



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

**CLOSING ARGUMENTS OF THE WAR CRIMES PROSECUTOR**  
**IN THE "SCORPIONS 2 (A.MEDIĆ)" CASE**

28 January 2009

Honourable Court,

The War Crimes Prosecutor remains firm in his allegations specified in the amended indictment, since he believes that the evidentiary proceedings in this case have unambiguously confirmed the criminal responsibility of the herein accused individual as charged, through his involvement in the criminal offence recognized by article 142 (1) re article 24 (assistance in war crime against civilian population) of the Yugoslav Criminal Code.

According to the charges contained in the enacting terms of the amended indictment (ref. KTRZ.3/05) of 1 October 2008, the accused, Aleksandar MEDIĆ, member of the paramilitary unit named Scorpions, acting intentionally and with premeditation, aided and abetted the commission of a war crime which resulted in the killing of six Muslim civilians who had been taken captive by the said unit, whereby this accused individual committed grave breaches of international law, namely of the following acts and provisions:

- Article 301 (1A) of the Fourth Geneva Convention, which covers the protection of civilians in warfare; and
- Article 4 (2A) of the Second Additional Protocol to the said Convention.

On an unidentified day in July 1995, at a site called Godinjske Bare close to village Trnovo (BH), Aleksandar MEDIĆ wilfully assisted members of his unit: Slobodan MEDIĆ, Pero PETRAŠEVIĆ, Branislav MEDIĆ (proceedings against the three have been finished and final verdicts passed), Milorad MOMIĆ (the case against whom has been separated) and Slobodan DAVIDOVIĆ (who, in relation to the same event, has been finally sentenced by a competent court in Croatia), as well as a number of FNU LNU members of the said unit, in the executions of six captured Muslim civilians, whose names and years of birth are set forth below:

Safet Fejzić (1978);

Azmir Alispahić (1978);

Sidik Salkić (1959);

Smail Ibrahimović (1960);

Dino Salihović (1979); and

Juso Delić (1970).

Pursuant to the order issued by Slobodan MEDIĆ, the unit commander, that the captives be executed in the vicinity of a previous battlefield so as to create the impression that they had been killed in the fights – Aleksandar MEDIĆ, acting in concert with other (now finally sentenced) individuals and armed with an automatic rifle, participated in the transfer of the captives, who were driven on a lorry to a spot close to a group of burnt-down weekend houses, where they were removed from the vehicle and made to lie down on the ground. Alongside other members of his unit, still holding his automatic rifle in his hands, Aleksandar MEDIĆ guarded the captives lest they should escape, whereafter, in a joint action with the aforementioned accomplices and two unidentified members of the unit – all of whom were armed with automatic rifles – he took the captives towards the burnt-down cottage owned by Hasan Zvizdić. The described acts of this accused individual and his accomplices, all the while since their departure from Trnovo until their arrival before the burnt-down cottage, left the captives without any hope of salvation, and clearly indicated that any escape attempt would be doomed to failure.

Another detail specified in the enacting terms sheds additional light on Aleksandar MEDIĆ's assistance in the crime commission: namely, this accused was standing outside the aforementioned cottage with a rifle in his hands throughout the whole course of the criminal operation: initially, while his accomplices shot dead four of the captives, subsequently, while the surviving two removed the bodies into the house, and ultimately, while the remaining two were executed inside the house.

Pursuant to the Serbian Supreme Court's decision (ref. Kž I r.z.2/07) of 13 June 2008, final verdict K.V. No. 6/2005 – rendered by the Belgrade District Court's War Crimes Chamber on 10 April 2007 – has been confirmed for Slobodan MEDIĆ, Pero PETRAŠEVIĆ and Aleksandar VUKOV, and modified only in the part relating to the punishment for Branislav MEDIĆ. The facts which were finally established by the said first-instance verdict include the following: the status of the paramilitary unit named Scorpions, whereof Aleksandar MEDIĆ was a member; the character of the armed conflict during the civil war in the then Republic of Bosnia and Herzegovina;

the identity and number of executed civilians; the place and manner of the crime commission; and finally, the respective roles of the convicted: Slobodan MEDIĆ, Pero PETRAŠEVIĆ and Branislav MEDIĆ in the criminal event at issue. In view of the above, there is no need for the Prosecution to make further references to any of the foregoing circumstances, since it remains firmly committed to the allegations specified in its original closing statement.

