

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

Osijek, Zagreb, 24 June 2014

Bi-weekly report on war crimes trials

A regional conference was held in Zagreb and a global summit in London on the prevention of sexual violence in armed conflicts

In the organisation of the Ministry of Veterans' Affairs and with support of UNDP, a regional conference was held in Zagreb on 29 and 30 May titled *Sexual Violence in Armed Conflict: Delivering Justice for the Past, Preventing Abuse in the Future*. It brought together more than 120 government officials and civil society activists from countries throughout South East Europe. The main objective of the conference was to encourage governments and the public from the countries in the region to resolve the situation of victims of sexual violence in armed conflicts, including recognition, support and reparations for victims, without conducting court proceedings and re-traumatisation of victims.

Data on sexually abused victims in Croatia during the war between 1991 and 1995

According to UNDP research from 2013, up to 2,200 persons suffered severe forms of sexual violence during the armed conflict in Croatia between 1991 and 1995.

The Ministry of the Interior determined a possibility that 182 victims could have been subjected to war crimes of rape or other forms of sexual abuse. Some of potential victims died in the meantime, some said that they had not been sexually abused while some refused to testify. According to the records of the State Attorney's Office, war crime of rape was certainly committed against 57 victims, mostly women. Criminal proceedings were instituted with regard to 36 victims, while 15 perpetrators were convicted of a war crime committed by rape.

Lack of support from government institutions, non-recognition of suffering of victims of sexual abuse in society and social stigmatization affect poor reporting of these crimes.

Victims of rape or other forms of sexual abuse even today do not have guaranteed status, recognition, compensation and support. In order to rectify the injustice, the Ministry of Veterans' Affairs prepared a draft *Act on the Rights of Victims of Sexual Violence in the Homeland War*.

Other countries in the region are also working on developing a legislative framework to ensure special status and adequate reparation for these victims.¹ The experiences of governments and civil society organizations in the region can be a valuable experience for other countries that are working to prevent wartime sexual violence and the removal of its consequences.

¹ Tens of thousands of rape cases were reported during the armed conflicts in the territory of the former Yugoslavia during the 90's. It is estimated that 20,000-50,000 women were raped only in the territory of Bosnia and Herzegovina.

The conclusions of the conference² were presented in London at the global summit which was held June 10 - 13 as part of the Initiative for the Prevention of Sexual Violence in Conflict, which was launched in May 2012 by the Minister of Foreign Affairs of the United Kingdom William Hague. Hague, together with the special envoy of the UN High Commissioner for Refugees Angelina Jolie, hosted a four-day summit which was attended by 1,200 participants from 115 countries.

Activists react to the welcome given to war criminal Kordić: We honour the victims, sympathize with the families

After having served two-thirds of a 25-year prison sentence, Hague convict Dario Kordić was released on June 6, 2014.

The convicted war criminal was welcomed at the Zagreb airport by right-wing patriotic songs and shouts "Za dom spremni" shouted by several hundreds of enthusiastic family members, friends and like-minded persons, among whom there were some high-ranking politicians from the 90's and representatives of the Catholic Church such as Sisak Bishop Vlado Košić who led a prayer of thanks for Kordić's return.

Besides them, there were also activists Sabina Šabić and Zoran Ivančić. Holding a banner that read "116" (the number of victims killed in the village of Ahmići) Zoran Ivančić shouted "*Satan! Murderer!*". The mob gathered around him and gave him a few strokes. The police detained him and thus saved him, but did not react toward the attackers.

On the same day, Auxiliary Bishop Valentin Pozaić led a holy mass of thanks for Kordić's return at the Zagreb Cathedral.

A few days later, on 10 June, organized by *the House of Human Rights* and *the Anti-fascist League of Croatia*, and with support of members of the *Platform 112*, approximately two hundred activists protested in front of the Zagreb Cathedral against the church denial of crimes by holding the names and family names of 116 victims of the HVO's massacre of Bosniak civilians in Ahmići .

"We are sending a different message from Croatia: that we respect the victims and sympathize with their families. Croatia must deal with this crime. Members of the Catholic Church who celebrate Kordić send unacceptable messages. They do not contribute to coexistence or peace, and directly offend the families of those killed. It should not have happened", said *Documenta* activist Eugen Jakovčić.

