

Centre for Peace, Nonviolence and Human Rights-Osijek

Documenta – Centre for Dealing with the Past

Civic Committee for Human Rights

MONITORING OF WAR CRIME TRIALS

REPORT

JANUARY / MAY 2010

The report edited by:
Mladen Stojanović and Katarina Kruhonja

June 2010

Publisher:
Centre for Peace, Nonviolence and Human Rights-Osijek

On behalf of the publisher
Miljenko Šmit

The report edited by
Mladen Stojanović and Katarina Kruhonja

Translation
Mirsad Mujkanović, Suzana Lazarević and Ljiljana Bračun

Print and Layout
Grafika, Osijek

Circulation
50

Osijek, 2010

ISSN 1847-0653

All texts may be used with the reference to the source.

This project is funded by
The European Union
Embassy of the Kingdom of the Netherlands in the Republic of Croatia



This publication is funded by the European Union. The contents of this report are the sole responsibility of the *Centre for Peace, Nonviolence and Human Rights-Osijek* and can under no circumstances be regarded as reflecting the position of the European Union.

TABLE OF CONTENTS

SUMMARY	5
KEY OBSERVATIONS	6
Agreement between the Republic of Croatia and Bosnia and Herzegovina on amendments to the Agreement on mutual execution of court decisions in criminal matters – a positive step forward in terms of bringing perpetrators of war crimes before justice	6
Rationalization of the network of courts will not contribute to court specialization nor to more efficient war crimes trials	6
Establishment of court practice	7
Commanders' responsibility for non-punishment of crimes	7
Materials collected by the ICTY investigators pronounced to be illegally obtained evidence by the Supreme Court decision	9
Work of the State Attorney's Office	11
Positive examples	12
Dismissals of criminal charges	12
AN OVERVIEW OF MONITORED TRIALS	15
Monitoring trials at county courts	15
Re-opened trials	15
Other trials	15
Monitoring sessions at the Supreme Court	16
OPINIONS ON INDIVIDUAL TRIALS	17
Repeated trial against the defendant Čedo Jović for a war crime against civilians	17
Trial against the defendant Mićo Cekinović for a war crime against civilians	19
Re-opened trial against the defendant Josip Bikić for a war crime against civilians	22
Trial against the defendant Goran Zjačić for a war crime against war prisoners	24
Trial against the defendant Nedjeljko Janković for a war crime against civilians	26
APPENDIX 1 – OVERVIEW OF MONITORED WAR CRIMES TRIALS BEFORE COUNTY COURTS IN THE RC FOR THE PERIOD JANUARY - MAY 2010	28
APPENDIX 2 - OVERVIEW OF SUPREME COURT SESSIONS INVOLVING WAR CRIMES CASES FOR THE PERIOD JANUARY - MAY 2010	36



Centre for Peace, Nonviolence and Human Rights-Osijek

Documenta – Centre for Dealing with the Past

Civic Committee for Human Rights

Monitors:

Tino Bego

Milena Čalić Jelić

Jelena Đokić Jović

Veslinka Kastratović

Martina Klekar

Melanija Kopic

Maja Kovačević Bošković

Vlatka Kuić

Mladen Stojanović

Tanja Vukov

LIST OF ABBREVIATIONS used in the text:

VSRH - the Supreme Court of the Republic of Croatia

OKZRH - Basic Penal Code of the Republic of Croatia

ZKP - Criminal Procedure Act

On behalf of the organizations:

Nikoleta Poljak, *Centre for Peace, Nonviolence and Human Rights-Osijek*

Vesna Teršelič, *Documenta*

Zoran Pusić, *Civic Committee for Human Rights*

SUMMARY

At the moment when Chapter 23 of the negotiations for joining the European Union, „Judiciary and Fundamental Rights“ has been opened, we would like to reiterate the commitment on the part of the police and the judiciary to accelerate implementation of pre-investigation actions and investigations and increase the efficiency of war crimes trials.

We would like to point at positive steps forward, such as signing of the Agreement between the Republic of Croatia and Bosnia and Herzegovina on amendments to the Agreement on mutual execution of court decisions in criminal matters which contributes to bringing perpetrators of war crimes before justice.

Work of the judiciary is still burdened with resolving the consequences of ethnically biased court proceedings conducted during the 90's, but the process of revising legally unfounded indictments has been ongoing.

We are of the opinion that rationalization of the network of courts will not contribute to court specialization nor to more efficient war crimes trials and that stipulating exclusive competence of the county courts in Zagreb, Split, Rijeka and Osijek, as well as county state attorney's offices in the aforementioned cities, is the most efficient manner of achieving a quality step forward in processing war crimes.

In the period between January and May 2010, key judicial institutions passed decisions that may in the long run influence the establishment of court practice and decrease the efficiency of war crimes processing. We are presenting positive examples and pointing at the decisions that raise concern, therefore we particularly analyse recent decisions passed by the Supreme Court of the Republic of Croatia (hereinafter: the VSRH) related to crimes committed in Medak Pocket and in Marino Selo, as well as decisions on dismissal of criminal reports by the State Attorney's Office of the Republic of Croatia (hereinafter: the DORH).

In the trial against defendants Ademi and Norac, the VSRH failed to sanction an omission by the defendant Norac to, having learned about the crimes committed by his subordinate officers on the first day of military action, undertake necessary measures to punish them, although according to the practice of international courts, the omission by a higher-ranking officer does not necessarily have to have cause-and-effect link with the crime itself, but with his contribution to the fact that crime perpetrators managed to get away with it. Non-sanctioning of the crimes committed on the first day of military action may also adversely affect the possibility of victims' relatives to succeed with damage restitution claims in civil proceedings.

In the verdict reached with regard to crimes committed in Marino Selo, the VSRH assumed a position that testimonies provided by surviving victims to the investigators of the International Crime Tribunal for the former Yugoslavia (hereinafter: the ICTY) were actually notes taken by investigators of the Prosecutor's Office and that they should be equalised with informative talks performed by the prosecution. If witness depositions provided to the investigators of the ICTY Prosecutor's Office really end up at the level of circumstantial evidence and if the material collected by the ICTY investigators will not be used as evidence before domestic courts, the possibility of processing perpetrators of numerous crimes will definitely be reduced taking into account the fact that almost two decades have elapsed since the crimes were committed and many crimes were non-investigated by the judicial bodies of the RC.

We are also presenting positive examples in which the DORH decided to prosecute certain perpetrators of criminal acts which have not been processed for years, but we are also warning about dismissals of criminal reports in which, according to our opinion, the DORH should have requested the investigations to be conducted for criminal acts of war crime.

KEY OBSERVATIONS

Agreement between the Republic of Croatia and Bosnia and Herzegovina on amendments to the Agreement on mutual execution of court decisions in criminal matters – a positive step forward in terms of bringing perpetrators of war crimes before justice

Until the aforementioned Agreement has been signed (Sarajevo, 10 February 2010), the existing Agreement between the RC and BiH on mutual execution of court decisions in criminal matters¹ has proven to be flawed. Namely, as the result of the fact that the RC and BiH cannot extradite their citizens to other states and that the Agreement stipulated that a receiving state will take over the execution of a final criminal verdict issued by the requesting state only if the convicted person agrees with it, there are numerous perpetrators of criminal acts, dual citizens of the RC and BiH, who received final convicting verdicts and who avoided the execution of a sanction by escaping to another state of which they hold citizenship and by denying consent for the execution of a sanction. General public became aware of a large number of such escapes only after some highly-profiled convicts escaped to B-H (for instance, Member of Parliament Branimir Glavaš, non-finally convicted war criminal, and heart surgeon Ognjen Šimić, convicted for taking a bribe).

This year, necessary amendments to the Agreement were made in order to prevent perpetrators of criminal acts from avoiding to serve prison sentences.

Pursuant to the previously agreed and on 10 February 2010 signed amendments to the aforementioned Agreement, no consent to serve a sentence will be requested from those persons who are convicted by a final verdict in one state and who decide to flee to another state.

The Agreement also anticipated exceptions to its application. It will most definitely not apply to convicts who were tried *in absentia*. However, it also stipulated that the execution of a sentence will not be taken over „if the executing state deems that the act, on which the final court verdict was based, is of a political, military or fiscal nature“. For the purpose of avoiding problems in interpretation, Minutes were drafted which contain a position that the exceptions to the implementation of the Agreement, such as „acts of military, political and fiscal nature“, cannot be considered acts against values protected by the international law which include, *inter alia*, war crimes.²

We hope that these amendments will finally put an end to impunity of perpetrators of war crimes, dual citizens of the RC and BiH, who were convicted by final court verdicts and who misused their dual citizenships by avoiding to serve sentences for the crimes they had committed.

Rationalization of the network of courts will not contribute to court specialization nor to more efficient war crimes trials

The Republic of Croatia is among European countries with the largest number of courts, judges and administrative staff at courts, but also with the largest number of court cases. However, it is precisely the current structure of the system where reasons for the low efficiency of the Croatian judiciary can be found.

Within the framework of judicial reform, there has been talk for several years already about rationalization of the network of courts which should connect certain courts of the same type: municipal courts with municipal courts, misdemeanour courts with misdemeanour courts...

¹ The Agreement was concluded on 26 February 1996. For a certain period of time it did not apply on the territory of the Serb entity in BiH, but in the amendments dated 7 June 2004 the territory of its application was expanded to the entire state territory of BiH.

² The aforementioned Minutes were never made public. More on the Minutes and the contents thereof can be found here:
<http://www.nn.hr/Agreement%20o%20me%C4%91usobnom%20izvr%C5%A1enju%20courtih%20decisiona%20u%20k>
<http://www.tportal.hr/vijestil/Croatiana/55201/Kazna-za-wari-zlocini-mora-se-izvrsiti.html>

The objectives of rationalization of court network are to achieve better efficiency of courts, better possibilities for judges' specialization, more flexibility in the work of courts, better efficiency of the system, standardization of court practice, actual possibility for each court to create councils comprising several judges... All of that so that citizens would have efficient and effective judiciary at their disposal in which they could trust³

So far, the number of municipal courts was formally reduced from 107 to 67, but only six courts were physically merged into three. The number of state attorney's offices was formally reduced from 71 to 55, while the number of misdemeanour courts should allegedly be reduced from 114 to 63.⁴

At the *Round Table*⁵ where the Centre for Peace, Documenta and the Civic Committee for Human Rights advocated for amendments to the Act of Application of the Statute of the International Criminal Court for the former Yugoslavia (hereinafter: the ICC Statute), primarily by stipulating exclusive competence of the county courts in Zagreb, Split, Rijeka and Osijek, as well as county state attorney's offices in the aforementioned cities to try war crimes cases, representatives from judicial institutions (President of the VSRH, Deputy Chief State Attorney of the RC, representatives from the Ministry of Justice) mostly did not agree with this initiative proposed by the NGOs.⁶ The Minister of Justice Ivan Šimonović announced that, within the framework of rationalization of court network, the number of county courts should also be significantly reduced, from current 21 to approximately ten, whereby the number of courts before which war crimes cases could be tried in the first instance would also be reduced (to approximately 7 or 8).

We support the process of rationalization, but since we deem that the results achieved so far mostly pertained to formal reduction of the number of courts, that final results are uncertain and that professional, impartial and efficient processing of war crimes requires urgent institutional improvements, we are still of the opinion that stipulating exclusive competence for county courts in Zagreb, Split, Rijeka and Osijek which, at the same time, have by far the largest number of judges from criminal departments and the best spatial and technical conditions, as well as exclusive competence of county state attorney's offices in the aforementioned cities, represents the most effective manner of achieving a quality step forward towards processing war crimes.

As we did before, we would like to point out once again that concentration of trials at the aforementioned four courts would eliminate the possibility of negative influences on court proceedings conducted in (smaller) local environments and that county courts in Osijek and Zagreb are among only four courts in the Republic of Croatia which have at their disposal a support service for witnesses and victims of criminal acts.⁷

Establishment of court practice

Commanders' responsibility for non-punishment of crimes

For quite some time there has been an ongoing discussion in Croatia about the possibility of application of the command responsibility in domestic legal system, as well as about its scope.

Bearing in mind that the institute of command responsibility was unknown to the Penal Code until its amendments in 2004, due to constitutional prohibition of retroactivity and the application of principle of

³ Source: <http://www.pravosudje.hr/default.asp?ru=263>

⁴ Data from the European Commission Report on Croatia's Progress for 2009. sssh.hr/downloads/Izujesce-o-napretku2009.doc

⁵ Round Table on more efficient processing of war crimes and damage restitution to survivors and victims' families – necessary legal amendments, Zagreb, 31 March 2010.

⁶ At the same Round Table an opinion was expressed according to which in order to have efficient and impartial prosecution of war crimes, it would be necessary to establish a special court and a special prosecution office with exclusive competence to try war crimes cases.

