

## Documents & Projects

---

### CLOSING ARGUMENTS

Honourable Court,

I fully remain behind the allegations of the amended version of the indictment, considering that throughout the conducted evidentiary procedure it was undoubtedly established that the herein accused persons committed the criminal offence they are charged with; in respect of their criminal responsibility arising thereof, I propose that they be found guilty as charged and sentenced in accordance with the law.

In view of the obligation that a milder law be applied for the perpetrators, the criminal offence that the accused are charged with is the war crime against war prisoners as recognized by Article 144 of the Federal Republic of Yugoslavia's Penal Code (FRY PC), and not by the Penal Code of the Socialist Federal Republic of Yugoslavia (SFRY PC), i.e. of the Basic Penal Code.

The perpetrator of the stated criminal offence is any individual who, breaking the rules of international law in a state of armed conflict, orders or perpetrates any of the alternatively determined acts of the commission of a criminal offence as stipulated by the stated Article.

Specifically, the Prosecutor charges the herein accused individuals with inflicting physical injuries upon, and committing murders of war prisoners.

The facts established throughout the evidentiary procedure virtually coincide with the allegations of the amended indictment. Namely, in the autumn of 1991, in the city of Vukovar, located in the eastern Slavonian region of Croatia being part of the then Socialist Federal Republic of Yugoslavia (SFRY), there was an armed conflict between the Federal Yugoslav People's Army (JNA), Vukovar Territorial Defence (TO) and volunteers on one side, and the Croatian armed forces consisting of the National Guard, Croatian Police and volunteers on the other. The stated conflict was not international by its character, since the Republic of Croatia was recognized by the international community as an independent state in January 1992.

It was established from the presented evidence that the armed conflict in Vukovar ended on 18 November 1991, which was the date of its liberation as viewed by one of the conflicted parties, or the date of its fall as viewed by the other. On the stated date, the members of the so-called »Mitnička Group« belonging to the Croatian armed forces surrendered to the JNA and laid down their weapons, whereupon they were listed and transferred to Sremska Mitrovica for further procedure. Another group of the Croatian forces, who did not want to surrender to the JNA, sought refuge at Vukovar Hospital. Having disarmed themselves and changed into civilian clothes, they entered the hospital building with the intention to mix up with the hospital staff, sick and wounded. By acting in that manner, they hoped to get transferred deeper into the Croatian territory, while assisted by the organisations of the International Red Cross and »Doctors without Borders«. However, they failed to do so, as they were captured by the JNA units who entered the hospital. The hospital was guarded by the security staff, who prevented everyone from getting inside or outside the building. There were attempts by some TO members, volunteers and other unauthorized persons to enter the hospital and liquidate those whom they viewed as criminals hiding therein, yet the unauthorized groups were prevented by the military police forces.

In the morning hours of 20 November 1991, the hospital was evacuated under the supervision of Major Veselin Šljivančanin, the JNA Guard Brigade Security Commander. While elderly men, women, children and medical staff were left behind, all men of military age were removed, loaded onto six buses and, guarded by Major Ljubiša Vukašinić, transported to the JNA barracks in Vukovar. Shortly following their arrival in front of the barracks, the buses with the captives got surrounded by a large number of TO members and volunteers, mainly the local people who tried to break into the buses and liquidate those captives whom they had recognized and who, allegedly, had inflicted some harm on them during the war (i.e. killed some of their relatives, burned their houses, beat or shot them). The JNA members in charge of guarding the captives barely managed to stop the attackers.

On the same date, in the period between 11:00 a.m. and 1:00 p.m., on the premises of the »Velepromet« trading company in Vukovar, situated in the immediate vicinity of the barracks, a meeting session was held by the Government of the Serbian Autonomous Territory (SAO) of Slavonia, Baranja and Western Srem, with Goran Hadžić as its chairman. The session was also attended by some government officials, namely by Minister of the Interior Borislav Bogunović, Minister of Justice Vojin

Suša, Minister of Agriculture Slavko Dokmanović, volunteer forces representative Željko Ražnatović Arkan, as well as a number of locals; in the capacity of JNA representatives, the session was attended by Lieutenant Colonel Miodrag Panić, the chief of the JNA Guard Brigade Staff, and Colonel Bogdan Vujić, security officer. On that occasion, Goran Hadžić thanked the JNA forces for their assistance in the liberation of the city of Vukovar and claimed that, as of that point, the civil authorities were ready to resume control over the entire territory. Hadžić pointed out that a competent judicial system, i.e. prosecutorial and court authorities, had already been established and were ready to try the war criminals who had attempted to seek refuge at the Vukovar Hospital. To that end, Hadžić explained, a prison facility had been established at the Ovčara farm, while a police force consisting of TO members was going to be formed in order to protect public order and peace in that territory.

The session also addressed the issue of the unauthorized JNA transfer of the »Mitnička Group« criminals and »Velepromet« captives to Sremska Mitrovica; it was concluded that at no cost shall the Government and people of Vukovar allow anything similar to happen again with the hospital captives, who had also blooded their hands and committed crimes against the Serbian people. If it was necessary, the people were ready to lie on the ground and thereby stop the JNA vehicles from taking the captives out of the city. Colonel Bogdan Vujić was particularly reprimanded for participating in the stated transfer of captives to Sremska Mitrovica, and a request was made that they urgently be returned to Vukovar, where they should be tried. Following a brief discussion, it was decided that the Vukovar Hospital captives should be handed to the Government for further procedure, whereof Lieutenant Colonel Miodrag Panić informed the commander of Operational Group South, Colonel Mile Mrkšić; the latter agreed, saying that, since the war was over, it was within the Government's competence to take such decisions. After Lieutenant Colonel Miodrag Panić informed the participants of Mrkšić's approval, the session was finished.

