

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

The Protocol on Cooperation in War Crimes Cases signed between the State Attorney's Office of the Republic of Croatia and the Prosecutor's Office of Bosnia and Herzegovina

On 03 June 2013, the Chief State Attorney of the Republic of Croatia Mladen Bajić and the Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina Goran Salihović signed the Protocol on Cooperation in Prosecution of Perpetrators of War Crimes, Crimes against Humanity and the Crimes of Genocide.

Perpetrators of war crimes have been usurping the institute of dual citizenship since the constitutions of the Republic of Croatia and Bosnia and Herzegovina prevent the extraditions of their citizens. By escaping from the country in which they committed the crimes, those perpetrators were bringing the judicial bodies of that country into a stalemate and in that way they were avoiding the prosecution. Therefore, the State Attorney's Office of the Republic of Croatia and the Prosecutor's Office of Bosnia and Herzegovina have concurred that they would exchange the information, data and evidence which would eventually facilitate the prosecution of war crime perpetrators in the country where they currently reside. In practice, it means that there still will not be any extraditions of perpetrators of war crimes; however, it also means that the war crime perpetrators will no longer be able to avoid the trials.

The Chief Prosecutor of Bosnia and Herzegovina stated that some fifty cases could possibly be initiated based on the mentioned agreement. Due to the influx of new cases, the State Attorney's Office of the Republic of Croatia has been planning on reinforcing their war crime departments in the four county state attorney's offices competent for dealing with war crimes issues.

The signing of the Protocol on Cooperation between the State Attorney's Office of the Republic of Croatia and the Prosecutor's Office of Bosnia and Herzegovina was arranged and took place at the seat of the Delegation of the European Union in Sarajevo.

We believe that the cooperation based on this Protocol will significantly reduce the impunity of war crimes perpetrators.

The Trial Chamber of the ICTY: Military officials and political leaders of the Herzeg-Bosnia and the HVO (Croatian Defence Council) did participate in the joint criminal enterprise led by Franjo Tuđman

The ICTY Trial Chamber passed the first-instance (still non-final) court verdict according to which six high-ranking Herzeg-Bosnia officials were found guilty. Jadranko Prlić was sentenced to 25 years in prison, Bruno Stojić was

sentenced to 20 years in prison, Slobodan Praljak was sentenced to 20 years in prison, Milivoj Petković was sentenced to 20 years in prison, Valentin Ćorić received a 16-year prison sentence and Berislav Pušić was given a 10-year prison sentence.

The ICTY Trial Chamber established that all six above-mentioned persons had participated in the joint criminal enterprise with a goal of creating an ethnically clean Croatian entity (in Bosnia and Herzegovina) which would have been annexed by Croatia or it would have been an independent state closely connected with Croatia. The crimes, which included the detention of non-Croat population in detention camps, rapes, killings, looting, illegal evictions, destruction of cultural heritage, had been committed against Muslims and other non-Croats in the area of Herzeg-Bosnia. The first president of the Republic of Croatia - Franjo Tuđman had acted as the head of the joint criminal enterprise.

In Croatia, the verdict has drawn condemnation from mainly right-oriented politicians and the general public. The President of the Republic of Croatia Ivo Josipović has been more moderate in his expression, assessing the war-time relations between Croatia and Bosnia and Herzegovina as “ambivalent”, emphasising that indeed there were some mistakes by Croatian politics towards Bosnia and Herzegovina. Josipović stated that he directed his thoughts towards the victims and their families, while assessing the present-day cooperation between Croatia and Bosnia and Herzegovina, the two countries with the same European future to share, as being very good (cooperation).

Although the crimes against Muslim and other non-Croat population (in Bosnia and Herzegovina) were widely known about as early as in the very days they had been committed, the crimes were ignored and still have been ignored. It is our opinion that the present Government of the Republic of Croatia should also take a clear stance on the issue of crimes, as previously done by former Croatian president Stjepan Mesić who clearly distanced himself from the (war-time) politics towards the BiH.

The court in The Hague passed the first-instance verdict which acquitted the top officials of the Serbian State Security Service

On 30 May 2013, the ICTY Trial Chamber passed the first-instance (still non-final) court verdict which acquitted Jovica Stanišić, former Chief of Serbian State Security Service, and Franko Simatović, former Commander of Special Operations Unit of the State Security Service, of charges of crimes committed against non-Serbs in Croatia and in Bosnia and Herzegovina from 1991 until 1995.

According to the conclusions made by the majority members of the Trial Chamber, the role of Stanišić and Simatović was reduced exclusively to organisation of participation of special purpose units of the Serbian State Security (Red Berets), Škorpioni (Scorpions), and participation of the Serb Voluntary Guard and the SAO Krajina (Serb Autonomous Area of Krajina) Police in war operations on the territory of Bosnia and Herzegovina and the territory of Croatia, providing logistics and financial support as well as providing support to the successful taking over of Vukovar and establishing and maintaining control over the occupied territories.

