

**Civic Committee for Human Rights
Documenta – Centre for Dealing with the Past
Centre for Peace, Nonviolence and Human Rights-Osijek**

MONITORING WAR CRIME TRIALS

REPORT

FOR SEPTEMBER AND OCTOBER 2011

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There is a growing concern about the fact that in the months preceding the December's parliamentary elections, the ruling party and some opposition parties use the rhetoric and make the moves which derogate a painstakingly achieved progress in the prosecution of all war crimes. Advantage is given to personal and party-related pre-election gains to the detriment of building democratic institutions.

In the report for July and August 2011, we warned about the public statements issued by the highest-level politicians (Jadranka Kosor) who issued a salute to the (still non-finally) convicted generals Gotovina and Markač, and (Ivan Jarnjak) awarded the plaques to them. Moreover, many top politicians interpret the trial against Gotovina and Markač as a trial in which the Homeland War is characterised as a criminal enterprise and they use this 'platform' for winning political points from insufficiently informed electorate.

September and October 2011 were also marked by several events which, if viewed both separately and in their entirety, impede the progress which was made with great efforts in prosecuting war crimes as well as the confrontation of the society with the committed crimes and their consequences. The mentioned events include the following:

Adoption of the Law on the Voiding of certain Legal Acts of Judicial Bodies of former Yugoslav National Army, former Socialist Federative Republic of Yugoslavia and the Republic of Serbia

The Law on the Voiding of certain Legal Acts of Judicial Bodies of former Yugoslav National Army, former Socialist Federative Republic of Yugoslavia and the Republic of Serbia (hereinafter: the Law) was adopted at the end of October 2011 under an urgent-matter parliamentary procedure which was carried out just prior to the dissolution of the Croatian Parliament.

This Law stipulates that all legal acts of the former Yugoslav National Army, its judicial bodies and the judicial bodies of the former Socialist Federative Republic of Yugoslavia and of the Republic of Serbia, which relate to the Homeland War in the Republic of Croatia, and pursuant to which the citizens of the Republic of Croatia were suspected, indicted and/or convicted for war crimes committed on the territory of the Republic of Croatia, are all considered null and void and without any legal effect. However, the Law also stipulates that, by way of derogation, the voiding does not apply to legal acts in respect of which the Croatian judiciary had established that they comply with the legal standards of the Croatian criminal legislation. According to the Law, the Croatian judiciary will not take any action that was required by the Serbian judiciary to provide it with legal assistance in war crime cases, if such requested action is contrary to the Croatian legal system and it has a detrimental effect on its sovereignty and security. According to the Law, it is up to the Minister of Judiciary to decide which action, and if any, is to be taken on the basis of received requests.

It was presented to the public that the immediate cause to adopt such Law was the conviction (at first instance) against Croatian defender Veljko Marić at the Higher Court in Belgrade and the indictment against Vladimir Šeks and 43 more persons which the Yugoslav National Army Military Prosecutor laid in 1992.¹ After the mentioned events, the ruling coalition (except SDSS representatives) bitterly attacked any possibility of Croatian citizens being prosecuted in the Republic of Serbia for the crimes committed in the territory of the Republic of Croatia.²

¹ Veljko Marić, arrested and kept in custody in the Republic of Serbia, was found guilty (at first instance) by the Higher Court in Belgrade on 23 September 2011, that he in his capacity as member of Croatian formations killed one civilian of Serb ethnicity in the surroundings of Grubišno Polje in October 1991. He was sentenced to 12 years in prison.

Several days later, it was published that the Republic of Serbia sent to Croatia the indictment issued by the former JNA Military Prosecutor against 44 members of Croatian formations which included as suspects, among others, also Vladimir Šeks, Branimir Glavaš, Ivan Vekić, and Tomislav Merčep.

²In the Republic of Serbia, the *Law on Organisation and Competence of State Institutions in War Crime Trials* has been

However, it turned out that the Government politicians who were held most responsible and the persons supporting this Law had known about the mentioned indictment already months before this information was released in the public at the beginning of the pre-election campaign.

The mentioned Law was adopted despite serious warnings that it was detrimental and that it could severely hinder the regional cooperation which had been established with great efforts concerning the prosecution of crime perpetrators. Statements against its adoption were issued by Croatian President Ivo Josipović and Chief State Attorney Mladen Bajić. Also, War Crimes Prosecutor of the Republic of Serbia Vladimir Vukčević and the European Commission expressed their concern about the adverse effects of the Law.

