

**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 JULY AND AUGUST 2011**

**Monitoring team:**

Veselinka Kastratović  
Mladen Stojanović  
Jelena Đokić Jović  
Maja Kovačević Bošković  
Marko Sjekavica  
Milena Čalić Jelić  
Miren Špek

**Project assistants:**

Ljiljana Bračun  
Suzana Lazarević

**On behalf of the organisations:**

Mladen Stojanović, Centre for Peace, Nonviolence and Human Rights - Osijek  
Vesna Teršelič, Documenta - Centre for Dealing with the Past  
Zoran Pusić, Civic Committee for Human Rights

In political context, the period to which this report relates was marked by the speech of Prime Minister Jadranka Kosor in Knin on the occasion of the Victory and Homeland Gratitude Day and the Day of Croatian Defenders as well as the 16<sup>th</sup> anniversary of the “Storm” military operation. The Prime Minister’s speech prompted disputes once again between Croatian and Serbian national leaderships as regards the character and objective of the “Storm” military operation.

Arrest of the last ICTY fugitive Goran Hadžić in the Republic of Serbia and his extradition to the ICTY represents a significant progress in bringing perpetrators of the most serious crimes before justice.

In addition, the period was marked by the death of accused and detained Đuro Brodarac which occurred during the investigation of crimes which had been committed against Serb civilians in Sisak in 1991 and 1992.

### **Prime Minister's greeting to “all Croatian generals“**

Prime Minister Jadranka Kosor greeted “all Croatian generals“ in her speech given on 5 August 2011 in Knin on the occasion of marking the Victory and Homeland Gratitude Day and the Day of Croatian Defenders as well as the 16<sup>th</sup> anniversary of the “Storm” military operation. She mentioned in particular Ante Gotovina and Mladen Markač who had been convicted by the ICTY at the first instance procedure and whose deadline to lodge an appeal against this conviction was just about to expire at the time of the speech.

Such a statement from the highest-level political stage represents disrespect of the decisions passed both by international judiciary and Croatian courts (which convicted generals Mirko Norac and Branimir Glavaš, who were subsequently stripped of their ranks – but only after their convictions became final ones), lack of respect for human and minority rights and, finally, lack of appreciation and solidarity with the victims.

In the course of parliamentary elections campaign, the insufficiently informed public is continuously being presented with half-truths about crimes for which the stated generals received (not) final sentences. In this way, unfortunately, priority is given to personal and political advantage of some political parties at the expense of establishing democratic institutions.

### **Arrest and extradition of Goran Hadžić**

The last ICTY fugitive Goran Hadžić was arrested in the Republic Serbia's Fruška Gora region on 20 July 2011. A few days later, the Republic of Serbia extradited Hadžić to ICTY in Den Hague. Although Croatia also filed a request with Serbia to extradite Hadžić, Serbia was obliged to extradite him to the ICTY because it is the court which has the priority over a national judiciary.

Following his arrest and transfer to the Hague, discussions in the public could be heard about a possible request by the Republic of Croatia to have the criminal prosecution against Goran Hadžić handed over to Croatian judicial bodies. However, the Republic of Croatia still has not sent a request for referral to the ICTY.

After Hadžić's arrest, the State Attorney's Office of the Republic of Croatia (DORH) issued a press-release mentioning that several trials for war crimes and other criminal offences were carried out or are still pending against Hadžić in the Republic of Croatia:

1. the Šibenik County Court rendered the verdict sentencing Goran Hadžić to 20 years in prison for the commission of war crime against civilians under Article 120 of the OKZRH, criminal offence of the use of prohibited means of combat under Article 126, and destroying cultural and historical monuments under Article 130 of the same Act. He was found guilty for shelling Šibenik and surrounding places Pirovac, Zaton, Vodice, Srma, Lozovac, Bilice, causing thereby killing or serious physical injuries of the civilians, and destroying monuments and facilities intended for humanitarian purposes;

