



Republic of Serbia
Office of the War Crimes Prosecutor

DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER
SUPREME COURT OF SERBIA

17 September 2007

Pursuant to my authority under Article 46 § 2 (4) of the Act on Criminal Procedure, I hereby submit in due time the

APPEAL

Against the verdict Ref. K.V. No. 6/05 of 10 April 2007, rendered by the District Court in Belgrade - War Crimes Chamber on the grounds set forth below:

I

The determination of the sentences - Art. 367 (4) re Art. 371 §1 of the Criminal Procedure Act, for the accused: Pero PETRAŠEVIĆ and Aleksandar MEDIĆ;

II

- Serious breach of criminal procedure provisions - Art. 367(1) re Art. 368 §1(11) of the Criminal Procedure Act, and
- Errors in the establishment of facts - Art. 367(3) re Art. 370 §1 of the Criminal Procedure Act, concerning the accused Aleksandar VUKOV.

Statement of Reasons

Further to the verdict Ref. KV. 6/05 of 10 April 2007, rendered by the District Court in Belgrade - the War Crimes Chamber, the accused: Slobodan MEDIĆ, Branislav MEDIĆ and Pero PETRAŠEVIĆ were pronounced guilty of the criminal offence recognised by Art. 142 §1 re Art. 22 (war crime against civilian population) of the FRY Criminal Act as coperpetrators, and the accused, Aleksandar MEDIĆ, was found guilty as accessory to the criminal offence recognised by Art. 142 §1 re Art. 24 (war crime against civilian population) of the same Act, whereas the accused, Aleksandar VUKOV, was released from charges. Further to the same verdict and for the stated criminal offence, the accused: Slobodan MEDIĆ and Branislav MEDIĆ were respectively sentenced to 20 years in prison, Pero PETRAŠEVIĆ to 13 years, and Aleksandar MEDIĆ to 5 years.

While the first-instance Court was right in sentencing the accused: Slobodan MEDIĆ and Branislav MEDIĆ to maximum 20-year terms for the criminal offence recognised by Art. 142 §1 (war crime against civilian population) of the FRY Criminal Act, we believe that the Court erred in failing to determine the same sentences for the accused: Pero PETRAŠEVIĆ and Aleksandar MEDIĆ; namely, the Court's decision regarding Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, who were respectively sentenced to 13 and 5 years in prison, cannot serve the punishing purpose, either in respect of these two accused individuals, or regarding other potential perpetrators of the most serious crimes at issue.

I

The position obviously taken by the first-instance Court was that maximum sentences were appropriate for Slobodan MEDIĆ, who ordered the commission of the atrocious crime, and for Branislav MEDIĆ, who engaged in the commission of the stated crime by shooting at the innocent victims, with neither of the two admitting their personal responsibility for the crime or expressing their regret thereof. Pursuant to the customary judicial practice in the case of »ordinary criminal offences«, the first-instance Court was of the view that PETRAŠEVIĆ, who admitted the commission of, and expressed his repentance for the criminal offence, thereby facilitating the establishment of facts relating to the other accused individuals; and Aleksandar MEDIĆ, who did not personally engage in the shooting but merely aided the offence commission, who admitted the relevant facts and expressed his regret for the event, deserved a more lenient punishment than Slobodan MEDIĆ and Branislav MEDIĆ, who received the highest legally envisaged sentences. However, in the case of this particular criminal offence, namely the most serious form of a war crime involving the killing of civilians, the grading of individual criminal responsibilities cannot be based on the comparison of levels of each individual's responsibility, since reasons of justice clearly imply that each perpetrator in a particular case should be adequately punished according to the gravity of the offence and the manner of its commission, proportionally to his/her personal involvement therein. While there is no doubt that even a maximum sentence to 20 years in prison can hardly be considered adequate for the crime at issue, in this particular case it appears as mandatory due to the prevalence of a more lenient law. However, one should be aware of the fact that the previously applicable legislation, namely Art. 142 § 1 of the SFRY Penal Code, determined war crime against civilians as a capital criminal offence; furthermore, for the criminal offence recognised by Art. 372 § 3 (war crime against civilian population), the currently applicable Criminal Code of the Republic of Serbia anticipates a maximum sentence ranging between 30 and 40 years in prison. This means that both of the aforementioned Acts anticipate extremely severe maximum punishments for the most serious criminal offences. At one point of the historical period marked by the coexistence of two criminal laws - i.e. that of the Republic of Serbia and that of the Federal Republic of Yugoslavia, the federal lawmaking authority decided to abolish capital punishment; concurrently remaining in the Republic's legislation, capital punishment could be replaced by a 20-year prison sentence, this being a legal maximum at the time. In the aftermath of the described situation, a change was introduced in the legal provisions addressing the criminal offence recognised by Art. 142 §1 (war crime against civilian population) of the federal criminal act, whereby the stated offence was punishable by an anticipated maximum of 20 years. However, this

