

Monitoring of War Crimes Trials – Guarantee for the Process of Dealing with the Past and Sustainability of the Judicial Reform in Croatia

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Biweekly Report on War Crime Trials

Member of Serb military formations was sentenced *in absentia* to 15 years in prison for war crime committed by killing a married couple of Croat ethnicity

On 23 September 2013, the War Crimes Council of the Rijeka County Court pronounced the defendant Zdravko Pejić guilty that on 12 November 1991, in his capacity as a member of the so-called Territorial Defence of Plaški, he killed spouses Nikola Dumančić and Kata Dumančić, civilians of Croat ethnicity, in their house yard in the hamlet of Šolaje, by firing shots from an automatic rifle. The event took place after Serb formations occupied Saborsko and the surrounding hamlets.

The whereabouts of the defendant Pejić are, for the time being, unknown. He was tried *in absentia*. According to the allegations from the indictment, his last known address was Kotor Varoš in Bosnia and Herzegovina.

New indictments

a) Indictment against seven JNA members for the war crime committed by physical abuse, rape and property looting

At the end of September 2013, the Split County State Attorney's Office indicted seven members of the former JNA (Yugoslav National Army) on charges of having committed war crime against civilian population.

Former JNA First Lieutenant, a Macedonian citizen, is charged that in December 1991, in occupied Drniš, he ordered six subordinate JNA soldiers to forcefully enter the house belonging to a married couple of Croat ethnicity. After that he, along with the soldiers, was beating the spouses. The husband sustained numerous injuries, while the defendant forcefully dragged his wife to an adjacent room where he raped her. Afterwards, he ordered the soldiers to search the house and take everything that was valuable, which they did.

Out of six guilty Yugoslav National Army soldiers, three are of unknown whereabouts and citizenship; two are citizens of Bosnia and Herzegovina, while one is a citizen of Serbia.

As in a large majority of other cases in which defendants were members of the former Yugoslav National Army and other Serb military formations, all seven persons are unavailable to judicial bodies of the Republic of Croatia.

b) Indictment against Josip Boljkovac for the execution of civilians from the area of Duga Resa in mid-1945

In mid-September 2013, the Zagreb County State Attorney's Office indicted Josip Boljkovac who was a member of the National Liberation Movement in the World War II, then highly-positioned intelligence service and police official, Mayor of Karlovac and representative in the Parliament of the Socialist Republic of Croatia. After the first multi-party elections, Boljkovac also performed the duty of the first Minister of the Interior of the Republic of Croatia.

Boljkovac is charged that from 07 May 1945 until mid-June 1945, in his capacity as Head of the Commission of People's Protection Department (the OZN) for the Town of Karlovac and the District of Karlovac, he ordered a large number of civilians from the area of Duga Resa and the surrounding villages to be arrested under suspicion that they had collaborated with the Ustasha authorities. Six identified persons and fourteen, for the time being non-identified, arrested persons were interrogated for several days and then, upon Boljkovac's order, on several occasions were taken away, killed and buried in the area of Vidanka Curak. One male person, who resisted the arrest and apprehension, was killed near the Duga Resa railway station.

UN Declaration on Sexual Violence, (non-)reporting of these crimes and weaknesses of domestic system of providing assistance to victims of sexual violence

With the votes of representatives of 113 member states, on 24 September 2013, the UN General Assembly adopted the *Declaration on Sexual Violence* which contains a series of commitments that each country should fulfil in order to stop rape and sexual violence being used as the weapons of war. The objective of the *Declaration* is to improve the status of victims of rape and sexual assaults and to prevent such crimes.

UN data indicate that in Rwanda, during three months of genocide in 1994, between 100,000 and 250,000 women were raped, approximately 60,000 were raped during the civil war in Sierra Leone (1991-2001), more than 40,000 were raped in Liberia (1989-2003), approximately 60,000 were raped in the countries of the former Yugoslavia (1991-1995), the majority of them in Bosnia and Herzegovina, while approximately 200,000 women were raped in the Democratic Republic of Congo since 1998.¹

The consequences of this type of violence remain for years after the wars have ended and they affect both the communities and the process of reconciliation and the restoration of peace.

In Croatia, as well as in other countries that emerged after disintegration of the former Yugoslavia, there is a small number of victims who decide to report that they had been raped, mostly due to a lack of psychological and social assistance that would enable them to do so, but also due to a fear from stigmatisation in the environment in which they live.² No more than 60 rape victims were recorded in the reports received by the State Attorney's Offices in the Republic of Croatia.³

The above-mentioned data indicate weaknesses of the existing institutional structure of the Republic of Croatia, while the adoption of regulations that would improve the position of victims of rape has only been announced. Thus, in 2012 the Government of the Republic of Croatia announced a new act or amendments to the existing *Act on the Protection of Military and Civilian Persons Disabled in the War*, while in January 2013 it also announced the adoption of the *Act on Victims of War Crime of Rape*.

¹ <http://www.un.org/en/preventgenocide/rwanda/about/bgsexualviolence.shtml>

² Data by numerous researches from around the world indicate that one reported case of rape is accompanied by 15 – 20 non-reported cases.

³ The State Attorney's Office of the Republic of Croatia: Supplement to prior communications, 08 January 2013.



