



Bi-Weekly Report on War Crimes Trials Monitoring

Member of Serb military formations found guilty of abuse of a civilian in the village of Berak and sentenced to three years of imprisonment

On 21 December 2012, the War Crime Council (judges' panel) of the Vukovar County Court found the accused Milorad Momić guilty and sentenced him to three years of imprisonment. Momić was found guilty as charged that, on 02 September 1991 in the village of Orolik, in his capacity as a member of Serb military formations, together with several other persons, had physically abused Stanko Penavić, inhabitant of the village of Berak. The accused Momić has been held in custody since 02 September 2010 when he was extradited by France. The decision on extension of custody has been brought meanwhile.

The indictment against accused Momić was amended on several occasions during the course of the main hearing. The initial charges were completely changed so that at the end of the trial, instead of the charges of killing one person and abusing three female persons, Momić was subsequently charged with the abuse of Stanko Penavić.

Criminal proceedings for the crime in Berak have been burdened with a poorly conducted investigation and imprecise indictment. The indictment for the crimes committed in Berak, which encompassed the killing of 45 persons, was issued in 2006 against 35 accused persons. So far, just one accused person was convicted and the verdict has meanwhile become final and conclusive. Two persons have been acquitted, while the proceedings against another 12 accused persons were terminated after the prosecution (county attorney's office) amended the charges against them, consequently charging them with commission of the criminal act of armed rebellion. Other accused persons have remained unavailable to the Croatian judiciary.

The Berak crime verdict is the 22nd first-instance court verdict passed by the Croatian court in 2012 for criminal acts of war crimes.



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The indictments against Šeks, Vekić and Merčep resent to Croatia by Belgrade

On 30 November 2012, Serbia sent to Croatia the indictments against Vladimir Šeks, Ivan Vekić and Tomislav Merčep charging them with the genocide and armed rebellion. The indictments against the stated persons were sent from Belgrade to Zagreb also at the end of July 2011, the only difference is that Serbia did not resend the indictment against Branimir Glavaš in November 2012. Some media speculate that the indictment against Branimir Glavaš has been sent to the Ministry of Justice of Bosnia and Herzegovina considering the fact that Glavaš is being serving in Bosnia and Herzegovina the prison sentence he received for the crimes committed against Serb civilians in Osijek.

Unlike the last year when the Ministry of Justice of the Republic of Croatia forwarded the indictments to the competent courts in the Republic of Croatia so that the courts can serve the indictments on the accused persons, the present Minister of Justice has acted in a completely different manner – the Minister replied to the Serbian Ministry of Justice that he would not serve the indictments on the stated persons since acting on the indictments would be contrary to the Croatian legal order.

Croatia did not invoke the *Law on Nullity of Certain Legal Acts of the Judicial Bodies of the former Yugoslav National Army, of the former Socialist Federative Republic of Yugoslavia and the Republic of Serbia*, but it did invoke the *Agreement on Legal Assistance in Civil Law and Criminal Law Issues*, which had been signed by the then ministers of foreign affairs of the Republic of Croatia and the Federative Republic of Yugoslavia in 1997.

The stated indictments could again become a stumbling-block in the cooperation of Croatian and Serbian judicial and other institutions.

Meeting with representatives of the judiciary

On 20 December 2012, war crime trials monitoring team met with representatives of the Croatian judiciary in order to make an agreement on exchange of information necessary for the preparation of the annual report on war crime trials monitoring and to agree on a joint expert training.

The meeting was attended by the President of the Supreme Court of the Republic of Croatia, representatives of the Ministry of Justice, representatives of the State Attorney's Office of the Republic of Croatia, representatives of county courts, county state attorney's offices, representatives of the Delegation of the European Union to the Republic of Croatia, the OSCE Office in Vienna and members of diplomatic corps.

Enclosed to this Report:

The schedule of court hearings of war crimes cases to be held at the courts in the Republic of Croatia in January 2013.
