



Republic of Serbia
Office of the War Crimes Prosecutor

**CLOSING ARGUMENTS OF THE WAR CRIMES PROSECUTOR
IN THE »SCORPIONS 1 (MEDIĆ AND OTHERS)« CASE**

3 April 2007

Honourable Court,

The War Crimes Prosecutor entirely remains along the lines of the Amended Indictment, based on his firm conviction that the evidentiary proceedings undoubtedly disclosed the participation of the herein accused individuals in the criminal offence they are charged with, namely a war crime against civilians, and accordingly bear a criminal responsibility thereof. Likewise, owing to the widely known video recording, for the first time were the domestic and international public enabled a thorough insight into the circumstances pertinent to this crime.

The War Crimes Prosecutor's team had been alerted of this crime two weeks before the recording was first broadcast on 1 June 2005, within the course of the Slobodan Milošević trial. The broadcast was followed by a prompt and efficient response on the part of the relevant state authorities – prosecution and law enforcement agencies, whereby the accused were deprived of liberty on the same night when the recording was made public.

In the course of the proceedings initiated shortly thereafter, the Court presented a substantial amount of evidence in support of the position maintained by the Prosecutor's team.

Charges against the accused: Slobodan MEDIĆ, Pero PETRAŠEVIĆ and Branislav MEDIĆ involve the commission of the criminal offence recognised by Art. 142(1) of the Yugoslav Criminal Code (war crime against civilian population), whereas charges against the accused: Aleksandar VUKOV and Aleksandar MEDIĆ refer to their engagement as aiders and abettors in the stated event.

Within their defence allegations throughout the proceedings, the accused: Slobodan MEDIĆ, Aleksandar VUKOV and Branislav MEDIĆ deny responsibility for the incriminations against them.

The accused, Slobodan MEDIĆ, argues that he was not present in Trnovo on the day of the event. Further to his allegations, he issued no orders whatsoever that the prisoners be shot, and had no knowledge of the event until the television appearance of the execution recording.

Further to his defence allegations, the accused, Aleksandar VUKOV, was not aware of the order stating that the prisoners were to be shot, whereas his presence at the scene ahead of the event had nothing to do with the execution, and, accordingly, he had no active involvement in that respect.

In his defence, the accused, Branislav MEDIĆ, contends that although he was present in the vicinity of the burnt-down weekend houses in the place called Godinjske Bare, where the Bosniak civilians were executed, he did not engage in the shooting. Furthermore, he points out that on the critical occasion the shooting orders were not issued by Slobodan MEDIĆ, who was not present in Trnovo on that day, but by another RS Army officer, of whose identity Branislav MEDIĆ has no knowledge.

The accused, Pero PETRAŠEVIĆ, admits that Slobodan MEDIĆ, in his capacity of the »Scorpions« commander, ordered his security staff, including PETRAŠEVIĆ himself, to execute the prisoners, and therefore PETRAŠEVIĆ was compelled to act upon the orders by participating in the prisoners' executions.

While the accused, Aleksandar MEDIĆ, admits that, ordered by his commander Slobodan MEDIĆ, he was escorting the captured civilians all along their way from the »Scorpions'« Trnovo base to the execution site, he denies having any knowledge of the shooting plan at the time or his engagement therein, maintaining that by his acts he in no manner aided the commission of the criminal offence.

Defence allegations offered by the accused: Slobodan MEDIĆ, Aleksandar VUKOV, Branislav MEDIĆ and Aleksandar MEDIĆ ought not to be accepted, since they contravene the presented evidence.

Statements given by a number of witnesses, as well as those of the accused: Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, unambiguously corroborate the fact that on the critical day Slobodan MEDIĆ was present in the Trnovo base and that it was further to his orders that the prisoners were executed.

