



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

**CLOSING ARGUMENTS OF THE WAR CRIMES PROSECUTOR
IN THE „BROTHERS BYTYQI (POPOVIĆ AND STOJANOVIĆ)“ CASE**

16 September 2009

The facts detailed in this amended indictment have been unambiguously upheld by the body of evidence presented throughout the investigation and trial proceedings.

It has been established that the victims, Agron, Ylli and Mehmet Bytyqi, originally under the control of the District Prison guards in Prokuplje, were at one point handed over to members of the Special Police Units (PJP), who drove them to the military training camp in Petrovo Selo and locked them up in a makeshift storage room.

Specifically, upon orders received from commanders of the Serbian Police (MUP), head of the Prokuplje local police (OUP) and the Prokuplje prison manager, a group of the prison officers – the shift supervisor and two guards – retained control over the Bytyqi brothers until the arrival of the 'team', i.e. members of the Special Police Units (PJP).

Acting in contravention of the judgment issued by the Kuršumlija court and the Ruling (No. 26-1-3/99 of 5 July 1999) issued by the Serbian MUP, whereby they were obligated to release the victims from the Prokuplje District Prison and deport them beyond the borders of the then Federal Republic of Yugoslavia, the prison officers handed the victims over to the PJP members who had previously been appointed to the task by the accused, Sreten POPOVIĆ. Upon the instructions received from POPOVIĆ, the Bytyqi brothers were transported to the PJP training camp in Petrovo Selo, situated 250 km away from Prokuplje.

The overall operation had been ordered by Mr. Vlastimir Đorđević, at the time head of the Public Security Service of the Serbian Ministry of the Interior (MUP).

Acting in his capacity as team leader and in compliance with orders issued by his commander Sreten POPOVIĆ, the accused, Miloš STOJANOVIĆ, assigned two

members of his unit – Aleksandar NIKOLIĆ and Dejan STAMENKOVIĆ – to assist him in performing the task received, which the two did without objection.

In subsequence, the three went to the District Prison, arrested the victims on the Prison premises or immediately outside the Prison gate (which, in this particular case, is quite irrelevant), handcuffed the captives and forced them into a white police Mitsubishi Pajero jeep driven by a still unidentified police officer. The accused then entered into another police vehicle, namely a Golf which, driven by Miloš STOJANOVIĆ, followed the jeep up to the training camp. On arrival, STOJANOVIĆ, NIKOLIĆ and STAMENKOVIĆ met their commander Sreten POPOVIĆ, to whom they delivered the victims.

On 8 July 1999, on his arrival for a training course, witness Dragan FILOPOV saw the Mitsubishi Pajero jeep, which was parked inside the camp compound. The identities of its driver was known to at least 100 people – members of the Serbian MUP – who have been heard in the course of these proceedings but failed to disclose them.

The fact beyond doubt is that the accused, Sreten POPOVIĆ and Miloš STOJANOVIĆ, forced the victims into a makeshift warehouse, where the victims remained confined for a certain while, locked in behind a metal door reinforced with bars on its upper part.

According to the case files, on an unidentified date at around 11 p.m., the accused, Sreten POPOVIĆ, handed the captives over to a group of still unidentified police members who arrived in the camp in a dark jeep with a police number plate.

With their hands tied, the victims were forced to enter the vehicle, whereupon a group of still unidentified police members drove them outside the camp compound and to a mass gravesite, located at a mere 300-500-m distance from the camp.

The spot was a burial place for death remains of persons killed throughout Kosovo and Metohija and transported to the site in a lorry driven by Božidar PROTIC, a police member and one of the witnesses heard in the course of this trial.

Several years later, on 14 June 2001, the victims' death remains were found on top of other bodies in the mass gravesite located in the immediate vicinity of the training camp. In his site assessment record registered under number 6/21, the Negotin District Court's investigative judge marked this site as PS1.

A forensic expert examination carried out during the site assessment revealed that the bodies of Agron, Ylli and Mehmet Bytyqi had been placed in the grave with their

hands tied with lengths of black insulated wire; each body had an entry/exit wound in the nape of the neck. The findings presented by forensic expert Vujadin Otašević revealed that the victims had been killed with gunshots in the nape of the neck, fired from infantry weapons.

