



DISTRICT COURT IN BELGRADE

War Crimes Chamber

21 May 2008

Pursuant to my authority under Articles 46 (2.3) and 265 (1) of the Criminal Procedure Code, and articles 3 and 4 (2) of the Act on Organization and Competence of State Authorities in War Crimes Proceedings, I hereby raise before this Court the

INDICTMENT

against

Boro TRBOJEVIĆ, resident of village Beška, born on 2 January 1959 in village Velika Peratovica; citizen of Serbia; married and father of two majors; completed his secondary education training as a locksmith; has no criminal record and defends himself from liberty.

BACKGROUND

In the period between 13 August and 31 October 1991, which is relevant to this indictment, an armed conflict between the Yugoslav People's Army (JNA) and Croat paramilitary units existed in the territory of the Republic of Croatia, at the time a constituent part of the Socialist Federal Republic of Yugoslavia (SFRY). Affected by the hostilities was also the municipal area of Grubišno Polje, where two ethnic communities - Serbs and Croats - organised themselves in self-proclaimed armed units fighting against each other. A member of a self-organised Serb formation, the accused Boro TRBOJEVIĆ engaged in the attacks against the civilian population, in the seizure, confinement and brutalization of hostages, as well as in the inhumane treatment and killing of civilians, specifically:

COUNTS

On 13 August 1991, acting as a member of the Serb armed formation named Bilogorski Odred (Bilogora Detachment), the accused, Boro TRBOJEVIĆ, participated in a joint operation on motorway No. 16, close to the junction of the roads leading to Gornja Rašenica and Velika Peratovica. In the aftermath of the operation, a number of Croat civilians were captured and taken hostage. Among the captives were V.R. and V.I., who were later exchanged as hostages.

On 20 August 1991, acting in concert with other members of the said formation, the herein accused individual participated in the siege of village Topolovica, in the subsequent seizure of hostages and inhumane treatment of civilians. Specifically, in the courtyard of K.M.'s family home, where a number of civilians were kept confined,

TRBOJEVIĆ separated female detainees, namely S.F., S.A., Đ.Č. and K.K., from men, kicked K.K. and herded the previously separated women into a stable, wherein they remained locked. In subsequence, TRBOJEVIĆ personally engaged in the forcible removal of the following civilians: Matija KOTARAN, whose body was later recovered from a mass gravesite; Željko SELEŠI, who was later killed in the prison facility which operated in Velika Peratovica; and Miško ČAPO. Furthermore, TRBOJEVIĆ participated in the attack on another group of civilians, by throwing a bomb into the attic of the house owned by K.A and adjacent to that of K.M., where a group of civilians had sought shelter. In the aftermath of the explosion which immediately followed, S.J. and Anka KOTARAN sustained severe bodily injuries, which resulted in the latter's subsequent death.

In the period between an unidentified date in mid-August and 31 October 1991, acting as a member of the said unit, the accused was performing a guard's duty in the Velika Peratovica school building, which served as a prison facility for civilian hostages. Among those detained in the building were Željko SELEŠI, B.J., P.K., F.Š., M.P., V.Š., Š.V., B.M., H.A., R.V., V.I. and K.M., all of whom were later released or exchanged. In his capacity as guard, Boro TRBOJEVIĆ participated in the torturing, i.e. physical maltreatment of the detained civilians, and personally engaged in the beating of a number of detainees, among whom were R.V., Š.V., B.M. and Š.V.

On 31 October 1991, at around 21:00h, the accused was in the aforementioned prison facility situated inside the cellar of the local school building. Acting in the above described capacity and shortly ahead of his unit's withdrawal from the area, the accused, Boro TRBOJEVIĆ, aided and abetted by (now deceased) Bogdan TRBOJEVIĆ and a FNU LNU member of his unit, discharged several rounds of ammunition from his 7.62-mm automatic weapon, with the intention to kill the group which included the following individuals: Željko SELEŠI, Božidar JAKOPEC, Petar KRAMAR, Franjo ŠOKEC, Mato PETEK and V.Š., all of whom had been seized as hostages and held imprisoned in the cellar beneath the school building. In the aftermath of the shooting, Željko SELEŠI, Božidar JAKOPEC, Petar KRAMAR, Franjo ŠOKEC and Mato PETEK were lethally wounded, whereas Vendel ŠKLEBEK remained sheltered behind a wall and therefore unhurt.