change was not motivated by the lawmakers' seeing this offence as having become socially less dangerous than at the time when it was punishable by death sentence; on the contrary, the change was exclusively intended to resolve the confusing situation as described above.

On the other hand, throughout the whole period between the commission of the particular criminal offence and its adjudication, an anticipated maximum for the stated offence was capital sentence or, alternatively, a prison sentence to a term ranging between 30 and 40 years. In this particular case, all of those accused within the offence whereof they were found guilty and subsequently convicted, engaged in such activities that contained all essential elements of the criminal offence recognised by Art. 47 §2 (6) (murder) of the Criminal Act of the Republic of Serbia; namely, since each of the accused individuals either ordered or participated in the killing of a number of persons, the sentences for each of the accused are to be primarily determined based on this fact, and not on the comparison of individual levels of responsibility for each of the participants in the particular criminal offence.

Consequently, in the case of the accused: Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, the first-instance Court, although fully aware of the aforementioned, failed to give appropriate weight (or failed to give any weight at all) to the aggravating circumstances that were also emphasised in the Prosecutor's closing arguments - namely to the following facts: the victims of the criminal offence at issue were young people and children, including three underage persons: Safet FEJZIĆ, aged 17 years and 6 months at the time of the offence; Azmir SPAHIĆ, aged 16 years and 9 months; and Dino SALIHOVIĆ, who was only 16 years and 20 days old; likewise, none of the victims gave rise to the commission of the offence; furthermore, all of the accused, including Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, engaged in the inhumane treatment of the captured civilians, whom they beat, insulted and deprived of water to drink; as they did so, the accused were of a cheerful and relaxed disposition, whereby they demonstrated that they were not merely obeying the orders of others, but willfully engaged therein. The foregoing facts are also confirmed by the victims' legitimate and unanimous position that all of the accused should be most severely punished. Their request is best summarised in the statement given by Bekto DELIĆ, brother of Juso DELIĆ, who was one of the victims. At a trial session held on 12 March 2007, Bekto DELIĆ stated: »They say they were ordered to kill, yet there was no order that they should not give water. One can clearly see in the recording that the captives were asking for water. In response, they got nothing but swear words hinting at their Muslim descent... By no means shall I be convinced that anyone can be made to kill people without himself wanting to do so. He may have been ordered to kill all right, but he was also all too ready himself to do it... If I were ever made to kill a man against my will, the least I would do is to give him some water, lest he should perish from thirst. The least I would say is, I have to kill you all right, but here is the water, drink it to your heart's content.«

In addition to the foregoing, another aggravating circumstance for all of the accused, including Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, is a base motive underlying the commission of the particular criminal offence - namely, the intention of the accused to conceal the Srebrenica crime. In no way, however, was this aggravating circumstance reflected in the sentences rendered; namely, in its explanation of the verdict, the first-instance Court declares itself as having been unable to reliably establish whether the captives had been transferred to the execution site from

