



Republic of Serbia
Office of the War Crimes Prosecutor

**DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER**

13 April 2005

Pursuant to my authority under Article 46, Paragraph 2, Item 3, in relation to Art. 265, Para. 1 and Art. 266 of the Criminal Procedure Act, I herein raise the

INDICTMENT

Against Saša RADAK

BECAUSE HE COMMITTED THE FOLLOWING:

In the period between the afternoon of 20 November and the early morning hours of 21 November 1991, at the Ovčara farm in Vukovar, the then Republic of Croatia being part of the former SFRY, as a member of a volunteer unit of the then Yugoslav People's Army (hereinafter: JNA), the aforementioned accused person broke the rules of international law in a state of war, which was underway in that region, and which did not have the character of an international conflict, acting in contravention of Art. 3, Para. 1, Items (a) and (c), and Art. 4, Paras. 1, 2 and 4 of the III Geneva Convention of 1949 on the treatment of war prisoners, which was ratified by the then FPRY National Assembly in 1950; and acting in contravention of Art. 4, Paras. 1 and 2, Items (a) and (e) of the Annexed Protocol to the Geneva Convention of 1949 on protection of victims in non-international armed conflicts, passed on 8 June 1977 (Official Gazette of SFRY, No. 16/78 – International Contracts); alongside the following members of the Vukovar Territorial Defence: Miroljub VUJOVIĆ, Stanko VUJANOVIĆ, Miroslav ĐANKOVIĆ, Milan BULIĆ, Goran MUGOŠA, Vujo ZLATAR, Jovica PERIĆ, Predrag MADŽARAC, Ivan ATANASIJEVIĆ (named Ivica HUSNIK at the time), Milan VOJINOVIĆ, aided and abetted by the following members of »Leva Suhoderica« volunteer unit: Milan LANČUŽANIN, Marko LJUBOJA, Slobodan KATIĆ and Predrag DRAGOVIĆ, the latter four being tried before this Chamber upon two Indictments (ref. KTRZ 3/03 and 4/03), raised by the War Crimes Prosecutor's Office, and co-acting with a number of FNU LNU persons, the aforementioned accused person performed the killings, injuries of physical integrity and inhumane treatment infringing human dignity in respect of war

prisoners, previously transported from Vukovar Hospital and including members of the Croatian armed forces, militias, volunteer units, organized resistance movements, the JNA troops who had previously surrendered their arms, as well as persons escorting these armed forces though not directly belonging to their ranks,

And thereby

He beat and physically injured the war prisoners while they were made to run the gauntlet prior to entering the hangar, which he continued doing inside the hangar;

subsequently, when the captives were listed and transported in tractors to Grabovo, which is approximately 1 km away from Ovčara, acting as a member of a shooting platoon, he killed them, which he also did with the last group of approximately 10 war prisoners in front of the Ovčara hangar,

Thereby depriving 200 (two hundred) persons of life, out of whom the following 192 (one hundred and ninety-two) have been identified:

- 1 ADŽAGA (Ilija) JOZO, born 21/05/1949
- 2 AHMETOVIĆ (Ismet) IVO, born 1968
- 3 ANDRIJANOVIĆ (Marko) VINKO, born 09/02/1953
- 4 ARNOLD (Alojz) KREŠIMIR, born 18/04/1958
- 5 ASAĐANIN (Jovan) ILIJA, born 01/01/1950
- 6 BABIĆ (Josip) DRAŽEN, born 01/10/1966
- 7 BAINRAUCH (Stjepan) IVAN, born 21/06/1956
- 8 BAINRAUCH (Franjo) TOMISLAV, born 13/12/1938
- 9 BALAŠ (Andrija) STJEPAN, born 01/05/1956
- 10 BALOG (Josip) DRAGUTIN, born 19/06/1974
- 11 BALOG (Dragutin) JOSIP, born 25/11/1928
- 12 BALOG (Ivan) ZVONIMIR, born 10/01/1958
- 13 BALVANAC (Andrija) ĐURO, born 17/07/1952
- 14 BANOŽIĆ (Drago) BORIS, born 02/02/1967
- 15 BARNJAJI (Ratko) PERO, born 19/06/1968
- 16 BARBARIĆ (Jozo) BRANKO, born 01/11/1967
- 17 BARBIR (Ivan) LOVRO, born 01/11/1935
- 18 BARIĆ (Đuro) ĐUKA, born 26/12/1950
- 19 BARIŠIĆ (Andrija) FRANJO, born 28/05/1946
- 20 BARTA (Ivan) ANĐELKO, born 31/01/1967
- 21 BATARELO (Ante) ŽELJKO, born 25/10/1955
- 22 BAUMGERTNER (Tomislav) TOMISLAV, born 27/11/1973
- 23 BEGČEVIĆ (Ivo) MARKO, born 01/04/1968
- 24 BEGOV (Mate) ŽELJKO, born 30/09/1958
- 25 BINGULA (Stjepana) STJEPAN, born 15/10/1958

