



Republic of Serbia
Office of the War Crimes Prosecutor

DISTRICT COURT IN BELGRADE
WAR CRIMES CHAMBER

8 April 2008

Pursuant to my authority under Article 265 (1) re Article 46 (2.3) of the Act on Criminal Procedure, I hereby raise the

INDICTMENT

Against Milorad PEJIĆ, son of Stojan and Ana (née Stevanović), born in Vukovar on 4 April 1969; locksmith and father of two; citizen of Croatia and Great Britain, with residence in Great Britain, at 36 Rubens Walk, Corby, Northants NN 180 SQ; no criminal record; currently in detention further to ruling no. Ki.V.2/03 of 6 September 2008, rendered by the investigative judge of the Belgrade District Court – War Crimes Chamber, the ruling being effective as of 19 March 2008, when he was deprived of liberty.

ALLEGATIONS AND CHARGES

This indictment charges the events which occurred at the Ovčara farm outside Vukovar, in the Republic of Croatia – part of the former Socialist Federal Republic of Yugoslavia (SFRY) – between the afternoon of 20 November and morning of 21 November 1991. As a member of the Vukovar territorial defence force (TO), which was part of the Yugoslav People's Army (JNA), the accused, Miroslav PEJIĆ, was present at Ovčara at the said time, along with other members of his unit, specifically the following accused individuals: Miroljub VUJOVIĆ, Stanko VUJANOVIĆ, Miroslav ĐANKOVIĆ, Vujo ZLATAR, Jovica PERIĆ, Predrag MADŽARAC and Milan VOJNOVIĆ. Beside the foregoing TO members, present at Ovčara were members of the volunteer unit named »Leva Supoderica«, namely the following accused: Milan LANČUŽANIN, Marko LJUBOJA, Predrag MILOJEVIĆ, Slobodan KATIĆ, Predrag DRAGOVIĆ, Ivan ATANASIJEVIĆ (whose name at the time was Ivica HUSNIK), Đorđe ŠOŠIĆ, Nada KALABA and Saša RADAK (the case against the latter two has been conducted separately), as well as a number of FNU LNU persons. The events at issue took place within a broader context of a noninternational

armed conflict which existed in the region at the time. By his participation in these events, PEJIĆ committed serious breaches recognised by the following acts and provisions:

Articles 3 (1.a) and 4 (1,2,4) of the Third Geneva Convention on the Treatment of War Prisoners (1949), which was ratified in 1950 by the National Assembly of the Federal People's Republic of Yugoslavia (FNRJ); and

Article 4 (1,2.a) of the Additional Protocol to the 1949 Geneva Conventions, which governs the protection of victims in noninternational armed conflicts, of 8 June 1977 (SFRJ Official Gazette No. 16/78 – International Treaties).

In a joint action with other members of his unit, PEJIĆ engaged in the murders of war prisoners from Vukovar hospital, who, after surrendering their weapons to JNA troops, had been handed over to the Vukovar TO force, which included Croatian armed forces, militias, volunteer units and individuals who escorted the armed forces though not being their constituent part.

In particular,

Groups of war prisoners were loaded in turn into a truck and transported to the site of Grabovo, cca. 1 km away from Ovčara, where they came under fire of a previously formed shooting platoon. Part of the shooting platoon, PEJIĆ also engaged in the shooting, whereby he deprived of life a number of persons.

In the aftermath of the above operation, 200 (two hundred) persons were deprived of life, out of whom 192 (one hundred and ninety-two) have been positively identified. Their names, with their fathers' names in parentheses, and their dates of birth are as follows:

1. Adžaga, Jozo (Ilija) - 21/05/49
2. Ahmetović, Ismet-Ivo (Marijan) - 14/11/68
3. Andrijanić, Vinko (Marko) - 09/02/53
4. Arnold, Krešimir (Alojz) - 18/04/58
5. Asađanin, Ilija (Jovan-Jožika) - 05/07/52
6. Babić, Dražen (Josip) - 01/10/66
7. Bainrauh, Ivan (Stjepan) - 21/06/56
8. Bajnrauh, Tomislav (Franjo) - 13/12/38
9. Balaš, Stjepan (Andrija) - 01/05/56
10. Balog, Dragutin (Josip) - 19/06/74
11. Balog, Josip (Dragutin) - 25/11/28
12. Balog, Zvonko (Ivan) - 10/01/58
13. Balvanac, Đuro (Andrija) - 17/07/52

