

*Documenta* – Center for Dealing with the Past | Centre for Peace, Nonviolence and Human Rights |  
Civic Committee for Human Rights | Pravda Bjelovar

Support to the Strategy of development of judiciary in the area of human rights

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Osijek, Zagreb, Bjelovar 15<sup>th</sup> January 2016

**Biweekly report on war crimes trials, acts of discrimination, hate crime and hate speech,  
and on the rights of civilian war victims**

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*Late judicial conviction of hate speech*

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The Zagreb Misdemeanor Court found Croatian National Football Team player Josip Šimunić guilty for hate speech. On 19<sup>th</sup> November 2013 around 22,15 hs at the Maksimir football stadium in Zagreb, after the football match against Iceland, while the spectators were still at the stadium, Šimunić took the microphone, turned to the fans and shouted «For the Homeland», and the spectators responded «Ready!», although he was aware that the salute «For the Homeland» and the response «Ready» symbolizes the official salute of the totalitarian regime of the World War II Independent State of Croatia, and as such represents a manifestation of racist ideology, despise towards other persons on the grounds of their religion and ethnicity and a trivialization of victims of crimes against humanity. Therefore he committed a misdemeanor of unlawful behavior, as described in the Art. 4, It.1, Subit. 7 of the *Law on preventing disorder at sport events*<sup>1</sup>, and he was fined with 5.000,00 HRK.

On 8th January 2016 the Municipal Prosecutor's Office in Zagreb<sup>2</sup> filed a complaint against the judgment of the Zagreb Misdemeanor Court requesting the High Misdemeanor Court to punish Šimunić with a more severe fine.

In December 2013 FIFA decided to suspend Josip Šimunić for ten official matches and imposed a fine of CHF 30,000 on the player. The Zagreb Misdemeanor Court rendered its judgment two years after the event took place, and imposed the minimum sentence on Šimunić prescribed by the law (Article 39a It. 1. Subit 2 of the *Law on preventing disorder at sport events* states that a fine in the amount

<sup>1</sup> *Law on preventing disorder at sport events* <http://www.zakon.hr/z/445/Zakon-o-sprje%C4%8Davanju-nereda-na-%C5%A1portskim-natjecanjima>

<sup>2</sup> Press Release: <http://www.dorh.hr/OpcinskoDrzavnoOdvjetnistvoUZagrebuUlozenaZalba>

from HRK 5,000.00 to 25,000.00 or a prison sentence lasting from 30 days at the least to 60 days at the most shall be imposed for a misdemeanor upon the natural person who sings songs or hurls messages to competitors or other spectators, whose content expresses or incites hatred based on racial, national, regional or religious affiliation).

We informed on the shocking citizens' initiative that the slogan «Za dom spremni» (“Ready for the Homeland”) become the official salute of Croatian Army in our biweekly report of 18th September 2015<sup>3</sup>. Therefore this judgment represents a modest step forward in the prosecution of hate crime. According to the information available through media obtained by the Ministry of the Interior and the High Misdemeanor Court from 2011 until today, so far the Police has registered 62 persons for public chanting of the slogan «Ready for the Homeland» and submitted 60 misdemeanor and two criminal reports, while misdemeanor courts have given 13 condemnatory rulings and financial fines of up to 700 HRK.

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*Probe into Sačić and Drlje for war crime in Ramljani and Grubori called off*

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The probe into Željko Sačić, for crimes committed on 25<sup>th</sup> and 26<sup>th</sup> August 1995 in the villages of Grubori and Ramljani in the surroundings of Knin, was called off and resulted in prequalification of war crime into aiding perpetrators of criminal offence to which the statute of limitations is applicable long time ago, says journalist Slavica Lukić in an article published in Jutarnji list<sup>4</sup>, explaining the reasons for calling off criminal prosecution against Sačić.

Some time before the article was published, on 7<sup>th</sup> January 2016, the Zagreb County Prosecutor's Office said on Thursday it had called off an investigation for war crime in the village of Ramljani into Željko Sačić, wartime Interior Ministry special police assistant commander, and Frano Drlje, former member of the Lučko police anti-terrorist unit.