26 BJELANOVIĆ (Nikola) RINGO, born 24/11/1970
27 BLAŽEVIĆ (Zdenko) ZLATKO, born 24/02/1964
28 BODROŽIĆ (Marijan) ANTE, born 07/06/1953
29 BOSAK (Juraj) MARKO, born 02/07/1967
30 BOSANAC (Vladislav) DRAGUTIN, born 21/08/1919
31 BOSANAC (Antun) TOMISLAV, born 05/03/1941
32 BRAČIĆ (Ivan) ZVONIMIR, born 04/07/1970
33 BUOVAC (Ilija) IVAN, born 03/09/1966
34 BUKVIĆ (Đuro) ĐORĐE, born 03/05/1966
35 CRNJAC (Slavko) IVAN, born 18/05/1966
36 ČOLAK (Blago) IVICA, born 26/09/1965
37 ČUPIĆ (Boško) STANOJE, born 12/10/1953
38 DALIĆ (Zvonko) TIHOMIR, born 02/11/1966
39 DOLIŠNI (Petar) IVICA, born 27/11/1960
40 DRAGUN (Srećko) JOSIP, born 09/09/1962
41 DUVNJAK (Vladimir) STANKO, born 23/05/1959
42 ĐUDAR (Đuro) SAŠA, born 05/03/1968
43 ĐUKIĆ (Ivan) VLADIMIR, born 21/02/1948
44 EBNER (Vinko) VINKO-ĐURO, born 07/04/1961
45 FRISČIĆ (Matija) DRAGUTIN, born 02/11/1958
46 FURUNDŽIJA (Danko) PETAR, born 30/11/1949
47 GAJDA (Mihajlo) ROBERT, born 27/12/1966
48 GALIĆ (Mate) MILENKO, born 10/12/1965
49 GALIĆ (Ivan) VEDRAN, born 29/05/1973
50 GAVRANOVIĆ (Ivan) BORISLAV, born 23/11/1954
51 GAVRIĆ (Pavo) DRAGAN, born 31/10/1956
52 GLAVAŠEVIĆ (Petar) SINIŠA, born 04/11/1960
53 GRAF (Vladimir) BRANISLAV, born 07/09/1955
54 GRANIĆ (Mile) DRAGAN, born 01/01/1960
55 GRUBER (Ilija) ZORAN, born 05/09/1969
56 GUDELJ (Ivan) DRAGO, born 09/09/1940
57 HEGEDUŠIĆ (Dragutin) MARIO, born 29/06/1972
58 HERCEG (Slavko) ŽELJKO, born 20/01/1962
59 HERMAN (Dragutin) IVAN, born 14/05/1969
60 HERMAN (Antun) STJEPAN, born 10/03/1955
61 HLEVNJAK (Anđelko) NEDELJKO, born 08/01/1964
62 HOLJEVAC (Ivan) NIKICA, born 10/04/1955
63 HORVAT (Josip) IVICA, born 27/11/1958
64 ILEŠ (Ivan) ZVONKO, born 12/12/1941
65 IMBRIŠIĆ (Pavle) IVICA, born 13/02/1958
66 IVEZIĆ (Ivan) ALEKSANDER, born 05/12/1950
67 JAJALO (Ivan) MARKO, born 28/10/1957
68 JAKUBOVSKI (Ivan) MARTIN, born 01/04/1971