Srebrenica, and alleges that there are certain indications suggesting that this might not have been the case. However, the first-instance Court erred in relation to this fact, because all of the injured - closest family members of the victims, clearly indicated that prior to the attacks on Srebrenica, the victims: Safet FEJZIĆ, Azmir ALISPAHIĆ, Sidik SALKIĆ, Smail IBRAHIMOVIĆ, Dino SALIHOVIĆ and Juso DELIĆ had been in Srebrenica and that, when the attacks started, they tried to escape from the town, but got captured on its outskirts. These witnesses' allegations were further substantiated by witness Amor MAŠOVIĆ, who testified that, according to the collected data, the victims had disappeared in the vicinity of village Kravice, which is around 20 kilometres away from Srebrenica, and therefore belongs to its outskirts. Additionally, in a statement of 2 June 2006, which, pursuant to Art. 504(j) of the Criminal Procedure Act, he gave to the War Crimes Prosecutor, witness Slobodan STOJKOVIĆ confirmed that he had personally seen the captured Muslims being interrogated by some «Scorpions» members, on which occasion he had heard the captives responding that they were from Srebrenica. Furthermore, on page 46/67 of the trial record taken on 21 February 2006, the accused, Pero PETRAŠEVIĆ, stated that he had personally learnt from the captives that they were from Srebrenica. Among other allegations, on page 37/97 of the trial record taken on 23 February 2006, witness STOJKOVIĆ said: »... at that point Brane (MEDIĆ) told me that the captives were from Srebrenica and that they were to be liquidated« (the quotation refers to the moment of STOJKOVIĆ's getting onto the truck loaded with the captives, and its departure to the site of the subsequent executions). Clearly arising from the aforementioned, including the statements offered by witness STOJKOVIĆ and by the accused themselves, namely Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, is the conclusion that these two accused individuals knew where the captives had come from, and, being aware of that fact, they killed the victims in a way intended to suggest that those civilians had been killed in fights conducted in the Trnovo area, i.e. with the ultimate idea to conceal the Srebrenica crime.

Beside the aforementioned, the first-instance Court did not give due consideration to the conduct persistently demonstrated by Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, as of the time the captives were handed to them, up to the very moment of their execution.

Additionally substantiating the appeal allegations against the accused, Pero PETRAŠEVIĆ, are four photographs extracted from the video footage recorded by witness STOJKOVIĆ, with a camera provided by Slobodan MEDIĆ. Part of the case evidence, this recording was presented at the trial. Established through the statements offered by witness STOJKOVIĆ, by the accused themselves, and eventually by other witnesses testifying on what is generally seen in the recording, is the fact that Pero PETRAŠEVIĆ was the only one who, at the time of the crime commission, was wearing a black uniform and a black balaclava helmet, whereas Aleksandar MEDIĆ (the taller of the two) and Slobodan DAVIDOVIĆ (the shorter of the two) were the only two persons wearing red balaclavas. The herein enclosed still pictures featuring PETRAŠEVIĆ shed light on the three crucial moments to which the first-instance Court ought to have given better attention, namely the following:

The first moment, observable in Picture (1), when PETRAŠEVIĆ, entering the truck, stamps over the back of one of the victims, who is seen in the picture in a blue shirt; the second moment, observable in Pictures (2) and (3), when PETRAŠEVIĆ, seated in the truck, strikes with a booted foot one of the captured civilians as the latter tries

to raise his head; and the third moment, observable in Picture (4), which shows PETRAŠEVIĆ (wearing black uniform trousers) as he kicks the captives who are lying on the grass with their faces towards the ground. In his statement of 8 September 2005 (p. 65/68 of the trial report made on 21 December 2005, when this statement was read out), PETRAŠEVIĆ himself admits that he is the person with a black balaclava on his head, in the picture seen as he stamps over the prisoners lying on the truck floor. Also related to one of the details of the same event are statement allegations given by witness STOJKOVIĆ at the trial of 24 February 2006, when this witness, commenting on this particular detail of the recording, confirms that the person heard to be saying »...sit down there ... move your head, sit down right now you motherfuckers and bow like this... move on, faster, faster« is Pero PETRAŠEVIĆ. At the same trial (pp 28/41 of the trial record), with reference to an event seen later in the recording, when the captured civilians are on the point of being executed, the same witness again identifies PETRAŠEVIĆ as the one saying: »...we shall kill two of them, and release the remaining four ...« All of the foregoing circumstances highlight PETRAŠEVIĆ's brutality in the treatment of the captured civilians closely ahead of their liquidation.

