



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

**CLOSING ARGUMENTS OF THE WAR CRIMES PROSECUTOR**  
**IN THE “VELIKA PERATOVICA (TRBOJEVIĆ)” CASE**

27 May 2009

Your Honour,

The War Crimes Prosecutor remains firm in the charges specified in his amended indictment, since he believes that the evidentiary proceedings have unequivocally confirmed the fact that defendant Boro TRBOJEVIĆ committed the criminal offence recognised by article 142(1) (war crime against civilian population) of the Yugoslav Criminal Act, and is therefore criminally responsible as charged.

The fact unambiguously established throughout the evidentiary proceedings is that in the period between 13 August and 31 October 1991, an armed conflict existed in the municipal area of Grubišno Polje. Part of a broader armed conflict that was under way in Croatia (at the time a constituent republic of the SFRY), between the Yugoslav People's Army (JNA) and Croatian paramilitary forces, the said hostilities involved the self-organized armed formations of citizens of Croat nationality (who called themselves the National Guard Assembly), and those of Serb nationality (the so-called Territorial Defence, or Bilogorski Odred).

Thus, on 13 August 1991, members of the so-called Bilogorski Odred – among whom was defendant Boro TRBOJEVIĆ – were deployed at the crossroads between villages Gornja Rašenica and Velika Peratovica, where they stopped Croat civilians (including Vlado RADOŠEVIĆ and Ivica VEREŠ), whom they arrested and took hostage in order to exchange them for captured Serb civilians. In subsequence, on 20 August 1991, several members of the Bilogorski Odred besieged village Topolovica, whereupon a number of local civilians – ethnic Croats were taken hostage and transferred to Velika Peratovica. The hostages, both male and female, were herded into the courtyard of Matija KOTARAN's home, where four women – Slavka FRANCIŠKOVIĆ, Slavka ACMAN, Đurđa ČAPO and Kata KOTARAN – were separated from men. On that occasion, hostage Kata KOTARAN was kicked and pushed inside a stable, where she remained confined along with the other female captives. Immediately afterwards, a group of male civilians, i.e. Matija KOTARAN,

Željko SELEŠI and Miško ČAPO, were removed from the courtyard and taken to a local prison facility. Concurrently in the neighbouring courtyard, a hand grenade was thrown at the attic of the house owned by Anka KOTARAN. In the aftermath of its explosion, Josip SELEŠI and Anka KOTARAN suffered severe bodily injuries, which resulted in the latter's death shortly afterwards.

After massive arrests that took place in village Topolovica, a makeshift prison for civilian hostages was established in the local school building in Velika Peratovica. The prison inmates were held confined on the cellar premises, where living conditions were brutal, with no toilet or facilities for personal hygiene. The captured Croats were taken out for interrogations on a daily basis. Members of the Bilogorski Odred conducted the interrogations and physically abused their victims in the process. Additionally, they removed a group of around 14 inmates from the prison facilities and killed them in a nearby forest called Špišić-Bukovica, whereas another group of captured civilians was exchanged during the same period.

In the evening of 31 October 1991, three members of the Bilogorski Odred – including the deceased Bogdan TRBOJEVIĆ a.k.a. Božo, who was the prison manager at the time – discharged fire from their automatic weapons, whereupon Bogdan TRBOJEVIĆ also threw a hand grenade. In the aftermath of their shooting campaign, five out of the six surviving inmates were killed, namely Željko SELEŠI, Božidar JAKOPEC, Petar KRAMAR, Franjo ŠOKEC and Mato PETEK. The sixth inmate managed to save himself by hiding behind a wall in the cellar.

Defendant Boro TRBOJEVIĆ does not admit committing the criminal offence. While admitting that on 13 August 1991 he participated in the operation at the crossroads between Gornja Rašenica and Velika Peratovica, the defendant maintains that he did not know what sort of assignment his group was supposed to carry out. TRBOJEVIĆ further alleges that his engagement merely involved keeping guard in the forest, whereas only at a later point did he learn that Vlada RADOŠEVIĆ and Ivica VEREŠ had been arrested and put in prison. Furthermore, TRBOJEVIĆ claims that he did not take part in the attack on village Topolovica on 20 August 1991, but only passed through the place later that afternoon, when the operation had been well over. Referring to the time which he spent serving as prison guard, TRBOJEVIĆ alleges that he never physically tortured a single prisoner. The defendant also denies taking part in the event of 31 October 1991 when five prisoners were killed, since he allegedly left Velika Peratovica during the afternoon, and had already been a while away by the evening when the executions actually took place.

