



Confidential Report  
of November 15, 2010, released on March, 10, 2011

## **Irregularities and Abuse of Power in War Crimes Proceedings in the Republic of Serbia**

### **Case of the 37<sup>th</sup> Battalion of Special Police Units**

On March 3, 2009, the Humanitarian Law Center (HLC) filed a criminal complaint against 16 members of the former 37<sup>th</sup> Battalion of the Serbian Ministry of Interior (MoI) Special Police Units (PJP) for the existence of serious evidence that they had committed war crimes at various locations in Kosovo during the years of 1998 and 1999. Radoslav Mitrović, who was the Commander of the 37<sup>th</sup> PJP Battalion during the armed conflict in Kosovo and Assistant Commander of the Republic of Serbia Gendermerie after the war, and who was also eventually acquitted by the Belgrade Appellate Court in June 2010 of allegations of committing war crimes in Suva Reka on March 26, 1999, is one of the suspects in the 37<sup>th</sup> PJP Battalion case. HLC based its criminal complaint in the 37<sup>th</sup> PJP Battalion case on statements given by four members of the Serbian MoI (from Witness no. 1, Witness no. 2, Witness no. 3, and Witness no. 4), who revealed in statements to HLC information about a number of war crimes committed by members of the 37<sup>th</sup> PJP Battalion during the armed conflict in Kosovo.

#### **TV B92 Broadcast**

On March 11, 2009, B92 TV station broadcast an interview with the aforementioned witnesses who were members of the police, who spoke with distorted face images to conceal their identities, about the crimes committed by members of the 37<sup>th</sup> PJP Battalion.

#### **Initiating Criminal Proceedings**

On March 12, 2009, upon the request of the Office of the War Crimes Prosecutor, the Serbian MoI apprehended four members of the police, against whom the HLC had filed the criminal complaint in the 37<sup>th</sup> PJP Battalion case. The following day, March 13, 2009, the Office of the War Crimes Prosecutor filed an investigation request with a Belgrade District Court War Crimes Chamber judge demanding an investigation to be initiated against Radoslav Mitrović, Nenad Stojković (Commander of the Fourth Company of the 37<sup>th</sup> Battalion of PJP), Zoran Marković (aka Cecko), Zoran Nikolić (aka Honda), and Dragan Milenković (aka Šišarka), all members of the 37<sup>th</sup> PJP Battalion, due to reasonable suspicion that they had committed the criminal act of a war crime against a civilian population.

By March 14, 2009 the investigative judge had already issued a decision ordering an investigation against the five aforementioned members of the Serbian MoI. After the hearing, four the suspects were held in detention for a month. One suspect, Mitrović, had already been in detention as he was currently being tried for war crimes against Albanian civilians in the Suva Reka Case.<sup>1</sup>

#### **Protests of Police Members**

Approximately one hundred police members and family members of the arrested individuals protested on March 14, 2009 in front of the Leskovac Police Department (PD), where they waited to hear the outcome of

<sup>1</sup>Radoslav Mitrović was eventually acquitted of responsibility for war crimes committed in Suva Reka on March 26, 1999.





negotiations between a five-member police delegation and the Republic of Serbia Minister of Interior, Ivica Dačić. They demanded that the arrested police officers be provisionally released and that the MoI reveal to them the names of those police officers who gave the anonymous statements to the HLC. During the protest the organization the Association of War Military Reserves 1999 delivered to the Leskovac PD a press release in which they called upon the citizens of Leskovac and members of the police and army, both active and reserve troops, to attend a planned protest called “Who is Next?” which was scheduled to be held March 17, 2009 in front of the Leskovac PD building.