With reference to the event that took place in the Prokuplje District Prison, the accused, Miloš STOJANOVIĆ, defends himself by claiming that he did not handcuff the persons whom he had taken over. However, his defense allegations cannot be accepted, since they are in contradiction with the statement offered by witness Dejan STAMENKOVIĆ, who claims that, on reception of the “assignment”, he was instructed to take his duty gun and handcuffs, and that, upon arrival in front of the prison building, he gave the handcuffs to Miloš STOJANOVIĆ. The same was done by witness Aleksandar NIKOLIĆ, whose statement, while generally coinciding with that of Dejan STAMENKOVIĆ, allows for a possibility that the victims were tied and holding their hands on the back.

The foregoing witness statements indicate that – at the moment of their handover to Sreten POPOVIĆ – the Bytyqi brothers had their hands tied on the back, and it was not until they were locked inside the makeshift storage room that they had their handcuffs removed.

Hence, the defence allegations of the accused, Sreten POPOVIĆ and Miloš STOJANOVIĆ, who claim that the victims’ hands were free at the moment of their handover, cannot be accepted and ought to be qualified as calculated on diminishing their criminal responsibility.

In addition to the above, it is contrary to the applicable regulations and practices, and illogical to assume that such an operation would be carried out by a single policeman driving a vehicle unaccompanied by at least one more participant, and that the persons driven would not at least be tied for the sake of the driver’s personal safety.

Hence, the acts undertaken against the victims on 8 July 1999, on the part of these accused individuals – members of the Serbian MUP – were defined by the then applicable Internal Affairs Act as acts of “seizure”, “temporary restriction of freedom of movement” and “detention”. As they engaged in the said acts, the accused used coercion against the injured, whom they handcuffed and forced into the vehicle bound for Petrovo Selo, where they were placed inside a makeshift storage room and held confined.

Specifically, Sreten POPOVIĆ, in his capacity as commander of the Search Operations Group – part of the Special Police Units, ordered Miloš STOJANOVIĆ –

who was a detachment commander within the same squad and his subordinate – to carry out the above acts, which the latter duly complied with. In a joint action that ensued, POPOVIĆ and STOJANOVIĆ detained the victims in an unfinished structure inside the camp compound, which served as a provisional warehouse, wherein the victims remained confined under the supervision of Sreten POPOVIĆ.

The commission of each of the foregoing acts had to be preceded by a written record and followed by a written report thereof, which in this particular situation was not the case. Likewise, the execution of the said acts of “seizure”, “temporary restriction of freedom of movement” and “detention” had to be preceded by a relevant decision taken by a competent law enforcement or court authority, which in this particular situation was not the case.

Since the official commission of the above-described acts implies a considerable extent of restriction and infringement of basic human rights, the accused were at all times obligated to inform the victims about the reasons of such acts.

In particular, the victims were entitled to know why they were losing their liberty, why and where they were being taken, why and pursuant to whose official authority they were being detained, along with clear instructions regarding their rights. All of the foregoing procedures were disrespected in this particular case, i.e. the accused failed to follow them.

It was mentioned in the introductory part of this indictment that the acts against the victims were performed in the context of an ongoing armed conflict which involved the armed forces of the Federal Republic of Yugoslavia – consisting of the Yugoslav Army and the Serbian Police forces – on one side, and members of an armed military organization known as “the Kosovo Liberation Army” and NATO Coalition on the other. The hostilities broke out in the territory of Kosovo, with the onset of the NATO campaign against the Federal Republic of Yugoslavia. On 24 March 1999, the NATO Alliance launched air attacks on targets across the FRY territory. On 23 March 1999, the FRY passed an act declaring an impending war danger, and on the following day, 24 March, it declared a state of war.

Attacks launched against the FRY, which was one of the parties to the conflict, were intended to deprive the country of its fighting capacity and to destroy its overall potentials. With the declaration of a state of war, an already existing internal conflict in the Autonomous Province of Kosovo and Metohija switched to the stage of an international armed conflict.

The victims were members of a volunteer unit called the “Atlantic Brigade”, which

had been formed in New York on the part of a group of U.S. citizens, mostly of Albanian descent.

Following a brief training course in Albania, the victims – Agron, Ylli and Mehmet Bytyqi – illegally crossed the state border between Albania and Yugoslavia and, along with other members of the said unit, entered the territory of Kosovo, where they placed themselves at the UCK service and actively engaged in a number of military operations launched across the area of Paštrik. Those operations were targeted against members of the Serb armed forces, including the Special Police Units, among whose members were the herein accused individuals.