Shortly following the session, in the early afternoon hours, the buses transported the captives from the barracks to the Ovčara farm, while they were guarded by a number of military and civil vehicles. Upon the arrival at Ovčara, the captives started getting off the buses. Between the buses and the entry into the hangar building, TO members, volunteers and other armed persons formed two lines through which the captives were made to run.

Subsequently, all of the persons standing in the lines beat the captives as they passed, since they had joined the lines with the intention to do so. They kicked the captives and hit them all over the body, while using their hands, wooden clubs, metal bars, rifle butts and other available objects, thereby inflicting on the captives serious physical injuries, which they continued doing inside the hangar building. Participating in the above described acts were the following accused TO members: Milan Bulić aka »Bulidža«, whose case has been conducted within a separate procedure, Goran Mugoša aka »Kuštro«, Miroslav Đanković aka »Đani«, as well as the following members of volunteer unit »Leva Supoderica«: Predrag Milojević aka »Kinez«, Predrag Dragović aka »Ceca«, Milan Lančuzanin aka »Kameni« and a number of FNU LNU persons. Likewise, the accused, Nada Kalaba, beat a FNU LNU war prisoner outside and inside the hangar, whereafter in front of the hangar she killed him with a gunshot in the head. The stated victim had been her boss who had fired her several months earlier from a Vukovar department store where she had been employed.

The events outside and inside the hangar building were commanded and supervised by the herein accused individuals: Miroljub Vujović in the capacity of Vukovar TO commander, and Stanko Vujanović in the capacity of Vujović's deputy. No action was to be taken without their permission.

The stated two accused individuals ordered that the first group of 30 to 40 captives be removed and loaded onto the trailer of a tractor parked at the hangar entry; likewise, he assigned a number of persons to supervise the transport and avert potential escapees. In five or six consecutive turns, the tractor loaded with captives left the farm and then returned empty half an hour or forty minutes later. Each time the accused, Miroljub Vujović, would remain in the hangar, whereas leaving with a loaded tractor and returning without the load was the accused, Stanko Vujanović. The captives were thereby taken to the site of Grabovo, approximately 1 km away from Ovčara, where they got executed.

In the period between the departure of the first load of prisoners from, and the return of the empty tractor to the Ovčara farm, Major Vukašinović, accompanied by another army officer, arrived at the hangar site and addressed the accused, Miroljub Vujović, by saying: »We handed you the war prisoners in the belief that they were going to be interrogated and looked after, rather than tortured and killed.«. The accused, Vujović, replied: »It is none of your business, but ours«, whereupon a FNU LNU security staff of acc. Miroljub Vujović pointed a weapon in the direction of Major Vukašinović, who subsequently withdrew.

Following the described event, the captives inside the hangar virtually lost every hope that they might be saved from liquidation.

The liquidation of the captives lasted since the afternoon of that day until the early morning hours of the

following day, i.e. 21 November 1991. The accused members of volunteer unit »Leva Supoderica«: Đorđe ŠOŠIĆ aka »Žorž« aka »Čiča« and Predrag Milojević aka »Kinez«, removed two FNU LNU war prisoners from the trailer and deprived them of life by slicing their throats.

At the site of Grabovo, the captives were removed from the trailer and taken in groups of 7 to 8 persons in front of a previously dug pit, where they would get shot and thereby killed by previously organized firing platoons. After a group of executed prisoners fell dead on the ground, a new group would be forced out of the trailer, made to dump the dead bodies in the pit and subsequently take their own turn for execution.

Ahead of imminent death themselves, the still living ones were made to dump the dead into the pit while awaiting their own turn for execution.

The war prisoners were shot and thereby killed by the accused Vukovar TO members: Jovica Perić, Predrag Madžarac aka »Peđa«, Milan Vojnović aka »Mičo Medonja«, Miroslav Đanković aka »Đani« and Vujo Zlatar, as well as by the following accused members of volunteer unit »Leva Supoderica«: Milan Lančuzanin aka »Kameni«, Ivan Anastasijević aka »Iko« (previously named Ivica Husnik), Marko Ljuboja aka »Mare«, Predrag Dragović aka »Ceca«, Slobodan Katić aka »Major Katić«, and a number of FNU LNU perpetrators, whose identities, to my strongest belief, are going to be disclosed in a short while.

In addition to issuing shooting orders to the platoons, the accused, Stanko Vujanović, personally took part in the shooting. The accused, Predrag Milojević aka »Kinez«, would approach everyone who was still showing signs of life and kill him with a gunshot in the head.

Anyone who would ever come to the Grabovo pit was made to shoot; no one was allowed to leave the site without taking part in the executions. That was a guarantee of their silence.