As for the criminal involvement of Aleksandar MEDIĆ, however, the aforementioned verdicts have finally confirmed the following fact: first and foremost (and contrary to the defence allegations provided by Aleksandar MEDIĆ), Slobodan MEDIĆ issued an order to all members of his personal security – including Aleksandar MEDIĆ, as well as his driver Branislav MEDIĆ – whereby the captured Muslim civilians were to be executed. In relation to this, allow me to quote once again part of the investigation record (p. 54/68) – taken on 8 September 2005, read out at the trial session of 21 December 2005, and referred to in the Prosecutor’s appeal against the first-instance verdict – relating to the statements given by Pero PETRAŠEVIĆ, who, inter alia, said: “... I know that he passed that order to me (meaning Slobodan MEDIĆ), and Aca, that is, Aleksandar MEDIĆ, was also there, standing right next to me...”. Later in the same record (p. 63/68), asked by Mr. Perković, the defence lawyer, who had been present when he received the execution order from Slobodan MEDIĆ, PETRAŠEVIĆ answered: “... Aleksandar MEDIĆ was there, I guess...”. The fact that Aleksandar MEDIĆ was present at the time when the said order was issued has also been corroborated by witness Stojković, who, in a statement provided at the trial session of 23 February 2006, explicitly says (p. 35/97) that everybody was there with the commander, including Aleksandar MEDIĆ, when this witness came in front of the command staff, whereafter all of them entered the lorry; likewise, on page 36/97 of the statement, this witness specifies that, at the moment when Slobodan MEDIĆ said to his people “Let’s go and get the job done“, the lorry loaded with the captives was about three or four metres away from the spot where all of them were standing.

In the light of the defence allegations provided by Aleksandar MEDIĆ, and in particular, in the light of the VHS recording shown during the trial, there is no doubt whatsoever that this accused individual did act as an aider and abettor in the crime, since he – all the while holding an automatic rifle in his hands – was involved in the transport of the captured Muslim civilians from Trnovo to the site where they got unloaded, whereupon he guarded them until their departure for the execution site; in subsequence, Aleksandar MEDIĆ participated in the conducting of the captives to the execution site and in the securing of the place – including the meadow outside the cottage and the cottage itself – during the executions. Involved in the described criminal offense in the same manner as this accused were all other coperpetrators, namely all members of the commander’s personal security staff and the driver, Branislav MEDIĆ, whose involvement covered the period since the group’s

departure from Trnovo until the execution act, whereas the participation of the surveillance team (FNU LNU members of the Scorpions, who arrived at the disembarkment site accompanied by Aleksandar VUKOV) covered the period between the group's departure from the disembarkment site and the execution act. Thus, by their acts and omissions, the accused, Aleksandar MEDIĆ, as well as other members of the Scorpions, enabled the execution, i.e. significantly contributed to the criminal offence as charged, by supporting and facilitating its commission.

In the light of the above, the significance of Aleksandar MEDIĆ's role in the crime commission – including the very act of the captured civilians' execution – is in all aspects equal to that of other perpetrators, save for the fact that Aleksandar MEDIĆ did not personally engage in the shooting. Still, the evidence presented – contrary to the defence allegations of Aleksandar MEDIĆ – strongly suggests that Aleksandar MEDIĆ failed to engage in the shooting simply because he was overwhelmed with fear at the moment of the execution, rather than because he did not want to get involved therein. Not a single piece of evidence or any of the statements provided by the accused throughout these criminal proceedings indicate that Aleksandar MEDIĆ might not have intended to obey Slobodan MEDIĆ's orders, or that he was personally reluctant to act thereupon. On the contrary, the video recording presented during the trial clearly shows the determination of Aleksandar MEDIĆ to act upon the said order and thereby contribute to its execution. Furthermore, according to the testimony provided by witness Stojković, while Aleksandar MEDIĆ, as a member of the commander's personal security, was overly convinced of his superiority and therefore conceited, it was commonly known in his unit that in fact he was a cowardly man. According to the allegations of another accused, Pero PETRAŠEVIĆ, the first question that Slobodan MEDIĆ asked upon the executors' return to Trnovo was whether Aleksandar MEDIĆ had "eventually hardened a bit", which indicates that Slobodan MEDIĆ had explicitly ordered Aleksandar MEDIĆ to take part in the executions and thus overcome his lack of courage, or alternatively, the commander might have anticipated that this accused, who was also his best man, would lose his nerve and fail to take part in the execution. Thus, having received his commander's order that the captured civilians be executed, Aleksandar MEDIĆ acted upon the order and wilfully contributed to its execution all the while since the moment of the captives' departure from Trnovo until the moment of their liquidation. The only act in which he failed to participate was that of shooting, yet that failure derived from his fear, rather than from his reluctance to participate. Consequently, apart from assistance, his premeditation includes all essential elements of the criminal offence recognized by article 142 (1) (war crime against civilian population) of the Yugoslav Criminal Code.

