

Documenta – Center for Dealing with the Past
Centre for Peace, Nonviolence and Human Rights – Osijek

Civic Committee for Human Rights

Association of Persons who Suffered Damage
from Terrorist Activities “Pravda” - Bjelovar

MONITORING WAR CRIMES TRIALS

2015 ANNUAL REPORT

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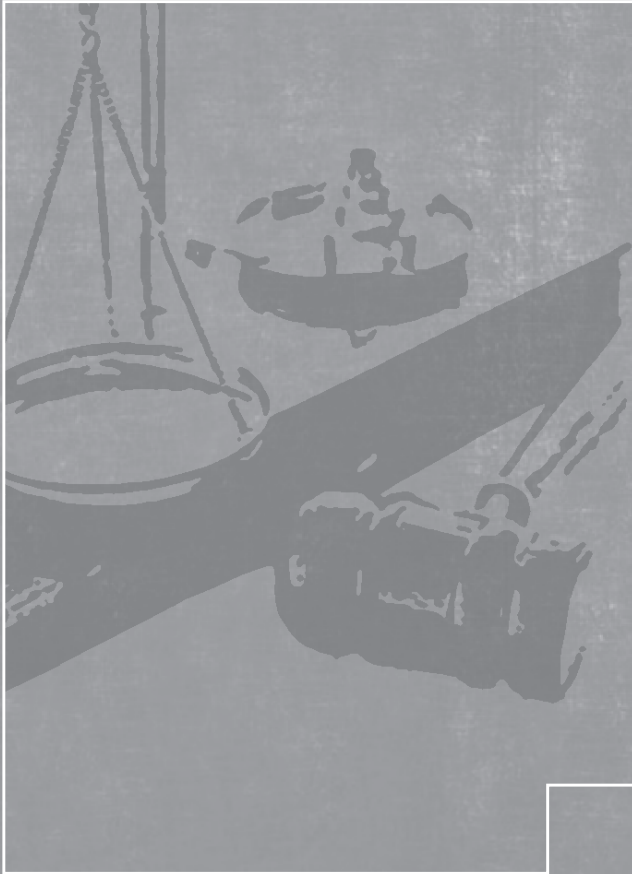
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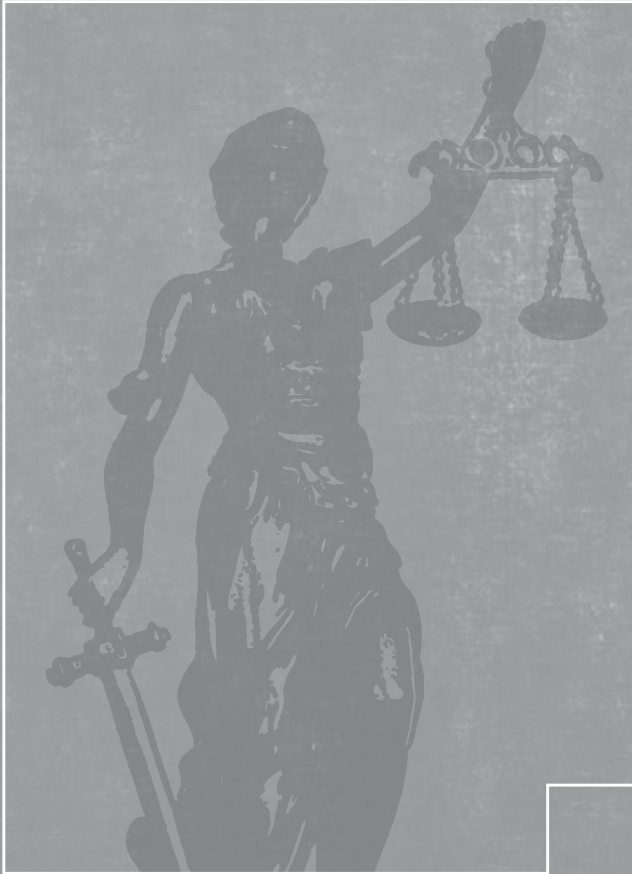


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Introduction



A. Project background and mission

Documenta - Center for Dealing with the Past, together with the Centre for Peace, Nonviolence and Human Rights from Osijek and the Civic Committee for Human Rights, have been monitoring war crimes trials before Croatian courts, observing in its annual reports trends and recommendations for the improvement of the situation regarding war crimes trials since 2005. As of 1st July 2016 we have been monitoring trials with the support of the *European Economic Area and the Kingdom of Norway Grants (EEA/NG)*.¹ Human rights organizations that have been monitoring war crimes trials as of 2005, were recently joined by Pravda from Bjelovar.

Objectives of monitoring war crime trials include the following: increasing the effectiveness of prosecution of war crimes, improving legal framework for their prosecution, improving the position of victims in criminal proceedings, intensifying regional cooperation, indemnification all war victims and strengthening judicial independence.

The Monitoring team stresses the importance of efficiency and fairness of judicial system, which should respect both the rights of suspects and defendants as well as the rights of victims and witnesses. Therefore, when monitoring trials, our monitors apply the international fair trial standards, which serve as a framework for the assessment of court actions.

The Trial Monitoring Program relates to monitoring all war crime trials conducted before Croatian courts and a number of criminal proceedings that are ongoing before the courts in neighboring countries (especially those involving war crimes committed in the RC territory). We also monitor indemnification proceedings as well as trials conducted at the International Criminal Tribunal for the Former Yugoslavia (ICTY).

This Annual Report deals with trials and related social and political events, which took place throughout 2015.

B. Summary

It is increasingly difficult to prosecute the perpetrators of the crime due to the passage of time and the reluctance of the witnesses to testify without fear. Of a total of 490 registered crimes, 171 cases are prosecuted against unknown perpetrators. In 2015 the State Attorney's Office of the Republic of Croatia received

¹ The content of this report is the sole responsibility of the organizations that published it and any opinions expressed therein do not necessarily represent the official position of the donors. The report is part of the project «Support to the Strategy of development of judiciary in the area of human rights» supported by the European Economic Area and the Kingdom of Norway Grants (EEA/NG), implemented in the Republic of Croatia by National Foundation for Civil Society Development.

41 criminal charges², more than in the previous years. The quality of evidence, due to untimely, and often not thoroughly carried out investigations, is decreasing, and in the society there is still not an atmosphere where people would testify against perpetrators of their own ethnicity. The interest of domestic and international public in war crimes issues is declining. Therefore we express our fear that the perpetrators and the persons responsible on the basis of command responsibility, especially on the highest echelons, will remain unpunished. In spite of that, we are again pointing to the necessity of unveiling the circumstances of all the war crimes and punishing the perpetrators. Only that way can we secure justice for the victims and prevent the recurrence of similar cruel conflicts in the future. It is also significant that Croatian Parliament adopted the Amendments to the Act on Election of Representatives to the Croatian Parliament (OG 19/2015) that impedes voters and political parties from nominating persons with a final sentence to an unconditional punishment of incarceration. In spite of these positive amendments, we have observed frequent presence of sentenced/indicted/suspects of war crimes in public and political life, which points to the trend of disrespect of the work of the judiciary and ignoring the facts of undoubtedly committed war crimes during the Homeland War.

By delegating war crimes trials competence to four courts and four prosecutor's offices, this resulted in certain problems related to the lengthiness of court procedures to the overload of state prosecutors and judges, lack of interns and insufficiently developed technical capacities and facilities. Although in 2015 *National Strategy for the Victims and Witnesses Support 2016-2020* was adopted, the victim and witness support did not continue to develop in 2015, but it has stagnated during the last year. Also, although all war crimes cases were delegated to the four county courts and county state attorney's offices that were declared exclusively competent for war crimes, some of the trials against members of Serbian troops were suspended on the grounds of unfounded accusations. This shows that all the consequences of earlier unfounded accusations, in spite of multiple reviews, performed by state attorney's offices, are still not eliminated. Therefore it is necessary to inform the County State Attorney's Offices on the cases referred on the bases of former territorial jurisdiction, as well as the cases in procedure on the basis of regional cooperation agreements. For this thorough overview and an effective prosecution we need educated State Attorneys. This is especially concerning in the cases where the defendants are extradited on the basis of European Arrest Warrant or *European Convention on Extradition*. In 2015 the Republic of Croatia received five arrested/ extradited persons suspected/indicted for war crimes.

After 10 years of decision-taking process on the extradition, on 8 July 2015 Australia extradited Dragan Vasiljković to Croatia, suspect of war crimes against civilian population and prisoners of war. Thus Australia showed its confidence in

2 Source: <http://www.dorh.hr/IzvjescjeDrzavnogOdvjetnistvaRepublikeHrvatske>

Croatian judiciary because in his appeals Dragan Vasiljković stressed the impossibility of having a fair trial before Croatian courts, especially because of possible discrimination on grounds of ethnicity, as well as impartiality of the courts.

In a great amount of cases the members of Serbian troops are unavailable to Croatian justice and they are tried *in absentia*, which indicates that there is a need to improve regional cooperation. The trend of *in absentia* trials represents several steps back in the practice of war crimes trials from the point of view of the due process principle, described in the Annual Report on Monitoring War Crimes Trials in 2014.³ We call upon the competent institutions to avoid *in absentia trials*, to increase exchange of evidence and transfer of cases to the Prosecutor's Offices in the region according to the residence of the defendant, because otherwise *in absentia* trials are becoming illogical, costly, do not bring justice to the victims and also give way to possible violation of rights of the defendants. Relations between Croatian and Serbian political leadership, burdened with numerous problems from the previous period, worsened after the change of government in Croatia, and even more after the acquittal of Vojislav Šešelj by the International Criminal Tribunal for the former Yugoslavia (ICTY) in March 2016. Great turmoil was caused by the *Law on organization and competence of government authorities in war crimes proceedings*, which prescribes that the government authorities of the Republic of Serbia are competent for proceedings of war crimes committed on the territory of the former Yugoslavia, regardless of the citizenship of the perpetrator. According to Croatia, the Law excessively expands criminal competence of the authorities of the Republic of Serbia.

We are in principle in favor of the application of universal jurisdiction that served as a basis for the prosecution of perpetrators of war crimes and other criminal offences against values protected by international and humanitarian law in the country of their residence or arrest. However, we consider that with the signing of interstate agreements between the countries of the region (post-Yugoslav countries) the competence for the prosecution by the judiciary based on citizenship or residence should be foreseen in certain country.

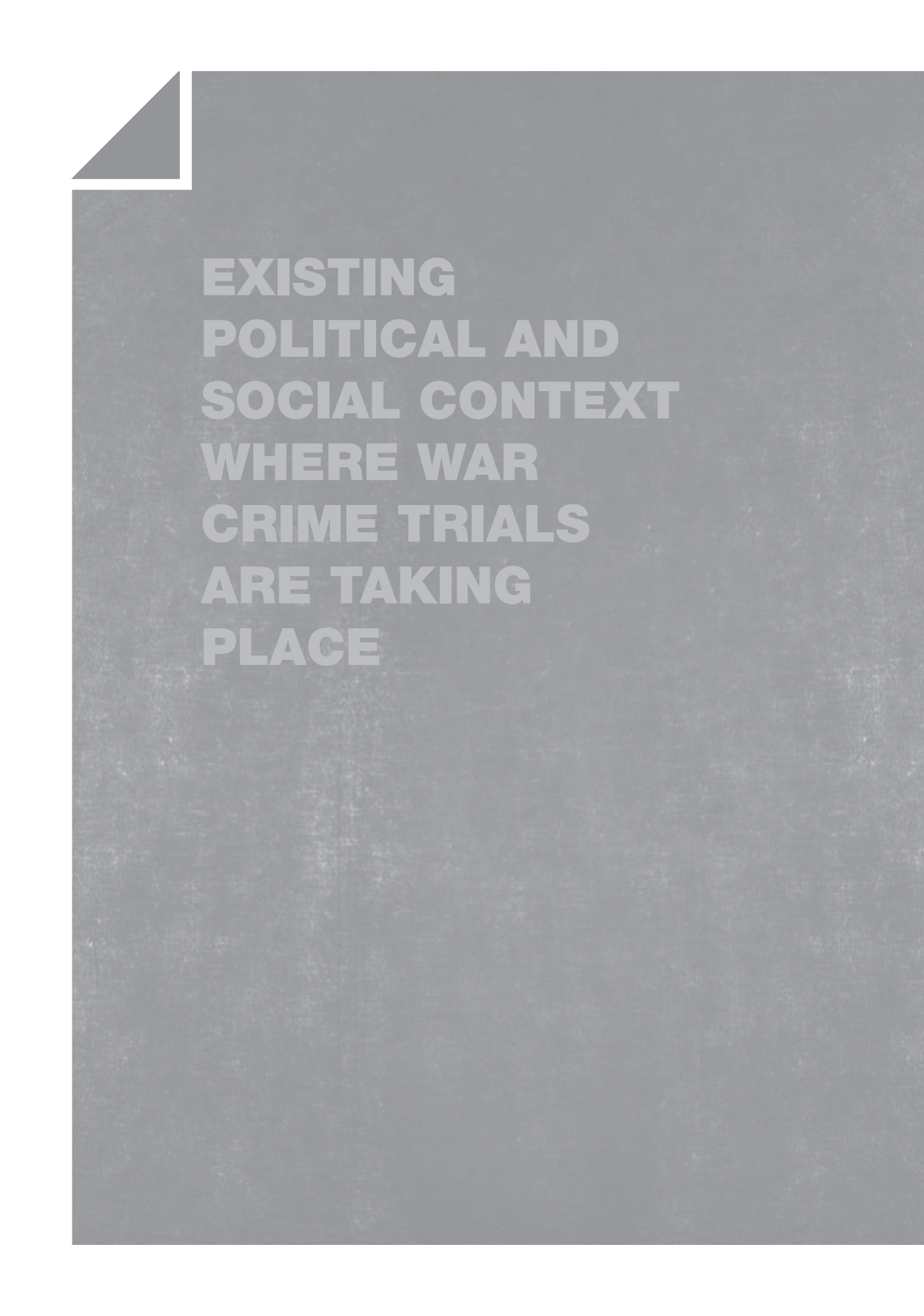
In our observations we especially warn of the lengthiness of trials, such as in the case against Tomislav Merčep where the first instance trial lasted for 4 years, 2 months and 17 days. Another concern is multiple sending of cases for retrial after the Supreme Court of the Republic of Croatia quashes the lower court decisions, and as a result there is reluctance of injured persons and witnesses to testify again and get (re)traumatized. In the course of 2015 we monitored 37 war crimes trials against 117 defendants (12 trials or 40% were retrials). Although Croatian judiciary and other government authorities must show that all the defendants and victims are treated equally and without bias, the courts keep taking the fact of participating in Homeland War as a defender (member of Croatian troops) as an

3 <http://www.documenta.hr/hr/izvje%C5%A1taj-o-pra%C4%87enju-su%C4%91enja-za-ratne-zlo%C4%8Dine-2014.html>

alleviating circumstance in the determination of the sentence. On the other hand, several court panels in their explanations of guilty verdicts against members of Croatian troops stressed that the perpetrators represent a disgrace for their troops and the Homeland War.

We also stress that there is a need to increase human capacities of the courts and prosecutor's offices, as well as to increase the number of war crimes investigators. Also the support to the victims and witnesses is indispensable in State Prosecutor's Offices and the Police. In the work with the victims (direct victims or families of killed and disappeared) of unprosecuted war crimes there is still the problem of charging the costs of the procedure since they lost suits against the Republic of Croatia for the compensation of non-material damage due to survival of torture or killing of their family members. In July 2012 the Government of the Republic of Croatia adopted Rules of criteria, standards and procedure for the postponement of payment, installment debt repayment or partial debt write-off⁴ that writes-off the debts of the socially vulnerable citizens, including the litigation costs. But the Rules did not solve the problem in a satisfactory manner. According to our information, in some cases the enforcement measures have already been initiated or carried out. It is a disgrace that the Republic of Croatia does not recognize the victim's sufferings by charging them procedural costs, and not respecting their rights guaranteed by international law: UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, European Convention for the Protection of Human Rights and Fundamental Freedoms as well as EU directives, especially the Directive 2012/29/EU of the European Parliament and of the Council on establishing minimum standards on the rights, support and protection of victims of crime of 2012, that should have been transposed into national legislation until November 2015.

4 Rules of criteria, standards and procedure for the postponement of payment, installment debt repayment or partial debt write-off - in Croatian (Official Gazette, broj 52/13)



**EXISTING
POLITICAL AND
SOCIAL CONTEXT
WHERE WAR
CRIME TRIALS
ARE TAKING
PLACE**



1. EXISTING POLITICAL AND SOCIAL CONTEXT WHERE WAR CRIME TRIALS ARE TAKING PLACE

- *Presence of convicted, accused and suspects of war crimes in public and political life in the Republic of Croatia*

During 2015 we have observed a worrying trend of presence of convicted, accused and suspects of war crimes in public and political life in the Republic of Croatia, which is denying the work of the judiciary and also does not acknowledge war crimes victims.

One of the invited at the inauguration of the President of the Republic of Croatia, in February 2015 was Tomislav Merčep, accused of war crimes. On the eve of the knight's tournament Sinjska Alka, human rights organizations warned that the convicted war criminal Mirko Norac is still member of the *Alka Knights Society* in spite of being found guilty in two trials and sentenced to a total of 15 years of prison for crimes against humanity and international law. Norac, who, among other things, was convicted for personally killing an unidentified woman near Gospić – as stated by the first instance verdict – “*had failed to express reverence for the killed or sympathy for those who lost their loved ones in the military operation.*” Croatian Government has not in any way reacted to the repeated questions by the media and human rights organizations.

On the occasion of the marking of the 20th anniversary of the MPO Storm, on 5th August 2015 a street in the town of Knin was named *72nd Battalion Street*. Mihael Budimir, Dalibor Banić and Josip Bikić attended the street naming ceremony in Knin. Human rights organizations called upon the Government of the Republic of Croatia to check whether these are the same persons who, as members of the 72nd Battalion, were convicted for war crimes in Lora. They reminded that members of the 72nd Battalion of the Croatian Army Military Police, Tomislav Duić, Commander of the Military Prison Lora, Tonči Vrkić, Anđelko Botić, Emilijo Bungur and Ante Gudić as well as Miljenko Bajić, Josip Bikić and Davor Banić, were found guilty in the so called *Lora I*.⁵

On the Independence Day of the Republic of Croatia (8th October 2015) at a rally of the right wing Croatian Democratic Assembly of Slavonia and Baranja HDSSB, the party youth unit called the Slavonian Hawk Guard marched wearing black uniforms. The line-up ceremony reminds of not so remote war events, recalling the images of fear, exile and refuge. On 21st October, the Antifascist League of the Republic of Croatia filed a request to the Ethics Commission of the

⁵ On the basis of the presented evidence, the Court undoubtedly confirmed that in the “Lora” Military Investigative Centre in Split, in the period from March to September 1992, with no legal basis for such an act, the defendants detained a large number of civilian persons, mostly of Serb ethnicity, offending the detainees’ human dignity, humiliating them, mistreated them both physically and mentally, tortured and physically punished them until the death of some of the detainees: Gojko Bulović and Nenad Knežević. The Supreme Court of the Republic of Croatia upheld the verdict which became final on 6th February 2007.

State Electoral Commission of the Republic of Croatia⁶ to reconsider revoking the candidature of Branimir Glavaš as MP. As stated in the request, the behavior of Branimir Glavaš during October is an open threat to democracy in Croatia, the fundamental values enshrined in the Constitution of the Republic of Croatia and, in general, the development of Croatia as a decent country not burdened by fear. On 22nd October the Ethics Commission answered that the request refers to the events that occurred before the election campaign and that they cannot decide on them according to the Art. 28 Par. 1 and 103. It. 2 of the *Election Code of Ethics*⁷. Branimir Glavaš⁸, with a non-final verdict for war crime against civilian population in Osijek, was elected Member of Parliament.

While respecting the presumption of innocence⁹ we consider that it is morally unacceptable that an MP be convicted of war crime against civilian population by a non-final judgment, that the invited of important political gatherings, public institutions be accused of war crimes. We warn to the vagueness of legal provisions, ignoring of ethical code of political officials as well as the ethical code of political parties. We also point to excessive length of judicial procedures and judgments that result in the lack of trust of the citizens in the judiciary and the rule of law, especially in cases of gross violation of international humanitarian law, abolishing impunity and bringing justice to the victims. We express our regret that not even after 20 years some political forces of our society have not abandoned their destructive concepts, uniforms reminding of the grave consequences of war, instead of directing the young generations towards a construction of peace, justice and establishing hope for the recovery of the society.