The mentioned Law will not make legal acts, issued by judicial bodies of the former Yugoslav National Army, the former Socialist Federative Republic of Yugoslavia and of the Republic of Serbia, null and void beyond the boundaries of the Republic of Croatia. The Law is unnecessarily used for politicising in respect of deciding which requests of the Serbian judiciary Croatia will accept and take action. In addition, a progressively better cooperation between the Croatian and the Serbian prosecutions has been put to a still because of this Law. The Law puts in jeopardy Croatian citizens who are possibly suspected without any grounds by Serbian judicial bodies, and it is in favour of actual crime perpetrators who live today in Serbia or Croatia. To them, this adopted Law increases the odds that they will never get prosecuted for the crimes they committed.

Croatian President Ivo Josipović assessed this Law to be detrimental and announced that he would request to have its constitutionality reviewed before the Constitutional Court of the Republic of Croatia. The President's opinion is that this Law has restricted the fundamental citizens' rights, in particular the right to defence, and that the new competence of the Minister of Judiciary is being established, and that more than 50% of the votes of all representatives was required for the Law to be adopted, which was not the case at the time this Law was put to the vote. Additionally, the President stated that the minister's authority to pass decisions which prevent judiciary from carrying out tasks within the scope of its competence is questionable and that the Law contradicts international treaties governing international legal assistance between Croatia and Serbia which, according to legal force, supersede this Law.

Conditional release of the convicted war criminal Mirko Norac

The Ministry of Justice's Committee for Conditional Release resolved positively the request lodged by Mirko Norac for conditional release from custody as he has served more than two-thirds of his prison sentence.

Mirko Norac, sentenced to a joint prison sentence of 15 years, expressed no remorse either during the trial or before the Committee for Conditional Release regarding the execution of Serb civilians in Gospić, neither regarding his responsibility in connection with the killing of civilians and war prisoners in the Medak Pocket.

Conditional release of the persons responsible for such serious crimes stirred up the question of use of this institute, as well as the question of the competent body for approving conditional release. In viewing the fact that this is the case of criminal offence with extensive and wide-ranging consequences affecting the entire society, in respect of which there is no statute of limitations for criminal prosecution, it is our plan to organise a public debate on conditional release of persons convicted for war crimes, and the method of decision making in respect of the same.

in force since 2003. It prescribes that the Republic of Serbia's state bodies are competent for carrying out proceedings for war crimes which were committed in the area of the former Socialist Federative Republic of Yugoslavia, regardless of the citizenship of the perpetrator or the victim.

Announcement of appointing Branimir Glavaš as the head of the HDSSB election lists

By using obvious vague wording and/or oversights in the law allowing the situation that even though a convicted person cannot be an MP but it can be the head of an election list, the Croatian Democratic Alliance of Slavonija and Baranja (HDSSB) announced its decision to appoint Branimir Glavaš, a convicted war criminal, as the head of the party's election lists.

The HDSSB's announcement to have a convicted war criminal be the "brand" which will entice their voters represents a fundamental disrespect of Croatian judiciary because it negates the crime and the court's legally valid judgment in respect of the Branimir Glavaš's responsibility. This act of „branding“ the war criminal and his crime represents an annihilation of the values of Croatia as a democratic state and a state based on the rule of law – what Croatia strives to be in the present situation when it finds itself at the threshold of the European Union.

The present situation is clearly a sign that our society has found itself in a very worrying state, which is co-created and used by the HDSSB because it is counting on collecting a significant number of votes by the electorate which entirely wrongfully evaluates the role of a victim and a criminal.³

OVERVIEW OF MONITORED TRIALS

a) Main hearings monitored at county courts in the Republic of Croatia

In September and October 2011, monitors of the monitoring team of the Centre for Peace, Nonviolence and Human Rights-Osijek, the Documenta and the Civic Committee for Human Rights, monitored a total of 12 war crime trials at county courts in the Republic of Croatia.

Main hearings were held at the following **county courts**:

- in **Osijek** (trial against Enes Viteškić for the crime in Paulin Dvor);
- in **Vukovar** (trial against Miloš Stanimirović *et al.* for the crime in Tovarnik);
- in **Sisak** (trial against Jablan Kejić for the crime in Zrin);
- in **Zagreb** (trial against Emil Črnčec *et al.* for the crime in Mlinište; trial against Željko Gojak for the crime in the Karlovac settlement of Sajevec; trial against Pero Đermanović *et al.* for the crime in the villages along the Una river near Hrvatska Kostajnica; trial against Luka Markešić *et al.* for the crime in Bjelovar);
- in **Rijeka** (trial against Radoslav Čubrilo for the crime in Lovinac; trial against Mićo Cekinović for the crime in Slunj and surrounding villages);
- in **Zadar** (trial against Renato Petrov for the crime in Škabrnja), and
- in **Karlovac** (trial against Marko Bolić for the crime in Podvožić and trial against Goran Zjačić for the crime in Frkašić II).

