecutor with autopsy reports made by the Prosecutor's team, dated 16 July 2003;

Letter sent by RS MUP, dated 17 May 2005, on the temporary delivery of rifles to the Scorpions members; and

Report on the accused's criminal records.

Finally, all of the accused should remain in detention pursuant to article 142 (2.2, 5) of the Act on Criminal Procedure.

Statement of Reasons

Facts described in the enacting terms of this indictment are corroborated by the following evidence: results of pretrial and investigative proceedings; witness statements made before the investigative judge of the Belgrade District Court's War Crimes Chamber; judgement and files in Belgrade District Court's case No. 1823/04 against Saša CVJETAN, dated 17 June 2005; investigation files in case Ki.V.11/05 against Dejan DEMIROVIĆ, conducted before the Belgrade District Court's War Crimes Chamber.

Specifically, the event charged in this indictment occurred in Podujevo on 28 March 1999, a few days after a state of war was introduced and the NATO air campaign launched against the Federal Republic of Yugoslavia (FRY).

Until 1998, a guerrilla organisation of ethnic Albanians, whose main task was to launch terrorist attacks on members of the RS MUP and FRY military, was active in the area of Podujevo. In early May 1998, two Albanian separatist movements – NPOK and NPRK – grew into the Kosovo Liberation Army (KLA), which established the operational zone known as »Lab«, which included the whole area of Podujevo and part of Priština municipality. In view of their nature, means and goals, hostilities between the KLA and RS security forces – military and police – were internal armed conflicts that had started a while ahead of the particular Podujevo event and continued during the FRY – NATO war, which began with air raids on the FRY territory on 24 March 1999.

On 28 March 1999, there were no skirmishes between the Serbian special police units (SPU) and KLA troops inside the town of Podujevo. However, since the KLA forces were conducting their operations from the trenches which they had previously dug at cca. 3 or 4 km away from the town, units of the Serbian special police were involved in the prevention of KLA attacks from those positions. This was the reason for a strong local presence of the Serbian police forces, which also included the Scorpions, at the time of the event.

The Scorpions were a volunteer unit consisting of 128 members. Its commander was Slobodan MEDIĆ a/k/a Boca, whereas Srđan MANOJLOVIĆ acted as his deputy. On 25 March 1999, the Scorpions officially became a reserve unit of the special antiterrorist force (part of the Serbian MUP), whereupon they were sent to Prolom Banja for further assignments. On 27 March 1999, Zoran SIMOVIĆ, at the time commander of the special antiterrorist force, went to Prolom Banja, where, further to a previous agreement with Slobodan MEDIĆ, he took over the unit the next morning, i.e. on 28 March 1999.

Upon their arrival in Podujevo, the Scorpions were instructed to go and search accommodation in the Albanian homes situated in the vicinity of the local police station.

The Scorpions were armed with Kalashnikov automatic rifles, which they had signed for in Prolom Banja, prior to their departure for Podujevo. No record was taken of the gun numbers or ammunition quantities issued. Likewise, as the equipment was returned at a later point, no gun identification was done or the remaining ammunition counted.

On 28 March 1999, at around 10:00 a.m., the Scorpions were bussed to Podujevo. When they arrived, their commander, Slobodan MEDIĆ, along with the special antiterrorist force commander, reported to the general staff, which was at the time situated in the Podujevo police station. Although the unit members were ordered not to leave the buses, some of them disobeyed the order. A while later, the troops received orders from the staff (which were communicated to them through platoon commanders, namely Zoran VUKSIĆ a/k/a Žuća, Dragan MEDIĆ a/k/a Guljo, Željko ĐUKIĆ a/k/a Brko and Radoslav OLUJIĆ a/k/a Rajko), whereby they were instructed to find accommodation in the nearby houses, which were mainly Albanian, since those owned by Serbs had already been occupied and marked with white towels over the windows.

A number of Scorpions entered the Qata family home, located at 174 Kosačić Ivana Street. Beside the Qata family members, the family of Rexhep Kastrati and several others were also accommodated inside the house. A total of 30 residents, all of whom were civilians, were removed from the house and forced into the courtyard. Outside the house, Rexhep Kastrati gave a 1,000 Deutshmark banknote to Saša CVJETAN, who subsequently hit Kastrati in the face with his rifle butt and ordered him to join the rest of the civilians. At that point the column of civilians were already outside the courtyard and about to start moving in the direction indicated to them. As the column was leaving, Saša CVJETAN fired several rounds into the air.

Shortly afterwards, a total of cca. 40-50 members of different units, which included the Scorpions, special police units (SPU) and special antiterrorist units (SAU),

entered the courtyard at 7 Rahman Morina Street, in the close vicinity of the Qata family home. Among the Scorpions who entered the courtyard were Goran STOPARIĆ, Dragan MEDIĆ, Željko ĐUKIĆ, Saša CVJETAN, the person nicknamed Sarma and Miloš LNU. They pushed an elderly man with his hands in the air and a white cap on his head out of the house, holding him at gunpoint. The man kept saying: »I have just paid 3,000 marks for myself and my son, there is no more left, I swear!« A number of civilians, among whom were women, children and the old, were also removed from the surrounding houses. Some Scorpions, including Dragan MEDIĆ, Saša CVJETAN, Željko ĐUKIĆ, Miodrag ŠOLAJA and a/k/a Kinez insisted that the civilians be killed, whereas others suggested that they should be either taken to the police station or released. At that point, Dragan MEDIĆ ordered Miodrag ŠOLAJA to search the civilians, which the latter did. Hamdi Duriqi, father of Enver Duriqi, got removed from the group. Shefqata, mother of Lirie, Jehona and Fatos Bogojevci, was also removed from the group by a FNU LNU Scorpion, while others were ordered to leave the courtyard and headed in the direction of the police station. Hamdi Duriqi and Selman Gashi were taken inside the Drina café, where they were killed by gunshots. In subsequence, the remaining civilians were ordered to return into the courtyard. The captured civilians were held at gunpoint as they were pushed into the courtyard by a group that included an unidentified SPU member wearing a helmet on his head, Željko ĐUKIĆ, Dragan MEDIĆ, Dragan BOROJEVIĆ, Miodrag ŠOLAJA and Saša CVJETAN.