6 Ethics Commission evaluates the behavior of election participants during the election campaign and the election procedure and carries out external supervision of election campaigns; <http://www.izbori.hr/ws/index.html?documentId=7784C16B8C7C852EC1257EE1003991AD>

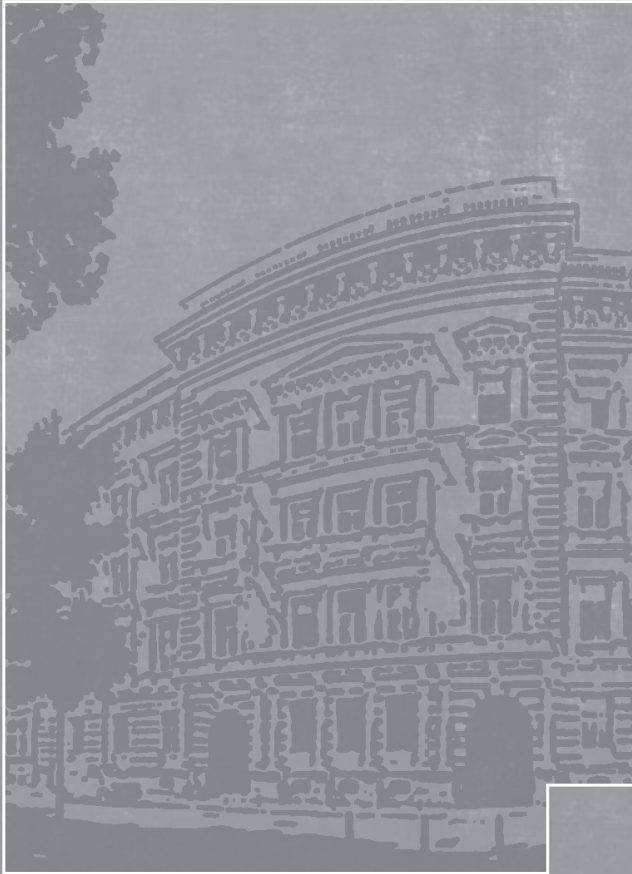
7 Amendments to the Act on Election of Representatives to the Croatian Parliament (OG 19/2015), adopted the suggestions of civil society organizations, specifically: Voters and political parties may not nominate persons sentenced to an unconditional punishment of incarceration over six months in duration by a court decision in full force and effect if at the moment of the entry into force of the decision to call an election the punishment is being enforced or to be enforced. Also, Voters and political parties may not nominate persons whose rehabilitation terms under a special law have not expired at the moment of the entry into force of the decision to call an election, and who were sentenced by a court decision in full force and effect for any of the following crimes against humanity and human dignity: genocide, a crime of aggression, a crime against humanity, a war crime, terrorism, terrorist association, torture, slavery; criminal offences against life and limb: aggravated murder, and criminal offences against official duty: abuse of position and authority.

8 In January 2015 the Constitutional Court annulled the verdict of the Supreme Court of the Republic of Croatia convicting je Branimir Glavaš for war crimes against civilian population in Osijek: the death of Čedomir Vučković, Đorđe Petković, Branko Lovrić, Alija Šabanović, Jovan Grubić, Milutin Kutlić, Svetislav Vukajlović, Petar Ladjuka, Milenko Stanara, Bogdan Počuča, and one unidentified female and one unidentified male person, attempt of murder of Radoslav Ratković and the torture of Nikola Vasić and Snežana Berić.

9 Article 28 of the Constitution of the Republic of Croatia: “Everyone is presumed innocent and may not be held guilty of a criminal offence until such guilt is proven by a binding court judgment..”



**OBSERVATIONS
IN WAR CRIME
TRIALS**



2. OBSERVATIONS IN WAR CRIME TRIALS

- *Statistical data*

In the course of 2015 we monitored 37 war crimes trials against 117 defendants. The biggest amount of criminal cases, 17, was carried out before the Zagreb County Court, 11 cases before the Osijek County Court, while there were 7 cases each before the Split and Rijeka County Courts.

Fourteen (14) trials were held in the absence of the defendants, while in other cases only some of the defendants were absent. If we sort the trials by troop membership, we monitored 8 cases against members of Croatian Army or Croatian Ministry of the Interior¹⁰, and 26 trials against members of Serb paramilitary troops and Yugoslav Peoples' Army¹¹. We monitored 3 cases for crimes committed in Bosnia and Herzegovina: against a member of Serb Paramilitary Unit Scorpions¹², a member of Defense of Autonomous Region of Western Bosnia¹³, a member of Croatian Defense Council (HVO) Convicts Battalion Široki Brijeg¹⁴, transferred to Croatian State Attorney's Office on the bases of signed agreements on cooperation in prosecuting war crimes. 111 defendants are accused as direct perpetrators while 6 defendants are accused by command responsibility for failing to supervise: failure to prevent their subordinates from committing illegal detentions, torture and killings of civilians. We also monitored 9 public sessions before the Supreme Court of the Republic of Croatia.

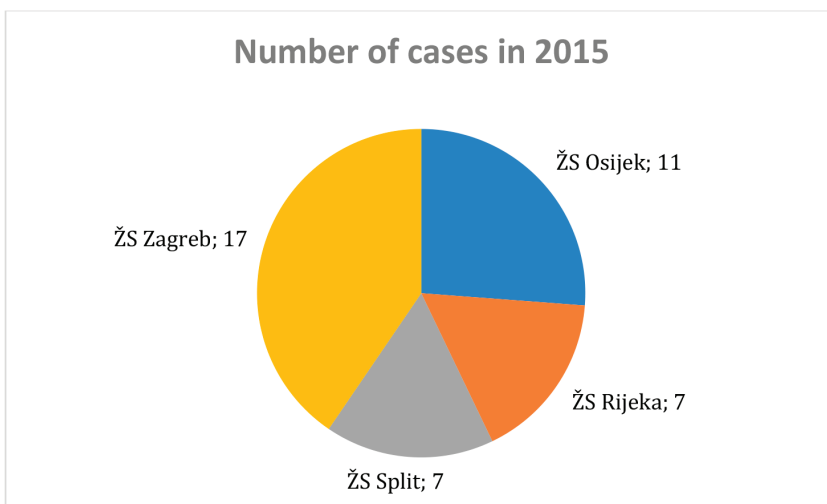
10 Crime in Kuline (2), crime in Medak Pocket, crime in Lora, crime in Pakrac Valley, crime in Kerestinec, crime in the Bjelovar barracks, crime on the Korana bridge

11 Crime in Kneževi Vinogradi, crime in Mikluševci, crime near the bridge Erdut - Bogojevo, crime in Popovac, crime in Dalj, crime in Berak, crime in Žepina, crime in Suknovci and Oklaj, crime in villages along the Una river near Hrvatska Kostajnica, crime in Zamlača, Kozibrod and Struga, crime in the Glina prison, crime in Erdut, crime in Kopačevo, crime in Borovo, crime in Udbina, crime of Karlovac bombing, crime in Maja and Svračica, crime in the village of Borovac, crime of bombing Varaždin, crime in Batinjska Rijeka, crime of bombing Slavonki Brod, crime in Slano, crime in Baranja, destruction of Catholic church in Glina, crime near the Peruća lake, crime in Tovarnik

12 Crime in Godinjske Bare, def. Milorad Momić

13 Crime in Drmeljevo camp (Velika Kladuša), def. Ćazim Behrić

14 Crime in Široki Brijeg, def. Ivan Hrkač



Graph 1.
Total number of cases before County Courts in 2015

Non-final verdicts were rendered in 13 cases against 19 defendants¹⁵. In the course of the last year 12 defendants were rendered non-final verdicts in 8 cases. The average prison sentence is 5 years and 9 months, indicating that $\frac{3}{4}$ of the defendants were sentenced to a minimum or below mandatory minimum prison sentence. Most of the convicted with non-final sentences are members of Serbian paramilitary forces, direct perpetrators of war crimes, while one verdict is against a member of Croatian Army for a crime committed in 1993 in Medak Pocket.

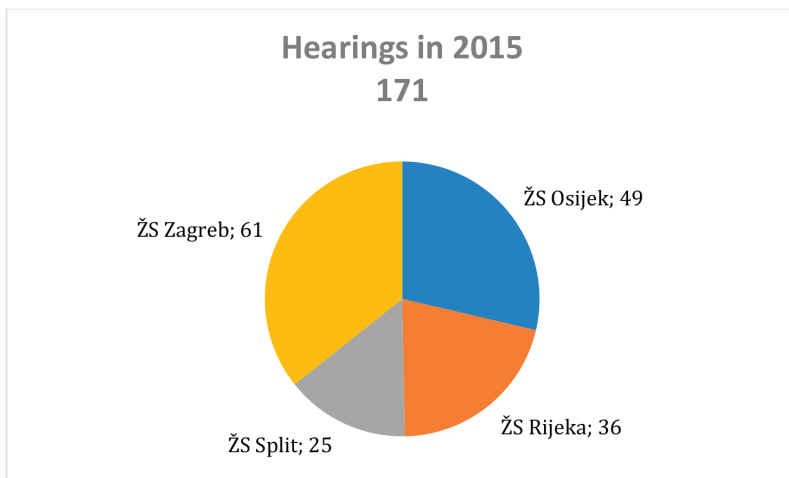
Also, although all war crimes cases were delegated to the four county courts and county state attorney's offices that were declared exclusively competent for war crimes, some of the trials against members of Serbian troops¹⁶ were suspended on the grounds of unfounded accusations. This shows that all the consequences of earlier unfounded accusations, in spite of multiple reviews, performed by state attorney's offices, are still not eliminated. This is especially concerning in the cases where the defendants are extradited on the basis of European Arrest Warrant or *European Convention on Extradition*. Although Croatian judiciary and other government authorities must show that all the defendants and victims are treated equally and without bias, the courts keep taking the fact of participating in Homeland War as a defender (member of Croatian troops) as an alleviating circumstance in the determination of the sentence.¹⁷ Also, an alleviating circum-

¹⁵ According to the annual report of the State Attorney's Office of the Republic of Croatia for 2015, during the year 31 person was indicted for war crimes, and the competent courts rendered judgments against 30 persons, 23 being found guilty and 7 acquitted.

¹⁶ Crime in Berak, def. Milorad Momić, crime in Ervenik, defs. Nebojša and Željko Travica, crime in Kneževi Vinogradi, def. Miloš Marković

¹⁷ Crime in Medak Pocket, def. Velibor Šolaja

stance such as a minimal contribution of the defendant in committing crime is rarely applied, even when it represents an obvious reason for reducing sentence. On the other hand, the courts are frequently using certain elements as alleviating circumstances, such as the marital status of the defendant. Finally, certain factors, such as the passage of time, are applied inconsistently.

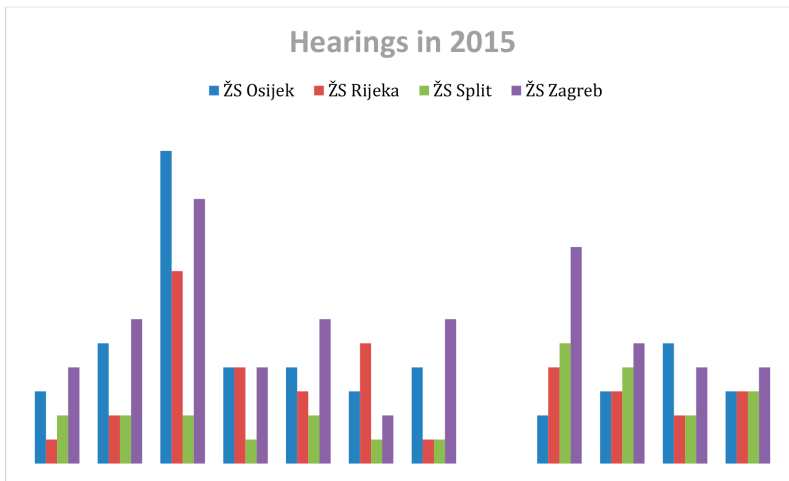


Graph 2.

Total number of hearings before county courts competent for war crimes

- ***Frequency of scheduling hearings contrary to the principle of concentrating making hearing***

It is necessary to stress that the activities of the four special courts relative to the war crimes trials are mostly detected through scheduling hearings in war crimes proceedings. In 2015 the above-mentioned courts scheduled 171 hearings (court hearings, meetings of the adversarial council, preparatory hearings), out of which 16 were postponed. We have to observe that in a great number of cases the frequency of scheduling hearings was contrary to the principle of concentrating the procedure: The proceedings shall be conducted without delay and the court and other state authorities shall be bound to prevent any abuse of the rights of the procedural participants. In proceedings in which the defendant has temporarily been deprived of freedom, the court and state authorities shall proceed with special expedition (Art. 11, par. 2, Criminal Procedure Code). The frequency of scheduling hearings varies, but the average is in accordance with the provisions of the Criminal Procedure Code, Art. 407, Par.3, with a continuance scheduled for not later than three months.



Graph 3
Number of scheduled hearings before county courts in 2015

- *Analysis of duration of war crimes trials*

The right to a trial within reasonable time has an important role in promoting and realizing human rights and fundamental freedoms and it is guaranteed as human rights in the most important documents at national and international level. A fast trial ending with a court decision- sentence or acquittal- not only is one of the most important rights of the defendant, but also an equal right of the victims. Delaying proceedings can weaken the trust of the public in judiciary and its capability of bringing justice.

This constitutional guarantee is based on the Art. 29. It. 1. off the Constitution of the Republic of Croatia:

“ Everyone shall be entitled have his or her rights and obligations, or suspicion or accusation of a criminal offence decided upon fairly before a legally established, independent and impartial court within a reasonable period. “

The Constitutional Court of the Republic of Croatia in considering the reasonable time of proceedings was guided by the following criteria: complexity of the procedure, behavior of the court carrying out the procedure, behavior of the party with a regard to the significance of the case for the complainant who lodged a constitutional complaint.

The fact that all war crimes cases were delegated to the four county courts and county state attorney’s offices caused some problems related to the length of judicial proceedings due to the overburdening of the courts and insufficiently developed technical capacities and facilities. Average lasting of judicial proceedings where in the course of 2015 first-instance judgment was published is 4 months, but we have noticed a worrying lengthiness of proceedings through the analysis of retrials.

- **Great number of retrials after annulments by the Supreme Court**

A fair criminal procedure is considered efficient if it lasted according to the circumstance of a case and when the competent court rightly differentiated the innocence from the guilt of the defendant and thus rendered a criminal sanction foreseen by the law.

During 2011 we monitored 28 first-instance procedures / trials against 65 defendants, out of which 12 were retrials (42,8 %). During 2012 we monitored 34 first-instance procedures against 42 defendants, out of which 11 were sent for retrial (32,4 %). During 2013 we monitored first-instance procedures against 33 defendants, out of which 5 procedures were retrials (20 %). During 2014 23 first-instance judgments were rendered, out of which 10 were quashed and sent for retrial. During 2015 we monitored 37 first-instance procedures against 117 defendants, out of which 12 were retrials (32,4 %). Here we have to stress that some of the retrials were earlier *in absentia* trials.

Examples of lengthy and repeated trials in 2015:

- Crime in the villages along the Una river near Hrvatska Kostajnica commenced before the Sisak County Court in the trial against Pero Đermanović, Ljuban Bradarić, Dubravko Čavić and Ljubiša Čavić on 16th February 2010, who were indicted for committing in 1991 in the villages Stubalj, Graboštani, Gornji and Donji Hrastovac a war crime against civilians under Article 120, paragraph 1 of the of the General Criminal Code of the Republic of Croatia. On 8 May 2015 before the judicial panel of the Zagreb County Court three defendants - Pero Đermanović, Dubravko Čavić and Ljubiša Čavić – were acquitted of charges of war crimes against civilian populations. This is the fourth judgment and first acquittal against defendants who were charged for forced detention and killing of civilians as well as arson of two houses. This judicial procedure from the first trial lasted 5 years and 3 months including: the decision of the Supreme Court of the Republic of Croatia upon appeals and the rendering of the first-instance judgment in 2015;
- Trial against Milorad Momić, extradited from France on 2nd September 2011, commenced before the Vukovar County Court on 3rd November 2011, and on 21st December 2012 he was found guilty and sentenced to 3 years imprisonment. The Supreme Court abolished the first-instance judgment and sent it for retrial. During the retrial before the Osijek County Court, the Osijek State Attorney's Office amended the indictment, the description of facts of the criminal offence and prequalified it into armed rebellion. Consequentially, the procedure was suspended by applying the *General Amnesty Law*. This trial lasted 3 years and 5 months;
- Trial against Goran Amanović commenced on 31st January 2011 before the Šibenik County Court, and in May the defendant was acquitted. The Supreme

Court quashed the first-instance acquittal and sent it for retrial. During the repeated trial before the Split County Court def. Amanović was found guilty and sentenced to 8 years imprisonment (in a non-final sentence). This procedure lasted 4 years and 2 months;

- On 2nd April 2015 the Supreme Court of the Republic of Croatia upheld the first- instance verdict sentencing Mihajlo Hrastov to 4 years imprisonment, thus rendering a final judgment in a procedure that started on 1992 before the Karlovac County Court;

The lengthiness of trial is also noticed in the procedure (in course) against Tomislav Merčep that commenced before the Zagreb County Court on 19th February 2012 and then again before a changed judicial panel on 26th March 2012.

- *In absentia trials*

The trend of *in absentia* trials, dominant during the 1990s, represents several steps back in the practice of war crimes trials from the aspect of respecting the principle of fair trial, as described in the 2014 annual report.¹⁸ According to the practice of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Higher Court in Belgrade, International Criminal Court (ICC) there are no *in absentia* trials before these judicial institutions, but they are exclusively held in the presence of the defendant. That way complaints regarding the violation of the provisions of the Articles 6¹⁹ and 14²⁰ of the *European Convention on Human Rights and Fundamental Freedoms* are avoided.

Before special War Crimes Chambers of the Republic of Croatia in 2015 we monitored 14 war crime trials where defendants were not available to judiciary and were tried *in absentia*. In some other proceedings, only some of the defendants are tried *in absentia*.

As an example, we would like to present the *Crime in Popovac*. Before the Osijek County Court War Crimes Chamber the procedure against four defendants unavailable to the judiciary²¹ got its non-final. They were charged of war crime committed in Popovac against civilian population in the period from August 1991 to the end of 1996. There has already been a trial against the four defendants present before the County Court of Osijek for war crimes committed in Popovac at the same time, but not for the completely same acts committed by the perpe-

18 <http://www.documenta.hr/hr/izvje%C5%A1taj-o-pra%C4%87enju-su%C4%91enja-za-ratne-zlo%C4%8Dine-2014.html>

19 Art 6 ECHR – right to a fair trial

20 Art 14 ECHR – prohibition of discrimination

21 The indictment K-DO-8/03 of 16th April 2009 was issued by the Osijek County State Attorney's Office, against four unavailable defendants: B.S, D.V, S.M. i J.S, for war crime against civilians, Article 120, paragraph 1 of the General Criminal Code of the Republic of Croatia.

trators.²² The witnesses who gave their depositions during that procedure in 2009 were examined again during the procedure in 2015. All the witnesses, the majority survivors of torture and abuse, stated their discontent with in absentia trials. They showed fatigue and uneasiness by multiple and repeated examinations: by police officers, investigating judges, prosecutors and during public hearings. They publicly expressed lack of belief in the achievability of justice given the absence of the defendants.

The Article 402, item 3 of the Criminal Procedure Act (CPA) provides the possibility of in absentia trial²³, provided that special conditions prescribed by law are fulfilled in order to hold in absentia trials. At the same time the agreements on cooperation between regional Prosecutors Offices in the region²⁴, where most of the unavailable defendants live (Serbia, Montenegro, Bosnia and Herzegovina), created the possibility of better cooperation and exchange of evidence. With the transfer of evidence, legal conditions are created for holding criminal trials against defendants before the courts of justice of the country of their citizenship, thus putting an end to the impunity of war crimes perpetrators.

Although in the proceedings in course the defendants at large are guaranteed professional defense, there are two reasons that make such trials doubtful. The first is the impossibility of a guilty plea and the impossibility of enforcement of judicial sentence abroad due to the unavailability of the defendant. The second is a simplified legal possibility of retrial. The provisions of CPA (Art. 497 It3; Art 501, It1, par 3) provide the possibility of retrial of a person who was sentenced in absence, when there is a possibility of a trial in his presence or regardless of his presence if new facts or new evidence are presented.

The Supreme Court of the Republic of Croatia gave its legal stance regarding *in absentia* trials in its ruling against Dušan Žarković et al.²⁵

22 The judgment of the Osijek County Court No. K-41/03, of 8th April 2004 dismissed charges against defendant M.Š. and applied Law on General Amnesty on him. The rest of the defendants were declared guilty and sentenced to prison: S.P. 2 years and 6 months, Đ.U. 2 years and 2 months and B.B. 1 year and 6 months. The Supreme Court judgment No. I-Kž-958/04, of 18th March 2008 upheld the dismissal of charges against the defendant M.Š. but quashed the sentences against the other three defendants. The new verdict of the Osijek County Court No. K39/08, of 7th July 2009 the defendants S.P, Đ.U. and B.B. were again declared guilty and sentenced to prison: S.P. 3 years, Đ.U. 2 years, B.B: 1 year and 6 months. The Supreme Court upheld the decision by its ruling No. I-Kž-818/09, of 9th February 2010.

23 Art 402, Item 3 of the Criminal Procedure Act of the Republic of Croatia (Official Gazette 145/13), The accused may be tried in his absence only provided that particularly important reasons exist to try him and if the trial is not possible in a foreign country, the extradition is not possible, the accused is on the run or unavailable to the authorities“.

24 <http://www.dorh.hr/Default.aspx?sec=649>

25 On 24th September 2015 the Supreme Court of the Republic of Croatia quashed the first-instance judgment of the Zagreb County Court in an in absentia trial against Dušan Žarković et al. (Crime in Joševica). The reasons of the abolishment of the first-instance judgment is the application of the Criminal Procedure Court provisions, that require cumulative fulfillment of necessary preconditions of the Article 402, It. 3 of the CPC (Official Gazette no.152/08, 76/09, 80/11, 91/12 – Judgment of the Constitutional Court of the Republic of Croatia, 143/12, 56/13, 145/13 i 152/14). In this particular case the first-instance court has not reasoned why the extradition of the defendant or a trial in another country is not possible.

We call upon the competent institutions to avoid *in absentia trials*, to increase exchange of evidence and transfer of cases to the Prosecutor's Offices in the region according to the residence of the defendant, because otherwise *in absentia* trials are becoming illogical, costly, do not bring justice to the victims and also give way to possible violation of rights of the defendant.