³ As it turned out later on, Branimir Glavaš will not be the head of the HDSSB's lists. Namely, the HDSSB asked for an official interpretation from the State Election Commission (DIP) which was of the opinion that the Election Act prevents the possibility of Glavaš be the candidate on the list, but it does not prevent him from being the person on the top of the lists. However, several days later, on 12 November 2011, the Constitutional Court of the Republic of Croatia stated that it was unacceptable from a constitutional-law point of view that Glavaš heads the lists for parliamentary elections to be held on 4 December 2011. Subsequently, the HDSSB withdrew its decision to put Glavaš as the head of their party's lists.

The mentioned trials include 8 trials against members of Serb formations and 4 trials against members of Croatian formations.

Out of twelve trials mentioned above, the hearings of which were held during September and/or October, the first instance verdicts were rendered in four cases:

1. In the trial, the main hearing of which commenced at the Sisak County Court on 14 April 2011, the verdict was rendered on 5 September 2011 whereby **defendant Jablan Kejić (crime in Zrin) was found guilty** for the commission of war crime against prisoners of war. He was sentenced to **7 years** in prison. After the pronouncement of the verdict, defendant Kejić's detention was extended.

The defendant was found guilty that in his capacity as member of SAO Krajina armed units in Kuljani on 27 July 1991, he arrested the wounded Croatian police member Šefik Pezerović, tied up his hands and was beating with hands and kicking Pezerović's head and body in the village of Kirišnica; the defendant then took him further to the village of Jovac where the injured party was beaten by gathered inhabitants and other SAO Krajina TO members together with the defendant; and after an attempted escape, they tied up Pezerović with wire, put him in a vehicle trunk and took him to Ćore (Ćoriće), Šakanlije and Lotine, where the injured party was beaten again and where he died from sustained injuries so they left his corpse at a meadow in Zrin.

Previously, a decision had been made to separate the proceedings against available defendant Jablan Kejić from the proceedings against other (unavailable) defendants: Mirko Ćurčija, Milenko Milković and Momčilo Buinac.

2. On 7 September 2011 the main hearing began at the Karlovac County Court - Office in Gospić in the repeated trial against **defendant Goran Zjačić (crime in Frkašić II)**. One day after, the court pronounced the verdict in which defendant Zjačić **was found guilty** of war crime against prisoners of war under Article 122 of the OKZ RH and sentenced him to **7 years** in prison. After pronouncement of the verdict, the defendant's detention was extended. He spent time in custody from 28 September 2008.

The defendant is charged that in 1994 and 1995, as a member of the Military Police of the so-called RSK Army, 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 and treated them inhumanely and caused them great suffering and injuries against their physical integrity and health.

Previously, the VSRH quashed for formal reasons the Gospić County Court's verdict rendered on 5 February 2010 which found defendant Zjačić guilty and sentenced him to 7 years in prison.

3. On 18 October 2011 at the Rijeka County Court, the verdict was pronounced in which **defendant Radoslav Čubrilo (crime in Lovinac) was found guilty in his absence** and sentenced to **15 years** in prison.

The defendant was found guilty of war crime against civilians under Article 120 of the OKZRH, because in his capacity as commander of "Velebit Unit" of the so-called SAO

Krajina which he formed together with co-villagers from Raduč, on 5 August 1991, he carried out a mortar attack on Lovinac and surrounding villages together with members of that unit, and permitted the mentioned members to get into houses, to search and set them on fire. In addition, he issued an order to have detained Milan Sekulić tied up and killed, and to take as hostages Stjepan Katalinić, Jure Sekulić, Marko Pavičić, Ivan Ivezić, Martin Šarić and Mile Račić. After that, he permitted unidentified members of his unit to kill the mentioned persons by firing at their backs and heads, with exception of Mile Račić who was sent to the Lovinac Police premises under an ultimatum for surrender.

This is the third (second repeated) trial in which the hearings were not held from 2007 until 18 April 2011.

Initially, the trial was conducted against five defendants. In 2009, the Rijeka County State Attorney's Office dropped the charges against four defendants (Milorad Čubrilo, Milorad Žegarac, Petar Hajduković and Gojak Mrkajlo).

Previously, the Gospić County Court rendered two times the convictions against Čubrilo and four more defendants. However, the Supreme Court quashed them due to essential violation of the provisions of the Criminal Procedure Act and the lack of evidence. After the second quashing of the conviction and remanding of the case back for a retrial, as was proposed by the Chief State Attorney of the Republic of Croatia, the VSRH President passed a decision to transfer the case from Gospić to the County Court in Rijeka.