In relation to the accused, Aleksandar MEDIĆ, enclosed with this appeal are eight photographs contained in the aforementioned recording, which was presented within the trial evidence. Two of the eight herein enclosed photographs show Aleksandar MEDIĆ on guard beside the truck still loaded with captured civilians; the third photograph shows Aleksandar MEDIĆ standing above the lying prisoners, their faces turned towards the ground; in the fourth and fifth photographs, Aleksandar MEDIĆ is seen in the company of other members of the Scorpions unit, as they are conducting the captured civilians towards the site of their forthcoming execution; photographs 6 and 7 show the position of Aleksandar MEDIĆ taking guard at the moment when four of the captives have already been killed, while the remaining two are carrying the bodies of the victims into the cottage; and photograph 8, with Aleksandar MEDIĆ taking guard in front of the cottage, the situation closely preceding the liquidation of the remaining two victims inside the cottage.

The position and posture taken by Aleksandar MEDIĆ, as well as the manner in which he is holding the weapon and acting throughout this event, indicate that, in all his actions related to the event, he acted exactly in the same way as all other Scorpions members participating in the liquidation, himself unambiguously intent to the commission of this criminal offence, i.e. the liquidation of civilians. Thus, the fact that that he aided the commission of the criminal offence rather than being personally involved in the shooting in itself does not indicate that he did not want the commission of the criminal offence; contrary to that, it indicates that he did not shoot merely because he was frightened, wherefore he was subsequently ridiculed by other participants in this event.

Another fact that deserves to be duly considered is that Aleksandar MEDIĆ actually does not admit taking part in the commission of the criminal offence when he expresses his regret, yet not true contrition thereof. Namely, in his defence allegations he states that it was not until the very moment the shooting started that he was aware of the liquidation plan. However, in his statement given to the investigative authority, witness STOJKOVIĆ states that prior to the truck departure all of the Scorpions members who were aboard knew that the captured civilians were going to be liquidated. Moreover, the accused, Pero PETRAŠEVIĆ, alleges within the

investigative hearing of 8 September 2005 (page 54/68 of the trial record of 21 December 2005, when his statement was read out): »...I know that he (Slobodan MEDIĆ) passed that order on to me, and Aca (Aleksandar MEDIĆ) was sitting there, by my side ...«; on page 63/68 of the same record, asked by defence lawyer PERKOVIĆ who was present when Slobodan MEDIĆ ordered the liquidation, STOJKOVIĆ answers: »... I believe that Aleksandar MEDIĆ was there.«

In relation to the foregoing, the first-instance Court gave insufficient weight to the sarcastic manner that the accused, Aleksandar MEDIĆ, demonstrated while questioning one of the captives who were lying on the ground. Namely, in his statement given at the trial of 23 February 2006 (page 41/97 of the trial record), witness STOJKOVIĆ alleges: »...Aca was the first to interrogate them ... something about sex ... he asked this one on the far right ... he asked the boy: «Have you had a fuck yet?» ... and when he answered that he had not, Aca said something like »And so you never will«, he said something to that effect ...« Although these words can only vaguely be heard in the recording, Aleksandar MEDIĆ himself, talking at the resumed trial session of 24 February 2006, gave the following comment on witness STOJKOVIĆ's allegations: »I did make a joke and I do not deny it, but if had I known that the captives were going to be shot, I certainly wouldn't have done it ...« Therefore, there is no doubt that the accused, Aleksandar MEDIĆ, treated this particular captive in the manner described by witness STOJKOVIĆ; in the light of the aforementioned, it is also perfectly clear that MEDIĆ was not joking as he addressed the captive, but was definitely aware that this boy was going to be executed along with the others, and therefore wanted to additionally harass the unprotected victims who were listening to that conversation.

II

Upon the completion of evidentiary proceedings in the case of Aleksandar VUKOV, the Court found that there was no evidence to support his responsibility for the criminal offence he was charged with, whereupon, pursuant to Art. 355 (1) of the Act on Criminal Procedure, the Court rendered an acquitting verdict.

According to the Court's explanation, VUKOV has been released from charges because it can not be established beyond reasonable doubt that he participated in the stated criminal offence, be it in the manner described in the indictment or otherwise. Specifically, further to the Court's allegations, VUKOV denies his involvement in the crime commission or any criminal responsibility on his part, and insists that he was neither aware of the execution order issued by Slobodan MEDIĆ, nor did he participate in the executions whatsoever, be it as a perpetrator or an aider. The Court believes that no evidence presented in the course of the trial has corroborated the indictment allegations, namely that Aleksandar VUKOV instructed Pero PETRAŠEVIĆ on the site where the executions were to take place, and subsequently ordered the reconnaissance platoon under his command to assist the other accused individuals in the executions; consequently, the Court concludes that the Prosecution allegations are but indications lacking solid evidence, and as such can not be accepted by the Court.