Željko Sačić, as deputy commander of the Special Police and the commander in charge on the ground for searches, was suspected since 2009 on the grounds of command responsibility of not monitoring, sanctioning and reporting on the killings of six elderly Serb civilians by members of the ‘Lučko’ special police unit in the village of Grubori, near Knin, in August 1995.

According to the request for conducting an investigation, he failed to undertake measures and actions to prevent further crimes, as well as to punish the perpetrators. Afterwards, he allowed the unit and Frano Drljo as the head of one of the groups to continue operations, which as a consequence had the

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<sup>3</sup> Source: <http://www.documenta.hr/en/biweekly-report-on-war-crimes-trials-acts-of-discrimination-hate-crime-and-hate-speech-the-rights-of-war-victims-and-the-process-of-dealing-with-the-past-in-the-society-18-september-2015.html>

<sup>4</sup> Source: <http://www.jutarnji.hr/dorh-optuznicu-za-ratni-zlocin-prekvalificirao-u-blaze-kazneno-djelo-za-koje-je-nastupila-zastara/1495823/>

burning of several houses in the village of Ramljani between the towns of Knin and Drniš.

By changing the official report on the events, and filing a false report to his senior commander, prohibiting crime scene investigation and other necessary actions to be undertaken by the authorities, which was testified by Stjepan Buhin, Zvonko Gambiroža, Ćedo Romanić, Josip Ćelić<sup>5</sup> at the first-instance procedure against Frano Drljo and Božo Krajina, for the crimes committed in Grubori, Sačić obstructed investigation of the crime and punishing of the perpetrators, which was qualified as war crime in the indictment issued against him in January 2015. The indictment was soon retrieved for modification, and the Prosecutor who issued it was suspended.

Finally, the crime committed in Grubori is known of practically since the moment of its commitment. It was part of the indictment of the ICTY issued against three Croatian generals, Gotovina, Makrač and Ćermak. However, not even two decades later have the perpetrators been identified nor punished.

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*(In)effective investigation for war crimes committed in MPA Storm through  
decision by ECHR*

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On 12<sup>th</sup> January 2016 European Court of Human Rights rendered judgment in the application Treskavica vs. Croatia and established that there has been no violation of the right to life through performing effective investigation into the death of Jovan Treskavica on 5<sup>th</sup> August 1995 in Knin, during the Military Police Operation Storm. In its assessment the Court stated that although the remains after the first burial were exhumed in 2001 and not identified until 2010 (the International Criminal Tribunal for the former Yugoslavia issued an autopsy report which concluded that the probable cause of the death was a gunshot to the neck) the police authorities interviewed all traceable witnesses were interviewed and the available evidence collected and reviewed. The police pursued every line of enquiry. The fact that the investigation did not succeed in identifying the perpetrators of J.T.'s death does not necessarily mean that the investigation was ineffective. In the circumstances, the Court cannot impugn the authorities for any culpable disregard, discernible bad faith or lack of will.

During September 2015, in the applications of Vuković (Application No.: 3430/13<sup>6</sup>) and Damjanović (Application No.: 5306/13<sup>7</sup>) vs. Croatia, the Government of the Republic of Croatia acknowledged that the investigation of the death of the relatives of the applicants was ineffective and that there was a violation of the prohibition of discrimination, guaranteed by the Article 14 of the Convention, because the killed persons were ethnic Serbs.

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<sup>5</sup> Crime in Grubori: <http://www.documenta.hr/en/crime-in-grubori>

<sup>6</sup> Source: <http://hudoc.echr.coe.int/eng#%7B%22respondent%22:%5B%22HRV%22%22%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%22DECISIONS%22%22%22itemid%22:%5B%22001-157424%22%22%7D%22%22%7D>

<sup>7</sup> Source: <http://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22damjanovic%22%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%22DECISIONS%22%22%22itemid%22:%5B%22001-157425%22%22%7D%22%22%7D>

In the above mentioned cases the relatives of the applicants<sup>8</sup> were killed during or immediately after the Military Police Operation Storm, the criminal prosecution did not result in criminal procedure and the conviction of perpetrators of criminal offence/war crimes, in the civil procedure the relatives have not received any form of remedy, but the coverage of the procedural costs.

