

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

The Supreme Court of the Republic of Croatia upheld the convicting verdict against Čedo Jović

The Osijek County Court verdict dated on 01 June 2012, according to which Čedo Jović was found guilty of war crime against civilians and sentenced to 5 years in prison, has been upheld by the Supreme Court's verdict.

According to the stated verdict issued by the Osijek County Court after the completion of the fourth (the third repeated) proceedings, Jović was found guilty as charged that, in his capacity as a factual commander of the military police unit within the 35th Slavonian Brigade of the so-called RSK Army (Republika Srpska Krajina) Army, although he had known that his subordinated military policemen had been abusing non-Serb members of the labour platoon, Jović had failed to take any measures whatsoever to punish the perpetrators, and in that way Jović had condoned such unacceptable acts being continuously carried out, and he had condoned the consequences of such acts – physical abuse of six persons, out of whom one person had died as a result of the abuse.

The Supreme Court of the Republic of Croatia quashed on three previous occasions the convicting verdicts issued by the Osijek County Court due to procedural irregularities or due to the incorrectly and incompletely established factual situation.

Čedo Jović has been held in custody since 07 July 2008 when he was arrested on the border crossing between the Republic of Croatia and the Republic of Serbia. Jović has been kept in custody for more than 4 years and 6 months prior to the final conclusion of the proceedings held against him.

The person accused of crime in Bapska deceased in the Osijek Clinical Hospital Centre on 25 March 2013

According to the statement issued by the Osijek County Court, Rajko Milošević died in the Osijek Clinical Hospital Centre on 25 March 2013. On the previous day, Rajko Milošević had been transferred due to health problems from the Detention Unit of the Osijek prison to the Osijek Clinical Hospital Centre.

On 23 August 2012, the Republic of Serbia extradited Rajko Milošević to the Croatian judicial authorities. According to the Vukovar County Court verdict No: K-28/02 dated on 10 December 2004, Milošević had been tried in absence, found guilty of war crime against civilians committed in Bapska and sentenced to 4 years and 6 months in prison, and the verdict had become legally valid and conclusive. Concretely, Milošević had been convicted for physical and psychological abuse of several inhabitants of Bapska of Croat ethnicity, for plundering the property and a forcible entry into the house of a Croatian family.

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After his extradition, Milošević had been requesting the reopening of the proceedings, which was finally granted in December 2012. The preparatory hearing for the trial should have been held at the Osijek County Court on 03 April 2013.

The damages adjudicated and paid to civilian war victims, now must be paid back – with interest

Krešimir Ivančić and Štefica Dželalija, whose father Zdravko Ivančić was killed together with another four civilians of Croat ethnicity in the village of Batinjska Rijeka near Daruvar on 11 May 1994, will have to pay back to the Republic of Croatia the adjudicated amount of damages they received in compensation for the non-material damage.

Krešimir Ivančić and Štefica Dželalija initiated the proceedings for restitution of non-material damage in 2006. According to the verdict passed by the Daruvar Municipal Court in 2007 and the verdict passed by the Bjelovar County Court in 2008, the litigation claim submitted by Krešimir Ivančić and Štefica Dželalija was accepted and each of them received the amount of HRK 105,000.00 as well as the court proceedings costs.

However, the Supreme Court of the Republic of Croatia quashed the stated rulings in 2010 and dismissed the claim filed by Ivančić and Dželalija with an explanation that the statute of limitations came into force for initiation of proceedings for compensation of non-material damage.

Krešimir Ivančić and Štefica Dželalija must pay to the Republic of Croatia a total of approximately HRK 430,000.00 – twice the amount they received earlier. Along with paying back the very amount of damages, they are obliged to pay the court proceedings costs as well as the statutory default interest. Ivančić and Dželalija lodged a constitutional complaint, however, the Constitutional Court of the Republic of Croatia rejected the constitutional complaint on 14 March 2013. They have exhausted all legal remedies available in the Republic of Croatia and the only instance which is left for them to appeal to is the European Court of Human Rights.

The indictment was issued against the perpetrators of the crime against the father of Ivančić and Dželalija and another four civilians, however, the trial still has not been conducted since the indictees have been unavailable to the Croatian judiciary.

This is yet another example of the proceedings in which family members of the killed persons have suffered the negative consequences of inefficient criminal prosecution of perpetrators. The fact that the Republic of Croatia does lack a systematic and rational policy in respect of civilian victims of war indeed causes injustice which directly affects both the Serb and the Croat civilian victims alike.