14. Banožić, Boris (Drago) - 02/02/67
15. Baranjaji, Pero (Ratko) - 19/06/68
16. Barbarić, Branko (Jozo) - 01/11/67
17. Barbir, Lovro (Ivan) - 11/11/35
18. Barić, Đuka (Đuro) - 26/12/50
19. Barišić, Franjo (Andrija) - 28/03/40
20. Barta, Anđelko (Ivan) - 31/01/67
21. Batarelo, Željko (Ante) - 25/10/55
22. Baumgertner, Tomislav (Tomislav) - 27/11/73
23. Begčević, Marko (Ivo) - 01/04/68
24. Begov, Željko (Mato) - 30/09/58
25. Bingula, Stjepan (Stjepan) - 15/10/58
26. Bjelanović, Ringo (Nikola) - 24/11/70
27. Blažević, Zlatko (Zdenko) - 24/02/64
28. Kruneš, Branimir - 1966
29. Bosak, Marko (Juraj) - 02/07/67
30. Bosanac, Dragutin (Vladislav) - 21/08/19
31. Bosanac, Tomislav (Antun) - 05/03/41
32. Bračić, Zvonimir (Ivan) - 04/07/70
33. Bukvić, Đorđe (Đuro) - 03/05/66
34. Buovac, Ivan (Ilija) - 03/09/66
35. Crnjac, Ivan (Slavko) - 18/03/66
36. Mihalec, Josip - 1926
37. Čupić, Stanoje (Boško) - 12/10/53
38. Dalić, Tihomir (Zvonko) - 02/11/66
39. Dolišni, Ivica (Petar) - 27/11/60
40. Dragun, Josip (Srečko) - 09/09/62
41. Đuđar, Saša (Đuro) - 05/03/68
42. Đukić, Vladimir (Ivan) - 21/02/48
43. Duvnjak, Stanko (Vladimir) - 23/05/59
44. Ebner, Vinko-Đuro (Vinko) - 01/01/61
45. Friščić, Dragutin (Matija) - 02/11/58
46. Furundžija, Petar (Danko) - 30/11/49
47. Gajda, Robert (Mihajlo) - 27/12/66
48. Galić, Milenko (Mato) - 10/12/65
49. Galić, Vedran (Vladimir) - 29/05/73
50. Garvanović, Borislav (Ivan) - 23/11/54
51. Gavrić, Dragan (Pavo) - 31/10/56
52. Glavašević, Siniša (Petar) - 04/11/60
53. Graf, Branislav (Vladimir) - 07/09/54
54. Granić, Dragan (Milo) - 01/01/60
55. Gruber, Zoran (Ilija) - 05/09/69
56. Gudelj, Drago (Ivan) - 09/09/40

57. Hegedušić, Mario (Dragutin) - 29/06/72
58. Herceg, Željko (Slavko) - 20/01/62
59. Herman, Ivan (Dragutin) - 14/05/69
60. Herman, Stjepan (Antun) - 10/03/55
61. Hlevnjak, Nedeljko (Anđelko) - 08/01/64
62. Holjevac, Nikica (Ivan) - 10/04/55
63. Horvat, Ivica (Josip) - 17/11/58
64. Ileš, Zvonko (Ivan) - 12/12/41
65. Imbrišić, Ivica (Pavle) - 13/02/58
66. Ivezić, Aleksandar (Ivan) - 05/12/50
67. Jajalo, Marko (Ivan) - 28/10/57
68. Jakubovski, Martin (Ivan) - 01/04/71
69. Jambor, Tomo (Dragutin) - 03/03/66
70. Janić, Mihael (Antun) - 09/10/39
71. Jantol, Boris (Đuro) - 21/09/59
72. Jarabek, Zlatko (Kamilo) - 21/04/56
73. Jezidžić, Ivica (Stipe) - 05/11/57
74. Jovan, Zvonimir (Vlatko) - 07/04/67
75. Jovanović, Branko (Todor) - 04/02/55
76. Jovanović, Oliver (Đuro) - 08/12/72
77. Jurela, Damir (Tomislav) - 25/04/69
78. Jurela, Željko (Božo) - 30/06/56
79. Jurendić, Drago (Jure) - 23/04/66
80. Jurišić, Marko– Josip (Franjo) - 17/09/46
81. Jurišić, Pavao (Pavao) - 28/08/66
82. Jurišić, Željko (Rado) - 20/12/63
83. Kačić, Igor (Petar) - 23/08/75
84. Kapustić, Josip (Josip) - 08/12/65
85. Kelava, Krešimir (Ante) - 17/01/53
86. Knežić, Đuro (Franjo) - 02/04/37
87. Kolak, Tomislav (Dobroslav) - 22/07/62
88. Kolak, Vladimir (Dobroslav) - 20/01/66
89. Komorski, Ivan (Pero) - 23/06/52
90. Kostović, Borislav (Ante) - 24/12/62
91. Kovač, Ivan (Mato) - 28/06/53
92. Kovačević, Zoran (Zlatko) - 16/04/62
93. Kožul, Josip (Frano) - 08/03/68
94. Krajinović, Ivan (Luka) - 14/10/66
95. Krajinović, Zlatko (Ante) - 04/12/69
96. Krasić, Ivan (Petar) - 18/06/64
97. Krezo, Ivica (Hrvoje) - 10/09/63
98. Krističević, Kazimir (Branko) - 13/06/59
99. Lesić, Tomislav (Branko) - 10/05/50