Concurrently, a visibly distressed Shefqata Bogojevci, with tears on her face and buttons on her blouse undone, came out of one of the houses, closely followed by the FNU LNU Scorpion who had previously removed her from the group. Once in the courtyard, the man pushed her and fired several shots into her back. The scene was observed by the victim's children, who were on the point of entering the courtyard along with others from the group. As her children started shouting »Mummy, Mummy«, the said Scorpion fired another round of bullets into the victim. In response to the order issued by Dragan MEDIĆ that all the civilians be pushed against a wall and killed, heavy fire was opened on the victims. The gunmen were those who had previously forced the civilians into the courtyard, namely the accused: Željko ĐUKIĆ, Dragan MEDIĆ, Dragan BOROJEVIĆ and Miodrag ŠOLAJA, along with (earlier convicted) Saša CVJETAN and the aforementioned unidentified SPU member.

The above incident, which took place in the courtyard of the Gashi family home at 7 Rahman Morina Street in Podujevo, resulted in the deaths of fourteen persons – seven women and seven children – whose names are as follows:

Shefqate Bogojevci, 42 years old; Fezdrie Lugaliu, 21; Nefise Lugaliu, 55; Sala Bogojevci, 39; Shehide Bogojevci, 67; Isme Duriqi, 69; Fitnete Duriqi, 36; Nore Bogojevci, 14; Shpend Bogojevci, 13; Shpetim Bogojevci, 10; Dafina Duriqi, 9; Arbr Duriqi, 7; Mimoza Duriqi, 4; and Albion Duriqi, 2.

In the aftermath of the same event, the following persons were seriously wounded: Saranda Bogojevci, who was shot 13 times in the arm, twice in the leg and once in the back; Fatos Bogojevci, who was hit by 3 bullets in one leg and by 2 in the other; Jehona Bogojevci, who was wounded in both shoulders, in the left arm and left leg; and Lirie Bogojevci, who received wounds in the neck, shoulders, back and finger. The wounded, all of whom, including Genc Bogojevci, were under age, received first aid from Dr Dragan Marković. In his witness statement, Dr Marković, who was a SAU member at the time of the event, testifies that all of the victims were hit by projectiles discharged from firearms, and that their wounds were fresh and still bleeding as he was tending them. It has also been established that all of the surviving children sustained serious injuries, i.e. entry/exit wounds which would have been fatal if they had not been promptly treated.

Immediately after the incident, the Scorpions were loaded on buses and driven back to Prolom Banja. No one mentioned the incident when the unit returned to Prolom Banja or at any later point, because »the people went back to their homes keeping whatever secrets they might have inside themselves ... It is not a fine thing to talk about, it is not something that anyone would like to talk or think about – those who knew something did not want to talk, and those who did not know could not hear it from anyone. So, that is how it was, and you can now do what you will.«

At the time relevant to this indictment, all of the herein accused individuals acted with direct premeditation: by shooting from automatic rifles they demonstrated an unequivocal intention to kill the civilians who had been lined up against the wall. All of the accused knew that the automatic-rifle fire opened from a close distance on a group of people would inevitably result in their deaths. The accused were evidently determined to produce such an outcome when they shot into the unarmed women and children who had offered no resistance or otherwise provoked the aggressive action against themselves.

In the light of the foregoing, it is clear that the acts of all the individuals accused in this indictment include all essential elements of the criminal offence recognized by article 142 (1) (war crime against civilian population) of the FRY Criminal Act.

All of the foregoing allegations provide reasonable grounds for the belief that the individuals accused in this indictment are responsible for the criminal offence recognised by article 142 (2.2, 5) (war crime against civilian population) of the FRY Criminal Act. The suggestion that the accused: ĐUKIĆ, MEDIĆ, BOROJEVIĆ and ŠOLAJA remain in custody is justified by the persisting reasons under article 142 (2.2, 2.5) of the Criminal Procedure Act, which underlay the previous detention rulings rendered in the case by the Belgrade District Court's War Crimes Chamber and the Serbian Supreme Court. Namely, it is reasonable to expect that, once at

liberty, all of the herein accused individuals might try to influence the witnesses – both those who were questioned during the investigation, and others who are yet to present their testimonies, namely the following victims: - -.

In addition to the above reasons, all of the accused are charged with the criminal offence recognised by Article 142 (1) (war crime against civilian population) of the FRY Criminal Act, which is punishable by a prison term longer than ten years. The particularly grave circumstances of the crime and the manner of its commission provide additional grounds for extended custody. There is a reasonable suspicion that, in the course of the NATO air attacks, ĐUKIĆ, MEDIĆ, BOROJEVIĆ and ŠOLAJA, aided and abetted by the previously convicted Saša CVJETAN and other unidentified members of the Serbian MUP forces, opened fire on a number of civilians – women and children – in the Gashi family home courtyard in Podujevo, which caused the deaths of fourteen civilians and severe bodily injuries to five children (Criminal Procedure Act, art. 142 (2.5)).

WAR CRIMES PROSECUTOR
Vladimir Vukčević