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International Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yugoslavie

“SREBRENICA” (IT-05-88)

POPOVIĆ *et al.*



The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero, & Vinko Pandurević

VUJADIN POPOVIĆ

Indicted for genocide, conspiracy to commit genocide, extermination, murder, persecutions, forcible transfer, deportation



Lieutenant Colonel and Assistant Commander of Security on the staff of the Drina Corps of the Bosnian Serb Army (VRS); reported to the Commander of the Drina Corps

LJUBIŠA BEARA

Indicted for genocide, conspiracy to commit genocide, extermination, murder, persecutions, forcible transfer, deportation



Colonel and Chief of Security of the VRS Main Staff; reported to Zdravko Tolimir

DRAGO NIKOLIĆ

Indicted for genocide, conspiracy to commit genocide, extermination, murder, persecutions, forcible transfer, deportation



2nd Lieutenant who served as Chief of Security for the Zvornik Brigade of the VRS; reported to Vinko Pandurević

LJUBOMIR BOROVČANIN

Indicted for aiding and abetting genocide, extermination, murder, persecutions, forcible transfer, deportation



Deputy Commander of the Republika Srpska Ministry of Internal Affairs (MUP) Special Police Brigade; from 10 July 1995, Commander of a joint force of MUP units ordered to report to Bratunac to Radislav Krstić, then Chief of Staff of the Drina Corps of the VRS

RADIOVOJE MILETIĆ*Indicted for murder, persecutions, forcible transfer, deportation*

Chief of Operations and Training and Deputy Chief of Staff, was standing in for the Chief of Staff of the VRS

MILAN GVERO*Indicted for murder, persecutions, forcible transfer, deportation*

Assistant Commander for Morale, Legal and Religious Affairs of the VRS Main Staff; reported directly to the Commander of the Main Staff, General Ratko Mladić

VINKO PANDUREVIĆ*Indicted for genocide, conspiracy to commit genocide, extermination, murder, persecutions, forcible transfer, deportation*

Lieutenant Colonel in command of the Zvornik Brigade of the Drina Corps of the VRS

Crimes indicted for (examples):

All crimes charged in this case were allegedly committed in the time period from July to November 1995.

Genocide

- With intent to destroy a part of the Bosnian Muslim people as a national, ethnical, or religious group, Popović, Beara, Nikolić, Borovčanin and Pandurević killed members of the group by planned and opportunistic summary executions.
- With the same intent, they caused serious bodily or mental harm to both female and male members of the Bosnian Muslim populations of Srebrenica and Žepa, including the separation of able bodied men from their families and the forced movement of the population from their homes to areas outside the Republika Srpska.

Conspiracy to commit genocide

- Popović, Beara, Nikolić and Pandurević entered an agreement with several others, including Ratko Mladić, Milenko Živanović and Radislav Krstić with the intent to kill the Muslim men of Srebrenica and to cause serious bodily or mental harm to the Muslims of Srebrenica, and in furtherance of the intent to destroy, in part, a national, ethnic, racial, or religious group, as such.

Extermination (crimes against humanity), **murder** (crimes against humanity, violations of the laws or customs of war)

- Popović, Beara, Nikolić, Borovčanin and Pandurević are alleged to have committed the crime of extermination through the large-scale systematic murder of Muslim men from Srebrenica including

amongst others, 150 Bosnian Muslim men at Cerska Valley, over 130 Bosnian Muslim men in Nova Kasaba, over 1,000 Bosnian Muslim men at Kravica Warehouse and the Sandići meadow, approximately 500 Bosnian Muslim men held in the school in Ročevići near Zvornik, approximately 1,000 Bosnian Muslim men at Orahovac (near Lažete), a number of Bosnian Muslim males detained at the Petkovci School, approximately 1,000 Bosnian Muslim men at the "Dam" near Petkovci, 1,200 Bosnian Muslim males detained at the Kula School near Pilica, about 500 Bosnian Muslim males near Kozluk, approximately 500 men inside Pilica Cultural Centre. Many of the bodies were buried in mass graves and later reburied in other locations.