4. On 24 October 2011 at the Zagreb County Court, the verdict was pronounced in the case of **defendants Emil Črnčec, Tihomir Šavorić, Antun Novačić, Robert Precehtjel, Nenad Jurinec, Goran Gaća and Robert Berak (crime in Mlinište).**

Five former members of the 7th HV Guard Brigade were found guilty and sentenced by the first-instance verdict for war crime against prisoners of war that they committed in September 1995 in the area of Glamoč in BiH. Tihomir Šavorić and Nenad Jurinec were each sentenced to 6 years, and Antun Novačić to 5 years in prison because they executed six detained members of the Republika Srpska Army. Robert Precehtjel and Robert Berak were each sentenced to two year's imprisonment for aiding and abetting the crime. The 1st defendant Emil Črnčec and the 6th defendant Goran Gaća were acquitted.

Detention against Šavorić, Jurinec and Novačić who are sentenced with the first-instance verdict (verdict before appeal) was extended. After the pronouncement of the verdict, detention was vacated in respect of Precehtjel and Berak, including also Črnčec and Gaća who are acquitted.

The main hearing began on 8 March 2011. Five trial hearings were held during September and October 2011.

In addition to the repeated trial against defendant Goran Zjačić, the main hearing of which began on 7 September 2011 and only a day later the court pronounced the verdict, the main hearings began in four more trials:

1. On 5 September 2011, the main hearing began at the Karlovac County Court in the trial against **defendant Marko Bolić (crime in Podvožić)**, indicted for committing a criminal offence against humanity and international law by unlawful killing and wounding the enemy as referred to in Article 124, paragraphs 1 and 2 of the OKZRH. Seven witnesses were heard on the mentioned day. The next hearing will be scheduled in writing.

The defendant Bolić is charged that, in his capacity as member of armed formation "Skrad

Company" of the so-called SAO Krajina, on 4 November 1991, following the order given by commander of the units in the Logorište military barracks Boro Ercegovac to carry out a breakthrough from the military barracks, he killed Croatian Army members Marijan Jakšić and Darko Tuškan when he came across them in the village of Podvožić. Having spotted the enemy's army, Marijan Jakšić and Darko Tuškan pulled over and got out from their personal vehicle, and then laid down a carabine and a hand grenade on the hood and raised their hands up as a sign of surrender. Together with Rado Bolić, although their lives were not directly endangered, the defendant opened fire from personal firearms and shot Marijan Jakšić and Darko Tuškan, who died from sustained injuries at the crime scene.

Defendant Bolić is kept in custody.

2. On 19 September 2011, the third (second repeated) trial began at the Osijek County Court against **Enes Viteškić (crime in Paulin Dvor)** for the war crime against civilians.

The Osijek ŽDO's indictment issued on 12 March 2003, partially amended at the hearing held on 5 April 2004, charges Nikola Ivanković and Enes Viteškić that, in their capacity as Croatian Army members, together with several unidentified perpetrators, on 11 December 1991 after they had heard about the death of their wounded fellow soldier, they agreed to go to the village of Paulin Dvor and carry out a retaliation by killing the Serb ethnicity villagers. They are also charged that they approached the house of Andrija Bukvić in Paulin Dvor, and having checked that the civilians they were looking for were in that house, they opened fire at them using machine guns and threw hand grenades in the premises where the civilians were accommodated, thus causing death of eighteen civilians.

After the first-instance trial held in April 2004, Nikola Ivanković was found guilty and sentenced to 12 years in prison, and Enes Viteškić was acquitted of the charge.

After that, the VSRH modified the first instance verdict on 10 May 2005 in respect of defendant Ivanković and sentenced him to 15 years' imprisonment, whereas in respect of defendant Viteškić it quashed the first-instance verdict and remanded the case for a re-determination.

Defendant Viteškić was acquitted again on 29 January 2007 after the repeated first-instance trial. However, the VSRH quashed again the Osijek County Court's verdict in 2010 and remanded the case for a retrial before the completely changed composition of the council.

The main hearing in the third (second repeated) trial began on 19 September 2011. The trial hearings were also held on 20 and 21 September and on 10 October 2011. The next main hearing will be scheduled in writing.

Defendant Viteškić attends the trial and is not kept in custody. Previously, he spent time in custody during the first-instance trial - until the rendering of the first acquittal.

3. On 21 September 2011, the main hearing began at the Zadar County Court in the repeated trial against **defendant Renato Petrov (crime in Škabrnja)**, who was sentenced in absentia in 1995 to 20 years in prison. At that time, the trial was conducted against Goran Opačić and 25 defendants (Renato Petrov was among them as the 14th defendant). On the basis of arrest warrant issued by Interpol, Petrov was arrested in Dusseldorf at the beginning of April 2011. Germany extradited him to Croatia in July 2011. Considering the fact that he was sentenced *in absentia* by a legally valid court sentence, the reopening of the criminal proceedings was permitted in July 2011.

The indictment issued on 22 August 1994 charges the defendant that, together with several other persons, he committed a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH. Since there is a separate trial in respect of Petrov, the Zadar ŽDO amended the indictment on 20 September 2011. He is charged that he killed one elderly male person by firing one shot from a handgun.