2. the Osijek County Court rendered a verdict sentencing him to 8 years in prison (maximum sentence) for the criminal offence of associating for the purpose of committing criminal offences against the values protected by international law under Article 187, paragraph 1 of the Criminal Law Act. He was found guilty that, in his capacity as the President of the Government of Serb Region of Slavonia, Baranja and Western Sirmium, in the second part of 1991 and the first half of 1992, he instigated and directed Serb population to military organise itself and join in order to expel entire non-Serb population and destroy their historical and cultural facilities. Thus, according to Hadžić's guidelines, the Territorial Defence Tenja members and members from other non-formal groups organised and imposed forced labour routine upon Croats and members of other non-Serb ethnicities, restricted their freedom of movement, subjected them to intimidation and death threats, plundered their property, planted explosives in houses and killed thereby 23 persons, expelling 98 Croats and members of other ethnicities from the occupied Tenja on 20 April 1992;

3. the Osijek County State Attorney's Office laid on 24 December 2002 the indictment against Veljko Kadijević, Blagoje Adžić, Zvonko Jurjević, Božidar Stevanović, Mile Mrkšić, Veselin Šljivančanin, Miroslav Radić, Vojislav Šešelj, and Goran Hadžić for war crimes against civilians under Article 120 of the OKZ RH, for war crimes against war prisoners under Article 122, for war crimes against the wounded and patients under Article 121 and destruction of cultural and historical monuments under Article 130 of the same Act. They were charged that they directly issued and executed orders for combat action aimed at Vukovar municipality area from August 2011 until 18 November 1991, with the purpose of defeating the Croat defenders, destroying and capturing the town.

The DORH's press-release contained a statement that DORH was ready to conduct the proceedings against Goran Hadžić and that the DORH had submitted a letter to the Prosecutor of the International Criminal Tribunal for the former Yugoslavia in the Hague - as early as on 14 August 2008 - informing the Prosecutor that DORH, on the basis of an international warrant, had expected to have Goran Hadžić extradited to the Croatian judiciary, taking into account in particular the fact that the serious crimes were committed in the territory of the Republic of Croatia and that Goran Hadžić should bear responsibility for the mentioned crimes in respect of which proceedings had already been initiated in the Republic of Croatia.

### **Investigation against Đuro Brodarac is suspended because of his death**

On 12 July 2011, the detainee **Đuro Brodarac** was taken from the Osijek prison to the Osijek hospital to receive medical assistance but he **died** in the hospital one day later. On 14 August 2011, the Osijek County Court's investigating judge passed a **decision on suspension of criminal prosecution against Đuro Brodarac**.

On 24 June 2011, the investigation began against Đuro Brodarac (at the incriminated time, Brodarac was Chief of the Sisak Police Administration (PA), Chief of the Banija-Kordun Area Command Headquarters and member of the Regional Crisis/Emergency Centre for Sisak and Banija), Vladimir Milanković (as the commander of active and reserve formations within the Sisak PA) and Drago Bošnjak (member of the Sisak PA's special unit called „Vukovi“ [the Wolves]), due to a reasonable suspicion that they had committed war crimes against civilians. Brodarac was-, and the other two accused persons are still charged with unauthorised and forcible entries into homes of people of Serb ethnicity, unlawful (house) searches, unlawful arrests and detention of persons in improvised prisons, psychical and physical abuse, inflicting serious physical injuries affecting at least 69 civilians, and out of that number 31 persons were killed.

### **Problems of witnesses' arrival from Sisak to Osijek**

A problem came up during the investigation for crimes in Sisak, which has been conducted at the Osijek County Court ever since 24 June 2011, because the witnesses did not respond to the summons. Namely, the majority of summoned witnesses reside in the Sisak area, and since there is no direct public transportation link between Osijek and Sisak, those witnesses who could not organise themselves on their own and take public transportation to Osijek did not respond to the court summons whatsoever.

The summoned witnesses are indeed entitled to reimbursement of travel expenses. However, this is not sufficient in the mentioned case when there are no direct public transport links between the two towns. In consideration of the fact that a large number of witnesses has to be questioned in this particular court case (and this number also includes a large number of victims' family members as witnesses), it was necessary to make official arrangements for their transport to Osijek.