69 JAMBOR (Dragutin) TOMO, born 03/03/1966
70 JANIĆ (Antun) MIHAEL, born 09/10/1939
71 JANTOL (Đuro) BORIS, born 21/09/1959
72 JARABEK (Kamil) ZLATKO, born 21/04/1956
73 JEZIDŽIĆ (Stipe) IVICA, born 05/11/1957
74 JOVAN (Vlatko) ZVONIMIR, born 07/04/1967
75 JOVANOVIĆ (Todor) BRANKO, born 04/02/1955
76 JOVANOVIĆ (Đuro) OLIVER, born 08/12/1972
77 JURELA (Tomislav) DAMIR, born 25/04/1969
78 JURELA (Božo) ŽELJKO, born 30/06/1956
79 JURENDIĆ (Jure) DRAGO, born 23/04/1966
80 JURIŠIĆ (Franjo) MARKO, born 17/08/1946
81 JURIŠIĆ (Pavo) PAVAO, born 28/08/1966
82 JURIŠIĆ (Rudo) ŽELJKO, born 20/12/1963
83 KAČIĆ (Petar) IGOR, born 23/08/1975
84 KAPUSTIĆ (Josip) JOSIP, born 08/12/1965
85 KELAVA (Antun) KREŠIMIR, born 17/01/1953
86 KNEŽIĆ (Franjo) ĐURO, born 02/04/1937
87 KOLAK (Dobroslav) TOMISLAV, born 22/07/1962
88 KOLAK (Dobroslav) VLADIMIR, born 20/01/1966
89 KOMORSKI (Pero) IVAN, born 23/06/1952
90 KOSTOVIĆ (Ante) BORISLAV, born 24/12/1962
91 KOVAČ (Mate) IVAN, born 18/06/1953
92 KOVAČEVIĆ (Zlato) ZORAN, born 16/04/1962
93 KOŽUL (Franjo) JOSIP, born 08/03/1968
94 KRAINOVIĆ (Luka) Ivan, born 14/10/1966
95 KRAINOVIĆ (Ante) ZLATKO, born 04/12/1969
96 KRASIĆ (Petar) IVAN, born 18/06/1964
97 KREZO (Hrvoje) IVICA, born 10/09/1963
98 KRISTIČEVIĆ (Branko) KAZIMIR, born 13/06/1959
99 LESIĆ (Branko) MIHAJLO, born 10/05/1950
100 LET (Đuro) MIHAJLO, born 25/04/1956
101 LILI (Dragutin) DRAGUTIN, born 26/01/1951
102 LOVRIĆ (Lovre) DRAGUTIN, born 26/01/1951
103 LUCIĆ (Mijo) MARKO, born 08/09/1954
104 LUKIĆ (Marko) MATO, born 02/02/1963
105 LJUBAS (Luka) HRVOJE, born 26/01/1971
106 MAGOČ – MAMIĆ (Mihajlo) PREDRAG, born 18/12/1965
107 MAJOR (Stjepan) ŽELJKO, born 14/12/1960
108 MARIČIĆ (Marko) ZDENKO, born 27/09/1956
109 MARKOBAŠIĆ (Pera) RUŽICA, born 28/09/1959
110 MEDEŠI (Janko) ANDRIJA, born 16/10/1936
111 MEDEŠI (Andrija) ZORAN, born 09/09/1940