4. On 26 October 2011, the main hearing began at the Zagreb County Court in the fourth (third repeated) trial against Croatian formations members **Luka Markešić, Zdenko Radić, Zoran Maras and Ivan Orlović (crime in Bjelovar)**.

The indictment was issued already in 2001 and amended several times later on. In the initial indictment, even after its first amendment, the defendants were charged that they intentionally committed a crime on the basis of a previous agreement - i.e. as co-perpetrators. With the amendment of 27 November 2007, changes were made both to the factual- and the legal description of the indictment. Subsequently, they are charged with aiding and abetting unidentified persons in the perpetration of war crime against prisoners of war and war crime against civilians. Six persons were killed and one person survived in the course of that incriminating event.

In previously conducted first-instance trials, the defendants were acquitted two times - by the Bjelovar County Court's verdict of 20 January 2001 and by the Varaždin County Court's verdict of 28 February 2005. However, the VSRH quashed both of them.

The Varaždin County Court rendered the verdict on 21 December 2007 in which the defendants were found guilty and sentenced to the following prison sentences: defendant Markešić to 4 years, and other defendants (Radić, Maras and Orlović) to 3 years each. However, the VSRH at its Appeals Chamber's session held on 1 February 2011 quashed this verdict too.

The hearing was scheduled for June 2011 at the Varaždin County Court, but it was not held. The case was transferred to the Zagreb County Court. The main hearing began on 26 October 2011 and the next hearing is scheduled for 17 November 2011.

In other trials, the courts resumed the hearings which commenced before this reporting period:

1. The Vukovar County Court resumed the main hearing, which commenced on 13 April 2010 in the trial against **defendant Miloš Stanimirović and thirteen other defendants (crime in Tovarnik)**.

All defendants are tried in their absence.

The defendants are charged that, after 20 September 1991 in Tovarnik, they were forcibly displacing, killing and physically torturing Croat and other non-Serb civilian population and were seizing or destroying their property; thus they committed genocide under Article 119 of the OKZRH and war crime against civilians under Article 120 of the OKZRH by applying Article 43 of the same Act.

During the reporting period, one trial hearing was held (12 September 2011). The next hearing is scheduled for 4 November 2011.

2. The main hearing, which commenced on 31 May 2011, is underway at the Zagreb County

Court in the repeated trial against **defendants Pero Đermanović, Dubravko Čavić and Ljubiša Čavić for the crime in the villages along the Una river near Hrvatska Kostajnica**. During the reporting period, one trial hearing was held (7 October 2011). The next hearing is scheduled for 3 November 2011.

Previously in this case, the VSRH quashed on 22 December 2010 the first-instance verdict rendered by the Sisak County Court on 23 April 2010 in which the defendants were found guilty and sentenced to prison: Pero Đermanović (11 years), Dubravko Čavić (9 years) and Ljubiša Čavić (2 years). The VSRH upheld the verdict in respect of Ljuban Bradarić who was sentenced to 1 year in prison. Following to that, the case was transferred to the Zagreb County Court.

The Indictment charges the defendants that in October 1991, in the villages Stubalj, Graboštani, Gornji and Donji Hrastovac (the villages along the Una river near Hrvatska Kostajnica), as members of illegal armed units of the so-called SAO Krajina unlawfully deprived of liberty, abused and killed civilian Vladimir Letić, put houses on fire whereby they severely destroyed property and intimidated civilians with the purpose of forcing them to leave their villages.

Defendant Pero Đermanović is kept in custody, defendant Dubravko Čavić is unavailable and thus is tried in his absence and defendant Ljubiša Čavić attends the trial and is not kept in custody after pronouncement of the first-instance verdict.

3. The Zagreb County Court resumed the main hearing which began in December 2010 in the trial against **defendant Željko Gojak (crime in the Karlovac settlement Sajevec)**. The hearing was held on 19 October 2011.

The defendant, who is kept in custody from 22 October 2010, is charged that, in his capacity as an employee of the Karlovac Police Administration, on 5 October 1991 in the Karlovac settlement of Sajevec, together with several unidentified members of the National Guard Corps he killed Marko Roknić, Dragica Ninković and minor Danijela Roknić in family Roknić's house and therefore he committed a war crime against civilians.

4. The Rijeka County Court resumed the main hearing which began on 15 June 2011 in the third (second repeated) trial against **defendant Mićo Cekinović (crime in Slunj and surrounding villages)**.

Trial hearings were held on 3 and 4 October 2011. At those hearings, evidence procedure was carried out further on, factual description of the indictment was amended, defence and closing speech by parties were presented. Although pronouncement of the verdict was announced for 7 October 2011, the council decided to reopen the main hearing because it was of the opinion that the facts of crucial importance for reaching the judgment on the basis of amended indictment were not sufficiently determined.