100. Let, Mihajlo (Đuro) - 25/04/56
101. Lili, Dragutin (Dragutin) - 26/01/51
102. Lovrić, Joko (Ivo) - 06/11/68
103. Lucić, Marko (Mijo) - 08/09/54
104. Lukić, Mato (Marko) - 02/03/63
105. Ljubas, Hrvoje (Luko) - 26/01/71
106. Magoč-Mamić, Predrag (Mihajlo) - 18/12/65
107. Major, Željko (Stjepan) - 14/12/60
108. Maričić, Zdenko (Marko) - 27/09/56
109. Markobašić, Ružica (Pero) - 28/09/59
110. Međeši, Andrija (Janko) - 16/10/36
111. Međeši, Zoran (Andrija) - 23/06/52
112. Mihović, Tomislav (Gašpar) - 23/06/52
113. Mikulić, Zdravko (Slavko) - 15/03/61
114. Mišić, Ivan (Marko) - 22/12/68
115. Mlinarić, Mile (Pavo) - 05/12/66
116. Mokoš, Andrija (Stevan) - 16/11/55
117. Molnar, Saša (Stjepan) - 08/04/65
118. Mutvar, Antun (Antun) - 30/01/69
119. Nađ Darko (Vladimir) - 27/02/65
120. Nađ, Franjo (Franjo) - 17/09/35
121. Nejašmić, Ivan (Milan) - 19/10/58.
122. Šimenić, Damir - 1965
123. Omerović, Mufat (Džemal) - 29/11/63
124. Oreški, Vladislav (Stjepan) - 19/05/67
125. Pap, Tomislav (Andrija) - 01/01/63
126. Patarić, Željko (Nikola) - 16/07/59
127. Pavlić, Slobodan (Adam) - 24/09/65
128. Pavlović, Zlatko (Đuro) - 19/11/65
129. Perak, Mato (Anto) - 28/11/61
130. Perko, Aleksandar (Branko) - 17/03/67
131. Perković, Damir (Josip) - 28/10/65
132. Perković, Josip (Jure) - 24/03/63
133. Petrović, Stjepan (Stanko) - 26/10/49
134. Pinter, Nikola (Nikola) - 04/10/40
135. Plavšić, Ivan-Zvonimir (Mato) - 24/03/39
136. Podhorski, Janja (Stjepan) - 17/11/31
137. Polhert, Damir (Ivan) - 22/11/62
138. Polovina, Branimir (Vojin) - 22/06/50
139. Poljak, Vjekoslav (Ignac) - 06/08/51
140. Posavac, Stanko (Gustav) - 09/04/52
141. Pravdić, Tomo (Pero) - 01/11/34
142. Pucar, Dmitar (Nikola) - 18/01/49

