

**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

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Proposal of the Act on Amendments to the Act on the Application of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law

On 23 March 2011, *Amendments to the Court Procedure Rules* were published in the Official Gazette. This document contained a request to establish special war crime departments at county courts in Osijek, Rijeka, Split and Zagreb. Given the fact that it concerns an act which only regulates internal court organisation and not the court competence for dealing with individual type of the case, the mentioned amendments prescribe no exclusive competence of the mentioned courts to be dealing with war crime cases.

However, on 14 April 2010, the Government of the Republic of Croatia submitted a *Proposal of the Act on Amendments to the Act on the Application of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law*. In the *Proposal*, the Croatian Government provided the reasons why *the Court Procedure Rules* had to be amended. One of the reasons for its amendment was the need to meet the criteria for closing the Chapter 23 on Judiciary and Fundamental Rights, and also because the European Commission proposed a recommendation during consultations held on 29 and 30 March 2011 to have war crime trials dealt exclusively by 4 specialised courts (Osijek, Rijeka, Split, and Zagreb), and because of the recommendation related with the possibility to use evidence of the international criminal courts before domestic courts.

In respect of the conduct of war crime trials, the mentioned *Proposal* provides for an exclusive competence of county courts in Osijek, Rijeka, Split, and Zagreb in respect of all "new" cases (where the criminal procedure is expected to begin). Those cases with criminal procedure already underway will be concluded by the courts that are found competent pursuant to the *Criminal Procedure Act*. However, the proposed Act renders also possible that the Supreme Court's president, on the basis of a reasoned proposal by the State Attorney General, can allow for the trial to be allocated to one of the four courts.

Also proposed were amendments to the provisions which regulate the use of ICTY evidence. It was proposed that evidence collected by the ICTY bodies may be used in criminal proceedings carried out in the Republic of Croatia under the conditions that the mentioned evidence was presented in a manner stipulated by the ICTY's Statute and the Tribunal's Rules of Procedure and Evidence and that they may be used before this Court.

Proposal of the Act on Amendments to the Act on the Application of the Statute is currently in parliamentary procedure.

OVERVIEW OF MONITORED TRIALS

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

In March and April 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 **13 war crime trials at county courts in the Republic of Croatia**.

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

- **in Osijek** (trial against Damir Kufner *et al.* for the crime in Marino Selo, trial against Čedo Jović for the crime in Dalj IV and trial against Petar Mamula for the crime in Baranja);
- **in Vukovar** (trial against Miloš Stanimirović *et al.* for the crime in Tovarnik);
- **in Sisak** (trial against Rade Miljević for the crime on Pogledić hill near Glina, trial against Jablan Kejić for the crime in Zrin, and trial against Stojan Letica for the crime in Novo Selište);
- **in Zadar** (trial against Nebojša Baljak *et al.* for the crime in Ravni Kotari II);
- **in Zagreb** (trial against Emil Črnec *et al.* for the crime in Mlinište, BiH);
- **in Slavonski Brod** (trial against Janko Radmanović *et al.* for the crime in military barracks in Slavonski Brod),
- **in Rijeka** (trial against Radoslav Čubrilo for the crime in Lovinac);
- **in Šibenik** (trial against Goran Amanović for the crime in Suknovci and Oklaj).

Though scheduled, the main hearing was not held at the **Split County Court** in the trial against Mitar Arambašić (crime of the so-called Peruča group).

Out of the aforementioned trials, two trials were completed with first-instance (non final) verdicts:

1. On 15 March 2011, after the third (second repeated) trial at the Osijek County Court, the defendant **Čedo Jović (crime in Dalj IV)** was found guilty and sentenced to 5 years in prison. The defendant is held in custody from 7 July 2008 and his detention was extended after the mentioned verdict was pronounced.

With the mentioned verdict, defendant Jović was found guilty because in his capacity as an actual commander of military police unit of the so-called RSK Army, in the period from the end of December 1993 until June 1995, although aware that his subordinates – military policemen were mistreating members of the manual labour platoon of non-Serb ethnicity, he failed to take any action to punish the perpetrators, and thus he gave consent to his subordinates to continue performing such unlawful actions (hitting one injured person as result of which he died, and hitting five more injured parties).