- ***Prosecuting sexual violence in war before domestic courts***

During 2015 we monitored 6 trials where rape or sexual abuse was the description of facts of a war crime, or part of its incrimination. Two trials were completely closed for the public, in one trial the testimony of the injured person was closed for public while in other trials the injured persons- witnesses testified without any protection measures, one witness testified by video-link from Canada, and some injured persons died in the meantime. At the same time during 2015 the State Attorney's Office covered 11 victims of rape in five indictments.

In our opinion the increase in prosecuting sexual abuse is a result of public voicing of the injured persons, as well as warning the public on the fact that the issue of rape as war crime has not been solved and that there has been a lack of reparative programs for victims in the past years.

- ***Application of the Act on the Rights of Victims of Sexual Violence***

The year 2015 was marked by the adoption of the *Act on the Rights of Victims of Sexual Violence during the Military Aggression against Republic of Croatia in the Homeland War*²⁶ considered a positive example of approach to the victims by granting them forms of reparations. The Act foresees a one-off payment and a monthly allowance for victims of sexual violence during the Homeland War. They will also be entitled to free psychosocial assistance; legal and medical aid; medical rehabilitation; general medical examination; compulsory and supplementary health insurance; access to facilities that offer support and services to war veterans and victims and other persons.

Since the application of the Act until 31st December 2015, the Ministry of War Veterans received 110 applications of victims. So far 25 cases were solved positively and status of victim of sexual violence during the Homeland War was granted, one case was refused due to the lack of compliance with legal conditions, and others are pending.²⁷

There is still a great need for rehabilitation among survivors of sexual violence in war, and there are still survivor victims who have not yet received any services

26 <http://www.zakon.hr/z/794/Zakon-o-pravima-%C5%BERTava-seksualnog-nasilja-za-vrijeme-oru%C5%BEane-agresije-na-Republiku-Hrvatsku-u-Domovinskom-ratu>

27 Source: Ministry of War Veterans

of rehabilitation, either because of the lack of Access to these services (e.g. those who live in distant areas or there are no civil society organizations, or authorities offering such services near their place of residence) or due to the stigmatization related to this kind of crime. The social stigma linked to men and women who were victims of sexual violence is widespread. As a result of this stigma that they are facing, a large number of surviving victims still remain silent, don't speak out loud and they are marginalized in the society, *de facto*, as well as *de jure*. Furthermore, the suffering of civil war victims is still used and manipulated by the political elites, which was evident through an inappropriate parliamentary discussion when the Act was submitted for vote.

•Arrests/Extraditions

In the course of 2015 we monitored arrests/extraditions of 5 persons linked to war crimes. Croatia currently issued 160 arrest warrants on Interpol website²⁸, with more than a half being persons wanted for the alleged war crime. Most of the arrest warrants are for Croatian citizens, while others are citizens of Bosnia and Herzegovina, Serbia, Kosovo, Hungary, Italy and Slovenia.

On 24th March 2015 at the border crossing Strmica at the entrance to the Republic of Croatia Čedomir Vukadin from the village of Vrbnik near Knin was arrested.²⁹

Đorđe Stojaković³⁰ was extradited from Ireland on 17th July 2015 on the basis of European arrest warrant..

Retired Serbian general Borislav Đukić³¹, accused for war crimes against civilians in Croatia in the 1990's was arrested on 17th July 2015 in Tivat, Montenegro.

The Split County State Attorney's Office confirmed the information related with the arrest of Emilio Bungur, accused of war crimes against civilians in Lora in 1992, who is accused in another criminal procedure for war crimes in Lora.³²

28 <http://www.interpol.int/notice/search/wanted>

29 He was transferred to Split, where he was ordered detention. Čedomir Vukadin, commanding officer of the 2nd Battalion 75 Brigade of the Army of the Republika Srpska Krajina, was stationed in then occupied town of Drnišu, under investigation of the Šibenik County Attorney's Office for war crimes against civilian population.

30 The Vukovar County State Attorney's Office issued the indictment no. K-DO-30/10, of 8th December 2010 and accused Đorđe Stojaković of war crimes against prisoners of war by inhuman treatment towards prisoners of war. He is charged that on 19th November 1991 in Serbia near the bridge Erdut Bogojevo he pulled out two prisoners from the bus that transported Croatian POWs from Borovo Commerce, Vlado Kovačević and Vinko Miljak, and abused them and beat them.

31 According to the order by the investigative judge of the High Court in Podgorica he was placed in extradition custody. The Split County State Attorney's Office issued the indictment no. KT 27/93, of 13th December 1995 against Ratko Mladić, Mile Novaković, Borislav Đukić and Milan Korica, According to the indictment, generals Mladic and Novakovic ordered Djukic and Korica on 28 January 1993 to set up large quantities of explosive to blow up the Peruca dam. About 30 tonnes of explosive was set up and the resulting explosion damaged the dam. The timely response of Croatia's HEP power utility prevented total flooding and the endangering of the lives of more than 50,000 residents of Sinj, Trilj and Omiš.

32 Emilio Bungur, unavailable to Croatian judiciary since 2004, was arrested in Žaborić near Primošten on

On 8 July 2015 Australia extradited Dragan Vasiljković³³ to Croatia, suspect of war crimes against civilian population and prisoners of war in the period from 1991 to 1993.

During 2015 Igor Mikola was extradited, convicted of criminal offence of assisting in murder in the Pakrac Valley³⁴, also witness in the criminal procedure against Tomislav Merčep.

In the monitored trials during 2015 nine defendants were in investigative detention and one was serving prison sentence in the Lepoglava Prison. All the defendants were arrested or extradited to the Republic of Croatia and the basic motive of investigative detention was the risk of fleeing.

On 13th October 2015 the European Court of Human Rights in the application of Čedo Jović against Croatia (application no. 45593/13) delivered the judgment holding that there has been a violation of Article 5 § 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms due to that he had not been able to obtain an effective judicial review of his pre-trial detention by the Constitutional Court, contrary to Article 5 § 4 of the Convention. Čedo Jović was convicted in Croatia for war crimes against the civilian population in 2013 (the crime in Dalj³⁵), and he was in detention since the day of his arrest on 7th July 2008. He was released after serving the prison sentence that was covered by the time spent in pre-trial detention.

- ***The contribution of Judicial Reform Strategy in the specialization of courts and state attorney/s offices in prosecuting war crimes***

The new strategy does not deal with prosecuting war crimes. They are only mentioned in the achievements of the so-far reforms³⁶. On 14th December 2012 Croatian Parliament adopted a new *Judicial Reform Strategy 2013-2018*³⁷ because „The strategy states that independent, efficient, accountable and professional judiciary is necessary for dealing with challenges of globalization and modernization. The main objective of the Strategy is to adopt the highest European standards, while preserving traditions and the existing fundamental values of Croatian legal

22nd August 2015 and immediately transferred to the prison in Split. On 28th August 2015 he submitted request for retrial before the County Court of Split.

33 The decision-taking process on the extradition lasted 10 years because , Dragana Vasiljkovića claimed the impossibility of having a fair trial before Croatian courts, especially due to possible discrimination on grounds of ethnicity, as well as complaining on lack of objectivity and impartiality of the courts.

34 Judgment of the Zagreb County Court, VIII-K-16/01, dated 15th September 2005

35 <http://www.documenta.hr/hr/zlo%C4%8Din-u-dalju-iv.html>

36 Judicial Reform Strategy 2011-2015 covered war crimes trials, and accompanied by an Action Plan for the work on the cases of war crimes of the State Attorney's Office of the Republic of Croatia as well as an Action Plan for the work on the war crimes cases of the Ministry of the Interior. All the measures defined by these action plans were successfully implemented

37 Official Gazette No. 144/2012

system. The Strategy will take into account different social and economic reforms affecting the judiciary, requiring consistent and methodologically elaborated strategic planning.“

We consider that the Strategy should have included the prosecution of war crimes. According to our observation, by delegating war crimes trials competence to four courts certain improvement was observed: the trials are concentrated in these courts, and only judges of criminal law departments are appointed to the War Crimes Chambers. However, since the County Courts in Osijek, Rijeka, Split and Zagreb are in fact general competence courts with exclusive competence in war crimes cases, the judges appointed to WCC also deal with other criminal cases- complex cases of corruption and organized crime and a whole range of other criminal offences, leading to additional burdening of judges at these courts. The same is evident through the lengthiness of war crime trials and frequency of scheduling hearings. Also, the work of the State Attorney/s Office of the Republic of Croatia (DORH) did not result in an increased number of efficient investigations and issued indictments.

According to the so-far dynamics of the trials, the above-mentioned four courts mostly count with the necessary technology and sufficient number of courtrooms, except for the Zagreb County Court where trials are often held in too small and inadequate courtrooms with insufficient space for the interested public. Although establishing special war crimes chambers helped in directing the assets towards the fight against impunity, there is still a lot of effort and work necessary in the field of adequate training of those who work in these field, informing them on the relevant legal frameworks, events in the country and at the international level. We also stress that there is a need to increase human capacities of the courts and prosecutor's offices, as well as to increase the number of war crimes investigators. Also the support to the victims and witnesses is indispensable in State Prosecutor's Offices and the Police.

- ***Further development of support to the victims and witnesses in prosecuting war crimes***

The most important event for the development of the support to victims and witnesses of crimes during the last year was the adoption of the *National Strategy for the Victims and Witnesses Support 2016-2020*³⁸. It is vague until a corresponding Action Plan is adopted. The Strategy contains a very comprehensive analysis and evaluation of the situation, it has general objectives and measures, but does not contain clear timeline of their implementations, tis carriers and stakeholders nor an analysis of sustainability and assessment of necessary assets.

38 http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html

The victim and witness support did not continue to develop in 2015, but it has stagnated during the last year. We are listing the observed difficulties and problems in work:

National legislation has not been harmonized with the Directive 2012/29/EU of the European Parliament and of the Council into national legislation and the Criminal Procedure Code was not amended concerning the expansion of the rights of the victims, which should have been transposed into national legislation by November 2015;

- *An Action Plan for the Victims and Witness Support System (implementation document of the National Strategy for the Victims and Witnesses Support 2016-2020)*, has not been elaborated;

The support system has not been expanded to other county courts³⁹, and there is still a strong centralization and institutionalization in the system;

Although after a judicial procedure is finished the victims, as well as the defendants, should rehabilitate in the community, after the judgment is rendered, the institutions and the society rarely deal with them;

The process of „lifelong“ support has not come to life. Often the victim should express by him/herself the need for some form of support/help.

It is necessary to additionally reinforce the organization of support in state attorney's offices and police as well as other offices and agencies in touch with witnesses and victims of criminal offences and especially war crimes. Trainings organized by CSO's specialized in work with certain type of victims⁴⁰, should be continued and reinforced, and it is also necessary to work on the awareness of the employees to seek education themselves from these organizations and to maintain the cooperation started, especially regarding reporting criminal offences. Apart from human capacities, few or almost nothing is invested in the maintenance and development of technical and technological capacities⁴¹.

The role of the CSO's regarding decentralization is characteristic because it enters geographic and other areas where the state does not have an answer or does not have capacities, and the Chapter V of the National Strategy points to their importance. But it is crucial to secure the sources of financing for CSO's that keep working on the development of their so-far capacities, and offering one of the forms of primary support, free legal assistance or analyzing the needs of victim's and witnesses and advocating for the improvement of the support sys-

39 Victims and Witness Support System is currently established at only seven County Courts: Zagreb, Split, Osijek, Rijeka, Vukovar, Sisak and Zadar

40 Such as the victims of domestic violence, war crimes, children, victims of torture, etc.

41 One of the examples is an audiovisual system which is costly and easily broken, which frequently causes delay in taking deposition by a victim or a witness, causing retraumatization of a victim/witness since his/her repeated coming to the court until his/her preparation for witnessing.

tem⁴². Decentralization of the support system is welcome, indicated by the need of extending the support to the victims and witnesses of war crimes in rural areas, increasing need for informative, emotional, logistic and frequently legal and psychological support. The victims often want this support to be offered by the CSO's, they are wary of the state institutions, and they complain to the lack of empathy in their treatment or the treatment of their family members, the incomprehensibility of the content of certain documents/forms and the slowness of the system.

As an example of positive practice we would like to stress the activities of the *Victim and Witness Support Association* in informing on the rights of victims and injured persons and offering practical information⁴³.

Although in July 2013 the free phone number for the victims of crime was introduced 116 006, of the National Helpline for victims of crime, also on the forms of the rights of victims of crimes, it does not state the reason why a victim should call, and frequently the clerks do not explain nor give a clear instructions of how to use it. Also, contrary to the guidelines of the Police Directorate, some police departments and stations do not instruct the users to the services of certain institutions, state offices or to the phone number 116 006.

From our observations in practice we can conclude that some measures from the National Strategy have not come to life. We point to the fact that an integral and objective registry of those who offer support to victims and witnesses has still not been created and that the conditions for implementing projects and programs of CSO's have not been secured. Also, the free legal assistance system is inadequate, inconsistent and limited to a small number of providers and users of legal assistance.

Because of that the victims of crimes go from psychologist to psychologist, from one providers of legal assistance to another, reliving their trauma, not working on it in order to fit into the society in a more quality and secure way and continue with their activities.

The State should work on securing financial assets from the budget, EU funds and European Social Fund. Also, there are still problems such as witness intimidation, lack of regular response or (re)traumatization of witnesses-injured persons, rep-

42 In the sense of the implementation of the Directive, as well as the basic Convention standards

43 Through the project „Strengthening CSO's capacities in providing support“ they are focused on introducing a system of comprehensive support in four Counties - Dubrovnik-Neretva, Istria, Varaždin and Požega-Slavonia, where victims and witness support is insufficiently developed or inexistent, or where there are no Victims and Witness Support Departments before County Courts. Victims and witness support was introduced in Deža – Regional Center for Community Construction and Civil Society Development from Dubrovnik-Neretva County and Delfin- Center for Civil Society Support and Development. Since January 2016 the Association introduced a comprehensive support in Homo- Association for the Protection of Human Rights from Istria County and Women's Club Varaždin from Varaždin County. Currently there is an open call for volunteers for Istria and Varaždin County.

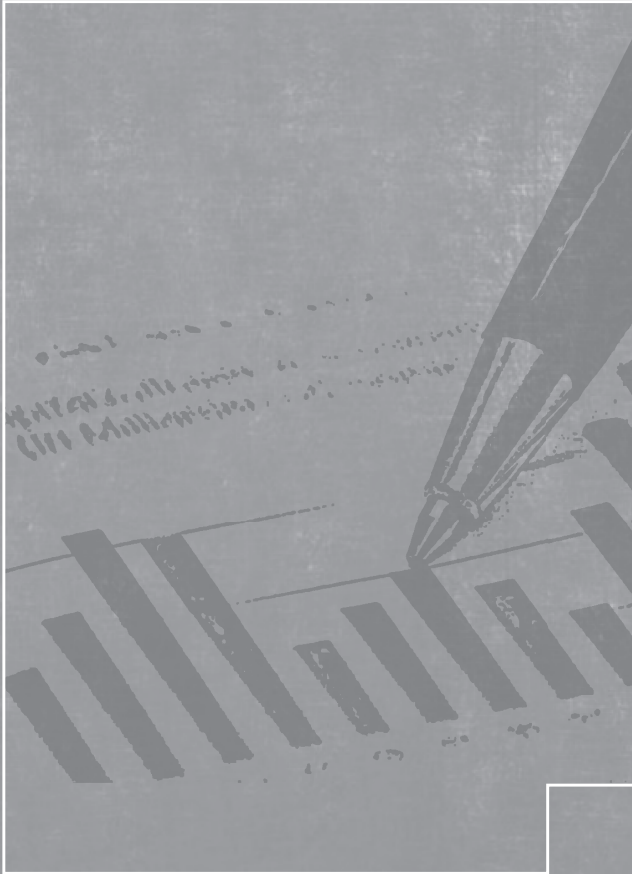
resenting additional obstacles in an efficient criminal prosecution of war crimes. Difficult position of victims would be alleviated by a better cooperation of all the competent institutions, such as the probation office, specialized ombudsperson's offices, state prosecutors, police and human rights organizations working with vulnerable groups.

Recommendations:

1. To transpose as soon as possible the Directive 2012/29/EU of the European Parliament and of the Council into national legislation and amend the Criminal Procedure Code concerning the expansion of the rights of the victims;
2. To arrange and adopt as soon as possible an Action Plan for the Victims and Witness Support System (implementation document of the National Strategy), and to determine precisely the activities, deadlines, carriers and stakeholders, financial assets and sources as well as financial and capacity sustainability;
3. To promote and distribute the National Strategy to all the stakeholders in contact with victims and witnesses and to work on the analysis of the existing strategy in order to improve it and harmonize it with domestic and international norms, positive practices and rulings of European Court of Human Rights as well as analyses of civil society organizations;
4. To continue to develop the support system by horizontal dissemination to state attorney's offices and police as well as other offices and agencies in touch with witnesses and victims of criminal offences and especially war crimes;
5. To incentivize civil society organizations to work with witnesses and victims, to foster mutual cooperation and education among CSO's, but also of public administration authorities, and to work in cooperation on projects and program development;
6. Strengthen human and technological capacities of the bodies working regularly with victims of crimes;
7. Decentralize the support system to smaller towns or enable cheap or free legal, informative and psychosocial support service to the citizens- victims and witnesses of criminal offences from rural areas or areas not well communicated with big centers



REGIONAL COOPERATION



3. REGIONAL COOPERATION

In the course of 2015, in cooperation between Croatian State Prosecutor's Office (DORH) with the prosecutor's offices in the region, in 4 war crime cases (against 11 persons) evidence is exchanged based on the signed agreements/protocols. Also, DORH received 9 cases from Bosnia and Herzegovina with highly set criteria of command responsibility, including the negligence of the suspect/accused, 6 connected cases against members of Croatian Defense Council living on the territory of the Republic of Croatia, while for opening investigations several previous actions are necessary, within relatively short deadlines foreseen by the Criminal Procedure Code. Frequently cases with material in pre-investigative stage were received, with great number of victims, mentioned in several indictments. An additional obstacle to the work of DORH in transferred cases are obligations regarding including the victims in the transferred criminal procedure in the form of giving consent of authorized copies of evidence (Art. 10 of the protocol), such as testifying through video conference is possible only with victim's consent. Also, there is a lack of clear position regarding the application of international law on command responsibility and the application of the principle of responsibility of the superior on the bases of the norms of the internal law on «committing crime by omission» (common basis Criminal Law of the SFRY- Official Gazette 44/76, 36/77, 56/77, 34/84, 74/87, 57/89, 3/90, 38/90, 45/90), as well as a small number of transferred evidence/cases. Until recently the Prosecutor's Office of Serbia did not prosecute anyone for war crimes on the grounds of command responsibility.

A great number of war criminals today live in different states, therefore we stress the importance of interstate cooperation as crucial in prosecuting war crimes cases with international component. Regional, interstate cooperation is exceptionally important in taking witness depositions and gathering evidence, as well as in cases where defendants have dual citizenship. Signing bilateral agreements on cooperation between prosecutor's offices in the region and the adoption of relevant domestic laws (*Law on Application of the Statute of the International Criminal Court and the Prosecution of Criminal Offences against International War Law and Humanitarian Law* ⁴⁴) contributed to strengthening regional cooperation and enabled the use of evidence gathered by ICTY in national legal systems.

On 20 April 2015, under the auspices of the United Nations in BiH, chief prosecutors of BiH, Serbia and Croatia signed the Guidelines for enhancing regional co-operation in war crimes processing, search for missing persons and establishment of coordination mechanism⁴⁵.

44 Official Gazette No. 175/03, 29/04, 55/11, 125/11

45 The guidelines will enable more efficient work on cases of war crimes whose processing requires inter-state co-operation due to suspects, victims or evidence being located in two or more states.

The guidelines will further streamline existing protocols and improve the co-operation and the joint analysis of trans-national cases, aiming to integrate each country's data on missing persons cases, including the existence of evidences. This will hopefully decrease the number of unresolved war crimes cases. Cilj smjernica je osigurati učinkovitije procesuiranje ratnih zločina u kojima se osumnjičeni, žrtve ili dokazi nalaze na području

As a result of regional cooperation and a better access to war crimes cases in order to offer satisfaction to the victims, bring justice and deal with the past, during 2015 before Croatian County Courts cases of war crimes committed in Bosnia and Herzegovina were commenced. The following procedures are underway: for crimes in Široki Brijeg before the Split County Court, for the crime in the Manjača prison camp before the Zagreb County Court, and for the crime in Drmeljevo camp (Velika Kladaša) before the Rijeka County Court. In most of the above-mentioned cases the defendants live in the Republic of Croatia, motive for forwarding evidence and commencing criminal procedure in Croatia. The crime in the Manjača camp is prosecuted upon DORH's indictment issued in 2015, on the grounds of great number of victims of Croatian ethnicity or citizenship.

- ***Regional cooperation with War Crimes Prosecutor's Office of Serbia***

During 2015 three judgments were rendered before the Higher Court in Belgrade⁴⁶ for crimes committed on the territory of the Republic of Croatia against defendants who are also Serbian citizens. DORH transferred evidence to the War Crimes Prosecutor's Office of the Republic of Serbia based on the Agreement on Cooperation with the Office of the War Crimes Prosecutor of the Republic of Serbia in prosecution of perpetrators of war crimes, crimes against humanity and genocide.