The previous verdict in this case, K.V. No. 6/2005 of 10 April 2007, specifically its part relating to Aleksandar MEDIĆ, was repealed due to contradictory views as to whether this accused had acted with premeditation or not. Namely, in the part of the verdict relating to the established facts and the accused's criminal responsibility, the

first-instance court was correct in finding that his acts contained all elements of assistance in the crime commission, i.e. that his assistance involved all elements of premeditation, and that the existence of his previous intent was evident both in his assistance in the criminal offence at issue, and in all essential elements thereof. However, in the part of the verdict relating to the punishment, the first-instance court – seeking to justify its decision to impose an apparently light sentence on this accused – demonstrated a glaring lack of consistency in saying that the accused, Aleksandar MEDIĆ, had not engaged in the shooting during the execution since he had not wanted the commission of the criminal act. Still, with the correct interpretation of evidence as elaborated above, the said lack of consistency is flatly removed: namely, this accused certainly complied with the acts of other accused individuals, since at no point did he consider leaving his unit and thus distancing himself from the developments.

The aforementioned verdict of the Serbian Supreme Court points to the vagueness in relation to the role of Aleksandar MEDIĆ in the guarding of the captives while they were being transferred to the execution site and subsequently killed, in the circumstances that were safe for the Scorpions; furthermore, the Supreme Court does not find it clear whether the captives, while being surrounded by other members of the unit, had any chance to escape. However, the correct interpretation of the whole body of evidence presented unequivocally suggests that it was those soldiers – including Aleksandar MEDIĆ – whose presence was the only barrier against possible escape attempts; therefore, by their overall conduct which can be clearly observed in the video recording, Aleksandar MEDIĆ and his accomplices caused in the captives a feeling of despair, and left no doubt that any escape attempts would be doomed to failure. All of the accused, as well as the witnesses – former members of the Scorpions, have confirmed that the unit was based in village Trnovo, whereas its parts were deployed a while away from Trnovo, from the place where the captives left the lorry, and from the execution site. Consequently, the scene of the whole event – including the captives' transport, unloading, transfer to the execution site and the execution itself – was not in the immediate vicinity of the positions occupied by the Scorpions or any other military forces of the Republic of Serbska. Additionally, the video recording leaves no doubt to the conclusion that the whole event took place in an uninhabited, hilly and woody area, which would have provided a suitable setting for possible escape if it had not been for Aleksandar and his accomplices, whose conduct clearly deterred the captives from any such attempts. On the other hand, and contrary to the defence allegations that it would have been impossible for the captives to think of any escape attempts amidst a territory occupied by the enemy force, the circumstances of the event, as well as witness Stojković's testimony, suggest that the victims, who had been captured in the Srebrenica area and transported in a lorry, did not know where they had arrived or how the enemy force was deployed in an area fairly remote from Srebrenica. It is therefore clear that those circumstances could not have posed an obstacle to potential escape attempts.

Likewise, the defence claims that the captives were too exhausted and scared to think of any escape are false, since the video recording of the entire event clearly shows that it was only the younger captives who were disheartened, whereas the older ones – particularly the two who were killed last – were in a good physical condition that enabled them to carry the bodies of the previously killed civilians from the meadow to the cottage, which, judging by the video recording, was not a short distance. It is therefore evident that the older captives were fit enough to try to escape if it had not been for the presence of Aleksandar MEDIĆ and his accomplices, who prevented them from doing so and thereby aided the entire course of the operation.