By his participation in the described acts, Boro TRBOJEVIĆ committed the criminal offence recognized by article 142 (1) (war crime against civilian population) of the Yugoslav Criminal Act.

Furthermore, the herein described acts on the part of the accused constitute a violation of the rules of international law which govern the conduct of war, and which are set forth in the following acts and provisions:

- Article 3 (1.a, 1.b) of the Geneva Convention on protection of civilians in warfare (Geneva Convention IV), adopted on 12 August 1949 and ratified by the then FPRY National Assembly in 1950;
- Article 4 (2.a, 2.b) of the Additional Protocol to the Geneva Convention of 12 August 1949, on protection of victims in noninternational armed conflicts (Protocol II), adopted on 8 June 1977 (SFRY Official Gazette, No. 16/78 - International Contracts).

In view of the foregoing, I PROPOSE that a trial be scheduled and held before this

Court, whereto the following parties should be summoned:

- 1 War Crimes Prosecutor;
- 2 The accused, Boro TRBOJEVIĆ;
- 3 Defence counsel for the accused;
- 4 Witnesses: ---

Within the evidence procedure, I further propose that the following documents be read out or presented:

- Witness examination record ref. KTA-RZ-4/08, made by the Banja Luka District Prosecutor and dated 16 April 2008;
- Certified copy of the Bjelovar District Court file ref. K-25/93, in the case of the accused: Bogdan TRBOJEVIĆ and Boro TRBOJEVIĆ;
- All witness statements
- Correspondence between the Main Staff of the Bilogora Detachment - part of the Autonomous Region of Western Slavonia's Territorial Defence force, and the Crisis Staff of Grubišno Polje municipality.

Finally, I propose that the report on the accused's criminal record be obtained from the Republic of Croatia's relevant authority (through the Serbian Ministry of the Interior) and read out before this Court.

Statement of Reasons

The existence of the criminal offence charged by this indictment is corroborated by the proposed evidence and by the results of the investigation conducted before an investigative judge in the Belgrade District Court's War Crimes Chamber.

The evidence collected thus far indicates that armed conflicts between the JNA and Croat paramilitary formations started in the Republic of Croatia - at the time part of the SFRY - during July and early August 1991. Specifically, the area of Grubišno Polje was affected by the hostilities in early August, when self-organized armed groups of local Serbs and Croats seized parts of the municipal territory and started fighting against each others.

On 12 August 1991, Boro TRBOJEVIĆ arrived in village Velika Peratovica, where he joined the unit known as the »Bilogora Detachment«. The unit, part of the Serbian Territorial Defence force, had control over the village, which was also the seat of its Main Staff. As early as on the following day, 13 August 1991, BOROJEVIĆ participated in a joint operation launched by his unit, which took place on motorway no. 16, near the Velika Peratovica-Gornja Rašenica crossroads. The operation involved the seizure of Croatian civilians who were passing in their passenger vehicles through the crossroads, whereupon they were forcibly removed from their

cars and taken hostage. Among those seized and forcibly taken away were I.V. and V.R., who, after being held for a lengthy period of time in the provisional prison facilities in Velika Peratovica, eventually got exchanged as hostages.

In addition to the foregoing, acting in his capacity as member of the said armed unit, Boro TRBOJEVIĆ engaged in the attacks on village Topolovica, launched on 20 August 1991. In the aftermath of the campaign, the village was besieged with the intention to have the entire Croat male population captured and taken to Velika Peratovica, where they would be exchanged as hostages. The operation resulted in the seizure of 50 civilians, who were transferred to Velika Peratovica and held imprisoned there. At a later point, some of the captives were released or exchanged, and others were killed (their bodies were subsequently found in a mass gravesite), whereas the remaining five were killed inside the local school building - which had been converted into prison - on 31 December 1991, as the Bilogora Detachment was leaving Velika Peratovica. During the siege of Topolovica, Boro TRBOJEVIĆ was present in the part of the village where the family homes of Matija KOTARAN and Anka KOTARAN stood adjacent to one another. In the courtyard of Matija KOTARAN's house, where a group of Croat civilians were rounded up, the accused separated men from women, kicked K.K., forced all the female captives into a stable wherein they remained locked up, and engaged in the forcible removal of the following persons: Matija KOTARAN (who was transferred to the Velika Peratovica prison and whose body was later found in a mass gravesite); Željko SELEŠI (who was later killed inside the prison); and M.Č.(who was later released, i.e. exchanged).