⁷ In comparison, on 11 May 2010 at the Sisak County Court which does not have an established support service for witnesses and victims of criminal acts, a female witness – injured person got sick during her testimony. Crying and in a state of shock, she was brought out of the courtroom to the court hall where she was waiting for the ambulance to arrive. During that time, relatives of the persons charged with the killing of her husband were in the same hall. Although the Court Council was familiar with mental problems of the injured person, it did not ensure the arrival of employees from the Support Office for Witnesses and Victims from Zagreb.

legality, a question was raised pertaining to the possibility of criminal prosecution of commanders regarding the crimes that their subordinate officers had committed prior to coming into force of the provision on the command responsibility, pursuant to the criteria set forth in Article 7 of the ICC Statute.⁸

Due to the aforementioned insufficient development of Croatian criminal law at the time when those crimes were committed, a question was raised how domestic prosecution offices and courts would handle such cases and whether domestic court practice would reach the standards of international criminal courts and sanction all unacceptable omissions by commanders that would have been sanctioned before the ICTY.

The case of Rahim Ademi and Mirko Norac, the only case that the ICTY transferred to Croatian authorities pursuant to Rule 11bis of the Rulebook on the Procedure and Evidence, gained in importance also because of the establishment of court practice regarding responsibility of commanders in preventing or sanctioning crimes committed by their immediate subordinate officers. Although court decisions are not the source of law in Croatian legal system, they can without a doubt influence future court practice, which can already be observed with respect of the verdict from the aforementioned case.

Namely, the VSRH upheld the first instance verdict against Mirko Norac in which he was found guilty of committing a war crime against civilians referred to in Article 120, paragraph 1 in relation to Article 28 of the OKZRH and a war crime against war prisoners referred to in Article 122 in relation to Article 28 of the OKZRH because he knew that his subordinated officers were committing crimes but did not do anything to prevent them from doing that in his capacity as a commander. The VSRH confirmed the position of the first instance court that criminal acts of war crimes can be committed by non-doing if a perpetrator failed to do things he was obliged to do. Specifically, a commander has a special relation towards protected assets, from which relation his special obligation towards that asset is derived (the so-called guarantee obligation – supervision over a third person from the position of a higher-ranking officer towards a lower-ranking officer).

Although it was established in the court procedure that already on the first day of action the defendant Norac learned about the crimes, he was not found guilty in the same verdict because of the consequences that occurred as a result of actions performed by his subordinate officers on the first day of action (the killing of seven persons), nor because of non-punishment (actually non-reporting) of his subordinate perpetrators of those crimes. He was not found guilty because he did not order those crimes and was not able to prevent them due to the fact that he learned about them at a later stage. Previously, he had introduced his subordinate officers with the provisions of international humanitarian law regarding how to treat civilians, war prisoners and property.

According to the Penal Code which was valid at the time of commission of crimes, there is no guilt on the part of a commander regarding the committed crimes, nor is there any causal connection between commanders' activities and the committed crimes. With that regard, non-commission of the defendant (non-punishment) would possibly represent an independent criminal act of non-reporting a criminal act under Article 176 of the Penal Code of the RC, which fell under absolute statute of limitations in terms of criminal prosecution.

According to the international law, a commander would not be convicted for a separate criminal act, but in relation to the acts committed by his subordinate officers which he failed to punish. The practice of international courts indicates that the omission by a higher-ranking officer does not necessarily have to be linked with the crime itself, but with the commander's contribution to the fact that crime perpetrators managed to get away with it.

⁸ Having analyzed Article 7 of the ICTY Statute, it ensued that commanders are responsible as:

- immediate perpetrators of crimes (by planning, encouraging, issuing orders or in another manner);
- guarantees of crime prevention (commanders are obliged to take necessary and reasonable measures to prevent crimes if they knew, or if they should have known, that their subordinate officers were about to commit crimes);
- guarantees of perpetrators' punishment (upon learning about the crimes committed, commanders are obliged to take necessary and reasonable measures to punish immediate perpetrators).

There are different theoretically possible solutions how to treat commanders' responsibility in general, including his responsibility for non-punishment of crimes for which the commander has learned subsequently. They range from denial of any possibility of sanctioning commander's omission, up to the polar opposite solutions.⁹

The opinion, pursuant to which Croatian judicial system would also render possible the punishment of those commanders who failed to punish the crimes committed by their subordinate officers, starts from the position that norms pertaining to the command responsibility constitute a part of the international common law and/or general legal principles which were incorporated into domestic legislation by the Protocol Additional to the Geneva Conventions (Protocol I), the legal force which is below the Constitution, but above the laws, whereby legal provisions are being derogated.¹⁰ In that case, sentences stipulated for a substantially same act from the OKZRH (up to 20 years in prison) could apply. Furthermore, new Article 167a of the Penal Code could apply, bearing in mind that this is a more lenient Code.¹¹

Criminal proceedings against the defendants Ademi and Norac could, without a doubt, become a benchmark in court practice. Practice which fails to qualify commander's omission to undertake measures necessary to punish a perpetrator upon learning about the crime (as in the aforementioned case for the crimes committed on the first day of action) as a war crime will also adversely affect the possibility of injured persons to succeed with damage restitution claims in civil proceedings. Namely, injured persons, as a practice, only succeed in civil proceedings if criminal responsibility of the perpetrator had been previously established.¹²

Should they assume a position that commander's omission to report crimes committed by his subordinate officers represents an independent criminal act which fell under the statute of limitations in terms of criminal prosecution, domestic judicial bodies, the role of which is to prosecute perpetrators of criminal acts and sanction them, will (no longer) have a possibility to prosecute perpetrators of such unacceptable acts.

Materials collected by ICTY investigators pronounced to be illegally obtained evidence by a Supreme Court decision

Bearing in mind numerous evidence materials which ICTY investigators have collected while investigating crimes committed during armed conflicts in the territory of the former Yugoslavia, as well as its co-relation with numerous non-prosecuted crimes committed during the war in the territory of the Republic of Croatia, the possibility of using these materials in trials conducted before domestic courts has become very important.

The ruling of the VSRH No. I Kž 585/09 of 23 March 2010 quashed the first instance verdict reached by the Požega County Court No. K-11/08 of 13 March 2009 which found Damir Kufner and other defendants in the trial guilty of committing a war crime against civilians. The first-instance verdict was, *inter alia*, quashed because of the position assumed by the Supreme Court's Panel that the first instance verdict was based on illegally obtained evidence. The VSRH assessed testimonies of survived victims provided before ICTY investigators as illegally obtained evidence.

⁹ You can find more about it in Ivo Josipović: *War crimes – Trial monitoring manual*, Centre for Peace, Non-violence and Human Rights – Osijek, 2007, pages 52-54

¹⁰ Articles 86 and 87 of the Protocol Additional I stipulate responsibility of a commander although the crimes were committed by his subordinate officers, if the commander knew or had information on the basis of which he was able to conclude that his subordinate officer committed, or was about to commit, such a violation and if the commander failed to take all possible measures within his powers to prevent or suppress the violation. Military commanders are requested to undertake measures for the purpose of preventing a crime or punishing a perpetrator.

¹¹ Article 167a paragraph 3 stated that a commander or another person who actually acts as a military commander or a higher-ranking civilian or another person with the actual powers of commanding or supervising within the civil organization, who fails to forward the issue to competent authorities with the objective of conducting investigation and criminal prosecution of immediate perpetrator, will receive a prison sentence in the duration between one and five years.

¹² Negative trend in court proceedings for damage restitution to victims and families of victims of war crimes continues. Thus, Jovan Berić, Branka Kovač and Nevenka Stipišić, whose parents were killed in Varivode on 28 September 1995, had their claims rejected both by a verdict issued by the Knin Municipal Court dated 31 October 2007 and a verdict issued by the Šibenik County Court dated 22 March 2010. They were ordered to jointly pay the expenses of the civil proceedings to the defendant RC in the amount of HRK 54,000. State institutions (Parliament, Government and judicial bodies) do not invest enough efforts to resolve the issue of compensating victims and their families in a satisfactory manner.

The Supreme Court's Panel explained its decision with the following:

- provision of Article 28 of the Act on application of the Statute of the International Criminal Court and prosecution for criminal acts against international war and humanitarian law¹³ stipulated the procedure in case when the ICC transfers criminal prosecution to the Republic of Croatia;
- paragraph 4 of the aforementioned Article stipulates that evidence collected by ICC bodies can be used in criminal proceedings in the Republic of Croatia providing that the evidence was presented in a manner set forth by the Statute and the ICC Rules on the Procedure and Evidence and that it can be used before that court;
- in order for the aforementioned Article to apply, after the indictment has become legally valid, criminal prosecution must be transferred to the authorities of the Republic of Croatia pursuant to Rule 11bis of the Rulebook on the Procedure and Evidence,
- the case, which the VSRH resolved as the court of second instance, was not transferred pursuant to Rule 11bis.

The VSRH adopted a position that testimonies provided by surviving victims to the ICTY investigators were actually notes taken by investigators of the Prosecutor's Office which represents prosecution before the ICTY and that such actions on their part, when those are not cases in which criminal prosecution was transferred, should be equalised with informative talks performed by the prosecution. It was also stated that it was evident from the procedural material that those notes were forwarded to the Croatian prosecution so that the prosecution could use them as a source for the questioning of witnesses during the evidence procedure and that the first instance court was obliged to exclude them from the case file by treating them as citizens' testimonies provided to police authorities during an informative talk. To conclude with, it was also stated that in all other cases when courts in the Republic of Croatia receive an opportunity to use evidence obtained by the ICC during criminal proceedings, they cannot do it by invoking Article 28 of the Act on the Application of the ICC Statute, but exclusively in compliance with domestic criminal and procedural provisions contained in the Criminal Procedure Act.

Such valorization of materials obtained by ICTY investigators opens a series of problems for future war crimes prosecution.

Namely, ICTY investigators conducted numerous investigations after which the ICTY Prosecutor's Office did not issue indictments because the position of potential defendants was not at the level of ICTY's jurisdiction. Such cases in the ICTY bear „category 2“ mark. Some materials from „category 2“ cases were handed over to Croatian judiciary, as was the case with materials in this specific case, conducted before the Požega County Court.

¹³ Article 28 reads:

Transfer of cases from the International Criminal Court

- (1) *In case when the International Criminal Court, in compliance with its Statute and the Rulebook on the procedure and evidence, transfers criminal prosecution in a certain case to the Republic of Croatia, the State Attorney shall initiate criminal prosecution before the competent court taking the facts on which the indictment of the International Criminal Court was based as the foundation for the indictment.*
- (2) *The procedure in the Republic of Croatia shall be conducted with the application of domestic criminal substantive and procedural laws.*
- (3) *Exceptionally, the State Attorney may, on the basis of evidence obtained by the International Criminal Court, issue an indictment before a competent court in the Republic of Croatia without conducting an investigation and without consent from the investigating judge.*
- (4) *Evidence obtained by International Criminal Court bodies may be used in criminal proceedings in the Republic of Croatia providing that the evidence was presented in a manner set forth by the Statute and the Rulebook on the procedure and evidence of the International Criminal Court and that it can be used before that Court. The Croatian court shall assess the existence or non-existence of facts which are proven by these evidence pursuant to Article 8 of the Criminal Procedure Act.*
- (5) *The Government may conclude a special agreement with the International Criminal Court which shall regulate individual issues from its jurisdiction when taking over proceedings.*
- (6) *Representatives of the International Criminal Court shall be rendered possible to attend the proceedings in all of its stages and they shall be provided with any necessary information about the course of the proceedings.*

If witness depositions provided to investigators of the ICTY Prosecutor's Office really end up at the level of circumstantial evidence and cannot be used as evidence in criminal proceedings before domestic courts, the possibility of processing perpetrators of numerous crimes will definitely be reduced taking into account the fact that almost two decades have elapsed since the crimes were committed, that many crimes were either non-investigated or insufficiently investigated by judicial bodies of the RC and that surviving victims, injured persons and witnesses are dying, while memories of the living fade away due to elapse of time, old age, illness or fear. Situation is somewhat better with regard to material evidence because the possibility of their repeated presentation is better.

We are of the opinion that it is necessary to ensure the possibility of using materials collected by the ICTY investigators before domestic courts, irrespective of whether those are cases transferred pursuant to Rule 11bis or not, through amendments to the existing provisions of the Act on Application of the Statute which the Supreme Court's Panel interpreted in the aforementioned manner, or through different interpretation thereof.

It is evident that the Act on Application of the Statute is imprecise and that its provisions can be interpreted differently, but the objective of the aforementioned Act definitely should not be reducing witness depositions provided before the Hague investigators to the level of circumstantial evidence, because double valorization of such materials, depending on the "category of cases", has no justification whatsoever.¹⁴

Bearing in mind the "confession" by the DORH on previous flawed, non-professional and partial work in prosecution of war crimes¹⁵ and a large number of still non-investigated crimes, the standpoint of the Supreme Court's Panel on non-use of materials collected by the Hague investigators causes our deep concern. We would like to emphasise here that victims and witnesses of war crimes provided testimonies before the Tribunal investigators in full trust, as an impartial and objective court body.

Apart from the aforementioned, after the new Criminal Procedure Act comes fully into force on 1 September 2011, investigating procedures will fall under the competence of state attorneys who will be able to entrust the performance of evidence actions to investigators.¹⁶

With that regard, we would like to point at valorization of actions performed by the ICTY investigators in cases which were not transferred pursuant to Rule 11bis – will domestic courts still equalize them with police enquiry or will they, drawing a parallel with investigators' actions introduced to the domestic criminal legislation with the new ZKP, admit those actions as valid evidence material?