- During and after the campaign of forcible transfer and organised executions, the Bosnian Serb Army and police forces took part in opportunistic killings of captured Bosnian Muslim men from the Srebrenica enclave.
- Popović, Beara, Nikolić, Borovčanin and Pandurević committed the crime of murder by their participation in this campaign. Miletić and Gvero committed the crime of murder by their participation in opportunistic killings of captured Bosnian Muslim men.

Persecutions on political, racial or religious grounds (crimes against humanity)

- Popović, Beara, Nikolić, Borovčanin and Pandurević committed the crime of persecutions by and through the following means: the murder and cruel and inhumane treatment of thousands of Bosnian Muslim civilians, including murder and severe beatings at Potočari and in detention facilities in Bratunac and Zvornik; the terrorising of Bosnian Muslim civilians in Srebrenica and at Potočari; the destruction of personal property and effects belonging to the Bosnian Muslims; and the forcible transfer of Bosnian Muslims from Srebrenica and Žepa by the forced bussing of the women and children to Bosnian Muslim-controlled territory, and the forced bussing of the men to the Zvornik area, where they were ultimately executed.
- Miletić and Gvero committed the crime of persecutions by and through the following means: the opportunistic killings of captured Bosnian Muslim men; the cruel and inhumane treatment of Bosnian Muslim civilians, including murder and severe beatings at Potočari and in detention facilities in Bratunac and Zvornik; the terrorising of Bosnian Muslim civilians in Srebrenica and at Potočari; the destruction of personal property and effects belonging to the Bosnian Muslims; and the forcible transfer of Bosnian Muslims from Srebrenica and Žepa.

Forcible transfer (crimes against humanity)

- In order to force the Muslim populations of Srebrenica and Žepa to leave the area, all the accused are alleged to have carried out several actions, including: making life unbearable for the inhabitants of the enclave by shelling civilian targets in Srebrenica and Žepa and controlling the movement of people out of the enclaves; by defeating the Muslim forces and disabling the local UN forces militarily; and by preventing and controlling outside international protection of the enclaves.

Deportation (crimes against humanity)

- All the accused committed the crime of deportation through the forced movement of Bosnian Muslim men from Žepa, across the Drina River to Serbia and by making life unbearable in the enclave through means mentioned above.

VUJADIN POPOVIĆ	
Born	14 March 1957 in Popovići, Bosnia and Herzegovina
Indictment	Initial: 26 March 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	14 April 2005
Transferred to ICTY	14 April 2005
Initial and further appearances	18 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges

LJUBIŠA BEARA	
Born	14 July 1939 in Sarajevo, Bosnia and Herzegovina
Indictment	Initial: 26 March 2002; amended: 24 March 2005; revised amended: 30 March 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	9 October 2004
Transferred to ICTY	10 October 2004
Initial and further appearances	12 October 2004, did not enter a plea; 9 November 2004, did not enter a plea; 11 November 2004, pleaded not guilty to all charges; 5 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges

DRAGO NIKOLIĆ	
Born	9 November 1957 in Brana Bačić, Bosnia and Herzegovina
Indictment	Initial: 6 September 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	15 March 2005
Transferred to ICTY	17 March 2005
Initial and further appearances	23 March 2005, did not enter a plea; 20 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges

LJUBOMIR BOROVČANIN	
Born	27 February 1960 in Han Pijesak, Bosnia and Herzegovina
Indictment	Initial: 6 September 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	1 April 2005
Transferred to ICTY	1 April 2005
Initial and further appearances	7 April 2005, did not enter a plea; 5 May 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges except for Count 2, for which he did not enter a plea; 13 July 2006, pleaded not guilty to Counts 1 and 2

RADIVOJE MILETIĆ	
Born	6 December 1947 in Štović, Bosnia and Herzegovina
Indictment	Initial: 10 February 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	24 February 2005
Transferred to ICTY	28 February 2005
Initial and further appearances	2 March 2005, did not enter a plea; 31 March 2005, did not enter a plea; 15 April 2005, pleaded not guilty to all charges; 6 July 2006, pleaded not guilty to all charges

MILAN GVERO	
Born	4 December 1937 in Mrkonjić Grad, Bosnia and Herzegovina
Indictment	Initial: 10 February 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	24 February 2005
Transferred to ICTY	24 February 2005
Initial and further appearances	2 March 2005, pleaded not guilty to all charges; 6 July 2006, pleaded not guilty to all charges