Testifying via a video link at the trial session of 9 March 2008, witness Vlada RADOŠEVIĆ makes reference to the arrests which took place at the crossroads between Gornja Rašenica and Velika Peratovica on 13 August 1991, and specifies that he saw Boro TRBOJEVIĆ in a lying position and ready to shoot near the place where

this witness was taken captive. What can be unambiguously concluded from this testimony is that, rather than in the forest, defendant TRBOJEVIĆ was on the road when the arrests took place, and – since at an earlier point witness Ivica VEREŠ had already been arrested and hauled to prison – well aware of the reasons for such arrests. While early at the trial session of 26 September 2008 defendant TRBOJEVIĆ claims (p. 10) that before VEREŠ, RADOŠEVIĆ and other civilians were arrested, he had been picked up from his aunt's place where he was staying in a visit; as they took him to the site where the operation was due to take place, his fellow combatants allegedly failed to tell him where they were going or what was the purpose of the operation in which he was supposed to participate. During the same session, in response to a question asked by Judge Vesko Krstajić, a member of this trial chamber, the defendant states (p. 34): "... when I got on the lorry, they told me that we were bound for Mala Peratovica, and indeed, a while later we got to that village, actually to a place between villages Rašenica and Mala Peratovica. I was told that we had to arrest them because they had done the same to our people. It was only then that I learnt what they were up to, and Lazo SAVATOVIĆ instructed me to go to the forest." Ergo, in this part of his statement defendant TRBOJEVIĆ virtually admits that it was upon his arrival on the spot and before the actual onset of the operation that he learnt what was going to happen, i.e. that Croat civilians were going to be arrested so that they could later be exchanged for captured Serbs.

With reference to the event of 20 August 1991, when members of the Bilogora Detachment launched the attack on village Topolovica, defendant TRBOJEVIĆ claims that he did not engage in the attack. Such allegations, however, should be dismissed as false since they are in contradiction with what the defendant himself claimed during the investigation, but also in the light of the testimonies provided by witnesses Kata KOTARAN and Josip SELEŠ, who identified TRBOJEVIĆ as one of the participants in the said attack and gave a detailed description of his behaviour, which has also been described in the enacting terms of the indictment. The defence challenges the testimony given by witness Kata KOTARAN, on the grounds of her statement that Boro TRBOJEVIĆ was wearing a beard at the time, whereas, according to the defence, the defendant did not wear a beard on that or any other occasion. Still, this is not an essential detail whereby the witness recognized the defendant. Namely, according to her explanation – which coincides with that of the defendant himself – she had met TRBOJEVIĆ on an earlier occasion, when he came to her place and remained there for quite a long time repairing her freezer, an event on which she based her identification. On the other hand, asked if defendant TRBOJEVIĆ was wearing a beard at the time of his service as prison guard, witness Ivica VEREŠ claims that everyone in the prison – including inmates and their guards alike – occasionally wore beards since they did not have regular shaves. Similarly, witness REKIĆ says that defendant TRBOJEVIĆ might have had a small beard.

In relation to the event at issue, the defence refers to the statements of witnesses

Slobodan PEULIĆ, Branko KOSANOVIĆ, Dušan MRKŠIĆ and Stevo STOPONJA, who maintain that defendant TRBOJEVIĆ did not take part in the attack on vilage Topolovica. Their statements, however, are unconvincing and obviously intended to cover up the defendant's criminal involvement, and therefore deserve no special consideration.

Defendant TRBOJEVIĆ denies engaging in the physical maltreatment of inmates in Velika Peratovica, yet his denial is in flat contradiction with the satements provided by witnesses Vlado RADOŠEVIĆ and Ivan VEREŠ.

Thus, during the investigation questioning of 12 June 2007 and after being presented with the record of his earlier statement made at the trial session of 14 October 1994 (in a case conducted before the District Court in Bjelovar), witness RADOŠEVIĆ recollects the event and, consistent with his former testimony, states: "What I can say for Boro TRBOJEVIĆ is that he did beat me during my imprisonment in Velika Peratovica, but he did not do it like others; he would poke me with his rifle rather than really beat me, and that he did only in the presence of his superiors, such as Rade ČAKMAK, Milenko STOJIĆ and others." Likewise, at the trial session of 9 March 2009, asked if defendant TRBOJEVIĆ had engaged in the beatings, this witness replies that he "would assume that harsh appearance when his bosses were around, and would then poke us with his rifle, sort of showing off, I guess."