The foregoing facts were established in the course of the trial evidentiary proceedings, especially on the basis of the witness statements obtained from Fatos BYTYQI, the victims' brother, who had seen the victims in Albania, and from General Vlastimir ĐORĐEVIĆ, who had known that the victims were U.S. citizens of Albanian nationality and members of the Kosovo Liberation Army.

Vlastimir ĐORĐEVIĆ explicitly ordered the accused, Sreten POPOVIĆ, to “assign officers who will report to the Prokuplje District Prison, whereof they should take over three U.S. citizens, members of the Kosovo Liberation Army”.

In addition to the above, the victims possessed UCK-issued identification documents with their photographs in UCK uniforms, three metal plates – UCK military identification tags, photographs in which they were seen wearing UCK uniforms, and two travel permits (containing their photographs in UCK uniforms) issued by the Albanian Embassy to the U.S.A.

In support of the fact that the victims were members of the UCK – which, for the accused, was the opposing party to the conflict – are the documents that have been read out at this trial, namely the acknowledgement No. 010/250 of July 26, 1999, awarded by the “UCK Minister of the Military”, and the acknowledgement of March 15, 2001, signed by Agim Qeku.

Another fact – that the victims could not speak the Serbian language very well and communicated with each other in Albanian – has also been confirmed by the accused, who say that the few sentences which they exchanged with the victims were in Albanian.

The foregoing facts and circumstances clearly indicate that the status of the victims in this particular case was that of war prisoners in international armed conflicts.

Being war prisoners, the victims were at all times supposed to enjoy the status of “protected persons” under article 3 (1) common to all the Geneva Conventions, and under article 4 (1) of the Third Geneva Convention, which specifies that prisoners of war are members of the armed forces of a party to the conflict who have – at any point or in any manner – fallen into the power of the enemy; in this particular case, into the power of a unit which was part of the Serbian armed forces.

The duration of such protection guaranteed to prisoners of war is specified by article 5 of the Convention, which stipulates that the Convention shall apply to the persons referred to in article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

In their capacity as prisoners of war, the victims were entitled to all rights arising from their status, including the right to a fair and objective trial, and were supposed to enjoy such rights and protection until their final release, repatriation or re-establishment, even after the end of the armed conflict, as anticipated by article 75 (6) of the Protocol I additional to the said Convention.

Pursuant to article 5 (2) of the Third Convention, should any doubt arise with respect to their status, such persons shall enjoy the protection of the said Convention until such time as their status has been determined by a regularly established tribunal. Rules contained in article 3 (1) common to all of the Conventions, prohibit a number of acts being committed against persons who have ceased to take active part in the hostilities, including acts of torture and outrages upon personal dignity, and, in particular, humiliating and degrading treatment, whereas article 3 (1) of the Third Geneva Convention stipulates that prisoners of war shall in all circumstances be treated humanely.

Before setting off for Prokuplje in order to capture the victims and transfer them to the training camp, the accused had the knowledge of the victims’ affiliation with the opposed party to the conflict, whereof they had been informed by their mentors.

During their first meeting with the victims and upon insight into their personal documents, the accused could realize that the victims – who were members of the adversary party to the conflict - had the status of protected persons under the Geneva Conventions. Hence, as of their first contact with the victims onwards, the accused were obligated to provide them with certain rights and guarantees arising from that status.

Contrary to the above obligations, however, the accused unlawfully arrested and detained their victims, evidently intending to punish them for their ethnic

backgrounds, their affiliation with the other party to the conflict and potential involvement in combat.

Outside the District Prison building in Prokuplje, at the point when, having served their sentences, they were due to be discharged, deported from Serbia as free citizens and sent home, the victims were unlawfully arrested and handcuffed without being informed about the reasons of such development. As a result of such circumstances, the fear that the victims felt for their lives and safety increased with each of the subsequent acts committed against them.

The victims' concerns increased as they, restrained with police handcuffs, were placed in the back seats of a vehicle which transported them in an unknown direction.

The fear was further aggravated when the car stopped at an unfamiliar site – Petrovo Selo – where the victims were unloaded and forced into a facility inside the local training camp compound, where they got locked in.