VINKO PANDUREVIĆ	
Born	25 June 1959 in Jasik, Bosnia and Herzegovina
Indictment	Initial: 2 November 1998; amended: 27 October 1999, made public on 7 December 2001; amended: 24 March 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
Surrendered	23 March 2005
Transferred to ICTY	23 March 2005
Initial and further appearances	31 March 2005, did not enter a plea; 3 May 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges

STATISTICS

Trial days	425
Witnesses called by Prosecution	182
Witnesses called by Defence	Popović: 27 Beara: 43 Nikolić: 22 Borovčanin: 14 Miletić: 15 Gvero: 5 Pandurević: 6
Witnesses called by Trial Chamber	1

TRIAL	
Commenced	14 July 2006
Closing arguments	2 - 15 September 2009
Trial Chamber II	Judge Carmel Agius (presiding), Judge O-Gon Kwon, Judge Kimberly Prost and Judge Ole Bjørn Støle (Reserve Judge)
Counsel for the Prosecution	Peter McCloskey, Nelson Thayer
Counsel for the Defence	For Vujadin Popović: Zoran Živanović, Mira Tapušковиć For Ljubiša Beara: John Ostojić, Predrag Nikolić For Drago Nikolić: Jelena Nikolić, Stephane Bourgon For Ljubomir Borovčanin: Christopher Gosnell, Tatjana Čmerić For Radivoje Miletić: Natacha Fauveau Ivanović, Nenad Petrušić For Milan Gvero: Dragan Krgović, David Josse For Vinko Pandurević: Peter Haynes, Simon Davis

RELATED CASES <i>by geographical area</i>	
BLAGOJEVIĆ & JOKIĆ (IT-02-60) "SREBRENICA"	
ERDEMOVIĆ (IT-96-22) "PILICA FARM"	
KARADŽIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRSTIĆ (IT-98-33) "SREBRENICA-DRINA CORPS"	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
NIKOLIĆ MOMIR (IT-02-60/1) "SREBRENICA"	
OBRENOVIĆ (IT-02-60/2) "SREBRENICA"	
ORIĆ (IT-03-68)	
PERIŠIĆ (IT-04-81)	
STANIŠIĆ & SIMATOVIĆ (IT-03-69)	
TOLIMIR (IT-05-88/2) "SREBRENICA"	
TRBIĆ (IT-05-88/1) "SREBRENICA"	

INDICTMENT AND CHARGES

The initial indictment against Popović was confirmed on 26 March 2002 (case number IT-02-57). He was charged with six counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions and forcible transfer in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 18 April 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Beara was confirmed on 26 March 2002 (case number IT-02-58). His initial appearance took place on 12 October 2004 and a further initial appearance was held on 9 November 2004. An additional initial appearance took place on 11 November 2004, when he entered a plea of not guilty to all counts. On 26 November 2004, the Prosecutor filed an amended indictment. On 24 March 2005, the proposed amendments were, with the exception of one paragraph, confirmed by Judge Bonomy. Amendments to the indictment included deletion of the charge of complicity to commit genocide, addition of the charge of conspiracy to commit genocide, the deletion of certain factual allegations, clarification of the elements of counts 2 (extermination) and 6 (forcible transfer) and the correction of one factual error. The Prosecutor filed the revised amended indictment on 30 March 2005. On 5 April 2005, Beara entered a plea of not guilty to the new charges in the amended indictment.

The initial indictment against Nikolić was filed on 6 September 2002 (case number IT-02-63). He was charged with five counts of genocide or, alternatively, complicity to commit genocide, extermination, murder and persecutions in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 23 March 2005. A further initial appearance was held on 20 April 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Borovčanin was filed on 6 September 2002 (IT-02-64). He was charged with six counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions and forcible transfer in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 7 April 2005. A further initial appearance was held on 5 May 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Miletić, Gvero and Zdravko Tolimir was confirmed on 10 February 2005 (case number IT-04-80) and made public on 25 February 2005. The accused were charged with five counts of murder, persecutions and inhumane acts (forcible transfer) and deportation. The initial appearance of Miletić and Gvero took place on 2 March 2005, when Gvero entered a plea of not guilty to all counts. A further initial appearance was held on 31 March 2005 and an additional initial appearance held on 15 April 2005, when Miletić entered a plea of not guilty to all counts.