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*(Under)representation of women in Croatian politics*

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In January 2016, the Ombudswoman for Gender Equality Višnja Ljubičić requested information from the State Attorney's Office of the Republic of Croatia whether it initiated or plans to initiate misdemeanor procedures against the parties that composed candidacy lists for the November 2015 Parliamentary elections that failed to respect the principle of gender equality and broke the Article 35 of the *Law on Gender Equality*<sup>9</sup>. Namely, according to the Article 109 of the *Law on Misdemeanors* the State Attorney's Office of the Republic of Croatia is competent for initiating misdemeanor procedures, while the competent misdemeanor court decides on the sanctions according to the Art. 35 of the *Law on Gender Equality*. The public will be informed on the response by the State Attorney's Office. There are 10% less women in the 8<sup>th</sup> term of the Parliament, that is 15 female MP's less, and there will be only 23 female MP's in the Parliament. This, among other things, indicates that the very introduction of quotas not necessarily leads to an increase of the number of elected women, especially not on open candidacy lists.

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*Recommendations of the Ombudswoman for Gender Equality regarding the use of gender-sensitive language in official communication*

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Upon complaint by the Society of Court Interpreters and Translators regarding several cases of lack of use of gender-sensitive language in the work of court interpreters, the Ombudswoman for Gender Equality sent her recommendations to the Ministry of Justice, the Court Network and the Split County Court to introduce in the relevant ordinance an introductory note regarding gender neutrality, to adapt the texts of statements and decisions to the rules that regulate gender-sensitive stating of professional titles and to change these titles in the way that the female titles are added to the male titles, taking into account the degree of linguistic and content complexity of the text, in accordance with the recommendations of the Council of Europe.

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<sup>8</sup> Vidović Stevan, 20th August 1995, Plavno; Damjanović Dušan and Đuka, 6th August 1995, Radeljevac

<sup>9</sup> Ombudswoman for Gender Equality – Press Release:  
<http://www.prs.hr/index.php/priopcenja-prs/1836-pravobraniteljica-zatrzila-od-dorh-a-obavijest-o-pokretanju-preksajnih-postupaka-temeljem-zakona-o-ravnopravnosti-spolova>

After reviewing the *Ordinance on Permanent Court Interpreters* (Official Gazette No. 88/08 and 119/08), and texts of some other legal acts adopted by the Ministry of Justice or some courts, the Ombudswoman established that several legal texts (e.g. the *Ordinance on the allocation of inheritance proceedings to notary public offices*, OG 35/15 or the *Ordinance on the official seats of notary public offices*, OG 51/15) does not contain an introductory note on gender neutrality (although the professions are written exclusively in male gender), and judicial decisions are stating exclusively male professions. Until now only the Split County Court responded to the recommendations stating that it introduced the new practice and adapted its texts and decisions according to the recommendations.

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*Annex: Timeline of war crimes procedures during the period covered by the report*

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Croatia:

**12/01/2016**

The Zagreb County Prosecutor's Office informed it had called off an investigation into a war crime in the village of Ramljani and, the investigation was called off into Željko Sačić, wartime Interior Ministry special police assistant commander, and Frano Drlje, former member of the Lučko police anti-terrorist unit.

**07/01/2016**

The Split Prosecutor's Office finally raised a war crimes indictment against Dragan Vasiljković, alias Captain Dragan, for war crimes against civilians and prisoners of war from 1991 to 1993 in the Knin prison, Glina, the Glina suburb Jukinac, villages of Gornji and Donji Viduševac and Bruška near Benkovac.

Vasiljković is charged on the grounds of command responsibility, but also for personal participation, with systematic torture, mistreatment and killings of imprisoned Croatian policemen and civilians who, according to the indictment, were beaten with hands and feet, whips and gun butts, as well as for non-selective shelling.

The criminal procedure against Vasiljković (also known as Daniel Snedden) started by the end of 2005 when the decision on conducting an investigation was issued. Soon after the international order of arrest was issued. He was extradited to Croatia in July 2015 from the extradition detention where he was since 2006.