Work of the DORH

In the first half of 2010, we noticed that in four trials, the renewal (reopening) of which was initiated by the State Attorney's Office, the DORH dropped charges or changed legal qualification of the criminal acts contained in the indictments, after which the courts suspended criminal proceedings with regard to 23 absent

¹⁴ *The case of defendants Rahim Ademi and Mirko Norac is the only case of „category 1“ (transferred to the Republic of Croatia pursuant to Rule 11bis). During the evidence procedure at the Zagreb County Court, materials collected by the Hague investigators were used.*

¹⁵ *Contained in the following DORH acts:*

- *Instruction pertaining to the application of provisions of the OKZRH and the ZKP in war crimes cases – criteria (standards) for criminal prosecution, Number: O-4/08, dated 9 October 2008;*
- *Action Plan for the implementation of the Instruction Number O-4/08 pertaining to work on war crimes cases, Number: A-223/08, dated 12 December 2008.*

¹⁶ *Article 219 of the Criminal Procedure Act (Official Gazette 152/08) reads:*

- 1) *Investigation is conducted by the State Attorney.*
- 2) *The State Attorney may issue an order to an investigator in order to entrust him with the performance of evidence actions. In the order, the State Attorney shall determine the investigator, taking into account the investigation subject and special regulations, actions that need to be performed, and he may also issue other orders which the investigator must adhere to. The investigator shall be obliged to act pursuant to the State Attorney's order.*

convicts, who received prison sentences during the 90's *in absentia*.¹⁷ This is continuation of the process of rectifying mistakes in the work of state attorney's offices and courts during the 90's when indictments were lightly issued and convicting verdicts against members of Serb formations were lightly pronounced, despite the fact that defendants' actions often did not contain essential characteristics of criminal acts of war crimes or despite the uncertainty that it was precisely the defendant who had committed war crimes.

Apart from the aforementioned, when it comes to the performance of state attorney's offices and courts, we have noticed in some cases positive steps forward in the prosecution of perpetrators who have not been prosecuted for years, due to a lack of good will and/or obvious bias on the part of those same judicial bodies, or who were never convicted despite the fact that prosecution had been initiated.

On the other hand, we would like to express concern regarding decisions on dismissal of criminal reports in some cases which point at the fact that certain perpetrators of criminal acts committed during the war could remain outside the scope of justice. We would like to warn about the fact that the aforementioned examples point at a lack of consistence of DORH actions.

Below in the text we are presenting several examples.

Positive examples

1. Criminal proceedings against Damir Vida Raguž for brutal torture and killing of four civilians of Serb ethnicity in November 1991 in Novska were suspended in 1992 by way of application of the then-valid Act on Amnesty from criminal prosecution and procedures for criminal acts committed in armed conflicts and in the war against the Republic of Croatia. After the trial was re-opened by the DORH (this time the act in question had legal qualification of a war crime against civilians), the defendant was found guilty and sentenced by the first instance verdict, albeit *in absentia*, to 20 years in prison.

Although the Sisak County Court had previously denied a request to conduct investigation, the VSRH deemed that the suspension of proceedings before the Zagreb Military Court in 1992 did not resolve the issue with a final adjudication because the factual description in the new investigating request contains some additional facts which could not be found in the proceedings before the Military Court when legal qualification of the act itself was different (at that time, the act was qualified as killing).¹⁸

Such position assumed by state attorney's offices and courts renders it possible to continue with the practice of "repeated" trials against members of Croatian formations who committed war crimes during the war, with regard to whom proceedings were suspended by obviously erroneous application of the laws which regulated the issue of amnesty.

2. In a trial in which main hearing is currently ongoing before the Bjelovar County Court, two Croatian Army officers were charged that, although they were aware of unlawful actions committed by their subordinate officers, they did not do anything in order to prevent and punish such actions, as a result of which setting fire in two villages inhabited by Serb population led to destruction of more than 30 family houses.

It is important to emphasise that this is the first trial against members of Croatian formations in which consequences of such actions did not involve the most serious outcomes (death).

Until this trial was instigated, members of Serb formations were exclusively charged with war crimes which resulted in less severe consequences and which did not involve deaths.

¹⁷ At the Sisak County Court, trial against Nikola Radišević, Jovo Zubanović, Simo Plavljenić and Dušan Paunović was suspended, while at the Zadar County Court the same happened in the trials against: Maks Podgornik and Zdravko Randelović; Zoran Lakić, Marko Lacmanović, Rajko Radmanović, Zoran Radmanović, Bogdan Repaja and Drago Repaja; Milenko Drača, Stevan Drača, Stevan Milanko, Milan Milanko, Branko Lakić, Dragan Končarević, Živko Milanko, Branislav Milanko, Željko Sanković, Davor Sanković and Dragan Drača.

¹⁸ Similar explanation was also provided in the decision which enabled re-trial against Fred Marguš, currently sentenced to 15 years in prison by final verdicts issued by the Osijek County Court and the VSRH for a war crime against civilians, committed by the killing of citizens of Serb ethnicity in Čepin near Osijek in November and December 1991.

Dismissals of criminal reports

During the reporting period (January 2010 - May 2010), we received information that the DORH dismissed two criminal reports for criminal acts of war crimes:

1. In April 2010, a criminal report against P. K. for a war crime against civilians, which the Centre for Peace filed in May 2005 and then supplemented it on several occasions, was dismissed.

In the decision on dismissal, it was stated that the reported person, as president of the then Military-Housing Commission of the Osijek Operational Zone, in the period between 1991 and 1993, participated in forceful evictions of persons of non-Croat, primarily Serb ethnicity, from military or socially-owned apartments and in moving of families of deceased Croatian defenders and evictees into those apartments.

The DORH is of the opinion that the reported person did violate fundamental human rights and freedoms with his actions, that he violated the right to equality of all before the law, the right to personal safety and protection from violence and the right to select an apartment and a place to live, whereby the reported person committed a criminal act of racial and other discrimination referred to in Article 133, paragraph 1 of the OKZRH. According to the DORH's standpoint, total amount and nature of reported person's actions still does not render it possible to conclude that he had exercised all essential characteristics of a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH.

The reported person can no longer be criminally prosecuted for a criminal act referred to in Article 133 of the OKZRH because the statute of limitations of criminal prosecution had set in;

2. In a ruling dated 16 April 2010, the Zagreb County State Attorney's Office dismissed a criminal report filed by the injured person S. G.-Ž. against R. A., D. Š., D. K. and V. K. due to a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH, committed to the detriment of D. Ž.

Criminal proceedings against the reported persons were conducted before the Zagreb Military Court for a criminal act of killing committed to the detriment of D. Ž. However, in November 1992 the proceedings were suspended by way of application of the Act on Amnesty from criminal prosecution and procedures for criminal acts committed in armed conflicts and in the war against the Republic of Croatia.

In a decision on dismissal of the criminal report it was stated that in the subject proceedings there was no broader context of the events than the one which had already been factually described in the proceedings held before the Zagreb Military Court, that the actions performed by the reported person do not contain essential characteristics of a war crime against civilians, but the criminal act of killing or qualified killing (since the "killing was obviously committed because the perpetrators hated the injured person D. Ž. being a member of Serb ethnicity"¹⁹) and that criminal proceedings cannot be re-instituted against the reported persons because criminal proceedings regarding this event had already been suspended by a final decision.

It was also stated that the reported persons were members of the reserve units of the Croatian National Guard in Sisak, but during the critical event they attended a friend's wedding ceremony in Zagreb, thus on that occasion they did not perform military duty and did not act as members of the Croatian Army in the sense of performing military tasks. It was also stated that no armed conflicts were taking place at the critical moment and at the critical location in Zagreb.

Although the DORH should have had information about the commission of criminal acts in cases of forceful evictions in Osijek at the time of their commission, it failed to investigate, i.e. act so that perpetrators would be sanctioned. Until the criminal report by the Centre for Peace was filed, the DORH did nothing in order to determine the circumstances of forceful and illegal evictions in Osijek during the war, although forceful evictions of persons, mostly of Serb ethnicity, in Osijek but also in some other cities in Croatia were a well known fact. Dismissal of a criminal report five years after its filing, along with a claim that the reported

¹⁹ Ruling of the Zagreb County State Attorney's Office, number K-DO-144/10, dated 16 April 2010, page 2, paragraph 3

person committed a criminal act with his actions which can no longer be criminally prosecuted, is actually a confession by the DORH that it failed to perform its task. Furthermore, the statement that violations of human rights actually existed, but that a total amount and nature of the reported persons' actions still did not lead to a conclusion that he exercised all essential characteristics of a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH is, in our opinion, a clear invitation for further collection of evidence material. We would expect that this additional task would be performed by the DORH.²⁰

The second aforementioned decision was explained, *inter alia*, with the claims that the reported persons did not perform military duty at the time the killings were committed and that no armed conflicts were taking place at the critical location and at the critical moment. However, in the last couple of years, some perpetrators of war crimes received final convicting verdicts despite the fact that they committed crimes "outside their working hours" or "outside the areas of military operations". Such claims were often used during the 90's to justify decisions which avoided the sanctioning of perpetrators of war crimes, members of Croatian formations, or decisions which denied requests for damage restitution to family members of killed war crimes victims.

It is also surprising to see that the Zagreb County State Attorney's Office provided such an explanation. This is surprising for a reason that in 1992 the Act on Amnesty from criminal prosecution and procedures for criminal acts committed in armed conflicts and in the war against the Republic of Croatia was applied in respect of the reported persons, and this Act was applied only with the presumption that the perpetrators committed criminal acts in armed conflicts, i.e. in the war against the RC or in connection with those conflicts, i.e. the war.

We are of the opinion that in the case of D. Ž., a distinguished engineer who used to work at the Sisak oil refinery and who was executed by members of the Croatian National Guard from Sisak at the Zagreb landfill of Jakuševac in November 1991, in the midst of executions of famous Sisak Serbs, the DORH should definitely request the conduct of an investigation for a war crime instead of dismissing the criminal report stating that criminal proceedings for the subject event had already been suspended by a final decision.

²⁰ *The criminal report contains dozens of cases of forceful evictions from apartments by use of force and threats with implied malice (for instance, threats to evictees to be thrown to swim in the Drava river, or killings) committed by Croatian Army members who were assisting the Military-Housing Commission. The-then president of that Commission was aware of those evictions because he directly ordered some and personally participated in others. There are also several cases of forceful evictions of which he was aware but failed to prevent them, although he was obliged to do so according to his function. Among the forcefully evicted or re-settled persons there were also some who were seriously ill. Some injured persons, very brutally evicted from their apartments, are living in the Republic of Serbia today, and there were several families (sometimes living in the same apartment building) who abandoned Osijek out of fear that something similar could happen to them as well. All the aforementioned leads to the conclusion that the prosecution bodies, if necessary through co-operation with judicial bodies of the countries in the region, should conduct additional investigations and search for new cases which were not stated in the aforementioned criminal report filed by the Centre for Peace.*

AN OVERVIEW OF MONITORED TRIALS

Monitoring trials at County Courts

In the period between 1 January 2010 and 30 May 2010, monitors of the monitoring teams of the Centre for Peace, Nonviolence and Human Rights-Osijek, Documenta, and the Civic Committee for Human Rights monitored 17 war crimes trials at seven County Courts.²¹

Re-opened trials

Out of the aforementioned 17 trials, 4 were re-opened against members of Serb formations who had previously been sentenced *in absentia* by final verdicts. One trial was conducted at the Sisak County Court (trial against the defendant Nikola Radišević and 3 other defendants), while three trials were conducted at the Zadar County Court (trial against the defendants Maks Podgornik and Zdravko Randelović; against Zoran Lakić and 5 other defendants; against Milenko Drača and 10 other defendants). Trials were re-opened on the basis of requests for re-opening filed by the DORH or on the basis of requests for the protection of legality. After the re-opening was granted, indictments were modified or charged were dropped and those trials were suspended. The aforementioned trials involved a total of 23 defendants, members of Serb formations, who had previously been convicted. They had all been tried *in absentia*.

Other trials

Out of the remaining 13 trials, 3 were conducted before the County Courts in Sisak and Vukovar each, 2 before the Zadar and Karlovac County Courts each, and one before the County Courts in Osijek, Gospić and Bjelovar.

In **Sisak**, we monitored the trials against:

- the defendants Ivica Kosturin and Damir Vrban for the crime in Letovanić,
- the defendant Pero Đermanović and three other defendants for the crime in villages along Una river near Hrvatska Kostajnica,
- the defendants Damir Vida Raguž and Željko Škledar for the crime in Novska II;

In **Vukovar**, we monitored the trials against:

- the defendant Miloš Stanimirović and 14 other defendants for the crime in Tovarnik,
- the defendant Bogdan Kuzmić for the crime in Vukovar hospital,
- the defendants Milan Tepavac and Ilija Vorkapić for the crime in Lovas;

In **Zadar**, we monitored the trials against:

- the defendant Nedjeljko Janković for the crime in Ravni Kotari,
- the defendants Milan Jurjević and Davor Tošić for the crime in Kruševo;

In **Karlovac**, we monitored the trials against:

- the defendant Mićo Cekinović for the crime in Slunj and surrounding villages,
- the defendant Miroslav Bijelić and 3 other defendants for the crime in Slunjska Selnica;

In **Osijek**, we monitored the trial against:

- the defendant Čedo Jović for the crime in Dalj IV;

In **Gospić**, we monitored the trial against:

- the defendant Goran Zjačić for the crime in Frkašić II;

In **Bjelovar**, we monitored the trial against:

- the defendants Ivan Husnjak and Goran Sokol for setting on fire the villages of Pušine and Slatinski Drenovac.