Since in the whole course of the event Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, along with Milorad MOMIĆ, acted as Slobodan MEDIĆ's personal security, their statements, as well as those offered by a substantial number of witnesses, clearly indicate that they remained close to their commander, both at the time of the unit's regular activities in the Đeletovci area and throughout their field operations in the Trnovo surroundings. According to their statements, which coincide with that given

by witness Slobodan STOJKOVIĆ, Slobodan MEDIĆ was present at the unit's command staff when the prisoners were brought in; on that occasion, this accused individual ordered his security guards to execute the prisoners, whereas he ordered witness STOJKOVIĆ to take a video record thereof. The evidence which clearly portrays the personality of Slobodan MEDIĆ, as well as the operational and commanding practices pursued by the »Scorpions«, exclude any speculations that this event could have occurred otherwise than with his knowledge and pursuant to his order. Our assessment is that the existence of a criminal offence and the consequent criminal responsibility arising from the acts performed by Slobodan MEDIĆ are clearly beyond a reasonable doubt.

The defence allegations offered by the accused, Aleksandar VUKOV, cannot be accepted for a number of reasons arising from the collected evidence; our reference will be made to some of these reasons.

The herein conducted proceedings undoubtedly indicate that Slobodan MEDIĆ was at no time present at the »Scorpions« - controlled frontline, which was in the vicinity of the execution site. The facts that he was all the time accompanied by his security guards, and that the convicted, Slobodan DAVIDOVIĆ, was with them at the Trnovo battlefield all the time, clearly indicate that no one from that group was present at the execution site, as also confirmed by Pero PETRAŠEVIĆ and Aleksandar MEDIĆ. It was only Branislav MEDIĆ who was partly familiar with the location, specifically with its section extending up to the farthest point that could be reached by vehicles. That was the point where the lorry stopped for the captives to be unloaded; supplies for the part of the unit positioned along the frontline were normally transported up to that utmost point, whereafter, given no further access, the supplies would be overtaken by soldiers descended from the frontline. Moreover, Aleksandar VUKOV, acting as the unit's deputy commander and head of its surveillance platoon, was the one who spent more time at the frontline than any other person involved in the unit's command structure; being an experienced and most competent soldier, he was in charge of military operations, which, among other competences, required good knowledge of the area; his competence was most convincingly demonstrated in the course of the trial, wherein he gave explicit accounts of certain military situations. Further to the order received from the command staff, he, accompanied by a number of his subordinates, went down to the place where the lorry was to stop, in order to take over what he referred to as a »consignment«, or »parcel«, as termed by conspiracy rules. Once at the site, he saw the unit commander's security guards standing around, witness STOJKOVIĆ taking records with a video camera, and a group of captured civilians lying on the ground. A brief reference made to the video-recorded events shows that it was not immediately upon the arrival of the lorry at its ultimate spot that the prisoners were unloaded and liquidated; the delay is evidently attributable to the fact that something was being expected. The part of the record related to the discussion about the need for a new flashlight battery comes at a later

point, and it is therefore obvious that Branislav MEDIĆ's departure to Trnovo in order to fetch one was not the reason of delay in the prisoners' liquidations. In the meantime, prior to the moment when the prisoners were ordered to get up and head towards the execution place, Aleksandar VUKOV arrived at the site. In his defence, Aleksandar VUKOV claims that he approached PETRAŠEVIĆ and asked if something had been sent to him from the command staff; having received a negative response, VUKOV returned to the frontline, while the surveillance men who had accompanied him were left behind in order to wait for the lorry and take over the parcel, should there be any. If this is assumed to be true, it remains unclear who could have told him that the lorry had left to bring those items, since the recording distinctively shows witness STOJKOVIĆ alerting those around him that the flashlight battery was running low and that Branislav MEDIĆ should go to the base to get a new one, which must have been clearly heard by PETRAŠEVIĆ as well. It can therefore be concluded that the surveillance men remained at the site for another reason, and did not return with Aleksandar VUKOV to the frontline. In addition to the aforementioned, the facts that the killed civilians had been taken captive in the surroundings of Srebrenica, which is more than 150 kilometres away from Trnovo, and that following the executions their bodies were poured over with petrol and subsequently burnt in an already burnt-down weekend-house, lead to the conclusion that the prisoners' executions and the subsequent burning of their bodies were aimed at concealing the murders of civilians captured in Srebrenica, whereby their remains would be attributed to the previous war conflicts resulting in the destruction and burning of the weekend settlement, the subsequent site of the executions. The accused, Aleksandar MEDIĆ, alleges that PETRAŠEVIĆ, on his return to the command staff, reported to the commander that the order had been carried out and that »the parcels« had been liquidated. In the light of the aforementioned facts and other evidence collected in the course of these proceedings, the Prosecutor maintains that Aleksandar VUKOV knew who the captives were, what was going to happen to them and how the execution was to be performed; moreover, VUKOV aided the immediate perpetrators by instructing them about the place where the criminal offence was to be committed for the intended effect.