If no solution is found as regards the noted problem, it is evident that it will appear also in other court cases, particularly bearing in mind that some cases were recently delegated to the county courts in Zagreb, Osijek, Split and Rijeka, and that, with amendments made to the *Act on the Application of the ICC Statute*, the exclusive competence for all war crimes cases which have yet to begin is allocated to the mentioned four courts.

## **OVERVIEW OF MONITORED TRIALS**

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

In July and August 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 **7 war crime trials at county courts in the Republic of Croatia.**

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

- **in Osijek** (trial against Željko Čizmić for the crime in Dalj IV);
- **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 Sajevac; and

- **in Rijeka** (trial against Radoslav Čubrilo for the crime in Lovinac; trial against Mićo Cekinović for the crime in Slunj and surrounding villages).

**The mentioned courts rendered no judgments in the aforementioned trials, the main hearings of which were held during this reporting period. In all seven trials, the courts resumed the hearings which commenced before this reporting period:**

1. The Zagreb County Court resumed the main hearing, which commenced on 8 March 2011, in the trial against **defendants Emil Črnčec, Tihomir Šavorić, Antun Novačić, Robert Precehtjel, Nenad Jurinec, Goran Gaća, and Robert Berak (crime in Mlinište).**

During July and August 2011, one trial hearing was held on 1 July 2011. The next trial hearings are scheduled for 1 September and 2 September 2011.

*The indictment charges the defendants that, in their capacity as members of the 7<sup>th</sup> Guard Brigade of the Croatian Army (HV), in the wider area of Mlinište in Bosnia and Herzegovina in September 1995, by following the orders of the brigade commander now-late Ivan Korade, by firing from personal weapons and automatic rifles, they killed six members of the Republic Srpska army who had been detained in the military action “Maestral 2”, and thus they committed a war crime against war prisoners referred to in Article 122 of the OKZRH.*

The defendants are kept in custody as of 28 October 2009.

2. The Zagreb County Court resumed the main hearing in the trial against **defendant Željko Gojak (crime in the Karlovac settlement of Sajevac).** Trial hearings were held on 8 July and 29 August 2011. The next trial hearing will be scheduled in writing.

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

3. On 8 July 2011 the Sisak County Court resumed the main hearing, which began on 11 April 2011, in the trial against **defendant Jablan Kejić (crime 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 Čurčija, Milenko Milković and Momčilo Buinac.

*The indictment issued by the Sisak County State Attorney's Office charges the defendants that, in their capacity as members of the so-called SAO Krajina armed units, after the 1<sup>st</sup> defendant Kejić arrested the wounded Croatian police member Šefik Pezerović in Kuljani, they were beating the mentioned detainee, put him in a vehicle trunk and took him to a meadow in Zrin and killed him on the spot by firing shots from firearms and thereby they committed a war crime against war prisoners referred to in Article 122 of the OKZRH.*

The next trial hearing is scheduled for 5 September, 6 September and 7 September 2011.

Defendant Kejić is kept in custody from 15 October 2010.

4. On 8 July 2011 the Rijeka County Court resumed the main hearing, which began on 18 April 2011, in the trial against **defendant Radoslav Čubrilo (crime in Lovinac)**.

The defendant is tried in his absence.

This is the third (second repeated) trial, the last trial hearing of which had not been held from 2007 until 18 April 2011. Until that date, the trial was conducted against five defendants. In 2011, however, the Rijeka County State Attorney's Office dropped charges against four defendants (Milorad Čubrilo, Milorad Žegarac, Petar Hajduković and Gojko Mrkajlo).

In this case, the Gospić County Court rendered two times the first-instance verdicts, and the VSRH quashed both of the mentioned verdicts and remanded the case for retrial. Given the fact that the Gospić County Court was lacking judges to form a new council, the VSRH reached a decision to delegate this case to the Rijeka County Court.