Previously the VSRH quashed two times the first-instance verdicts rendered by the Osijek County Court (the first time because of procedural errors, and the second time due to erroneously and incompletely established facts). On both occasions, the defendant was found guilty and was sentenced to 5 years in prison.

2. On 23 March 2011 after the fourth (third repeated) trial, the Osijek County Court found **defendant Petar Mamula** guilty for the **crime in Baranja**, as charged with the indictment that was amended on the same day when the verdict was published. He was sentenced to 3 years and 6 months in prison.

The defendant is found guilty because in his capacity as armed rebellion member of the local Serb population against the constitution and legal order of the Republic of Croatia, in Batina and Kneževi Vinogradi on 9 September 1991 godine, he participated in intimidation and cruel physical and mental abuse of non-Serb civilian population of Baranja in the manner that in the so-called Batina Territorial Defence Headquarters, by interrogating the unlawfully apprehended Catholic priest Antun Knežević, the defendant was beating Knežević's head using hands, opening fire from the handgun held near Knežević's head, threatened to kill Knežević, seized his wristwatch and fired at it from

the handgun, and then he pressed the handgun against the injured party's left ear and fired one bullet causing a ruptured eardrum to the injured party, kicked his genitals, thus, based on the aforementioned, by violating the international law rules during an armed conflict, he treated the civilian inhumanely causing his great suffering and bodily harm injuries.

During the trial the defendant was not kept in custody (he was detained from 6 October 2000 until 7 May 2003).

Previously in this trial, the VSRH quashed so far three times the convictions rendered by the Osijek County Court and reversed the case for a retrial.

During the reporting period (March-April 2011) began the main hearings in six cases:

1. On 14 April 2011 the main hearing began at the Sisak County Court in the trial against **defendant Jablan Kejić (crime in Zrin)**. The Council decided to separate the proceedings against the available defendant Jablan Kejić from the proceedings against the 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 first defendant Kejić arrested a wounded Croatian police member Šefik Pezerović in Kuljani, they were beating the mentioned detainee, put him in a vehicle trunk and took him to one meadow in Zrin and killed him there by firing from firearms, thus they committed a war crime against war prisoners referred to in Article 122 of the OKZRH.

The next trial hearing was scheduled for 16, 17 and 18 May 2011. Defendant Kejić is kept in custody from 15 October 2010.

2. On 22 March 2011 began the main hearing at the Sisak County Court in the trial against **defendant Stojan Letica (crime in Novo Selište)**. On 1 December 2010, the VSRH passed a decision according to which the defendant would be tried in his absence since he is unavailable to Croatian state authorities.

The indictment charges Stojan Letica that in his capacity as a member of non-regular army of the so-called SAO Krajina, in Novo Selište on 30 November 1991 at about 19:00 hours when on patrol, aware of the fact that Stjepan Šubić, a civilian person of Croatian ethnicity, was alone in his house, fired several shots from the "M-70" rifle through an open window in Šubić's back, who instantly died from sustained injuries. Therefore, the defendant committed a war crime against civilians under Article 120, paragraph 1 of the OKZRH.

The next trial hearing is expected to be held on 18 May 2011.

3. On 24 March 2011 at the Zadar County Court the main hearing began in the trial against **defendants Nebojša Baljak and Stevo Ivanišević (crime in Ravni Kotari II)**.

The indictment charges the defendants that, in their capacity as armed members of the so-called RSK police in the area of Ravni Kotari, (in occupied villages Popovići and Rodaljice) during 1991 and 1992, with the purpose of forcing Croatian population to

leave their homes, they tortured and mistreated several civilians, and therefore they committed a war crime against civilians under Article 120, paragraph 1 of the OKZ RH.

The next trial hearing is scheduled for 18 May 2011. The Court has no information where the defendants reside and they are unavailable to Croatian state authorities and thus they are tried in their absence.

4. On 10 March 2011 began the main hearing at the Slavonski Brod County Court in the reopened trial against previously sentenced *in absentia* **Janko Radmanović and Radisav Stojanović (crime in the military barracks in Slavonski Brod)**. On 11 February 2009, the Požega County State Attorney's Office filed a request for reopening of criminal proceedings and this request was approved.

