



## **Monitoring of War Crimes Trials – Guarantee for the Process of Dealing with the Past and Sustainability of the Judicial Reform in Croatia**

Osijek, Zagreb, 17 October 2013

### ***Biweekly Report on War Crime Trials***

#### **Croatian Government has been given an ultimatum – a threat by violence and lawlessness**

In the last two weeks, we have been observing increased tensions and non-tolerance against Serb minority.

On 7 October and in the night between 7/8 October 2013, bilingual signs were removed from four institution buildings in Vukovar. The only sign with dual Latin and Cyrillic script which is not removed is the one at the police station building. Six policemen were suspended because they failed to prevent removal of these signs. Criminal complaint was filed against one of the mentioned policemen because he personally took part in the removal of the sign.

A day later, the sign of the Serb Cultural Association „Prosvjeta“ disappeared in Zagreb. In the night between 10/11 October 2013, four signs with Latin/Cyrillic script were destroyed in Udbina. Later on, bilingual signs were removed and went missing in Vojnić near Karlovac and in Kosovo near Knin.

Tomislav Josić, president of the Headquarters for the Defence of Croatian Vukovar, gave an ultimatum to the Croatian Government requesting that in the period of 14 days the Government should give up on the introduction of bilingual signs and remove the only still visible sign. Otherwise, he said that defenders from all over Croatia would remove it.

*“We know what kind of massacre Vukovar experienced in the past. Today, Vukovar experiences yet another massacre from the Government“,* said Tomislav Karamarko, the HDZ President, on the occasion of marking the Independence Day on 8 October 2013. He continues to label as unlawful the Government’s attempts to introduce, in accordance with *the Constitutional Act on the Rights of National Minorities (CARNM)*, bilingualism in Vukovar. He repeatedly reiterates that bilingualism should not be introduced in Vukovar because the feelings of Vukovar Croatian population should be respected. He refers to Article 8 of the CARNM , which reads:

*“The provisions of this Constitutional Act and the provisions of special laws regulating the rights and freedoms of members of national minorities shall be interpreted and applied with the purpose to respect the national minorities and the Croatian people and with the purpose of development of understanding, solidarity, tolerance and dialogue between them.”*

It is incomprehensible that the leader of the largest opposition party justifies with the quoted provision, which speaks of mutual respect and tolerance, the non-introduction of the Cyrillic script in Vukovar.

It is irresponsible to use Cyrillic script as a means of creating intolerance and lawlessness. Constitution and laws should be respected and implemented. Establishing the rights of national minorities, including the rights of Serbs to use Serbian language and Cyrillic script, is a test of respect and tolerance for Vukovar and entire Croatia. Building of interethnic trust can alleviate the burden of the past - to contribute to the readiness to testify about crimes committed by members of the "own side" and to reveal the truth about the tragedy and burial places of the missing persons .

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## Burial of victims recently exhumed from a mass grave in Sotin

On 14 October 2013, the remains of eleven victims exhumed in April from two mass graves in Sotin were buried at the Sotin cemetery. The mortal remains from one victim was buried in Osijek and one in Vinkovci. All thirteen victims were killed on 27 December 1991 by members of the Territorial Defence Sotin. Location of the site with the bodies of victims was indicated by an ex-TO Sotin member, charged by the Serbian prosecution for the alleged crime.

During the Homeland war, 64 villagers of Sotin were killed. Eighteen more Sotin victims are still missing.

The fate of 1689 missing persons and the position of minorities were the central topics during the visit by President Josipović to Serbia on 16 and 17 October 2013. This was the President's first visit to Serbia after Tomislav Nikolić's election as Serbian president in May 2012.

## Criminal proceedings for the crime in Sisak – pressure by the defence counsels because their defendants are kept in custody and irresponsible actions by the attorney and the media

In mid-October, the Osijek County Court resumed the main hearing in the case against Vladimir Milanković and Drago Bošnjak, accused of the execution of 26 Sisak citizens of Serb ethnicity.

On 21 September 2013, organised by the Headquarters for Defence of the Dignity of the Homeland War, several tens of veterans protested at the main square in Osijek because of continuous detention extension against Milanković and Bošnjak, who are kept in custody for about two years and four months.

