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War Crimes Trials in Serbia

December 2007



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Introduction

War crimes trials in Serbia are being held before the War Crimes Trials Chamber of the Belgrade District Court founded in July 2003. In addition, two members of the Ministry of the Interior of the Republic of Serbia (MUP Serbia) are being tried before the District Court in Požarevac for war crimes committed in Kosovo (*Orahovac* Case). The Niš District Court brought a first instance decision in the trial of two members of MUP Serbia for a murder committed during the armed conflict in Kosovo (the *Emini* Case), while in the *Pakšec* Case the Novi Sad District Court brought a first instance decision for the criminal offences of murder and rape.

The Office of the War Crimes Prosecutor and the War Crimes Trial Chamber of the Belgrade District Court are often targeted by the Serbian Radical Party (SRS), while Members of Parliament from the SRS often use the National Assembly speaker's podium to criticize the fact that Serbian citizens are being tried for war crimes. In October 2007, various media presenting the positions of the SRS and other extreme nationalist groups attacked the president of the Belgrade District Court for replacing Justice Gordana Božilović-Petrović and accused the Office of the War Crimes Prosecutor, the Humanitarian Law Center (HLC), and the Embassy of the United States in Belgrade of conspiring to remove Justice Gordana Božilović-Petrović because of the judgment she had handed down in the trial of the *Scorpions* members.

War crimes trials have little coverage in a media that chooses not to initiate civil society debate on war crimes committed in the past, on accountability, on the responsibility of the state towards the victims of such crimes, or towards future generations. However, if it were not for these trials, the only "truth" Serbia would be offered would be the "truth" propagated by the defenders of the previous regime.

Lekaj Case

On September 18, 2006 the War Crimes Trial Chamber found the accused Anton Lekaj guilty of crimes against the civilian population and sentenced him to 13 years in prison. The accused is guilty of four murders, illegal detention of 13 persons, two counts of rape, two counts of serious bodily injuries, and several counts of sexual molestation.

In the Decision handed down by the War Crimes Trial Chamber of the Belgrade District Court presided by Justice Olivera Anđelković it is stated that the prosecutor did not offer sufficient evidence to prove that the accused Lekaj took part in the murder of Bajram Krasniqi, Zvezdan Lushaj, and Rade Gagović. It is also noted that the indictment failed to prove that the accused had illegally detained Mehmet Kërshi and Rade Gagović. The Chamber established that as a member of an armed formation the accused had violated the provisions of the IV Geneva Convention as well as the provisions of Additional Protocols I and II to the Geneva Conventions.



In the course of the trial the War Crimes Trials Chamber heard 25 witnesses, five of whom were victim-witnesses. Four witnesses for the Defence were heard by an international judge in Kosovo.

The first instance trial was concluded by the following words of Justice Olivera Anđelković, president of Trial Chamber: “A large portion of this indictment has not been substantiated by evidence, primarily in the segment concerning the three murders, and I would like to say to the accused that his theory that this was a political process against him is not true. You are not being tried for being a member of the Kosovo Liberation Army (KLA), and you are not being tried for being Albanian. You are not being punished for that, and you are not being punished for taking part in the armed conflict. You are being punished here by this Decision because in that very armed conflict you took part in civilians are considered to be sacred and they are not to be killed, raped, or hurt in any way, shape, or form.” The Decision in the trial of the member of the KLA for crimes committed in June 1999 against the civilian population became legally binding on February 26, 2007. Although until the end of the trial the prosecutor upheld the claims contained in the indictment that the accused had killed four persons and committed other criminal acts, and although the Trial Chamber acquitted the accused of three murders, the prosecutor only appealed the sentencing for one murder for which the Trial Chamber found the defendant guilty.

Scorpions Case

The trial of five members of the *Scorpions* unit began on December 20, 2005 before the Trial Chamber presided over by Justice Gordana Božilović-Petrović. There have been 38 main hearings. There were four main hearings in 2005 during which the defendants presented their defence. There were 20 main hearings in 2006 and another six in 2007. A total of 22 witnesses have been heard including six victims/witnesses and three court appointed experts.

On April 10, 2007 the War Crimes Trials Chamber made public a Decision reached in the trial of the members of the *Scorpions* unit in which Slobodan Medić, Branislav Medić, and Pera Petrašević were found guilty of committing a war crime against the civilian population from Article 142 paragraph 1 with respect to Article 22 of the Criminal Code of the Federal Republic of Yugoslavia (KZSRJ) as co-executors of the crime, and the accused Aleksandar Medić was found guilty of a war crime against the civilian population from Article 142 paragraph 1 with respect to Article 24 of the Criminal KZSRJ as an accomplice. They were sentenced as follows: Slobodan Medić was sentenced to 20 years in prison, Branislav Medić to 20 years in prison, Pera Petrašević to 13 years in prison, and Aleksandar Medić to five years in prison. Until further decision from the Trial Chamber detention is continued for Slobodan Medić, Branislav Medić, and Pera Petrašević, and for Aleksandar Medić the detention was terminated.

In that same Decision, Aleksandar Vukov was acquitted of the charges of committing a war crime from Article 142 paragraph 1 with respect to Article 24 of the Criminal KZSRJ by aiding and abetting the commission of a war crime.