*Defendant Radoslav Čubrilo is charged that he committed a 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 his fellow villagers from Raduč, he carried out a mortar attack on Lovinac and surrounding villages on 5 August 1991 together with members of that unit, and permitted the mentioned members to get into houses, to search and set them on fire, and by doing so they threw a grenade at Kata Šarić's house, causing serious injuries to Kata Šarić who later died in hospital from sustained injuries. The defendant is also charged that he issued an order to have the detained Milan Sekulić tied up and killed, and to take the following persons as hostages: Stjepan Katalinić, Jure Sekulić, Marko Pavičić, Ivan Ivezić, Martin Šarić and Mile Račić. After that, he permitted still 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.*

The next trial hearing is scheduled for 1 September 2011.

5. The Vukovar County Court resumed the main hearing, which began 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, in Tovarnik, after 20 September 1991, they were forcibly displacing, killing and physically torturing Croat and other non-Serb civilian population and were seizing or destroying their property, and thus they committed genocide under 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 July 2011). The next hearing is scheduled for 19 September 2011.

6. On 13 July 2011, the Osijek County Court resumed the main hearing in the trial against **defendant Željko Čizmić (crime in Dalj)**. In this particular case, the initial main hearing

started way back in 2006. In June 2011, the hearing started anew, because no trial hearings were held since May 2009. The next trial hearing is scheduled for 13 September 2011.

*The indictment charges the defendant that he participated in the creation of paramilitary police forces, became the chief commander of the so-called Dalj Police Station and worked on establishing a prison in the basement of the Police Station, with an aim to create conditions for arrests and incarceration of non-Serb civilians; that he organised, issued orders and conducted unlawful arrests and detaining a large number of civilians, and as the chief commander, he approved keeping of the prisoners under inhumane conditions who were physically and psychically 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

7. On 9 August 2011, 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)**. For witnesses who could not come to Rijeka in order to be heard before the Rijeka County Court because of illness or old age, the hearing was organised at the Slunj Office of the Karlovac Municipal Court and scheduled for 29 August, 30 August and 31 August 2011. The next trial hearing is planned for 3 October and 4 October 2011 when the depositions taken from the witnesses at the Slunj Office will be read.

Previously in this case, the VSRH quashed twice so far the convictions rendered by the Karlovac County Court by which the defendant had been found guilty and sentenced to one, i.e four years in prison.

In March 2011, although the third (second repeated) trial had begun at the Karlovac County Court (Office in Gospić), the case was still delegated to the Rijeka County Court.

*The defendant is charged that in November 1991, as commander of "Primišlje Territorial Defence" group which was part of the SAO Krajina, in the area of Slunj and surrounding villages, he permitted and ordered deprivation of liberty of Croat ethnicity inhabitants, their physical abuse and killing, as well as setting on fire and destruction of buildings. In compliance with that, members of his unit arrested one person, beat him up and detained him without any legal grounds, while another civilian was killed and his house was set on fire and the majority of population of Croat ethnicity was expelled from their homes. Therefore, the defendant committed a war crime against civilians under Article 120, paragraph 1 of the OKZRH.*

The defendant is kept in custody from 6 July 2009.

**In several trials which we monitored during 2010 and/or in the first half in 2011, no trial hearings were held in July 2011 and August 2011 and thus the hearings in those cases will have to start anew:**

1. In the trial conducted before the Zadar County Court against **defendant Nebojša Baljak and Stevo Ivanišević (crime in Ravni Kotari II)**, no trial hearings were held during this reporting period. Thus, due to a recess exceeding two months, the main hearing will have to start anew. The last hearing in this case was held on 24 March 2011, and on 18 May 2011 deposition evidence was taken from the witnesses in their place of residence.

In the case of both defendants, their place of stay is unknown and they are unavailable to the Croatian state authorities and thus they are tried in their absence.

2. 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**, conducted at the Zagreb County Court, no hearings were held during this reporting period. Still, a crime scene investigation was foreseen to be carried out on 20 July 2011. The main hearing was scheduled for 16 September and 22 September 2011.

Defendant Pero Đermanović is kept in custody, defendant Dubravko Čavić is tried in his absence, and defendant Ljubiša Čavić attends the trial and is not kept in custody.