In our belief, the evidence presented throughout the preliminary proceedings clearly indicates that the Court erred in drawing the above conclusion, which, on its part,

resulted in a faulty verdict. Within the elaboration on our position, we shall particularly refer to the facts which we consider to be of paramount relevance for rendering a correct and lawful decision.

The Prosecution views as unquestionable the Court's conclusion that no participant in these criminal proceedings has brought direct charges against Aleksandar VUKOV regarding his commission of the criminal offence in the manner charged by the indictment.

However, there is a substantial amount of other evidence leading to a contrary conclusion, such evidence being either misinterpreted, or largely disregarded by the Court. Based on this evidence is a sufficient amount of relevant facts which, in the context of other presented evidence, unambiguously suggest the Court's erroneous estimation of VUKOV's criminal responsibility for the particular criminal offence.

A close insight into the part of the recording related to the arrival of the truck with the accused and captives aboard at the site of disembarkation, one can clearly observe a lapse of time between the moment of the truck's arrival and that of its departure to the base in order to fetch a reserve battery. Although no one of those who were present at the site and subsequently heard by the Court directly explains such a sequence of events, we believe that the Court erred in failing to give consideration to this fact, which is, in our opinion, of crucial importance. The analysis of further developments as described by some accused individuals and witness STOJKOVIĆ, which is also observable in the video recording, leads to the unambiguous and only possible conclusion that the lapse is due to the fact that something was being awaited. And the only development to follow was the arrival of Aleksandar VUKOV and his reconnaissance unit. The episodes of the truck leaving the scene in order to fetch new batteries, and the subsequent fixing of the camera to record the event are of minor importance and of a purely situational nature. In the light of the subsequent developments, it is logical to conclude that, without the presence of the accused, Aleksandar VUKOV, it would not have been possible to carry out the liquidation order issued by Slobodan MEDIĆ in a previously envisaged manner. Namely, the captives could have been executed at any spot on their way between the base where they got under the VRS control and the execution site, since they were passing through an abandoned and woody area. The fact that this did not happen suggests the existence of a previous plan further to which the execution was to be carried out elsewhere, at a previously determined place. A burnt-down weekend resort, which had been destroyed in previous war operations, was observed as a suitable spot for the realisation of that plan. The bodies of the killed captives were poured over with petrol and burnt, thereby creating an illusion that the victims had been killed at an earlier point, which clearly indicates the perpetrators' intention to conceal the war crime. According to the first-instance verdict allegations, the individuals who committed the execution were not accompanied by Aleksandar VUKOV when they reached the site where the captives got unloaded from the vehicle, which suggests that at least one of them had a good knowledge of the area. Such a conclusion on the part of the Court is not grounded in the evidence presented. None of those present at the time of the event, except for Branislav MEDIĆ, Aleksandar VUKOV and his reconnaissance unit, had ever been to the disembarkation site, or knew about the burnt-down weekend resort in its immediate vicinity. This also applies to the accused, Branislav MEDIĆ, who, on some previous occasions, had approached the site while transporting supplies for the frontline, but had never gone beyond the spot where the captives

were unloaded from the truck. Consequently, it was only Aleksandar VUKOV who had the knowledge of the area, specifically the section between the disembarkation spot and the frontline, which is exactly where the burnt-down weekend resort, i.e. the subsequent execution scene, was situated.