143. Radačić, Ivan (Slavko) - 01/01/55
144. Raguž, Ivan (Antun) - 22/04/55
145. Rašić, Milan (Franjo) - 16/04/54
146. Ratković, Krešimir (Milan) - 04/03/68
147. Ribičić, Marko (Ivan) - 11/11/51
148. Rimac, Salvador (Slavko) - 06/11/60
149. Rohaček, Karlo (Antun) - 21/10/42
150. Rohaček, Željko (Karlo) - 16/05/71
151. Spudić, Pavao (Ivan) - 16/07/65
152. Stanić, Marko (Mato) - 02/08/58
153. Stanić, Željko (NIko) - 23/06/68
154. Stefanko, Petar (Vasilje) - 05/05/42
155. Stojanović, Ivan (Živko) - 19/03/49
156. Stubičar, Ljubomir (Vladimir) - 12/07/54
157. Šarik, Stjepan (Štefan) - 02/04/65
158. Šimunić, Pero (Marko) - 30/09/43
159. Šindilj, Vjekoslav (Vladimir) - 01/11/71
160. Šrenk, Đuro (Gabrijel) - 21/04/43
161. Štefulj, Dražen (Juraj) - 01/01/63
162. Tadić, Tadija (Jozo) - 26/09/59
163. Tarle, Dujko (Jozo) - 06/05/50
164. Terek, Antun (Boždar) - 06/10/40
165. Tišljarić, Darko (Tomo) - 01/06/71
166. Tivanovac, Ivica (Pavao) - 22/02/63
167. Tomašić, Tihomir (Albin) - 04/07/63
168. Tordinac, Željko (Ivan) - 14/12/61
169. Tot, Tomislav (Eugen) - 06/06/67
170. Traljić, Tihomir (Petar) - 17/07/67
171. Turk, Miroslav (Antun) - 12/04/50
172. Turk, Petar (Petar) - 30/06/47
173. Tustonjić, Dane (Jozo) - 10/10/59
174. Ušak, Branko (Martin) - 17/07/58
175. Vagenhofer, Mirko (Josip) - 03/06/37
176. Varenica, Zvonko (Franjo) - 19/05/57
177. Varga, Vladimir (Josip) - 09/08/44
178. Vasić, Mikajlo (Đorđe) - 12/12/63
179. Veber, Siniša (Vladimir) - 22/02/69
180. Vidoš, Goran (Mato) - 04/10/60
181. Virges, Antun (Antun) - 09/06/53
182. Vlaho, Miroslav (Marko) - 30/12/67
183. Vlaho, Mate (Drago) - 03/02/59
184. Voloder, Zlatan (Ljubo) - 23/11/60
185. Vujević, Zlatko (Antun) - 28/10/51

186. Vukojević, Slaven (Josip) - 23/06/70
187. Vuković, Rudolf (Rudolf) - 18/11/61
188. Vulić, Ivan (Ante) - 18/07/46
189. Zeljko, Josip (Danko) - 14/03/53
190. Zera, Mihajlo (Vaselj) - 07/08/55
191. Žeravica, Dominik (Stjepan) - 01/11/59
192. Žugec, Borislav (Mato) - 21/11/63

By his participation in the foregoing acts, Milorad PEJIĆ committed a criminal offence recognised by article 144 (war crime against war prisoners) re article 22 of the FRY Criminal Act.

In view of the foregoing, I PROPOSE that a public trial be scheduled and held before this Court, whereto the following persons should be summoned:

I - War Crimes Prosecutor

II - The accused, Milorad PEJIĆ, who should be brought in from the Belgrade District Prison

III - Defence counsel for the accused

IV – Witnesses and victims:

- Čakalić, Emil from Kaštel Lukšić, 26a Kašteline St.
- Kojić, Žarko from Višnjevac, 17 P. Zoranića St.
- Berghofer, Dragutin from Osijek, 3 Kišpatićeva St.
- Novak, Zdenko from Vukovar, 37 Marina Držića St, or alternatively, from Zagreb, 5 Fećimovićeva St.
- Kožul, Frano from Borovo Naselje, 18 Petrinjska St.
- Dodaj, Hajdar from Sjeverin, 194 Sjeverin St.

V –Witnesses - collaborators 1 and 2

VI –Witnesses:

- Dukić, Nikola, to be summoned through the District Prison in Novi Sad

VII - Court Experts:

- Prof. Dr. Miloš Tasić from the Forensic Medical Institute in Novi Sad
- Prof. Dr. Vujadin Otašević from the Medical Faculty in Niš
- Prof. Dr Dušan Dunjić from the Forensic Medical Institute in Belgrade.