Upon returning to Leskovac on March 15, 2009, the Chief of the Leskovac PD, Slavoljub Cakić, who led the police delegation at the meeting with the Minister of Interior, held a separate meeting with the police officers who protested, informing them that Minister Dačić would offer legal aid to the arrested colleagues. The protests of police officers continued during the following days under the slogan “Who is Next?” and grew steadily in numbers as it gained the support of police officers who were members of the 83<sup>rd</sup> and 87<sup>th</sup> PJP Battalions during the armed conflicts and who came from Niš, Pirot, Vranje, and Kruševac. War veterans from the southern parts of Serbia, who had been protesting for months because of unpaid fees due to them for their engagement in the war in Kosovo, also participated in the protest. Protesters wore T-shirts with the faces of the arrested police officers and the slogans “Heroes of the 37<sup>th</sup> Battalion” and “The 37<sup>th</sup> Battalion is Not Criminal.” According to the HLC data, the printing of T-shirts was financed by the Independent Police Union, one of whose officials was the accused Dejan Mihajlović (aka Ćebe), a member of the former V Platoon of the IV Company of the 37<sup>th</sup> PJP Battalion. War veterans organized the last in a series of protests on March 19, 2009 in Niš, gathering several hundred reserves, active police officers, and police officer family members of those killed or arrested, even though according to the Republic of Serbia Constitution the Law on Police (“Official Gazette of the RS” no. 101 from November 29, 2005), and according to general regulations regarding freedom of assembly, members of the police do not have the right to freedom of assembly (such as rallies and demonstrations) in an open space or in the context of a protest, except in cases of violations of labor rights. Invitations for police officers to take part in the protest were relayed through duty police stations, which informed police commanders to exempt police officers from their daily activities so that they could attend the protest in greater number, thus supporting the police officers who were arrested because of the reasonable suspicion that they had committed war crimes.

### **Support from the Minister of Interior for the Arrested Police Officers**

On March 15, 2009 Minister of Interior Ivica Dačić gave a statement to the media with regard to the apprehension of the police officers, saying that the decision of the Office of the War Crimes Prosecutor “brings feelings of unrest and concern” among police officers. In the aforementioned statement, the Minister said to police officers that “no one has a reason for concern” and that “bearing in mind the sensitivity of the case, we will provide all the legal aid that is possible, because it is in the MoI’s best interest to prove their [the accused’s] innocence.”

### **Revealing Contents of the Criminal Complaint**

The witnesses that gave statements to the HLC informed the Office of the War Crimes Prosecutor and the HLC on March 21, 2009 that police officers in Leskovac had obtained a copy of the HLC’s criminal complaint and that some police officers from the department had called them and read parts from the criminal complaint relating to their testimonies, which detailed specific events in Kosovo and in BiH. Prosecutor Dragoljub Stanković stated that he believed someone from the HLC had revealed the criminal complaint to the police officers.





Police officer Predrag Zdravković (aka Peđa Mozgić), an employee of the Vlasotince Police Station in the Leskovac Municipality and a member of the Leskovac Police Union group, was sharing certificates used in the meetings held between witnesses in the Office of the War Crimes Prosecutor, which were then issued in order to justify police members' absence from work to attend protests held during these days. Only the witnesses and the Office of the War Crimes Prosecutor, which issued the certificates, were meant to be in possession of them.

### **Revealing Identities and Threatening Witnesses**

The identity of the HLC witnesses was revealed on March 13, 2009, upon their return to Leskovac from a meeting held at the Office of the War Crimes Prosecutor with regard to the criminal complaint filed by the HLC. The organizers and the participants of the protest then proceeded to threaten the witnesses, stating that they or their children would get a bullet, that they were dead people, etc. In the night between March 13<sup>th</sup> and 14<sup>th</sup>, 2009, the house of the Witness no. 2 was stoned. Police did not investigate this case.

The witnesses who had come forward to the HLC personally addressed the Office of the War Crimes Prosecutor on March 21, 2009, demanding protection because of the requests by the Leskovac police and the protesters to have the MoI and the Office of the War Crimes Prosecutors reveal their identities.