3. In the trial conducted before the Sisak County Court against **defendant Stojan Letica (crime in Novo Selište)**, the last trial hearing was held on 22 March 2011. The continuation of the main hearing should be scheduled in writing.

The defendant, who is unavailable to Croatian state authorities, is tried in his absence.

4. In the third (second repeated) trial conducted before the Sisak County Court against **defendant Rade Miljević (crime on the Pogledić hill near Glina)**, the last hearing was held on 5 April 2011. The next hearing should be scheduled in writing.

The defendant attends the trial and is not kept in custody. He was in detention from 10 March 2006, but in December 2010 his detention was vacated because of the expiry of maximum detention period.

5. In the trial conducted before the Vukovar County Court against **defendant Ilija Vorkapić (crime in Lovas)** indicted for genocide under Article 119 of the OKZRH and for war crime against civilians under Article 120, paragraph 1 of the same Act, the last hearing was conducted at the end of December 2010.

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

## **b) Monitored sessions at the Supreme Court of the Republic of Croatia (VSRH)**

During the reporting period, the session of the VSRH's Appeals Chamber was only held in the **case of defendant Milenko Vidak (crime in Slunjska Greda)**. On 12 July 2011, the VSRH's Appeals Chamber quashed the Sisak County Court's first-instance verdict of 20 December 2010 due to major violation of the criminal procedure provisions, in which the defendant had been found guilty and sentenced to 8 years in prison. The case was remanded for retrial.

In this court case, on 20 December 2010 the Sisak County Court's War Crimes Council found defendant Milenko Vidak, in his capacity as member of Serb formations, guilty for killing the civilian Stjepan Sučić and thus he committed a war crime against civilians. He received a prison sentence in the duration of 8 years.

*On the basis of international arrest warrant, defendant Vidak was arrested in the mid-June 2009 in the Republic of Turkey Black Sea Region of Trabzone. The decision on his extradition to Croatia was made by the Trabzone Court for Serious Crimes that was issued on 4 August 2009. Given the fact that the international arrest warrant was issued because of the commission of criminal offence - a murder referred to in Article 90 of the Criminal Law Act of the Republic of Croatia (on 9 November 2010 the hearing began at the Sisak County Court against the defendant due to the criminal offence - murder committed to the detriment of Branko Runjajić in 1992), the*

*Republic of Croatia also requested extradition of the defendant due to a war crime committed against civilian population. On 8 September 2010, Croatia received a positive response from the Republic of Turkey Government's Main Administration for Laws and Decisions.*

### **Extradition of Mile Dakić**

Former president of the Serb National Council of SAO Krajina Mile Dakić, who was sentenced 12 years ago in his absence to 20 years in prison by the Karlovac County Court's verdict for the commission of war crime (aiding and abetting the murder of three Croatian policemen in August 1991 in the Krnjak municipality area near Karlovac), was extradited to Croatia from Bosnia and Herzegovina.

Dakić was arrested on 26 May 2011 at the Rača border crossing based on international arrest warrant issued by Croatia. In June 2011, Croatia requested his extradition. Before his extradition to Croatia, he was kept in extradition detention unit in Sarajevo.

Due to conviction rendered in his absence, Dakić filed a request for a renewal of the proceedings.

### **Investigations and indictments**

On 17 August 2011, the Zagreb County State Attorney's Office filed a request for investigation **against the JNA lieutenant colonel and commander of the "Manjača" war prisoner detention camp** due to reasonable suspicion that he had ordered detention camp security members to abuse the prisoners physically and psychologically, and he had not taken any action to prevent unlawful conduct agreeing thus that his subordinates continued with such unlawful conduct and agreed to the consequences.

In August 2011, the Zagreb County State Attorney's Office issued **the indictment against**

**T. Š., I. K. and A. T.**, former members of the Croatian Army's 7<sup>th</sup> Guard brigade, for the commission of war crime against civilians. They are charged with killing of four still unidentified civilians in the area of Dabrac and Bočac (between Mrkonjić Grad and Banja Luka) in October 1995 at the time when the "Južni potez" military action was going on.

Extension of detention against the accused person was proposed in the indictment due to particularly aggravating circumstances of the crime.