112 MIHOVIĆ (Gašpar) TOMISLAV, born 23/06/1952
113 MIKULIĆ (Slavko) ZDRAVKO, born 15/03/1961
114 MIŠIĆ (Marko) IVAN, born 22/12/1968
115 MLINARIĆ (Pavo) MILE, born 05/12/1966
116 MOKOŠ (Stevan) ANDRIJA, born 16/11/1955
117 MOLNAR (Stjepan) ALEKSANDAR, born 08/04/1965
118 MUTVAR (Antun) ANTUN, born 30/01/1969
119 NAĐ (Vladimir) DARKO, born 27/02/1965
120 NAĐ (Franjo) FRANJO, born 17/08/1935
121 NEJAŠMIĆ (Milan) IVAN, born 19/10/1958
122 OMERVIĆ (Jusuf) MERSAD, born 01/01/1970
123 OMERVIĆ (Džemal) MUFAT, born 19/11/1963
124 OREŠKI (Stjepan) VLADISLAV, born 19/05/1967
125 PAP (Andrija) TOMISLAV, born 01/01/1963
126 PATARIĆ (Nikola) ŽELJKO, born 16/07/1959
127 PAVLIĆ (Adam) SLOBODAN, born 24/09/1965
128 PAVLOVIĆ (Đura) ZLATKO, born 19/11/1963
129 PERAK (Ante) MATO, born 28/11/1961
130 PERKO (Branko) ALEKSANDAR, born 17/03/1967
131 PERKOVIĆ (Josip) DAMIR, born 28/10/1965
132 PERKOVIĆ (Jure) JOSIP, born 24/03/1963
133 PETROVIĆ (Stanko) STJEPAN, born 26/10/1949
134 PINTER (Nikola) NIKOLA, born 04/10/1940
135 PLAVŠIĆ (Mate) IVAN-ZVONIMIR, born 24/03/1939
136 POLHERT (Ivan) DAMIR, born 22/11/1962
137 POLJAK (Ignac) VJEKOSLAV, born 06/08/1961
138 POLOVINA (Vojin) BRANIMIR, born 22/06/1950
139 POSAVEC (Gustav) STANKO, born 09/04/1952
140 PODHORSKI (Stjepan) JANJA, born 17/11/1931
141 PRAVDIĆ (Pero) TOMO, born 11/01/1934
142 PUCAR (Nikola) DMITAR, born 18/01/1949
143 RAGUŽ (Antun) IVAN, born 22/04/1955
144 RADAČIĆ (Slavko) IVAN, born 01/01/1955
145 RAŠIĆ (Franjo) MILAN, born 16/04/1954
146 RATKOVIĆ (Milan) KREŠIMIR, born 04/03/1968
147 RIBIČIĆ (Ivan) MARKO, born 11/11/1951
148 RIMAC (Slavko) SALVADOR, born 06/11/1960
149 ROHAČEK (Antun) KARLO, born 21/10/1942
150 ROHAČEK (Karlo) ŽELJKO, born 16/05/1971
151 SPUDIĆ (Ivan) PAVAO, born 17/07/1965
152 STANIĆ (Mate) MARKO, born 02/08/1958
153 STANIĆ (Niko) ŽELJKO, born 23/06/1968
154 STEFANKO (Vasilj) PETAR, born 05/05/1942