Upon the completion of the executions at Grabovo, a bulldozer came to throw earth over the dead bodies lying inside the pit and flatten the surface of the ground. Among the executed were two women; one of them, Ružica Markobašić, was pregnant. According to some allegations, her husband had engaged in making necklaces of Serbian children's fingers. She got killed with a gunshot between her legs.

Finally, in front of the Ovčara hangar, the accused: Miroljub Vujović and Stanko Vujanović, aided and abetted by a number of FNU LNU persons, performed the execution of the last group consisting of approximately ten National Guard and Croatian Police commanders, whom they considered to be the most infamous criminals.

In the above described manner, at least two hundred persons were killed, out of whom 192 persons have been positively identified; their full names have been listed in the amended indictment.

The foregoing facts arise from detailed, precise and convincing statements given by both witnesses-collaborators. Their statements, which fully coincide with each other in view of all relevant circumstances, lead to the conclusion that the incriminated event occurred at the time, in the place and in the manner specified in the amended indictment.

Specifically, the aforementioned witness statements refer to the following: how the captives were removed from the bus and made to pass between the two lines of people, when and how they were beaten, how they were forced into the hangar and held detained inside, and how they were later removed thereof. Likewise, the aforementioned witnesses specified the names of the accused individuals who ordered the stated actions, detailing the size of the groups being loaded onto the tractor trailer and transported to the firing range, whereafter, in several consecutive turns, the tractor would return empty to pick up a new group. The witnesses further specified the way in which the captives were taken out in groups for liquidation, detailing the names of the accused members of the shooting platoon who performed the killings.

In view of all relevant facts, the stated witnesses-collaborators' statements also fully coincide with the statement of acc. Jovica Perić, given within the pre-trial procedure on 18 April 2003, within the interrogation conducted by the RS police authorities, and attended by Perić's legal counsel and the prosecutor in charge of the case. In his statement, the accused, Jovica Perić, fully admitted the commission of the criminal offence, giving details of the war prisoners' execution, of his involvement therein, as well as of the involvement of the other accused persons, whom he had seen participating in the executions.

The liquidation of the war prisoners, the manner and the venue of the executions, as well as his personal involvement therein, were also detailed by the accused, Ivan Atanasijević, within the hearing session held on 15 November 2005.

Furthermore, the statements of both witnesses-collaborators, as well as those given by the aforementioned accused: Jovica Perić and Ivan Atanasijević, match the contents of the documents attached to the court files, specifically the following: the exhumation reports of 3 October and 15 November 1996, submitted by the FRY Government Commission for Humanitarian Issues and Missing Persons; the autopsy report with DNA analysis, issued by the Zagreb Forensic Institute; findings and opinion given by the expert team from Novi Sad and Belgrade Forensic Institutes; and finally, the ballistic experts' findings and opinion relating to the type and number of weapons employed in the executions, to the mechanism of the victims' woundings and killings, as well as to the means (cold steel and fire-arms) employed to that goal.

The aforementioned autopsy report, i.e. the DNA analysis, discloses each victim's gender and identity, while the report sent by the Croatian Government Commission for Captured and Missing Persons unambiguously indicates the particular units of the Croatian armed forces and resistance movements to which the victims, i.e. war prisoners, belonged.

Additionally, determining facts relating to this case have been based on the statements of the witnesses examined in the course of the proceedings so far.

\*

Presenting their defence throughout the investigation and at the trial, all of the accused, with the exception of acc. Ivan Atanasijević, deny committing the criminal offence they are charged with.

Concurrently, both of the accused: Miroljub Vujović and Stanko Vujanović claim that Vukovar TO did not exist at the time of war. They claim to have been ordinary JNA servicemen in charge of ground logistics. They deny commanding any military units. Each of the stated accused individuals points out that he was at Ovčara on the date relevant to the indictment, indicating it as 19 November 1991, yet on that occasion, further to their allegations, they did not meet or communicate with each other. No one was allowed access into the hangar, as its entrance was guarded by armed soldiers. Both of the aforementioned accused deny being in any way involved in the killings of war prisoners at Ovčara, and claim that the case against them has been rigged by the state and military security services and the Counterintelligence Service (KOS), while assisted by the police, investigating judge and prosecutor. Concurrently, the accused, Vujović, explains (Vujović quotation): »At that time, Ovčara was bustling with police and intelligence agents; the executions of the war prisoners had been worked out in advance, while the arrival of the locals at the scene interfered with the previously devised plan, resulting in the loss of control and general improvisation.«

The foregoing defence presented by the accused: Vujović and Vujanović stands in contrast to the established facts contained in the presented evidence and is clearly aimed at the evasion of criminal responsibility.

The statements of virtually all of the witnesses interrogated before the Military Court and throughout the investigation lead to the unambiguous conclusion that Vukovar TO was active at the time of the Ovčara events, and that it was commanded by acc. Vujović, while acc. Vujanović acted as his deputy.

The foregoing allegations are substantiated by the statements obtained within the investigation from the accused: Jovica Perić, Miroslav Đanković, Milan Lančuzanin, Predrag Milojević and Goran Mugoša, with the explanation that the accused: Vujović and Vujanović initially served as commanders of respective TO companies, while towards the end of the war there was a shift in the TO central command, whereby the then-far commander, Dušan Jakšić, got replaced by acc. Vujović, whereas acc. Vujanović was appointed as his deputy. The latter facts are confirmed by the testimony obtained from Major Borivoje Tešić; similarly, witness Dušan Jakšić confirms the stated facts and presents the entire operating scheme of Vukovar TO. In his testimony, Major Branislav Lukić claims that, on 3 October 1991, when he arrived in Vukovar with his JNA unit, he met the accused, Miroljub Vujović, who personally introduced himself to Lukić as a TO unit commander.