Defending himself throughout the proceedings, Aleksandar MEDIĆ has maintained that he was not aware of the nature of the order issued by his commander Slobodan MEDIĆ, and consequently did not know what was going to happen until the execution actually started. According to his lawyer's allegations, Aleksandar could not have engaged in guarding the captives since there was no need for such an act, and his presence throughout all stages of the event does not imply his involvement as an aider and abettor therein, since the developments would have taken the same course even if Aleksandar MEDIĆ had not been present, and the captives would have been executed nonetheless.

The prosecution holds that such defence allegations are unfounded and aimed at the evasion of criminal responsibility.

The fact that this accused was present at the time when the execution order was issued is unquestionable, as it has been highlighted by the prosecution in its previous closing statement and accordingly established by the final verdict. The prosecution has also highlighted the concrete pieces of evidence that unambiguously confirm the presence of this accused individual on the said occasion – the statement given by witness Stojković at the trial session of 23 February 2006, as well as those provided by – now convicted – PETRAŠEVIĆ during the investigation questioning of 8 August 2005 and at the trial session of 21 December 2005. Additionally, the prosecution has pointed out that the Scorpions commander wanted Aleksandar MEDIĆ, who was his best man, to “eventually harden”. It would therefore be quite illogical to conclude that the commander would have failed to make sure that the execution order was properly heard by Aleksandar MEDIĆ. Moreover, the statements provided by witness Stojković throughout the entire proceedings and at the trial session of 8 December 2008 (p. 20/44 of the trial record), as well as the statement of convicted Pero PETRAŠEVIĆ (which he provided in his defendant capacity), indicate that the executors, having completed their task and reported to their commander thereon, made loud comments on the fact that Aleksandar MEDIĆ had been scared stiff and therefore failed to shoot. Aleksandar MEDIĆ, who was evidently present and heard the comments, failed to respond. However, had he not heard the order as he has maintained during the proceedings, he would have certainly taken advantage of that

fact so as to save face before his commander and fellow combatants.

In relation to the issuance of the execution order, the defence will certainly point to the fact that witness Stojković somewhat changed his original statement at the trial session of 8 December 2008, and that Pero PETRAŠEVIĆ has also made slight modifications in his today's testimony. Still, the latest testimonies of Stojković and PETRAŠEVIĆ simply reflect their wish to help this accused, and therefore any inconsistencies between their original and present allegations do not bear such relevance as the defence is expected to suggest.

Witness Stojković's statement made at the trial of 8 December 2008, specifically his references to three crucial moments of the event, clearly shows the witness's wish to help Aleksandar MEDIĆ by denying – or at least diminishing – his criminal responsibility. At this point I shall analyse witness Stojković's references to the first crucial moment – the presence of Aleksandar MEDIĆ during the issuance of the execution order, whereas the analysis of the remaining two crucial moments will be left for a later point. In his original statement made at the trial of 23 February 2006, witness Stojković claimed that all members of the commander's security staff, including Aleksandar MEDIĆ, were present in front of the command headquarters before getting onto the lorry, and standing about three or four metres away from the place where the lorry was parked, when the commander ordered them to go and carry out the task (pp. 35/97 and 36/97 of the relevant trial record). In contrast to his original claims, at the trial session of 8 December 2008 (p. 9/44), this witness initially claims that he did not see Aleksandar MEDIĆ until the arrival of the lorry at the disembarkment site. These allegations, while contradicting what the witness originally claimed, do not indicate per se that Aleksandar MEDIĆ was not present at the scene, but merely that the witness – allegedly – did not see him there. However, presented with his original statement (p. 16/44), the witness retracts by saying that Aleksandar MEDIĆ might have been there if he originally claimed so, and speculates that the accused then must have been standing under a plum tree along with other members of the commander's security staff, rather than near the lorry. Thus, the overall testimony of this witness infallibly suggests that what the witness said at the trial of 23 February 2006 is actually true.