This lengthy detention turned into serving the sentence – this is often declared by defence counsels of the defendants. *"All that has been done in this case is "pitch dark". Even at the beginning of the trial, I was saying that Serbs accused of war crimes attend trial free, while Bošnjak and Milanković spend time in custody so that there would be no harassment of the public. What public, when this public was upset with the fact that they were detained!"* said, among other things, on 11 October 2013, for "Glas Slavonije" daily paper defence counsel Milenko Umičević who represents defendant Milanković.

## Statistical data on detained defendants

In the last quarter (July-September 2013), main hearings were pending before county courts in 14 trials for war crimes (7 against members of Serb- and 7 against members of the Croatian military units). In those trials, 8 members of Serb- and 10 members of the Croatian forces were accused.

Out of the mentioned eight members of Serb military units, five are available and attend trials, while three members are tried in their absence (*in absentia*). All ten members of Croatian military units attend trials .

**Out of the mentioned five available members of Serb military units, the following four male persons are detained:** Ljubinko Radošević and Vojislav Grčić (sentenced in September 2013 for war crimes and committed rape in Dalj); Milan Đekić (accused of killing a civilian after the fall of Vukovar); and Nikša Bera (previously sentenced *in absentia* to 6 years in prison for abuse of prisoners in Knin prison). Marko Bolić attends trial undetained (accused of killing in Podvožić two members of Croatian military units who had, previously, laid down their weapons and raised his hands in surrender).

**Out of ten members of Croatian military units, the following four persons are detained:** the mentioned Milanković and Bošnjak; and Ante Babac and Mišo Jakovljević (accused of killing at the Miljevci Plateau one captured Serb soldier).

Six defendants attend trial undetained: Tomislav Merčep (accused of execution of 46 people in Pakrac Poljana and at the Zagreb Fair), Frano Drljo and Božo Krajina (accused of killing six elderly civilians in Grubori), Mirko Sivić (accused of killing two civilians in Osijek), Velibor Šolaja (accused of killing an elderly woman in the Medak Pocket) and Josip Krmpotić (accused of ordering the killing of four captured Serb soldiers and burning and blasting houses, also in the Medak Pocket).



By conveying the incorrect and sweeping information, the general public is being deceived. In the situation of high national tensions and aggravated inter-ethnic relations, it is utterly irresponsible to issue and publish incorrect statements on the alleged privileged status of members of Serb military formations accused of war crimes in comparison with members of Croatian military formations accused of the same crimes.

The Constitutional Court of the Republic of Croatia on 27 September 2013 dismissed the constitutional complaint filed by the accused Drago Bošnjak in respect of his detention status during the trial. The Constitutional Court stated that the trial was not taking too much time, it was not delayed and the trial went on continuously. The proportionality principle - between the gravity of the committed criminal offence, the punishment which might have been expected in the court proceedings and the need for ordering and keeping the accused in detention – was not compromised whatsoever.

The ruling of the Supreme Court of the Republic of Croatia, according to which the appeal lodged by the accused Bošnjak against the first-instance decision on extension of detention was rejected on 31 July 2013, included the statement saying that the release of the person against whom there was a high degree of reasonable suspicion of committing the incriminated acts would cause distress to the general public, especially the members of ethnic minorities, specifically those whose family members and close relatives had been the victims of the incriminated acts in the area of Sisak and its surroundings; the more so since the Sisak is a small town, heavily inflicted by war events which were followed by a long and difficult process of stabilisation of relations and establishing a peaceful co-existence which has lasted to the present day.

### **More than one year after the submission of the request, the Republic of Croatia has written off Vjera Solar's debt which occurred as a result of the lost civil lawsuit**

By the decision of the Ministry of Finance dated on 24 September 2013, the Republic of Croatia waived its claims and the debt of Vjera Solar in the amount of 11,975.00 kuna, which was a result of the lost civil lawsuit<sup>1</sup>.

Based on the *Regulation on the Criteria, Standards and Procedures to Delay Payments, Introduce Instalment Payments, Sale, Write-off or Partial Write-off of Debt*, Vjera Solar submitted the Request for Write-off of the Debt to the Sisak Municipal State Attorney's Office as early as in July 2012. Although the above-mentioned Sisak Municipal State Attorney's Office held the opinion that Vjera Solar did not fulfil the criteria for write-off of the debt, the Ministry of Finance subsequently determined that Vjera Solar, concerning her modest income and property situation, was meeting the criteria for the write-off of debt after all.