B92 TV station broadcast the second part of their interview with the HLC witnesses on March 31, 2009 and on this occasion the police officer witnesses spoke about the pressures they were exposed to in Leskovac.

On June 16, 2009, Zoran Nikolić (aka Honda), who had been released from detention on June 10, 2009 along with the other accused on the basis of the decision of the investigative judge and the consent of the war crimes prosecutor, approached Witness no. 1, begging him to influence Witness no. 2 to give up his accounts and statements charging him. On this occasion, the accused said that he knew that Witness no. 3 was sick and that he could not testify, and that Witness no. 4 would not be summoned to testify. He did not reveal his source of information, but he did say to Witness no. 2 that all persons who were arrested knew that they would not spend a long time in detention and that there would be no trial. The witness informed the Office of the Prosecutor and the War Crimes Chamber about the visit of the accused (aka Honda), and requested protection from their offices, but none of the bodies reacted to this request.

### **Removal of Nataša Kandić from the Proceedings**

Upon the summon of the investigative judge, Dragan Plaznić, Nataša Kandić approached the court on June 5, 2009 in the capacity as a representative of injured parties, with a power of attorney signed by victims' family members, as in other cases in which she represented victims. The examination of Witness no. 1 was scheduled for this day. She was astonished by the informal atmosphere in the courtroom. The Defense counsel addressed the judge and the prosecutor without respecting the usual procedures. Additionally, Prosecutor Dragoljub Stanković had a very friendly encounter with the accused Dragan Milenković (aka Šišarka). Upon the request of Radoslav Mitrović's Defense Counsel, the judge, with the consent of the Prosecutor, issued a decision to remove Nataša Kandić from the proceeding until she brought a power of attorney from victims' families that had been verified by the court in Kosovo. Nataša Kandić filed an objection to this with the President of the Belgrade District Court, Siniša Važić, and the War Crimes Prosecutor, Vladimir Vukčević, with regard to this decision, which is according to the Criminal Procedure Code should be rendered only in cases when there is a reason to believe that the representative of the injured parties submitted a counterfeit power of attorney. The President of the District Court responded to this





objection by addressing a serious warning to the investigative judge Dragan Plaznić because of the use of an ungrounded and unlawful practice.

### **Pressure on Witness no. 1 to Discontinue Testifying**

According to Witness no. 1 the informal atmosphere in the courtroom (as chronicled by the June 5, 2009 encounter) continued throughout his examination. The witness claims that the accused and the Prosecutor exchanged smiles of support. The Defense Counsel demanded that the witness confess how much money he had received from Nataša Kandić for his perjury, while the accused openly mocked Nataša Kandić, commenting that the witnesses would sacrifice their statements for money and would “go to bed with her.” Neither the investigative judge nor the prosecutor reacted to this. The examination of the witness was interrupted when the witness started feeling nauseous because of these public insults and humiliation. Following medical intervention and upon the call of the investigative judge, Witness no. 1 went to the third floor where the offices of the prosecutor and judges were located. Walking down the hall, he saw prosecutor Dragoljub Stanković and attorney Goran Petronijević through an open office door. Prosecutor Stanković called him in, where the witness saw that the prosecutor and Mitrović’s Defense Counsel were engaged in a friendly chat while having a drink. Prosecutor Stanković directly called Witness no. 1 to make peace with the accused, saying that he would organize everything needed for this and that it would be better for him if he did not appear as a witness. Once more in early September 2009, when Witness no. 1 in the capacity of a protected witness had another meeting in Prosecutor Stanković’s office, Prosecutor Stanković again suggested that the witness should make peace with Mitrović and the other accused, calling upon Mitrović’s Defense Counsel as a person who could be held in confidence and who could organize all that would be needed for this to happen.