- ***Crime in Sotin***

On 26th June 2015 the Council of the War Crimes Unit of the Higher Court in Belgrade rendered a non-final sentence finding Žarko Milošević and Dragan Mitrović guilty of war crime against civilian population committed on 27th December 1991. Žarko Milošević was sentenced to 9 years' imprisonment and Dra-

dvije ili više država. Moreover, the guidelines are a confirmation and a continuation of the obligations which the countries in the region undertook by signing the ICMP Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses in August 2014. Around 12,000 people are still considered missing in the region, and the exchange of information will accelerate the discovery of their fate by the location of mass grave sites, exhumation and identification of the missing. Also, from 14th to 16th June 2015 9th Regional Conference of State Prosecutors of the states that made up the former Yugoslavia was organized on the island of Brijuni in Croatia – on cooperation in the prosecution of perpetrators of war crimes. Along with the representatives of the State Attorney's Office of the Republic of Croatia, War Crimes Prosecutor's Office of the Republic of Serbia, Prosecutor's Office of Bosnia and Herzegovina, Federal Prosecutor's Office of the Federation of Bosnia and Herzegovina, Prosecutor's Office of the Republika Srpska and the Prosecutor's Office of Brčko District, the conference was attended by ICTY Chief Prosecutor Serge Brammertz and the delegation of the Prosecutor's Office of the ICTY and Hassan B. Jallow as Prosecutor of the Mechanism for International Criminal Tribunals for Rwanda and the former Yugoslavia (MICT), together with representatives of the Embassies of the United State, European Commission and United Nations. The participants agreed that the current cooperation can be improved and that the signing of the MoU between regional prosecutor's offices and MICT enabled that the liaison officers search the ICTY's data bases in an efficient manner and they expressed their will to continue with such projects. <http://www.dorh.hr/Završila9.Regionalna>

46 More on war crime trials in Serbia: Report of the Humanitarian Law Center: http://www.hlc-rdc.org/wp-content/uploads/2016/03/Report_on_war_crimes_trials_in_Serbia_during_2014_and_2015.pdf

gan Mitrović was sentenced to 15 years' imprisonments. Crimes in Sotin (today suburb of Vukovar), were committed in the period of two months⁴⁷.

- ***Crime in Beli Manastir***

On 29th May 2015 the War Crimes Department of the Higher Court in Belgrade, in a retrial rendered a non-final judgment finding Zoran Vukšić, Slobodan Strigić and Branko Hrnjak guilty of war crime against civilian population and they were sentenced as follows: Vukšić to 20 years' imprisonment, Strigić 10 years, and Hrnjak 5 years⁴⁸.

- ***Crime in Tenja***

On 6th April 2015 the War Crimes Department of the Higher Court in Belgrade acquitted Žarko Čubrilo of war crime against civilian population. The Court concluded that the evidence do not show sufficiently that the defendant committed the crime he was charged of. Due to the lack of evidence as well as contradiction in testimonies of the witnesses and the injured parties he was acquitted of charges. The judgment was upheld by the Court of Appeals on 23rd December 2015⁴⁹.

- ***Crime in Ovčara***

In June 2015 a third retrial commenced for the crime in Ovčari against Saša Radak⁵⁰, Miroslav Đanković, Miroljub Vujović, Stanko Vujanović, Nada Kalaba, Đorđe Šošić, Predrag Milojević, Milan Vojnović, Predrag Dragović and Milan Lančuzanin before the Higher Court in Belgrade.

47 14/10/1991 - crime in Sotin (Vukovar) between 14th and 20th October 1991 Serbian military troops after the occupation of Sotin took by force a larger number of non-Serb neighbors from their homes and then to the camp in Negoslavci where they were tortured and interrogated. After that they were taken to camps in Serbia, mostly to Begejci. The rest of the Croats in Sotin were held in detention, work camps, forced to labor and gradually killed. 13 people were killed before being forced to flee, and the rest were ousted from their homes on 27th December. A total of 43 persons were missing or taken by force, and the remains of many killed are still unfound.

48 The defendants are charged that, in the capacity of members of special units of the Police forces of the so-called SAO Eastern Slavonia, Baranja and Western Srem killed or participated in the killing of at least six civilians "together with illegal detentions, injuring, intimidation, terror, torture and inhuman treatment". The first trial started in 2010

49 On 8th February 2012 the War Crimes Prosecutor's Office of the Republic of Serbia issued an indictment against two former members of the Territorial Defense (TOI Tenja - Božo Vidaković, aka "Ustaša" and "Trafičar" and Žarko Čubrilo. They are charged of war crime against one POW and 18 civilians, committed in July and August 1991 in Tenja. During 2014 the procedure is separated (due to the health state of the first defendant) and the trial continued against Čubrilo.

50 The decision of the Constitutional Court No. UŽ -4451/2010 dated 12th December 2013, published in the Official Gazette of the Republic of Serbia No. 54/2014, abolishing the final guilty verdict for the crime at Ovčara

- *Regional cooperation with the Prosecutor's Office of BiH*

Before the Court of BiH the war crime trials against members of Croatian Defense Council (HVO) should start. Some of the accused are today Croatian citizens living in Croatia. Such is the case of former general-major of HVO Zlatan Mile Jelić who was accused of war crime against civilian prisoners after the investigation was finished during 2015⁵¹.

For crimes committed in Koštana Hospital in Stolac there is an investigation underway against Josip and Vide Krešić⁵².

An indictment was issued against Miroslav Hrستیć, Ivan Medić, Miljenko Nogo-lica and Tonći Rajić, citizens of both BiH and Croatia, charged of crimes in the area of Čapljina and Dretelj camp⁵³.

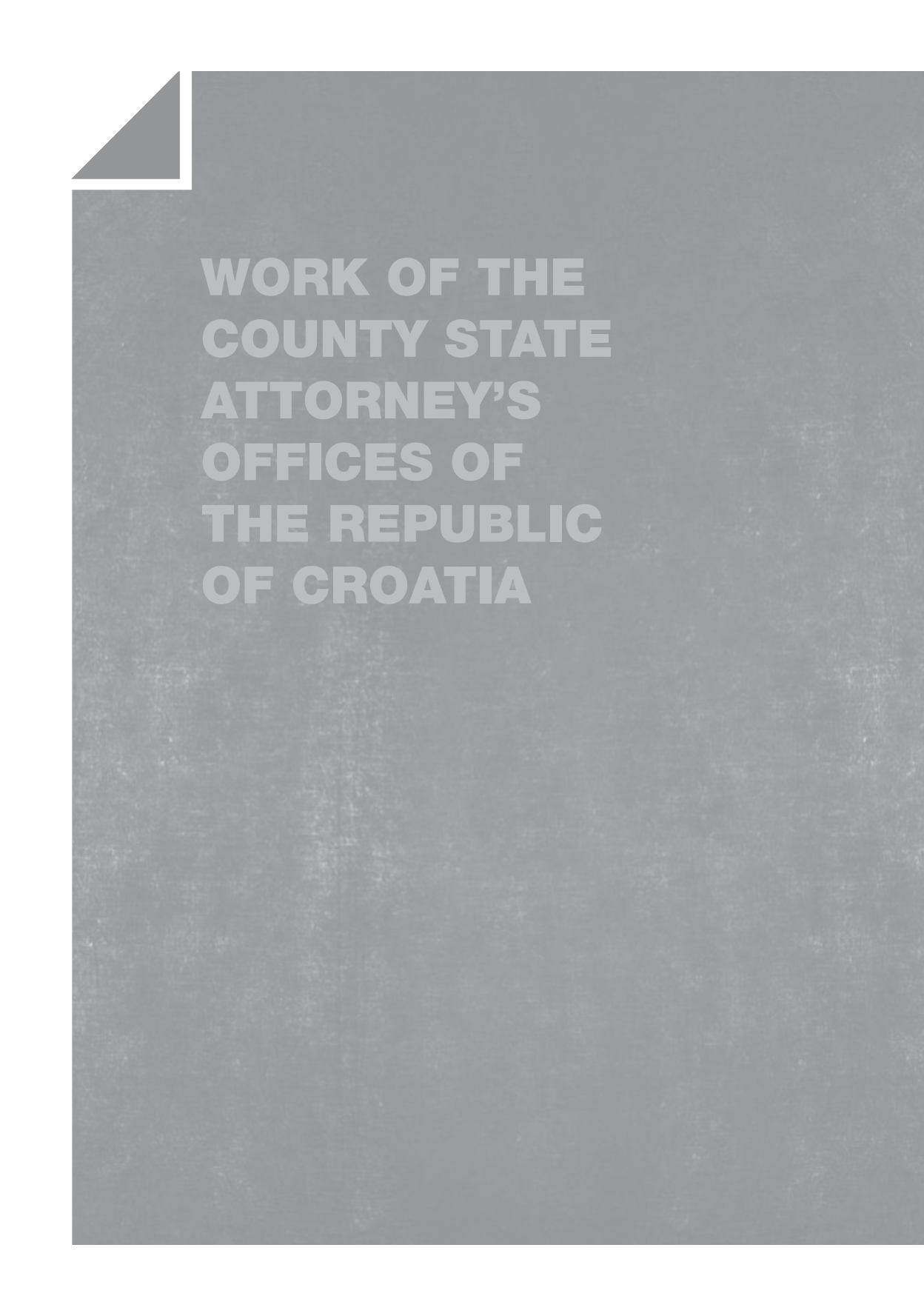
On 8th September 2015 the Prosecutor's Office of Bosnia and Herzegovina charged former Croatian Defense Council (HVO) member Mario Miličević, Croatian citizen living in the Republic of Croatia, charged for crimes against humanity by committing offences against Bosniak prisoners in 1993 and 1994 in the Mostar area.⁵⁴

51 The civilians were forced to work in Mostar on the front lines between the Bosnian Army and the Croatian Defence. He currently lives in Zagreb and he might not be present at the hearing where he should plead guilty or not guilty before the Court of BiH. The War Crimes Prosecutor's Office decided not to forward the case to Croatia. According to the indictment, Jelić ordered the commander of the camp Heliodrom in Mostaru that the members of Croatian Defense Council bring prisoners for forced labor on the front lines in and near mostar, from May 1993 to March 1994. According to the data of the Prosecutor's Office of BiH, around 188 POWs were wounded, around 50 were killed, while around 40 POWs were physically abused by the members of the 2nd Batalion, 2nd Brigade of Croatian Defense Council.

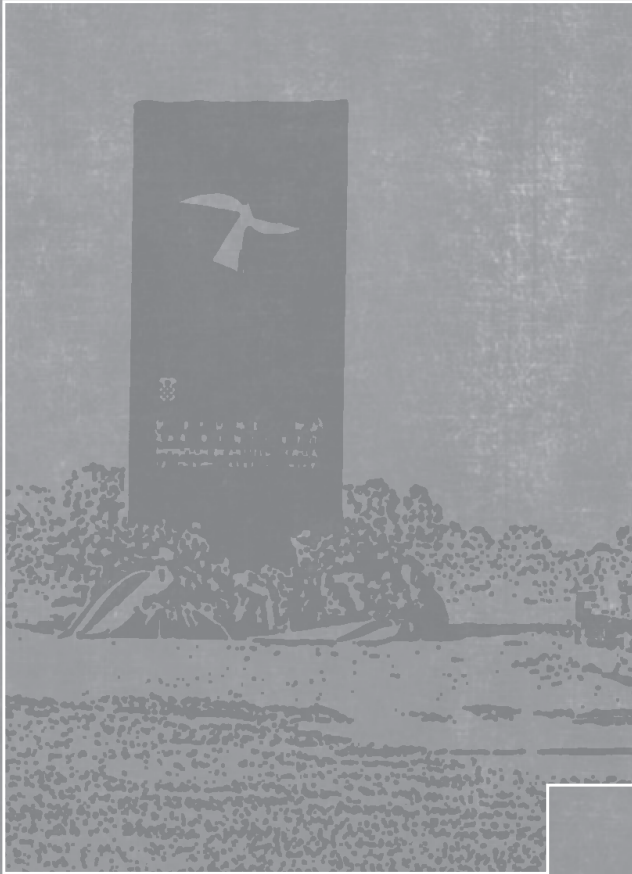
52 There are reasonable doubts that they participated in torture and inhuman treatment towards civilians who were held in the hospital. Josip Krešić surrendered voluntarily and came to the hearing, while the second suspect Vide Krešić went back to BiH from Croatia to face the charges.

53 They are charged that during the war in BiH, as a commander and members of HOS in the area of Čapljina, together with other members of HOS and HVO, participated in torture, beating and plight of civilian population of Serb ethnicity in the area of Čapljina, held them in the prison camp Dretelj, as well as raped and sexually abused women of Serb ethnicity.

54 Indictments for crime against humanity. According to the indictment, from July 1993 till March 1994 as Commander of the "Benko Penavić" Antiterrorist Unit of the Croatian Defence Council Miličević ordered that prisoners, Bosniak civilians be taken out (or took them out himself) from the prison camp *Heliodrom* to do forced labour and serve as «human shield»- According to the indictment, the prisoners were forced to build trenches, sand bag fortifications and carry heavy bags of sand on the front lines between the Bosnian Army and the Croatian Defence Council. In these actions five civilians were killed, twenty were wounded, while five civilians were physically abused by the members of the "Benko Penavić" Antiterrorist Unit under Miličević's command. <http://www.tuzilastvobih.gov.ba/?id=3021&jezik=b>



**WORK OF THE
COUNTY STATE
ATTORNEY'S
OFFICES OF
THE REPUBLIC
OF CROATIA**



4. WORK OF THE COUNTY STATE ATTORNEY'S OFFICES OF THE REPUBLIC OF CROATIA

During 2015⁵⁵ 19 investigations were initiated against 51 suspects that resulted in 24 indictments against 69 defendants. Since we are talking about four County State Attorney's Office, the annual work on investigation and indictment for war crimes is very humble.

A relatively small number of prosecutors who, apart from the work on the war crime cases, also work on other criminal cases (except for USKOK – corruption cases), makes difficult a true specialization in investigation of war crimes. A great number of newly received cases of earlier competent county state attorney's offices, as well as the influx of cases related to the commission of war crimes on the territory of BiH, stresses personnel, material and facility sub capacitation. The passage of time since crimes were committed, omissions in work of the formerly competent County State Attorney's Offices, especially in taking depositions of witnesses and injured persons, make the work on war crimes cases significantly difficult.

Additional difficulties for SAO's are also brought by significant amendments of procedural and material laws⁵⁶.

Often the work of SAO is conditioned by the current political moment, especially in the context of verdicts of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The recent example is the acquittal of Vojislav Šešelj, and before that also an acquittal of Momčilo Perišić that also included the bombing of Zagreb (the criminal procedure against Martić and Čeleketić was updated after Perišić's acquittal and it is momentarily in the phase of the main hearing, although the verdict against Martić is final since 2008). The indictment issued in April 2011 against former high Yugoslav People's Army officers, Vasiljević and Živanović, coincided with the non-final guilty verdict against two Croatian generals, Gotovina and Markač.

According to the DORH's statistical data on 31st December 2015 there were underway investigations for war crimes against 223 persons, 1978 persons were accused, and 605 persons were sentenced.

55 <http://www.dorh.hr/IzvjesceDrzavnogOdvjetnistvaRepublikeHrvatske>

56 CPC/08 from its adoption was amended six times, in 2009, 2011, in 2012 when CPC/08 was harmonized with the new Criminal Code („Official Gazette“, No 125/11, 143/12, 56/15 and 61/15), while the fourth reform occurred in the first half of 2013, as a consequence of the need to harmonize it with three directives of the EU. The greatest, fifth reform of CPC/08, is a result of the Ruling of the Constitutional Court of the Republic of Croatia No: U-I-448/2009, U-I-602/2009, U-I-1710/2009, U-I-18153/2009, U-I-5813/2010, U-I-2871/2011 dated 19th July 2012, while part of the reforms and amendments were a result of the practical application of CPC /08. The last amendment dated in December 2014 was conditioned by the need of harmonizing CPC/08 with the Law on the Territorial Organization of the Courts („Official Gazette“, No 128/14).

The work on investigation and prosecuting war crimes is necessary for various reasons. There is still a great number of uninvestigated crimes. The proof of that are victims and injured persons who rightfully expect the acknowledgment of their suffering and the criminal prosecution of the perpetrator. The uninvestigated and unprosecuted crimes obstruct the construction of good neighborly relations with the countries in the region, the trust in judiciary and retraumatize the victims.

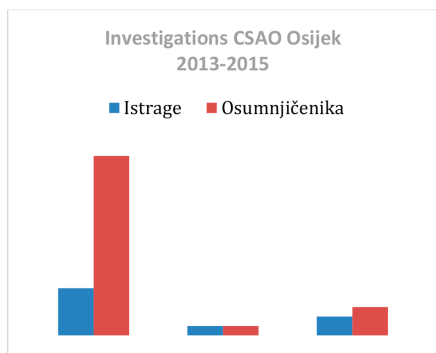
Unfortunately, the judicial reform strategy for the next period does not stress investigating and prosecuting war crimes as one of its priorities. That is, all the crimes, marked as priority, are not investigated. One of them is the crime in Bogdanovci, committed in 1991 against civilians and Croatian soldiers, as well as the crime in Borovo Selo against Croatian policemen. Also, crimes against Serbs in Vukovar and Sarvaš, committed in spring and summer of 1991, are still uninvestigated.

Therefore it is necessary to strengthen the teams of competent SAO's with experienced and expert investigators and state attorneys from other county SAO's. The legal precondition for such reinforcements exist and Croatia must secure additional assets for their work.

In October 2015 the State Attorney's Office of the Republic of Croatia published a report on prosecuting war crimes committed in camps and prisons during the Homeland War on the territory of the Republic of Croatia and abroad. The war crimes were committed against Croatian citizens. The indictments covered camps/prisons/detention centers in: Stajićevo, Sremska Mitrovica, Niš (Serbia), Stara Gradiška, Velepromet in Vukovar, police station in Borovo, Berak, Dalj, Erdut and Aljmaš, Vojnić, Željava and Frkašić, Knin, Slunj, Bučje near Pakrac, Velika Peratovica, Đulovac, Bijela near Daruvar, Kerestinec, military prisons Kulinje, Lora, Marino Selo, Manjača near kraj Banja Luka, Bileća (BiH), Morinje (Montenegro). According to the data of the Report on prosecuting war crimes in camps and prisons during the Homeland War, 177 persons are indicted, while 42 were found guilty with a final verdict. 72 persons are under investigation. The criminal procedure is initiated against a total of 293 persons.

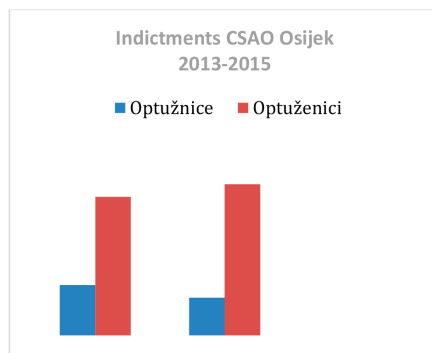
The report did not cover the detention centers in Mala Peratovica, Pakrac Valley, Virovitica barracks, Grubišno Polje hotel, Velepromet and other numerous detention places where persons illegally deprived of liberty were tortured and killed.

According to DORH's 2015 annual report, there were 41 criminal reports filed for war crime, while 7 reports were pending from the previous year- totaling 48 criminal reports by the end of 2015. Out of the total number, 40 reports were solved, 25 resulting in conducting investigation, 9 reports were dismissed and 6 were solved in a different manner. By the end of the year there are 8 reports under way and crime investigations are performed. There were judgments rendered for 30 persons- 23 guilty verdicts and 7 acquittals.



Graph 4

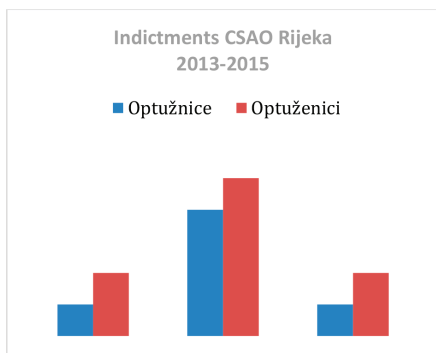
Number of investigations Osijek County SAO 2013-2015



Graph 5

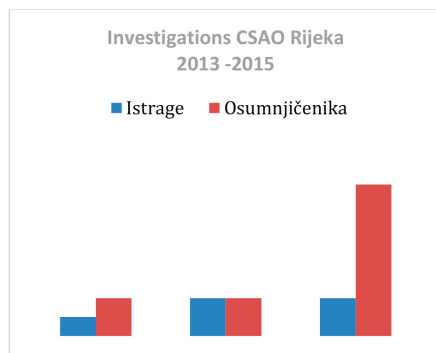
Number of indictments Osijek County SAO 2013-2015

Graph of investigations before the Osijek County Court shows a decrease of investigations in the three-year period, and thus the number of suspects. The tendency of investigations decrease is also followed by the decrease of indictments, so we can see that in 2015 no indictments were issued, while in 2013 four indictments were issued.



