



**Republic of Serbia  
Office of the War Crimes Prosecutor**

**CLOSING ARGUMENTS OF THE WAR CRIMES PROSECUTOR  
IN THE "OVČARA 1 (VUJOVIĆ AND OTHERS)" CASE**

15 October 2008

CLOSING ARGUMENTS II

Honourable Court,

The prosecution remains firm on the charges of the indictment against Milorad PEJIĆ, of the amended indictment against Saša RADAK (12 January 2006), and of the amended indictment against the accused: Miroljub VUJOVIĆ, Stanko VUJANOVIĆ, Jovica PERIĆ, Ivan ANASTASIJEVIĆ, Predrag MADŽARAC, Milan VOJNOVIĆ, Milan LANČUŽANIN, Marko LJUBOJA, Predrag MILOJEVIĆ, Predrag DRAGOVIĆ, Vujo ZLATAR, Goran MUGOŠA, Đorđe ŠOŠIĆ, Miroslav ĐANKOVIĆ, Slobodan KATIĆ and Nada KALABA (16 September 2005, i.e. 24 November 2005). I hold that the conducted evidentiary procedure fully corroborates the fact that the foregoing accused individuals committed the criminal offence as charged. Since their criminal responsibility has been placed beyond doubt, I suggest that they be pronounced guilty and duly punished.

Since the conclusions and assessments of the established facts, as given in the Prosecutor's closing arguments of 25 November 2005, i.e. 6 July 2006, have at no point been placed under doubt throughout the repeated proceedings, the said closing arguments will be included in this closing statement as its constituent parts. In view of the fact that the previous closing arguments are known to all of the participants in these proceedings, and that they are also included in the case files, I am not going to repeat them on this occasion.

In this closing argument, emphasis will be placed on evidence presented in the course of the repeated proceedings, primarily in the light of the Supreme Court's orders contained in its annulments of 18 October 2006 and 29 March 2007.

Specifically, pursuant to the aforementioned annulment rulings rendered by the second-instance court, the first-instance verdicts were revoked both in the principal case and in that against Saša RADAK (the two are now being conducted jointly).

Consequently, the cases were remanded for reconsideration to the first-instance court, which was also instructed – so as to enable thorough and correct establishment of the facts – to hear a number of witnesses, namely the following:

- Milan Veljković, attorney-at-law, about whether he had been present during the interrogation of Jovica PERIĆ, conducted in the Belgrade office of UBPOK (Direction for Fighting Organized Crime) on 18 April 2003, and whether he had ever had a conversation with PERIĆ indicating that the said accused person had any knowledge of his official defence counsel; furthermore, the lower court was instructed, should it deem appropriate, to bring the two face-to-face in order to assess the validity of the record on this accused's interrogation conducted on the said occasion;

- Mišel Husnik (brother of the accused Ivan ANASTASIJEVIĆ, at the time named Ivica HUSNIK), relating to this accused's movement from his home to Velepromet and Ovčara; namely, the time of his stay at Ovčara, i.e. Grabovo, is relevant to the determination of whether he had killed only one captive (if it is true that he arrived at the scene late that evening, as he maintains in his defence allegations), or he had spent the whole day at Ovčara (as maintained by witness collaborator no. 2);

- Nikola Dukić, relating to the events at Ovčara and Grabovo, whereafter, upon a detailed assessment of all statements previously made by this witness, the lower court should offer valid reasons and relevant evidence in support of its claim that the accused Predrag MADŽARAC had engaged in the shooting and killing of the captives;

- Lidija Nikolić (daughter of the accused Đorđe ŠOŠIĆ), relating to whether she had been celebrating her birthday on 20 November 1991, and if so, whether this accused individual had been present at the party; and Ivica Andrić, relating to whether he had left Vukovar on 19 November 1991 in the company of Đorđe ŠOŠIĆ, whereafter the court would be able to assess possible criminal responsibility of this accused;

- Ivica Vuletić, relating to the events in the Vukovar hospital, at Ovčara and Grabovo throughout November 1991, in the light of the verdict rendered by the Vukovar District Court, whereby this individual had been convicted for the same event; Vuletić's testimony might facilitate the clarification of a whole range of open issues;

Mile Mrkšić (and, if necessary, Veselin Šljivančanin), relating to the existence of any written or oral order whereby Miroljub VUJOVIĆ and Stanko VUJANOVIĆ had been appointed as respective commander and deputy commander of the Vukovar Territorial Defence (TO), and if so, whether such an order had been issued before or after 20 November 1991; the court would thus avail itself of valid reasons behind these crucial facts, since in their defence cases both accused deny the capacities they are charged with.