In addition to the foregoing, at the investigation hearing of 12 June 2007, witness Ivan VEREŠ alleges: "On one occasion during my imprisonment in Velika Peratovica, in the cellar of the school building, I saw that Vlado ŠPIRANAC and Milan BILOVIĆ had been beaten; the two later told me that they had been beaten by Lazo SAVATOVIĆ, Boro TRBOJEVIĆ, KOSANOVIĆ and OROZOVIĆ." At the trial session of 10 March 2009, asked whether the late BILOVIĆ and ŠPIRANAC had talked about who had beaten them and whether they had mentioned defendant TRBOJEVIĆ in that context, this witness confirms his former allegations (p. 9/31): "Yes, they did mention those names." While initially denying his involvement in the physical maltreatment of the prisoners, at the trial session of 26 September 2008, having been presented with the satements of witnesses RADOŠEVIĆ and VEREŠ, defendant TRBOJEVIĆ virtually admits that he maltreated the prisoners and says (p. 48): "On one or two occasions I was there while they were interrogating the prisoners, and Rade ČAKMAK was there, too. So, as they interrogated the prisoners, ČAKMAK told me, come on, push him a bit, get him to admit, and that was all I did." Hence, defendant Boro TRBOJEVIĆ did engage in the physical maltreatment of prisoners in Velika Peratovica, though admittedly to a lesser extent than it was the case with other members of his detachment.

The defence allegations of defendant TRBOJEVIĆ, who maintains that he was not present in Velika Peratovica at the time when the imprisoned civilians were killed,

have been confirmed by witnesses Stevo BOSANAC, Milica BOSANAC, Sava and Gordana LAKIĆ and Spaso MATIJEVIĆ. The foregoing witnesses unanimously state that defendant TRBOJEVIĆ left Velika Peratovica during the daytime of 31 October 1991. Furthermore, witnesses Sava and Gordana LAKIĆ state that witness Bora REKIĆ told them that he had taken part in the killings of those civilians, which is meant to suggest that defendant TRBOJEVIĆ was not not involved therein.

However, the testimonies of the aforementioned witnesses have been given with the clear intention to help defendant TRBOJEVIĆ, a motive which is also evident in all other details of their statements relating to the role of this defendant and his involvement in the events at issue. Still, beside being highly contradictory to the evidence presented, their accounts are mutually inconsistent. On the other hand, at the trial session of 29 January 2009, witness Boro REKIĆ, who has been notified of certain allegations about his possible involvement in the criminal offence charged, states – albeit contrary to his own interest – that he left Velika Peratovica at around midnight, and so did Boro TRBOJEVIĆ and Stevo BOSANAC. Witness REKIĆ further specifies that the three of them had also been together all the while until their departure from the village, loading weapons onto a lorry and a tractor trailer in the vicinity of the local church.

Witness Rade KLJAJIĆ also confirms that he left Velika Peratovica on 31 October 1991 at some time between 10 and 11 p.m., and – contrary to the allegations made by defendant TRBOJEVIĆ and witnesses testifying on his behalf – adds that he was not among the last to leave. Moreover, this witness specifies that some people did not leave the village before the next day, i.e. 1 November 1991. KLJAJIĆ's allegations match those made by witness Petar DIMIĆ, who, at the trial session of 16 October 2008, claims that the unit withdrew from Velika Peratovica on 1 November 1991. Additionally, both during the investigation and later at the trial, witness Vlado RADOŠEVIĆ gives a detailed account of his conversation with (now deceased) witness Vendel ŠKLEBEK, from whom he learnt about the event. Based on his conversation with ŠKLEBEK, RADOŠEVIĆ concluded that defendant TRBOJEVIĆ was involved in this criminal act.

Since Vendel ŠKLEBEK, the only eyewitness to the event, has passed away in the meantime, his statements given during the investigation and trial proceedings in an earlier case (ref. K.No. 25/93) conducted before the District Court in Bjelovar have been read out within the evidentiary proceedings of the current case. Witness ŠKLEBEK's testimony leaves no doubt to the conclusion that defendant TRBOJEVIĆ was among those involved in the killing of the civilians imprisoned in the school building in Velika Peratovica.

Specifically, testifying before the Bjelovar District Court, at the trial session of 19 September 1994 – and maintaining consistency with his former investigation

statement – witness ŠKLEBEK states that at the time when he was in prison he did not know anyone of its guards, but heard who they were from his fellow inmates. According to what he heard in those conversations, Božo TRBOJEVIĆ, the prison manager, started the execution by firing the first shot, whereas among others whom the inmates mentioned as being present during the event were Boro TRBOJEVIĆ – perceived by them as a fairly young man – and Boro REKIĆ. Since the latter two, as witness ŠKLEBEK was told, had torches when they came to carry out the executions, the inmates were able to identify them despite the dark in their cellar.