The crimes which, beyond any reasonable doubt, had been committed by members of all above-mentioned Serb units, were not attributed to the above-named accused top officials of the Serbian State Security.

In her different (opposite) opinion, enclosed to the verdict, the judge Michele Picard stated that she believed that the “firm support” and “close connections” which the accused persons had held with the police units and paramilitary formations which had been committing the crimes did show their “crucial role” in the process of ethnic cleansing of the area which the Serbs had deemed as their own. Among other issues, judge Picard stated that it was the Serbian State Security, led by the accused persons, which had founded the “Red Berets”, the very unit which represented the “foundation of ethnic cleansing”; that the accused persons had actually formed the training camps where the paramilitary units which had committed the crimes were being trained at; that the accused persons had control over the persons who were “directly responsible for ethnic cleansing”, just as Hadžić, Martić and Arkan; and that the accused persons had actively been cooperating with Karadžić and Mladić in the way that the accused persons had been training Karadžić’s and Mladić’s troops for the attacks in which the non-Serb population had been expelled. Finally, the accused persons had been acting with full consciousness that the crimes had been committed and that they



would be committed. If the court, in spite of everything stated above, remains to conclude that Stanišić and Simatović do not have anything to do whatsoever with assisting and supporting the crimes in Croatia and in Bosnia and Herzegovina, the judge Picard deems that in that case the international law will enter the “dark area” in which “the law will intimidate only the common people and will take into consideration only the petty misdemeanour”.

After this verdict, we have reached a defeating conclusion that not a single member of the Serbian political or military leadership, with the exception of lower-ranking JNA (Yugoslav National Army) commanders (Miodrag Jokić and Pavle Strugar, convicted for the crimes committed in the Dubrovnik area, and Mile Mrkšić and Veselin Šljivančanin, convicted for the crimes committed in the Vukovar area) has been convicted for the crimes committed on the territory of Croatia. The first-instance court verdict in case against the accused Vojislav Šešelj is the only one left and its announcement is still expected.

The first-instance court verdict of acquittal of Stanišić and Simatović caused shock and disbelief in Croatia and in Bosnia and Herzegovina but also among a part of the general public in Serbia. Subsequent to the verdict of acquittal, Žarko Korać, Vice-President of the Serbian National Assembly and a leader of the opposition party – the Social-Democratic Union, assessed that Jovica Stanišić and Franko Simatović had acted as “the heart of darkness of Milošević’s regime” and that the two of them “had organised everything that had been happening in Croatia and in BiH”.

Three members of the Croatian Army “Puma” unit non-conclusively acquitted of killing of civilians committed during the Military Operation “Southern Region”

On 23 May 2013, the Zagreb County Court passed the first-instance (non-final) verdict against former members of the 7th Guards Brigade of the Croatian Army – Tihomir Šavorić, Ivica Krklec and Alen Toplek acquitting them of charges of killing four unidentified civilians during the Military Operation “Southern Region” carried out in the area of the villages of Dabrac and Bočac (half-way between Mrkonjić Grad and Banja Luka, in the territory of Bosnia and Herzegovina) in October 1995.

In the explanation of the verdict, the Trial Council President, judge Tomislav Juriša stated that not a single witness, out of ten heard witnesses, had not directly charged the accused persons. The accused Krklec, who had admitted his guilt and charged Šavorić and Toplek in the initial statement given to the police, changed his statement during the court hearing.

On the other hand, in October 2011, Tihomir Šavorić was convicted to six years in prison for executing the captured members of the Army of Republika Srpska during the (Croatian Army) Military Operation “Maestral 2” carried out during September 1995 in the village of Mlinište in Bosnia and Herzegovina.

The representatives of the State Attorney’s Office announced that the prosecution would appeal against the verdict of acquittal.

One of the perpetrators of the crime in Hrvatska Kostajnica arrested in the Republic of Serbia

According to the information conveyed by numerous internet portals, Nikola Maljković was arrested in Smederevo, Republic of Serbia, on 15 May 2013. Nikola Maljković is one of the members of the Serb paramilitary formation who had surrounded a house of the Bišćan family in Hrvatska Kostajnica on 08 September 1991, opened fire on the house and instantly killed Gojko Badrić, a person of Serb ethnicity, the neighbour of the Bišćan family who had happened to be visiting the Bišćans at that time, and after the married couple - Mladen Bišćan and Anđelka Bišćan, their minor son Danijel Bišćan and Anđelka Bišćan’s mother – Jagoda Brkljačić had gotten out of the house and surrendered, the members of the Serb military formation had killed Anđelka Bišćan, Mladen Bišćan and Jagoda Brkljačić, Danijel Bišćan’s parents and his grandmother, right in front of Danijel’s eyes. The members of the Serb military formation had abused Danijel and after that they had handed him over to a Croatian family.



For the above stated crime, the Sisak District Court tried in absence the accused Jovan Maljković, Nikola Maljković, Dragan Japranin, Nikola Begović and Branko Matijašević, and on 13 October 1993 passed the verdict No:K-31/93-19 against them, sentencing each of the accused persons to 20 years in prison.

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