The feeling of terror persisted throughout the victims' stay in the camp, particularly in view of living conditions in the storage room, where they were held for a number of days.

The accused, POPOVIĆ, argues that he decided to place the victims in a previously emptied storage room because it was the only one with a barred door that could be properly locked.

With reference to the conditions that existed in the military training camp and, in particular, in the facility where the victims were incarcerated, a number of witnesses, as well as the accused themselves, testify that the structure, which was approximately 25 m long and 10 m wide, was half dug into the earth and included several premises that served for the storage of equipment and ammunition. The accused, POPOVIĆ, as well as witnesses Dejan STAMENKOVIĆ and Aleksandar NIKOLIĆ, claim that POPOVIĆ placed the Bytyqi brothers in a room at the back of the structure, which was the most remote from the camp gate. The room, which was situated in the lower part of the structure, was entered through a metal door and had a single small window covered with bars.

The above-described premise was not intended for holding captives, but served as a storage place for weapons and equipment. In terms of size, it was 3 m long and 3 m wide, unfurnished and with no beds.

The accused, Sreten POPOVIĆ, claims that the room was equipped with a water tap

and a drainage pipe, apparently suggesting that it was sufficient to meet the needs of those held inside.

In order to carry out an overall assessment of the site and of the room at issue, our team visited the training camp. Once on the scene, we could not see a water tap whatsoever. Moreover, we were not able to see even the room properly, since – whether accidentally or on purpose – it was crammed with various items, including ammunition cases and other military equipment. Members of the police who were present in the camp and who met the assessment team failed to empty the room, although the Chamber President had made a timely announcement of the team's arrival on the scene.

It is certain that a water tap – even if there was one in the room where the victims were held – could not serve its purpose since at the time no drinking water was available in the camp. Furthermore, given a general shortage of water for personal hygiene, the camp trainees used mobile shower cubicles or containers filled with water that was supplied in cisterns.

The accused, Sreten POPOVIĆ, has confirmed that the water containers, blue in colour, had been installed since the first day of the training courses, for the purposes of the camp trainees.

Since such containers did not exist in the room where the victims were incarcerated, they were deprived of basic living conditions, including facilities for personal hygiene.

Referring to water shortage problems in the camp, the accused, Sreten POPOVIĆ, as well as witnesses Zoran DRAJIĆ, Željko KNEŽEVIĆ, Jordan LJEŠNJAK, Željko FILIPOVIĆ and many others, testify that barrels of water had been initially placed in the vicinity of the courtyard known as “pista“, whereas cisterns and mobile shower cubicles arrived at a later point.

The accused, Sreten POPOVIĆ, further explains that the detention room was equipped with a tube that served for the outflow of sewage. Such a tube can be seen in the photographs that have been presented to this trial chamber. However, since it is evident that the tube could not serve as a toilet, it can be concluded that in the room where the victims were confined neither a toilet nor drinking water were available.

The foregoing conclusion is further supported by witness Aleksandar NIKOLIĆ, who testifies that, on his return from town in early morning hours, he heard the victims calling him and yelling for water. As he found no water and additionally, having

been warned by the accused, Sreten POPOVIĆ, that water in the camp was not suitable for drinking, NIKOLIĆ brought the victims three cartons of milk.

A lack of consistency has been observed in the testimonies relating to the duration of the victims' confinement in the "makeshift prison".

The accused, Sreten POPOVIĆ, states at the trial that the victims had been kept in the camp for a day and a half before the night when he took them out and handed to FNU LNU individuals. At the investigation hearing, however, POPOVIĆ claims that they remained in the camp for three or four days.

In his trial testimony, witness Nebojša SIMIĆ maintains that the victims were handed over on 9 July, whereas at the investigation hearing he specifies the night of 8 July as the handover date.

SIMIĆ's testimony is substantiated by that obtained from Miloš DUKIĆ, a camp instructor who claims that on 9 July he saw a passenger vehicle with its headlights on, and heard those who came out of it asking for a person nicknamed "the Priest". Witness Saša GRKOVIĆ claims that one night, while he was on guard duty at post no. 2, he saw a car and heard a man speaking on his walkie-talkie, asking for someone whom they called "the Priest".

For lack of other evidence, this version of developments must be accepted, i.e. the fact that the victims' handover took place during an unspecified night and that the operation was carried out by the accused, Sreten POPOVIĆ.