The basic characteristics of the criminal proceedings in this case are the number, diversity, and the quality of presented evidence corroborating the indictment. In this criminal trial all kinds of evidence, including physical evidence, expert opinions, statement of an eyewitness, as well as the confession of the accused are proving the culpability of the accused. First, there is compelling physical evidence contained on a VHS cassette that depicts the execution of the six Bosniak civilians described in the indictment for which the defendants were charged. The authenticity of the video recording was confirmed by compelling court expert opinion. Namely, the findings and the opinion of a court appointed expert, a professor from the School of Electrical Engineering of the University of Belgrade, confirm that no alterations whatsoever had been made to the audio or video recording. The third relevant piece of evidence was the hearing of the eyewitness Slobodan Stojković who recorded the entire event. It is this evidence that corroborates all other pieces of evidence. And finally, there is the confession of the accused Pera Petrašević, which in its entirety and with all its details fits perfectly with all other evidence presented during the main hearings. All other accused, except for Slobodan Medić, partly confessed and confirmed the allegations contained in the indictment. The identity of those killed was established by the testimony of their immediate family members and by DNA analysis.

i. By carefully analysing the defence of the accused Aleksandar Vukov, given during a main hearing, and by creating a correlation with other evidence as well as by observing his defence in terms of established facts, it is clear that the decision to acquit him of all charges was not based on factual or legal arguments. Vukov himself stated in his defence that he was the commander of a reconnaissance unit operating in the Trnovo war zone and that he also acted unofficially as deputy of the *Scorpions* unit commander Slobodan Medić. Vukov stated that his reconnaissance unit, numbering 20 soldiers while in the Trnovo war zone, was at the front line approximately 15 km from the command post. Vukov said that the place, four km from the front line, where rations for the reconnaissance unit soldiers was brought was safe and that reconnaissance unit soldiers came to that spot to collect their rations. Vukov noted that neither the accused Aleksandar Vukov ever came to collect his rations himself nor were rations ever brought by the accused Pera Petrašević. Vukov also said that unit commander Slobodan Medić never came to the front line but instead had radio communication with Vukov. Vukov only went a few times from the front line to the command post and it was always at night so as to avoid possible sighting. On the day of the execution, unit commander Slobodan Medić himself invited Aleksandar Vukov to collect the rations. On that day Vukov came to collect the rations for the first time and it was together with two of his soldiers in broad daylight. Vukov said that when he came to the place where the rations were distributed, he saw men with their hands tied behind their backs, and the accused Pera Petrašević told him that they were prisoners. Petrašević also told him that he had not brought any rations but that there was another task. Vukov left two of his soldiers with the accused Petrašević to wait for rations in case they arrived later.

The defence of the accused Aleksandar Vukov is not however corroborated by other evidence. The video recording shows Vukov talking in private, at some distance from the



rest of the group, with the accused Petrašević who was the leader of the group that conducted the execution. Also the fact that Petrašević in his testimony said that Vukov had told them: "... that it was rather risky to go any further because constant fighting could be heard from there" does not corroborate his defence. Further, his defence is undermined by the fact that the two soldiers that Vukov had brought with him took part in the execution. It is therefore clear that the allegations from the indictment involving Vukov in the execution of this crime are true.

The indictment describes the role of Aleksandar Vukov in these events as follows: unit commander Slobodan Medić invited Aleksandar Vukov to the location of the execution, informed him about the prisoners and asked him to show the accused Petrašević and the others a good site for the execution. He also asked Vukov to bring two of his men to take part in the execution. Although the Trial Chamber did not accept these allegations presented in the indictment, it nonetheless failed to provide arguments for such a decision. The Trial Chamber also failed to resolve a number of disputable issues such as, for example, why Vukov had come to collect rations when he had never done so before. The Trial Chamber also failed to ascertain why Pera Petrašević had brought the rations there on that particular day when he had never done so before. Similarly, it failed to ascertain why unit commander Slobodan Medić invited Aleksandar Vukov to collect the rations when he had never done so before and when it was not his responsibility to do so. The Trial Chamber also failed to establish why Pera Petrašević had not told Aleksandar Vukov what other assignment he was there on when he had not brought the rations. Finally, it did not establish why Aleksandar Vukov left two of his soldiers behind when it was clear that rations were not going to be supplied that particular day.

ii. During the prosecutor's case-in-chief the prosecutor altered the indictment to the effect that Aleksandar Medić had committed a war crime by aiding and abetting the perpetrator of a crime instead of accusing him of participating in the commission of a war crime as a co-executor as was the case in the original indictment. The Trial Chamber accepted this qualification in its Decision. However, such a position is not based on legal or factual arguments and it is entirely inconsistent with standard judicial practice. The group that executed six Bosniak civilians as ordered by Slobodan Medić is compact and concordant in every way. It was comprised of commander Slobodan Medić's bodyguards who always slept in the same house as him whenever in the field and who always followed him wherever he went without exception. There is not a possibility that some of his bodyguards knew their commander's orders and that some didn't. It is impossible that Pera Petrašević and Davidović (who was convicted by the County Court in Zagreb, Croatia) knew that they were ordered to execute some prisoners and that Aleksandar Medić did not.