Likewise, the defence allegation that the stated event at Ovčara took place on 19 November 1991 is to be rejected as unacceptable, since the statements of the examined witnesses, and partly those of the other accused persons, as well as the written evidence, i.e. war and operational records of the units on the ground, clearly indicate 20 November 1991 as the date of the event, and the date of the hospital evacuation.

A number of interrogated persons, witnesses and the accused alike, invariably claim to have seen, both in front of the hangar and inside it, the accused: Vujović and Vujanović issuing orders together, while the entry into the hangar was unrestricted.

The claims of the accused, Vujović and Vujanović, that they were ordinary soldiers who did not have a say in anything are thoroughly unfounded; just contrary to that, they had a decisive say in everything that was going on, both outside and inside the hangar. Details of these events are elaborated upon in the statements of both witnesses-collaborators, and further confirmed by the pre-trial statement obtained from witness Jovica Perić, who testifies that one of the accused, Vujović or Vujanović, told him to get onto a white van together with two other persons and follow the tractor with the captives in case someone tried to escape. Upon their return to the hangar, the accused, Vujović and Vujanović, learnt that the ammunition reserves were running short and therefore ordered additional stocks to be obtained.

From the witness statement given to the Military Court investigating judge on 8 February 1999 by Captain Dragan Vezmarović, the commander of a Military Police company within 80th Motorized Brigade, which on the critical day spent some time guarding the war prisoners at Ovčara, it is established that Vezmarović delivered the war prisoners to the Vukovar TO forces commanded by Vujović and Vujanović, and alerted them to treat the prisoners in accordance with the Geneva Conventions.

Arising from the statement obtained within the investigation on 27 November 2003 from late Mirko Vojnović aka »Čapalo« in the capacity of suspect, is the fact that acc. Vujanović was one of those who issued orders at the Ovčara farm. Further to the statement, late Vojnović saw a group of people gathered around acc. Vujanović asking the latter in relation to the war prisoners (quotation): »Stanko, what shall we do, whom shall we pick up next?«, while moving aside those whom they indicated as Ustashas; asked by the investigating judge who determined the schedule of the war prisoners' transport to the execution site, Vojnović literally replies: »The key was held by Stanko«.

In his statement of 26 December 2003, given within the investigation procedure, acc. Miroslav Đanković points out that on the critical day acc. Vujović sent a van to fetch him to the Ovčara farm, where he was needed to guard the prisoners. When he reached the hangar, acc. Vujović instructed him that one third of the captives was to be kept imprisoned, another third was to be exchanged, while the remaining third was to be released. I quote: »The accused, Vujović, was the boss at the time. He was asked for everything. I do not know who ordered that the captives be loaded onto the trailer, but most likely it was Vujović, because Vujanović could not have done that without Vujović's previous consent. The two of them raged around, both during the war and after the war«. The same accused person further clarifies his allegations at the trial held on 27 September 2004, by saying that the accused: Vujović and Vujanović were organizers before the war, leaders during the war, and holders of high offices after the war.

In his statement given on 26 April 2004 within the investigation procedure, witness Žarko Kojić, one of Ovčara survivors, claimed that at the Ovčara farm, acc. Miroslav Vujović was one of the commanders who issued orders, the authority obeyed by everyone. When Vujović ordered that previously removed Ivan Nejamšić be returned into the hangar because he was the secretary of the Croatian Democratic Community (HDZ), his order was immediately obeyed. Later, Ivan Nejamšić was liquidated along with other captives.

The unmatched authority of acc. Stanko Vujanović and his active involvement in the events are also clarified in the statement given by witness Jovan Dulović, who points out that, having learnt of the Ovčara executions, he approached acc. Vujanović and asked him: »Is that true?«, whereupon Vujović replied: »I did not have enough people, so I had to engage that drunken gang of Šešeljs, who now keep going around and talking about what was done. I know that it can't end well«.

Matching Dulović's allegations is the statement obtained from Lt.-Col. Milorad Vojnović, who claims that, on the day relevant to the indictment, he addressed (quotation): »two men who acted as commanders, and whose names, as I learnt later, were Vujanović and Vujović, the latter being the chief commander; I warned them that they were not supposed to treat the people in that way«, hinting at the torturing of the war prisoners. »One of the two replied that those people were their captives and that it was not my business to warn them of what they should or shouldn't do. Both of them kept issuing orders and assigning tasks to their subordinates, who would promptly act thereupon, and therefore no one went among the prisoners any longer«, the witness points out.

Witness Major Vukašinović further confirms the foregoing allegations by claiming that, upon learning about what was going on at Ovčara, he addressed Vujović in front of the hangar and told him that those captives had not been delivered to them so as to be beaten and killed; Vujović answered that it was the concern of the Vukovar TO, rather than the concern of the army.