155 STOJANOVIĆ (Živko) IVAN, born 19/03/1949
156 STUBIČAR (Vladimir) LJUBOMIR, born 12/07/1954
157 ŠARIK (Štefan) STJEPAN, born 02/04/1955
158 ŠIMUNIĆ (Marko) PERO, born 30/09/1943
159 ŠINDILJ (Vladimir) VJEKOSLAV, born 01/11/1971
160 ŠRENK (Gabrijel) ĐURO, born 21/04/1943
161 ŠTEFULJ (Juraj) DRAŽEN, born 01/01/1963
162 TADIĆ (Jozo) TADIJA, born 26/08/1959
163 TARLE (Jozo) DUJO, born 06/05/1950
164 TEREK (Božidar) ANTUN, born 06/10/1940
165 TIŠLJARIĆ (Toma) DARKO, born 01/06/1971
166 TIVANOVAC (Pavo) IVICA, born 22/02/1963
167 TOMAŠIĆ (Albin) TIHOMIR, born 04/07/1963
168 TORDINAC (Ivan) ŽELJKO, born 14/12/1961
169 TOT (Eugen) TOMISLAV, born 06/06/1967
170 TRALJIĆ (Petar) TIHOMIR, born 17/07/1967
171 TURK (Petar) PETAR, born 30/06/1947
172 TURK (Antun) MIROSLAV, born 12/04/1950
173 TUSTONJIĆ (Jozo) DANE, born 10/10/1959
174 UŠAK (Martin) BRANKO, born 17/07/1958
175 VAGENHOFER (Josip) MIRKO, born 03/06/1937
176 VARENICA (Franjo) ZVONKO, born 19/05/1957
177 VARGA (Josip) VLADIMIR, born 09/08/1944
178 VASIĆ (Đorđe) MIHAJLO, born 12/12/1963
179 VEBER (Vladimir) SINIŠA, born 22/02/1969
180 VIDOŠ (Mate) GORAN, born 04/10/1960
181 VIRGES (Antun) ANTUN, born 09/06/1953
182 VLAHO (Drago) MATE, born 03/02/1959
183 VLAHO (Marko) MIROSLAV, born 30/12/1967
184 VOLODER (Ljubo) ZLATAN, born 23/11/1960
185 VUJEVIĆ (Antun) ZLATKO, born 28/10/1951
186 VUKOJEVIĆ (Josip) SLAVEN, born 23/06/1970
187 VUKOVIĆ (Rudolf) RUDOLF, born 18/11/1961
188 VULIĆ (Ante) IVAN, born 18/07/1946
189 ZERA (Vaselj) MIHAJLO, born 07/08/1955
190 ZELJKO (Danko) JOSIP, born 14/03/1953
191 ŽERAVICA (Stjepan) DOMINIK, born 11/11/1959
192 ŽUGEČ (Mato) BORISLAV, born 21/11/1963

- Thereby perpetrating the criminal offence of war crime against war prisoners recognized by Article 144 of the SFRY Criminal Code, in relation to Article 22 of the SFRY Criminal Code.

For the foregoing reasons, I

PROPOSE

That a public trial be scheduled and held before this Court, whereto the following subjects should be summoned:

I – War Crimes Prosecutor

II – Defendant Saša RADAK, who is to be taken to the Court from the District Prison in Belgrade, and assisted by his defence counsel

III – Witnesses

IV – Court experts

The evidentiary procedure should include the following:

Pursuant to the provision under Art. 33 Para. 6 of the Criminal Procedure Act, comprehensive proceedings should be conducted and a common judgement should be rendered upon this Indictment and the Indictment Ref. No. KTRZ 3/03 raised by this Prosecutor's Office, since criminal proceedings No. 1/03 are being conducted by the Crime Chamber upon both of these Indictments, given the fact that they refer to the same criminal event with the available common evidence.

I further propose that pursuant to Article 142, Paragraph 1, Item 1 of the Criminal Procedure Act, detention should be extended to the defendant.

Statement of Reasons

The existence of the criminal offence of War Crime against War Prisoners recognized by Art. 144 of the SFRY Criminal Code in the time, manner and place specified in the ordering part of this Indictment, as well as the defendant's responsibility for the commission of this criminal offence, were established throughout the investigation conducted against the defendant.

Before the investigating judge, the defendant claimed that he was not thoroughly familiar with the charges against him, expressed his belief that he had been falsely accused by someone and stated his wish to defend himself by silence.

The results of the conducted investigation provide grounds for the conclusion that at the time of the stated event, in the territory of Eastern Slavonia – the Vukovar Municipality in the then SFRY, there was an armed conflict between the JNA forces,

Vukovar Territorial Defence and volunteer units on one side, and the Croatian forces on the other, including armed forces, volunteers, National Guard units, members of the Police, Territorial Defence and Civil Protection units, as well as subjects escorting these formations. This conflict did not have a character of an international conflict, given the fact that the Republic of Croatia was recognized by the international community as an independent state in the course of 1992, whereby the issue provoking the armed conflict was definitely resolved.