Graph 6

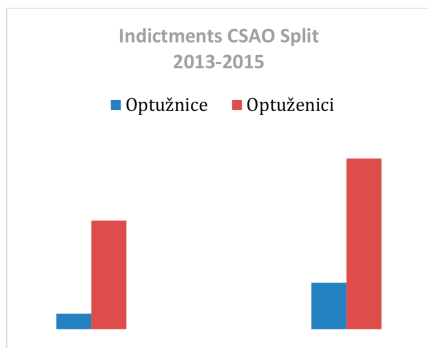
Number of investigations Rijeka County SAO 2013-2015



Graph 7

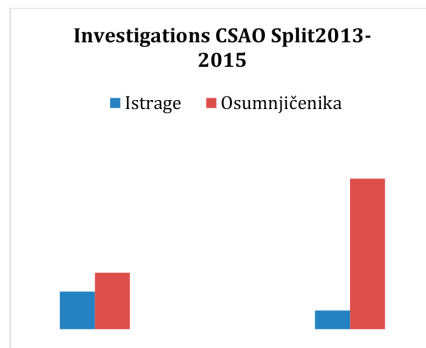
Number of indictments Rijeka County SAO 2013-2015

An overview of the work of the Rijeka County SAO shows that in 2014 there were more indictments than in 2013 and 2015, when there was only one indictment, while in 2014 there were 4 indictments issued.



Graph 8

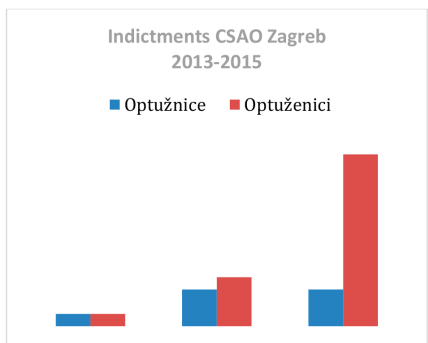
Number of investigations Rijeka County SAO 2013-2015



Graph 9

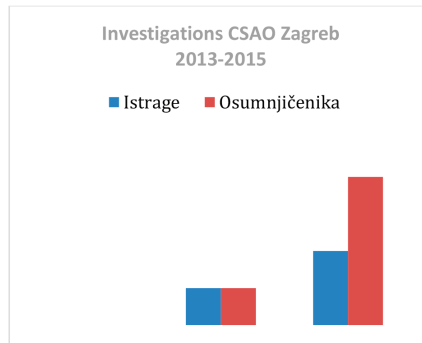
Number of indictments Split County SAO 2013-2015

The work of the Split County SAO in 2014 was pretty devastating in 2014, with no investigations nor indictments. We can observe a step forward in 2015 with 3 indictments regarding 11 persons.



Graph 10

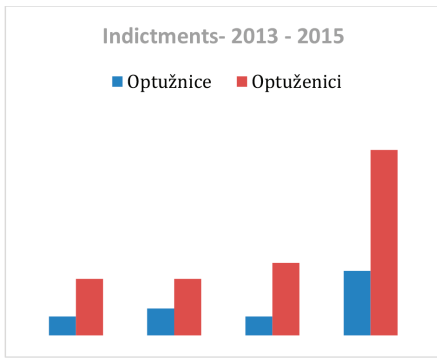
Number of investigations Zagreb County SAO 2013-2015



Graph 11

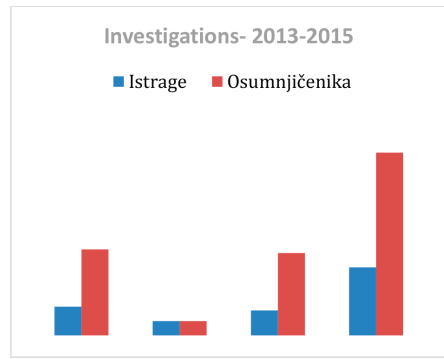
Number of indictments Zagreb County SAO 2013-2015

If we compare the years and investigations before the Zagreb County SAO, we can observe a minimum increase with one investigation each year. The number of indictments is stagnating from 2014 to 2015.



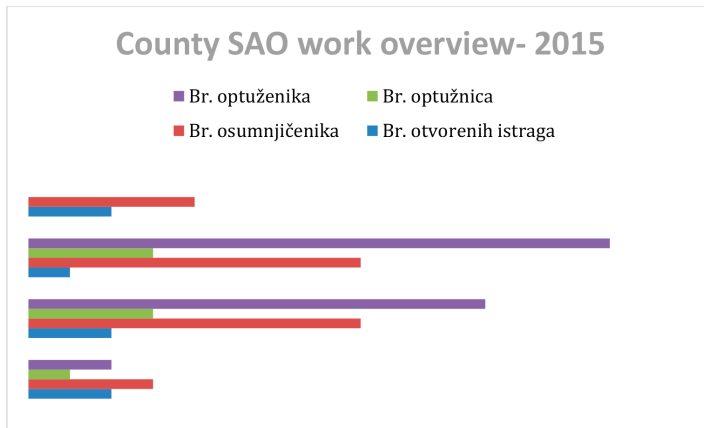
Graph12

Total number of investigations 2013-2015



Graph13

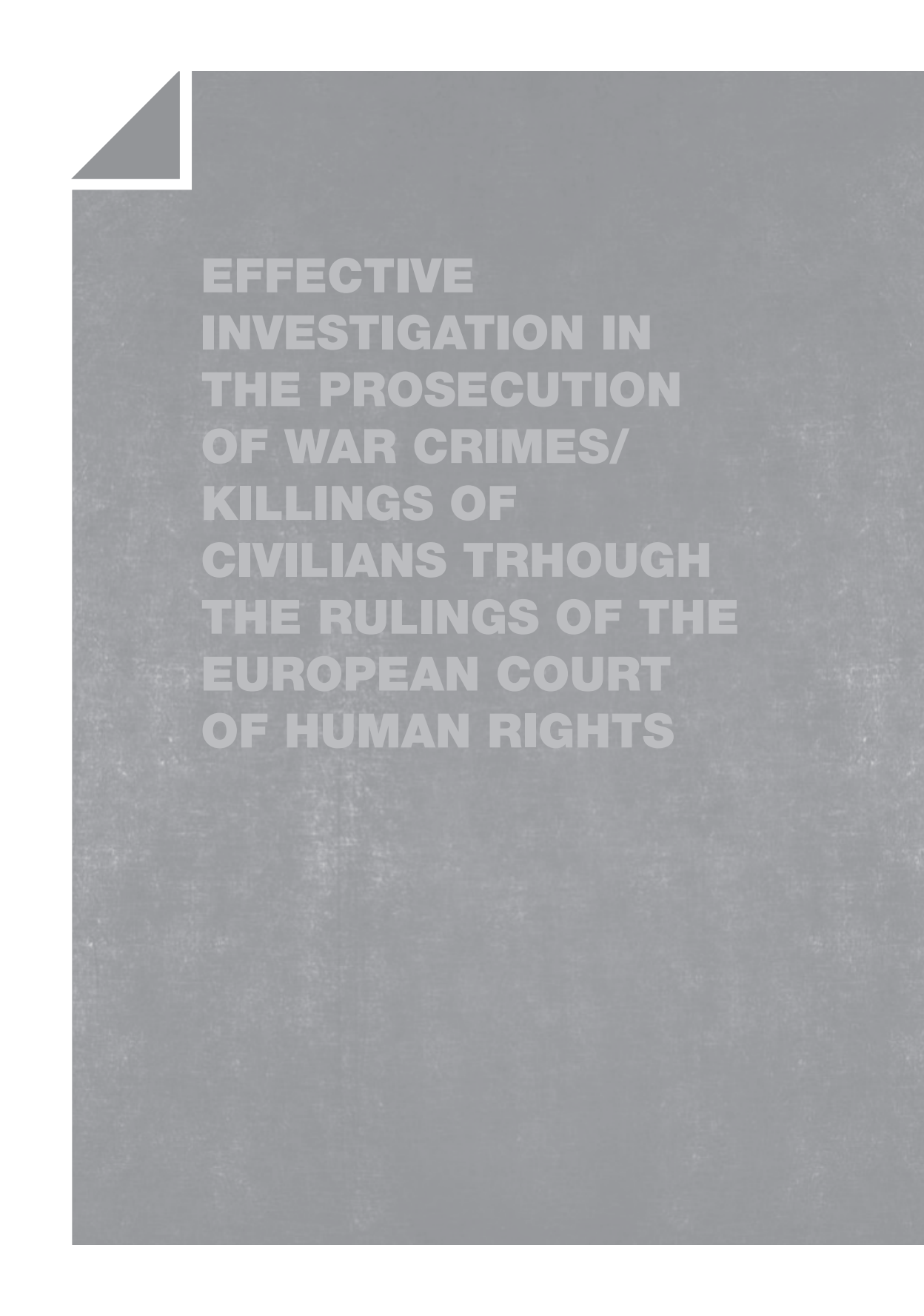
Total number of indictments 2013-2015



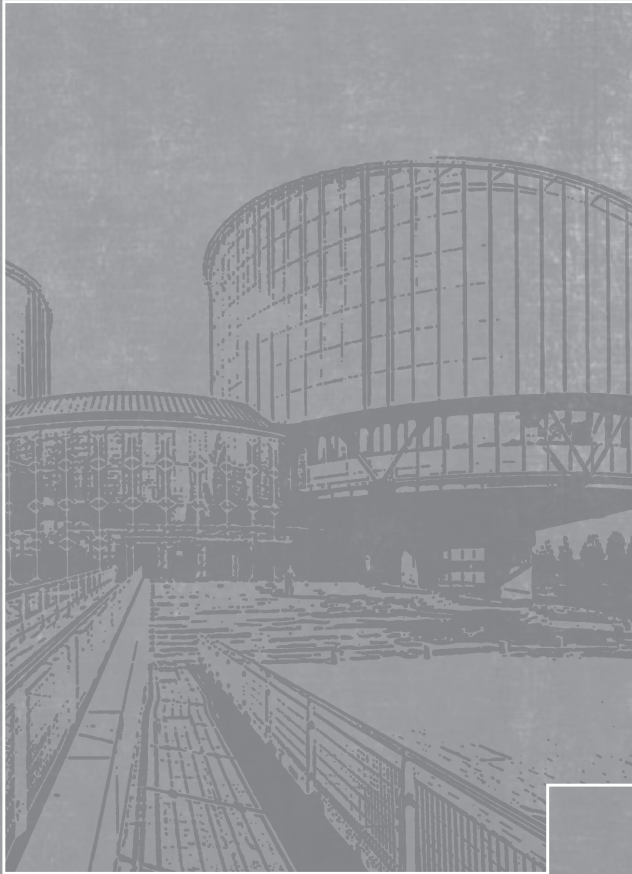
Graph 14

Overview of work of CSAO's in 2015

In the analyzed period of 3 years DORH initiated 19 investigations against 51 suspects and issued 24 indictments against 69 defendants. We have to observe that all the investigations and indictments are mostly referring to the members of Serbian paramilitary formations, mostly unavailable to Croatian judiciary.



**EFFECTIVE
INVESTIGATION IN
THE PROSECUTION
OF WAR CRIMES/
KILLINGS OF
CIVILIANS THROUGH
THE RULINGS OF THE
EUROPEAN COURT
OF HUMAN RIGHTS**



5. EFFECTIVE INVESTIGATION IN THE PROSECUTION OF WAR CRIMES/KILLINGS OF CIVILIANS THROUGH THE RULINGS OF THE EUROPEAN COURT OF HUMAN RIGHTS

With the overview of the decisions of the *European Court of Human Rights* in 2015, we have identified 34 applications against the Republic of Croatia based on the violation of the *Convention on Human Rights and Fundamental Freedoms* in the sense of a lack of effective investigation as regard of the right to life. The common line in all the applications is that the applicants are all family members of the persons killed during the Homeland War who did not obtain reparation through a criminal prosecution of the perpetrator nor through a compensation of damage in civil procedures, that more than 20 years have passed since the crimes were committed and that in the meantime there has been no significant progress in investigation. Through a lack of decisiveness and efficacy in the practical implementation of the provisions of the criminal law, the greatest part of case law is related to the lack of decision of the Member States of the Council of Europe in investigations and criminal prosecution, which can lead to lack of punishment of certain perpetrators. The obligation of the authorities to carry out investigation and criminal prosecution in the court case law gains the form of the right of the victim, or, in case of his/her death, the right of his/her closest relative.

The ECHR case law requires active participation of family members in the investigation through the initiative and monitoring procedure and timely filing if legal remedies in the case when an investigation lasts out of reasonable time. Due to the passage of deadline of 6 months since the last investigative activity taken or the applicant gaining information of inefficacy, the Court rejected 12 applications, although it is undoubtful that the family members of the applicants were killed during the war on the territory of the Republic of Croatia⁵⁷. Although the provisions of the new *Criminal Procedure Code* prescribe the right of the victim to participate in the criminal procedure, to be protected from the secondary victimization and the right to get damage compensation, in the above-mentioned cases the family members of the killed persons only partially participated in the (pre)criminal procedures because they do not have direct information on the criminal offense. It is beyond doubt that the victims of the crime have a legitimate interest in participating in the procedure against the defendant, and it is irrelevant whether they do it for financial or moral motives, but according to the case law, the Court did not accept the participation of the applicants in civil procedure as a right in the spirit of the Article 6 of the Convention.

One application⁵⁸ was dismissed by the Court as a premature because the investigation is still pending. Namely, the applicants are close relatives of a person killed in 1991. The same year an investigation into the killing of this person was opened against suspects who were members of the Croatian Army. However, on 24 November 1992, pursuant to the Act on Amnesty from Criminal Prosecution and Proceedings in Respect

57 Application no. 62916/13; Krešimir IVANČIĆ and Štefica DŽELAJLIJA against Croatia, Application no. 38882/13 ; Desanka OPAČIĆ and Miloš GODIĆ against Croatia, Application no. 38882/13 ; Desanka OPAČIĆ and Miloš GODIĆ against Croatia, Application no. 21610/13; Marija RIBIĆ and Others against Croatia, Application no. 57849/13; Danijela LOVRIĆ and others against Croatia, Application no. 74338/12; Mirjana BABIĆ against Croatia, Application no. 27115/12; Sretko VESELINOVIĆ against Croatia, Application no. 12744/13; Dušan LONČAR and others against Croatia, Application no. 56094/12, Jovo GRUBIĆ against Croatia, Application no. 75504/12; Dragan RADICANIN and others against Croatia, Application no. 5676/13; GOJEVIĆ-ZRNIĆ and MANČIĆ against Croatia

58 Application no. 57812/13, Z and others against Croatia

of Criminal Offences Committed during the Armed Conflicts and the War against the Republic of Croatia, the X Military Court terminated the proceedings. In 2003 the applicants lodged a request for reopening of investigation, but the State Attorney/s Office declined to institute an investigation into the killing on the grounds that a fresh investigation would violate the *ne bis in idem* principle. However, after the ruling of the ECHR in the case of *Marguš against Croatia* (2014), in which the Court held that the *ne bis in idem* principle did not apply to amnesties for war crimes. Inter alia on this basis the State Attorney's Office decided to re-open the investigation into the killing of the applicants' husband and father.

Also, during 2015 the ECHR adopted 5 rulings in which only in the case of *B.I. et al* against Croatia (Application No. 71593/11) it established the violation of the Article 2- the right to life through performing effective investigation. The above-mentioned ruling is in accordance with the formerly adopted rulings for the crimes in *Sisak*⁵⁹ committed in 1991-92. In other rulings⁶⁰ the Court established that established that there has been no violation of the right to life through performing effective investigation considering the given circumstances, that is that the Croatian authorities undertook all the activities given the circumstances of the case. It also stressed that the Article 2 of the Convention must not be interpreted as an obligation of the authorities to undertake criminal prosecution regardless of the available evidence.

Also, in three applications⁶¹ regarding the killings of civilians during or immediately after the Military-Police Operation Storm, the Republic of Croatia with a unilateral declaration recognized the violation of the right to life through performing ineffective investigation (Art. 2 of the Convention), as well as the violation of the prohibition of discrimination (Art. 14 of the Convention). The common feature of these application is that the family members⁶² of the applicants were killed civilians during or immediately after the Military-Police Operation Storm , that the criminal prosecution did not result in a criminal procedure and conviction of perpetrators of killings/war crimes, and that in the civil procedure the relatives did not get any form of satisfaction/damage compensation, but they had to pay the costs of the proceedings. Therefore this unilateral declaration of the Government of the Republic of Croatia represents a first form of a sort of reparation as an acknowledgment of the Republic of Croatia that it failed to perform an effective investigation and thus violated the right to life of the victims (Art. 2 of the *Convention on Human Rights and Fundamental Freedoms*), as well as their children/applicants. The acknowledgement of the Government of the Republic of Croatia also refers to the violation of the prohibition of discrimination, guaranteed by the Article 14 of the Convention, on the grounds of ethnicity of the victims, who were Serbs.

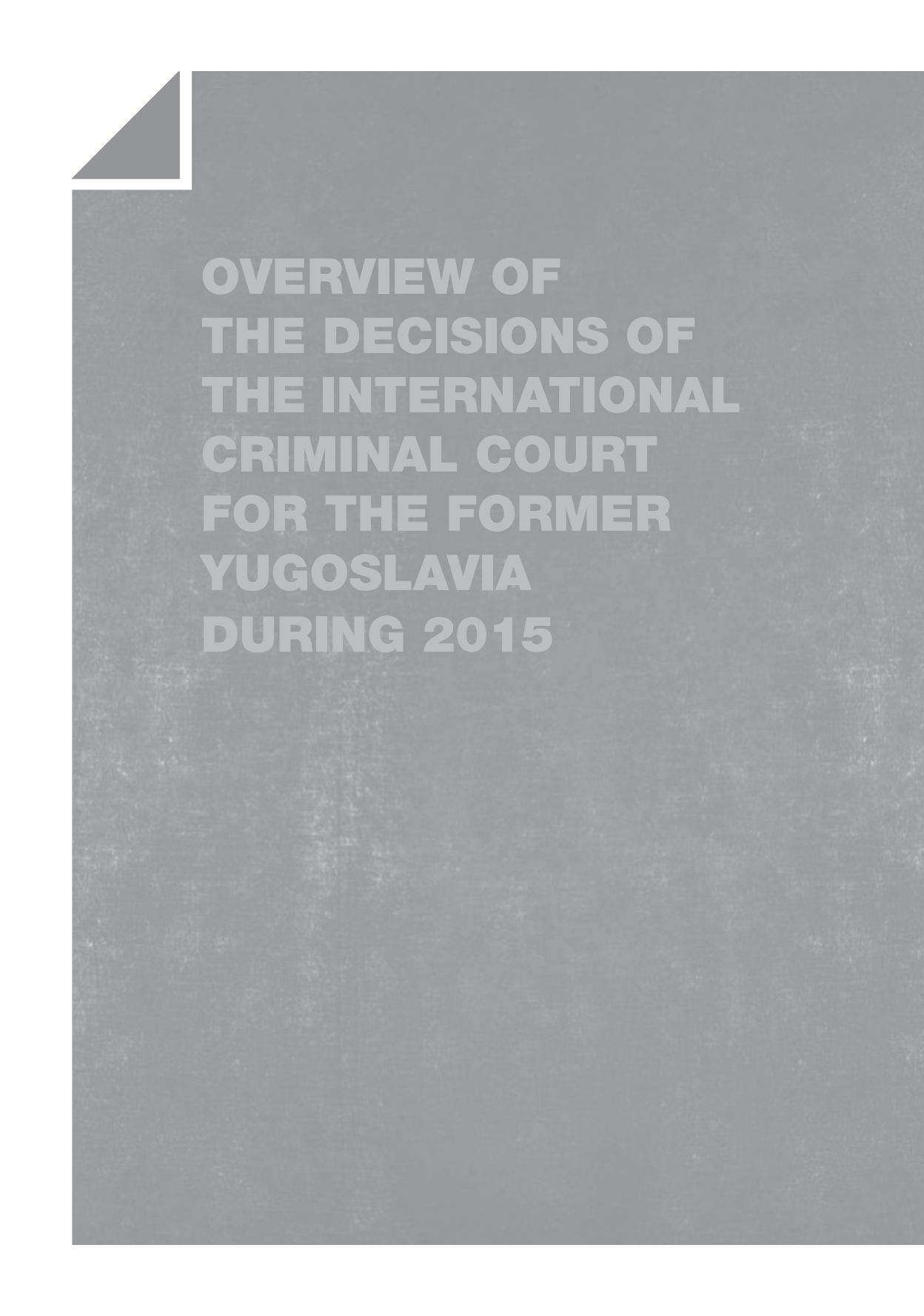
During 2015 and in the first two months of 2016 the Court communicated with Croatian Government regarding 9 more applications as regards to ineffective investigation of the killing of their family members during the Homeland War.