Furthermore, the second-instance court insisted that the new trial chamber should make effort to obtain from the military authorities the written order mentioned by witness Darko Fot in relation to the aforementioned shift within the Vukovar TO leadership.

Additionally, the first-instance court was instructed to consider the defence counsel's proposal further to which the previously separated statement of 1 August 2003, provided during the investigative proceedings by witness collaborator no. 1, should be rejoined to the case files.

Pursuant to the Supreme Court's instructions, a team of psychologists and pedagogy experts carried out the examination of witness collaborator no. 1 in order to assess his emotional maturity in the context of his age, and accordingly, his abilities to observe, memorize and provide a reliable account of such events after a considerable lapse of time.

In addition to the above, the Supreme Court deemed it necessary that the first-instance court obtain a forensic council opinion about the ability of the accused Vujo ZLATAR to move at the time of the Ovčara event – i.e. whether he had been able to use transport and make long journeys, whether he had been able to move with or without another person's assistance, and whether he would have been able to spend some time standing unsupported in a firing platoon and shooting.

The second-instance decision further specified that the court would judge all of the foregoing evidence in the light of other evidence available, duly assess the accused's defence allegations and both witness collaborators' testimonies, and provide valid reasons in respect of the determining facts, which are all necessary prerequisites for a correct and lawful decision.

Acting upon the Supreme Court's instructions, the first-instance court heard Mr. Milan Veljković, attorney-at-law, at its session of 14 March 2007. According to this witness' testimony, on 18 April 2003, he was summoned to the UBPOK premises in Belgrade in order to attend – in his capacity as official defence counsel – the hearing of arrested suspect Jovica Perić. On his arrival, Mr. Veljković had a confidential talk with the suspect, introduced himself as a lawyer and presented him with his business card. The suspect, who was then duly warned of his procedural rights, decided to present his defence rather than defend himself by silence. The interrogation was conducted in a fair manner, and whatever the suspect stated was duly recorded. In subsequence, the suspect read through the record and, having no objections to its contents, confirmed its authenticity by his signature. This witness further claims that he was present throughout the whole course of the suspect's interrogation. Ultimately, he read the record himself and signed it, and so did the deputy prosecutor in charge, who was also present all the time during the

interrogation. Likewise, when brought face to face, the suspect and the witness remained firm in their respective statements.

In the light of such a state of matters, it is perfectly clear that there is no dilemma about the validity of the record at issue.

As for Mišel Husnik, he could not be heard by the trial chamber since he is serving his prison term in Croatia. In response to a letter rogatory to the Croatian authorities, this witness was interrogated through international legal assistance on 26 September 2007, by an investigative judge of the District Court in Osijek. On that occasion the witness claimed that he was not aware of any activities that his brother, Ivan ANASTASIJEVIĆ, might have undertaken on the critical day. Specifically, the witness said that he did not know when his brother had left home and gone to the Velepromet company, or whether he had gone to Ovčara. The witness remembered seeing his brother in the barracks that morning, when he had saved him from the bus, removed him, along with two other captives, from Velepromet and taken them to another building. However, the witness had no knowledge of his brother's further movements in the remaining course of the day.

In view of the above, I hold that this witness failed to confirm the defence offered by Ivan ANASTASIJEVIĆ at the trial session of 15 November 2005, regarding his movements on the said day.

The first-instance court reexamined witness Nikola Dukić, who, at the session of 15 March 2007, virtually reiterated his previously given statements, and confirmed them once again in confrontation with the accused Predrag MADŽARAC.

Since witness Mile Mrkšić – who is currently in the ICTY detention unit – informed the Court that he did not want to testify in this case, his interrogation was not possible either in relation to this case or otherwise.

Witness Veselin Šljivančanin could not be interrogated since he is not allowed to give statements before other courts – including the Court in Belgrade – before his case has been finally settled at the Hague.