Within the investigation and during the trial, the accused, Jovica Perić, also denies committing the criminal offence, in contrast to his pre-trial statement, where he fully admits the commission of the crime and his involvement therein, and clarifies the roles of the other accused persons whom he saw committing the crime. Acc. Perić claims that he was subjected to permanent psychological tortures while he was giving his first statement and that nothing of what he said on that occasion was true, adding that

all of it was made up by the police, who dictated him whatever he was supposed to say. However, one can hardly imagine that the policemen from Belgrade who interrogated him might have known that in the last group of the executed captives was, among others, a traffic police inspector from Vukovar, whose wife Sandra Marušić was Perić's schoolmate; likewise, the Belgrade police officers could not have been aware of the fact that among the captives imprisoned in the hangar, acc. Jovica Perić recognized his neighbour Ante Bodrožić. On the other hand, it is hard to believe that acc. Jovica Perić could have invented such an elaborate story with such a variety of details.

There is no doubt that, in the light of the foregoing arguments, the subsequently fabricated defense allegations that Perić's first statement was extorted are to be refuted as unfounded.

Within their respective defences, the accused: Milan Lančuzanin, Marko Ljuboja, Predrag Milojević, Predrag Dragović and Miroslav Đanković claim that on the critical occasion they were at Ovčara and that they entered the hangar building. Seeing the captives leaving the hangar and getting on the trailer, they anticipated what was going to happen and therefore left the site.

Concurrently, Milan Lančuzanin claims that in the morning of the date relevant to the indictment, i.e. 20 November 1991, he left for Belgrade, and returned to Vukovar in the evening of the same day, while he did not arrive at Ovčara before the night hours. At one point in time he started following the tractor loaded with the captives, but realizing where it was heading for, he decided to return. All the time together with him on the vehicle were the accused: Milojević, Ljuboja and Dragović, as well as witness Ljubišić; all of the aforementioned individuals confirm Lančuzanin's allegation that they remained together all the time. Lančuzanin further claims that he did not go to Grabovo or take part in the executions; likewise, he denies being involved in the beatings of the prisoners inside the hangar.

The accused, Marko Ljuboja, claims that he entered the hangar because he was curious to see the Croatian combatants against whom he had fought during the war. The situation inside the building was regular, there were no beatings or maltreatment of the war prisoners. The accused: Predrag Dragović, Predrag Milojević and Miroslav Đanković claim not to have beaten the war prisoners or engaged in their executions at Grabovo.

Such defence allegations of the accused are challenged by those of the witnesses-collaborators. Thereby, witness-collaborator no. 1 claims that the accused: Lančuzanin, Milojević, Ljuboja and Dragović were in the group of people who went after the tractor loaded with the captives. Half an hour later, with the exception of acc. Milojević, all of them returned along with the tractor, which was now empty. On that occasion, initially acc. Vujanović and then acc. Dragović, said that they had »done away with the Ustasha cunts«. Arising from the statements of both witnesses-collaborators is the conclusion that, at the time of their stay at the Grabovo pit, together with them was acc. Milojević, who »verified« each of the survivors by a gunshot in the head at the firing range. Additionally, arising from the testimony of witness-collaborator no. 1 is the fact that acc. Milojević deprived a FNU LNU war prisoner of life, by slicing his throat with a knife.

Arising from the statements given by witnesses Marko Ljubišić and Major Branislav Lukić is the fact that on 20 November 1991, at the time of his alleged stay in Belgrade, Lančuzanin actually spent the morning at his command staff in Vukovar, where he instructed witness Ljubišić to go to Ovčara in order to take over the vehicles for the unit, whereas at around noon of the same day he was in the military barracks, where, talking to witness Lukić he said: »You people from the army are going to release these Ustashas as well.«

The witness statement obtained from Nikola Dukić indicates that acc. Lančuzanin was at the pit when one of the captives threw himself on the ground before Lančuzanin's feet begging his mercy, but Lančuzanin kicked him away. Matching Dukić's statement with those obtained within the pre-trial procedure from acc. Jovica Perić and from witness-collaborator no. 2, further to whose allegations all those who were at the pit had to engage in executions and thus oblige themselves to silence, and considering the fact that the four accused at no point separated from each other, it can be concluded that all of the four accused individuals were at the scene of the crime, and that all of them were involved therein.

Arising from the statement given by witness-collaborator no.1 is the fact that the accused, Lančuzanin, engaged in the beating of the war prisoners inside the hangar building; likewise, arising from the statement given by witness-collaborator no.2 is the conclusion that the accused: Predrag Milojević and Predrag Dragović participated in the beating of the prisoners as they were passing between the two lines of people.

Another interesting point to note is the statement given by acc. Marko Ljuboja at the trial of 30 September 2004, wherein he claims (quotation): »Acc. Lančuzanin was operating the vehicle behind the tractor loaded with the captives, and drove all the way through to Grabovo«, while immediately

thereupon he corrects himself by saying: »In fact, acc. Lančuzanin drove all the way through to the place on the road leading to Grabovo where they got stuck, and later drove them back to Vukovar«. The question to be asked at this point is the following: How could Ljuboja possibly know where Grabovo was and which road led to it, when he denies ever being there? Obviously enough, Ljuboja was there, which is duly substantiated by the foregoing facts.

The participation of the accused, Miroslav Đanković, in the beatings and executions of the war prisoners is detailed in the statements of both witnesses-collaborators, who explain where this accused individual was, what he did and how he did it.