Witness no. 1 met Prosecutor Dragoljub Stanković again on October 4, 2009 in Leskovac, when the Prosecutor examined those members of the Leskovac Police Department suspected of committing war crimes in Suva Reka. On this occasion the Prosecutor called Witness no. 1 to come to the Office of the Prosecutor and to bring along other police officers who knew what had happened in Kosovo. During this cooperation, the Prosecutor suggested to Witness no. 1 that he should testify in the trial of Mitrović that he [Mitrović] had knowledge of and ordered the commission of war crimes in Kosovo, but Witness no. 1 did not accept this because he was not in Kosovo at the time when the crimes in Suva Reka were committed. In January 2008, Prosecutor Stanković went together with Witness no. 1 to the border crossing near Bujanovac, where they had a meeting with a Russian representative of UNMIK. On his way back the Prosecutor stopped in Leskovac, where he picked up paprika, paprika spread, brandy, jams, compote, juices, and a roasted lamb prepared for Witness no. 1, according to an earlier agreement they had made.

### **Suspending the Detention of the Accused**

In line with the investigative judge’s decision, rendered with the consent of the War Crimes Prosecutor, first Zoran Nikolić (aka Honda) was released from detention on June 10, 2009, followed by the release of all of the other accused. The investigative judge explained that all of crucial witnesses had been examined and that there was no danger that the accused could influence witnesses.

### **Witness Protection**

On the basis of the decision of the Office of the War Crimes Prosecutor, Witness no. 1 received the status of a protected witness in late June 2009 and Witness no. 2 received this status on July 2, 2009. They were both relocated from Leskovac, together with their families. The Witness Protection Unit [WPU], which acts within the Serbian MoI, took over responsibility for these witnesses. The chief of this protection unit is Miloš Perović, who was previously a driver and an agent within this unit. According to the HLC’s







information, Perović was appointed chief of the unit by a highly ranked official of the Serbian Socialist Party, Branko Ružić.<sup>2</sup>

### **Arbitrary and Uncontrolled behavior of members of the Witness Protection Unit**

Witness no. 1 and Witness no. 2 filed independent appeal applications to the Office of the War Crimes Prosecutor and the HLC in mid and late October 2009, in which they complained about the unprofessional and unfriendly behavior of members of the WPU and the lack of basic conditions for them for life with children. They complained that members of the WPU asked them about the details and motives of their testimonies, attempted to dissuade them from testifying, and tried to scare them by claiming that the Office of the War Crimes Prosecutor would discard them and that Nataša Kandić was only interested in taking money from the criminal complaint that was submitted. Members of the WPU allegedly were telling them things such as: “Don’t cut off the branch you sit on,” and “We only execute the program, we can move either left or right, so beware of what you are doing.” In these appeal applications that were submitted, the protected witnesses also said that members of the WPU had come to their apartments regardless of the time, day or night, and yelled at them in front of their children, asking them for information on potential new witnesses to war crimes. Members of the WPU also stated that the money given to protected witnesses was sufficient for basic survival, and was given to them as mercy, and protected witnesses noted that they often received cash without a receipt and that they lived in unsuitable apartments. Witness no. 2’s daughter slept for months on an inflatable mattress used at the beach, due to which she now has spinal deformities.

### **Revoking the Status of Protected Witness**

Witness no. 1 lost their status as a protected witness on October 29, 2009 via oral notification. On this day, around noon, members of the WPU arrived in Witness no. 1’s apartment and ordered him and his family to pack their things because their protection had been revoked. They took Witness no. 1 and his family back to Leskovac without any explanation. Upon return, Witness no. 1 was exposed to nuisance coming from his fellow citizens for months. Pharmacists refused to issue medications to him several times and the kindergarten refused to take back and enroll his four-year-old son. He called Prosecutor Nebojša Marković on the phone, who had replaced Prosecutor Stanković in the Case of the 37<sup>th</sup> Battalion, and the Prosecutor told him that he must not call him again. Witness no. 1 still continues to live in isolation, cast away from his colleagues and fellow citizens.