The atmosphere among the executors before, during, and after the execution, as can be observed from the video recording, reveals how they competed in abusing the prisoners. They kicked, cursed and humiliated them and all the time they were not only brutal, but also very high spirited – almost euphoric. They urged the prisoners to go faster by using cattle spurs "jala, jala". They swore at them, denied them drinking water, and humiliated them in different ways. Aleksandar Medić's behaviour, his words, and gestures were in



no way different from the behaviour of other members of the group. On the contrary, he asked a 16 year-old boy: "Have you had sex before?" When the boy said he had not, Aleksandar Medić told him: "Well, you are not going to." That is more than sufficient to conclude that the accused Aleksandar Medić knew that the prisoners were going to be executed. There is no doubt whatsoever that in committing this criminal offence all of the accused acted with direct and unanimous premeditation, including Aleksandar Medić regardless of whether he fired during the execution or not. Such a conclusion is supported by the evidence presented, especially from the footage, from the confession made by Pera Petrašević, from the testimony of witness Slobodan Stojković, and partly from the testimony of the accused Aleksandar Medić himself.

Having accepted the alteration of the indictment concerning Aleksandar Medić's role which is neither legally nor factually based, the Trial Chamber sentenced Aleksandar Medić to a mere five years in prison, the mandatory minimum prison sentence for those indicted of war crimes, even though the law requires the same sentence for those accused of aiding and abetting as for co-executors of a crime.

The Supreme Court of the Republic of Serbia created a new legal practice on the grounds of legally binding decisions in the *Sjeverin*, *Stambolić*, and *Budva* cases which provides that in matters of determining the legal qualification of the criminal offence i.e. whether the defendant acted as a co-executor of the crime or if he aided and abetted perpetrators of the crime, it is not a vital or a deciding factor whether the defendant fired from his weapon or not.

iii. In the Decision reached in the *Scorpions* case, the Trial Chamber omitted the factual allegation made in the indictment that the six men who were executed in Godinske Bare had been brought there from Srebrenica. The Trial Chamber justified this omission by a lack of evidence presented to support the claim. However, all victim-witnesses (mothers, sisters, brothers, and children of the victims) who gave testimony confirmed, without exception, that all the victims were from Srebrenica and that they had disappeared shortly after Serbian forces entered the town on July 11, 1995. That is compelling evidence and cannot be ignored. Failure to admit this evidence is an offence to the victims' closest relatives who were in the courtroom for the duration of the trial and who were also present when the verdict was read. The position of the Trial Chamber can only be explained by political motives whose objective is to separate the execution of the six Bosniak civilians from the killing of 8,000 Bosniaks from Srebrenica in the period from July 11 to July 19, 1995.

iv. The Trial Chamber accepted the part of the altered indictment which alleged that the *Scorpions* unit is considered to be a paramilitary formation. Such an allegation is contrary to the evidence, primarily the documents of the ICTY, which were presented as evidence before the Trial Chamber, the statement of witness Tomislav Kovač, a former Minister of Interior of the Republika Srpska, who did not dispute the claim that he and his colleagues signed telegrams and reports describing the *Scorpions* unit as a MUP Serbia Unit or a unit of the Department of Internal Affairs of the Republic of Serbia. Witness Kovač explained his signature on said documents by the fact that he did it in order to instil



confidence in his combatants in the field and boost their morale in order to reassure them that they were not alone, that Serbia, too, was involved in the Srebrenica operation. This statement made by witness Kovač does not, however, make much sense. It is unconvincing and intended solely to protect the institutions of the Republic of Serbia since the Humanitarian Law Centers knows that not a single document was addressed to the combatants in the field, but to the Republika Srpska MUP officials. Also, this fact should be considered in combination with witness Kovač's statement that no paramilitary formations were permitted entry to the Republika Srpska, rather only regular formations from the Republic of Serbia and Republika Srpska Krajina were permitted.

v. The Trial Chamber made a proper assessment of the evidence corroborating the culpability of the accused, Slobodan Medić, commander of the Scorpions unit and his bodyguards Branislav Medić and Pera Petrašević.

In reaching its Decision the Trial Chamber was clearly influenced by political rather than judicial reasons. This is reflected in its intention to adjust its position to that of Serbia's authorities with respect to the genocide in Srebrenica in the context of the International Court of Justice Decision, demonstrating understanding for patriotic feelings of some of the Scorpions unit members.

Emini Case

On June 15, 2006 the Trial Chamber of the District Court in Niš presided over by Justice Zoran Krstić, handed down a Decision in which the active police officer Miloš Simonović and a member of the reserve MUP Serbia force Dragiša Marković were acquitted of the charges of the criminal act of murder from Article 47 paragraph 1 of the Criminal Code of the Republic of Serbia (KZRS). In the Statement of Reason of the Decision, it is stated that the Prosecution failed to prove that Miloš Simonović and Dragiša Marković killed Isa Emini, a Kosovar Albanian, in Priština on May 5, 1999.

Although the murder was committed during the armed conflict, the prosecutor did not amend the indictment in order to qualify the criminal act as a war crime against the civilian population. An HLC lawyer represented the victim-witness Ramiza Emini, the wife of the late Isa Emini, who attended almost all main hearings. The prosecutor's case-in-chief was completed in December 2006.