As for Pero PETRAŠEVIĆ, there is only a slight inconsistency between his today's statement given in witness capacity and the ones that he gave on earlier occasions in defendant capacity, i.e. during the investigation on 8 September 2005 and at the trial session of 21 December 2005. Namely, according to PETRAŠEVIĆ's original claims, Aleksandar MEDIĆ was present when the execution order was issued, whereas now, speaking as a witness, he claims that he cannot remember whether each of the security staff members was present there or not. This inconsistency, however, does not confirm the defence allegations offered by this accused, who maintains that he was not present when the execution order was issued. At the today's trial, on the other

hand, witness PETRAŠEVIĆ has unambiguously confirmed that the role of all members of the security staff, including that of Aleksandar MEDIĆ, was to watch over the captives so as to prevent them from escaping all the while since they were unloaded from the lorry and taken to the cottage, until the moment of their execution. In view of the final goal, that role was understood by itself and no special order was needed for it. As witness PETRAŠEVIĆ has explained, during the performance of that task, i.e. guarding the captives, the distribution of individual roles was left to the personal initiative of the unit members who were armed and immediately involved in the operation.

Within the overall analysis of the criminal acts undertaken by Aleksandar MEDIĆ, the prosecution has already looked into his role in aiding and abetting the crime, and his contribution to its commission, i.e. to the executions of the six captured Muslim civilians. With another reference to the video recording made by witness Stojković and presented during the trial, the prosecution would like to point to some details of the recording that highlight the involvement of Aleksandar MEDIĆ in the crime. Within its appeal against the previous verdict in this case, specifically the punishment for Aleksandar MEDIĆ, the War Crimes Prosecutor has attached eight photographs marked Aleksandar MEDIĆ 1 – 8 on the reverse. Photographs 1 and 2 show the position of Aleksandar MEDIĆ holding an automatic rifle in his hand and standing by the lorry ahead of the group's departure for Trnovo; photograph 3 shows him, again with an automatic rifle in his hand, standing by the side of the captives who are lying on the ground; photos 4 and 5 show him, armed all the while, conducting the captives from the disembarkation site to the execution site; photos 6 and 7 show him holding the same rifle as the two surviving captives are removing the dead body of one of their fellow sufferers, and him standing in a bush with one of the captives; and photograph 8 features this accused standing, again with the rifle, in front of the cottage as the two remaining captives are being shot inside. These photographs, which are parts of the video recording, are not intended to serve as evidence per se, but rather as a guide during the reviewing of the record, which will provide a more detailed insight into the conduct of Aleksandar MEDIĆ. The position and stance of this accused, his manner of holding the firearm and his involvement throughout the entire course of this criminal event clearly indicate that, within his scope of responsibility, he acted with no lesser dedication than any other Scorpion who took part in the execution, with a clear determination that this criminal act – the liquidation of the civilians – be carried out. Thus, the fact that he did not personally engage in the shooting but rather acted as an aider and abettor therein does not indicate by itself that he did not want the commission of the criminal offence. Namely, his failure to engage in the shooting should merely be attributed to the fact that he was too frightened to do so, which subsequently made him an object of ridicule from other participants in the event. The prosecution would particularly like to draw the court's attention to the part of the video recording related to photographs 6 and 7, showing the scene closely after the killing of the first four

civilians, and the two surviving captives carrying the victims' bodies from the meadow and into the cottage, passing under several treetops in full leaf on the way. A detail that can be seen at that point is particularly illustrative of this accused's involvement, featuring him in the meadow near the trees, with another Scorpion member standing under a treetop a short distance away, both holding automatic rifles in their hands. This detail unambiguously confirms the authenticity of the testimony offered by witness Stojković at the trial of 23 February 2006 (p. 56/97), when he claimed that the Scorpions members "were deployed all along the way from the execution site down to the cottage, so as to stop the two remaining captives in case they tried to escape." Thus, the analysis of this part of the video recording leads us to another moment of Stojković's perjured testimony at the trial of 8 December 2008, when he, in contrast to his earlier allegations, claims that there was no special pattern of the troops' deployment in the meadow (p. 25/44). At a subsequent point, however, warned of the inconsistency with his earlier statement, the witness allows that the troops' deployment in the meadow might have been such as to prevent the captives from escaping.