The hearing of witness Ivica Andrić was not possible either, since he could not be traced, i.e. since he remains unavailable to the state authorities. According to the data available, this witness (if at all alive) is living at an unknown address outside the country.

At the Court's trial session of 16 March 2007, witness Lidija Nikolić stated that she remembered her father, Đorđe ŠOŠIĆ, being present at the celebration of her eighteenth birthday on 20 November 1991, along with his fellow combatant Ivica

Andrić a.k.a Đetić. This witness stated that she also knew a.k.a Chinese (i.e. Predrag MILOJEVIĆ), and claimed that he had visited Kruševac in her father's company on 16 November 1991, for the family celebration of their Saint Patron's Day (St. George). The accused MILOJEVIĆ, however, denied those allegations and said that he had not visited Kruševac on the date specified by the witness, but on another occasion around mid-1992, which was also corroborated by the accused Đorđe ŠOŠIĆ.

In contrast to her eighteenth birthday celebration, which she remembered in detail, including the venue of the party, names of guests, etc., this witness could not remember any details of her previous or subsequent birthday celebrations, or names of any participants thereof. In the light of the foregoing, I hold that this witness' testimony was exclusively aimed at providing her father with an alibi, that it lacked factual background and should therefore be dismissed as false.

In the course of the new proceedings, at the session of 22 November 2007, witness Ivica Vuletić stated that he had been sentenced in Croatia to 20 years imprisonment, for alleged involvement in the execution of around 1,000 people at Ovčara. According to this witness' claims, he had been coerced into admitting the offence during the investigation, but had later denied it during the trial. He also maintained that he did not know anyone of the accused, that he had no idea who had committed the crime or where Ovčara was.

It is evident that the statement provided by witness Ivica Vuletić could in no manner contribute to the clarification of the event at issue. After all, he could not have been expected to admit before a Serbian court the commission of the criminal act which he had once denied in Croatia and thus assume responsibility for the said criminal event while exculpating the individuals accused in these proceedings.

Pursuant to the Trial Chamber's order, forensic tests were administered to witness collaborator No. 1 in relation to the circumstances specified in the annulment rulings. In their expert finding and opinion dated 26 July 2007 and reiterated at the trial session of 5 September of the same year, Dr. Aleksandar Jovanović, forensic psychiatrist, and Dr. Nada Janković, forensic psychologist, unanimously emphasize that witness collaborator No. 1 is a person of above average intellectual capabilities and of a normally organized personality, with no tendency to confabulation. The level of his mental development was consistent with his age in November 1991, when this person had a status of junior major. His ability to perceive, memorize and reproduce events over a fairly long lapse of time is consistent with that of any sane person of his age. Furthermore, he does not suffer from any mental disease, deficiency or disorder, neither did he present any such symptoms in November 1991. Likewise, no symptoms of post-traumatic stress disorder have been observed in the examinee, nor has he ever been treated for such complaints. The forensic experts point out that the examinee was a member of an

elite Guards unit, which recruited persons of tough and resilient psychophysical constitution, whose capability to manage stressful situations is superior to that of ordinary people. According to the forensic experts, during his participation in the captives' executions (provided that the Court accepts his claims), his consciousness was not excluded or significantly narrowed. He was tense and certainly in a state of affect, which, however, was not of pathological nature. Referring to the accused's questions and his defence allegations, the forensic experts remark that the examination of witness collaborator No. 1 would have certainly shown his inclination to compulsive killing or pathological lying if there had been any such signs, which here obviously was not the case.

The foregoing reasoning, i.e. the forensic experts' finding and opinion do not leave any doubts as to this witness collaborator's psychological profile, the level of his emotional development, intellectual abilities or any other other feature that might compromise his statement.