Pandurević was initially charged with eight counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions, deportation and inhumane acts in the area of Srebrenica between 11 July and 1 November 1995 (see *Prosecutor v. Radislav Krstić, Vidoje Blagojević and Vinko Pandurević*, case number IT-98-33). On 10 February 2005, the Prosecutor filed a motion to amend the indictment to include Milorad Trbić, which was confirmed on 24 March 2005 (case number IT-05-86). The initial appearance of Pandurević took place on 31 March 2005. A further initial appearance was held on 3 May 2005, when he entered a plea of not guilty to all counts.

On 10 June 2005, the Prosecution filed a motion seeking to join the six cases against the nine accused into a single case. The motion was granted on 21 September 2005.

On 31 October 2005, the Trial Chamber granted the motion to file a consolidated amended indictment. That indictment was filed by the Prosecution on 11 November 2005.

Following a number of motions alleging defects in the form of the consolidated amended indictment, on 31 May 2006, the Trial Chamber ordered the Prosecution to file an amended indictment implementing a number of changes. The second consolidated amended indictment was filed on 14 June 2006.

On 26 June 2006, the Trial Chamber ordered that the case of Trbić be severed from the case IT-05-88, and the Prosecution was ordered to file two new versions of the second consolidated amended indictment, one

removing all charges against Trbić and the other against Trbić only (case number IT-05-88/1). The Prosecution filed the indictment against Trbić on 18 August 2006.

On 13 July 2006 the Trial Chamber issued an oral order to remove charges against Tolimir from the indictment. The Prosecution filed the revised second consolidated amended indictment on 4 August 2006, which no longer included charges against Trbić or Tolimir. Subsequently, on 15 August 2006, the Trial Chamber officially severed Tolimir from the case IT-05-88 and ordered a new indictment against him to be filed. The case against Tolimir was assigned the new case number IT-05-88/2 and on 28 August 2006 the Prosecution filed the operative indictment against him only.

The operative indictment alleges that, on 8 March 1995 President of Republika Srpska Radovan Karadžić set out in Directive 7 the order to remove the Muslim population from the Srebrenica and Žepa enclaves. This Directive ordered the complete "physical separation of the Srebrenica and Žepa enclaves as soon as possible, preventing even communication between individuals between the two enclaves. By planned and well-thought-out combat operations, create an unbearable situation of total insecurity, with no hope of further survival or life for the inhabitants of Srebrenica or Žepa."

On 11 and 12 July 1995 the Srebrenica enclave was taken over by the Bosnian Serb Army (VRS) and the Ministry of Interior (MUP) troops and the plan to remove the Muslim population from Srebrenica was implemented, along with the plan to murder all the able-bodied men of Srebrenica.

The indictment alleges that, on 10 and 11 July 1995, thousands of Bosnian Muslims from the enclave, including women, children, and some men, fled to the UN Compound in Potočari, near Srebrenica, where they sought the protection of the UN Dutch Battalion. At the same time, approximately 15,000 Bosnian Muslim men from the enclave, with some women and children, gathered at the villages of Šusnjari and Jagličić and fled on 11 July in a huge column through the woods towards the city of Tuzla. Approximately one third of this group consisted of armed Bosnian Muslim military personnel. The rest were civilians and unarmed military personnel.

The indictment states that, in the evening hours of 11 July and morning of 12 July 1995, the plan to forcibly transport the Muslim population from Potočari was developed. Ratko Mladić, Commander of the Main Staff of the VRS, and members of his staff developed a plan to murder the hundreds of able-bodied men identified from the crowd of Muslims in Potočari. Beara, Chief of the Main Staff Security Organ, was in charge of organising, co-ordinating and facilitating the detention, transportation, summary execution and burial of the Muslim victims. Beara was supervised in this task by Tolimir, Assistant Commander for Security and Intelligence of the Main Staff. Beara was assisted in these tasks by the respective Corps and Brigade security officers involved in these events, namely, Popović, Drina Corps, Chief of Security; Momir Nikolić, Bratunac Brigade Chief of Security and Drago Nikolić, Zvornik Brigade Chief of Security. The above-named security officers relied upon commanders Mladić, Krstić, Pandurević, Ljubomir Borovčanin, Vidoje Blagojević and others, for the men, materials, directions and orders to carry out the murder operation. Miletić was standing in for the Chief of Staff of the Main Staff of the VRS and acted as principal adviser to Mladić, the primary facilitator through which his intent, orders and directives were organised and processed for execution by the Staff and subordinate units. Gvero was one of seven Assistant Commanders who reported directly to the Commander of the Main Staff, Mladić.