From the very beginning the trial proceedings were cursory. The investigation was incomplete, the crime scene investigation was conducted only the following day, it was not fingerprinted, investigators failed to make a note of whether any objects had been moved from the scene of the murder, victim-witness Ramiza Emini was not offered medical help, the investigators failed to question all possible witnesses among the neighbours who may have been able to clarify some questionable information.

The accused were on pre-trial release and they failed to appear at several main hearings.



Pakšec Case

On June 9, 2006 the District Public Prosecutor in Novi Sad, Veronika Vencel, raised an indictment against Slavko Petrović, Petar Ćirić, and Nikola Dukić for the criminal act of murder from Article 47 paragraph 2, point 4 and point 6 of the Criminal Law of the Republic of Serbia (KZSR) and for the criminal act of rape from Article 103, paragraph 2 with respect to paragraph 1 of the KZRS, for four counts of murder committed in Vukovar, Croatia on April 9, 1992, when they killed four members of the Pakšec family and also raped a woman of Serbian nationality. An HLC lawyer acted as the victims' legal representative. The main hearing was closed to the public in order to protect the dignity of the rape victim.

The Trial Chamber presided by Justice Zoran Drecun handed down a Decision on October 19, 2007 in which it found the defendant Slavko Petrović guilty of both criminal acts and sentenced him to 40 years in prison. Nikola Dukić was sentenced to 30 years in prison because he had pleaded guilty, while Petar Ćirić was acquitted of rape charges and sentenced to 13 years in prison. The appeals process is underway.

Morina Case

On December 20, 2007 the Trial Chamber presided by Justice Olivera Anđelković passed a Decision in which it acquitted Albanian national Sinan Morina of charges that he was a co-executor of war crimes against the civilian population from Article 142, paragraph 1 of the KZJ with respect to Article 22 of the KZJ. In the Statement of Reason of the Decision the President of the Trial Chamber stated that the indictment is too general and that the Prosecution failed to prove that the defendant took part in the armed attack on Serbian villagers in the village of Opteruša on July 17 and 18, 1998, and that on the same occasion he beat Slavica Banzić and took 500 DEM from her and a police vest.

On a MUP Serbia "wanted list, Sinan Morina was arrested in Montenegro from where he was extradited to Serbia. The Office of the War Crimes Prosecutor brought an indictment on July 13, 2005 and the trial began on October 17, 2007. Twenty witnesses were heard during the prosecutor's case-in-chief and those were mainly witnesses from Opteruša village. At a main hearing victim-witness Slavica Banzić gave a different account of the incident and her son Milan Banzić cited the names of several Albanians his mother mentioned right after the incident but not the name of Sinan Morina, while other victim-witnesses did not confirm the allegations that Slavica and other women were beaten by other OVK members when they were arrested in Opteruša.

Bytyqi Case

The trial of two active police officers of MUP Serbia, Sreten Popović and Miloš Stojanović charged with committing a war crime against prisoners of war by aiding and abetting the crime from Article 144 of the KZJ with respect to Article 22 of the KZJ began on November 13, 2006 before the War Crimes Trial Chamber presided by Justice Vesko Krstajić. The War Crimes Prosecutor is Dragoljub Stanković. There was only one



main hearing in 2006. By the end of 2007 a total of 19 main hearings had been held and 63 witnesses were heard including one victim-witness.

The basic characteristic of this trial is that neither those who ordered the crime or the direct perpetrators are standing trial. Also, there are serious indications that Goran Radosavljević Guri, commander of the camp in Petrovo Selo, fled the country before the initiation of criminal proceedings although he had been suspected of committing this crime even though both MUP Serbia and the Office of the War Crimes Prosecutor were informed about it. The members of MUP Serbia, Special Police Units (PJP) have been charged with aiding and abetting the execution of the crime for their role in illegally detaining three Bytyqi brothers and locking them in a room with iron bars in a PJP camp after they were released from the Prokuplje District Prison on July 8, 1999. The whereabouts of the three Bytyqi brothers were unknown until June 2001 when their mortal remains were found in a mass grave near the PJP camp.

The trial is being prolonged unnecessarily and some of the prosecutor's actions are contributing to this. Shortly after the indictment had been brought, during the prosecutor's case-in-chief, the prosecutor motioned for an investigation to be conducted into five witnesses (Milenko Arsenijević, Aleksandar Đorđević, Marjan Mijatović, Milovan Vučićević i Milisav Vučković) who had initially been listed as witnesses in the indictment even though there were no new circumstances and evidence for reasonable doubt. They were all heard at a main hearing as witnesses and in the investigation process they were charged with the same criminal act. It is an obvious misuse of the Criminal Procedure Code (ZKP) which affected the quality of presented evidence and stalled the proceedings unnecessarily.

The Trial Chamber conducted a crime scene investigation in the Petrovo Selo camp which indicated that the buildings inside the camp, i.e. the kitchen, dormitories, training polygon, warehouses, and playground, and the mass graves, the road outside the camp were in close proximity. This points to the fact that all events in the camp, such as for example, the arrival of the truckload of bodies, the arrival of police officials from Belgrade, the arrival of the Bytyqi brothers and their detention in the camp were easily noticed and observed by all those who were based in the camp at the time.