Pursuant to the first-instance court's order of 11 January 2007, the Forensic Medical Committee of the Belgrade Medical Faculty was assigned to conduct a forensic examination of the accused, Vujo ZLATAR, relating to specified circumstances. The examination was performed by a medical team consisting of the following forensic experts: a general surgeon; a neurosurgeon; a neuropsychiatrist; a chiropodist; a urologist; and two specialists in forensic medicine, whereas the Committee representative at the trial of 5 September 2007 was Dr. Đorđe Alimpijević, specialist in forensic medicine. It was concluded that in the period between 18 and 21 November 1991, Vujo ZLATAR had been able to move without the aid of a crutch. As it is further claimed in the forensic report, any pains that ZLATAR might have experienced were so slight that they could not have interfered with his ability to walk. Vujo ZLATAR was certainly able to move at the time of the event, and therefore had no need of other people's assistance. In other words, this accused could have moved unassisted at the time of the crime commission, although he might have been lame (in the left leg) and therefore walked with difficulty. Concurrently, his ability to stand or remain in an upright position with his body leaning against solid ground was by no means compromised. In the light of the foregoing, the accused would have been able to board means of transport and travel undisturbed over short or long distances.

Referring to the forensic expert report provided by Dr. Jančić in the course of the previous trial, the forensic committee experts argue that it was not substantiated by relevant medical documentation, whereas theirs is exclusively based on available medical documentation.

The analysis of the above circumstances leads to the unambiguous conclusion that no single circumstance leaves any doubts as to Vujo ZLATAR's capability of movement

tempore criminis, which implicitly corroborates the relevant statement provided by witness collaborator No. 1.

The first-instance court also addressed the military authorities requesting the written order appointing the accused Miroljub VUJOVIĆ and Stanko VUJANOVIĆ to the respective positions of TO Vukovar commander and deputy commander, but it received the reply that they were not in the possession of any such document.

Seeking to resolve this issue, the first-instance court heard witness Radoje Trifunović at the trial session of 16 March 2007. This witness claimed that, in his capacity as JNA guards brigade officer, he had kept a war log during the hostilities in Vukovar. He remembered the shift in the TO leadership, when, pursuant to the order issued by Mile Mrkšić, commander of the operational zone "South", Duško Jakšić, the then-far commander, had been replaced by the accused Miroljub VUJOVIĆ, whereas the accused Stanko VUJANOVIĆ had been appointed as his deputy. According to this witness' allegations, he had personally written that order on 20 November 1991, at around noon or in the afternoon. The order had then been signed by commander Mrkšić, but the witness could not remember whether it had happened that same evening or the following morning. In subsequence, the witness had not managed to find the said order anywhere, and therefore it had remained unregistered in the brigade's logbook.

Still, there is another detail in this witness' statement which might be helpful in the clarification of this issue. Namely, the witness claims that three or four days following his arrival in Vukovar, he was appointed operational chief instead of Major Lukić, who was then appointed commander of the 2nd Pursuit Detachment. The shift was carried out upon an orally issued order of Mile Mrkšić, which had a momentary effect. The witness explains that, according to the rules of service, an order of such a rank should first have been made in writing, presented to commander Mrkšić for signing and then delivered to Trifunović, whereupon it would eventually have come into effect. However, there was a war, and things work differently at such times. Thus, the witness had never received a written version of the said order, and yet acted as though he had.

In the light of the above described practices, it is easy to assume that it was not later than in the afternoon of 20 November 1991, and certainly before the Ovčara events, that the said shift within the Vukovar TO leadership took place, i.e. that at Ovčara, at the time of the crimes commission, the Vukovar TO commander was Miroljub VUJOVIĆ, whereas Stanko VUJANOVIĆ was his deputy, further to the spoken order that the two had previously received.

Such a conclusion is also substantiated by the statement provided by witness Milan Milanović, at the trial session of 18 December 2007. This witness implicitly claims

that at the time of the Ovčara events Vukovar TO commander was Mirosljub VUJOVIĆ, which could be observed in Belgrade, during a reception given by General Kadijević, the Federal Secretary for National Defence. On that occasion, Mirosljub VUJOVIĆ was introduced in his commander capacity, whereas Dušan Jakšić was not present at the event.

In his statement given within the trial session of 19 December 2007, witness Miroslav Radić claims that shortly ahead of the cessation of the hostilities in Vukovar, the accused, VUJOVIĆ, was known to be Jakšić's successor at the head of the Vukovar TO, yet this witness has no knowledge as to who had appointed the new commander.