### **Pressure from the WPU on Witness no. 2 to Withdraw His Statement**

Witness no. 2 strongly believes that the WPU was tasked with making him give up on his testimony against members of the 37<sup>th</sup> PJP Battalion. He says that they often call him several times within an hour without saying anything, that they cut off his electricity from time to time, that they raid his apartment at any time of day, yell in front of his kids, have asked him if he has engaged in sexual intercourse with Nataša Kandić, and that they keep warning him that it is better for him to withdraw his statement and that if he did this, he would be relocated to some third country. The witness asked the WPU several times to bring him health care files for his children from Leskovac because the doctors at the school where they now attended did not dare to vaccinate his children before they being able to see which vaccinations the children had already received. However the WPU did not do this until November 2010. The WPU forced him to sign receipts stating that he had received all the money necessary for a life for his family, on a piece of paper that did not state anywhere the amount that should be given to him. He received his latest payment in the amount of 34,000 RSD (315 Euros) on September 27, 2010. He does not have any more money to buy food for his children, and now does not know who he should address.

<sup>2</sup> HLC received a statement of members of the Witness Protection Unit, who complained about the chief’s arbitrary behaviour and that this behaviour was harming the WPU’s international cooperation.





### **Examination of Witness no. 3 by the Police**

Witness no. 3 responded to the subpoena of the Service for Revealing War Crimes in March 2010, after he underwent surgery and recovery. He gave his statement in the premises of the Leskovac PD. He called Nataša Kandić in front of the members of this service and informed her that everyone in the police knew that he was going to be the one giving a statement about the war crimes and that one of the accused entered the room in which he was sitting with the inspector of the Service for Revealing Crimes twice.

### **Indifference of Prosecutor Stanković Regarding the Examination of Witness no. 4**

Witness no. 4, a police officer who testified twice as a witness with protected identity (**K-79**) before the ICTY about the crimes committed by the 37<sup>th</sup> PJP Battalion in Kosovo, claims that Prosecutor Stanković refused on several occasions to examine him. In mid 2009, when the witness was finally called for examination, the prosecutor let his assistant examine him and the assistant started the examination but then interrupted it explaining that he had some other urgent things to do. He has never again been called to finish the examination, even though he called Prosecutor Stanković on several occasions to ask him what was happening with his return to the MoI.

Already during the first conversation Witness no. 4 had with the prosecutor, the witness told him that the MoI kicked him out of the service, as he believed, only because of his willingness and determination to testify about the war crimes committed by members of the PJP. Prosecutor Stanković offered his full understanding and promised firmly that he would personally demand that the court dismiss this decision of the MoI so that Witness no. 4 could return to his career in the Serbian MoI.

In June 2009, approximately 10 days before Mitrović, Stojković, Šišarka, and Honda were released from detention, prosecutor Stanković called witness no. 4 on the phone and asked him if he was willing to testify against Mitrović et al. Witness no. 4 said that he would not do this until he was given his job back in the MoI, which was the topic that their conversation had left off at the previous time. Prosecutor Stanković contacted Witness no. 4 again in early November 2010 and informed him that he would summon him for an examination, and that he would be obliged to respond. The witness was very surprised by this new attitude of Prosecutor Stanković, for which he had no explanation.

### **Abuse of Official Position and Unlawful Treatment**

Monitoring of the trial of Milan Milutinović, Nikola Šainović, and Generals Sreten Lukić, Dragoljub Ojdanić, Nebojša Pavković and Vladimir Lazarević, held before the ICTY, shows that Dragan Milenković (aka Šišarka) appeared as a defense witness in the case of Sreten Lukić on February 21 and 22, 2008. He had stated that in early 2007 Prosecutor Dragoljub Stanković showed him more than five photos in which other police officers from the 37<sup>th</sup> Battalion, officers besides himself but also several Russian volunteers, were standing next to an imprisoned and wounded KLA soldier, who was later killed. On this occasion Prosecutor Stanković also showed Milenković hand-written statements given by several police officers, eye-witnesses of crimes against Albanians. Judge Bonomi interrupted Milenković's testimony and warned him that he could refuse to testify if he would reveal his own participation in the crimes he was testifying about and expose himself to criminal accountability. Even though Milenković's testimony in this case was sufficient for Prosecutor Stanković to initiate criminal proceedings against him, this happened only a year later when, under pressure, he responded to the criminal complaint filed by the HLC against Milenković and other members of the 37<sup>th</sup> PJP Battalion.