In the course of the proceedings the Trial Chamber ordered a ballistic assessment of the projectile found in the body of one of the Bytyqi brothers, which was analysed by the US Federal Bureau of Investigation (FBI). In the report they sent to the War Crimes Trial Chamber they described the characteristics of that projectile and specified the types of fire arm it could have been fired from. This report can assist the Court to carry out further investigations and obtain information about who possessed such weapons and eventually who shot the Bytyqi brothers.

There are indications that training instructors, members of the PJP are responsible for this crime. They have already been heard as witnesses and their statements are characterized by a lack of memory and by their efforts to withhold any relevant details. On the other hand, those who attended the Operative Pursuit Group training (OPG) of the MUP Serbia



and civilians at work in the PJP camp, such as cleaning staff, chefs, warehouse keepers, waiters, etc., were more specific in their statements although they were clearly afraid of the PJP members.

Ovčara Case

The Ovčara case re-trial against members of the Territorial Defence Unit (TO) Vukovar and volunteers of the Serbian Radical Party (SRS) Leva Supoderica accused of committing a war crime against prisoners of war from Article 144 of the KZJ began on March 13, 2007. By the end of 2007, there had been 26 main hearings, three of which were *in camera*. All accused were heard again and they all maintained their testimonies given at the previous trial. By the end of 2007, 30 witnesses and two court experts had been heard. Among others, witnesses included: Milan Milanović, Assistant Transportation Minister in the Government of the Krajina Serbs at the time the crime in Ovčara was committed, and Miroslav Radić who was acquitted by the ICTY of all charges related to the crime in Ovčara. His ICTY acquittal is legally binding.

To date, the trial successfully demonstrated that the Decision handed down by the Supreme Court of Serbia which overturned the first instance decision was without grounds.

The Supreme Court asked for the defence of accused Jovica Perić to be re-evaluated because the defendant claimed that his defence counsel, Milan Veljković, was not present in the pre-trial proceedings. Regardless of the fact that the presence of the defence counsel during the hearing of accused Jovica Perić was noted in the live note from the trial, and regardless of the fact that this note is an official document signed by both the defendant and his defence counsel and sealed by the Department of Internal Affairs, the Supreme Court ordered lawyer Veljković to be questioned about his presence at the trial. The first instance court questioned lawyer Veljković who confirmed that he had been present during the hearing of the accused Perić.

Sava Štrbac, defence counsel of the accused, motioned for the defendant Ivica Vuletić, who is currently serving time in a prison in Serbia, to be questioned as a witness in order to establish whether his conviction by a Croatian court for the crime in Ovčara is legally binding. The Supreme Court of Serbia ordered re-examination of this witness. Although the first instance court established, after careful consideration of the legally binding first-instance Decision, that Vuletić was not sentenced for the crime in Ovčara, he was again questioned about it in the repeated process and it was confirmed that he was not even tried for the Ovčara crime in Croatia, which upheld the validity of the position contained in the first-instance Decision.

In the appeals process, the defence counsel of the accused Vuja Zlatar motioned for a new medical expertise conducted by the Court-Medical Expert Committee of the Medical School in Belgrade in order to determine whether Voja Zlatar was able, from a medical perspective, to be present in Ovčara at the time the crime was committed. This motion was explained by the fact that two court experts who testified in the first trial gave two



different opinions. In its first instance Decision the Court accepted the finding provided by the Court-Medical Expert Committee versus the finding of an individual expert, which is in compliance with the law. However, the Supreme Court accepted allegations of the defence counsel and ordered the expertise to be conducted by the Court-Medical Expert Committee of the Medical School in Belgrade. The new expertise was conducted by seven members of the Court-Medical Committee, all of whom are professors at the Belgrade Medical School. They found that Vujo Zlatar was both physically and mentally able to be present in Ovčara on November 20, 1991 when the crime was committed.

The Supreme Court of Serbia accepted the appeals of the defence counsel for all of the accused and ordered a commission made up of psychiatrists and psychologists to evaluate the mental capacity of witness-collaborator No. 1, because at the time of the event he had just turned 18, and they deemed it necessary to make an assessment of his observational ability, his memory, and his ability to reproduce events from the past after a long period of time. At the retrial, the Court acted upon the instruction of the Supreme Court and arranged for the expertise to be conducted by the Clinical Center of Serbia, Institute for Psychiatry - Department for Court Psychiatry. On July 27, 2007, under No. 611/2 they issued the following finding and opinion:

- i. The level of mental ability of witness/collaborator No. 1 corresponded to his age in November 1991 when the witness had just turned 18 years of age. In view of that, his observational ability, his memory, as well as his ability to reproduce events from the past after a long period of time corresponded to those of an average, healthy person of his age.
- ii. Witness/collaborator No. 1 does not suffer from any mental illness, mental retardation, or any other mental disorder, and that he did not suffer from such illnesses in November 1991.
- iii. Witness/collaborator No. 1 is a person of higher than average primary intellectual potential, with normal personality organization, not inclined to fabrication.

This finding and opinion of medical experts dispelled all doubts regarding the credibility of the testimony of witness/collaborator No. 1, especially when bearing in mind that his testimony is in full compliance with the physical evidence presented after his testimony, of which he was unaware, and which completely corroborated allegations contained in his testimony.