Likewise, at the trial sessions of 21 and 22 January 2008, witness Bojković (earlier Bojkovski) testifies that he was aware of the shift at the head of the Vukovar TO, and of VUJOVIĆ's appointment as commander shortly before the cessation of the hostilities. The witness was additionally assured of this fact during an oral report submitted to Major Tešić, when a new uniform was demanded for VUJOVIĆ ahead of his trip to Belgrade in order to attend Gen. Kadijević's reception.

The above allegations coincide with those heard at the trial session of 19 June 2007, when witness Jakšić testified about his removal from the TO command position and VUJOVIĆ's appointment thereto, shortly before the fights ended.

The conclusion that the accused, VUJOVIĆ and VUJANOVIĆ, held the respective positions of Vukovar TO commander and deputy commander at the time of the Ovčara events is additionally corroborated by the ICTY verdict against the "Vukovar troika", which has been included in the court files and which refers to the transcripts of the ICTY trial.

In compliance with the defence proposals, the court has rejoined to the case files the previously excluded witness statements provided in the course of investigation, namely those of witnesses collaborators 1 and 2 (dated 1 August 2003 and 25 June 2003 respectively), who at the time testified in regular witness capacity.

The Medical Faculty in Zagreb has officially reported that the identity of yet another victim exhumed from the Ovčara massgrave has been established in the meantime. Thus, with the newly identified victim (Goran Jularić), the number of those identified so far has amounted to a total of 193.

In order to establish the authenticity of defence allegations provided by the accused: Predrag MILOJEVIĆ, Milan LANČUŽANIN and Predrag DRAGOVIĆ – who claim that in the evening and night of the Ovčara events, they were staying in the home of a local named Radojka Vučković, where, accompanied by Captain Miroslav Radić,

they were having dinner – the court summoned Ms. Radojka Vučković to give her testimony. Since Ms. Vučković refused to respond, the court obtained her statement by means of international legal assistance. On 14 May 2008, testifying before an investigative judge of the Vukovar District Court, witness Vučković denied the foregoing defence allegations. She pointed out that in her home there had been a dinner party attended by a.k.a. Chinese, a.k.a. Ceca and a.k.a. Belgija (i.e. the accused: MILOJEVIĆ and DRAGOVIĆ, and witness Stojisavljević); however, the witness maintained that the dinner had taken place in October, when the weather was still warm and intensity of fights low, rather than in late November. As for Captain Radić, the witness specified that he had not been present at the said dinner party, nor had he visited her place on any other occasion.

Likewise, in his aforementioned statement of 19 December 2007, witness Radić denied being at Ms. Vučković's place with the foregoing accused individuals, and specified that he had spent the critical evening in the home of Guards Brigade Lieutenant Davor Vučković, at a dinner which had been exclusively attended by officers. Radić's allegations were also confirmed by Lt. Davor Vučković, who testified at the trial session of 17 March 2008.

In the light of the above, it is evident that the defence allegations of the accused: MILOJEVIĆ, DRAGOVIĆ and LANČUŽANIN relating to their whereabouts on the critical night are false and should therefore be dismissed.

A video-clip obtained from the Hague (ICTY doc. No. P288), which was presented at the trial session of 18 June 2008, features the accused, Milan LANČUŽANIN, in the company of Predrag DRAGOVIĆ in Vukovar, on 20 November 1991 at 15:13 hrs. The recording clearly contradicts the defence allegations offered by the accused, Milan LANČUŽANIN, who claims that at the time he was in Belgrade, visiting a wounded fellow-combatant, and that he had not returned to Vukovar until late that night.

According to the defence allegations offered by the accused, Nada KALABA, her former superior at the Nama department store in Vukovar, where she had been employed before the war, was Martin Sabljak, and not Josip Batarelo, who was allegedly killed at Ovčara on the critical night. By way of international legal assistance, the court has obtained a report from Nama, a joint-stock company in bankruptcy proceedings, specifying that the accused, Nada KALABA, had been employed with the said trading company in Vukovar up to 16 July 1991, when her employment contract was terminated against her will. Concurrently, Josip Batarelo had worked in the said department store as an assistant director, whereas Martin Sabljak had not been employed there at the time.

Linked with the statements offered by witness collaborators 1 and 2, the foregoing facts unambiguously suggest that Josip Batarelo might have been the person whom

the accused, Nada KALABA, killed at Ovčara, thereby taking her revenge for being dismissed from work.