However, the above-mentioned witnesses fail to provide accurate and consistent details relating to the time, i.e. the date of the handover.

SIMIĆ is not certain as to the date of his being on guard duty, whereas POPOVIĆ offers one version of the story to the investigative judge, and then comes up with another at the trial. Similarly, DUKIĆ does not know on which day of the training course he saw an approaching car, and Saša GRKOVIĆ, who is also uncertain as to the date of his guard duty, says: "I can't remember, believe me, because it all happened years ago, so much time has passed that I can no longer remember all these details."

The aforementioned statements are in contradiction with those of other witnesses, who claim that, while they were forbidden to go below the courtyard, i.e. to the area where the detention room was, they were aware of certain detainees being present in the camp, virtually throughout all the time of their training course.

Thus, for example,

- Witnesses Danilo POPOVIĆ, Goran ĐURETIĆ and Goran IGNJATOVIĆ – who were sharing a room with SIMIĆ – claim that during the first days of the course SIMIĆ was not keeping guard, nor was anyone else from their dormitory.

- A day or two following the beginning of the training course, witness Aleksandar DŽODIĆ heard that some detainees were being held in the camp, and saw a closed door of the storage room, whereas at some point towards the end of his training course, while having a shower, he saw that the door of the said room was open.

- Likewise, witness Miroslav MIRKOVIĆ heard of the existence of some Albanian detainees in the camp.

- On the second or third day following his arrival in the camp, witness Miloš RAJEVIĆ heard that there were some detainees in the camp, whereas several days later he saw that the door of the detainees' room was open.

- At the trial session of 23 May 2007, witness Nebojša ŽIVKOVIĆ says: "It was at some time during the latter part of our training course. So, while I was once having a shower (on the ground floor), there were some premises below the ground floor.... at one point I heard some muffled voices coming from that direction, from those premises below. Just out of curiosity, I went there, to that door – with sort of bars on it – and looked through those bars; what I saw inside were some men sitting in a corner of an otherwise completely empty room..."

The foregoing witness statements lead to the conclusion that the Bytyqi brothers were held detained in the camp at least during the first half of the course, or alternatively, until several days ahead of its completion. On the assumption that the course lasted for 15 days, and that it started on 8 July – which was also the date when the Bytyqis were detained – it can be concluded that they remained in the camp for any period between seven and twelve days, and most probably until the 20 July, when they were executed.

The victims' unlawful arrest and detention in the above-described circumstances were acts of degrading and inhumane treatment that undisputably caused them emotional pain and suffering, which further intensified their continuing feeling of terror.

By keeping the detainees in inadequate and brutal living conditions – in an

unfinished structure which lacked essential facilities for personal hygiene, the accused acted in an inhumane and degrading manner equalling to torture. By their overall conduct towards the victims, whom they deprived of basic living needs (adequate accommodation, water, food, social contacts, etc.), the accused wilfully caused them great emotional suffering and intensive fear for their existence.

Logically, the duration of their custody was proportional to their fear, which – in an obscure setting of the storage room where they were held – increased day after day. Their fear reached levels almost unbearable to a human being on the night when the accused, Sreten POPOVIĆ, removed them from the storage room in order to hand them over to – at this point unidentified – members of the Serbian Police and Special Antiterrorist Units. Bound with lengths of wire, the victims were subsequently loaded into a duty vehicle which drove them 500 m away, to a garbage pit which also served as a mass gravesite for the death remains of Albanian civilians earlier transported from Kosovo.

By wilfully causing great pain and suffering, be it physical or emotional, with the intention to intimidate and discriminate members of another ethnic community, the accused – who were acting in their official capacity – subjected their victims to torture in the meaning of article 3 of the Geneva Conventions, since they acquiesced to such acts by personally engaging therein and by encouraging others to join them.

The hardship suffered by the prisoners, as well as the emotional pain inflicted upon them, is best articulated by witness Nebojša ŽIVKOVIĆ, who testifies: “I cannot describe the voice coming from that room – whether it was a scream, a yell – I cannot say, so indescribable it was.”

A ban on torture, which has been included in a number of international treaties on human rights and humanitarian issues, is construed as a principle and “imperative norm” of overall international law. An absolute ban on human torture and abuse is particularly substantiated by the fact that its status in human rights law does not allow for any compromise whatsoever.