Zvornik Case

The trial of the former president of the Zvornik municipality, Branko Grujić, former commander of the TO Branko Popović, and volunteers Dragan Slavković, Ivan Korać, Siniša Filipović, and Dragutin Dragičević for war crimes committed against the civilian population began on November 28, 2005 before the War Crimes Trial Chamber of the Belgrade District Court presided by Justice Tanja Vuković.

Since the beginning of the trial, November 28, 2005, until the end of 2007, 84 main hearings were held. A total of 81 witnesses were heard and statements of four



victims/witnesses obtained during investigation have been read. Five main hearings were *in camera*. Sixteen witnesses testified under assumed names. HLC provided seven victim-witnesses in 2006 and the victim's legal representatives proposed four witnesses to be heard in 2007 which the Trial Chamber accepted.

Due to an insistent approach of injured party's legal representatives, the Trial Chamber began presenting evidence relevant for the context of the events which are the subject matter of the indictment. In that sense, a very important success was the resolution of the issue of responsibility of the accused Branko Grujić and Branko Popović for the death of over 700 Bosniak men from 15 villages in the Zvornik municipality. These men had been separated from women and children on June 1, 1991 in Bijeli Potok, and taken to Zvornik where they were locked up in the Technical High School Center. After this point their whereabouts was unknown until 1997 when the mortal remains of some of them were recovered in mass graves across the territory of the Republika Srpska. The bodies of approximately 300 of these men have been found to date. Significant evidence was produced to that effect in the course of the trial which prompted the War Crimes Prosecutor to motion for an additional investigation to be conducted against the accused Branko Grujić and Branko Popović. Further investigation produced evidence which beyond a reasonable doubt pointed to direct perpetrators of this crime. The investigative judge, in compliance with the Criminal Procedure Code, informed the Office of the War Crimes Prosecutor about it at the end of September 2007. However, by the end of 2007 the Office of the War Crimes Prosecutor had not reacted to the newly found evidence.

From the evidence presented by the end of 2007 it is clear that the responsibility of the civil authority in Zvornik is indisputable in the period after the Serbs took control over the town of Zvornik. First, they proclaimed Zvornik a Serbian municipality, they formed a Crisis Headquarters headed by the president of the municipal committee of the Serbian Democratic Party (SDS), and finally they formed a Provisional Government. All these bodies met weekly and they addressed various issues in the municipality of Zvornik. There were nine detention camps for Muslims on the territory of Zvornik municipality at the time. The facts corroborating the allegations that the civil authority of Zvornik administered and controlled those camps comprise: the use of Drina-Trans busses for the transportation of prisoners, the fact that the food for the prisoners was provided from the Drina Hotel in Zvornik, the fact that the president of the Provisional Government ordered lists of prisoners to be made, the fact that money, personal belongings, and all kinds of valuables confiscated from the prisoners were brought to the premises of the Zvornik municipality, and the fact that members of the reserve police force were appointed guards in the detention camps. These, as well as some other facts, shed light on the individual responsibility of the accused Branko Grujić and Branko Popović.

During this trial indubitable evidence was obtained proving the criminal accountability of Marinko Vasilčić, Steva Radić, and Cvijetko Jović who were heard as witnesses. Their accountability lies in the fact that at the time when nine detention camps for Bosniaks existed in Zvornik, and when they were guarded by members of both active and reserve police force, they held senior positions in the police force. Marinko Vasilčić was commander of the Zvornik police station, Cvijetko Jović was commander of the police



station in Čelopek, and Stevo Radić was a senior official of the Provisional Government and, according to testimonies of several witnesses, he had a significant role in the management of the detention camps.

The trial began in 2005 and a large number of witnesses were heard. Many facts, established in the course of the trial indicate that the events the accused are being tried for occurred in a different manner than described in the indictment. That is why it was necessary for the War Crimes Prosecutor to specify the indictment before the end of 2007 in order to prevent the unnecessary prolongation of the proceedings.

Suva Reka Case

The trial of eight members of MUP Serbia accused of war crimes committed against the civilian population started on October 2, 2006 before the War Crimes Trial Chamber of the Belgrade District Court presided by Justice Vinka Beraha-Nikićević. By the end of 2007, 48 main hearings had been held during which a total of 56 witnesses were heard. Three witnesses testified under pseudonyms and one witness testified from a separate room. His image could be seen by the members of the Trial Chamber, the accused, the prosecutor, the defence counsel, and by the victims' legal representatives. In 2007 alone 35 main hearings were held.

At the beginning of the hearing the defence counsel tried to introduce the atmosphere dominant in the political life in Serbia with respect to the Kosovo status negotiations, but the Trial Chamber successfully prevented this. The trial was interrupted on October 1, 2007 due to a change made in the composition of the Trial Chamber,¹ when the defence counsel motioned for the exemption of the President of the Trial Chamber, members of the Trial Chamber, President of the District Court of Belgrade, and President of the Supreme Court of Serbia. The Supreme Court of Serbia denied the motion of the defence counsel (at a general session) and the trial continued on November 5, 2007. It is important to mention that Justice Gordana Božilović-Petrović interpreted her removal as a result of pressure exerted by foreign embassies in Serbia and Nataša Kandić, making a correlation between the Suva Reka case trial and the Kosovo status negotiations. That prompted the reaction of the defence counsel for Goran Petronijević and Veljko Đurđić, who asked the Trial Chamber to deny Nataša Kandić the right to act as the victims' legal representative in further proceedings. They explained their motion by the fact that Nataša Kandić is the director of the Humanitarian Law Center and that she is representing the victims in such a capacity, which is in contradiction to the Criminal Procedure Code of the Republic of Serbia which stipulates that only individuals can act as a victim's legal representatives. The Trial Chamber denied the request of the defence counsel explaining that Nataša Kandić was authorized by the injured party to act as their legal representative.