The trial hearings were scheduled for 21 and 22 November 2011.

Previously, the VSRH quashed two times the Karlovac County Court's convictions, in which the defendant was found guilty and sentenced to prison sentences - in the duration of one, i.e. four years.

The third (second repeated) trial commenced at the Karlovac County Court - Office in Gospić in March 2011 but the case was later transferred to the Rijeka County Court.

The indictment charges the defendant that in November 1991, as commander of a group of

"Primišlje Territorial Defence", which was within the composition of the "SAO Krajina" paramilitary, in the area of the City of Slunj and surrounding villages, although this was his duty, he failed to prevent and thus supported the killing of civilians, causing them physical injuries, as well as unlawful and arbitrary destruction and plunder of the property; he ordered illegal arrests of civilians and therefore, in compliance with that, members of his unit arrested two persons, beat them up and detained them without any legal grounds; they killed one civilian, set two houses on fire including one hayloft; and expelled the majority of population of Croatian ethnicity from their homes. Therefore, the defendant committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZRH.

The defendant is kept in custody from 6 July 2009. His detention was extended on 17 October 2011.

b) The trials, the main hearings of which were scheduled but not held

In two trials in which the defendants are available to the Croatian judiciary, the hearings were scheduled but were not held during the reporting period:

1. In the trial conducted before the Osijek County Court against **defendant Željko Čizmić (crime in Dalj)**, no trial hearings were held during this reporting period and thus the hearing will have to start anew due to a recess exceeding two months.

In this case, the first main hearing was held back in 2006. However, it had to be started anew several times because of lengthy recesses. Still, there has been rendered no first instance verdict.

Next hearing is scheduled for 15 November 2011.

The defendant is charged that he participated in the creation of paramilitary police forces in the region, became a chief commander of the so-called Dalj Police Station and worked on opening prisons in the basement of the Police Station with an aim to create conditions for arrests and imprisonment of non-Serb civilians; he organized, ordered and executed unlawful arrests and imprisonment of a large number of civilians; as commander, he approved of the prisoners being held in prison under inhumane conditions and who were physically and psychologically tortured by his subordinates and persons unrelated to the Dalj Police Station who could enter the prison whenever they wanted to.

Defendant Čizmić attends the trial and is not kept in custody.

2. Although scheduled to begin on 10 October 2011, the main hearing in the case of **defendant Željko Vujić (crime in Petrovci)** was not held at the Vukovar County Court because the defendant did not appear in court. The defendant's defence counsel stated how he paid a visit to the defendant and that he was unable to appear in court because of his serious physical and mental condition. He also added that the defendant suffered from tuberculosis and that medical documentation on that illness had been provided to the court.

The next hearing is scheduled for 3 November 2011.

Previously, the Vukovar ŽDO laid the indictment on 4 September 2007 against defendants Nikola Radojčić, Miroslav Ivan, Vojislav Buzaković, Milenko Đurđević, Predrag Stojčević, Dragan Žakula, Željko Vujić, Duško Samardžić and Željko Ćirković. All defendants except defendant Vujić are unavailable to Croatian judiciary.

On 9 June 2011, the court separated the proceedings in respect of defendant Željko Vujić.

He is charged that in the period from October 1991 until the end of February 1992, in his capacity as police member, he was unlawfully apprehending, detaining, interrogating, beating, threatening and abusing in other ways the civilians in Petrovci in the premises of the so-called Police of the Serb Autonomous Area (SAO) of Krajina and also in the local community centre called 'Društveni Dom'; and thus he committed a war crime against civilians under Article 120 of the OKZRH.

The main hearings were scheduled in the case of several pending trials against unavailable defendants. However, the mentioned hearings were not held because of their absence. No decision was made to conduct trials against unavailable defendants *in absentia*

1. Although scheduled for 27 September 2011, the main hearing was not held at the Rijeka County Court in the case of **defendants Branko Dmitrović, Slobodan Borojević, Milinko Janjetović, Momčilo Kovačević, Stevo Radunović, Veljko Radunović, Katica Pekić, Marin Krivošić and Stevan Dodoš (crime in Baćin)** for the war crime against civilians stated in Article 120, paragraph 1 of the OKZRH. Namely, out of the mentioned defendants only the 8th defendant Marin Krivošić attended the trial because after extradition from Monte Negro last year he was kept in custody. Other 8 defendants are unavailable to the Croatian judiciary. Given the situation that the court did not receive any information from the competent authorities of the BiH and Serbia whether the indictment and summons to attend the hearing had been delivered to the defendants, this case file could not have been submitted to the extra-judicial council for it to decide on the trial *in absentia*.

Previously, this case was transferred from the Sisak County Court to the Rijeka County Court.