Unequivocally arising from the defence allegations of the accused: Pero PETRAŠEVIĆ and Aleksandar MEDIĆ, from the statements of witnesses and execution recordings are the conclusions that the accused, Branislav MEDIĆ, engaged in the shooting of the captives, whereby he committed the criminal offence as charged with.

Considering the evidence collected throughout the proceedings, the Prosecutor holds that the accused, Aleksandar MEDIĆ, also participated in the commission of the criminal offence as he is charged with. It is plain that his defence allegations, further to which he did not know where the captives were being taken or what was going to happen to them, are not true. The facts that he talked to one of the captives, that he

was with them from the beginning to the end of the development, as well as the whole context of the event, logically lead to the conclusion that he was aware of what was going to happen to the captives; moreover, by his active engagement in the safeguarding of the captives' transfer since the moment of their departure from Trnovo until the moment of their liquidation, he contributed to their killings.

The existence of a criminal offence and criminal responsibility of the accused, Pero PETRAŠEVIĆ, arise both from his guilty plea and the evidence substantiating that plea.

Inherent to a qualified form of murder to be recognised as a war crime is the existence of certain additional facts constituting essential elements of the stated criminal offence. In view of this, reference is made to the following facts:

There is no dispute that in the stated period an armed conflict was underway in Bosnia and Herzegovina, involving armed structures of the Serbian, Bosniak and Croatian ethnic groups. Likewise, it is known that at the time there was an agreement on mutual assistance between the then self-proclaimed and, in the sense of the international public law, unrecognised state formations known as the Republic of Srpska (RS) and the Republic of Srpska Krajina (RSK). Among other provisions, envisaged by the agreement was mutual assistance in military operations. Such state formations are colloquially referred to as the »so-called«, »parastates«, etc., with the same prefix being attached to the institutions of such states.

In the course of the proceedings substantial evidence has been collected, which we deem sufficient to undoubtedly establish the decisive facts further to which in the given case the de facto paramilitary unit known as »Scorpions« was an armed formation obligated to act according to the rules of the international humanitarian law; therefore, the commission of a war crime is evident in this case, as recognised by the provisions contained in the Fourth Geneva Convention on protection of civilian persons in war circumstances, and by the provisions of the Second Annexed Protocol.

Following the massive war operations in late 1991 and early 1992, as well as following the establishment of the Republic of Srpska Krajina, there was a period of relative stability at the war front, which partly stretched along the Bosut River. Situated around the eastern section of the river course, in the area encompassing the village of Đeletovci, were oil fields with exploitation equipment due to be put into operation, wherefore the area had to be secured. The oil exploitation process was handled by the newly established enterprise called the Republic of Srpska Krajina Oil Industry. Within the enterprise there was a separate unit initially known as »Boca's Detachment«, whose commander was the accused, Slobodan MEDIĆ. Later, as the number of its members increased, the detachment reached the size of a battalion,

whereupon it was renamed into »Scorpions«. Within its structure, the unit included a commander with his personal security staff, two companies, a surveillance platoon, an administrative section and an operational group. Each of the lower - ranking formations within the unit had its own command structure. The unit was based in Deletovci, with a military barrack built at a later point.

Formally, all of the unit members had a legal status of employees with the RSK Oil Industry, whereof they received their salaries and insurance against accidents at work; their assignment was later recorded in their employee cards as the period of service, the record having been proved by substantial material evidence. In the military sense, they were members of the RSK Army – Vukovar Corps, which provided them with military logistics.

In the course of their regular activities, the »Scorpions« members were exclusively subordinated to the unit commander, Slobodan MEDIĆ. It was within his competence to decide who would be admitted to the unit and who would be discharged, to assign all members to their respective duties, to grant them ranks, to say who would be punished for certain misdemeanors and determine punishments thereof; likewise, frequently acting as the punishments executor himself, he brutalised and otherwise tortured his subordinates. Further to orders received from the Vukovar Corps, the unit was occasionally relocated to the battlefields in Bosnia and Herzegovina, where they would be placed under the command of the RSK Army.