59 *Jelić v. Croatia*, no. 57856/11

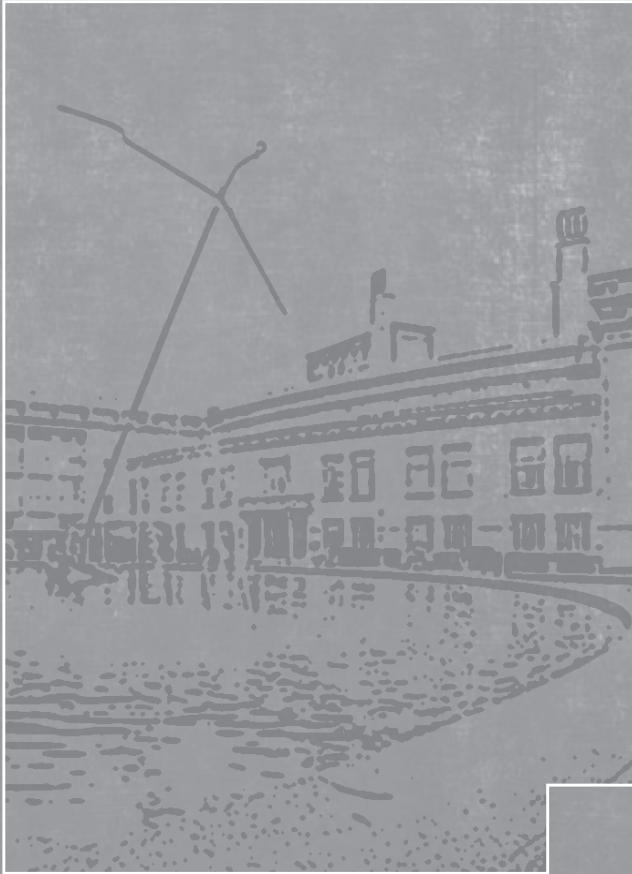
60 Case of *TRESKAVICA v. CROATIA*, (Application no. 32036/13), Judgement 12 January 2016, final 12/04/2016; Case of *NJEŽIĆ and ŠTIMAC v. CROATIA*, (Application no. 29823/13), Judgement 9 April 2015, final 09/07/2015; Case of *MOMČILOVIĆ v. CROATIA*, (Application no. 11239/11), Judgement 26 March 2015, final 26/06/2015; Case of *MILEUSNIĆ and MILEUSNIĆ-ESPENHEIM v. CROATIA* (Application no. 66953/09), Judgment 19 February 2015, final 19/05/2015

61 Application no. 3430/13 - *Rada VUKOVIĆ and others v. Croatia*; Application no. 75187/12, *Sava ŽARKOVIĆ and others v. Croatia*; Application no. 5306/13, *Đuro DAMJANOVIĆ v. Croatia*

62 *Vidović Stevan*, 20th August 1995, *Plavno*; *Damjanović Dušan and Đuka*, 6th August 1995, *Radeljevac*



**OVERVIEW OF
THE DECISIONS OF
THE INTERNATIONAL
CRIMINAL COURT
FOR THE FORMER
YUGOSLAVIA
DURING 2015**



6. OVERVIEW OF THE DECISIONS OF THE INTERNATIONAL CRIMINAL COURT FOR THE FORMER YUGOSLAVIA DURING 2015

By following the work of the ICTY we have extracted several judgments that are important in the application of International Humanitarian Law for the judges of domestic courts, as well as for the abolishment of impunity for war crimes.

On 30th January 2015 the Appeals Chamber upheld almost entirely the Trial Chamber guilty verdict for genocide in Srebrenica and the sentences of the defendants Popović, Beara, Nikolić and Pandurević were confirmed, while the Appeals Chamber reduced Radivoj Miletić's 19-year sentence to 18 years in prison. The judgment found Popović, Beara, Nikolić and Miletić guilty as members of a double joint criminal enterprise to murder the able-bodied Bosnian Muslim men from Srebrenica in July 1995, or "JCE to Murder", and that a joint criminal enterprise existed to forcibly remove the Bosnian Muslim population from Srebrenica and Žepa in 1995 («JCE to Forcibly Remove»). The defendants Vujadin Popović and Ljubiša Beara were found guilty for the crime of genocide and Drago Nikolić, due to the inexistence of genocide intent, aiding and abetting genocide. Vinko Pandurević was additionally found guilty on the basis of individual criminal responsibility of aiding and abetting murder, persecution, inhumane acts/forcible transfer and extermination in the framework of the crimes against humanity and violations of laws and customs of war. Additional sentences were also given to other four defendants for conspiracy to commit genocide. At the same time the charges for genocide against Muslims in Trnovo were dismissed.

With this final judgment one of the biggest and most complex trials of the ICTY were concluded. The first-instance trial against seven defendants started in August 2006. It was finalized in June 2010 with a final guilty verdict for Ljubomir Borovčanin, Commander of a joint force of MUP units subordinated to the Drina Corps of the VRS to participate in the Srebrenica operation, sentenced to 17-years' imprisonment, as well as for Milan Gvero, Assistant Commander for Morale, Legal and Religious Affairs of the VRS Main Staff, sentenced to 5 years' imprisonment, who died during the appeals procedure

On 8th April 2015 the Appeals Chamber confirmed the judgment of the Trial Chamber and sentenced Zdravko Tolimir to lifetime imprisonment, the most sever sanction foreseen by the ICTY Statute. Tolimir, who was the assistant for security and intelligence to the VRS Main Staff commander during the war in BH, was directly subordinate to Ratku Mladiću. The Appeals Chamber judgment confirmed his criminal responsibility for the crimes of genocide, conspiracy to commit genocide as well as extermination, murder, persecution, forcible removal as crimes against humanity and violations of laws and customs of war. It also confirmed Tolimir's criminal responsibility based on the concept of joint criminal enterprise - to murder the able-bodied Bosnian Muslim men from Srebrenica

in July 1995, or “JCE to Murder”, and that a joint criminal enterprise existed to forcibly remove the Bosnian Muslim population from Srebrenica and Žepa in 1995 («JCE to Forcibly Remove»). The Appeals Chamber decides that the demolishing of mosques does not fulfill the criteria for the crime of genocide. The targeted killings of three Bosnian Muslim leaders of Žepa, qualified by the Trials Chamber as genocide, was not upheld by the final judgment, as well as the criminal responsibility of the defendant for genocide committed by forcible removals. Zdravko Tolimir died in detention unit of the ICTY in the night between 8th and 9th February 2016.

On 15 December 2015 the Appeals Chamber of the ICTY quashed the Trial Chamber’s decision of 30th May 2013 to acquit Jovica Stanišić and Franko Simatović, former leaders of State Security Service of Serbia and ordered that Stanišić and Simatović be retried on all counts of the indictment by the Mechanism for International Criminal Tribunalss

The Appeals Chamber dismissed the Trail Chamber’s judgment based on the standard established in the case Kupreškić et al., which was in the meantime dismissed, according to which the leaders of State Security of Serbia did not offer help to their subordinate units (*Red Berets- special units of the Republic of Serbia DB, the Scorpions, Serbian Volunteer Guard- Arkan’s Tigers and the Krajina police*) in order to commit crime by to control and maintain control over the occupied territory. On 23rd Dcember 2014 The Mechanism for International Criminal Tribunals (MICT) granted Jovica Stanišić and Franko Simatović provisional release pending the beginning of their retrial in The Hague, based on the guarantees offered by the Serbian Government.

Both men have been told to report to a local police station in Belgrade every day and surrender their passports to the Serbian justice ministry. They are not allowed to travel, and they are strictly prohibited any contact with the victims or witnesses, as well as giving statements to the press. They are obliged to return to the Scheveningen Detention Unit upon MICT Council’s orders.

This judgment, apart from possibly representing a form of reparation for the families of the victims through criminal justice, could also correct the devastating fact that none of the members of Serbian leadership, with the exception of lower commanders of the Yugoslav People’s Army (Miodrag Jokić and Pavle Strugar / “Dubrovnik”, Mile Mrkšić and Veselin Šljivančanin / “Vukovar Hospital”), was not convicted for crimes committed on the territory f the Republic of Croatia.

Because of the importance of the trial awaited before the Split County Court against Dragan Vasiljković, in this report wer are giving a short overview of ICTY judgments against Milan Martić and Stanišića and Simatovića. Their content also explain the role of Vasiljković in the war in the Republic of Croatia and establish that he was a member of joint criminal enterprise.

In the final guilty verdict of the ICTY against Milan Martić⁶³, Dragan Vasiljković was identified as one of the participants of joint criminal enterprise with the common purpose of “the forcible removal of a majority of the Croat, Muslim and other non-Serb population from approximately one-third of the territory of the Republic of Croatia in order to make them part of a new Serb-dominated state together with Milan Martić, Milan Babić, Blagoje Adžić, Radmilo Bogdanović, Veljko Kadijević, Radovan Karadžić, Slobodan Milošević, Ratk Mladić, Vojislav Šešelj, Frenki Simatović and Jovica Stanišić. Also, during the ICTY trial it was established that there was one detention unit in the old hospital in the center of Knin in 1991. That part of the hospital was used as a dorm by the «men of Captain Dragan and members of reserve units of YPA». Since mid 1991 til mid 1992 between 120 and 300 persons were illegally detained in the old hospital in Knin. Among detainees there were Croatian and other non-Serb civilians, as well as members of Croatian armed forces. The prisoners were threatened on a daily bases, beaten, often by several guards at once, using gun butts, wooden sticks and nightsticks. The prisoners were also sexually abused.

On 25th July 1991 the village of Struga was attacked by the units under the command of the Captain Dragan and War Headquarters Glina. In the operation 50 members of «special units», 50 policemen and 700 civilians participated. After the attack the Yugoslav People’s Army intervened and created a buffer zone.

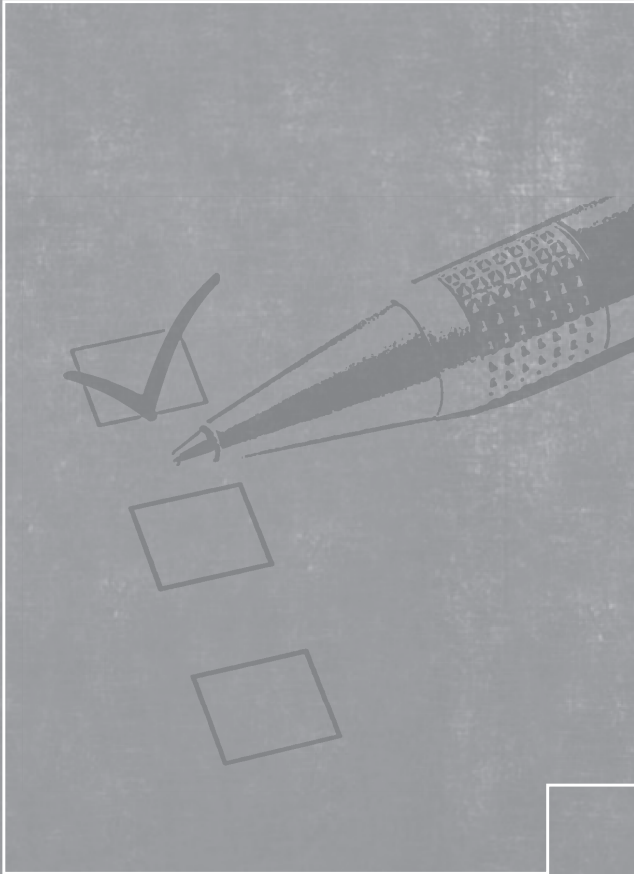
In the case of Stanišić and Simatović⁶⁴ the ICTY Trial Chamber established that in the period from May to August 1991 Captain Dragan was the commander of units at the training center Golubić and the Knin fortress, as well as Glina and Struga.

63 ICTY Judgment MKSJ, 12/06/2007; <http://www.icty.org/x/cases/martic/tjug/bcs/070612.pdf>

64 Case Stanišić and Simatović: http://www.icty.org/case/stanisisic_simatovic/4



RECOMMENDATIONS



7. RECOMMENDATIONS

- It is necessary to improve regional cooperation by establishing joint investigation teams in cases requiring coordinated work and/or investigation in several countries;
- It is necessary to free judicial officials from any form of political influence and facilitate equal standards in proceedings between judiciaries of the countries in the region, so that the maximum number of perpetrators and persons with command responsibility would be brought to justice, to terminate the prosecution of persons for whom there are no evidence that they committed war crimes, as well as to annul the judgments against unfairly convicted persons;
- Avoid *in absentia* trials, incentivize increasing exchange of evidence and transfer of cases to the prosecutor's offices in the region according to the place of residence of the defendant, because otherwise *in absentia* trials are becoming illogical, costly, do not bring justice to the victims and also give way to possible violation of rights of the defendants.
- In the field of war crimes prosecution we recommend to add to the Judiciary Development Strategy special training, increase of human capacities of the courts and state attorney's offices, as well as to increase the number of war crimes investigators and secure necessary technical capacities and facilities
- It is necessary to amend the Art. 91 of the new Criminal Code and equal rape and other forms of sexual abuse with war crimes committed by torture and inhuman treatment as far as the sentence is concerned, thus following ICTY practice and achievements;
- To transpose as soon as possible the Directive 2012/29/EU of the European Parliament and of the Council into national legislation and amend the Criminal Procedure Code concerning the expansion of the rights of the victims;
- To arrange and adopt as soon as possible an Action Plan for the Victims and Witness Support System (implementation document of the National Strategy), and to determine precisely the activities, deadlines, carriers and stakeholders, financial assets and sources as well as financial and capacity sustainability;
- To promote and distribute the National Strategy to all the stakeholders in contact with victims and witnesses and to work on the analysis of the existing strategy in order to improve it and harmonize it with domestic and international norms, positive practices and rulings of European Court of Human Rights as well as analyses of civil society organizations;
- To continue to develop the support system by horizontal dissemination to state attorney's offices and police as well as other offices and agencies in touch with witnesses and victims of criminal offences and especially war crimes;

- To incentivize civil society organizations to work with witnesses and victims, to foster mutual cooperation and education among CSO's, but also of public administration authorities, and to work in cooperation on projects and program development;
- In order to improve the support to victims of war crimes, it is necessary to establish teams as soon as possible and educate persons in all the bodies of public administration that are in touch with victims of sexual violence
- Because of the connection between numerous war crimes with the appropriation of property of the victims, it is necessary to investigate the origin of property of the convicted of war crimes;
- The Government of the Republic of Croatia should adopt the decision to write-off the costs of lost proceedings to all the plaintiffs/injured persons who were not allocated compensation for nonmaterial damage caused by the death of a close relative, and facilitate the reimbursement of means for those who already paid for the litigation cost or whose property has been seized;
- It is necessary to adopt a National Program and a Law on the establishment of the fund for compensation of all the victims of war, which would regulate the damage compensation in accordance with the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*;
- It is necessary to derogate the *Act on the Annulment of Certain Legal Acts of Judicial Bodies of The Former Yugoslav National Army, The Former SFRY and the Republic of Serbia*, detrimental for the relations between Croatia and Serbia;
- It is necessary to sign agreements between the countries of the region in order to increase efficiency in prosecuting war crimes perpetrators and avoid politicization of war crimes trials.



Appendix



8. TABLE OVERVIEW OF THE MONITORED WAR CRIME TRIALS

TABLE OVERVIEW OF THE MONITORED WAR CRIME TRIALS, TRIALS FOR CRIMES AGAINST HUMANITY AND GENOCIDE IN 2015-2016

Criminal procedures with final judgment

No.	Case/ stage	No. indictment/ representative of the indictment	Criminal offence	Case no. /WCC	Defendant/s / troop membership	Judgment	Victim/s	Remarks
Osijek County Court								
1.	Crime in Kneževi Vinogradi	KT-136/94 -3 April 2011 -Miroslav Dasović, Deputy CSAO Osijek	War crime against civilian population (Art. 120, par.1 GCC RoC) amended when the factual description and the legal qualification of the offence was modified into armed rebellion under Article 235, paragraph 1 of the CC of RoC	K-rz-2/2015 War Crimes Chamber: Zvonko Vekić, president; Miroslav Rožac, panel member; Ante Kvesić, panel member	Def. Mилоš Marković Member of Serbian paramilitary formation present	April 2015 applied the Amnesty (General Pardon) Act and rendered the judgment rejecting the charge. The defendant was immediately released from detention.		In November 2014 extradited from Montenegro. During the trial the defendant was in detention.
2.	Crime in Mikluševci II	K-00-36/14 of 20 October 2014, modified on 18 December 2014. Mirjana Zubčević, Deputy CSAO Osijek	War crime against civilian population (Art. 120, par.1 GCC RoC)	K-rz-6/2014 War Crimes Chamber: Darko Krušlin, president; Ninoslav Ljubojević, panel member; Mario Kovač, panel member	Def. Mirko Ždinić Member of Serbian paramilitary formation present	18/3/2015 Non- final guilty verdict- sentenced to 5 years' imprisonment. The Supreme Court changed the sentence to 4 years' imprisonment.	Abused civilians: 3	Before CC Vukovar a trial was held in absentia. The hearing started on 5/10/2014. He was found guilty and sentenced to 6 years' imprisonment. Extradited from France on the bases of European Arrest Warrant. The trial was reopened after the extradition. He was in detention during the trial
Supreme Court Zagreb								

No.	Case/ stage	No. indictment/ representative of the indictment	Criminal offence	Case no. /WCC	Defendant/s / troop membership	Judgment	Victim/s	Remarks
3.	Crime of Shelling of Slavovski Brod	Indictment OJT in Požega No.: KT-72/91 of 6 December 1991	War crime against civilian population (Art. 120, par.1 GCC RoC)	KZ 210/12-4 Panel: Damir Kos, president, Marina Mirčeta, panel member, Miroslav Sovanjan, panel member, Žarko Dundović, panel member, Vesna Vrbetić, panel member	Def. Janko Radmanović and Radisav Stojanović priпадnici YPA absent	3/2/2015 Upheld the first-instance judgment	Heavy physical injuries: 1 Light physical injuries: 4	Retrial upon request of State Attorney's Office carried out in absentia On 1/6/2011, Judgment upholding the earlier sentence by OS Požega of 25/6/1993 – guilty verdict and 15 years' imprisonment each SCRC 3/2/2015 upheld the earlier judgment
4.	Crime in Slano	Indictment CSAO Dubrovnik, No.: KT-14/96 29 January 2008	War crime against civilian population (Art.120, Par 1, GCC RoC)	KZ 29/15-4 Panel: Vesna Vrbetić, president, Dražen Tripalo, panel member, Žarko Dundović, panel member, Zdenko Konjić, panel member, Melita Božičević Čaleta, panel member	Def. Marko Grandov Member of Yugoslav People's Army absent	18/2/2015 Upheld first-instance judgment- partially changed sentence	Material damage- burned houses and a restaurant	20/11/2014. Non-final guilty verdict. Sentenced in absentia to 7 years' imprisonment. With the judgment of 18/2/2015 additional 5 years imprisonment.
5.	Crime in Baranja	Indictment CSAO Osijek, No.: KT-136/94 , of 03.04.2001., specified 10.03.2014., Miroslav Dasović, Deputy CSAO Osijek	War crime against civilian population (Art.120, Par 1, GCC RoC)	KZ 420/14-4 Panel: Vesna Vrbetić, president, Zdenko Konjić, panel member, Dražen Tripalo, panel member, Žarko Dundović, panel member, Melita Božičević Čaleta, panel member	Okr. Ibrahim, sada Savo Kovačević member of Serb parapolic formations in investigative detention during trial	18/2/2015 Upheld first-instance judgment- partially changed sentence	Abused- survived: 5 Forcibly removed 1992: Family M.	The judgment reduced the prison sentence to five (5) years. The judgment of 28/5/2014 before Osijek CC sentenced to seven (7) years' imprisonment.
6.	Demolition of Catholic Church in Glina	CSAO Sisak No.: KT-56/97 od 16.July 2007.	Destruction of cultural and historical monuments (Art. 130, Par 1, GCC RoC)	KZ 810/12-8 Panel: Ana Garačić, president, Miroslav Sovanjan, panel member, Senka Klarić – Baranović, panel member, Vesna Vrbetić, panel member	Def. Ranko Birač Member of Serb formations absent	3/3/2015 Upheld first-instance judgment	Destroyed cultural monument- Catholic Church of Saint John of Nepomuk in Glina	The defendant filed an appeal against the guilty verdict rendered on 17/9/2012.

No.	Case/ stage	No. indictment/ representative of the indictment	Criminal offence	Case no. /WCC	Defendant/s / troop membership	Judgment	Victim/s	Remarks
7.	Crime at the Korana Bridge	CSAO Karlovac No.: KT-48/91 od 25 May 1991	Unlawful killing and wounding of the enemy (Art. 124, par. 1. and 2. GCC RoC)	KZ 4/13-7 Panel: Željko Pajalić, president, Ileana Vinja, panel member, Đuro Sessa, panel member, Mirjana Magud, panel member, Jasenka Žabčić, panel member	Def. Mihajlo Hraštov Member of Croatian Army present	2/4/2015 Upheld second- instance judgment	Killed: 13 Wounded: 4	The Supreme Court judgment dismissed the appeal of the defendant and upheld the second-instance judgment sentencing the defendant to 4 years' imprisonment (counting in the time spent in detention)
8.	Crime near Peruća lake		War crime against civilian population (Art.120, Par 1. GCC RoC) war crime against prisoners of war and wounded (Art. 121. GCC RoC) war crime against prisoners of war (Art. 122. GCC RoC)	KZ 3/12-9 Panel: Dražen Tripalo, president, Žarko Dundović, panel member, Zdenko Konjić, panel member, Miroslav Šovani, panel member, Damir Kos, panel member	Def. Rajko Radulović et al. member of Serb paramilitary formations Members of YPA 12 present/ 27 absent	19/8/2015 Upheld second- instance judgment- partially changed	Plunder and destruction of property of the civilian population, destruction of facilities, churches, schools, Peruća dam Expulsion of population Killed civilians: 28 Wounded and abused civilians: 27 PoWs: 3 Killed PoWs: 11	Judgments of the County Court of Split 21/5/1997 all the defendants found guilty. On 1/6/2000 the Supreme Court upheld the first-instance verdict Appeal of Def. B.R. submitted 1/6/2000 Judgment of the Supreme Court 19/8/2015
9.	Crime in Medak Pocket	K-DO-84/12 - 31 August 2012 Jurica Ilić, Deputy CSAO Zagreb	War crime against civilian population (Art.120, Par 1. GCC RoC)	KZ 416/15-9 Panel: Ileana Vinja, president, Branko Brkić, panel member, Miroslav Šovani, panel member, Vesna Vrbečić, panel member, Ranko Marijan, panel member	Def. Velibor Šolaja Member of Croatian Army present	24/9/2015 Upheld guilty verdict	Killed one unidentified woman	After an appeal of the State Attorney and defendant, the Supreme Court dismisses their appeals as unfounded and upholds the entire first-instance judgment
10.	Crime in Zamlača and Struga Banska	Indictment OTJ Sisak No.: KT- 61/93, 4 November 1994 K-DO-46/12, of 4. February 2015	War crime against civilian population (Art.120, Par 1. GCC RoC)	KZ 315/15-7 Panel: Vesna Vrbečić, president, Zdenko Konjić, panel member, Dražen Tripalo, panel member, Žarko Dundović, panel member, Melita Božičević- Gričić, panel member	Def. Leonard Janković member of Serb paramilitary formations present	13/1/2016 Upheld first-instance guilty verdict	Killed civilians: 4 5 civilians with severe physical injuries; Burned houses and facilities, property of 4 persons; population expelled and used as human shield; Killed PoWs: 3	In detention during the trial In January 2014 arrested in Austria on the basis of an arrest warrant, extradited to Croatia in April 2014. The Supreme Court upheld the first- instance guilty verdict at a session on 13 January and confirmed his sentence of 10 years' imprisonment.

