

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

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Bi-weekly Report on War Crime Trials

Mass graves found in Sotin

Two mass graves were found in Sotin, a village near Vukovar. On 18 April 2013 one of the two former inhabitants of Sotin who are under investigation in the Republic of Serbia for suspicion that they had killed 16 civilians of Croatian ethnicity in Sotin in 1991, pointed at the locations where victims' bodies had been buried. Mortal remains of thirteen victims were found on two locations – the remains of three victims were found in a primary grave, on the location of the old brickyard, while the remains of ten victims were found in a secondary grave, on the location of the old slaughterhouse, mixed with animal remnants. The bodies had been transported to the secondary grave during 1997 in order to cover up the crime.

64 inhabitants of Sotin of non-Serb ethnicity were either killed or went missing during war atrocities. A total of 31 missing Sotin inhabitants had been sought prior to discovery of these graves.

Resolution of the issue of missing persons was also emphasized as one of the key issues in relations between Serbia and Croatia on 29 April 2013, on the occasion of visit by the Serbian Deputy Prime Minister Aleksandar Vučić to the Republic of Croatia and the talks he had with Croatian President Josipović, Prime Minister Milanović and Minister of Foreign Affairs Vesna Pusić. Cooperation in discovering mass graves in Sotin was assessed by the politicians as the first serious step in resolving the issue of missing persons.

In 2006, the Croatian State Attorney's Office laid an indictment against 17 suspects for the crime in Sotin, but no one has been sentenced up to now. Due to inefficient prosecution by the Croatian judiciary of the crimes committed in Sotin, victims' family members approached the War Crimes Prosecutor's Office of the Republic of Serbia. Without their dedication, persistence and submission of all available data and pieces of evidence to the Serbian Prosecutor's Office, the proceedings in Serbia would not have been initiated and, consequently, information pertaining to the locations where mortal remains of their close relatives had been buried would not have been disclosed.

Crime in the Medak Pocket – witness testimony concerning the killing of an elderly woman

Witness testimony provided by Samir Kulašić, former member of the 9th Homeland Guard Brigade of the Croatian Army (the HV) marked the continuation of the main hearing in the proceedings against Velibor Šolaja, charged with the killing of an unknown female person during the Military-Police Operation "Pocket '93".

“One of my fellow soldiers, I do not know his name, threw a bomb into the house in which two elderly women had stepped moments ago. Then one of them was brought out of the house, while the other was pronounced dead. I saw defendant Velibor Šolaja as he took a “Luger“ handgun out of the holster around his waist and fired a shot at the elderly woman who twitched after she was hit. There were around 15-20 people present there. Damir Relić and Grozdan Vučak saw the whole scene standing next to me“, Samir Kulašić stated.

Mirko Norac was sentenced to 6 years in prison with a final judgment for the crimes committed by Croatian military units in the Medak Pocket. Mirko Norac and Rahim Ademi, who was acquitted of charges by a final judgment, were tried as persons bearing a command responsibility.¹

After the final judgment in the case of Ademi and Norac was rendered, investigation of crimes in the Medak Pocket resumed. It resulted in the initiation of proceedings against only two members of the 9th Homeland Guard Brigade – the abovementioned Velibor Šolaja and Josip Krmpotić who was charged that, as commander of the reconnaissance company, he ordered his subordinates to set Serb houses on fire and execute captured Serb soldiers by a firing squad. The Croatian State Attorney’s Office had obviously not collected enough evidence against high-ranking Croatian Army officials and the Ministry of Interior’s special police officials, whose omissions led to the commission of mass crimes against civilians and prisoners of war during and several days after the Operation “Pocket '93“ (09 September – 17 September 1993).