In the light of the aforementioned, it can be concluded that the »Scorpions« constituted a classical example of a paramilitary formation.

Considering the fact that during its engagement in the battlefields of Bosnia and Herzegovina the unit did not act independently but within the structures of the RS Army, and in view of the fact that all of the accused, alongside other members assigned to what was colloquially termed as »the field«, had completed a compulsory service in the Yugoslav People's Army, they were acquainted with the rules specifying the orders which were to be obeyed, as opposed to those whose execution was not mandatory. Consequently, it is an undoubtable fact that the rules of the aforesaid international regulations, which are either incorporated or included in our criminal legislation, were violated on the critical occasion.

Considering all of the aforementioned, we herein propose that the accused: Slobodan MEDIĆ, Pero PETRAŠEVIĆ, Aleksandar MEDIĆ, Aleksandar VUKOV and Branislav MEDIĆ be pronounced guilty and duly sentenced with a view to all of the relevant circumstances of the stated criminal offence, as well as to their respective roles in and contributions to the commission thereof.

With respect to the aggravating circumstances generally due to be considered by the Court, our particular emphasis is made on the fact that the critical event resulted in the killings of a number of young people and children, including Safet FEJZIĆ, Azmir ALISPAHIĆ and Dino SALIHOVIĆ, whose respective ages at the time of the event were 17 years and 6 months, 16 years and 9 months, and 16 years and 20 days. Not a single act on the part of the victims gave rise to the cruel and utterly inhumane treatment exerted on them, whereby in their last minutes they were denied such a basic satisfaction as to be given some water to drink; meanwhile, amidst the horror of the moments closely preceding their forceful departure from life, their murderers remained invariably joyful and relaxed as though the situation were a thoroughly routine one, which clearly outlines their personalities and their attitude towards the uppermost human values.

On the other hand, a certain number of alleviating circumstances was also established for the herein accused individuals. Firstly, none of the accused had a previous criminal record. Secondly, the accused, Pero PETRAŠEVIĆ, was the only one to admit the commission of the criminal offence, wherefore he expressed his most profound regret, while by his conduct throughout the proceedings he significantly contributed to the full establishment of the truth. The same can be argued for the accused, Aleksandar MEDIĆ, who, while not admitting the commission of the criminal offence, through his conduct and sincere regret unambiguously demonstrated his emotional position towards the event. Likewise, a high degree of disability resulting from his poor health was established for the accused, Aleksandar VUKOV. Additionally, in relation to all of the herein accused individuals it was established that the military engagement of their unit, the »Scorpions«, had not involved the capturing of the Bosniak civilians in the surroundings of Trnovo. The fact is that the captives were taken by members of the RS Army, who subsequently ordered their execution.

However, in the light of the entire context and grave consequences of the crime, the foregoing alleviating circumstances bear but a relative significance and, in our view, cannot provide sufficient grounds for the accused to receive milder penalties, regardless of whether they acted as immediate perpetrators of the crime, or as aiders and abettors thereto. Still resounding in our memory are the words pronounced by Bekto DELIĆ, the brother of late Juso DELIĆ, at the trial held on 12 March 2007. Seeking maximum penalties for the accused, Bekto DELIĆ said the following: »They said they had been ordered to kill, yet there was no order that they should not give water. It is clearly visible 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 to drink, lest he should be starved with 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 conclusion, considering all of the aforementioned circumstances and the mean attempts of the accused to conceal an even graver crime previously committed in Srebrenica; and considering the fact that the herein injured victims: FEJZIĆ, ALISPAHIĆ, SALIHOVIĆ, IBRAHIMOVIĆ, SALKIĆ and DELIĆ received death sentences and concurrently underwent the execution thereof without a trial or guilt on their part, while being deprived of a right to appeal; the punishing purpose will be served only on condition that each of the accused receives a maximum penalty envisaged for the criminal offence recognised by Art. 142 (1) of the FRY Penal Code, namely the war crime against civilian population.

WAR CRIMES PROSECUTOR
Vladimir Vukčević