The conclusion arising from the files is that all of the so-far accused persons were members of the TO Vukovar armed forces and volunteer units, thereby constituting the latter side in the conflict in case. On the eighteenth day of November 1991, some members of the Croatian armed forces laid down their arms and surrendered themselves to the JNA forces, thereupon being transferred to the Ovčara farm and subsequently taken over by TO Vukovar members. In view of these facts, it is evident that the surrendered and captured members of the Croatian armed forces had the status of war prisoners. Overtaking these captives from the JNA armed forces and acting as the opposed party in the conflict, the members of TO Vukovar and volunteer units obtained full control over the war prisoners, thereafter being obliged to treat them in accordance with the rules of international war law.

Namely, the government representatives of the states participating in the Geneva Diplomatic Conference, held between 21 April and 12 August 1949 and resulting in the passage of the Convention on Protection of Civilians in a State of War, agreed and obliged themselves pursuant to Article 1 of this Convention, to universally respect and apply its provisions. Further to Article 3 of this Convention, the Signing Parties agreed that, should an armed conflict that is not international by its character break out in their territory, each party in the conflict is obliged to treat the subjects who are not directly involved in the conflict in a humane and non-discriminatory manner on all occasions. To this end, it is at all times and places forbidden to treat war prisoners, these not being directly involved in the armed conflict, in a manner infringing their life and physical integrity, which specifically refers to all kinds of killing, crippling, brutality and torture.

Pursuant to Article 4 of the Annexed Protocol to the Geneva Conventions of 1949 (Official Gazette of SFRY, International Agreements No. 16/78), all those who are not, or have ceased to be, directly involved in hostilities, are entitled to the respect of their personal dignity, and thereby it is at any time or place forbidden to infringe their lives, health, physical or mental integrity, which specifically refers to the commission of murders, brutality, all forms of physical punishment, violation of human dignity, humiliating and degrading acts, as well as any improper attacks.

In view of this, each of the victims of the crimes the herein accused persons are charged with, i.e. each of the captives at the Ovčara farm, had the status of

»protected subjects« pursuant to the Geneva Conventions, since they, being members of one conflicted party, surrendered their arms and placed themselves under the control of the other – TO Vukovar members.

Such a status was to have been retained until the captives' final release or repatriation, whereby the accused persons were obliged to provide the victims with certain rights arising from their status, and to guarantee them the implementation of such rights.

However, such rights were not respected by the defendant and his aforementioned collaborators, who positioned themselves in two lines and forced the captives to pass in between, beating them as they passed with objects suitable for inflicting serious physical injuries, such as metal bars, clubs and rifle butts; thereafter they continued brutalizing their victims inside the hangar building, with the intention to humiliate, torture and injure them, thus infringing their dignity and acting in contravention of Article 27 of the Fourth Geneva Convention, which prescribes humane treatment of protected subjects at all times.

Beside such breaches, the defendant committed the killings of war prisoners in the manner specified in the ordering part of this Indictment.

Considering the fact that the acts described by the aforementioned Convention and its Annexed Protocol are also incriminated by the national legislation further to the Convention ratification, the defendant committed, in the previously described manner, a criminal offence of war crime against war prisoners recognized by Article 144 of the SFRY Criminal Code, the stated offence representing a war crime against humanity and international law.

The defendant committed this criminal offence consciously, since he was fully aware of his act and determined to perform it, as he knew that in the particular case he was perpetrating a criminal offence against persons who had the status of war prisoners. Participating in a joint enterprise, in co-action with the aforesaid members of the TO Vukovar and volunteer units, the defendant acted towards the achievement of a common goal, which was unlawful, thus directly taking part in the commission of the criminal offence which is the subject of this Indictment, and therefore is to be regarded as a co-perpetrator of the stated criminal offence under Article 22 of the SFRY Criminal Code.

In view of a sentence anticipated for this criminal offence, there are substantial grounds for the defendant's extended detention, pursuant to Article 142, Paragraph 1, Item 1 of the Criminal Procedure Act.

Considering the aforementioned, I find that the collected data referring to the

criminal offence and to the defendant himself as the perpetrator of this offence, offer sufficient grounds for the raising of this Indictment.

WAR CRIMES PROSECUTOR
Vladimir Vukčević