Defendants Dmitrović, Borojević, Janjetović and Kovačević are charged that, from 18 to 21 October 1991 with the purpose of ethnic cleansing of the then-occupied territory of Hrvatska Dubica, Cerovljani and Baćin, together with now-late Stevo Borojević a.k.a. Gadafi, they planned and created a list of remaining population in the villages Cerovljani and Hrvatska Dubica and ordered their killing; whereas defendants S. Radunović, V. Radunović, Pekić, Krivošić and Dodoš by following the mentioned order issued by their superior on the basis of that list, brought by force at least seventy civilians of Croatian ethnicity and detained them in the Fire Department buildings in Cerovljani and Hrvatska Dubica. Out of the mentioned number of detained civilians, owing to interventions by relatives and friends, at least ten persons were released from detention. Subsequently on 21 October 1991, the remaining civilians (at least 56) detained in the Fire Department building in Hrvatska Dubica were taken by bus to Baćin and were followed by an armed escort, and there policemen of the "Police SAO Krajina" led by now-late police commander Stevo Borojević a.k.a. Gadafi killed the mentioned civilians by shooting from automatic weapons at the site known as "Skelište".

2. On 20 September 2011, the hearing was scheduled at the Dubrovnik County Court in the case of unavailable **defendant Marko Grandov**. According to the Dubrovnik ŽDO's indictment issued on 29 January 2008, he is charged that as member of JNA in the area surrounding Dubrovnik in the second half of October 1991, he plundered other people's property and was unlawfully and arbitrarily carrying out a large-scale property destruction that was not justified by military needs; therefore he committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZRH.
3. On 27 October 2011, the main hearing was scheduled at the Vukovar County Court in the

case of unavailable **defendant Radivoj Ivković**.

According to the Vukovar ŽDO's indictment issued on 30 April 2003, the defendant is charged that in his capacity as member of Serb paramilitary formations, in February 1992 in one village near Vukovar, he raped one female person and plundered the property, and therefore he committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZRH.

4. On 28 October 2011, the hearing was scheduled in the case of unavailable **defendant Aleksandar Trifunović**. In 2001, the defendant was charged with crimes in Tovarnik on the basis of the indictment which included 24 defendants.

Following the Trifunović's arrest in March 2006, the trial was separated in his case. Trifunović was kept in custody and attended the trial. However, the Vukovar County Court accepted registration of the defendant's house to serve as a guarantee of his presence during the trial and thus vacated his detention. The VSRH quashed the decision on guarantee and release from detention, but the defendant had already escaped from Croatia. An international arrest warrant was issued against him.

5. On 28 October 2011, the main hearing was scheduled at the Vukovar County Court in the case of unavailable **defendant Jovan Radan**.

According to the Vukovar ŽDO's indictment, the defendant is charged that on 19 November 1991 in Vukovar within the grounds of the "Velepromet" company where a greater number of detained civilians was brought after the town occupation by the so-called JNA and paramilitary formations, in his capacity as paramilitary formation's member, he cut through by knife civilian Daut Ziberij's throat causing his instant death, and therefore he committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZRH.

6. On 28 October 2011, the hearing was scheduled at the Vukovar County Court in the case against unavailable **defendant Savan Dakić**.

According to the Vukovar ŽDO's indictment issued on 29 September 2006, the defendant is charged that as a member of TO Vukovar, on 19 November 1991 in Vukovar following the occupation by the so-called JNA and adjoined paramilitary formations and the forming of the detention centre in "Velepromet" company's premises where war prisoners and civilians were brought in, having followed detention camp commander Nenad Žigić's order, the defendant took Ivan Ravlić out of the administration room and out of the hangar, opened burst-fire from automatic rifle and killed Ravlić; therefore he committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZRH.

7. On 31 October 2011, the main hearing was scheduled at the Vukovar County Court in the case of unavailable **defendant Petar Rašić**.

According to the indictment issued by the Vukovar ŽDO on 5 May 2003 against Petar Rašić, Milan Bulić and Mirko Vojnović, defendant Rašić is charged that, in his capacity as member of Serb paramilitary formations, following the occupation of Vukovar, he separated detained persons in the "Velepromet" and took them to „stolarija“ (carpentry room) and majority of them are declared missing; he also requested to have one person separated and be taken to the "carpentry" where this person was maltreated and beaten; and he threatened detained persons at Ovčara that they all should be killed; therefore he committed a war crime against civilians.

c) Monitored sessions at the Supreme Court of the Republic of Croatia (VSRH)

During the reporting period, we monitored two sessions held by the VSRH's Appeals Chamber:

1. On 5 October 2011, the VSRH's appeals chamber held a session in the case of **defendant Mihajlo Hrastov (crime on the Korana Bridge)**. We are not familiar with the decision of the VSRH.

The public session was held after the Croatian Constitutional Court quashed the convictions rendered by the VSRH (second instance- and third instance verdict) according to which Hrastov received final sentence of 7 years' imprisonment. The Constitutional Court remanded the case back to the VSRH for re-determination.