I further PROPOSE that following documents be read out during the evidence proceeding:

- Files of the Military Court in Belgrade No. Ki 578/98;
- Reports issued by the FRY Federal Government's Commission on
- Humanitarian Issues and Missing Persons, dated 3 October 1996 and 15 November 1996;
- Report issued by the Astronomical Research Institute – Belgrade Observatory, dated 9 January 1998;
- Findings and Opinion issued by the Forensic Medical Institute in Novi Sad with the amendments thereto dated April – May 2004;
- Documents received from the Ministry for Foreign Affairs of Serbia and Montenegro – National Council for Cooperation with the ICTY;
- List of identified persons' remains exhumed from the Ovčara gravesite, issued by the Government of the Republic of Croatia – Office for detained and Missing Persons.

In addition to the above, insight should be made into all other documents attached to the case file, as well as into the criminal record of the accused, due to be obtained from the competent police authority.

Furthermore, based on Article 33 (6) of the Criminal Procedure Act, proceedings further to this indictment should be joined to those conducted further to the indictment previously issued by this Prosecutor and registered under the same number, in case KV4/06, given the fact that the two indictments are based on common evidence and charge the same criminal event.

Finally, the accused, Milorad PEJIĆ, should remain in detention on the grounds envisaged by article 142 (2.5) of the Criminal Procedure Act.

Statement of Reasons

The existence of the criminal offence recognised by Article 144 (war crime against war prisoners) of the FRY Criminal Act, in the manner, place and time as described in the enacting terms of this indictment, and PEJIĆ's criminal responsibility thereof, arise from the findings of the investigation conducted into the case.

The accused, PEJIĆ, stated before the investigative judge that he was surprised by the fact that a criminal proceeding was conducted against him, that at this point, rather than presenting his defence, he was going to exercise his right to silence.

The conclusion that this accused individual committed the criminal offence as charged arises from the testimony given by witness Nikola Dukić. Specifically, this witness states that, at the time relevant to this indictment, he was at Grabovo, where he had arrived from Ovčara and where he witnessed the execution of the war prisoners. The victims had been captured in the hospital building and transferred to the barracks, whereof they were taken to a hangar building at Ovčara. In subsequence, groups of prisoners were loaded onto a tractor trailer and driven to Grabovo. During one of those »rounds«, this witness was escorting the tractor to make certain that no one would escape. Upon their arrival at the execution site, groups of prisoners were unloaded and placed before a pit. Subsequently, a shooting platoon was formed of the volunteers and TO members, who were present at the site. Positioned at a several metres' distance, the platoon opened fire at the prisoners, who fell into the pit as they were shot. Among other members of the platoon, this witness identified the accused, Milorad PEJIĆ, as well as Predrag MADŽARAC. After the execution of this group, the witness returned to the hangar building, where he remained for a while. The tractor loaded with groups of prisoners went several more times towards Grabovo, and returned empty each time. Meanwhile, shooting was heard from the direction of Grabovo. The witness cannot remember what the time was but remembers that it was completely dark when he left Ovčara and returned to town.

This witness' testimony fully coincides with the statements provided by the witnesses – collaborators, victims and expert witnesses, as well as with the contents of the written documents proposed as evidence, in particular with the forensic medical experts' findings and opinion. Coinciding with the foregoing documents is also the report provided by the Federal Government's Commission on Humanitarian Issues and Missing Persons, specifying the names of the persons whose bodies were autopsied at Ovčara, their sex, age, cause of death and weapons/tools whereby the victims were injured, i.e. killed.

In addition to the above, determining facts in this subject matter have been established through the testimonies obtained during the investigation relating to the

individuals previously accused of the same criminal event, whose trial is currently under way.

The investigation results provide grounds for the conclusion that at the time relevant to the indictment, namely in the autumn of 1991, a state of armed conflict existed between the JNA, Vukovar TO and volunteer forces on one side, and the Croatian armed force (which included volunteers, National Guard Assembly, police, TO, civilian protection, defenders of Croatia and persons escorting these formations) on the other.

The said conflict did not have a character of an international conflict, since the Republic of Croatia was internationally recognised as an independent state only during 1992.