In one sequence of the recording, Aleksandar VUKOV and Pera PETRAŠEVIĆ can be seen discussing something, while standing in their immediate vicinity are Aleksandar MEDIĆ and a member of the reconnaissance unit hauled from the frontline (video recording: sequences 5 and 6, min. 09:58.10 - 10:33.08). In the five still pictures enclosed herewith, which are parts of this sequence, Aleksandar VUKOV is seen as he approaches PETRAŠEVIĆ (Picture 1), then, immediately afterwards, the aforementioned reconnaissance team member hastily approaches VUKOV and PETRAŠEVIĆ, and stops closely by their side (Pictures 2 and 3); further on, almost at the same moment, Aleksandar MEDIĆ also arrives at the scene (Pictures 4 and 5). Although Picture 5 is somewhat blurred, it indisputably shows all of the four: Pera PETRAŠEVIĆ, Aleksandar VUKOV, the reconnaissance soldier and Aleksandar MEDIĆ standing together; likewise, it is manifestly clear that the conversation between PETRAŠEVIĆ and VUKOV is carried out in the presence of the reconnaissance man, who had previously arrived with VUKOV, and Aleksandar MEDIĆ. The accused, Aleksandar VUKOV and Pera PETRAŠEVIĆ, explained before the Court what they had been discussing on that occasion, and why other persons were present during the discussion, whereas they denied talking about the task due to be performed by the commander's security staff. Supposing that this were true, one might ask why the reconnaissance team did not return when the accused, Aleksandar VUKOV, went to the frontline. The explanation that the reconnaissance men remained in order to take over the supplies due to be sent from the base, or, as VUKOV puts it, »the parcel« - a coded reference term for ammunition, weaponry, food etc., should be dismissed as untruthful. If we return to the beginning of the recording and to the statements provided by Pera PETRAŠEVIĆ and Aleksandar MEDIĆ, we shall undoubtedly conclude that, apart from them, loaded on the truck trailer there were several other persons - immediate witnesses of the execution, as well as the captives. The trailer did not contain any other load (the trial session of 22 December 2005, page 29/81), and certainly not the supplies which VUKOV was allegedly supposed to pick up when he descended from the frontline. The accused, Pera PETRAŠEVIĆ, must have been aware of that as well. Likewise, it is true that the truck was not at the disembarkation site at the moment of VUKOV's arrival, since it had returned to the base with Branislav MEDIĆ, who was supposed to fetch a spare battery. This is also supported by the audio recording, where one can clearly identify witness STOJKOVIĆ instructing Branislav MEDIĆ to go to the base, which everyone, including Pera PETRAŠEVIĆ, must have heard. It is thereby illogical to believe that VUKOV would have the reconnaissance team left behind to pick up the provisions delivered from the base, which were allegedly due to be loaded on the truck and sent together with the spare battery. Even if we suppose, however, that this might have been the case, then how can one explain the reconnaissance team's failure to return to the frontline once the truck had been back without the deliverance for VUKOV, and their subsequent participation in something that their immediate superior allegedly had not ordered them to do.

This line of reasoning brings us to the events which were thoroughly disregarded by the Court as it was deciding on the guilt of the accused, Aleksandar VUKOV. The verdict's statement of reasons elaborates on the arrival of the accused, Aleksandar

VUKOV, in the company of several reconnaissance soldiers who were under his immediate command, to his conversation with PETRAŠEVIĆ, and ultimately to his departure from the spot where they met. No single reference is made to the subsequent conduct of the soldiers who had arrived with him, although there are clear proofs thereof, all of which unambiguously suggest VUKOV's responsibility.

It was undoubtedly established in the course of the proceedings that the Scorpions were a unit with an excellent military organisation, where hierarchy, discipline and other military rules were strictly obeyed. On the critical occasion, at the battlefield in the Trnovo area, the reconnaissance platoon, which was part of the Scorpions unit, was commanded by Aleksandar VUKOV (trial sessions: 20 December 2005, p. 62/79; 21 December 2005, pp. 25-26/68; 23 December 2005, p. 16/62; etc.). According to VUKOV's allegations, the soldiers were hauled from the frontline to help him with the transfer of the supplies that he expected to receive from the base. It is logical to wonder why, when it became clear that the supplies had not been dispatched, the reconnaissance team did not return to the frontline, but remained to actively participate in the handling and liquidation of the captives. A seriously organised military unit, and a reconnaissance platoon which, as it has been clearly established, was the best part of that unit, could not be expected to act in an unruly manner or without being ordered to engage in such activities that could not render pleasure to any normal human being. The only person who could order them to do so was Aleksandar VUKOV.