Under no circumstances would states or their officials be allowed to disregard the said ban, or to limit the area of its application. It also applies to times of war and other extraordinary situations that threaten the survival of a nation and that, as such, might justify the suspension or limitation of some other laws.

It is true that in this particular case the accused acted upon an order issued by the topmost authority. However, no order of a superior person or public authority – in this case of General Vlastimir ĐORĐEVIĆ – could justify the above-described

unlawful acts or the subsequent torture of the victims.

It is true that the accused, Sreten POPOVIĆ – in his capacity as the OPG commander – passed Gen. ĐORĐEVIĆ's order to his subordinate, Miloš STOJANOVIĆ.

However, since both of the above orders had a limiting effect on the victims' basic human rights and liberties, they had to be preceded by a competent court's decision. By issuing the above orders, both Gen. ĐORĐEVIĆ and the accused, POPOVIĆ, acted in breach of the Constitutional and statutory procedures, and of the standards established by the European Convention for the Protection of Basic Human Rights and Freedoms.

Since the aforementioned acts were unlawful and therefore impermissible, the fact that the accused acted upon oral orders received from their superiors – which constitutes the essence of their defence – does not release anyone of them from responsibility for their acts and omissions.

By acting towards the victims in the above-described manner, by subjecting them to inhumane treatment and by depriving them of the right to a regular and impartial trial pursuant to the provisions of the said Convention, the herein accused individuals committed grave breaches under article 130 of the Third Geneva Convention.

Accordingly, the objective circumstances established throughout these proceedings, alongside the facts disclosed by the proposed witnesses who offer details about the specific involvement of each of the accused individuals, provide sufficient ground for the conclusion that these accused, acting in breach of international law as described, committed the criminal offence recognized by article 144 (war crime against prisoners of war) of the Yugoslav Criminal Code.

Concurrently, the accused were aware that the acts which they were undertaking in their official capacity – i.e. seizure, arrests and detention – had not been preceded by a relevant authority's written order or a competent court's decision, and consequently, that they were depriving the injured of their right to a fair and impartial trial.

Furthermore, the accused were aware that their acts and their overall conduct created an atmosphere of terror for the victims, who were pervaded with fear for their lives and bodily integrity – a feeling that was further aggravated on the night when Sreten POPOVIĆ removed them from confinement and handed them over to their executioners.

In view of the fact that the accused are criminally responsible for the above-specified criminal offence, I propose that they be pronounced guilty thereof and duly punished.

Finally, I would like to point out some additional facts and circumstances that may be relevant to the court's decision as to the size of the punishment for the accused:

1. In terms of time and space, the acts that the accused are charged with were closely linked to the execution of the victims, who – bound and helpless – were brutally killed in the immediate vicinity of the camp, with gunshots in the nape of the neck, on the part of the accused's "colleagues" – members of the Serbian police.

Moreover, as he took the victims outside the camp and handed them over to unidentified individuals in the middle of the night, the accused, POPOVIĆ, could certainly anticipate further developments. While he could easily anticipate that the victims were about to be executed without trial, he ignored the likelihood of the forthcoming event, apparently indifferent to the victims' destinies, whereby he virtually demonstrated his attitude towards his own criminal acts.

The court should consider the foregoing circumstances when deciding about the size of the punishment, in view of the social danger of the crime committed, and accordingly, of the perpetrators thereof. By their acts and omissions – inasmuch as they could anticipate imminent developments – the accused certainly contributed to the execution of the crime itself.

2. Another point that the court should consider as relevant to the size of punishment is the question how the Bytyqi brothers had arrived at the site where they got arrested, beyond the administrative line that separates Kosovo and Metohija from Serbia proper, i.e. in the territory controlled by the other party to the conflict.

Witnesses Ramadan and Vadžit MINUŠI testify that on the critical occasion the Bytyqi brothers were transferring Miroslav MITROVIĆ and five other persons – all of whom were of Serb nationality and citizens of Serbia – from Prizren to the territory of Merdare and Serbia. The reason of the group's departure lay in the fact that, following the withdrawal of the Serb forces, Prizren and its surroundings had become an unsafe territory for Serbs.

The group set out in two cars, one of which was driven by Mehmet BYTYQI, and the other by Agron BYTYQI. The intention of both drivers was to transfer their fellow passengers of Serb nationality from Kosovo to Serbia, where they would be safer.