Dario Kordić and the crimes in the Lašva Valley

Dario Kordić was one of the leading politicians in the community of Bosnian Croats: between 1991 and 1995 he was president of the Croatian Democratic Union of Bosnia and Herzegovina; between 1992 and 1995 vice president and member of the Presidency of the Croatian Community of Herceg-Bosna, and later of the Croatian Republic of Herceg-Bosna.

As president of the HDZ B-H, he zealously engaged in a joint plan of expulsion. He planned, instigated and ordered crimes in the municipalities of Travnik, Vitez, Busovača and Kiseljak near Lašva Valley in central Bosnia.

He attended the meetings of politicians during which the attack on Ahmići, in the municipality of Vitez, was approved. It was committed on 16 April 1993. More than 100 Muslim civilians were massacred in that attack, including 32 women and 11 children, houses were destroyed and the village was ethnically cleansed of the Muslim population. Kordić was a senior regional politician involved in the planning of the military operation and the attack, the objective of which was to 'clean' that area of Muslims.

He was planning attacks in other areas in the Lašva Valley, including the hamlets of Šantići, Pirići and Nadioci. These attacks, along with the attacks on Vitez and Večeriska, among others, followed the joint plan aimed at ethnic cleansing of that area of the Muslim population.

²<http://www.branitelji.hr/arhiva/p3373/dokument/2105/SUMMARY%20OF%20THE%20REGIONAL%20CONFERENCE%20%28ZAGREB%29.pdf>

The Project is financed within the EIDHR Program of the European Union for the Republic of Croatia. The contents of this Report are the sole responsibility of the civil society organisations and can under no circumstances be regarded as reflecting the position of the European Union.

As a political leader with significant military influence, Kordić instigated, planned and ordered the attack on Busovača, which was directed against the civilian Muslim population and civilian facilities. Many Muslim civilians were killed or expelled and their property was destroyed during the attack.

He ordered detention of Bosnian Muslims and the establishment of detention facilities in Lašva Valley, specifically in the village of Kaonik, the cinema hall in Vitez, the Veterinary Station and the SDK building (in a block of offices in Vitez), at the Chess Club and at the school in Dubravica.

Apart from that, the Court also ruled that Croatia exercised overall control over the HVO in the relevant period, that it managed the planning, coordination and organization of the HVO and that there was an international armed conflict between Croatia and B-H.

Data downloaded from the website of the ICTY

http://www.icty.org/x/cases/kordic_cerkez/cis/en/cis_kordic_cerkez_en.pdf

Failure of the prosecution - acquittals of members of Croatian formations

a) Drljo and Krajina acquitted of charges for the crime in Grubori by first-instance judgment

On 6 June 2014, the War Crimes Council of the Zagreb County Court acquitted former members of the Anti-Terrorist Unit (ATJ) Lučko, Frano Drljo and Božo Krajina, of charges for a war crime committed in Grubori where on 25 August 1995 six elderly villagers were killed and almost all houses were burned. Although the Council found that the crimes were committed by members of the ATJ Lučko, the defendants were acquitted of charges.

Drljo was acquitted of charges that he, together with Igor Beneta, a defendant who was found hanged during these criminal proceedings, had shot at civilians and that he had not prevented his subordinates from committing crimes - shooting at civilians and burning houses, while Krajina was acquitted of charges that he had failed to prevent his subordinates from committing crimes.

During the presentation of evidence, numerous witnesses and physical evidence indicated that the unit was divided into groups and that, defendants Drljo and Krajina had command authority in their respective groups. The existence of a command responsibility is proven by the fact that subsequent reports were written by Krajina, Balunović and Žinić, i.e. all group leaders except Drljo who refused to write a report. Witnesses testified that it was precisely the groups led by Drljo and Krajina which passed through Grubori. Some witnesses even mentioned the first defendant Drljo as direct perpetrator of the crime during the investigation, but at the main hearing they changed their testimonies.