No.	Case/ stage	No. indictment/ representative of the indictment	Criminal offence	Case no. /WCC	Defendant/s / troop membership	Judgment	Victim/s	Remarks
11.	Crime in Tovarnik	Indictment CSAO Vukovar No.: DO-K- 34/00 of 1 February 2001, amended on 10 April 2012	War crime against civilian population (Art.120, Par 1. GCC RoC)	Kž 184/13-6 Panel: Ana Garačić, president, Marina Mrčela, panel member, Damir Kos, panel member, Miroslav Šovani, panel member, Zoenko Konjić, panel member	Okr. Miloš Stanimirović, Stevan Srdić, Dušan Stupar, Baško Mijlković, Dragan Sedić, Branislav Jerković, Jovo Janjić, Milenko Stojanović, Dušan Do- brić, Đuro Dobrić, Jovan Mijlković, Nikola Tintor, Željko Krnjić i Radoslav Stanimirović member of Serb formations absent	29/2/2016 Partially confirmed guilty verdict	Killed on different locations after physical abuse and being taken from the police station: 20 Illegally detained and abused at the police station: 25 Taken prisoners and killed: 7 Tortured/interrogated: 7 Tortured and expelled: 9 Plundered: 2 Forced labor: 5	County Court in Vukovar on 23 April 2012 rendered a first-instance judgment, after legal qualification of the offence was modified into armed rebellion under Article 235, paragraph 1 of the CC of RoC. Dismissed charges regarding Dušan Dobrić, Đuro Dobrić and Jovan Mijlković. The defendants Branislav Jerković, Jovo Janjić, Milenko Stojanović and Nikola Tintor were acquitted. The defendants Miloš Stanimirović, Stevan Srdić, Dušan Stupar, Boško Mijlković, Dragan Sedić, Željko Krnjić i Radoslav Stanimirović were found guilty and sentenced to the following prison sentences: M. Stanimirović 10 years, Srdić 8 years, Stupar 6 years, Mijlković 8 years, Sedić 6 years, Krnjić 6 years and R. Stanimirović 5 years. The Supreme Court on 29/2/2016 partially accepted the appeal of the State Attorney, abolishes the judgment relating to M. Stanimirović, S. Srdić, D. Sedić, D. Stupar, Ž. Krnjić and R. Stanimirović and the acquittal of J. Janjić and sends the case for retrial in these parts. The first- instance judgment regarding criminal sanction is modified and B. Mijlković is found guilty for crime according to the Art. 91, paragraph 2. Item 22. of the CC /11 and sentenced to 8 years' imprisonment. In the other part (dismissal of charges) the first- instance judgment is upheld.

88 *Non-final first-instance judgments in 2015*

No.	Case/ stage	No. indictment / represented by	Criminal offence	Case no. /WCC	Defendant/s Troops membership	Judgment	Victim/s	Remarks
County Court Osijek								
1.	Crime near the Erdut-Bogojevo bridge	K-DO-7/2013 of 25 January 2013 Case delegated by CSAO Vukovar (No. K-DO-30/2010 of 8 December 2010) Miroslav Dasović, Deputy CSAO Osijek	War crime against prisoners of war (Art. 122. GCC RoC)	K-rz-13/2012 War Crimes Chamber: judges Darko Kruščin, president ; Zvonko Vekić; panel member, Miroslav Rožac, panel member	Def. Borde Stojaković member of Serb paramilitary formations present	22/10/2015 The defendant admitted he committed the crime, sentenced to 3 years' imprisonment.	Physically abused Croatian soldiers: 2	In July 2015 extradited from Ireland. In detention during the trial.
2.	Crime in Popovac	K-DO-8/03 of 16. April 2009 Dražan Križevac, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-26/2009 War Crimes Chamber: judges Krunoslav Barčić, president ; Mario Kovač, panel member; Ruža Šamota, panel member	Def.: Boško Strajnić, Dragiša Vučenović, Svetomir Milanović, Josip Stanković Members of Popovac Territorial Defence absent	10/9/2015 Found guilty and sentenced to prison (non final): Def. Bosko Strajnić 3 years; Def. Dragiša Vučenović 3 years; Def. Svetomir Milanović 2 years; Def. Josip Stanković 2 years	Beaten and abused: 10 Abused and intimidated: 7 Deprived property: 1	The trial started on 15 th June 2015
3.	Crime in Godinjske Bare (BiH)	K-DO-60/12 of 10 November 2014 Miroslav Kraljević, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-3/2015 War Crimes Chamber: judges Zvonko Vrban, president ; Zvonko Vekić, panel member; Ante Kvesić, panel member	Def. Milorad Momić member of Serb paramilitary formations „Scorpions“ present	10/7/2015 Found guilty and sentenced to 15 years' imprisonment (non-final verdict).	Killed civilians 6	Extradited from France in 2011 for the criminal procedure for the war crime in Berak. Later France also approved the extradition for the procedure for the crime in Godinjske Bare. In detention during the trial. The trial started on 25 March 2015 .

No.	Case/ stage	No. indictment/ represented by	Criminal offence	Case no. /WCC	Defendant/s Troops membership	Judgment	Victim/s	Remarks
4.	Crime in Dalj	K-00-57/12 of 13. November 2012 Miroslav Dasović, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz/2015 War Crimes Chamber: judge Zvonko Vekić, president	Def. Ljubinko Radošević and Def. Vojislav Grčić members of Serb paramilitary formations present	2/6/2015 The defendants were found guilty - def Ljubinko Radošević was sentenced to 10 years' imprisonment, def. Vojislav Grčić was sentenced to 10 years' imprisonment	One female raped, members of her family abused.	The trial was closed for public. In detention during the trial.
5.	Crime in Berak	K-00-35/14 od 10. October 2014. (delegated from CSAO Vukovar K-DO-42/01 of 5 April 2006) Miroslava Šarić, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-3/2014 War Crimes Chamber: judges: Zvonko Vrbanić, president ; Ruža Samotić, panel member; Ante Kvesić, panel member	Def. Milorad Momić member of Serb paramilitary formations „Scorpions“ present	2015 The factual description and the legal qualification of the offence was modified into armed rebellion.	Abused civilians: 1	In a retrial the hearing started on 3 February 2015 In detention during the trial. Extradited from France in 2011 for war crime in Berak.
County Court Split								
6.	Crime in Žepina	K-00-6/14 of 17 July 2014, specified on 14. September 2014. Ivan Galović, Deputy CSAO Split	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-10/14 War Crimes Chamber: judges: Slavko Lozina, president , Maria Majjić, panel member; Zoran Matulović, panel member	Def. Mirko Žarković member of Serb parapoliice formations present	2/10/2015 Non-final acquittal.	One woman forced to walk through the minefield	Arrested at Bajakovo border cross in 2014. In detention during the trial.
7.	Crime in Suknovci and Oklaj (retrial) The trial started on 31 January 2011	K-00-30/06, of 27 December 2010. ODO Šibenik	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-7/12 War Crimes Chamber: Slavko Lozina, president	Def. Goran Amanović member of Serb paramilitary formations present	13/3/2015 Non-final sentence to 8 years' imprisonment.	Killed civilians:1 Victims of rape: 1 Victim of rape attempt: 1 Abused civilians: 1	The trial before Šibenik County Court ended with acquittal. A session before the Supreme Court against the acquittal held on 22 March 2016. Decision unknown.

No.	Case/ stage	No. indictment/ represented by	Criminal offence	Case no./WCC	Defendant/s Troops membership	Judgment	Victim/s	Remarks
County Court Zagreb								
8.	Crime in Medak Pocket (retrial) The trial started on 5 March 2013	K-DO-84/12 of 31 August 2012. Jurica Ilić, Deputy CSAO Zagreb	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-FZ-1/15 War Crimes Chamber: Oliver Mittermayer, president, Marijan Garac, Rajka Tomerlin Almer, član/ca	Def. Veljbor Šolaja Member of Croatian Army present	25/05/2015 Found guilty and sentenced to 5 years' imprisonment (non-final judgment).	Killed one unidentified woman	On 25 May 2015 a guilty verdict upheld entirely on 24 September 2015 The defendant is serving his sentence.
9.	Crime in the villages along the Una river near Hrvatska Kostajnica Fourth (third retrial) before a partially modified Panel The trial started on 16 February 2010	K-DO-10/08; K-DO-145/11 of 5 November 2009 Robert Petrovečki, Deputy CSAO Zagreb	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-3/13 War Crimes Chamber: Renata Miličević, president, Martina Marišić, panel member, Petar Šakić, panel member	Def. Pero Đermanović, Def. Dubravko Čavić, Def. Ljubiša Čavić members of Serb paramilitary formations absent	8/5/2015 Non-final acquittal.	Killed civilians:1 Burned houses: 2	III. Def. Dubravko Čavić is tried in absentia. The Supreme Court quashed 3 times the guilty verdicts at lower courts.
10.	Crime in Zambića and Struga Banska	K-DO-46/12, of 4 February 2015 (KT-61/93 (OJT Sisak), of 4 November 1994) Jadranka Huskić, Deputy CSAO Zagreb	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-3/14 War Crimes Chamber: Ratko Škekić, president, Petar Šakić and Vladimir Vinjaja, members	Def. Leonard Janković member of Serb paramilitary formations present	30/3/2015 Found guilty and sentenced to 10 years' imprisonment (non-final judgment).	Killed civilians:4 5 civilians with severe physical injuries; burned houses and facilities, property of 4 persons; population expelled from their houses and used as human shield; killed PoWs 3	In detention during the trial.In January 2014 arrested in Austria based on the arrest warrant, in April 2014 extradited to Croatia. On 13 Jan 2016 the Supreme Court upheld entirely the first-instance verdict
11.	Crime in the prison of Gilna retrial	K-DO-64/12 CSAO Sisak, of 10 October 2010	War crime against civilian population (Art.120. Par 1. GCC RoC)	War Crimes Chamber: Renata Miličević, president, Martina Marišić and Petar Šakić, members	Def. Zoran Dmitrović member of Serb paramilitary formations absent	13/7/2015 Acquittal	Physical abuse: 2	On 12 January 2015 the court: For I. Def. Miroslav Hasić dismissed charges and modified indictment to armed rebellion subject to the General Amnesty Law II. Def. Zoran Dmitrović was acquitted. 2 June 2016. The Supreme Court sent the case for retrial because of the errors in factual description. In a retrial the defendant was acquitted because of the unfounded indictment that could qualify the offence as war crime.

Undergoing trials in 2015

No.	Case/ Stage	No. indictment/ representative	Criminal offence	Case no. /WCC	Defendant/s Troop membership	Victim/s	Remarks
County Court Osijek							
1.	Crime in Erdut	K-DO-27/13 of 18 December 2014.	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-4/2015 War Crimes Chamber: Darko Krušlin, president; Mario Kovačić, panel member; Antie Kvesić, panel member	Def. Zoran Vučićević member of Serb paramilitary formations absent	Abused civilians: 2	
2.	Crime in Kopačevo	K-DO-47/07 of 30 October 2007. Miroslav Kraljević, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz- 82/2007 War Crimes Chamber; judge Krunoslav Barkić, president	Def. Zdravko Pijunović i Def. Ratko Zorić members of Serb paramilitary formations absent	One rape victim	The trial is closed for public
3.	Crime in Borovo (earlier Borovo Selo)	K-DO-45/11 of 31 December 2012. CSAO Osijek Mirjana Zubčević, Deputy CSAO Osijek	War crime against civilian population (Art.120. Par 1. GCC RoC) and war crime against prisoners of war (Art.122. GCC RoC)	K-rz-1/2013 War Crimes Chamber; judges Zvonko Vrban, president ; Miroslav Rožac, panel member; Miroslav Jukić, panel member	Def. Radenko Alavanja member of Serb paramilitary formations absent	Killed civilians: 15 Disappeared civilians: 21 Killed PoWs: 2 Deported persons: 31	
County Court Rijeka							
4.	Crime in Bjelovar barracks „Božidar Adžija“	K-DO-70/11 of 17 February 2014 Doriš Hraš, Deputy CSAO Rijeka	War crime against prisoners of war (Art.122. GCC RoC)	K-rz-2/14 War Crimes Chamber; judge Jesenka Kovačić, president	Def. Jure Šimić president of the Crisis HQ Bjelovar present	Killed PoWs: 3	Last hearing in June 2015

No.	Case/ stage	No. indictment / representative	Criminal offence	Case no. /WCC	Defendant/s Troop membership	Victim/s	Remarks
5.	Crime in Udbina	K- DO- 32/12 V of 23 February 2015	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-4/12 War Crimes Chamber; judge Jesenka Kovačić, president	Def. Dane Radočaj – Gajota, Def. Nikola Čuruvija, Def. Đorđe Kosanović, Def. Radoslav Korać, Def. Dragan Galović, Def. Damir Radočaj, Def. Dane Radočaj – Jablan members of Serb paramilitary formations absent	Killed civilians:2	The first indictment issued by CSAO Gospić in 2008, harmonized on the bases of the Law on Harmonization with the indictment of the Prosecutor's Office of the Republika Srpska in Knin of January 1992 On 26 April 2016 guilty verdict for the first 5 defendants. They are sentenced to prison: 15 years (first two), 12, 10 and 6 years' imprisonment.
6.	Shelling of Kartovac	K-DO-2/01 od 23. December 2008. .	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-2/12 War Crimes Chamber; judge Saša Cvijetić, president	Def. Dražan Kovačić, Def. Nikola Štakor members of Serb paramilitary formations absent	Killed civilians: 1 Severely injured civilians: 3 Lightly injured civilians: 3 Destroyed and damaged houses and facilities	Karlovac County Court; judgment of October 1999. Def. Dražan Kovačić and Def. Nikola Štakor were sentenced in absentia to 15 years' imprisonment for the shelling of Kartovac on 1/5/1995. Indictment in this procedure refers to the shelling on 11.July 1993. Procedure against Def. D. Kovačić dismissed due to death of the defendant.
7.	Crime in Velika Kladuša– Drneljevo camp	K-DO-4/14 od 29 September 2014.	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-3/14 War Crimes Chamber; judge Saša Cvijetić, president	Def. Ćazim Behrić prison camp director Member of Croatian Defense Council present	Psychologically and physically abused civilians (women, children, pregnant women, elderly men, invalids), one woman raped	Part of the proceeding closed for public. The defendant was in detention. 21 January 2016- sentenced to 4 years' imprisonment.
County Court Split							
8.	Crime in Kulline	K-DO-97/10 of 4 March 2011 Zvonko Ivčić, Deputy CSAO Split	War crime against prisoners of war (Art.122. GCC RoC)	K-27/11 War Crimes Chamber; judges: Mladen Pivan, president ; Spomenka Tonković and Neven Cambi, members	Def. Tvrtko Pašalić, Def. Željko Maglov, Def. Damir Bošić, Def. Milorad Paić Members of the 72 battalion of Croatian Army Military Police present	The indictment covers 21 prisoners near Nos Kalik.	All the defendants are not detained. Before the formal start of the main hearing on 24 November 2015, around ten witnesses were questioned out of the main hearing due to the obstruction of defence counsel, at hearings before the main hearing.

No.	Case/ stage	No. indictment / representative	Criminal offence	Case no. /WCC	Defendant/s Troop membership	Victim/s	Remarks
9.	Crime in Lora II	K-DO-144/04 Of 23 December 2008 Vesna Beširević, Deputy CSAO Split	War crime against prisoners of war (Art.122. GCC RoC)	K-107/08 War Crimes Chamber: judges Vladimir Živaljić, president ; Davor Svalina, panel member; Slavko Grbavac, panel member	Def. Tomislav Duić, Def. Tonči Vrkić, Def. Emilio Bungur, Def. Ante Gudić, Def. Anđelko Botić Members of Croatian Army 1 absent/ 4 present	Tortured and killed prisoners: 3 Abused prisoners: 37	Def. Tomislav Duić is tried in absentia. Def. Emilio Bungur in detention during the trial after being arrested in August 2015. Requested retrial for Lora 1 case where he was finally sentenced to 11 years' imprisonment. The defendants Tonči Vrkić, Ante Gudić and Anđelko Botić are not detained. After 15 years of being on the run, in February 2016 Duić was arrested. He requested retrial for Lora 1 where he was finally sentenced to 8 years' imprisonment in absentia.
10.	Crime against civilians in Kuline	K-DO-97/10 30 December 2011 CSAO Split, Zvonko Ivčić, Deputy CSAO ST	War crime against civilian population (Art.120. Par 1. GCC RoC)	K-rz-1/12 War Crimes Chamber: judge Ivona Rupić, president, judge Neven Čambi and judge Katja Blaćić, members	Def. Damir Bošić, Def. Miroslav Periša Members of Croatian Army present	Physically and sexually abused civilians: 4 - 1 woman raped and systematically forced to oral sex	Def. are not detained.
11.	War crime in Široki Brijeg	K-DO-45/2013 (s-DO-8/2013), of 19 January 2015	War crime against civilian population (Art.120. Par 1. GCC RoC) and war crime against prisoners of war (Art.122. GCC RoC)	K-rz-1/15 War Crimes Chamber: judge Slavko Ložina, president, judges Davor Svalina i Bruno Klein, članovi	Def. Ivan Hrkač, aka Čikota Member of Croatian Defence Council Convicts Battalion, Široki Brijeg present	Detained POWs: at least 35 Bosniaks Abused POWs: 2 Detained civilians: more than 50 Bosniaks Abused civilians: 12	The case was delegated by the Prosecutor's Office of BiH on the bases of Protocol on cooperation and transfer of evidence. The defendant was hiding in Croatia. Not detained.