We are familiar with the fact that indemnification proceedings for compensation of non-pecuniary damage for the killings in the Medak Pocket are ongoing. After the County Court in Zagreb in November 2012 quashed the judgment rendered by the Zagreb Municipal Civil Court which accepted the claims for compensation of non-pecuniary damage filed by five children of Mrs. Boja Pjevač, one of civilian victims, it is expected that the first-instance proceedings will be repeated.²

Viteškić's sentence to 11 years in prison for the crime in Paulin Dvor upheld

The Appellate Chamber of the Supreme Court of the Republic of Croatia upheld the judgment rendered by the Osijek County Court in which Enes Viteškić had been sentenced in May 2012 to 11 years in prison for participating in the crime in Paulin Dvor near Osijek. Viteškić was found guilty after the third first-instance proceedings. Previously, he had been acquitted of charges on two occasions, but the Supreme Court quashed both acquittals. In the end, he was sentenced because he, together with Nikola Ivanković, who had been previously sentenced to 15 years in prison, and several other unidentified persons, on 11 December 1991, participated in the killing of 17 elderly persons of Serb ethnicity and one elderly person of Hungarian ethnicity out of revenge for the killing of their fellow soldier.

Investigation of the crime in Paulin Dvor commenced in 2002, after the Hague Tribunal investigators found bodies of victims of the crime in the Rizvanuša woods near Gospić, 500 km away from the place where the crime had been committed. With the objective of covering up the crime, the bodies were transported to Rizvanuša in 1997. Until then, they had been buried in a military warehouse of Lug, near Paulin Dvor.

¹ Rahim Ademi was acquitted of charges because it was not proven that he had a factual command responsibility over the HV and MUP formations. Mirko Norac was found guilty for the crimes committed in the zone of responsibility of the 9th Homeland Guard Brigade.

² Boja Pjevač was killed by a burst of fire shot in her chest and by a gunshot in the back of her head fired at close range. She was killed in the hamlet of Miščevići, in the zone of responsibility of the MUP special police. So far, no one has been sentenced for the crimes committed in the zone of responsibility of the special police where the majority of victims had been killed. *Source: Judgment rendered by the Zagreb County Court K-Rz-1/06 dated 29 May 2008, upheld by the judgment rendered by the VSRH No. Kž-1008/08 dated 18 November 2009.*



Amendments to the *Regulation on the Criteria, Standards and Procedures to Delay Payments, Introduce Instalment Payments and Sale, Write-off or Partial Write-off of Debt* will not resolve the issue of compensation of litigation costs in its entirety

The majority of injured persons, whose claims for compensation of non-pecuniary damage due to the killing of close persons had been rejected, were ordered to pay litigation costs. These proceedings mainly concern pensioners with modest income.

At its session held on 05 July 2012, the Government of the Republic of Croatia issued the *Regulation on the Criteria, Standards and Procedures to Delay Payments, Introduce Instalment Payments and Sale, Write-off or Partial Write-off of Debt*. The *Regulation* anticipated litigation costs to be written off only for socially vulnerable plaintiffs. Taking into account the fact that, since its adoption, we have not recorded one single case in which the Ministry of Finance has written off its claims towards plaintiffs/victims who lost the lawsuits seeking compensation of damage from the Republic of Croatia due to the killing of close relatives, the aforementioned *Regulation* has not proven itself as a means to resolve this issue.

At the 87th session of the Government of the Republic of Croatia, held on 25 April 2013, the aforementioned *Regulation* was amended. The amendments alleviated the property criteria, thus the number of debtors whose debts towards the state will be written off should increase, but we are of the opinion that even these amendments will not resolve the issue of all persons who had lost lawsuits seeking non-pecuniary compensation in a satisfactory manner.

Therefore, we are asking the Government of the Republic of Croatia to issue a special decision which would, in a clear and undoubtful manner, write off the duty to pay litigation costs from all plaintiffs who had failed in their lawsuits and enable the refund to those who had already paid the costs or whose property was foreclosed. Only then this pressing issue – litigation costs – would be resolved. While doing so, it is necessary to provide fair indemnification to the closest relatives of the killed persons who most often failed in their lawsuits because the state failed to fulfil one of its tasks – to identify and punish crime perpetrators.