In the aftermath of the foregoing circumstances, the BYTYQI brothers were found in a hostile territory.

Having safely transferred their fellow passengers prior to being arrested, they might have saved the lives of six people who were our compatriots. It turned out, however, that by doing so they sacrificed their own lives.

3. Like many previous cases, this one also shows how hard it is to establish the truth in war crimes cases. Specifically, our efforts to reach the truth about the circumstances of this particular crime have proved to be an extremely laborious task, given the fact that apart from witness testimonies, there is hardly any other evidence available.

As many as one hundred witnesses have passed through this courtroom. At the time of the event, those former members of the Special Police Units or alternatively, of the then Special Operations Unit – parts of the Republic of Serbia's police force – were assigned to the camp as instructors or support staff. Ever since the time relevant to this indictment – including the time of their testimonies before this court – those men have been officers of the Serbian Ministry of the Interior (MUP). In the meantime, many of them have been promoted.

Intent to clarify the execution and duly punish its perpetrators, the court has required the witnesses to provide a truthful version of the event. We have expected them to share their knowledge about the brothers' imprisonment in the camp, and to describe all details thereof, including the handover and execution of the victims, as well as the executioners' identities.

While at the time of the crime all of them were present at the scene, the witnesses have demonstrated a disappointing lack of memory and unwillingness to disclose any details relating to the victims' imprisonment and their subsequent deaths.

The crime was committed in July 1999. The scene of the crime was the training camp in Petrovo Selo, a place where elite police units were formed.

We have visited the site.

This Trial Chamber has carried out a thorough assessment of the site.

It has been established that facilities inside the camp (the kitchen, dormitories, storage rooms etc.), and those outside the camp (mass gravesites) were in close

proximity.

At one point, a small area covered by the training camp compound hosted as many as 120 people.

This fact per se indicates that no event in the camp – including the arrival of the BYTYQI brothers, their detention in the makeshift storage room, their subsequent removal thereof and eventual execution – could have passed unnoticed on the part of those present in the camp.

The treatment of the victims, including the execution, would have been impossible without the presence of Goran RADOSAVLJEVIĆ, the then camp manager and head of the Special Police Units, who was subsequently appointed as Gendarmerie Commander. At the moment we do not avail of clear evidence of RADOSAVLJEVIĆ's involvement in this particular operation; currently underway, however, is a separate proceeding against him.

4. On the other hand, the fact is that the order for the crime commission had come from the MUP's topmost level. Consequently, upon the order issued by the head of the Public Security Department, Gen. Vlastimir ĐORĐEVIĆ, the commander of the Operational Pursuit Group – part of the 124th Intervention Brigade and deputy training director, Sreten POPOVIĆ, arrested the BYTYQI brothers in the Prokuplje District Prison, transferred them to the training camp 250 km away, and locked them up in the storage room where he held them confined until a later date.

For the performance of this “dangerous” task, General Vlastimir ĐORĐEVIĆ engaged the elite intervention unit of the Special Police force, and then ordered that the victims be handed to another group of police members in the dead of night.

In view of the above fact, it is logical that the truth was also sought from those witnesses who had been part of the topmost police structures at the time, MUP's leading officials or those assigned to such tasks at the time of the event.

Testifying about the events in and around the camp, these witnesses have invariably demonstrated a lack of memory and reluctance to provide any relevant data about the victims' destinies.

5. It is hard for a normal person to believe that out of such a large number of people present in the camp at the time of the crime commission, not a single one would feel compelled to report the truth about the crime; contrary to that, all of those testifying before this court have stated that they learnt about the crime and the mass graves

from the media, and only three or four years following the relevant events.

It appears as though the mass graves with the victims' death remains buried therein were a matter of noone's concern. Noone seems to care about the death remains and bodies of more than eighty victims found within the training camp compound – including those killed in Kosovo and subsequently transferred to the camp, as well as those killed on the spot and buried in the same graves – as if they had been dropped from nowhere.

6. Definitely, the crime was committed by members of the MUP – Republic of Serbia's police force, upon orders issued by the then leading police officers, i.e. people belonging to the state's governing structures.

The crime was actually committed by those whose primary task and official duty were to fight crime and bring perpetrators to justice.