Beside the above, the Court failed to consider the part of the statement provided by the accused, Aleksandar MEDIĆ which relates to the conduct of the accused upon their return to the Trnovo base, when PETRAŠEVIĆ approached his superior, Slobodan MEDIĆ, with the following report: »Commander, the order has been executed, the parcels have been liquidated« (trial session of 22 December 2005, p. 39/81). This is thoroughly inconsistent with the Court's decision to accept VUKOV's explanation, further to which the coded term »parcels« did not refer to the captives, but to the supplies. Taking into consideration the entire context of the events and other evidence, we hold that in this particular part relating to the meaning of the code, faith should be given to the explanation provided by another accused person, namely Aleksandar MEDIĆ.

Thus, a correct analysis of presented evidence leads us to the following conclusions: Slobodan MEDIĆ issued the liquidation order, pursuant to which VUKOV was instructed to »climb down the parcel« (statement given by acc. VUKOV at the trial session of 23 December 2005, p. 19/62), which meant that he should go down and fetch the captives, while the accused: PETRAŠEVIĆ, B. MEDIĆ and A. MEDIĆ, along with MOMIĆ and DAVIDOVIĆ, were awaiting VUKOV's arrival; in subsequence, acting further to acc. Slobodan MEDIĆ's orders, VUKOV, accompanied by three reconnaissance men, reached the captured civilians; VUKOV then discussed the subsequent course of activities with PETRAŠEVIĆ, their conversation being carried out in the presence of a reconnaissance soldier and Aleksandar MEDIĆ; on that occasion VUKOV instructed PETRAŠEVIĆ on the location where the execution was to take place, and ordered the reconnaissance soldiers accompanying him to join the operation; in subsequence, the three reconnaissance men and Slobodan MEDIĆ's security staff forced the captives towards the burnt-down cottages, whereafter all of the formerly mentioned engaged in the victims' liquidation; finally, on his return to the base, PETRAŠEVIĆ informed his commander that the captives had been killed by

saying: »... the parcels have been liquidated.« Thus, since the coded term »parcels« was actually applied to the captives, it is manifestly clear that the accused, Aleksandar VUKOV, also participated in the commission of the criminal offence, in the manner described in the modified indictment.

The first-instance Court's decision regarding VUKOV's responsibility is primarily based on the statement provided by PETRAŠEVIĆ, who admits the commission of the offence and indicates other perpetrators thereof, whereas he excludes VUKOV from charges. However, the Court failed to duly consider the previously existing close relationship between PETRAŠEVIĆ and VUKOV. A careful analysis of PETRAŠEVIĆ's statement may indicate PETRAŠEVIĆ's determination to protect the accused, VUKOV, from criminal responsibility.

In view of the above, and along with all other evidence presented throughout the trial, we hold that the Court failed to provide a clear and logical assessment of all relevant circumstances, which results in the discrepancy between the reasons alleged in the acquitting part of the verdict, and the files contents relating to the evidence presented; such a failure on the part of the Court constitutes a grave breach of criminal procedure regulations.

For the foregoing reasons, I respectfully PROPOSE that the Supreme Court of Serbia do the following:

I In respect of the accused: Pera PETRAŠEVIĆ and Aleksandar MEDIĆ, MODIFY the convicting part of the verdict Ref. K.V. 6/05 of 10 April 2007, rendered by the Belgrade District Court - War Crimes Chamber, whereby the two should be sentenced to maximum legally envisaged prison terms, namely Pera PETRAŠEVIĆ for the criminal offence recognised by Art. 142 (1) (war crime against civilian population) of the FRY Criminal Act, and Aleksandar MEDIĆ for the criminal offence recognised by Art. 142 (1) re Art. 24 (accessory to war crime against civilian population) of the same Act.

II In respect of the accused, Aleksandar VUKOV, REVERSE the acquitting part of the verdict Ref. K.V. 6/05 of 10 April 2007, rendered by the District Court in Belgrade - War Crimes Chamber, and send the case back to the first-instance Court for reconsideration.

*War Crimes Prosecutor
Vladimir Vukčević*

ATTACHMENTS:

- 1 Photographs 1, 2, 3 and 4. relating to acc. PETRAŠEVIĆ;
- 2 Photographs 1, 2, 3, 4, 5, 6, 7 and 8, relating to acc. Aleksandar MEDIĆ;
- 3 Photographs 1, 2, 3, 4 and 5, relating to acc. VUKOV.