²¹ Apart from that, at the Rijeka County Court we are monitoring trial against the defendants Vlado Grbin, Petar Petrović and Radovan Anđić, charged with committing criminal acts of murder of an official person, attempted murder of an official person and inciting the murder of an official person. Although this is not an act qualified as a war crime, we are monitoring this trial because the participants in this conflict were members of the Yugoslav People's Army, i.e. Croatian formations. Namely, in the incriminating event that took place in Mali Lošinj in October 1991, two members of Croatian formations lost their lives.

Out of those 13 trials, four are repeated because the VSRH quashed first-instance verdicts and reversed the cases to first-instance courts for re-trials. Three trials are repeated for the first time,²² whereas in one proceeding this was the third (the second repeated) trial.²³

In the aforementioned 13 trials, a total of 38 persons were charged (32 members of Serb formations and 6 members of Croatian formations).

Out of the total number of defendants, only 15 defendants were present at the main hearings, whilst 23 defendants were at large, not accessible to the Croatian judicial authorities and thus were tried *in absentia*. A total of 22 non-accessible defendants were charged with committing criminal acts as members of Serb military formations, while 1 defendant was charged as a member of Croatian formations.²⁴

Out of the 15 defendants who were present at court hearings, 9 of them were detained, at least for a certain period of time during this reporting period (6 members of Serb and 3 members of Croatian formations).

In this reporting period (1 January 2010 – 30 May 2010), not a single court hearing was held in respect of 2 trials that our monitoring team had been monitoring earlier.²⁵

Monitoring sessions of the Supreme Court of the Republic of Croatia

Monitors of the monitoring team also attended 4 public sessions of the VSRH.

We monitored public sessions in the following cases:

- **Damir Kufner, Davor Šimić, Pavao Vancaš, Tomica Poletto, Željko Tutić and Antun Ivezić**, charged that, as members of Croatian formations, they committed a crime against Serb civilians in the village of Marino Selo;

The VSRH quashed the verdict of guilty reached by the Požega County Court on 13 March 2009 which pronounced the following prison sentences: Kufner 4 years and 6 months, Šimić 1 year, Vancaš 3 years, Poletto 16 years, Tutić 12 years and Ivezić 10 years.

- **Mičo Cekinović**, charged that, as a member of Serb formations, he committed a crime in Slunj and surrounding villages;

The VSRH quashed the verdict of guilty reached by the Karlovac County Court on 1 December 2009 which sentenced the defendant to one year in prison. Then, in the repeated procedure, on 4 May 2010 the defendant was found guilty and sentenced to 4 years in prison.

- **Ivica Mirić**, charged that, as a member of Croatian formations, he killed one Serb civilian in the Brezovica forest near Sisak;

The VSRH quashed the verdict of guilty reached by the Sisak County Court on 26 August 2009 which sentenced the defendant to 9 years in prison.

- **Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić**, charged that, as members of Croatian formations, they committed a crime against civilians, mostly Serbs, in Osijek.

Previously, the verdict reached by the Zagreb County Court on 8 May 2009 found the defendants guilty and pronounced the following prison sentences: the defendant Glavaš a joint prison sentence of 10 years, the defendant Krnjak 8 years in prison, the defendant Getoš Magdić 7 years in prison, while the defendants Kontić, Valentić and Dragić were pronounced 5 years in prison each.

We are not familiar with the Supreme Court's decision.

²² This concerns two trials at the Karlovac County Court (trial against the defendant Cekinović for the crime in Slunj and surrounding villages and trial against Miroslav Bijelić et al. for the crime in Slunjska Selnica) and one trial at the Osijek County Court (trial against the defendant Čedo Jović for the crime in Dalj IV).

²³ Trial against the defendants Milan Jurjević and Davor Tošić at the Zadar County Court.

²⁴ Damir Vida Raguž, charged with crime in Novska II.

²⁵ In the procedure conducted before the Osijek County Court against the defendant Željko Čizmić for the crime in Dalj, the last court hearing was held in May 2009 and, before that, in December 2007. We are not familiar with the reason why court hearings were not scheduled, bearing in mind the fact that the defendant responds to court summons.

In the procedure conducted before the Rijeka County Court against the defendant Radoslav Čubrilo and four other defendants for the crime in Lovinac, the last court hearing was held at the end of 2007. Since the defendants are not accessible, we are not familiar whether scheduling a hearing is planned at all.

OPINIONS ON INDIVIDUAL TRIALS

Repeated trial against the defendant Čedo Jović for a war crime against civilians²⁶

Osijek County Court

Criminal act: war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH

Defendant: Čedo Jović

War Crimes Council: Judge Darko Krušlin, Council President, judges Drago Grubeša and Miroslav Jukić, Council members

Prosecution: Dragan Poljak, Osijek County Deputy State's Attorney

Defence: lawyer Tomislav Filaković

Opinion after the concluded repeated trial

Following the repeated trial, on 18 February 2010 the War Crimes Council of the Osijek County Court found the defendant Čedo Jović guilty because, in his capacity as the military police commander of the 35th Slavonija Brigade of the so-called Republic of Serba Krajina Army, although he knew that his subordinate military policemen Novak Simić, Miodrag Kikanović and Radovan Krstinić were torturing non-Serb members of the manual labour platoon in Dalj, he failed to take any action to punish the perpetrators and thus, by accepting the continuation of their impermissible actions, he also agreed to the consequences of such actions (five physically tortured persons and one person who died from torture).

The defendant was sentenced to five years in prison. His detention, which began on 7 July 2008, was extended.

Previously, the VSRH quashed the Osijek County Court's 8 April 2009 verdict of guilty which sentenced the defendant to five years in prison.

The VSRH quashed that verdict because **the first instance court made essential violation of the criminal procedure provisions by using witness testimonies presented in another trial** (Kio-35/07, i.e. Krz-42/07, against Novak Simić, Miodrag Kikanović and Radovan Krstinić²⁷). More precisely, it was stated in the hearing records that thirteen witnesses presented identical testimonies to the ones presented during the investigation. In the investigation records, however, it was stated that the witnesses presented identical testimonies to the ones contained in the trial records of the trial against the defendant Novak Simić *et al.* Therefore, the investigation records and the main hearing records do not contain the testimonies of thirteen witnesses. Instead, they only contain enclosed records with the testimonies of the mentioned witnesses originating from another trial.

Since the first instance court had assessed precisely those testimonies and rested its verdict on them, the VSRH quashed that verdict and reversed the case to the first instance court for a retrial. The first instance court was instructed to carry out a direct questioning of the aforementioned witnesses and enter their testimonies into trial records.

Since the verdict was quashed due to essential violation of the criminal procedure provisions, the VSRH did not engage itself in the assessment of facts determined in the first instance verdict.

²⁶ Mladen Stojanović monitored this trial and reported thereof.

²⁷ Previously, Simić, Kikanović and Krstinić received a final sentence for (direct) commission of the act for which their superior – the defendant Jović- is presently charged.

In the repeated trial, out of the aforementioned 13 witnesses the War Crimes Council of the Osijek County Court did not take testimonies of 5 witnesses at all. In addition, while questioning 2 witnesses, the Court again stated in the court records that their testimonies were in compliance with the testimonies presented at the previous main hearing, i.e. in compliance with the testimonies provided in the trial against Novak Simić *et al.* However, unlike the 8 April 2009 verdict, the first instance court did not even use other disputable testimonies in the explanation of the verdict dated 18 February 2010. It only used one witness testimony (Mirko Kelava).

A disputable issue in the trial was whether the injured persons (Hungarians and Croats mobilised into a „manual labour platoon“) had the status of civilians and whether the defendant, in addition to the position of head of security, was also a military police commander in the 35th Slavonija Brigade of the so-called RSK Army, a superior officer to the convicted persons Simić, Kikanović and Krstinić.

As in the first trial, the Council reached a conclusion that mobilised members of the “manual labour platoon” had the status of civilians since they did not actively participate in hostilities and that the defendant Jović was the actual commander of the military police unit in the 35th Slavonija Brigade.

The Council rejected numerous pieces of evidence proposed by the defence including, among others: the proposal for expert interpretation of the provisions of “The rules of the security service in the SFRJ armed forces” and “The rules of military police service of the SFRJ armed forces” in order to establish whether it could have been possible to be a head of security and a military police commander at the same time; the proposal to obtain from the Republic of Serbia formation of the 35th Slavonija Brigade of the so-called RSK Army; the proposal to obtain information from the Osijek-Baranja Police Administration or from the Dalj Police Station whether a criminal report had been filed in 1995 after the killing of Antun Kundić. The Council was of the opinion that the presentation of such evidence was unnecessary.

Without prejudice to the freedom of the Council’s choice what evidence should be presented, we are of the opinion that presentation of some of the suggested pieces of evidence would not have delayed the proceedings. Instead, it would have significantly contributed to the likelihood that the VSRH would uphold the first instance court’s verdict, particularly bearing in mind the fact that the defendant already spent one year and nine months in custody and that the VSRH still did not have a chance to evaluate the facts that had been established by the first instance court.

Trial against the defendant Mićo Cekinović for a war crime against civilians²⁸

Karlovac County Court

Criminal act of war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH

Defendant: Mićo Cekinović

War Crimes Council: Judge Ante Ujević, Council President, judges Alenka Laptalo and Juraj Dujam, Council members

Prosecution: Zdravko Car, Karlovac County Deputy State's Attorney

Defence: lawyer Luka Šušak

Opinion after the conducted first instance procedure

The verdict of the Karlovac County Court No. K-19/02 of 1 December 2009 found the defendant Mićo Cekinović guilty that, in November 1991 as commander of a group of "Primišlje Territorial Defence" which was within the composition of the so-called "SAO Krajina" military, before and during the attack on and the occupation of Slunj and surrounding villages, for the purpose of expelling the population of Croatian ethnicity, he permitted and ordered deprivation of liberty of Croatian inhabitants and their physical abuse. Thus, the defendant's subordinated soldiers arrested civilian Tomo Kos and beat him up, while during the attack on Slunj the defendant permitted the killing of citizens, as the result of which a member of his unit killed Pave Ivšić. Thereby, the defendant committed a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH. By applying the provisions on mitigating a sentence, he received one year in prison.²⁹

The indictment issued against the defendant Cekinović was broader than the criminal act for which he was sentenced. He was also charged with permitting members of his unit to set on fire and demolish buildings as well as expelling Croatian population from their homes.

After the conducted trial, **the court found to be indisputable:**

- that at the critical period of time the defendant was commander of the Veljun Territorial Defence group which comprised a part of the Regional Headquarters of the Veljun Territorial Defence (hereinafter: the Veljun RŠTO), which was within the composition of the so-called SAO Krajina paramilitary;
- that the group took part in the occupation of Slunj and surrounding Croatian settlements;
- that the action, ordered by commander of the Veljun RŠTO Milan Strunjaš, had the ultimate goal of expelling Croatian population;
- that buildings were set on fire and demolished during the military action;
- that the defendant's subordinate soldier killed civilian Pavo Ivšić;
- that, before the action, almost all Croats abandoned the area under military attack;

The court found to be disputable:

- whether the unit, which was under the defendant's command, could be held responsible for destruction of civilian facilities;
- whether the defendant's subordinates were expelling Croatian population;
- what was the defendant's responsibility with regard to deprivation of liberty and physical abuse of Tomo Kos;
- what was the defendant's responsibility with regard to the killing of Pavo Ivšić.

²⁸ Martina Klekar monitored this trial and reported thereof.

²⁹ The VSRH quashed the aforementioned verdict on 24 March 2010 and then, at the repeated trial on 4 May 2010, the defendant was found guilty and sentenced to four years in prison.

With regard to a section of the indictment which charged the defendant with permitting destruction and setting buildings on fire, apart from the indisputable fact that buildings were set on fire and destroyed during the military action, the Court assessed that there was no evidence that those were precisely the defendant's subordinates who committed those acts. Therefore, the defendant was not found guilty with regard to that section of the indictment.

With regard to expulsion of Croatian population, the Court assessed that, at the beginning of military activities by the commander's unit, as well as after the occupation of Slunj and surrounding villages, there was almost no Croatian population in that area any longer. Because of that, the enacting part of the verdict did not encompass that part of the facts contained in the indictment.

The Court based its conclusion on the defendant's responsibility with regard to deprivation of liberty and physical abuse of Tomo Kos on the testimonies provided by the injured person himself, as well as by the witness Mile Jančić who confirmed that, during the critical period of time, Đuro Grubor, direct perpetrator of deprivation of liberty and physical abuse of Tomo Kos, was a member of the Primišlje Territorial Defence unit.

The Court found the injured person's testimony to be credible.³⁰

The Court did not accept a part of the defendant's defence in which he testified that he did not recall that event at all, nor did it accept the testimony provided by the witness Jovo Milošević who confirmed the defendant's defence, with the explanation that the abovementioned witness was proposed by the defendant, that he was a member of the defendant's unit, because of which his testimony was protective towards the defendant.³¹

The Court did not find problematic the fact that the list of members of the Primišlje Territorial Defence group did not contain the name of Đuro Grubor, bearing in mind the fact that the witness Jovo Milošević testified that Đuro Grubor was actual member of that unit and that members of one unit often moved to another unit without keeping proper records thereof. On top of that, the Court stated that, even if Đuro Grubor was not a member of the Primišlje Territorial Defence, it was evident from the testimony of Tomo Kos that the defendant had *tempore criminis* a superior rank over Grubor.