Prosecutor Stanković was at the ICTY when Dragan Milenković (aka Šišarka) testified. At that time, the ICTY Office of the Prosecutor asked Prosecutor Stanković to give them the photos that witness Dragan Milenković mentioned. The prosecutor then called Nataša Kandić and asked her to email these photos to him, which she did. There is no explanation why Prosecutor Stanković did not ask members of his own services to provide these photos, because he had earlier printed copies of these photos in his case. "Danas" daily news outlet received the photo from the HLC showing a wounded KLA soldier next to Dragan Milenković (aka Šišarka) and published it in January 2007. It is utterly unclear why Prosecutor Stanković, when asked about the origin of these photos, said to a journalist of the Serbian News Agency BETA that Nataša Kandić had bought the photos from Šišarka for 200 Euros, even though the Prosecutor knew that she received the photos from Witness no. 1, from whom the Prosecutor also received photocopies of the photos from.

Those police officers who gave statements to the HLC claim that in dozens of cases they attended meetings between Prosecutor Stanković and several Russians and Ukrainians who led and committed mass killings and other war crimes against Albanians in Kosovo and in Aračinovo, Macedonia. Police officers claimed that Prosecutor Stanković knew very well that these Russians and Ukrainians were not volunteers, but mass murderers, "dogs of war," and that they had committed hundreds of murders and other crimes, not only in Kosovo. The question remains why Prosecutor Stanković has not initiated investigations or proceedings against them.

After Radoslav Mitrović and four other members of the former 37<sup>th</sup> PJP Battalion were released from detention, HLC received information from several sources that Prosecutor Stanković "fixed" this release from detention for the accused, and that he received a large amount of money from Mitrović for this favor. HLC Executive Director Nataša Kandić verbally informed War Crimes Prosecutor Vladimir Vukčević about this as well as Bruno Vekarić, spokesman of The War Crimes Prosecution office at the time. In the presence of prosecutor Vukčević, Bruno Vekarić said that he had heard in the Ministry of Justice that "someone took the money for the release from detention of Mitrović, and that he had informed about Prosecutor Vukčević about this."

Police chiefs and police officers in the Serbian MoI with whom the HLC has spoken with regarding clarification of the circumstances of the murder of the Bytiqi brothers, not accidentally, underlined the necessity to verify the regularity and legality of Prosecutor Dragoljub Stanković's actions. Namely since Zoran Stanković, an inspector in the Prokuplje Secretariat of Interior, had the task to escort the Bytiqi brothers to the border crossing after they were released from prison, and noting that Prosecutor Stanković is

Zoran Stanković's close relative, Prosecutor Stanković had a duty to demand his own exclusion from the case. According to the explicit provisions of Article 40 in relation to Article 45 of the then-valid Criminal Procedure Code (CPC), Prosecutor Stanković must not have undertaken any official actions in this case if there had been reasonable doubt that Prosecutor Stanković abused his official position and acted unlawfully, making decisions in the investigation of the true role of inspector Zoran Stanković and others responsible for the kidnapping and consequent murder of the Bytiqi brothers.

#### Note

HLC obtained information from several sources regarding the unprofessional work of the WPU, the continued intimidation of war crimes witnesses, abuse of instruments that they possess and the establishment of private relations with protected witnesses particularly in cases of organized crime. The media has relayed





applications filed by members of the WPU, in which they complain about the arbitrariness of their chief. State authorities have been informed of the problems within the WPU, yet they have not acted upon them.