The release of indictment coincides with the ICTY's decision to send the case of Stanišić & Simatović

for retrial. By considering the status of Captain Dragan in the case of Stanišić and Simatović<sup>10</sup> the ICTY Trial Chamber established that in the period from May to August 1991 Captain Dragan was the commander of units at the training center Golubić and the Knin fortress, as well as Glina and Struga. At a ceremony held in the training center in Kula, in 1997 Jovica Stanišić decorated Captain Dragan for his contribution in the wars in Croatia and BH. He played a significant role in the Unit since it was formed until at least August 1991 and he had close collaboration with Simatović who was his direct superior.

During the procedure the defense tried to prove the link between Captain Dragan and the then SAO Krajina authorities, while denying link with Serbian State Security Service.

### 22/12/2015

With the closing arguments of the defense and the accusation of seven accused, tried *in absentia* before the Rijeka County Court, the main hearing was supposed to be concluded. But in the meantime the indictment was modified so the defense requested additional time for preparation and arguments.

It is the criminal procedure against former members of the so-called SAO Krajina Militia (Dane Radočaj – Gajota, Nikola Ćuruvija, Đorđe Kosanović, Radoslav Korać, Dragan Galović, Damir Radočaj and Dane Radočaj – Jablan) charged of killing of two civilians of Muslim ethnicity, who were first brutally beaten and killed from gunshots, and then their remains were thrown into a pit near Gospić.

### 21/12/2015

The Supreme Court of the Republic of Croatia overturned the verdict acquitting Frano Drljo and Božo Krajina of committing a war crime by killing six elderly Serb civilians in the village of Grubori near Knin in 1995. They will be retried before new judicial panel of the Zagreb County Court.

So far only one final judgment was rendered for the crimes committed during the MPO «Storm», convicting Božo Bačelić, commander of the 113<sup>th</sup> Reconnaissance Company of the Croatian Army Brigade from Šibenik, to seven years of prison for the killing a married couple of two civilians.

### 21/12/2015

Before the Rijeka County Court the trial continued against the defendant Ćazim Behrić charged with war crime against civilians detained in the Drmeljevo camp during the self-proclaimed Autonomous Region of Western Bosnia. The defendant Ćazim Behrić is one of the few accused for war crimes who is deprived of liberty, and he pleaded not guilty on the charges in the modified indictment.

The Deputy Prosecutor of the Rijeka County, Doris Hrast, delivered the modified indictment to the court, where the factual description was changed. The defendant is still charged with rape of a detained

<sup>10</sup> Predmet Stanišić i Simatović: [http://www.icty.org/case/stanistic\\_simatovic/4](http://www.icty.org/case/stanistic_simatovic/4)

woman and failure to prevent his subordinates from physically mistreat the detainees- civilians in the Drmeljevo camp. As a consequence of torture one of the detainees, Rasim Erdić, died. In the period covered by the indictment the defendant was allegedly the camp manager.

During the hearing three witnesses' depositions were read, given in their extrajudicial questioning in Bosnia and Herzegovina. According to the indictment the witnesses were: the rape victim, her mother and her then underage son.

The Hague:

**23/12/2015**

The Mechanism for International Criminal Tribunals (MICT) Tuesday granted Jovica Stanišić and Franko Simatović provisional release pending the beginning of their retrial in The Hague.

Both men have been told to report to a local police station in Belgrade every day and surrender their passports to the Serbian justice ministry. They are not allowed to travel, and they are strictly prohibited any contact with the victims or witnesses, as well as giving statements to the press. They are obliged to return to the Scheveningen Detention Unit upon MICT Council's orders.

They were tried for crimes committed on the territory of the Republic of Croatia before the International Criminal Tribunal for the Former Yugoslavia (ICTY). The ICTY Trial Chamber acquitted them of all charges on 30<sup>th</sup> May 2013, and in December 2015 the Appeals Chamber of the ICTY quashed the Trial Chamber's decision to acquit Jovica Stanišić and Franko Simatović, and ordered that Stanišić and Simatović be retried on all counts of the indictment.<sup>11</sup>

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<sup>11</sup> The content of the report is the sole responsibility of the publishers and it does not by any means reflect the official position of the supporting organizations. The report was made within the project «Support to the Strategy of development of judiciary in the area of human rights», with the financial support by the European Economic Area and the Kingdom of Norway grants for civil society organizations, implemented in the Republic of Croatia by the National Foundation for Civil Society Development.