The case files provide insight into the fact that all of those accused so far were members of the Vukovar TO force and volunteer units and as such constituted the opposing party to the described conflict. On 18 November 1991, a number of members of the Croatian armed forces surrendered their weapons and submitted themselves to the JNA authority. In subsequence, on 20 November 1991, part of them were transferred to the Ovčara farm, where the JNA handed them over to members of the Vukovar TO. In the light of these facts it is clear that the members of the Croatian armed force who had surrendered and been taken captive had the status of war prisoners. By taking these war prisoners over from the JNA force, all of the accused, including PEJIĆ, being the opposing party to the conflict – Vukovar TO and volunteer units – assumed full control over the war prisoners, and from that point onwards they were obligated to treat them in accordance with the rules of international war laws.

Namely, representatives of the states participating at the Diplomatic Conference held in Geneva from 21 April to 12 August 1949 with the view to creating the Convention on Protection of Civilians in Warfare, agreed and assumed obligation under article 1 to comply with the Convention at all times. Article 3 of the Convention provides that in the case of a noninternational armed conflict which occurs in the territory of one of the states – signatories to the Convention – each party to the conflict is obligated to treat persons who are not directly involved in the hostilities in a humane and nondiscriminatory manner. To that end, it is forbidden at all times and places to treat war prisoners – persons who are not involved in the hostilities – in a manner that can cause injury to life or physical integrity, and in particular, all types of killing, mutilation, brutalization and torture.

Pursuant to article 4 of the Additional Protocol to the 1949 Geneva Convention on Protection of Victims of Noninternational Armed Conflicts (SFRY Official Gazette – International Contracts, No. 16/78), anyone who is not directly involved, or anyone

who has ceased to be involved in hostilities, is entitled to a treatment whereby their personal dignity and honour shall be respected. Thus, all acts of violence against such persons are forbidden at all times and places, specifically those aimed against life, health, physical or mental integrity, and in particular, killings, acts of brutality, humiliating and degrading treatment, all forms of physical punishment, threat to human dignity, as well as any other form of improper attack.

In relation to the above, each of the victims confined at the Ovčara farm had the status of “protected persons” pursuant to the Geneva Conventions, since as members of one party to the conflict – Croatian armed forces – they had surrendered their weapons and fallen under the control of the other party to the conflict – members of the Vukovar TO and volunteer units.

The captives were supposed to have retained a war prisoner status until they were finally released or repatriated, whereas the accused were obligated to provide the victims with certain rights arising from their status, and to guarantee them the fulfilment thereof.

However, the accused, PEJIĆ, failed to respect the aforementioned rights. Aided and abetted by the individuals whose names have been specified in the enacting terms hereof, he engaged in the killings of the war prisoners, thereby committing a grave breach of the aforementioned Convention.

In the light of the fact that the acts described in the aforementioned Convention and in the Additional Protocol thereto are, following the ratification of these documents, also incriminated by the national law, the accused, Milorad PEJIĆ, committed the criminal offence recognized by article 144 (war crime against war prisoners) of the FRY Criminal Act, which constitutes a criminal offence against humanity and international law.

The accused, PEJIĆ, committed the said criminal offence with direct premeditation, since he consciously and willingly engaged therein, albeit fully aware that he was committing a criminal act against persons whose status was that of war prisoners.

By his participation in a joint enterprise, this accused, alongside the aforementioned members of the Vukovar TO and volunteer units, acted towards the accomplishment of a common unlawful goal as an immediate perpetrator, intent to commit, in a joint action with others, the criminal offence charged by this indictment, whereby, pursuant to article 22 of the FRY Criminal Act, he acted as a coperpetrator of the criminal offence at issue.

In view of the fact that the criminal offence charged by this indictment is punishable by an imprisonment term longer than 10 years; in view of the manner of its

commission; and, in particular, in view of the grave circumstances thereof, specifically the number of persons killed on the critical occasion, I hold that there are reasonable grounds for this accused to be remanded in custody pursuant to article 142 (2.5) of the Criminal Procedure Act.

In conclusion, I hold that the collected evidence relating to the criminal offence and to the accused as the perpetrator thereof, provide sufficient grounds for this indictment.

WAR CRIMES PROSECUTOR
Vladimir Vukčević