Within his defence allegations presented on a number of occasions throughout the investigation and at the trial, the accused, Ivan Atanasijević, denies being in any way involved in the events at the Ovčara farm, while at the trial held on 15 November 2005 he admits to have participated in the executions of the war prisoners, but points out that he did so under coercion. Namely, acc. Atanasijević claims that a volunteer aka »Topola« pointed a rifle at his back, thereby forcing him to shoot. However, these allegations of Atanasijević's are challenged by the aforementioned statements obtained from witness-collaborator no.2 and acc. Jovica Perić in the course of the pre-trial procedure. It is evident that the subsequently fabricated defence presented by acc. Atanasijević is intended to either downsize or deny his criminal responsibility, while such a defence has no grounds in the established facts or in the presented evidence.

Similarly, the accused: Milan Vojnović and Predrag Madžarac claim in their respective defences that they were not involved in the liquidations of the war prisoners. Concurrently, acc. Vojnović admits that on the critical date he was at Ovčara and went inside the hangar building; however, since he did not recognize anyone, he left the place and returned to Vukovar; as for Grabovo, he denies ever visiting it or participating in the executions. Similarly, acc. Madžarac claims that on the stated day he was neither in the barracks, nor at Ovčara, nor at Grabovo.

The defence of the accused, Milan Vojnović, is contradicted by acc. Jovica Perić, who, within his aforementioned pre-trial statement, claims that at the moment of his arrival at Grabovo, the accused, Milan Vojnović, was already at the pit; furthermore, acc. Perić specifies that together with him, shooting at the war prisoners within the same platoon was acc. Vojnović, who remained at Grabovo with acc. Ivan Atanasijević and Mirko Vojnović aka »Čapalo« following acc. Perić's departure from the site.

The defence of the accused, Predrag Madžarac, is challenged by the allegations contained in the statements given by witness Nikola Đukić in the course of the pre-trial and investigation procedures, wherein he claims that acc. Madžarac was in the firing platoon at the Grabovo pit; while in the course of the trial the stated witness can not reassert such allegations, he presents a drawing made at the trial by himself and subsequently attached to the court files, wherein acc. Madžarac's position within the firing platoon is distinctively marked.

In the light of the fact that everyone who came to the pit was forced to engage in the executions, which again was the purpose of their coming to the site, it is clear that both of the accused: Milan Vojnović and Predrag Madžarac were involved in the war prisoners' liquidations.

The accused: Slobodan Katić, Đorđe Šošić and Vujo Zlatar deny committing the criminal offence, claiming that on the day relevant to the indictment they were not at all either at Ovčara or at the Grabovo pit, and therefore did not participate in the war prisoners' executions.

The accused, Vujo Zlatar, claims that at the time relevant to the indictment he was in Serbia, where he was recovering from the consequences of wounding; the accused, Đorđe Šošić, claims that, as early as on 19 November 1991, he returned the arms he had signed for and left Vukovar together with a certain individual named Ivica Andrić aka »Đetić«.

The accused, Slobodan Katić, claims that he has never been to Ovčara. Within the investigation course, in his statement of 12 January 2004, acc. Katić claims to have been in Vukovar all the time since its liberation, and not to have left the city on a single occasion; however, in his subsequent statements acc. Katić changes his allegations by saying that in the period between 18 and 22 November he was in Belgrade visiting a wounded fellow-combatant, whereupon he returned to Vukovar.

The defence of the accused, Vujo Zlatar, is challenged by witness-collaborator no.1, who detailfully explains that, shortly following his arrival at the battlefield, he met acc. Zlatar, detailing the features of Zlatar's face and his general looks. The stated witness further specifies that acc. Zlatar walked with difficulty due to previous wounding, but he nevertheless engaged in the executions; likewise, this witness claims that on the date of the guard brigade's departure from Vukovar, i.e. 24 November 1991, he had a farewell meeting with acc. Zlatar, which excludes a possibility of the latter's rehabilitation treatment in Belgrade at the time.

The defence of acc. Vujo Zlatar in respect of his inability to move or walk at the time of Ovčara events is further contradicted by the findings and opinion of the Belgrade Forensic Institute experts, further to which, upon the completion of his rehabilitation treatment at the Belgrade Military Medical Academy on 18 November 1991, acc. Zlatar was able to walk with both legs, albeit with difficulty and limping, i.e. he was able to move unassisted by other persons or prosthetic devices.

Furthermore, worth of attention is acc. Zlatar's statement given at the trial of 3 September 2004, when, faced with witness-collaborator no.1, acc. Zlatar mentions that one of JNA officers, guard brigade lieutenant Vučković, was in Vukovar all the time, including the date of the guard brigade's withdrawal from the city, i.e. 24 November 1991. It is evident that, despite the medical documentation intended to cover his allegations, acc. Zlatar was not rehabilitating throughout the whole of that period; contrary to that, on the date relevant to the indictment he was in Vukovar, wherein he took part in the executions of the war prisoners.