A positive step forward is the fact that the DORH has accepted the recommendations concerning the purposefulness of concentrating in one place all the evidence and data on war crimes committed by rape and therefore, as of 2012, investigations of these crimes have been conducted by the Osijek County State Attorney's Office. Unfortunately, the fact is that the system of providing support to victims and witnesses still has not been expanded to include the State Attorney's Office and the Police. The system, which should provide, apart from the existing counselling provided to the victims and witnesses, also the psychological and legal assistance, has not seen a significant progress for two years. The *National Strategy for Providing Support to Victims and Witnesses* has not been adopted yet although the commission, whose basic task is its drafting, was established way back in 2010.

Forceful removal of bilingual signs and destruction of monuments dedicated to Serb victims – creates a climate which does not contribute to determining of the truth about killings and committed crimes

Earlier this month, the signs in dual Latin and Cyrillic script were removed by force in Vukovar. Following to that, the Headquarters for the Defence of Croatian Vukovar organised a series of protests in Vukovar and surrounding places requesting to have Vukovar proclaimed a town of special piety. At those protests, the credibility of 2011 Census was challenged (according to the Census, more than one third of population in Vukovar are Serbs) and, accordingly, removal of dual script signs in Vukovar was requested.

Such events in Vukovar triggered hate speech and violence against Serb minority and its symbols in other parts in Croatia. Inappropriate slogans, in addition to Ustasha insignia, appeared on the walls of the Orthodox Church in the old town of Dubrovnik. In Split, the window glass was broken and the pyrotechnic device (firecracker) thrown into the offices of the Serb Minority Council. In the area of Karlovac, the sign in dual Latin and Cyrillic script was removed from the Municipality Building in Krnjak during the night between 17 and 18 September. On 21 September 2013, members of war veteran associations publicly removed candles and flowers left at the Korana Bridge where, exactly 22 years ago, thirteen JNA soldiers had been killed although they had put down their guns and surrendered to Croatian MUP members. In the night between 12/13 September 2013, the monument in Golubić near Knin was vandalised. Initially, this monument was erected to honour the villagers killed during the war.

More on destroyed monument dedicated to the villagers of Golubić

The stone monument in Golubić was erected in 2011 at the initiative by the Croatian Association of Families of Serbs Missing since Wartime „Suza“ [tear] and represents one of few memorials dedicated to Serb victims in the Republic of Croatia. Initially, the association's proposal was to have the monument's plaque which would include the names of 34 villagers of Golubić - mainly civilians who died in 1995. Due to the pressure by Croatian war veteran associations, the Association „Suza“ agreed with local authorities to change the text. Instead of listing the names of 34 people, a new plaque was put with a neutral wording “In memory to Golubić people who died during the war”.

We call on state and local authorities to work out, in agreement with the families of the victims, a way of building a more permanent memorial which would represent an important contribution to the promotion of public recognition of the suffering and renewal of coexistence at the local level.

Ensuring the exercise of national minority rights - in this case here, the right of Serbs to use the Serbian language and Cyrillic script - is a respect & tolerance test for entire Croatia. For the attainment of durable peace, true and honest willingness of all citizens of Croatia including Vukovar is needed.

Dialogue is needed in Vukovar and in the rest of Croatia. This dialogue would include a discussion on crucial issues from our past which continue to burden our daily life: war crimes, still missing Croats and Serbs, the same modality for memorials dedicated to civilians who died during the war irrespective of their ethnic affiliation, and the model of multi/intercultural life. Without this dialogue, people will continue living in a climate with countereffects on coexistence, reconciliation and willingness to testify on crimes committed by members from „one's own side“ and revealing the truth on the killing of missing persons and places of their burrial.

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Defendant accused for war crimes Tomislav Merčep attended the Anniversary on the Forming of the 204th Vukovar Brigade

At the time when there is an ongoing trial against Tomislav Merčep accused for war crimes committed in Pakračka Poljana and at Zagrebački Velesajam, while no progress is made, at the same time, in respect of the investigation on the killing of Serb civilians in Vukovar in summer 1991 (when Merčep was performing defence-related tasks as one of distinguished HDZ members), it is certainly inappropriate from the media to present Merčep only in the context of the defence of Vukovar without the mention of atrocities he is charged with or put into connection.

The broadcast of Merčep's presence in Vukovar on 22 September 2013 at the laying of wreaths and lighting candles at the Homeland War Victims Memorial Cemetery and his attendance at the ceremonial Academy marking the 22nd anniversary on the forming of the 204th Vukovar Brigade, was presented by certain media as the comeback of a long-absent hero whereby there was no mention and public condemnation of the crimes.

Dissolution of the dispute with the European Commission and proposed amendments to the Constitution of the Republic of Croatia

On 18 September 2013, the Republic of Croatia and European Commission reached a compromise according to which the amendment to the *Law on Judicial Cooperation in Criminal Matters with EU Member States*, known in the public as „*Lex Perković*“ would enter into force by 1 January 2014 at the latest. This amendment will remove the time restriction which prevented the application of the European arrest warrant (EAW) in respect of the criminal offences which were committed before 7 August 2002. It will enable enforcement of EAW to all criminal offences no matter when those crimes were committed. If Croatian Government fulfills what it promised to the European Commission, the procedure of introducing sanctions against Croatia would be cancelled.

On 26 September 2013, the Croatian Government proposed to the Croatian Parliament constitutional changes to remove statute of limitations on all grievous murders and not only on the ones which were politically motivated, as it had been previously announced. It also proposed introduction of the provision which would stipulate that no statute of limitations applies also to serious murder cases in respect of which the statute of limitation has already been applied. The issue what would be considered 'a serious murder' would be regulated by a special law.

Introduction of exemption from the statute of limitations for serious murders would enable prosecution of crimes which have been burdening Croatian society for decades and contribute to the processes of dealing with the past.