Most members of the ATJ Lučko, who participated in the action during which the civilians were killed, claimed that they had not seen or heard anything. They claimed not to know who commanded the action or who their immediate superiors in the field were. The-then members of the elite troops did not know who had determined the direction of movement, while the house they found along the way had not been checked, although land clearing was conducted with the objective of eliminating the remaining members of enemy forces.

The prosecution announced that they would appeal the judgment of acquittal.

About the crime in Grubori

On 25 August 1995, in the hamlet of Grubori next to Plavno, the following villagers of advanced age were killed: Jovo Grubor, Miloš Grubor, Marija Grubor, Milka Grubor, Đuro Karanović and Jovan Grubor, the son of late Damjan. The majority of villagers of Plavno and Grubori went that morning to register with UNPROFOR in the school building in Plavno, for the departure to the-then Federal Republic of Yugoslavia or to possibly stay in Croatia. Serb civilians who remained in their homes that morning were killed, and nearly all houses in the hamlet were burned to the ground.

Nobody lives in Grubori today. Families of those killed are in exile, still awaiting justice and reparation.

The Project is financed within the EIDHR Program of the European Union for the Republic of Croatia. The contents of this Report are the sole responsibility of the civil society organisations and can under no circumstances be regarded as reflecting the position of the European Union.



b) Velibor Šolaja acquitted of charges for the killing of an old woman in the Medak Pocket by the first-instance judgment

On 17 June 2014, the War Crimes Council of the Zagreb County Court acquitted Velibor Šolaja of charges that in September 1993, during the military operation "Pocket 93", in the village of Lički Čitluk he had committed a war crime against civilians by killing an elderly woman.

During the verbal explanation of the judgment, the President of the Trial Chamber said that *"the courts rule on the basis of laws, not on the basis of expectations of certain NGOs."* He noted that there was no evidence on the basis of which a conviction would be rendered: no body of the victim, no weapon with which the crime was committed, while witness Kulašić, who charged Šolaja, did not persist in his testimony because he did not appear at the reconstruction of the event, while his testimony was of questionable credibility because there was animosity between that witness and the defendant.

Let us recall, in this criminal case in April 2014 a reconstruction was carried out at the scene in the village of Lički Čitluk where Josip Mršić, in the capacity of witness, said that it was him who had shot the unknown female person, thus killing her. Mršić repeated the same thing at the main hearing held on 6 May 2014, while explaining that defendant Šolaja also shot her, but after him.

In a press release dated 21 May 2014, the Zagreb County State Attorney's Office stated that it had initiated an investigation against Mršić due to reasonable suspicion that, after he found an unknown female person of advanced age in the basement of a house, together with Velibor Šolaja he shot her from his personal weapon, thus killing her. The County State Attorney's Office alleges that on a hearing held on 6 May 2014, witness D.R. confirmed that Mršić had shot a female person and that the County State Attorney's Office questioned a second witness (name not mentioned), who confirmed that Mršić had shot the victim together with Šolaja.

Only Mirko Norac was convicted for the crimes committed by Croatian formations in the Medak Pocket. None of direct perpetrators has been convicted so far. As in the trial for the crime in Grubori, there is a wov of silence among the perpetrators and members of the unit who had seen the commission of the crime. Until an atmosphere has been created in the society in which eyewitnesses would decide to talk about the perpetrators, the stain of crime will remain on the entire unit.

c) Upheld judgment of acquittal against member of the Croatian Army who was charged with the killing of two civilians near Mrkonjić Grad

On 6 May 2014, the Appeals Chamber of the Supreme Court denied the State Attorney's appeal and upheld the judgment rendered by the Zagreb County Court on 9 May 2012 in which HV member Ivica Pintarić was acquitted of charges that, on an unspecified date in September or October of 1995, in a family house in a village near Mrkonjić Grad (Bosnia and Herzegovina), he fired shots from an automatic rifle killing one unknown male and one unknown female person, thus committing a war crime against civilians.

The Appeals Chamber, just like the Trial Chamber, deemed that from the testimony of only one witness it could not be concluded beyond any doubt that the defendant had committed the offence, that the testimony of that witness of the prosecution was too narrow, that the bodies had not been found, that the identity of the victims is not known, nor is the name of the village where the alleged crime was committed.