In order to force the Muslim populations of Srebrenica and Žepa to leave the area, the Bosnian Serb Army made life unbearable for the inhabitants of the enclave, militarily defeated the Muslim forces and disabled the local UN forces, prevented and controlled outside international protection of the enclaves, including air strikes and international monitoring, and controlled the movement of people out of the enclaves.

The indictment further alleges that the plan to murder the able-bodied men of Srebrenica began on the afternoon of 12 July with the forcible separation of the able-bodied men in Potočari from their families. From the afternoon of 12 July through the entire day of 13 July, over 1,000 able-bodied Muslim men were separated from their friends and families and transported to Bratunac and held temporarily in buildings and vehicles through 14 and 15 July.

It is alleged that on the morning of 13 July and continuing all that day, over 6,000 able-bodied Muslim men surrendered to or were captured by Bosnian Serb forces stationed along the road between Bratunac, Konjević Polje and Milići. The majority of those prisoners were transported to Bratunac or Kravica where

they were temporarily detained in buildings and vehicles, along with the Muslim men who had been separated from the crowds in Potočari. The large-scale systematic murder of Muslim men from Srebrenica began on the morning of 13 July at approximately 11 a.m. and continued throughout July 1995.

The indictment states that by 1 November 1995, the entire Muslim population had been either removed or had fled from Srebrenica and Žepa and over 7,000 Muslim men and boys from Srebrenica had been murdered by VRS and MUP forces.

From about 1 August 1995 through about 1 November 1995, Bosnian Serb Army and MUP personnel including Popović, Drago Nikolić and Pandurević participated in an organised and comprehensive effort to conceal the killings and executions by reburying bodies exhumed from initial mass graves to secondary graves.

For these crimes, the accused are charged as follows:

Beara, Popović and Drago Nikolić are charged on the basis on their individual criminal responsibility (Article 7(1) of the Statute) with:

- Genocide (Article 4)
- Conspiracy to commit genocide (Article 4)
- Extermination, murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

Pandurević and Borovčanin are charged on the basis of their individual criminal responsibility (Article 7(1) of the Statute) and on the basis of their superior criminal responsibility (Article 7(3) of the Statute) with:

- Genocide (Article 4)
- Conspiracy to commit genocide (Article 4)
- Extermination, murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

Miletić and Gvero are charged on the basis on their individual criminal responsibility (Article 7(1) of the Statute) with:

- Murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

PRE-TRIAL

On 19 July 2005, Miletić and Gvero were granted provisional release and they were released on 22 July 2005. On 20 June 2006, the Trial Chamber ordered their return to the Detention Unit by 4 July 2006.

THE TRIAL

The trial of *Popović et al.* commenced on 14 July 2006.

The Prosecution case closed on 7 February 2008. The Defence case commenced on 2 June 2008 and closed on 12 March 2009.

On 10 and 11 March and then on 25 March 2009, the Prosecution called three witnesses in their reopened case. Furthermore, the Prosecution called four rebuttal witnesses in the period from 23 March until 5 May 2009. From 30 June until 15 July 2009, the Defence teams of three of the accused called a number of witnesses in their reopened cases.

The parties presented their closing arguments between 2 and 15 September 2009.

RULE 98*bis* DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule on whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charge(s), it can dismiss those charges and enter a judgement of acquittal before the beginning of the presentation of Defence evidence.

On 3 March 2008, the Trial Chamber in the *Popović et al.* case issued an oral decision pursuant to Rule 98*bis* and dismissed the motions for acquittal filed by the Defence of Beara, Nikolić, Borovčanin, Miletić, Gvero and Pandurević.