With regard to the killing of civilian Pavo Ivšić, it is indisputable that he was killed by a member of the Primišlje Territorial Defence Nenad Tepavac (questioned in this particular trial in the capacity of witness), which is confirmed by the existence of a final court verdict.³²

The Court concludes „that the defendant permitted a member of his unit Nenad Tepavac to act in such manner“, basing such conclusion on a lack of guarantees that the defendant had clearly warned members of his unit about their duty to respect the Geneva Conventions relating to civilians and war prisoners, that the defendant must have been close to the site of the event and that the defendant failed to conduct any procedure to assess Nenad Tepavac's responsibility. The Court found the defendant's responsibility with regard to this particular event in „systematic omissions in the defendant's actions“, from which the Court derived the conclusion that this was a criminal act committed by non-doing, i.e. that the defendant contributed with his omissions to the killing of the injured person or, in other words, that in his capacity of a commander he failed to take necessary actions to avoid the most serious consequences.

³⁰ The injured person attributed the majority of negative characteristics to Đuro Grubor, while he thought that the defendant was a dominant military person in the critical event, bearing in mind the fact that it was precisely the defendant whom Đuro Grubor had asked: "Cekin, where to take him". At a later stage, the injured person also heard that the defendant was a platoon commander.

³¹ The witness Milošević testified that on the critical event he saw Đuro Grubor, but he did not see the defendant.

³² The verdict by the Karlovac County Court No. K-17/07 of 11 October 2007 found the defendant Nenad Tepavac guilty of criminal acts of killing referred to in Article 34, paragraph 1 of the KZRH (the fact: the killing of Pavo Ivšić) and of a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH (the fact: abuse of civilians Slavko Flanjko and Tomo Kos) and received a joint prison sentence in the duration of 10 years. The verdict by the VSRH No. I Kž-1265/07 of 1 October 2008 altered the first-instance verdict and rejected the charges for a criminal act referred to in Article 120, paragraph 1 of the OKZRH because the Court violated the rule of speciality referred to in Article 14 of the European Convention on Extradition, whereby the criminal law was violated to the defendant's detriment. Namely, extradition was not requested with regard to the aforementioned criminal act, thus the defendant Tepavac could not have been tried. In a part of the verdict pertaining to the killing of Pavo Ivšić, the VSRH altered the decision on sanction by sentencing the defendant to 8 years in prison.

However, the Court, apart from the fact that it did not state the legal provision on which it based the defendant's responsibility for non-doing, and it is the provision under Article 28 of the OKZRH, the Court also failed to explain its conclusion that the defendant permitted the actions by Nenad Tepavac as a member of the defendant's unit.

The defendant's behaviour (possibly) implies non-commission of necessary actions (warning his subordinates about the obligation to respect the provisions of the Geneva Conventions) in order to prevent the occurrence of consequences (in this particular case, death and physical abuse of civilians).

The formulation „permitted“, used by the Court is inadequate because it can be ambiguously interpreted, although the Court explained later in the text of the verdict that the issue here involved non-commission and the defendants' omissions. However, as already stated, the correlation between Article 120 and Article 28 of the OKZRH was not mentioned anywhere.

Furthermore, it is a fact that the defendant Tepavac was convicted of a murder referred to in Article 34, paragraph 1 of the KZRH, while his superior officer, Cekinović, was found guilty of committing a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH.

Although the defendant Cekinović's responsibility was determined on the basis of two events: deprivation of liberty and physical abuse of Tomo Kos and the killing of Pavo Ivšić, and while respecting the standpoint that a superior officer should be held liable for his omissions and not for the actions committed by his lower-ranking officers, we ask the following question: is it legally acceptable that a sub-ordinated officer, as an immediate perpetrator, is sentenced for one criminal act (killing), while his superior officer, as the ordering party or a person who failed to prevent the commission of an act, is sentenced for another (more serious) criminal act (war crime against civilians)?

The Court assessed as mitigating circumstances the defendant's lack of prior convictions, positive attitude towards civilians placed at the Slunj shelter and towards captured Croatian soldier Juraj Jurašin. The latter was assessed as a particularly important mitigating circumstance which served as the foundation for pronouncing a one-year prison sentence, a minimum which can be pronounced for the subject criminal act by way of applying the provisions on sentence mitigation.

Re-opened trial against the defendant Josip Bikić for a war crime against civilians³³

Split County Court

Criminal act: war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH

Defendant: Josip Bikić

War Crimes Council: judge Neven Cambi, Council President; judges Maria Majić and Davor Svalina, Council members

Prosecution: Michele Squicciarro, Split County Deputy State's Attorney

Defence: lawyer Željko Gulišija

Opinion after the conducted reopened trial

The War Crimes Council of the Split County Court conducted a re-opened trial against Josip Bikić, who was previously convicted by a final verdict, at only one main hearing session. The evidence was actually not presented but, with consent of the parties in the procedure, their reading was only stated in the court records.

We did not observe any omissions in the conduct of the main hearing.

In the re-opened trial the defendant received a prison sentence in the duration of 4 years instead of the previously pronounced 6 years. A very low sentence pronounced in the previous procedure and the newly established mitigating circumstances resulted in the pronouncement of a sentence which was below the minimum sentence stipulated for the subject criminal act.

Severe consequences of the defendant's actions (death of two persons), despite his voluntary surrender, a guilty plea and remorse, do not justify the pronouncement of a sentence which is below the minimum sentence stipulated for a war crime against civilians.

Explanation

Upon request by the convict Josip Bikić, who turned himself to Croatian authorities in November 2008, the decision of the Extra-Trial Council of the Split County Court No. Kv-398/09 of 5 October 2009 permitted **the renewal of criminal proceedings** and the case was reversed to the main hearing stage.

Initially, in November 2002 all eight defendants (Tomislav Duić, Tonči Vrkić, Miljenko Bajić, Josip Bikić, Davor Banić, Emilio Bungur, Ante Gudić and Anđelko Botić) were acquitted of charges by a verdict of the Split County Court Council presided over by judge Slavko Lozina. The defendants were charged that they abused civilians detained at the Military-Investigating Centre „Lora“, tortured them and physically punished them, even killing two civilians and, by doing so, that they committed a war crime against civilians.

After the VSRH *quashed the acquitting verdict* in March 2004 and ordered the trial to be repeated before a completely different council of the first-instance court, **during the repeated trial all defendants were found guilty** on 2 March 2006 and received prison sentences in the range between 6 and 8 years.³⁴

In February 2007, the VSRH fully upheld the aforementioned verdict.

³³ Tino Bego monitored this trial and reported thereof.

³⁴ The defendant Bikić was sentenced to 6 years in prison. It was proven that, as a member of the 72nd Military Police battalion, together with other convicts, the defendant participated in the beating of Nenad Knežević and Gojko Bulović who died as the result of sustained injuries. The defendant Bikić was at large, thus he was tried in absentia, as well as the defendants Tomislav Duić, Miljenko Bajić and Emilio Bungur.

After the defendant voluntarily turned himself in on 18 November 2008 and started serving the sentence, he filed a request for renewal of the proceedings through his defence counsel in which he stated that the trial had been conducted in his absence, that he had not been aware of the existence of a legally valid verdict and that, as soon as he had learned about it, he immediately turned himself in to prosecution bodies.

During the re-opened trial, he fully confessed the commission of the act, as charged by the indictment. He exercised his legal right not to present defence or provide answers to possible questions.³⁵

After the conducted evidence procedure, on 29 December 2009 a verdict was pronounced which quashed the final verdict of the Split County Court No. K-93/04 of 28 February and 2 March 2006. That verdict had been fully upheld by the verdict and ruling of the VSRH No. I Kž-456/06-13 of 6 February 2007 in a section pertaining to the decision on criminal sanction for the defendant Bikić. Thus, by way of applying the provisions on sentence mitigation, he was pronounced a prison sentence in the duration of 4 years.

The Court explained its decision on sentence reduction with essentially different facts pertaining to the existence of mitigating circumstances on behalf of the defendant concerning the situation established with that regard in the previous trial. The Court in the re-opened trial found those mitigating circumstances in the defendant's voluntary surrender and departure to serve a prison sentence, confession that he had committed the criminal act in question, as well as his sincere remorse and regret. Furthermore, it was stated that, according to the standpoint of the Croatian courts and particularly of the ICTY, confession of a criminal act is particularly highly regarded as a mitigating circumstance which plays an important role with regard to selection of type and length of sentence. It also plays an important role at a later stage, with regard to possible decision on conditional release.

According to the information at our disposal, no appeals were lodged against the verdict of the War Crimes Council of the Split County Court dated 29 December 2009 thus, upon expiry of the appellate deadline, it became final.

³⁵ *The defendant had previously presented his defence only once, before the investigating judge of the Split County Court. On that occasion he stated that he was a member of the 72nd military police battalion and that his job was to intervene if HV members were violating public peace and order. He allowed a possibility that on several occasions he took offenders to the prison gate, but he never entered the prison yard or the prison building itself and he had no information about the existence of a certain „C“ block. In the remaining part of his defence, he denied that he had ever abused anyone in the prison.*

Trial against the defendant Goran Zjačić for a war crime against war prisoners³⁶

Gospić County Court

Criminal act war crime against war prisoners referred to in Article 122 of the OKZRH

Defendant: Goran Zjačić

War Crimes Council: Judge Dušan Šporčić, Council President and Judges Dubravka Rudelić and Matilda Rukavina as Council members

Prosecution: Željko Brkljačić, Deputy Gospić County State's Attorney

Defence: lawyer Ljubiša Drageljević

Opinion of the monitoring team after the conducted first instance procedure

On 25 February 2010, the War Crimes Council of the Gospić County Court reached a verdict which found the defendant Goran Zjačić guilty of committing a war crime against war prisoners referred to in Article 122 of the OKZRH and sentenced him to 7 years in prison.

In the enacting terms of the verdict, the Court erroneously established the facts because it erroneously stated the injured person's name, replacing him with the name of a witness.

The indictment charged the defendant that, from the beginning of May 1994 until 5 August 1995, as a member of the Military Police company with the 15th Corps of the so-called RSK Army (the Republic of Serba Krajina), in the prison designated for war prisoners which was located in the primary school building in Frkašić, where war prisoners, members of the HV, the HVO and the BiH Army were detained, on those days when he was on guard he tortured war prisoners, treated them inhumanely and caused them numerous injuries which resulted in serious disruption of their physical and mental health and a life-time disability.

The Court found the defendant's defence, that he was a member of the Military Police company with the 15th Corps of the so-called RSK Army and that he was located in Frkašić prison but that he did not commit the criminal act with which he was charged, to be arbitrary and contradictory in itself and gave faith to the testimonies provided by questioned witnesses – injured persons. Furthermore, the defendant himself, on the occasion of the first questioning, testified that he had beaten up detainee Johannes Tilder, deeming that the injured person was responsible for the killing of his cousin. The defendant also testified that he had a habit of hitting prisoners.

The Court found that the defendant had beaten prisoners with fists, legs, small military shovel, wooden sticks and batons. He particularly tortured detained members of the HV, Johannes Tilder, Ivan Čaić and Ivan Dadić, he beat up and abused detained member of the BiH Army Kadir Bećirspahić and detained member of the HVO, Marko Tomić.

The indictment charged the defendant, as was adjudicated in the verdict, that the defendant abused detained Marko Tomić and beat him on his back with a military baton. However, during the evidence procedure, witnesses Marko Tomić and Mate Tomić were questioned, who had provided their testimonies during the investigation as well. It was evident from their testimonies that the defendant did not abuse Marko, as it was stated in the verdict, but Mato Tomić. Witness Marko Tomić testified that the defendant Goran Zjačić did not hurt him personally, but he did hurt detainees Dadić and Čaić.

Such an error made by the Court makes it obvious that the facts were erroneously established because there was an error made when stating the name of the person who was injured by the defendant's actions, i.e. because

³⁶ Maja Kovačević Bošković monitored this trial and reported thereof.

determinations set forth in the verdict (with regard to the injured party) were not in compliance with the court minutes containing testimonies of witnesses who had provided depositions regarding the crucial facts.

In the section of the verdict where the Court explains the decision on criminal sanction, it is stated that the Council took into consideration the severity of the committed criminal act, the fact that the subject issue involved the most serious criminal acts anticipated by the Penal Code and persistence in the commission of the act. However, on the other side, the Council found that the “only mitigating circumstance towards the defendant was, to a certain extent, the lapse of time, because more than 15 years had passed since the criminal act was committed“.