¹ By a decision made by the President of the Belgrade District Court, Justice Gordana Božilović-Petrović was removed from the Trial Panel in Suva Reka and Bytyqi cases and reinstated to her previous assignments in the Belgrade District Court. She was replaced by Justice Snežana Nikolić-Garotić in the War Crimes Trial Chamber.



The victims' legal representatives managed to introduce discussion of other murders that occurred in Suva Reka during the NATO bombardment which had not been included in the indictment. It is now up to the Trial Chamber to establish the facts relating to mass murders committed on March 22 and 25, 1999 in Suva Reka. Three police officers, members of both the active and reserve police force, testified about the circumstances surrounding the murder of 48 members of the Berisha family. In addition, a group of Roma, who had been ordered by the local authority to load the bodies of the men, women, and the children of the Berisha family killed in the pizzeria, testified about the circumstances and how they took part in the event. At the time of the event, some of these Roma were underage and some barely 18. It is important to note that they were clear, concise, convincing, sincere and objective in their testimonies.

Four Albanian witnesses, three of which were victim-witnesses gave testimony in December 2007. The Humanitarian Law Center and the Association of the families of victims from Suva Reka helped bring the three victim-witnesses to Belgrade to testify, while the ICTY helped by convincing victim-witness Shyrete Berisha to accept the invitation to testify. Her testimony was emotionally charged, compelling, and extremely important. Shyrete Berisha survived the massacre in the pizzeria so she was able to give information crucial for establishing the responsibility of the accused. In compliance with the request of the witness and victims' legal representatives, the Trial Chamber granted a protective measure for all witnesses from Kosovo to be accompanied by two members of the Kosovo Police Force. They were under the protection of the MUP Serbia Witness Protection Unit 24 hours a day during their stay in Belgrade.

The testimonies of several witnesses, as well as some physical evidence, discredited the alibi of the accused Radoslav Mitrović who claimed that on the day of the Suva Reka massacre he was in Prizren. The second characteristic of this trial is that the witnesses, Serbs from Suva Reka, who at the time of the event participated in the local authority (former president of the Suva Reka municipality, president of the Executive Committee, commander of the Civil Defence Headquarters, and others) claimed to have no idea what was happening in Suva Reka on that day and that they had no idea what happened to the Berisha family and other Albanians. They claimed not to be able remember anything and they said they did not make inquiries since, in their own words, they did not really care about murdered Albanians.

Although most Serbian witnesses from Suva Reka claimed that the Albanians from Suva Reka were moving out because of the bombardment, in the courtroom it was demonstrated that in various cases Albanians remained in villages where they were not under pressure by the Serbian forces. Witness Milutin Miljković, a high official of the Internal Affairs Secretariat (SUP) in Prizren, who was during the NATO bombardment deployed to Suva Reka and lived in the Ljubižde village, said that not a single Albanian moved out from that village.²

² The Albanian population did not move out of that village because there was no pressure on them. It was a mixed village where Albanians, Serbs, and Bosniaks lived together.



Orahovac Case

Reserve police member Boban Petković from Velika Hoča was charged with murder of three Albanians, Ismail Durguti, Sezair Miftari and Sefkija Miftari and active police force member Đorđe Simić from Orahovac was charged with aiding and abetting. The indictment was raised by the Deputy District Prosecutor in Požarevac, Dobrivoje Perić, who was a prosecutor with the Office of the District Prosecutor in Prizren in the period before 1999. The Trial Chamber presided by Justice Jovica Mitrović found Boban Petković guilty on July 19, 2000 for two counts of murder and sentenced him to a combined prison sentence of four years and 10 months, while it convicted Đorđe Simić as an accomplice to murder and sentenced him to one year in prison. In its Decision handed down on December 18, 2001 the Supreme Court of the Republic of Serbia overturned the first instance ruling and returned the case to the first instance court for retrial.

Dimitar Krstev, District Public Prosecutor in Požarevac, altered the indictment on February 19, 2003 by indicting Boban Petković of a criminal act of a war crime against the civilian population from Article 142, paragraph 1 of the KZSRJ and by indicting Đorđe Simić of aiding and abetting the criminal act of a war crime against the civilian population from Article 142, paragraph 1 of the KZSRJ with respect to Article 24 of the KZSRJ.

On August 21, 2003 the President of the Trial Chamber, Justice Jovica Mitrović found the accused Boban Petković guilty of the criminal act of a war crime against the civilian population and sentenced him to five years in prison and mandatory psychiatric treatment after serving his sentence. Đorđe Simić was acquitted of all charges.