The defence of the accused, Đorđe Šošić, is disputed by both witnesses-collaborators, who claim that acc. Šošić was at the Grabovo pit, where they saw him slicing the throat of a war prisoner, whereby the latter was deprived of life. In addition to the above, witness Jovan Dulović testifies that on 21 November 1991 Ivica Andrić aka »Đetić« retailed him that the night before, i.e. on 20 November 1991, he had taken part in the executions at Ovčara, whereupon he got hold of various items of jewellery, which he offered Dulović as a gift. This excludes a possibility that the aforementioned person left Vukovar together with acc. Šošić on 19 November 1991. Also coinciding with the foregoing is the witness statement given by Lt.-Col. Milorad Vojnović, wherein he claims to have seen volunteer Ivica Andrić aka »Đetić« in front of the hangar building at Ovčara on 20 November 1991. On the stated occasion, Lt.-Col. Vojnović told acc. Šošić not to brutalize the war prisoners, which challenges acc. Šošić's defence related to the time of his departure from Vukovar.

The defence of acc. Slobodan Katić is disputed by witness-collaborator no.1, who claims that on the date relevant to the indictment acc. Katić was at Ovčara, specifying that he left for Grabovo along with the tractor transporting a load of captives; a short while later, acc. Katić returned with the tractor, which was now empty; returning together with him was a group of persons who had gone to Grabovo beforehand in order to take part in the war prisoners' executions. Among those accompanying acc. Katić were the accused: Vujanović and Dragović, who reported in the name of all that they had »done away with the Ustasha cunts«.

The stay of acc. Katić at Ovčara is further confirmed by the accused, Goran Mugoša, in the course of the investigation. Acc. Mugoša claims that he first met acc. Katić during the war and that the latter was a volunteer from Zemun. Acc. Mugoša also specifies what acc. Katić looked like and what he was wearing on that day. At the trial, however, acc. Mugoša changes his statement, alleging that he was visited in the detention unit by his wife, who on that occasion gave him Katić's regards and reproached him for bringing charges against Katić. Mugoša promised his wife that he was going to correct that, which he subsequently does at the trial of 1 July 2004, by saying that he is not sure as to whether he saw acc. Katić at Ovčara. Indeed, this is hardly worth of any comment.

In his defence, acc. Goran Mugoša denies beating the war prisoners, either while they were passing between the two lines of people or inside the hangar building, and alleges that he only engaged in searching them. Such defence allegations stand in contrast with the statements of both witnesses-collaborators, who unanimously allege that acc. Mugoša did engage in the beating of war prisoners, specifying his particular position within the two lines of the people and the objects which he used for the beating; coinciding with the aforementioned witnesses-collaborators' statements is the testimony obtained from another witness, Ovčara survivor Žarko Kojić.

Mugoša's allegations that he was merely involved in the searching of the war prisoners at the Ovčara farm are further compromised by witness Dragutin Berghofer; in his statement at the trial of 25 October 2004, Berghofer claims that acc. Mugoša initially robbed him of his wristwatch, and then asked him what he had inside his shoes. When the witness replied that he had nothing, acc. Mugoša threatened: »If I happen to find something, I'll cut off your legs«.

Within her defence, the accused, Nada Kalaba, initially denies having at all known at the time where Ovčara was; however, in the course of the trial, upon acc. Miroslav Đanković' claim to have seen acc. Nada Kalaba around the hangar building at Ovčara, she admits having been there, yet denies beating or killing anyone.

Such defence allegations are refuted by the statements of both witnesses-collaborators, who claim that at the time acc. Nada Kalaba deprived a war prisoner of life by a gunshot in the head, and specify that the victim was Kalaba's former boss in a Vukovar department store, who had sacked her several months earlier. Ahead of killing her victim, acc. Nada Kalaba beat him both inside and in front of the hangar



building. The fact that acc. Kalaba engaged in the beating of the stated victim in front of the hangar is further substantiated by the witness statement obtained from Warrant Officer Zoran Stamatović within the trial of 20 June 2005.

By acting in the above described manner, all of the herein accused individuals broke the rules of international law contained in the Third Geneva Convention on the Treatment of War Prisoners passed in 1949 and ratified in 1950, as well as those contained in the 1949 Geneva Conventions Annexed Protocol on Protection of Victims in Noninternational Armed Conflicts, passed in 1977. The stated breaches were committed against the members of the Croatian armed forces, who had previously surrendered themselves to, and got captured by the JNA forces, and thereby had a status of war prisoners. By taking the stated war prisoners over from the JNA forces, all of the herein accused individuals, in the capacity of TO Vukovar members, i.e. the other party to the conflict, gained full power over the war prisoners; the former party was thenceforth obligated to treat the latter in accordance with the rules of international law governing the conduct of war as recognized by the aforementioned Convention, i.e. by its Annexed Protocol. Specifically, they were bound to treat the war prisoners in a humane manner, while they were at all times forbidden to apply any treatment causing injuries to the life or physical integrity of the captives, which particularly refers to killings, tortures, cruel treatment, physical punishments and other acts infringing human dignity.

Noting that, further to the ratification of the aforesated Convention and its Annexed Protocol, the therein described actions are also incriminated by the national legislation, all of the accused individuals, by acting in the herein described manner, committed the criminal offence of war crime against war prisoners under Art. 144 of the FRY Penal Code, which constitutes a crime against humanity and international law.

It is beyond dispute that such a criminal offence can be perpetrated solely by a member of one of the parties to a particular conflict, which certainly refers to each of the herein individuals, those being members of Vukovar TO and volunteer forces. The accused, Nada Kalaba, albeit not immediately belonging to their ranks, was employed by them, and as such falls within the scope of those persons who are subject to charges in respect of the stated criminal offence.