Presenting his defence during the proceedings, the accused, Vujo ZLATAR, claims that it was not easy to get in or outside Vukovar during the war. There were checkpoints and special entry/exit permits were issued by relevant authorities. ZLATAR further alleges that at the time he was receiving a medical treatment in Serbia and, since neither his entry into Vukovar nor his exit thereof were registered at the checkpoints, he concludes that he clearly could not have been in Vukovar. However, his statement is in flat contradiction with those given by witnesses Đukić and Stojisavljević. Thus, in his statement provided at the trial session of 21 April 2008, witness Dragoljub Đukić claims that, on his return from Vukovar, where he was accompanying Cyrus Vance, he did not notice any checkpoints whatsoever. On the other hand, in his statement provided at the trial session of 19 June 2008, witness Nedeljko Stojisavljević testifies that, on his departure from Vukovar on 20 November 1991, he did not need a permit or any similar document, since the site was not controlled by anyone.

In view of the above, it is clear that anyone could get into or out of Vukovar at the time, or in other words, that the whole area was outside control. Moreover, with a frontline so long as that in the Vukovar area, one could hardly assume that any control would have been possible in the first place. Consequently, the accused, Vujo ZLATAR, was certainly able to get into or out of Vukovar unregistered and accordingly, he may have reached Ovčara and Grabovo in the above described manner.

What must be mentioned in this closing statement is also the testimony given by witness Miroslav Savić, at the trial session of 15 September 2008. This witness further corroborates the indictment allegations, as well as the credibility of the two witness collaborators.

Namely, this witness claims that he was present at Ovčara on the critical day, on which occasion he saw the accused, ANASTASIJEVIĆ, both outside and inside the hangar building; yet, the witness specifies that this situation occurred far ahead of the time specified by ANASTASIJEVIĆ himself as the moment of his arrival at the site. In contrast to the defence allegations provided by the accused, Saša RADAK, witness Savić testifies that he freely entered into the hangar, like anyone else could do. Once inside, the witness saw RADAK, VUJANOVIĆ and Saša Ivanković, as well as three captives (Kožul, Vulić and Pap). The witness goes on to say that he approached VUJANOVIĆ and asked him for permission to take out four captives specifying their names. VUJANOVIĆ replied that no one was allowed to leave the place. At a later point, Stevo Zorić a.k.a. Čevo approached VUJANOVIĆ with a similar request, which the latter did not deny. Witness Savić also points out that on

the same occasion at Ovčara he saw the accused, Vujo ZLATAR, and gives a detailed account as to whom ZLATAR was talking to, what he was wearing and how he was armed. Presented with ZLATAR's defence allegations and his medical documentation on the part of the Presiding Judge, as well as with the testimonies of those who deny seeing ZLATAR at Ovčara, the witness has nonetheless remained firm in his original claims.

It is evident that one could hardly have invented or remembered a story with such an amount of details unless one had been present at the scene and personally watched the developments.

On the next day, i.e. at the trial session of 16 September 2008, witness Savić partly modifies his statement saying that after a sleepless night he can no longer be sure if he really saw the accused, RADAK and ZLATAR, at Ovčara, which can be attributed to his belated wish to protect the two. While this lack of consistency is human and therefore understandable, it is certainly insignificant in terms of legal relevance.

As for the accused, Milorad PEJIĆ, it should be noted that throughout the investigation he defended himself by silence, but decided to speak up at the trial. Thus, speaking at the trial session of 16 June 2008, PEJIĆ denies his involvement in the crime, and complains that he has been framed by witness Nikola Dukić a.k.a. Gidža. PEJIĆ goes on to explain that on the critical night at Ovčara, he saw Dukić beating a group of captives inside the hangar. PEJIĆ further claims that he saw Dukić removing one of the captives (Damir Kovačić) from the group and shooting him dead outside the hangar. When PEJIĆ allegedly reproached Dukić for the described act, the two engaged in an argument and have not spoken to each other ever since. This accused individual claims that, upon his return to village Negoslavci he told Draženko Đokić that he had not been able to save Kovačić, since Dukić had killed him at Ovčara. At the beginning of the current proceedings, PEJIĆ contacted Dukić and asked him why he was making accusations against him, and Dukić allegedly answered: "I am not accusing you, you don't understand...".