Since the crime perpetrators were representatives of the state, in the perception of ordinary people – citizens of this state, the order for the crime commission is seen as part of the state's policy. In the light of such reasoning, one cannot help wondering whether this crime was only one among many schemed by the former regime, its backbone consisting of those who ordered such crimes, and others who carried out the orders, i.e. immediate perpetrators of the crimes?

It is only the aforementioned line of reasoning that can explain the conduct of defendant Miloš STOJANOVIĆ, who was 'brave enough' to arrest the victims right inside the Prokuplje District Prison, and put his duty handcuffs on the 'arrestees'.

This 'dangerous' operation had been carefully prepared and executed by the then MUP officials: Vlastimir ĐORĐEVIĆ, head of the Public Security Department; Obrad STEVANOVIĆ, head of the Police Directorate and PJP supreme commander; Ljuba ALEKSIĆ, deputy head of the Police Directorate; Milenko ARSENIJEVIĆ, head of the PJP section – part of the MUP Serbia's Police Directorate; Milovan VUČIČEVIĆ, head of the local police authority (SUP) in Prokuplje; Milisav VUČKOVIĆ, head of uniformed staff in the Prokuplje police station; Aleksandar ĐORĐEVIĆ, manager of the Prokuplje District Prison, who singles out this case as an example of excellent cooperation and coordination between the prison management and law-enforcement agencies; Marjan MIJATOVIĆ, head of the security staff in the Prokuplje District Prison; Zoran VASIĆ, guard; and Predrag MILIĆ, prison guard and receptionist.

Instead of deporting them to Kosovo, all of the foregoing individuals made their best efforts to retain the Bytyqi brothers in prison until their handover to Miloš

STOJANOVIĆ, and were anxious enough to protect the identity of the police officer who transported the victims in a white Pajero jeep to their ultimate destination. By acting in the described manner, the said individuals demonstrated disrespect for the law, for the judgment passed by Serbia's judicial authorities and for the above-specified ruling issued by a state's competent authority, whereby they committed a crime themselves; consequently, investigative and pretrial proceedings against them are currently under way.

Is there any plausible explanation for the general failure on the part of the individuals accused and witnesses here – all of them being members of the state's Ministry of the Interior – to fulfil their primary task by bringing to justice those who ordered and those who executed the crime? Was it not after all their legal and moral duty to act in that way? They have concealed the truth before this court, whereas at the time of the event they would readily comply with received orders and execute the most atrocious tasks. In one of such operations, they took the liberty of Mehmet, Agron and Ylli Bytyqi, placed them under custody, held them confined and ultimately deprived them of life.

7 A document entitled Basic Training Programme for Members of Police War Units, Document "A", which is attached to the case files, states that one of the aims of the camp training courses was to instruct police officers in the exercise of their official authority (topic no. 3 of the Programme), and specifies kinds of authority employed by the police staff in certain acts such as seizure, interrogation etc., elaborates on the issues of appropriacy, lawfulness, responsibility and abuse in the exercise of authority, and in particular, refers to cases when limits of such authority are overstepped.

Those who lectured about the above topics were present in the camp when the Bytyqi brothers were brought there, and at the time when they were executed. All of them have also been heard as witnesses in the course of these proceedings, but regretfully failed to reveal the truth about the crime committed in the camp.

In the light of the fact that the instructors – as the course attendees called them – had been assigned pursuant to the decisions of the state's topmost police authorities at the time, this horrible event appears even more paradoxical and shameful.

Having remained silent about this particular crime, these former 'instructors' have themselves committed a crime which is even worse – they have deprived the victims' family of the right to know the destiny of their loved ones. Could such 'instructors' have ever set a suitable example to their trainees, prospective members of élite police units?

Your Honour, both you and me, being members of the judiciary and – in the perception of ordinary people – representatives of the State, share the same responsibility: to prosecute and punish grave breaches of international humanitarian law. The Hague Tribunal does not hold a monopoly over crimes committed in the territory of the former Yugoslavia.

Crimes committed on the part of our citizens are our burden and our responsibility in the first place. This is why the task that you are facing today is particularly hard. It is your duty to condemn perpetrators of such crimes, to pronounce the defendants guilty and duly punish them.

Serve justice in the name of those who rightly deserve it!

DEPUTY WAR CRIMES PROSECUTOR
Dragoljub Stanković