Concurrently, the Bilogora Detachment members present in the adjacent courtyard opened fire at Anka KOTARAN's family house, where several civilians had tried to seek shelter. As those inside the house, alarmed by the shooting, fled to the attic, Boro TRBOJEVIĆ approached and threw a bomb, which exploded immediately afterwards. As a result of the explosion, two civilians - Josip SELEŠI and Anka KOTARAN - sustained severe bodily injuries, whereof the latter died later that day.

On an unidentified day in mid-August 1991, in his capacity as member of the mentioned armed formation, Boro TRBOJEVIĆ took up guard's duty in the prison provisionally established in the local school building, where a number of civilians - hostages were held confined. TRBOJEVIĆ remained on that duty until 31 October 1991, when, following a renewed armed conflict, the Bilogora Detachment left Velika Peratovica. Throughout the time of his guard service, TRBOJEVIĆ took part in the physical maltreatment of a number of detained civilians, among whom were also R.V., Š.V., M.B. and Š.V.

On the day of the unit's departure from Velika Peratovica, acting in concert with (now deceased) Bogdan TRBOJEVIĆ - who was head of the prison - and a FNU LNU guard, Boro TRBOJEVIĆ participated in the killing of the following civilians - hostages: Željko SELEŠI, Božidar JAKOPEC, Petar KRAMAR, Franjo ŠOKEC and Mato PENTEK. Boro TRBOJEVIĆ and the other two discharged several rounds of ammunition from their 7.62 automatic weapons into the hostages, whereby all of them received lethal wounds and died on the spot, save for Š.V., who took shelter behind a wall inside the prison and remained unharmed.

All of the above described acts of the criminal offence which the accused is charged with have already been the subject of criminal proceedings in the Republic of Croatia,

where the accused, Boro TRBOJEVIĆ and (now deceased) Bogdan TRBOJEVIĆ were tried in absentia before the Bjelovar District Court. Further to the final decision (ref. K-25/93-16) ruled by that court, the two were found guilty of the criminal offence recognized by article 120 (1) (war crime against civilian population) of the Republic of Croatia's Basic Penal Code, and sentenced to 20 years in prison. However, it is evident from the Bjelovar District Court's files of the said case that the sentence which the accused, Boro TRBOJEVIĆ, received in absentia, has not been served by him either in its entirety or in part. That is to say that there are no legal impediments to his prosecution for the specified criminal offence under art. 108 (2) re art. 106 of the SFRY Criminal Act (which applied at the time of the offence commission), or under art. 108 (2) re (1) re art. 106 of the Serbian Basic Criminal Act (which applied in the meantime), or under art. 10 (1) re (8) of the Serbian Criminal Code (which applies now). In view of the foregoing, all legal conditions have been fulfilled for a criminal proceeding to be conducted against the accused.

The defence allegations offered by Boro TRBOJEVIĆ are in flat contradiction of the evidence suggested, and therefore unfounded.

Arising from all of the facts and circumstances specified above is the conclusion that the acts of the accused, Boro TRBOJEVIĆ, constitute grave breaches of the international legal rules governing the conduct of war, namely the following acts and provisions:

- Article 3 (1.a, 1.b) of the Geneva Convention on protection of civilians in warfare (Geneva Convention IV);
- Article 4 (2.a, 2.b) of the Additional Protocol to the Geneva Convention on protection of victims in noninternational armed conflicts (Protocol II).

In the light of the fact that the accused, Boro TRBOJEVIĆ, participated in the attacks on civilians and the inhumane treatment thereof, as well as in the torturing and killing of those whom his unit had taken hostage and held confined, his acts include all the essential elements of the criminal offence recognized by art. 142 (1) (war crime against civilian population) of the Yugoslav Criminal Act, whereby they provide sufficient and valid legal grounds for this indictment.

WAR CRIMES PROSECUTOR
Vladimir Vukčević