Such defence allegations are in contradiction with the evidence presented and are obviously aimed at the evasion of criminal responsibility.

On his part, witness Nikola Dukić states that the accused, Milorad PEJIĆ, was present at Grabovo on the critical night, where he was standing in the firing platoon and shooting at the captives who had been brought there from Ovčara. In that way, PEJIĆ wanted to revenge his brother Miroslav Pejić a.k.a. Bimbo, who had been killed during the fights in Vukovar. It was only when legal proceedings had been commenced against him that PEJIĆ telephoned Dukić to complain about the latter's accusations. At a later point, PEJIĆ also contacted Dukić's wife offering her money and urging her to influence her husband to change his original statement. As for

witness Đukić himself, he maintains that he has never had an argument with PEJIĆ.

Likewise, in his statement of 16 September 2008, witness Draženko Đokić confirms that relations between Nikola Đukić and the accused, PEJIĆ, have always been good and that the two are also distant relatives. Witness Đokić points out that, upon his return to Negoslavci on the critical day, PEJIĆ only said that he had not been able to do anything for Damir Kovačić at Ovčara. As far as witness Đokić can recollect details of his conversation with PEJIĆ on the said day, this accused individual at no point said that Đukić had killed Kovačić. It was only at a later point that PEJIĆ phoned Đokić from England – where he was residing at the time – and told him that Đukić had killed Kovačić. This phone conversation took place at the time when proceedings against PEJIĆ had already been under way before the national court, parallelly with those conducted against him in Croatia, where he was also charged with killing Damir Kovačić at Ovčara. The timing of PEJIĆ's phone call and its coincidence with the court proceedings against him most probably explain the reasons behind the construction of his defence.

This accused individual committed the described criminal act with direct premeditation, since he was aware of his act and willfully engaged therein, whereas his self-possession remained unquestionable at all times.

By acting in the above described manner, this accused individual committed serious breaches of international law, namely of the provisions contained in the following documents:

- Third Geneva Convention of 1949, which covers the treatment of war prisoners; and
- Additional Protocol to the 1949 Geneva Conventions, of 1977, which covers the protection of victims of noninternational armed conflicts.

In consideration of the fact that the acts described in the aforementioned Convention and its Additional Protocol are, following the ratification of these documents, also incriminated by our national laws, the accused, Milorad PEJIĆ, is criminally responsible for the commission of the criminal offence recognized by article 144 (war crime against prisoners of war) of the FRY Criminal Code, which falls into the group of criminal offences against humanity and international law.

Summing up the foregoing facts, I hold that the evidence presented at the new trial unambiguously indicates that the accused: Miroljub VUJOVIĆ, Stanko VUJANOVIĆ, Jovica PERIĆ, Ivan ANASTASIJEVIĆ, Predrag MADŽARAC, Milan VOJNOVIĆ, Milan LANČUŽANIN, Marko LJUBOJA, Predrag MILOJEVIĆ, Predrag DRAGOVIĆ, Vujo ZLATAR, Goran MUGOŠA, Đorđe ŠOŠIĆ, Miroslav ĐANKOVIĆ, Slobodan KATIĆ, Nada KALABA, Saša RADAK and Milorad PEJIĆ, committed the criminal

offence as charged by the indictments, and in the manner detailed therein.

Consequently, I suggest that they be pronounced guilty and duly punished by this Court, whereas their individual levels of responsibility should be distinguished, i.e. distinction should be made among those who inflicted bodily harm on the captives, those who killed them, those who engaged in both, those who ordered the criminal acts and those who personally participated in their commission, which is the key criterion for the determination of individual punishments.

Moreover, in view of the manner of the crime commission and, in particular, the gravity of the crime arising from the joint enterprise of the accused, and considering the large number of victims who were deprived of life on the critical occasion, it is necessary and appropriate that all of the accused be placed under detention on remand pursuant to article 358 (5) re article 142 (1.2) of the Act on Criminal Procedure.

*WAR CRIMES PROSECUTOR*  
*Vladimir Vukčević*

*DEPUTY WAR CRIMES PROSECUTOR*  
*Dušan Knežević*