Unfortunately, the indictment was not based on sufficient and quality evidence. This prevented any further investigation of the crime described in the indictment against this defendant. Better cooperation with judicial authorities of Bosnia and Herzegovina could have helped clarify numerous unknown issues contained in this case. A rushed issuance of the indictment is difficult to justify.

Former JNA officer sentenced to seven years in prison for the shelling of Zadar and its surroundings

On 9 June 2014, the War Crimes Council of the Split County Court pronounced Aleksandar Lazarević guilty and sentenced him to seven years in prison.

Lazarević, former JNA officer, was sentenced *in absentia* to 14 years in prison in a judgment rendered by the Zadar County Court in 1997. In these proceedings (against defendant Momčilo Perišić et al.), apart from Lazarević, another 18 officers of the former JNA were convicted *in absentia* because they issued and transmitted orders to their subordinates to open fire on civilian facilities in Zadar and its vicinity without any military necessity and choice of targets, which resulted in the killing of at least 30 civilians and huge material damage.

On 29 October 2013 Lazarević was arrested while trying to enter Bosnia and Herzegovina from Serbia, and then B-H extradited him to Croatia. Then he was granted renewal of the proceedings.

While explaining the judgment, President of the Trial Chamber stressed that Lazarević and his battery were not solely responsible for the victims and damage. At that time the situation was chaotic. There was a broad ring of JNA forces around Zadar that were attacking the city. Lazarević could have refused the orders or obstruct the shooting, but he forwarded them. He did not disobey orders like some recruits of Croat ethnicity did, which is why they were arrested and taken to the prison in Knin. He was a part of the hierarchical chain of transmission of commands, and his battery fired on civilian targets in Zadar. In relation to the first judgment, his sentence was reduced because the Chamber found significantly smaller amount of his criminal activity. When deliberating the sentence, the Court appreciated his extremely correct behaviour, as well as his confession that howitzers' pipes were facing Zadar.

All other JNA officers were sentenced in 1997 for the shelling of Zadar and its surroundings, and are still unavailable to the Croatian judiciary.

The Belgrade Higher Court confirmed the indictment against five former members of the Sotin Militia and Territorial Defence

According to the statement issued by the Belgrade Higher Court on 16 June 2014, the Out-of-Court Council of the War Crimes Department confirmed the indictment against five former members of the Sotin Militia and Territorial Defence due to reasonable suspicion that between mid-October and the end of 1991 they killed 16 Croat civilians in Sotin near Vukovar.

One of the five defendants was sentenced to nine years in prison, given that the Court accepted his agreement with the Prosecutor's Office in relation to his testimony.

The mortal remains of 13 killed civilians were found in a mass grave in an abandoned slaughterhouse near Sotin, in April of 2013. The Office of the Prosecutor learned about the location during the investigation. The burial places with dead bodies of Sotin villagers were then pointed at by one of the defendants.

Indictment issued against ten defendants for a crime against Croat civilians and prisoners in Trpinja

On 17 June 2014, the Osijek County State Attorney's Office announced that it issued an indictment against ten defendants charged that, from 14 September until the end of November 1991 in Trpinja, as members of paramilitary and para-police rebel forces, they commanded and participated in unlawful detention of civilians of Croat ethnicity, their abuse, torture and killing, as well as abuse, torture and killing of Croatian defenders.

On 14 September 1991, at least 14 civilians were unlawfully arrested and then abused by the defendants at the militia prison, while one of the arrested women was raped. Then, ten civilians: M.Č. (1921), C.C. (1929), S.B. (1929), I.B. (1933), M.M. (1941), I.M. (1924), I.U. (1959), K.K. (1926), A.P. (1921) and A.B. (1949) were taken to the Bobota channel where the defendants killed them and buried them.

From 15 to 19 November 1991, in the village of Borovo Selo, the defendants unlawfully arrested 12 civilians and, afterwards, five wounded civilians from the war hospital in "Borovo Commerce", and took them to Trpinja where they were abused. One of the arrested women was raped several times, and then seven civilians: K.Ž. (1938), R.Ž. (1966), S.G. (1906), F.J. (1915), A.M. (1909), V.R. (1940) and K.S. (1908) were taken to the Bobota channel where they were killed and buried.