In the investigation record ref. KiO-726/92-26 of 28 January 1993, taken barely 15 months after the event, witness ŠKLEBEK alleges (p. 3): “... two guards remained in front of the cellar... one of those two was the person mentioned here, Boro, whose surname, as I heard later, was TRBOJEVIĆ ... they started shooting from their automatic weapons. There were two other persons beside Božo, that is Boro – whose surname, as I learnt at a later point was TRBOJEVIĆ – and another one whom I did not know... when I was interviewed by the police in Grubišno Polje, they showed me a number of photographs, on which I identified two persons named Boro TRBOJEVIĆ...” Indeed, among other photographs included in the court files there are those of two persons named Boro TRBOJEVIĆ. One of them, born in 1950, was 41 years old at the time of the event, whereas the other, i.e. the defendant, was born in 1959 and aged 32 at the time of the event. Thus, in the light of witness ŠKLEBEK’s description of Boro TRBOJEVIĆ as a fairly young man, he evidently refers to this defendant, whom he also identified in the photographs. This explains witness ŠKLEBEK’s remark that he did not know the defendant’s surname at the time of the event, but learnt it on a later occasion, when he identified the defendant in the photographs as one of the participants in the killings of captured civilians that took place in Velika Peratovica on 31 October 1991.

In addition to the foregoing, not a single piece of the here presented evidence indicates that in the makeshift prison in Velika Peratovica there might have been another guard with the same name and surname as this defendant.

The fact that defendant Boro TRBOJEVIĆ was on guard duty on the night of the event is further corroborated by the statement given by witness Milenko STOJIĆ at the trial session of 28 April 2009. On 31 October 1991, at some time between 8 and 8.30 p.m., this witness came from his combat position to Velika Peratovica. Having seen that the withdrawal of his unit was under way, he returned to his position in order to inform his fellow combatants about the developments. In subsequence, he returned to Velika Peratovica at around 9 p.m. and took part in the loading of weapons and ammunition onto a lorry parked outside the church. At around 10 p.m., witness STOJIĆ went to the house where he had been accommodated in order to prepare himself for the withdrawal. It was exactly at that point, at around 10 p.m., that he met defendant Boro TRBOJEVIĆ, who came to inform the witness that the

prison commander (Božo TRBOJEVIĆ) wanted to see him in the prison. When the witness refused to go and see the prison commander, the defendant asked the witness: “What should I do with the captives”, and the witness replied that he could either release them or take them with him and possibly exchange them at a later point. Another alternative, the witness added, was that the prisoners be left confined, in which case they would soon be released by the Croat forces, or perhaps leave by themselves, since the prison was going to remain unprotected. This witness statement sheds additional light on the involvement of defendant Boro TRBOJEVIĆ in the executions which took place on the cellar premises of the school building in Velika Peratovica in the night of 31 October 1991. Furthermore, in the light of witness STOJIC’s testimony, the defendant’s claim that he allegedly left Velika Peratovica as early as in the afternoon of the said day ought to be dismissed as ungrounded and aimed at the evasion of criminal responsibility.

In consideration of the above, the prosecution holds that the evidence presented throughout these proceedings clearly indicates the fact that defendant TRBOJEVIĆ engaged in all the criminal acts as charged. By his acts and omissions, this defendant committed grave breaches of the rules of international law that govern the conduct of war, specifically the following:

- Article 3 (1.a, 1.b) of the Geneva Convention on protection of civilians in warfare (Geneva Convention IV of 12 August 1948); and
- Article 4 (2.a, 2.b) of the Additional Protocol to the above Convention, on protection of victims of noninternational armed conflicts (Protocol II of 8 June 1977 – The SFRY Official Gazette no. 16/78 – International Contracts),

Since defendant Boro TRBOJEVIĆ participated in the attack on civilians, whereby they were taken hostage and held confined, as well as in the torturing and killing of the captured civilians.

Since the above described criminal involvement of defendant Boro TRBOJEVIĆ contains all elements of the criminal offence recognized by article 142 (1) (war crime against civilian population) of the Yugoslav Criminal Act, the prosecution suggests that this court pronounce him guilty as charged and – on considering all alleviating and aggravating circumstances – sentence him according to the law.

WAR CRIMES PROSECUTOR  
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DEPUTY WAR CRIMES PROSECUTOR  
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