The accountability of each of the accused for their acts at the time of the crime can by no circumstances be placed under doubt.

All of the accused by this indictment committed the stated criminal offence with direct premeditation, since they were aware of the crime and wilfully engaged in its commission; likewise, they were aware of the fact that they were committing a crime against the persons who had a status of war prisoners. By partaking in the joint enterprise, all of the accused acted towards the achievement of a common goal which was unlawful, thereby being directly involved in its commission and intent to jointly perform the offence they are charged with; thus, all of the accused are to be considered as co-perpetrators of the stated criminal offence under Art. 22 of the FRY Penal Code.

Your Honours,

Throughout the entire course of these proceedings, i.e. for more than two years, we have witnessed unnumbered attempts by the accused and their defence counsels to refute all of the presented evidence, suggesting that the charges against them are unfounded, i.e. fabricated since they are bound to be sacrificed, not because of their involvement in the crime or because of their guilt, but merely because of the fact that somebody has to be found guilty; according to their allegations, the charges against the herein accused are the easiest and least painful price to pay for the removal of responsibility from the Yugoslav People's Army and the State.

Such a position of the defence lacks any substantial grounds.

Namely, the herein accused are not charged with what they did not do, i.e. with the crimes which they did not commit. Contrary to that, the presented evidence unambiguously leads to the conclusion that the herein accused persons were undoubted perpetrators of the criminal offence as described in the amended indictment.

Following the end of the war, the herein accused individuals were overcome by a strange and pervading atmosphere of euphoria which was largely felt in the days immediately after the war. Such an atmosphere is perhaps best depicted in the statement given by witness Darko Fot, whose brother was killed in the war, wherein he says (quotation): »It was a time of chaos and confused feelings, there were lots of armed people all around, anybody could shoot and get shot, and in an unexplicable way we were eager for blood. I was not at Ovčara at the time, but had I been there, I do not know whether I would have been able to refrain from shooting. There had been too much pain to be simply left behind, and perhaps I was even pleased to learn that the captives had been executed«.

Evident enough, things went out of control, and anybody could do anything without being charged.

The herein accused individuals believed that they were entitled to take justice in their own hands.

They believed they could act as judges outside the court.

At the time they were strong enough to do that.

Murder in itself is the most serious crime since a lost life can not be restituted, while the murder of the defenceless and imprisoned is even worse than that.

The herein accused persons have often been regarded as brave warriors, rescuers of the children and people trapped under the ruins of the city. Even if that once used to be true, it was annulled by what they did at Ovčara.

To beat and kill the defenceless and unarmed have never been, and shall never be, regarded as acts of courage.

In the course of the proceedings, we have heard a number of witnesses claiming that the accused are heroes and that in truly patriotic countries streets would be named after them; let me, however, remind you once again that the ones being tried here are not heroes, since heroes do not kill or beat those who are not able to defend themselves.

The herein accused persons are mistaken if they expect us to believe that they went to the Ovčara farm solely in order to find their relatives or friends, or that they went there out of curiosity, and that they, once having come there, took the opportunity to rescue some of the captives from the hangar.

Quite contrary, they went to Ovčara in order to revenge on those whom they viewed as their enemies in the war conflict, or with whom they wanted to settle some personal accounts.

By encouraging the accused to further close their eyes before the Ovčara events, wherein they were directly and immediately involved, those supporting the defence allegations only maintain the accused in the misbelief that they will manage to evade criminal responsibility.

Contrary to such expectations, in no case shall their hopes be fulfilled.

The outcome of these proceedings shall serve as a clear warning and a message to everyone. This much is to be said about general prevention.

As for individual prevention, there is still a chance, and it is not yet too late for the accused to tell us what they did at Ovčara, in whose name or to which goal they did it. If they fail to do so, there is only one possible response to that hatred, rage, arrogance and brutality: maximum sentence.

I hold that only the most severe punishment anticipated for this criminal offence can serve the purpose of punishing. In any case, these are time sentences, which means that one day the accused will come out of prison, while the captives from the Ovčara hangar were never given that chance.

In conclusion, let me say this:

By acting in a most professional way, the War Crimes Prosecutor's Office made its best efforts to convince all, and primarily the War Crimes Chamber, in the validity of its arguments, thereby bringing the indispensable, though never sufficient, ray of justice into the homes of the victims' families.

This trial is intended to protect basic civilization values and justice. In this way the community, which itself has all too often kept its eyes closed before the perpetrated crimes, will be reminded of the fact that justice is always attainable, and that the individuals who took the liberty of committing such crimes have actually committed the most serious crime against their own people.

Every crime must be appropriately punished. If we close our eyes before crimes against humanity now, we shall not only stimulate similar acts in the future, but also burden some future generations with the events in which they did not take part. Crimes are to be punished for the benefit of justice and truth, and against atrocities and plunderage.

Finally, let me say that I expect our counterparts in the region to join us in fighting the crime towards the achievement of our common goals and interests, which is the due sentencing of crimes against humanity.

There is no doubt that, without facing the past and doing away with its evil heritage, our step into the future will be far more difficult and uncertain.

Vladimir Vukčević,  
War Crimes Prosecutor

Dušan Knežević,  
Deputy War Crimes Prosecutor