The defendants are also charged that, from late September until 2 November 1991, they physically and mentally abused the captured Croatian defenders M.B. (1956) and P.B. (1954). They forced them to demine a family house and

The Project is financed within the EIDHR Program of the European Union for the Republic of Croatia. The contents of this Report are the sole responsibility of the civil society organisations and can under no circumstances be regarded as reflecting the position of the European Union.

made them sing Chetnik songs. The defendants are also charged that, on November 16 1991 at the Trpinja militia station, they beat up captured Croatian defender Z.G. (1957) during the interrogation.

At the same time they are charged that, on 19 and 20 November 1991, they violently pulled at least 30 captured and severely wounded Croatian defenders from a JNA ambulance, locked them in the hangar of VUPIK company in the centre of Trpinja, and then took them for interrogation to the militia building where they were heavily abused and tortured. Then the following seven victims: S.Š. (1962), Ž.G. (1966), M.D. (1963), M.G. (1963), L.G. (1957), M.M. (1967) and J.L. (1937) were taken to the Bobota channel where they were killed and buried.

In a statement issued by the Osijek ŽDO it was not mentioned how many defendants were available to the Croatian judiciary.

Another indictment issued against Siniša Martić called Šilt

Not specifying the name of the defendant, the Zagreb County State Attorney's Office announced on 30 May 2014 that it had issued the indictment against a citizen of Serbia (born in 1965).

He is charged that on 19 November 1991, as commander of the Special Unit of "Krajina Militia" from Glina called "Šiltovi", he received information from V.M., a female with visible mental disabilities who was questioned at the KPD Glina camp, that 20 Croatian soldiers were allegedly hiding in her house. He took her out of the camp and with approximately 40 members of his unit came to her house in Donja Bučica and ordered her to enter it. Although there was no resistance from the house or anything to indicate that Croatian soldiers were hidden there, and knowing that V. M. and her mother M. M. were in the house, he ordered members of his unit to open fire on the house. By doing so they killed both females.

Investigation against eight members of Serb formations for the crime in Glinsko Novo Selo

On 5 June 2014, the Zagreb County State Attorney's Office announced that it had issued a decision on conducting an investigation against eight citizens of Serbia due to reasonable suspicion that, on an unspecified date in mid-October 1991, upon the orders issued by the first defendant - commander of the Glina Territorial Defence - to kill the remaining civilian population of Glinsko Novo Selo, commander of the reconnaissance and sabotage group of the TO Glina (the deceased) JNA lieutenant and seven other defendants (members of that unit) and three other deceased members of the unit came to Glinsko Novo Selo, forced civilians out of their houses and gathered them in one place in the town centre. Then they singled out women and locked them in a wooden house at which they fired a rocket from "Zolja", as a result of which the house went ablaze and the men were shot at from personal weapons. They killed a total of 32 persons. At the same time, there is a reasonable suspicion that one of the defendants, on an unspecified date in mid-November 1991 in the village of Prekopa, killed a civilian female person K. M. by firing shots from an automatic pistol.

Investigation against an HV member for the "post-Storm" crime in Kijani

On 18 June 2014, the Rijeka County State Attorney's Office announced that it issued a decision on conducting an investigation against a Croat citizen (born in 1957) due to reasonable suspicion that, as a member of the 118th Home Guard Regiment of HV Gospić, in the period from 15 to 28 August 1995 in the village of Kijani he killed civilians R.S, M.S. and M.S. in front of their house

Concerning the proposal of the County State Attorney, the investigating judge issued a decision ordering detention against the defendant due to danger of influencing the witnesses and particularly difficult circumstances under which the crime was committed. However, a bail was set in the amount of HRK 650,000 for the military retiree, as reported by *Novi list* daily.

According to Croatian Helsinki Committee data, 14 elderly Serb civilians were killed in the village of Kijani after the "Storm" operation, including nine women. So far, no one has been held responsible for that.