In this trial, which has been conducted since 1992, the VSRH quashed two times the acquittals rendered by the Karlovac County Court. Following the rendering of an acquittal for the third time by the Karlovac County Court, the VSRH decided to conduct a hearing by itself. After that hearing, Hrastov was found guilty and sentenced to 8 years in prison. However, the Appeals Chamber amended the verdict in respect of the decision on the sentence and it sentenced him to 7 years' imprisonment.

Hrastov is charged that as a member of the Ministry of the Interior of the Republic of Croatia, on 21 September 1991, he used his automatic rifle to shoot and kill 13 reservists of the Yugoslav National Army (JNA) at the Korana Bridge in Karlovac and thus committed a criminal act of unlawful killing and wounding of the enemy as stated in Article 124 of the OKZRH.

2. On 12 October 2011, the VSRH's Appeals Chamber held a session in the case of **defendant Petar Mamula (crime in Baranja)**. We are not familiar with the decision of the VSRH.

In this court case on 23 March 2011, after the fourth (third repeated) trial conducted at the Osijek County Court, defendant Mamula was found guilty and sentenced to 3 years and 6 months in prison.

The defendant was found guilty that in his capacity as participant of the armed rebellion of the local Serb population, on 9 September 1991 in Batina and Kneževi Vinogradi, acting against the constitutional-legal order of the Republic of Croatia, he participated in intimidation and cruel physical and psychological abuse of non-Serb civilians in Baranja; in the so-called TO Batina Headquarters, when interrogating unlawfully arrested Catholic priest Antun Knežević, the defendant beat his head and shot from the pistol near his head, threatened to kill him, seized his watch and shot the watch; he then put the pistol next to the priest's left ear and shot one bullet causing the bursting of ear-drum, kicked him in the genitals, and thus he committed a war crime against civilians stated in Article 120, paragraph 1 of the OKZ RH.

The defendant attends the trial and is not kept in custody (he spent time in detention from 6 October 2000 until 7 May 2003).

In this court case, the VSRH quashed already three times the convictions rendered by the Osijek County Court and remanded the case back to the Osijek County Court for retrial.

Extraditions and investigations

Milorad Momić extradited to Croatia

On 2 September 2011, France extradited Milorad Momić to Croatia. He is indicted for commission of war crime against civilians in 1991 in Berak, the village near Vukovar. He was arrested on the basis of Interpol's arrest warrant issued in February this year. After extradition, Momić was taken to the Osijek prison. The trial against him was separated from the trial against other defendants. The main hearing was scheduled at the Vukovar County Court to be held on 3 November 2011.

Filed request for investigation against three suspects for war crimes against civilians

The Zagreb ŽDO filed a request for investigation on 2 September 2011 against three citizens of the Republic of Serbia due to reasonable suspicion that they committed war crimes against civilians.

The suspects, who used to be the heads of civilian and military authorities in the Petrinja area, are charged with crimes committed by members of the formations which were subordinated to the defendants. The mentioned crimes included intimidation and expulsion of inhabitants of Croatian ethnicity, numerous killings, setting houses on fire, plunder of property, artillery attack on civilian population.

The suspects are unavailable to the bodies of the Croatian judiciary. Their detention was proposed because of the likelihood that they would flee, the danger to influence the witnesses and gravity of the crime.

Other trials for the crimes committed on the territory of the Republic of Croatia

Vučurević escaped from Serbia to BiH

Trebinje war-time mayor Božidar Vučurević, indicted in Croatia for war crimes committed in the Dubrovnik area, escaped from Serbia to Bosnia. He was arrested in Serbia on 4 April 2011. Serbian authorities were deciding on Vučurević's extradition to Croatia and kept him in extradition custody until June 2011.

In BiH, where he escaped because he was allegedly trying to avoid his extradition to Croatia, he is also charged with war crimes.

Momčilo Perišić sentenced to 27 years' imprisonment

On 6 September 2011, the ICTY's Trial Chamber rendered its judgement convicting former head of the Yugoslavia's Army general headquarters Momčilo Perišić for crimes committed in Croatia and in BiH and sentenced him to 27 years in prison. Perišić was found guilty for the crimes committed in Sarajevo, Srebrenica and Zagreb (shelling Zagreb on 2 and 3 May 1995 as a result of which 7 persons were killed and 200 persons wounded).

In respect of the crimes committed in Sarajevo and Srebrenica, general Perišić was convicted based on individual criminal responsibility for aiding and abetting the crimes. In respect of the crimes in Zagreb, he was convicted based on the principle of command responsibility because he failed in his capacity as superior to punish the order-givers subordinated to him and the perpetrators of the attack on Zagreb, who were members of the RSK Army.