The Indictment charges Radmanović and Stojanović that, in their capacity as commanders of the "Ivan Senjug Ujak" military barracks, in Slavonski Brod on 15 and 16 September 1991, they were issuing orders to open fire on certain town parts without selecting the targets using all available weapons, regardless of the fact that actions were being taken by regular Croatian armed forces; and as a result, the defendants' subordinate officers and soldiers executed orders to open fire because of which, subsequently, destroyed and damaged were many facilities, six civilians sustained light physical injuries and one civilian sustained serious physical injuries; thus the defendants committed a war crime against civilians under Article 120, paragraph 1 of the OKZRH.

The next trial hearing is scheduled for 5 May 2011.

5. On 8 March 2011 began the main hearing at the Zagreb County Court in the trial against **defendants Emil Črnčec, Tihomir Šavorić, Antun Novačić, Robert Precehtjel, Nenad Jurinec, Goran Gaća, and Robert Berak (crime in Mlinište)**. During March and April 2011, the total of seven trial hearings was held.

The indictment charges the defendants that in their capacity as members of the 7th 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 were detained in the military action "Maestral 2", and thus they committed a war crime against war prisoners referred to in Article 122 of the OKZ RH.

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

6. On 18 April 2011 began the main hearing at the Rijeka County Court, which continued the following day, 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 been held in 2007 when the trial was conducted against five defendants. In the meantime, 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 already the first instance verdicts, and the VSRH quashed the both of the mentioned verdicts and reversed 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 co-villagers from Raduč, he carried out on 5 August 1991 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, and by doing so they threw a grenade at Kata Šarić’s house, causing serious injuries to Kata Šarić who later died at 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 unindented 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 13 May 2011.

Pending trials, the main hearing of which began before this reporting period:

1. The Osijek County Court resumed the main hearing which began on 30 September 2010 in the repeated trial against **defendants Damir Kufner, Davor Šimić, Pavao Vancaš, Tomica Poletto, Željko Tutić and Antun Ivezić (crime in Marino Selo)**, former commanders i.e. members of the Military Police Squad of the 76th Independent Battalion of the National Guard Corps.

Defendants Kufner, Šimić and Vancaš attend the repeated trial and are not detained, whereas Poletto, Tutić and Ivezić are kept in custody. The repeated trial is conducted at the Osijek County Court because the case was delegated to it after the VSRH quashed the Požega County Court’s convicting verdict for procedural errors.

During the reporting period, a total of three trial hearings were held. After that, the hearing had to be postponed because of an illness of the first defendant Kufner. The hearing should resume on 3 May 2011.

Defendant Kufner is charged with ordering unlawful detentions and that, although this was his duty, he failed to prevent the killing of civilians, ill-treatment and unlawful detention of civilians; defendant Šimić is charged with, although this was his duty, failing to take measures to prevent ill-treatment of civilians and unlawful detentions, whereas defendants Vancaš, Poletto, Tutić and Ivezić are charged as direct perpetrators.

2. The Sisak County Court resumed the main hearing which began on 25 October 2010 in the third (second repeated) trial against **defendant Rade Miljević (crime on the Pogledić hill near Glina)**.

The defendant is charged that, in Glina on 20 September 1991, as a member of the so-called SAO Krajina forces, based on the prior agreement with the Joso Kovačević’s sabotage group members, he took away from the Glina prison the detained civilians

Janko Kaurić, Milan Litrić, Borislav Litrić and Ante Žužić and he surrendered them to the mentioned group for them to execute the civilians.

During the reporting period, two trial hearings were held. The next trial hearing is yet to be scheduled.

During the trial, the defendant 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.

In this case, the VSRH quashed two times so far due to incorrect and incomplete establishment of facts the convicting verdicts rendered by the Sisak County Court by which the defendant was sentenced to 14, i.e. 12 years of prison.

3. 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 mentally torturing Croat and non-Serb civilian population and were seizing or destroying their property, and thus they committed a genocide under 119 of the OKZRH and a 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 on 25 March 2011. The next hearing is scheduled for 5 May 2011.

4. Currently underway at the Šibenik County Court is the main hearing which began on 31 January 2011 in the trial against **defendant Goran Amanović (crime in Suknovci and Oklaj)**.