In consideration of the above, the prosecution proposes that the court pronounce the accused, Aleksandar MEDIĆ, guilty of the criminal offence as charged, and punish him as prescribed by the law.

In view of the circumstances that should affect the punishment, the prosecution remains firm in the position taken in its previous closing statement, and in its appeal against the previous first-instance verdict. In the first place, the prosecution notes that the accused, Aleksandar MEDIĆ, while expressing his regrets about the event, does not actually admit his involvement in the criminal offence at issue, nor does he show any sincere repentance for it, since in his defence – as detailed earlier on – he unfoundedly claims that he was unaware of the liquidation plan until the moment the shooting started. The prosecution persists in its belief that the testimony offered by witness Stojković leaves no doubt to the fact that the accused, being aware of the captives' imminent death, subjected them to additional mistreatment by verbally abusing them. Namely, at the trial session of 23 February 2006, witness Stojković testifies (p. 41/97): "... Aca was the first to interrogate them ... something about sex ... he asked this one on the far right, 'have you ever had a fuck?'... when the boy answered 'no', Aca said something like, 'and so you never will', he said something to that effect...". On the next day, 24 February 2006, these allegations are confirmed by the accused himself during the same witness examination, when the accused comments on the witness allegations as follows: "... I did make a joke, that's beyond dispute, but if I had known that the captives were going to be killed, I would certainly have not said that...". Hence, the accused did not dispute on that occasion a single word of what the witness said in relation to that event.

The defence, on the other hand, argues that in the transcript those words do not exist,

but others that make a thoroughly different sense. Accordingly, during witness Stojković's examination at the trial of 8 December 2008, Aleksandar MEDIĆ claims (p. 42/44): "... I did not ask the captive – when I am made to use such expressions – if he had had a fuck, but rather told him that I had not had a fuck because of him... so, I did not ask him if he had. Then I said – and you haven't had one either. As for what the witness claims I said 'and so you never will', this definitely I did not say, and the recording also proves that I did not say that." In view of the foregoing, the defence holds that the charges relating to these particular circumstances should exclusively rely either on the transcript of the expert witness findings or alternatively, on witness Stojković's statement. This position, however, is entirely groundless, since the court is obligated to assess all pieces of evidence presented during the proceedings, both individually and in relation to each other. In item 2 of the section entitled FINAL REMARKS AND OPINION – part of the expert witness report provided by Dr. Slobodan Jovičić, it is specified that the analysis of the audio recording on the VHS tape has shown that the sound component is actually a copy of the originally recorded audio material, with an overamplified audio signal resulting in the limitation of speech signal amplitudes and increased humming effects; moving on to item 4, it is specified that due to the poor audio recording quality the transcript was made on the principle of maximum extraction of speech information, which may allow for minor imprecisions on the level of individual sounds or word fragments. Furthermore, in the expert report section entitled III – ANALYSIS OF AUDIO RECORDING (item 3.1), it is noted that the effects observed significantly interfere with the speech signal intelligibility, which in turn creates transcription difficulties. In the light of the foregoing expert findings and opinion, it can be concluded that what the expert witness noted in the audio recording transcripts is authentic, yet due to a range of interferences, speakers positioned at various distances and their overlapping dialogues, the transcripts do not offer a thoroughly accurate reflection of each word that the participants in the event said.

On the other hand, the analysis of the statement provided by witness Stojković at the trial of 8 December 2008 reveals another crucial detail suggesting the witness's intention to help the accused. Namely, while at the trial of 23 February 2006 the witness quoted the words which Aleksandar MEDIĆ used in his conversation with one of the captives, whom he also marked in the video recording (first from the right), at the trial of 8 December 2008 the witness refers to the same issue and says (p.10/44): "... something about some girls, I can't say the exact words...", and later goes on to explain (p.21/44): "Aca said – because of you I haven't had a fuck". Hence, the witness makes no mention of the conversation that he originally recounted, and instead quotes the words from the transcript, which are also contained in the forensic report specifying that the accused said "Because of you I haven't had a fuck". This means that only after his original testimony did the witness have insight into the transcript and subsequently quoted what he had read there, rather than what he had really heard the accused saying. Evidently, the witness decided to change his