We are of the opinion that the term „elapse of time“, particularly when this term is joined by the term „to a certain extent“, is not listed in the Penal Code as a circumstance which could affect the severity of a sentence pronounced against the defendant. It is unclear why the Council found this to be a mitigating circumstance, particularly because the issue involves a criminal act for which there is no statute of limitations. Namely, precisely because the „criminal prosecution of criminal act of war crime does not fall under the statute of limitations ... the legislator’s intention was not to have the elapse of time affecting the sentencing of perpetrators of those criminal acts, although this particular circumstance is... often used as a significant mitigating circumstance when pronouncing a sentence, providing that the defendant himself did not contribute to the lapse of time by his actions“.³⁷

³⁷ *The verdict of the VSRH No. I Kž 1008/08-13 of 16, 17 and 18 November 2009, the trial against the defendants Rahim Ademi and Mirko Norac for criminal acts referred to in Articles 120 and 122 of the OKZRH.*

Trial against the defendant Nedjeljko Janković for a war crime against civilians³⁸

Zadar County Court

Criminal act: war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH

Defendant: Nedjeljko Janković

War Crimes Council: Judge Dijana Grancarić, Council President and judges Enka Moković and Milan Pečina, Council members

Prosecution: Radovan Marjanović, Deputy Zadar County State's Attorney

Defence: lawyer Luka Šušak

Opinion after the conducted first instance procedure

Verdict issued by the Zadar County Court No. K-43/09 of 15 March 2010 found the defendant guilty that, in October and November 1991 in Zemunik Gornji, Goleš hamlet, and Jagodnja Donja, as a member of the „180th Motorized Brigade within the composition of the 9th Corps of the Yugoslav Army“, alone and together with Slavko Đokić, member of the same military unit, while implementing the Great Serbian idea of military conquer and separation of a part of the territory of the Republic of Croatia, the defendant brutally intimidated Croatian population, looted and destroyed civilian property in order to force them to abandon their homes and the area of the so-called Republic of Serba Krajina, i.e. to render it impossible for them to return to their homes.

He was sentenced to 6 years in prison.

The defendant was arrested in the Republic of Slovenia and extradited to the Republic of Croatia. The time when he was deprived of liberty, from 12 August 2008 to 22 April 2009, was included in the pronounced prison sentence, as well as his time spent in detention from 22 April 2009 onwards and the time he spent in prison serving a 2-year sentence adjudicated by the Banja Luka Military Court No. IK-54/92 of 23 March 1992.³⁹

In compliance with the established facts, the Court disregarded those parts of the indictment for which it deemed they were not proven. Apart from that, the wording “destroyed civilian property” was added to the enacting terms of the verdict with an explanation that the DORH obviously failed to add that wording to the indictment.

The defendant's defence counsel disputed the indictment by asking the following questions:

- whether in this particular case a final verdict was reached;
- whether the perpetrator was the defendant (Nedjeljko Janković, son of Žarko) or Nedjeljko Janković, son of Petar;
- whether the perpetrator's intention was intimidation of the population with the objective of making them leave the territory of the so-called RSK (and, by doing so, commission of a war crime) or it was a criminal act of robbery, damaging other person's property and bringing other persons into jeopardy by a dangerous act?

The Council found it indisputable that it was precisely the defendant, at the incriminating period of time a conscript in the 180th Motorized Brigade of the 9th Corps of the Yugoslav Army, who was the perpetrator of the

³⁸ *The trial was monitored and reported by Martina Klekar.*

³⁹ *The quoted verdict of the Banja Luka Military Court found the defendant, together with Slavko Đokić, guilty of committing an extended criminal act of robbery related to the events in Jagodnja Donja. With regard to events in Zemunik Gornji, Goleš hamlet, the defendant alone was found guilty of committing a criminal act of damaging other person's property concurrent with the criminal act of bringing into jeopardy the life and property by dangerous acts or means.*

subject criminal act, not a person with the same name and family name, a volunteer from Vojvodina, member of the same unit, although the defence claimed that the presented material evidence pointed otherwise.

The Council assumed a standpoint that in this specific case it was not an adjudicated matter, with the explanation that the trial conducted in Banja Luka was essentially different from the criminal proceedings in question because, „apart from the fact that certain objective elements of the incriminating event partially coincided, subjective elements on the defendant’s side are completely different“. The verdict stated that war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH, unlike the criminal acts for which the defendant received a final sentence before the Banja Luka Military Court, contains a different motive, has a different protective object, and the facts discussed in the subject criminal proceedings are much wider. To support this standpoint, the Court stated that „the criminal act of war crime is not a proprietary offence, nor is its objective unlawful gain of proprietary benefit, but it is a criminal act contrary to the Convention relative to the Protection of Victims of Non-international Armed Conflicts, the motive of which was intimidation of local population and forcing them to leave the Republic of Croatia.“

Factual descriptions of the criminal acts contained in the verdict issued by the Banja Luka Military Court and in this verdict indicate, without any doubt, that this was the same event with a different legal qualification. Bearing in mind the court practice hitherto, pursuant to which it was permitted to try perpetrators of war crimes against whom charges filed for the same events during the 90’s had been rejected by applying the General Amnesty Act when those acts had been legally qualified as murders,⁴⁰ it is not to be expected that the VSRH would deem that the subject matter of the indictment had already been adjudicated with a final verdict.

However, it is questionable whether the VSRH would also deem that the motive behind the criminal act in question was forcing Croats to abandon their homes and the territory of the so-called RSK and render it impossible for them to return, or the motives were of proprietary nature.

Namely, although it is indisputable that a war crime can also be committed towards a member of the same ethnicity, we point out that the enacting terms of the verdict reached by the Zadar County Court stated that the injured persons were Croats, although it was evident from the testimonies provided by some injured persons, as well as by some witnesses, that there were also persons of Serb ethnicity among the injured persons, some of whom abandoned their homes only in August 1995, meaning during or immediately after the “Storm” military action. None of the injured persons testified during the trial that the defendant forced them to abandon their homes and the occupied areas of the Republic of Croatia.

⁴⁰ Those are trials against Fred Marguš, conducted before the Osijek County Court, and against Damir Vida Raguž, conducted before the Sisak County Court, for war crimes against civilians referred to in Article 120, paragraph 1 of the OKZRH.

APPENDIX 1 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

a) trials re-opened pursuant to the requests filed by the State Attorney's Office or the requ

	Case	Criminal offence / Court / Council	
1.	<p>CRIME IN THE VILLAGE OF PECKI – BJELOVEC HAMLET</p> <p>After the prosecution dropped charged, the criminal proceedings were discontinued on 7 January 2010.</p> <p><i>Previously, the VSRH² established that the request for protection of legality was well founded and that the final verdict of the Sisak District Court No. K-24/92 of 25 May 1993 and the verdict of the VSRH No. I Kž 833/93 of 30 November 1993 had violated the law to the detriment of the sentenced persons.</i></p>	<p>War crime against civilians</p> <p>The Sisak County Court</p> <p>War Crimes Council: Judge Melita Avedić, Council President; Judge Predrag Jovanić, Council Member; Judge Ljubica Balder, Council Member</p>	
2.	<p>Following the permission to re-open criminal proceedings (in which the defendants had been found guilty in their absence, on the basis of the Verdict K-4/95 of 26 January 1995 reached by the Zadar County Court, and sentenced to 8 years in prison each because of the commission of war crimes against civilians), and after amending the indictment by charging the defendants with a criminal offence of endangering the territorial integrity referred to in Article 231, paragraph 1 of the KZRH³ - on 12 April 2010, the Zadar County Court discontinued the criminal proceedings against the defendants by applying the provisions of General Amnesty Act.</p>	<p>War crime against civilians; after the change of legal qualification: endangering the territorial integrity</p> <p>The Zadar County Court</p>	
3.	<p>Following the permission to re-open criminal proceedings (in which the defendants had been sentenced to 20 years in prison each, on the basis of the legally binding Verdict K-58/95 of 15 March 1996 reached by the Zadar County Court, for the commission of war crimes against civilians), and after amending the indictment by charging the defendants with a criminal offence of endangering the territorial integrity referred to in Article 231, paragraph 1 of the KZRH - on 9 April 2010, the Zadar County Court discontinued the criminal proceedings against the defendants by applying the provisions of General Amnesty Act.</p>	<p>War crime against civilians; after the change of legal qualification: endangering the territorial integrity</p> <p>The Zadar County Court</p>	
4.	<p>Following the permission to re-open criminal proceedings (in which the defendants had been sentenced to prison in the duration of 6 to 8 years, on the basis of legally binding verdict No. K-47/92 of 7 December 1994 reached by the Zadar County Court, for the commission of war crimes against civilians), and after amending the indictment by charging the defendants with armed rebellion referred to in Article 235, paragraph 1 of the KZRH, - on 9 April 2010, the Zadar County Court discontinued the criminal proceedings against the defendants by applying the provisions of General Amnesty Act.</p>	<p>War crime against civilians; after the change of legal qualification: armed rebellion</p> <p>The Zadar County Court</p>	

¹ Translator's note: County State Attorney's Office (hereinafter: ŽDO)

² Translator's note: The Supreme Court of the Republic of Croatia (hereinafter: VSRH)

³ Translator's note: Criminal Code of the Republic of Croatia (hereinafter: KZRH)

ests for the protection of legality

Indictment No./ ŽDO ¹	Defendants	Names of victims
<p>Indictment No. KT-178/92 of 30 November 1992 issued by the Sisak District Public Prosecution, amended at the main hearing held on 15 September 2009.</p> <p>Prosecution: Jadranka Huskić, the Sisak County Deputy State's Attorney</p>	<p>Nikola Radišević, Jovo Zubanović, Simo Plavljenić and Dušan Paunović</p> <p>Members of Serb formations</p> <p>Fugitives from justice, tried <i>in absentia</i></p>	<p>Victims – killed: Stjepan Horvat, Đuro Horvat, Mato Horvat and Ivan Bugarin</p>
<p>Indictment No. KT-44/93 of 30 December 1994 issued by the Zadar District State Attorney's Office, amended by a memo dated 11 March 2010.</p>	<p>Maks Podgornik and Zdravko Randelović</p> <p>Members of Serb formations (pilots of the so called JNA)</p> <p>Tried <i>in absentia</i></p>	<p>- no victims, the defendants were charged for destroying the HTV transmitter antenna system "Grba" near Zadar</p>
<p>- not in possession of this document</p>	<p>Zoran Lakić, Marko Lacmanović, Rajko Radmanović, Zoran Radmanović, Bogdan Repaja and Drago Repaja</p> <p>Members of Serb formations</p> <p>Tried in absentia</p>	<p>- not in possession of the names of victims</p>
<p>- not in possession of this document</p>	<p>Milenko Drača, Stevan Drača, Stevan Milanko, Milan Milanko, Branko Lakić, Dragan Končarević, Živko Milanko, Branislav Milanko, Željko Sanković, Davor Sanković and Dragan Drača</p> <p>Members of Serb formations</p> <p>Tried <i>in absentia</i></p>	<p>- not in possession of the names of victims</p>

b) Verdicts before appeal

	Case	Criminal offence / Court / Council	
1.	<p>CRIME IN LETOVANIĆ</p> <p>On 12 May 2010, the first instance verdict was reached finding the defendants guilty sentencing them to 7 years in prison each.</p>	<p>War crime against civilians</p> <p>The Sisak County Court</p> <p>War Crimes Council: Judge Melita Avedić, Council President; Judge Predrag Jovanić, Council Member; Judge Željko Mlinarić, Council Member</p>	
2.	<p>CRIME IN SLUNJ AND SURROUNDING VILLAGES</p> <p>Previously, the VSRH quashed the first instance verdict reached on 1 December 2009 wherein the defendant was found guilty and sentenced to one year in prison.</p> <p>In the repeated trial, on 4 May 2010 the defendant was found guilty and sentenced to 4 years in prison.</p>	<p>War crime against civilians</p> <p>The Karlovac County Court</p> <p>War Crimes Council: Judge Ante Ujević, Council President; Judge Alenka Laptalo, Council Member; Judge Juraj Dujam, Council Member</p>	
3.	<p>CRIME IN THE VILLAGES ALONG THE UNA RIVER NEAR HRVATSKA KOSTAJNICA</p> <p>On 23 April 2010, the first instance verdict was reached wherein the defendants were found guilty and sentenced to prison terms: Pero Đermanović (11 years), Ljuban Bradarić (1 year), Dubravko Čavić (9 years) and Ljubiša Čavić (2 years).</p>	<p>War crime against civilians</p> <p>The Sisak County Court</p> <p>War Crimes Council: Judge Snježana Mrkoci, Council President; Judge Željko Mlinarić, Council Member; Judge Alenka Lešić, Council Member</p>	
4.	<p>CRIME IN NOVSKA II</p> <p>On 16 April 2010, Damir Vide Raguž was found guilty by the first instance verdict and sentenced to 20 years in prison, whereas the defendant Željko Škledar was acquitted of charges. In 1992, the defendants Raguž and presently deceased Dubravko Leskovar had been tried for the event in question. Back then, the Zagreb Military Prosecution charged the defendants with a murder. However, the Military Court in Zagreb discontinued the proceedings by applying the Act on Pardon against Criminal Prosecution for Criminal Acts Committed in Armed Conflicts and in the War against the Republic of Croatia.</p>	<p>War crime against civilians</p> <p>The Sisak County Court</p> <p>War Crimes Council: Judge Snježana Mrkoci, Council President; Judge Predrag Jovanović, Council Member; Judge Ljubica Balder, Council Member</p>	
5.	<p>CRIME IN DALJ IV</p> <p>The VSRH quashed because of procedural omissions the 8 April 2009 first instance verdict in which the defendant was found guilty and sentenced to 5 years in prison. Following to that, in the repeated trial, the War Crimes Council of the Osijek County Court found again the defendant guilty and sentenced him to 5 years in prison.</p>	<p>War crime against civilians</p> <p>The Osijek County Court</p> <p>War Crimes Council: Judge Darko Krušlin, Council President; Judge Miroslav Jukić, Council Member; Judge Drago Grubeša, Council Member</p>	
6.	<p>CRIME IN RAVNI KOTARI</p> <p>On 15 March 2010, the defendant was found guilty and sentenced to 6 years in prison. The sentence included the time which the defendant had spent under arrest and the time he served in prison on the basis of the legally binding verdict reached by the Military Court in Banja Luka.</p> <p><i>Namely, the defendant was sentenced in respect of the events in question in 1992 by the legally binding (final) verdict to two years in prison, reached by the Military Court in Banja Luka. The conduct of the defendant had been determined to have a legal qualification of a robbery, of damaging another persons' property and endangering life and property by dangerous public acts or means</i></p>	<p>War crime against civilians</p> <p>The Zadar County Court</p> <p>War Crimes Council: Judge Dijana Grancarić, Council President; Judge Enka Moković, Council Member; Judge Milan Pečina, Council Member</p>	
7.	<p>CRIME IN FRKAŠIĆ II</p> <p>On 25 February 2010, the defendant was found guilty by the first instance verdict and sentenced to 7 years in prison.</p>	<p>War crime against war prisoners</p> <p>The Gospić County Court</p> <p>War Crimes Council: Judge Dušan Šporčić, Council President; Judge Dubravka Rudelić, Council Member; Judge Matilda Rukavina, Council Member</p>	

BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2010

Indictment No. / ŽDO	Defendants	Names of victims
<p>Indictment No. K-DO-22/2009 of 3 December 2009 issued by the Sisak ŽDO.</p> <p>Prosecution: Marijan Zgurić, Sisak County Deputy State's Attorney</p>	<p>Ivica Kosturin and Damir Vrban</p> <p>Members of Croatian formations</p> <p>Kosturin has been detained as of 30 September 2009, and Vrban as of 2 October 2009.</p>	<p>Victim (tortured and killed): Slavko Ivanjek</p>
<p>Indictment No. KT-36/95 of 30 July 2009 issued by the Karlovac ŽDO, amended at the main hearing held on 4 May 2010.</p> <p>Prosecution: Zdravko Car, Karlovac County Deputy State's Attorney</p>	<p>Miće Cekinović</p> <p>Member of Serb formations</p> <p>He has been detained as of 6 July 2009.</p>	<p>Victims:</p> <ul style="list-style-type: none"> - killed: Pavo Ivšić - tortured and unlawfully detained: Tomo Kos - expelled: all inhabitants of Croatian ethnicity
<p>Indictment No. K-DO-10/09 of 5 November 2009 issued by the Sisak ŽDO.</p> <p>Prosecution: Ivan Petrkač, Sisak County Deputy State's Attorney</p>	<p>Pero Đermanović, Ljuban Bradarić, Dubravko Čavić and Ljubiša Čavić</p> <p>Members of Serb formations</p> <p>The defendant Pero Đermanović is detained, the defendant Ljuban Bradarić attends the trial not detained, the defendant Dubravko Čavić not available to Croatian judiciary – tried <i>in absentia</i>, and defendant Ljubiša Čavić after the pronouncement of the first instance verdict attends the trial not detained.</p>	<p>Victims:</p> <ul style="list-style-type: none"> - unlawfully detained, tortured and killed: Vladimir Letić - burned houses: belonging to Stevo Karanović and to Ivo Karanović - intimidated: Danica Devedžija
<p>Indictment No. K-DO -16/09 of 15 January 2010 issued by the Sisak ŽDO, amended in April 2010.</p> <p>Prosecution: Jadranka Huskić, Sisak County Deputy State's Attorney</p>	<p>Damir Vide Raguž and Željko Škledar</p> <p>Members of Croatian formations</p> <p>Defendant Raguž is not available to Croatian judiciary and thus tried <i>in absentia</i>, and defendant Škledar attends the trial not detained (he was in detention but only until the pronouncement of the first instance verdict)</p>	<p>Victims – tortured and killed: Sajka Rašković, Miša Rašković, Mihajlo Šeatović and Ljuban Vujić</p>
<p>Indictment No. K-DO-52/08 of 4 November 2008 issued by the Osijek ŽDO, amended (specified) on 31 March 2009.</p> <p>Prosecution: Dragan Poljak, Osijek County Deputy State's Attorney</p>	<p>Čedo Jović</p> <p>Member of Serb formations</p> <p>He has been detained as of 7 July 2008.</p>	<p>Victims:</p> <ul style="list-style-type: none"> - killed: Antun Kundić - physically abused: Ivan Horvat, Ivan Bodza, Karol Kremerenski, Josip Ledenčan and Emerik Huđik
<p>Indictment No. KT-23/96 of 3 August 2009 issued by the Zadar ŽDO.</p> <p>Prosecution: Radovan Marjanović, Zadar County Deputy State's Attorney</p>	<p>Nedjeljko Janković</p> <p>Member of Serb formations</p> <p>Arrested on 12 August 2008, extradited, in detention in Zadar as of 22 April 2009.</p>	<p>Victims – seized money and/or destroyed property: Jandra Žepina, Ika Žepina, Ružica Žepina, Zorka Žepina, Branko Kovačević, Boris Guša, Branko Guša and Duje Žepina</p>
<p>Indictment No. K-DO-13/08 of 9 March 2009 issued by the Gospić ŽDO.</p> <p>Prosecution: Željko Brkljačić, Gospić County Deputy State's Attorney</p>	<p>Goran Zjačić</p> <p>Member of Serb formations</p> <p>He has been detained as of 28 September 2008.</p>	<p>Victims:</p> <ul style="list-style-type: none"> - physically abused (pursuant to the indictment and verdict): Johannes Tilder, Ivan Čaić, Ivan Dadić (HV members); Marko Tomić (HVO member); Kadir Bećirspahić (BIH Army member)

APPENDIX 1 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

c) ongoing trials

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
1.	<p>CRIME IN TOVARNIK</p> <p>The trial is ongoing. The main hearing began on 13 April 2010.</p>	<p>Genocide and war crime against civilians</p> <p>The Vukovar County Court</p> <p>War Crimes Council: Judge Nikola Bešenski, Council President; Judge Nevenka Zeko, Council Member; Judge Zlata Sotirov, Council Member</p>	<p>Indictment No. DO-K-34/00 of 1 February 2001 issued by the Vukovar ŽDO.</p> <p>Prosecution: Miroslav Dasović, Vukovar County Deputy State's Attorney</p>	
2.	<p>CRIME AT THE VUKOVAR HOSPITAL</p> <p>After one-year recess, the main hearing started anew in March 2010.</p>	<p>War crime against civilians</p> <p>The Vukovar County Court</p> <p>War Crimes Council: Judge Nikola Bešenski, Council President; Judge Nevenka Zeko, Council Member; Judge Jadranka Kurbel, Council Member</p>	<p>Indictment No. DO-K-12/98 of 19 March 2001 issued by the Vukovar ŽDO.</p> <p>Prosecution: Vlatko Miljković, Vukovar County Deputy State's Attorney</p>	
3.	<p>CRIME IN SLUNJSKA SELNICA</p> <p>The main hearing in the repeated trial is ongoing. It began on 29 April 2010.</p> <p><i>Previously, because of procedural omissions the VSRH quashed in March 2007 the first instance verdict in which the defendants were found guilty and sentenced to 7 years in prison each.</i></p>	<p>War crime against civilians</p> <p>The Karlovac County Court</p> <p>War Crimes Council: Judge Ante Ujević, Council President; Judge Jasminka Jerinić Mušnjak, Council Member; Judge Marijan Janjac, Council Member</p>	<p>Indictment No. KT-6/96 of 29 February 1996 issued by the Karlovac ŽDO.</p> <p>Prosecution: Zdravko Car, Karlovac County Deputy State's Attorney</p>	
4.	<p>ARSON IN PUŠINE AND SLATINSKI DRENOVAC</p> <p>The trial is ongoing. The main hearing began on 22 March 2010.</p>	<p>War crime against civilians</p> <p>The Bjelovar County Court</p> <p>War Crimes Council: Judge Sandra Hančić, Council President; Judge Mladen Piškorec, Council Member; Judge Ivanka Šarko, Council Member</p>	<p>Indictment No. K-DO-6/06 of 23 September 2008 issued by the Bjelovar ŽDO</p> <p>Prosecution: Branka Merzić, Bjelovar County State's Attorney</p>	

BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2010

Defendants	Names of victims
<p>Miloš Stanimirović, Stevan Srdić, Dušan Stupar, Boško Miljković, Dragan Sedlić, Branislav Jerković, Jovo Janjić, Milenko Stojanović, Dušan Dobrić, Djuro Dobrić, Jovan Miljković, Katica Maljković, Nikola Tintor, Željko Krnjajić and Radoslav Stanimirović</p> <p>Members of Serb formations</p> <p>The defendants are not available to Croatian judiciary and thus are tried <i>in absentia</i>.</p> <p><i>Present defendants Milenko Stupar, Strabinja Ergić, Dragoljub Trifunović, Đorđe Miljković, Mičo Maljković and Janko Ostojić faced trial before. Stupar, Ergić, Trifunović and Mičo Maljković were acquitted; the charges in respect of Ostojić were rejected, and Đorđe Miljković was sentenced to 3 years in prison. Later, after his arrest Aleksandar Trifunović also faced trial. However, in the course of the main hearing and following to his release from detention, he fled from the Republic of Croatia. In respect of the defendants Jovan Medić and Božo Rudić, proceedings were discontinued because of their death.</i></p>	<p>Victims (according to the Indictment, in respect of 24 defendants):</p> <ul style="list-style-type: none"> - killed: Ruža Jurić, Ivan Jurić, Željko Vrančić, Antun Šimunić, Berislava Šimunić, Danijel Marinković, Mato Ćuk, Marijan Mioković, Rudolf Rapp, Ivan Zelić, Stjepan Matić, Stipo Kovačević, ? Bilić, an unidentified person, Karlo Grbešić, Anto Markanović, Marko Bošnjak, Ivo Maleševac, Djuro Grgić, Marin Mioković, Branko Salajić, Tomo Glibo, Filomena Glibo, Ivan Burik, Pavao Vrančić, Ilija Džambo, Krešo Puljić, Mato Čulić, Vojko Selak; - tortured: Mirko Markutović, Živan Markutović, Andrija Jurić, Tomislav Grgić, Stjepan Marinković, Pavo Donković, Božo Grbešić, Žarko Grbešić, Dragan Hajduk, Glibo Stjepan, Branko Šimunić, Ratko Dovičin, Marin Mitrović, Marijan Matijević; - expelled: Ilija Šimunić, Tomislav Grgić and his mother, Jozo Beljo and his family, Vlatko Glavašić, Ivan Palijan's family, Ivo Djurić, Juro Beljo, Mato Ćuk, Mijo Siketić's family, Andrija Jurić, Stipo Glibo, Vjekoslav Mioković, Josip Djurčinović, Martin Djurčinović, Marija Topić, Marica Grgić, Đuro Grgić, Ivan Zelić, Stjepan Matić, Dragan Hajduk, Mijo Petković; - coerced to forced labour: Mijo Siketić, Mile Ivančić (wounded), Stipo Kovačević, Bilić and one more unidentified person, Martin Habčak; - burned houses: Marin Šijaković, Vlatko Glavašić, Rudolf Rapp, Dragan Hajduk; - maltreated: Marija Palijan, Tanja Palijan, Martin Habčak, Adam Čurčinović
<p>Bogdan Kuzmić</p> <p>Member of Serb formations</p> <p>The defendant is a fugitive from justice, thus he is tried in <i>absentia</i></p>	<p>Victims – taken away and killed in a, for the time being, unidentified manner: Martin Došen, Marko Mandić, Branko Lukenda, Stanko Duvnjak and Tomislav Hegeduš</p>
<p>Miroslav Bijelić, Savo Padežanin, Đuro Tepšić and Rade Bjeloš</p> <p>Members of Serb formations</p> <p>Tried in <i>absentia</i></p>	<p>Victim - killed: Josip Obranović</p>
<p>Ivan Husnjak and Goran Sokol</p> <p>Members of Croatian formations</p> <p>Attend the trial not detained</p>	<p>Injured persons – owners and holders of destroyed facilities:</p> <ul style="list-style-type: none"> - 17 destroyed houses in the village of Pušine and the Orthodox church tower damaged; - 19 houses destroyed in Slatinski Drenovac; - destroyed the hunters' lodge between Pušine and Slatinski Drenovac