Defendant Amanović is charged that, as a member of Serb paramilitary unit in Suknovci and Oklaj from the end of 1991 until 1994, at the temporary occupied area of Promina municipality, he physically abused and was beating elderly civilians of Croatian ethnicity, causing death to one elderly man. Also, the defendant is charged with the rape of one elderly female civilian, with attempted rape of another female person, and that he threatened, intimidated, terrorised civilians and plundered their property.

During the reporting period, two trial hearings were held. The defendant, extradited to Croatia from Bosnia and Herzegovina, is held in custody in the detention unit of the Šibenik prison.

Delegated cases:

1. On 2 March 2011 at the Karlovac County Court (Office in Gospić) began the third, (second repeated) trial against **defendant Mićo Cekinović (crime in Slunj and surrounding villages)**. The trial hearing was also held on the following day i.e. on 3 March 2011. However, according to information available to us, the case was then **delegated to the Rijeka County Court**.

In this case, the VSRH quashed two times so far the first instance verdicts rendered by the Karlovac County Court by which the defendant was sentenced to one, i.e four years in prison.

The defendant is charged that in November 1991, as a commander of "Primišlje Territorial Defence" group which was part of the "SAO Krajina", in the area of the town of Slunj and surrounding villages, he permitted and ordered deprivation of liberty of inhabitants of Croatian ethnicity, 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 Croatian ethnicity were expelled from their homes. Therefore, he committed a war crime against civilians under Article 120, paragraph 1 of the OKZ RH.

The defendant is kept in custody from 6 July 2009.

2. Although the main hearing at the Sisak County Court was scheduled to begin on 6 April 2011 in the trial against **defendants Pero Đermanović, Ljuban Bradarić, Dubravko Čavić and Ljubiša Čavić (crime in the villages along the Una river near Hrvatska Kostajnica)**, the hearing was not held. **The case was then delegated to the Zagreb County Court** and the main hearing should begin on 31 May 2011.

Previously, on 22 December 2010, the VSRH quashed the verdict rendered on 23 April 2010 by the Sisak County Court finding the defendants guilty and sentencing them to the following prison sentences: Pero Đermanović - 11 years, Ljuban Bradarić – 1 year, Dubravko Čavić – 9 years, and Ljubiša Čavić – 2 years of imprisonment.

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

Pero Đermanović is kept in custody, Ljuban Bradarić is not kept in custody, Dubravko Čavić is unavailable to the Croatian judiciary, and detention against Ljubiša Čavić was vacated following the pronouncement of the first-instance verdict.

Although scheduled for 19 April 2011, the main hearing at the Split County Court did not begin in the trial against **defendant Mitar Arambašić (crime of the so-called Peruča group)**. The defendant, who resides in Canada where he allegedly sought asylum, failed to respond to the notice of summons.

Mitar Arambašić was sentenced in 1997 in his absence to 20 years in prison for the commission of a war crime against civilians and a war crime against war prisoners. He was arrested in 2002, in South Dakota based on international arrest warrant. The United States of America extradited him to Croatia in January 2006. The Split County Court completed a reopened trial. On 9 June 2008, the previous guilty verdict remained in force. However, the VSRH quashed on 28 April 2009 the guilty verdict rendered by the Split County Court and Arambašić was released from custody.

In several cases of trial hearings which we monitored during 2010 and/or in the first two months in 2011, no trial hearings were held in March and April 2011 and thus the hearings in those cases will have to start anew:

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

We have been monitoring this case since 2004. No first-instance verdict has been rendered yet.

The indictment was laid against 18 defendants. During 2003 and 2005, the trial was discontinued against two defendants because they deceased in the meantime. In April 2009, the trial against present defendants (Milan Tepavac and Ilija Vorkapić) was separated from the other 14 defendants who are unavailable. In December 2010, the trial against Tepavac was separated from the trial against Vorkapić because Tepavac was found unfit to plead.

The hearing had to start anew on several times (due to changes in the composition of the Council, the arrest of the defendant Tepavac, the separation process, recesses exceeding two months, ...).

2. In the third (second repeated) trial conducted at the Zadar County Court against **defendants Milan Jurjević and Davor Tošić**, indicted that as members of Serb formations they committed a war crime against civilians, the last trial hearing was held on 2 November 2010.