statement after seeing that the accused's original words did not exist in the transcript. However, when presented with his original statement, witness Stojković says (p.23/44): "I know exactly what I said, I know that I quoted Aleksandar's words – have you had a fuck, you haven't and so you never will ... I do not deny saying that". Closely afterwards (p.24/44), the witness confirms that he originally testified about the event in the way he remembered it, and therefore quoted the accused's words as he remembered them. Thus, if the circumstances presented are assessed in the context of the forensic report, specifically its part entitled TRANSCRIPT RECORD CORRECTION IV – Item 4.2. VHS – TRANSCRIPT RECORD – FRAME NO. 4, which states that shots and persistent background noises interfere with certain words and sounds of the conversation, thus affecting its overall comprehensibility. This means that the accused may have indeed told the captive, "... you have not had a fuck and so you never will", even if these words are not audible in the VHS recording. On the other hand, this certainly being a very characteristic part of the conversation, the witness could by no means have invented it, but instead detailed it in his original statement just because he remembered it so distinctly. This conclusion is further substantiated by the remark made on the part of this chamber's Presiding Judge as he watched the recording – that the accused was laughing right during the critical part of the conversation. Had the course of the conversation involved only what the accused claims it did, there would have been no particular reason for laughter. On the other side, should the court find that only the expert transcript allegations are to be considered as authentic, the prosecution nevertheless holds that even such conversation conducted on the part of the accused constitutes an act of mistreatment of the victims who, as the accused was well aware, were to be killed within minutes.

With reference to the perjured testimony offered by witness Stojković at the trial session of 8 December 2008, the prosecution is compelled to make another remark. Namely, in order to justify the changes in his testimony, this witness claims that during his examination by the investigative judge no sound record was released, but only the video recording on a laptop (written record of the trial of 8 December 2008, p.22/44), which is to suggest that he was not given an opportunity to hear the sound record either during his interview with the investigative judge or at the trial of 23 February 2006, but only at the trial of 24 February 2006, when the said audio-video recording was officially released. However, neither in relation to this circumstance is the witness telling the truth, which can be concluded from the record of his hearing by the investigative judge (Ref. Ki.V. 7/2005 of 15 June 2005, pp. 38 and 39) when the investive judge asks witness Stojković: "And what is being heard right now, are these your comments?", and the witness answers: "Yes", whereafter he goes on to explain what is heard in the recording, and particularly elaborates on the moments when shots are heard.

In conclusion, the prosecution places particular emphasis on the crime circumstances

which it has already highlighted in its original closing statement and appeal – namely, that the crime was committed against victims – young people and children – who gave no rise thereto; at the time when they were deprived of life, three of the victims were minors, specifically: Safet Fejzić (17.5 years old), Azmir Spahić (16 years and 9 months), and Dino Salihović (16 years and 20 days). Furthermore, all of the accused, including Aleksandar MEDIĆ, subjected the captured civilians to inhumane treatment by depriving them of water, beating and humiliating them. While engaging in the foregoing acts, the accused created a relaxed and cheerful atmosphere, thus demonstrating that they were not merely driven by an obligation to obey their superior's order, but also by their personal wish to do so; and ultimately, the fact that the accused committed their crime with the clear intention to conceal the crimes previously committed in Srebrenica – clearly highlights the base motives underlying the conduct of the participants in this criminal act.

In view of all that has been said above, the prosecution proposes that this court impose a severe sentence on the accused, Aleksandar MEDIĆ, which should be much closer to the statutory maximum than to mandatory minimum. Remaining firm in the position elaborated throughout his previous closing statement and appeal against the original first-instance verdict, the War Crimes Prosecutor holds that the only fitting punishment for assistance in the murders of six civilian captives in the context of the commission of the criminal offence recognized by article 142 (1) (war crime against civilian population) of the Yugoslav Criminal Code should be the statutory maximum anticipated for this criminal offence. However, in view of the position taken by the Supreme Court and the final sentences rendered to the accused Pero PETRAŠEVIĆ and Branislav MEDIĆ, the Prosecutor no longer insists on his original position.

*DEPUTY WAR CRIMES PROSECUTOR*  
*Nebojša Marković*