APPENDIX 1 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
5.	<p>CRIME IN LOVAS</p> <p>The last main hearing session was held on 16 February 2010. Due to a recess exceeding two months, the main hearing will have to start anew.</p>	<p>Genocide and war crime against civilians</p> <p>The Vukovar County Court</p> <p>War Crimes Council: Judge Jadranka Kurbel, Council President; Judge Berislav Matanović, Council Member; Judge Željko Marin, Council Member</p> <p>Note: <i>Beginning 2009, the composition of the Council had been altered. Before that, it comprised: Judge Ante Zeljko, Council President; Judge Zlata Sotirov, Council Member; Judge Nevenka Zeko, Council Member</i></p>	<p>Indictment No. KT-265/92 of 19 December 1994 issued by the Osijek ŽDO and Indictment No. K-DO-44/04 of 1 October 2004 issued by the Vukovar ŽDO, joined into a single indictment No. K-DO-39/00 issued by the Vukovar ŽDO.</p> <p>Prosecution: Vlatko Miljković, Vukovar County Deputy State's Attorney</p>	
6.	<p>CRIME IN KRUŠEVO</p> <p>The main hearing in the third (second repeated) trial is ongoing.</p> <p><i>Previously, the VSRH quashed in 2000 the first instance verdict of acquittal reached on 1 December 1997. Then, in 2007 it quashed also the verdict by which the first instance court found on 15 September 2005 the defendants guilty sentencing the defendant Jurjević to 4 years and the defendant Tošić to 15 years in prison.</i></p>	<p>War crime against civilians</p> <p>The Zadar County Court</p> <p>War Crimes Council: Judge Enka Moković, Council President; Judge Boris Babić, Council Member; Judge Dijana Grancarić, Council Member</p>	<p>Indictment No. KT-266/97 of 18 June 1997 issued by the Zadar ŽDO.</p> <p>Prosecution: Radoslav Marjanović, Zadar County Deputy State's Attorney</p>	
7.	<p>CRIME IN MALI LOŠINJ⁴</p> <p>The main hearing is ongoing</p>	<p>Murder of official person, attempted murder of official person and instigating another person to commit a murder of an official person</p> <p>The Rijeka County Court</p> <p>Court Council: Judge Ika Šarić, Council President</p>	<p>Indictment No. KT-122/91-IV of 30 June 2008 issued by the Rijeka ŽDO.</p> <p>Prosecution: Darko Karlović, Rijeka County State Attorney's Office</p>	

BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2010

Defendants	Names of victims
<p>Milan Tepavac and Ilija Vorkapić (following the separation of the court proceedings, the trial in their case is held under No. K-20/09)</p> <p>Members of Serb formations</p> <p>The defendants Tepavac and Vorkapić attend the trial not detained</p> <p><i>On 29 April 2009, in respect of the present defendants – the proceedings had been separated.</i></p> <p><i>In respect of the defendants-fugitives from justice: Ljuban Devetak, Milan Devčić, Milenko Rudić, Željko Krnjajić, Slobodan Zoraja, Željko Brajković, Ilija Kresojević, Milan Rendulić, Obrad Tepavac, Zoran Tepavac, Milan Radojčić, Milan Vorkapić, Dušan Grković and Đuro Prodanović – their proceedings was registered under No. K-25/00. However, no hearings are being scheduled.</i></p>	<p>Victims:</p> <p>- 24 persons killed in a mine field: Božo Mađarac, Mijo Šalaj, Tomislav Sabljak, Slavko Štrangarić, Nikola Badanjak, Marko Vidić, Mato Hodak, Tomo Sabljak – junior, Ivica Sabljak, Slavko Kuzmić, Petar Badanjak, Marko Marković, Ivan Conjar, Ivan Kraljević – junior, Ivan Palijan, Josip Turkalj, Luka Balić, Željko Pavlič, Darko Pavlič, Darko Sokolović, Zlatko Božić, Ivan Vidić, Antun Panjek, Zlatko Panjek</p> <p>- 45 persons killed at different locations in Lovas: Danijel Badanjak, Ilija Badanjak, Antun Jovanović, Anka Jovanović, Kata Pavličević, Alojzije Polić, Mato Keser, Josip Poljak, Ivan Ostrun, Dragutin Pejić, Stipo Mađarević, Pavo Đaković, Stipo Pejić, Živan Antolović, Milan Latas, Juraj Poljak, Mijo Božić, Vida Krizmanić, Josip Kraljević, Mirko Grgić, Mato Adamović, Marko Sabljak, Zoran Krizmanić, Josip Jovanović, Marin Balić, Katica Balić, Josip Turkalj, Petar Luketić, Ante Luketić, Đuka Luketić, Jozefina Pavošević, Marijana Pavošević, Slavica Pavošević, Stipo Luketić, Marija Luketić, Josip Rendulić, Rudolf Jonak, Andrija Deličić, Pero Rendulić, Franjo Pandža, Božo Vidić, Zvonko Martinović, Marko Damjanović, Anica Lemunović, Đuka Krizmanić</p> <p>- 15 persons severely wounded in a mine field: Marko Filić, Emanuel Filić, Stjepan Peulić, Josip Sabljak, Stanislav Franković, Milko Keser, Ivica Mujić, Ljubo Solaković, Milan Radmilović, Zlatko Toma, Josip Gešnja, Mato Kraljević, Petar Vuleta, Lovro Geistener, Dragan Sabljak</p> <p>- 18 persons severely injured due to torture: Mato Mađarević, Đuro Filić, Zoran Jovanović, Marija Vidić, Đuka Radočaj, Berislav Filić, Emanuel Filić, Pavo Antolović, Ivo Antolović, Željko Francisković, Ivan Đaković, Anđelko Filić, Zvonko Balić, Vjekoslav Balić, Man Pejak, Petar Sabljak, Marko Grčanac</p>
<p>Milan Jurjević and Davor Tošić</p> <p>Members of Serb formations</p> <p>Defendant Jurjević attends the trial not detained (was in detention from 26 May until 1 December 1997); defendant Tošić is a fugitive from justice, thus is tried <i>in absentia</i>.</p>	<p>Victim – killed: Mile Brkić</p>
<p>Vlado Grbin, Petar Petrović and Radovan Anđić</p> <p>Officer (1st defendant) and JNA conscripts-soldiers (2nd and 3rd defendant)</p> <p>Grbin and Petrović are tried in their absence whereas Anđić attends the trial not detained</p>	<p>Victims – killed: Rifet Mustić and Mladen Bujačić</p>

APPENDIX 2 - OVERVIEW OF PUBLIC SESSIONS AT THE CROATIAN SUPREME

	Case	Criminal offence / Court	Indictment No. / ŽDO
1	<p>CRIME IN MARINO SELO</p> <p>The VSRH quashed the verdict reached on 13 March 2009 by the War Crimes Council of the Požega County Court wherein the defendants were found guilty and sentenced to prison as follows: Kufner (4 years and 6 months), Šimić (1 year), Vancaš (3 years), Poletto (16 years), Tutić (12 years) and Ivezić (10 years).</p>	<p>War crime against civilians</p> <p>The VSRH Public Session was held on 23 March 2010.</p>	<p>Indictment No. K-DO-14/07 of 12 August 2008 issued by the Požega ŽDO, modified on 18 February 2009.</p> <p>Prosecution: Božena Jurković, Požega County Deputy State's Attorney</p>
2	<p>CRIME IN SLUNJ AND SURROUNDING VILLAGES</p> <p>The VSRH quashed the verdict reached on 1 December 2009 by the Karlovac County Court wherein the defendant was found guilty and sentenced to one year in prison.</p> <p><i>Following to that - on 4 May 2010, in the repeated trial, the War Crimes Council of the Karlovac County Court found the defendant guilty sentencing him to 4 years in prison.</i></p>	<p>War crime against civilians</p> <p>The VSRH Public Session was held on 24 March 2010.</p>	<p>Indictment No. KT-36/95 of 30 July 2009 issued by the Karlovac ŽDO, amended at the main hearing held on 4 May 2010.</p> <p>Prosecution: Zdravko Car, Karlovac County Deputy State's Attorney</p>
3	<p>CRIME IN BREZOVICA FOREST</p> <p>The VSRH quashed the verdict reached on 26 August 2009 by the Sisak County Court wherein the defendant was found guilty sentencing him to 9 years in prison.</p>	<p>War crime against civilians</p> <p>The VSRH Public Session was held on 13 April 2010.</p>	<p>Indictment No. K-DO-4/09 of 1 April 2009 issued by the Sisak ŽDO.</p> <p>Prosecution: Marijan Zgurić, Sisak County Deputy State's Attorney</p>
4	<p>CRIME IN OSIJEK</p> <p>On 8 May 2009 the War Crimes Council of the Zagreb County Court pronounced the verdict in which the defendants were found guilty. The defendant Glavaš received prison sentences in the duration of 5 and 8 years and he was pronounced a joint prison sentence in the duration of 10 years, the defendant Krnjak received a prison sentence in the duration of 8 years, the defendant Getoš Magdić in the duration of 7 years, while the defendants Kontić, Valentić and Dragić in the duration of 5 years each.</p> <p><i>We are not familiar with the decision of the Supreme Court.</i></p>	<p>War crime against civilians</p> <p>The VSRH Public Session was held on 31 May, 1, 2 and 4 June 2010.</p>	<p>Indictments issued by the Osijek ŽDO No. K-DO-76/06 of 16 April 2007 and by the Zagreb ŽDO No. K-DO-105/06 of 9 May 2007, amended and joined in a single indictment No. K-DO-105/06 of 30 September 2008.</p> <p>Prosecution: Jasmina Dolmagić, Zagreb County Deputy State's Attorney and Miroslav Kraljević, Osijek County Deputy State's Attorney (assigned to the Zagreb ŽDO to perform the tasks of Zagreb County Deputy State's Attorney)</p>

⁴ Although this is not a war crime case, we are monitoring it because the conflict perpetrators were members of the Yugoslav National Army (JNA) i.e. of the Croatian formations.

COURT REGARDING WAR CRIME TRIALS FROM JANUARY TO MAY 2010

Defendants	Names of victims
<p>Damir Kufner, Davor Šimić, Pavao Vančaš, Tomica Poletto, Željko Tutić and Antun Ivezić</p> <p>Members of Croatian formations</p> <p>Detention against defendants Davor Šimić and Pavao Vančaš was vacated at the main hearing; and it was vacated to Damir Kufner in the course of pronouncement of the verdict. Other defendants are still in detention.</p>	<p>Victims:</p> <p>- abused and tortured: Branko Stanković, Mijo and Jovo Krajnović (inhabitants of the village of Kip); Milka Bunčić, Jeka Žestić and Nikola Ivanović (inhabitants of the village of Klisa)</p> <p>- abused, tortured and killed: Pero Novković, Mijo Danojević, Gojko Gojković, Savo Gojković, Branko Bunčić, Nikola Gojković, Mijo Gojković, Filip Gojković, Jovo Popović – Tein, Petar Popović, Nikola Krajnović, Milan Popović (inhabitants of the village of Kip); Jovo Žestić, Jovo Popović Simin, Slobodan Kukić, Rade Gojković, Savo Maksimović, Josip Cicvara (inhabitants of the village of Klisa)</p>
<p>Mičo Cekinović</p> <p>Member of Serb formations</p> <p>In detention as of 6 July 2009.</p>	<p>Victims:</p> <p>- killed: Pavo Ivšić</p> <p>- tortured and unlawfully detained: Tomo Kos</p> <p>- expelled: all inhabitants of Croatian ethnicity</p>
<p>Ivica Mirić</p> <p>Member of Croatian formations</p> <p>In detention</p>	<p>Victim (killed): Miloš Čalić</p>
<p>Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić</p> <p>The proceedings against the defendant Mirko Sivić were separated in June 2008 due to illness and his subsequent procedural incapacity</p> <p>Members of Croatian formations</p> <p>The defendant were detained until the request for detention was denied by the Croatian Parliament in January 2008 (for the defendant Glavaš), i.e. until the decision of the Supreme Court in September 2008 (for other defendants).</p> <p>The defendant Krnjak was again detained on 21 April 2009, while other defendant were again detained after the verdict was pronounced, with the exception of the defendant Glavaš who is a fugitive from justice. He resides in Bosnia and Herzegovina, of which he is a citizen, which renders impossible his extradition to the RC.</p>	<p>Victims – killed: Branko Lovrić, Alija Šabanović, Jovan Grubić, Dr. Milutin Kutlić, Svetislav Vukajlović, an unknown female person, Bogdan Počuča, Čedomir Vučković and Đorđe Petković</p> <p>Victim – abused and wounded: Radoslav Ratković</p> <p>Victim – abused: Nikola Vasić</p> <p>The amended and combined Indictment No. K-DO-150/06 of 30 September 2008 excluded from factual description the incriminations referring to the torture of two unidentified civilians who were imprisoned in a garage at the National Defence Secretariat, torture of Smilja Berić, Rajko Berić and Snežana Berić in the premises of the National Defence Secretariat, and arrest and murder of Petar Ladjuk, Milenko Stanar and an unidentified male person.</p>

**CENTRE FOR PEACE,
NONVIOLENCE AND
HUMAN RIGHTS-OSIJEK**

Trg Augusta Šenoje 1
HR-31 000 Osijek

phone / fax: + 385 31 206 886

e-mail:
centar-za-mir@centar-za-mir.hr

web:
www.centar-za-mir.hr

**DOCUMENTA - Centre
for Dealing with the Past**

Selska cesta 112 c
HR-10 000 Zagreb

phone: + 385 1 457 2398
fax:+ 385 1 549 9744

e-mail:
kontakt@documenta.hr

web:
www.documenta.hr

**CIVIC COMMITTEE
FOR HUMAN RIGHTS**

Selska cesta 112 c
HR-10 000 Zagreb

phone/fax: + 385 1 61 71 530

e-mail:
info@goljp.hr

web:
www.goljp.hr