Back in 2000, the VSRH quashed the 1997 verdict of acquittal rendered by the Zadar County Court, and then in 2007 it also quashed the verdict of conviction rendered by the same Court. Based on that conviction, the 1st defendant Jurjević was sentenced to 4 years whilst the 2nd defendant Tošić was sentenced to 15 years in prison.

The defendants are charged with killing Mile Brkić - Kuzman, a civilian of Croat ethnicity who offered no resistance, by firing shots from firearms in the manner that the 2nd defendant Tošić fired several bullets from a handgun and the injured person fell on the ground. Then, the 1st defendant Jurjević fired three more bullets from his semi-automatic rifle at him and this caused the death of Brkić.

The 1st defendant Jurjević is not held in custody (was detained from 26 May until 1 December 1997). The 2nd defendant Tošić is tried in his absence.

3. In the trial conducted before the Bjelovar County Court against **defendants Ivan Husnjak and Goran Sokol (arson in the villages of Pušine and Slatinski Drenovac)**, the last trial hearing was held on 18 May 2010.

In this trial, the defendants are charged that in February 1992 as the Croatian Army officers - a commander and a deputy commander - in the villages of Pušine and Slatinski Drenovac during a cleansing operation, although aware of unlawful conducts going on by which several members – subordinates to the defendants – were setting fire to abandoned Serb people's houses, they failed to take any action to prevent and punish unlawful conducts and therefore agreed to continued actions and consequences thereof (17 destroyed houses in

Pušine, the Orthodox church tower damaged by fire shots, 19 houses set on fire in Slatinski Drenovac including the hunters' lodge between Pušine and Slatinski Drenovac).

The defendants attend the trial and are not kept in custody.

4. The main hearing, which began on 17 December 2010, is underway at the Zagreb County Court in the trial against **defendant Željko Gojak (crime in Karlovac settlement of Sajevac)**. The last trial hearing was held on 20 January 2011

The indictment charges defendant Gojak 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.

The defendant is held in custody from 22 October 2010.

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

During the reporting period (March and April 2011), the VSRH Council held its session only in the case of **defendant Dušan Zinajić (crime in Borovo Naselje)**. The session was held on 24 March 2011. We are not familiar with their decision.

On 12 June 2009, the Vukovar County Court rendered the first-instance verdict by which it found the defendant guilty and sentenced him to 4 years in prison. He was found guilty because on 20 November 1991 in Vukovar, after the occupation of Borovo Naselje, as a member of paramilitary formations, he approached Tomislav Kovačić from behind, who was in the group of men who were ordered to lay down, and fired a shot from a rifle to his head, but at that moment an unidentified soldier of the so-called JNA pulled the defendant's arm, so that the bullet only grazed Kovačić's vertex, after which he was covered in blood; subsequently one unidentified person provided first aid to Kovačić; therefore the defendant treated civilians inhumanely during the occupation and thus he committed a war crime against civilians under Article 120, paragraph 1 of the OKZ RH.

The defendant is not kept in custody. During the first-instance proceedings he was also not detained.

New indictments:

1. According to the communication issued by the Split County State Attorney's Office on 04 March 2011, the mentioned State Attorney's Office presented the indictment before the Split County Court against Croatian citizens **T. P., D. B., Ž. M. and M. P.**, former members of Croatian formations, charged with the commission of war crime against war prisoners.
They are charged with abuse of war prisoners **in the Šibenik prison "Kuline"**. Extension of detention of the accused persons was proposed in the indictment.
2. According to the communication issued by the Osijek County State Attorney's Office on 12 April 2011, the mentioned State Attorney's Office presented the indictment, after

investigation procedure, before the Osijek County Court against two citizens of the Republic of Serbia **A.V.**, former Security Office Head of the People's Defence Federal Secretariat, and **M.Ž.**, the JNA lieutenant colonel and member of the Security, for the commission of a war crime against civilians and a war crime against war prisoners. **A.V.** and **M.Ž.** are charged with crimes committed in detention camps **Begejci, Stajicevo, Sremska Mitrovica, Niš, and Stara Gradiška.**

Both accused persons reside in the Republic of Serbia and they are unavailable to the Croatian state authorities.