In the appeals process filed by the District Public Prosecutor in Požarevac and the defence counsel for the accused Boban Petković, on May 25, 2006, the Supreme Court of the Republic of Serbia overturned the Decision in its entirety and returned the case to the first instance court for retrial.

The main hearing began on December 5, 2007 before the Trial Chamber of the District Court of Prizren situated in Požarevac. The Humanitarian Law Center has learnt that President of the Trial Chamber, Justice Dušan Simić, telephoned prosecutor and told him to come to the courtroom. Yet before he arrived at the courtroom, the President of the Trial Chamber began the hearing with the words: "Let's begin; he will be here any minute now." The decision to postpone the main hearing was dictated in large part by the courtroom clerk and the president of the Trial Chamber repeated after her. The trial was postponed because the accused Đorđe Simić did not appear in the courtroom.

Rambo Case

The ICTY transferred the case of Vladimir Kovačević a.k.a. Rambo to the Office of the War Crimes Prosecutor, in accordance with the Rule 11 bis regulating trial procedure and evidence.



Vladimir Kovačević was indicted for a war crime committed against the civilian population from Article 142, paragraph 2 with respect to paragraph 2 of the KZSRJ, with respect to Article 22 of the KZSRJ. He was indicted on the basis that, as a JNA officer under the command of Admiral Miodrag Jokić and General Pavle Strugar, both of whom were indicted by the ICTY, he ordered members of units under his command to attack the city of Dubrovnik, without specifying the targets to be shelled, on which occasion two civilians (Pavo Urban and Tonči Skočko) were killed, three were wounded, six buildings were completely demolished, and 46 were damaged.

The trial did not begin because the accused is undergoing medical treatment.

The Tuzla Convoy Case (Tuzlanska kolona Case)

On November 9, 2007 Office of the War Crimes Prosecutor brought an indictment against Ilija Jurišić from Tuzla, Bosnia and Herzegovina (BiH) for the criminal act of illegal use of forbidden means of war from Article 148, paragraph 2 with respect to paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia. The accused Jurišić is charged with engaging in illegal means of warfare prohibited by international law for his role – as chief of the command operative group formed at the Center for Public Security and as commander of all armed forces on the territory of Tuzla – in explicitly ordering an attack on a JNA convoy on May 15, 1992, in which at least 92 JNA soldiers were killed and at least 33 wounded. This attack was contrary to an earlier agreement between BiH and the Federal Republic of Yugoslavia (SRJ) about the peaceful withdrawal of the Yugoslav National Army (JNA) from the territory of BiH to the territory of SRJ, and in connection with that, contrary to a previous agreement between representatives of civil and military authorities of Tuzla.

Ilija Jurišić was arrested at the Belgrade airport on May 11, 2007. Until then he had visited Serbia a number of times without any problems. Immediately after his arrest, the Ministry of Justice of BiH sent a request to extradite Ilija Jurišić and transfer the case³ to the BiH judiciary, invoking Article 30 of the European Convention on the Transfer of Proceedings in Criminal matters, to which both Serbia and BiH are signatories. The War Crimes Trial Chamber of the Belgrade District Court, however, refused the request without producing an official document on its decision.

The Office of the War Crimes Prosecutor raised an indictment against Ilija Jurišić and made it public through the media on November 9, 2007 before the investigation was complete. On that day the Office of the Prosecutor of BiH, responding to a letter from the War Crimes Trial Chamber was conducting hearing of witnesses in this case, with the active participation of Justice Milan Dilparić, investigative judge and member of the War

³Any Contracting State which, before the institution or in the course of proceedings for an offence which it considers to be neither of a political nature nor a purely military one, is aware of proceedings pending in another Contracting State against the same person in respect of the same offence shall consider whether it can either waive or suspend its own proceedings, or transfer them to the other State.



Crimes Trial Chamber of the Belgrade District Court and Deputy War Crimes Prosecutor Dragoljub Stanković.

That the indictment was raised before the investigation was finished and that Serbian judiciary consistently refuses to transfer the criminal proceedings in this case to the Office of the Prosecutor of BiH, which is also conducting a separate investigation of the same case, prompts the conclusion that the reason for such refusal is political and that the Office of the War Crimes Prosecutor is using this case in self-defence against accusations that it only prosecutes Serbs.

Slunj Case

Based on the evidence obtained from the State Attorney's Office of the Republic of Croatia and based on the results of the investigation they conducted, on November 8, 2007, the Office of the War Crimes Prosecutor of the Republic of Serbia raised an indictment against Zdravko Pašić for the criminal act of a war crime against the civilian population in the village of Slunj, Croatia. The Office of the War Crimes Prosecutor indicted Zdravko Pašić for committing the murder of Dr. Dragutin Krušić on the night of December 22, 1991 together with Milan Grubješić, who had already been convicted for this crime.

In 2001 the County Court of Karlovac tried Zdravko Pašić in absentia and sentenced him to 12 years in prison and also sentenced Milan Grubješić who is serving time in Croatia.

Lovas Case

On November 29, 2007 Office of the War Crimes Prosecutor raised an indictment against 14 persons, members of the former JNA, Territorial Defence, and paramilitary formation Dušan Silni for war crimes committed in October and November 1991 in Lovas, Croatia, against Croatian civilians. This is the first indictment against officers and reservists of the former JNA.