No.	Case/ stage	No. indictment / representative	Criminal offence	Case no. /WCC	Defendant/s Troop membership	Victim/s	Remarks
County Court Zagreb							
12.	<p>Crime in Maša and Svrtača</p> <p>Second retrial</p> <p>The trial started on 5 October 2009</p>	<p>K-DO-192/12, of 14. March 2013 (first KT-53/93 CSAO Sisak, of 13. August 1993)</p> <p>Marijan Zgurčić, Deputy CSAO Sisak, Marija Rukavina, Deputy CSAO Sisak</p>	<p>War crime against civilian population (Art.120. Par 1. GCC RoC)</p>	<p>K-rz-3/15</p> <p>War Crimes Chamber; judge Zdravko Majerović, president; judges Petar Šakić i Ratko Ščekić, members ;</p>	<p>Def. Milan Španović</p> <p>member of Serb paramilitary formations</p> <p>present</p>	<p>Physically abused: 1</p> <p>Burned facilities and/ or houses and/or plundered: 11</p> <p>The indictment was modified. The defendant is charged og intimidation by shooting at the houses of three civilians and taking away the combine harvester.</p>	<p>Example of unprofessional and biased indictments in the 1990s.</p> <p>In November 1993 the defendant together with 18 more co-defendant, in absentia, was sentenced to 20 years' imprisonment. Against this judgment ex-officio counsel did not file an appeal. The explanation of the judgment contains 2 pages.</p> <p>In a retrial the defendant, after being extradited from Great Britain to Croatia in 2009, was sentenced by the Sisak County Court to 3 years' and 5 months' imprisonment, exactly the duration of his detention in extradition detention and pre-trial detention in Britain and Croatia.</p> <p>The procedure against all other defendants in earlier years was reopened and suspended.</p> <p>In the first retrial before the Zagreb County Court he was acquitted by the application of a less severe law.</p> <p>The Supreme Court sent the case for retrial stating that in retrials the laws that were in force at the time of the commitment of crime should be applied.</p>
13.	<p>Crime in prisons in Gajeva Stret in Zagreb and Kerestinec</p> <p>retrial</p> <p>The trial started in March 2012</p>	<p>K- DO. 384/10 of 18 November 2011</p>	<p>War crime against prisoners of war (Art.122. GCC RoC), war crimes against civilian population (Art.120. Par 1. GCC RoC)</p>	<p>3 K- RZ- 5/14</p> <p>War Crimes Chamber; Renata Miličević, president; judge Martina Maršić; judge Petar Šakić member</p>	<p>Def. Stjepan Klarić, Def. Dražen Pavlović, Def. Viktor Ivantić, Def. Željko Žvec, Def. Goran Trukej</p> <p>Members of Croatian Army</p> <p>present</p>	<p>Physically, psychologically and/or sexually abused: 30?</p>	<p>All the defendants are not detained.</p> <p>Stjepan Klarić was sentenced to 8 years' imprisonment, Dražen Pavlović was sentenced to 3 years' imprisonment, Viktor Ivantić was sentenced to 5 years' imprisonment, Željko Žvec was sentenced to 1.5 years' imprisonment and Goran Štrukelj was sentenced to 2 years' imprisonment.</p> <p>Klarić and Ivantić were ordered pre-trial detention given the height of the sentence and they were sent to serve it immediately.</p>

No.	Case/ stage	No. indictment / representative	Criminal offence	Case no. /WCC	Defendant/s Troop membership	Victim/s	Remarks
14.	Crime in Borovac village retrial	K- DO- 10/11 of 29 September 2011 CSAO Sisak	War crime against civilian population (Art.120. Par 1. GCC RoC)	K- RZ-2/15 War Crimes Chamber; Tomislav Juriša, president; Erna Dražančić; Rajka Tomerlin Almer, members	Def. Mitar Vujaklija members of Serb paramilitary formations present	Killed civilians:1 Intimidation of civilians: 2	The defendant was extradited from Serbia in 2009. He was in Lepoglava prison serving his sentence. 29 March 2016- acquitted: the panel has not found elements of war crime in an alleged humiliation and abuse of two civilians, whose clothes the defendant searched, after hearing a shot from an unknown place.
15.	Crime in Pakrac Valley and Zagreb Fair	K-DO-97/10 of 4 March 2011 Zvonko Ivić, Deputy CSAO Split	War crime against civilian population (Art.120. Par 1. GCC RoC)	K- RZ-2/2011 War Crimes Chamber; judges: Zdravko Majerović, president; Petar Šakić, panel member; Ratko Ščekić, panel member	Def. Tomislav Merčep Commander of the Reserve Unit of Croatian Ministry of the Interior present	Killed civilians:19 known and 24 unidentified civilians Abused and missing 3 persons Abused 6 persons	From 10 December 2010 to 5 July 2012 in investigative detention
16.	Crime in Varazdin	KT-94/91 of OJ Varazdin 6. 7.1992. (K-DO- 22/14)	War crime against civilian population (Art.120. Par 1. GCC RoC)	K- RZ- 1/14 War Crimes Chamber; judge Zdravko Majerović, president	Def. Vlado Trifunović , Def. Vladimir Davidović, Def. Berislav Popov Officers of the former YPA absent	Killed civilians: 1 Severely wounded civilians: 1	The panel of the Zagreb County Court in 2015 rejected the request for in absentia trial. The judgment of the Varazdin County Court No. K-30/1992 of 16th March 1993 found Def. Vlado Trifunović guilty and sentenced him to 15 years' imprisonment, and sentenced Def. Vladimir Davidović to 10 years' imprisonment The Supreme Court judgment No. I-kz-664/1993 of 12 January 1994 upheld the first-instance judgment. Retrial. Awaiting the decision on a possible trial in absentia.
17.	Crime in Batinska Rijeka	KT 120/94, CSAO Bjelovar, of 14.07.1994	War crime against civilian population (Art.120. Par 1. GCC RoC)	K- RZ- 7/14 War Crimes Chamber; judge Zdravko Majerović, president	Def. Predrag Amidžić, Dželalija Velimir Members of Serb paramilitary troops Absent.	Killed civilians:5 Wounded: 2	The trial started on 12.10.2015

TABLE OVERVIEW OF THE WORK OF COUNTY STATE ATTORNEY'S OFFICES

war crimes, crimes against humanity indictments
JANUARY - DECEMBER 2015
 data from County State Attorney's Offices websites
 (announcements)

No.	Indictment issued	Number of suspects	Criminal offence	Place and time of the commitment of crime	Defendants	Status of the defendants	Number of victims/status of victims
CSAO Rijeka							
1.	18.5.2015	2 citizens of the Republic of Serbia	War crime against POWs (Art.122. GCC ROC)	In Stara Gradiška, from November 1991to May 1992	2 unavailable	Member of the so-called Marić's police-international arrest warrant issued and investigative detention ordered	Taken prisoners and abused 36 members of active and reserve unit of the Police Station Slunj and ZNG (Croatian National Guard)
CSAO Split							
2.	13.7.2015	7 citizens of the Republic of Serbia	War crime against civilian population (Art.120. Par 1. GCC ROC)	The then Municipality of Benkovac: villages: Polača, Bulić, Lšani Ostrovački, Vukšić, Korlati, Šopot, Raštevčić, Jagodnja Donja, Lepuri, Pristeg, Skabrnja, Nadin, Pridraga, Smičić, Pajluc, Podgradina, Zemunik Donji, Zemunik Gornji, Popovići, Podgrade, Perušić, Rodaljice, Lisčići, Prović, Dobropolci, Vrana, Podlug and the then Municipality of Obrovac- villages Meki Doči, Kruševo, Bruške, Zaton Obrovački and Medvrde, from July 1991 to March 1993.	7	Members of former YPA	Killed at least 214 civilians; Heavy physical injuries of at least 19 persons; Raped at least five women; Destroyed and heavily damaged 9575 houses and buildings.
3.	1.4.2015	1 citizen of the Republic of Croatia 1 citizen of Bosnia and Herzegovina	War crime against civilian population (Art.120. Par 1. GCC ROC)	In the prison camps of Gabela and Slios (Municipality of Čapljina), and the second defendant also in the camp Dretelj (Municipality of Čapljina), in the second half of 1993.	2	Members of Croatian Defence Council Brigade Duque Domaogoj in the capacity of investigators of Security-intelligence Service (SIS) of the brigade	Psychological and physical abuse of a bigger number of detained civilians One civilian killed

No.	Indictment issued	Number of suspects	Criminal offence	Place and time of the commitment of crime	Defendants	Status of the defendants	Number of victims/status of victims
CSAO Zagreb							
4.	10.11.2015	10 citizens of the Republic of Serbia 1 citizen of the Republic of Croatia	War crime against civilian population (Art.120. Par 1. GCC RoC)	In Glinsko Novo Selo, in mid October 1991 In the village of Prekopa, in mid November 1991	11 1 available	Commander of the Territorial Defense Glina and members of TD Glina	Civilians killed in Glinsko Novo Selo: 31 Killed in Prekopa: 1
5.	23.2.2015	1 citizen of the Republic of Croatia	War crime against civilian population (Art.120. Par 1. GCC RoC)	In the area of Lički Čitluk in September 1993	1	Member 9 th Brigade of Croatian Army	Killed civilians:1
6.	26.1.2015	2 citizens of the Republic of Croatia	War crime against civilian population (Art.120. Par 1. GCC RoC)	In the area of Knin and Gračac, 25 th and 26 th August 1995	2	The first defendant deputy commander of the HQ of Special Police of the Ministry of the Interior. The second defendant chief of one of the units.	Killed civilians:6 Most of the houses in the village of Grubori burned

TABLE OVERVIEW OF THE WORK OF THE COUNTY STATE ATTORNEY'S OFFICES
war crimes, crimes against humanity investigations, modifications and suspensions of investigation
JANUARY - DECEMBER 2015

No.	Number of suspects	Criminal offence	Place and time of the commitment of crime	Course of the procedure	Status of the defendant	Number/status of victims
CSAO Osijek						
1.	1 Citizens of the Republic of Croatia	Reasonable doubt of commission of crimes against humanity and international law and war crimes against civilian population (Art.120. Par 1. GCC RoC)	Sajmište in Vukovar; end of November 1991.	23/10/2015 On the bases of criminal report of PD Vukovar-Srijem, based on the gathered data and evidence, issued a decision on performing investigation.	The suspect is fugitive and unavailable to Croatian authorities. He is ordered detention and APB is issued.	Victim of rape: 1
2.	2 Citizens of the Republic of Serbia	Reasonable doubt of commission of war crimes against civilian population (Art.120. Par 1. GCC RoC) war crime against prisoners of war (Art. 122. GCC RoC related to the art 28. par. 2.)	In Vukovar, Trpinja, Borovo Selo and Dalj as well as Bogojevo and Sremska Mitrovica in the area of the Republic of Serbia; 19 and 20 November 1991	13/11/2015 On the basis of criminal report of PD Osječko-baranjska and Vukovarsko-srijemska, CSAO Osijek adopted a decision on performing investigation.	The defendants are on the territory of the Republic of Serbia, currently unavailable to Croatian authorities. The investigative judge will be suggested ordering investigative detention and issuing an APB.	Killed defenders: 49 Abused defenders: 39 Killed civilians 67 Abused civilians: 38
CSAO Rijeka						
3.	5 citizens of the Republic of Serbia	Reasonable doubt of commission of war crimes against humanity and customs of war and war crimes against civilian population (Art.120. Par 1. GCC RoC)	In Donji Primišalj (Slunj) area) from July 1991 to August 1995	14/12/2015 On the basis of criminal report of Karlovac Police Department after a criminalistics investigation, CSAO u Rijeka adopted a decision on performing investigation.	Against defendants investigative detention is suggested due to the danger of fleeing, influencing witnesses and because of especially grave circumstances of the commission of war crime.	Physically and psychologically abused civilians: 2 Victim of rape: 1
4.	3 citizens of the Republic of Serbia	Reasonable doubt of commission of war crimes against civilian and war crime against prisoners of war (Art. 122. GCC RoC)	In the area of Lučki Osik and Široka Kula from 21 st August to 21 st October 1991	2/11/2015 CSAO Rijeka adopted a decision on performing investigation.		Killed civilians: 21 Killed POWs: 1 Detained and abused several civilians in the facilities of the Police Station prison Teslingrad
CSAO Split						
5.	8	Reasonable doubt of commission of crime against humanity and international law, war crimes against civilian population (Art.120. Par 1. GCC RoC)	In the area of Šibenik- Knin County from August 1991 to August 1995	18/6/2015 CSAO Split adopted a decision on performing investigation.	Against defendants investigative detention is suggested due to the danger of fleeing (they are fugitive), and because of especially grave circumstances of the commission of war crime. Investigative detention already effective for one defendant.	Killed civilians: 117 Raped: 3 Attempt of rape: 3 Expelling population

No.	Number of suspects	Criminal offence	Place and time of the commitment of crime	Course of the procedure	Status of the defendant	Number/status of victims
6.	1 citizen of the Republic of Serbia and Australia	Reasonable doubt of commission of war crimes against civilian population (Art.120. Par 1. GCC RoC) and war crime against prisoners of war (Art. 122. GCC RoC)	In the prison of Knin Fortress during June and July 1991 and during February 1993 in Bruška near Benkovac. During July 1991 in Glina.	10/7/2015 First interrogation – evidentiary action performed.	Upon finished interrogation taken back to Split prison. Given the great public interest in this case, the investigation is classified for the sake of protecting the victims and other witnesses in this procedure and the procedure itself.	Killed Croatian Soldiers: 2 Killed during shelling: 2 Wounded one persons Heavy damage of the Church of St. Francis Xavier, school, and around 30 houses and buildings Expulsion of population
7.	3	Reasonable doubt of commission of war crime against prisoners of war (Art. 122. st.1. GCC RoC)	In the village of Dragišići in February 1993	26/2/2015 Published information regarding the performed investigation. Investigation against three persons: sent a petition to the competent court in Serbia for international legal assistance-questioning certain persons in the capacity of witnesses	Abused Croatian soldiers: 7 Died defender: 1 Disappeared defenders: 2	
CSAO Zagreb						
8.	1 citizen of the Republic of Serbia	Reasonable doubt of commission of crimes against humanity and international law war crimes against civilian population (Art.120. Par 1. GCC RoC)	In the village Doljani on 16 September 1991.	14/10/2015 CSAO Zagreb adopted a decision on performing investigation.	Upon CSAO Zagreb petition, investigative judge of the Zagreb County Court ordered investigative detention against a 43-year old defendant due to the danger of fleeing.	Abused persons: 5 Detained persons: 8 Raped persons: 1
9.	3 citizens of the Republic of Serbia 1 citizen of the Republic of Croatia	Reasonable doubt of commission of crimes against humanity and international law war crimes against civilian population (Art.120. Par 1. GCC RoC)	In Glinsko Novo Selo in mid October 1991	15/6/2015 CSAO Zagreb adopted a decision on performing investigation.	adopted a decision on performing investigation against 4 defendants, representing an extension of the existing investigation initiated on 2. June 2014 against 8 defendants. Suggested investigative detention against Croatian citizen.	Killed civilians: 32
10.	1 Citizen of the Republic of Croatia and Bosnia and Herzegovina	Reasonable doubt of commission of crimes against humanity and international law war crimes against civilian population (Art.120. Par 1. GCC RoC)		30/1/2015 Suggested investigative detention.	Suggested investigative detention against the citizen of the Republic of Croatia and Bosnia and Herzegovina	

TABLE OVERVIEW OF THE WORK OF THE COUNTY STATE ATTORNEY'S OFFICES

*war crimes, crimes against humanity
submitted appeals
JANUARY - DECEMBER 2015*

No.	Number of suspects	Criminal offence	Time and place of the crime	Stage of the procedure	Status of the defendant	Number of victims/status
CSAO Zagreb						
1.	3	War crime against civilian population (Art. 120. Par 1. GCC RoC)	In Grabošine on 16th October 1991	11/8/2015 CSAO Zagreb filed an appeal against the first-instance acquittal by the Zagreb County Court		Abused and killed 1 person
2.	2	War crime against civilian (Art.120. Par 1. GCC RoC).	In Plavjanska Valley on 25 th August 1995	11/8/2015 CSAO Zagreb filed an appeal against the first-instance acquittal by the Zagreb County.		Killed civilians 6
3.	1	War crime against prisoners of war (Art. 122. GCC RoC related to the Art 28. par 2.)		3/2/2015 CSAO Zagreb filed an appeal referring to the part of the judgment by the Zagreb County Court referring to non-ordering investigative detention against the defendant accused of war crimes against prisoners of war in accordance with the Article 122 of the General Criminal Code.	Defendant not detained	

**TABLE OVERVIEW OF THE DECISIONS OF THE SUPREME COURT OF THE REPUBLIC OF CROATIA
FOR CRIMES AGAINST HUMANITY, WAR CRIMES 2015 - 2016**

No.	Case	Indictments	Criminal offence	Judgment / Ruling of the SCRoC	Defendant/s / troops membership	Victim/s	Remark
1.	Crime in Škabrnja	Indictment ODO Zadar No.: KT-41/92 of 22 nd August 1994, KT-41/92 of 28 th October 1994 and KT-41/92 of 1 st September 1995	War crime against civilian population (Art.120. Par 1. GCC RoC)	21/1/2015 Rejected request for retrial	Def. Marinko Pozder Member of Serb paramilitary formations absent	Killed civilians: 45	Final judgment of CC Zadar 11/12/1995 K-25/94. Judgment covering 25 defendants. Second-instance judgment SC 16/6/1998; third-instance judgment 7/11/2001. The defendant sentenced to 20 year's imprisonment. Appeal submitted on 26/6/2013 Kv 106/12.
2.	Crime in Trpinja	Indictment CSAO Osijek, No. K-DO-33/13 of 16.06.2014, modified on 09.12. and 15.12.2014.	War crime against civilian population (Art.120. Par 1. GCC RoC) and war crime against prisoners of war (Art.122. GCC RoC)	23/1/2015 Rejected decision on appeal against the extension of investigative detention after a non-final judgment	Def. Stevo Pantić, Milišav Atanacković, Milenko Pantić, Šoko Stajić, Zoran Ranković, Zoran Gajanin, Simo Stević, Željko Vuković, Miroslav Kovačević, Jerko Mičić members of Serb paramilitary formations During trial in investigative detention	Killed civilians Sep/ Oct 1991 : 10 Killed civilians in Nov 1991: 7 Heavily wounded, killed on 19 th Nov 1991: 7 Abused civilians: 14 Abused POWs: 3	Submitted appeal against the decision of the Osijek CC on extending investigative detention after a non-final judgment where Stevo Pantić and Milišav Atanacković were sentenced to 20 years' imprisonment, Milenko Pantić, Šoko Stajić, Zoran Gajanin, Simo stević and Jerko Mičić to 14 years' imprisonment, Zoran Ranković and Željko Vuković to 12 years' imprisonment, and Miroslav Kovačević to 5 years' imprisonment.
3.	Crime in Metak		War crime against prisoners of war (Art. 122. GCC RoC)	3/2/2015 Decision on continuance of the trial	Def. Perica Đaković member of Serb paramilitary formations absent	Abuse of PoW (1)	Case with final judgment (Def. Milorad Lazić et al.) of the CC Gospić of 21 st October 1996 No. K-4/96 sentencing the defendant to 8 years' imprisonment. With the Decision of the Karlovac CC, Gospić Department of 18 th March 2014 allowed retrial of the defendant P. Đakovića for War crime against prisoners of war (Art. 122. GCC RoC) The appeal was submitted personally by the defendant P. Đaković, stating that the factual description is erroneous (suggesting the suspension of the procedure).

No.	Case	Indictments	Criminal offence	Judgment / Ruling of the SCRoC	Defendant/s / troops membership	Victim/s	Remark
4.	Crime in Borovac village	CSAO Sisak No.: K-DO-59/12, of 29 th September 2011	War crime against civilian population (Art.120. Par 1. GCC RoC)	10/2/2015 Quashed the first-instance judgment, case sent for retrial	Def. Mitar Vujaklija member of Serb paramilitary formations present	Killed one person	On 13/10/2014 non-final acquittal rendered. State Attorney filed an appeal.
5.	Crime in Bapska	CSAO Osijek No.: KT-86/95 of 14 th June 1996. modified Indictment CSAO Vukovar Do-K-23/99 of 25 th October 2004	War crime against civilian population (Art.120. Par 1. GCC RoC)	3/3/2015 Quashed the guilty verdict and sent for retrial	Def. Ranko Šjubura member of Serb formations absent	Expulsion of Croatian families	Cased finalized before the Vukovar CC on 10/12/2004. Final on 15/2/2005. Appeal by the def. R. Šjubara on 28/1/2014 and request for retrial.
6.	Crime in Erdut (Police station)	CSAO Osijek No. K-DO-27/13 of 18 th December 2014	War crime against civilian population (Art.120. Par 1. GCC RoC)	5/5/2015 Decision on trial in absentia	Def. Zoran Vučićević member of Serb formations absent	Abused couple (two civilians)	Decision upon the defendant's appeal- since the War Crimes Prosecutor's Office in Serbia suspended the forwarded case and thus making impossible the trial in that state, the conditions for in absentia trials were created. Original decision adopted by the Osijek CC
7.	Crime in Kopačevo	CSAO Osijek No: K-DO-49/07 of 30 th October 2007	War crime against civilian population (Art.120. Par 1. GCC RoC)	14/5/2015 Rejecting appeal against in absentia trial.	Def. Zdravko Pijunović et al. absent	Raped one woman	
8.		BIH	War crime against civilian population (Art.120. Par 1. GCC RoC)	29/5/2015 Quashed decision on suspending the procedure- sent for retrial	Def. M.M. and Ž.R.		Courty Court Split
9.	Crime in Correctional Facility in Glina	Indictment CSAO Sisak, No. KT-63/93, of 13.10.2010 (new no. K-DO-64/12)	War crime against civilian population (Art.120. Par 1. GCC RoC), war crime against prisoners of war (Art.122. GCC RoC)	2/6/2015 Quashed first-instance judgment, sent for retrial in the case of one of the defendants.	Def. Miroslav Hašić and Zoran Dmitrović members of Serb paramilitary formations absent	Physically and psychologically abused civilians: 7 -civilian died of injuries from abuse 1 - Physically and psychologically abused PoWs: 4 - PoWs died of injuries from abuse: 2	Submitted appeal in the part referring to the second defendant Zoran Dmitrović- SC sent the case for retrial.

No.	Case	Indictments	Criminal offence	Judgment / Ruling of the SCRoC	Defendant/s / troops membership	Victim/s	Remark
10.			War crime against civilian population (Art.120. Par 1. GCC RoC)	27/8/2015 Adopted appeal of ZD for annulment of decision of the trial in absentia	Def. Đ.S. and Z.D. Đuro Solar absent	Killed one persons, several houses and buildings burned	After the decision of the Zagreb CC of 8/6/2015, the defendant filed an appeal and it was adopted.
11.	Crime in Paulin Dvor	Indictment CSAO Osijek No K-DO-68/2002 of 12 th March 2003, modified at the hearing on 5 th April 2004	War crime against civilian population (Art.120. Par 1. GCC RoC)	1/9/2015 Rejected decision on the appeal of the defendant for modifying sentence or sending the case for retrial before modified panel	Def. Enes Viteškić member of Croat formations present	Victims – killed: 18	Defended himself not detained. Since the first-instance guilty verdict of 17 th May 2012 in detention
12.			Art. 173. Par 1. CC of BiH Item II War crime against civilian population (Art.120. Par 1. GCC RoC)	6/10/2015 Quashed the first-instance judgment and sent the case for retrial	Def. Veilbor Bogdanović Member of Croatian Defence Council		Appeal against the judgment of the Split CC No. Kv-Rz-8/14 of 2 nd April 2015 to start serving the sentence
13.	Crime in the area of former Municipality of Sinj	Indictment CSAO Split No.: KT- 38/93 of 31 st October 1996	War crime against civilian population (Art.120. Par 1. GCC RoC)	6/10/2015 Decision on retrial	Def. Božo Cvitkovic member of Serb paramilitary formations absent	Killed civilians:3 Physically abused civilians: 2 Destroyed and plundered property	With the quashed decision of the County Court of Split the criminal procedure was suspended since the defendant died in August 2012. The Supreme Court 6/10/2015 sent the case to the first-instance court for retrial, and the Court will previously obtain the Death Certificate form the Civil Registry to determine with certainty that the defendant died, in which case the Court will adopt a new decision.