Last month (September 2013), *Slobodna Dalmacija daily* also waived the request for compensation of litigation costs in the amount of 14,760.00 kuna from Vjera Solar. By waiving their claims, the Ministry of Finance and *Slobodna Dalmacija daily* have alleviated the injustice done to Vjera Solar during many years – by lengthy delays in investigation into the crime in which her daughter had been killed, by insults and threats she had been exposed to due to her activist involvement, by the rejected compensation requests and foreclosures which occurred as a result of costs of lost litigations which had been initiated by Vjera Solar.

The Republic of Croatia still claims 8,580.00 kuna from Vjera Solar, which is the amount of lost litigation costs in which Vjera Solar was seeking compensation of non-pecuniary damage for mental suffering caused by the death of her daughter. However, it is logical to expect that this debt of Vjera Solar will also be written off, in accordance with the same (property) criteria.

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<sup>1</sup> In 1995, Vjera Solar filed a lawsuit (against *Slobodna Dalmacija* and the Republic of Croatia (the Ministry of the Interior)) for compensation of damage due to a slander caused by publishing the article in *Nedjeljna Dalmacija weekly* which conveyed the allegations made by the-then Head of Sisak Police Administration Vladimir Milanković regarding Vjera Solar's killed daughter Ljubica Solar. Vjera Solar filed the stated lawsuit in order to present her daughter's case to the general public and to push the responsible people in Croatian institutions to investigate and prosecute the Sisak killings, also pointing out at the impermissible behaviour of the Police Chief who, instead of investigating the crime, had presented incorrect information concerning private lives of victims to the media, thus causing additional pain to their family members.



The write off of Vjera Solar's debt is the first case known to us in which the victim's family member's debt, which occurred as a result of lost civil lawsuit in which the victim's family member was seeking compensation of non-pecuniary damage from the Republic of Croatia, was waived. Unlike the stated example, many plaintiffs/victims' family members whose loved ones were killed/ will not be relieved of the burden of the obligation of paying the litigation costs since they will not fulfil the strict property criteria stipulated by the above-mentioned *Regulation*. The agony of many of those persons, which is likely to be continued, should be urgently ceased by the Government of the Republic of Croatia passing a special regulation which would waive all its claims towards this category of plaintiffs.

### **A former member of Serb military formations arrested on suspicion that he had ordered the killing of 83-year-old civilian**

On 10 October 2013, the Rijeka County State Attorney's Office officials questioned the arrested M.C. due to existence of reasonable suspicion that M.C. in his capacity as Platoon commander of the Gornji Stjenjičak Territorial Defence Company had ordered the killing of the arrested 83-year-old civilian I.G. in the Kablar settlement of the town of Karlovac on 04 October 1991. The order had been executed by the second-suspected person L.J.L., M.C.'s Platoon member, who killed the stated civilian by shooting several rounds from automatic weapons.

The first-suspected person M.C. has been kept in the investigation prison. The second-suspected person L.J.L. has been unavailable to the competent judicial bodies of the Republic of Croatia<sup>2</sup>.

### **Almost two years after the commencement of the trial, the court hearings in criminal proceedings for the crime in Grubori will start anew**

On 21 October 2013, the court hearing in criminal proceedings against the accused members of Croatian military formations (ATJ Lučko Anti-Terrorist Unit) Frano Drlje and Božo Krajina will start anew. Drlje and Krajina have been charged with the crime in the village of Grubori, on the territory of which, on 25 August 1995 - during the military action i.e. terrain clearing procedure code-named "Storm Encirclement"- six elderly inhabitants of Serb ethnicity were killed and the most of the houses, family farmhouses and facilities were burnt down.

The indictment was issued in December 2010, 15 years after the commission of the crime, while the trial (main hearing) commenced in November 2011. After 22 hearings which were regularly held and almost two years after the commencement of the trial, the main hearing (trial) must start anew due to a recess which lasted more than two months. Namely, the last hearing was held in April 2013, while the reconstruction of the event was held at the crime scene in Grubori in May 2013.

Despite the problems which this trial has faced so far<sup>3</sup>, it is still reasonable to expect that the first-instance judgment will be passed before the end of the year 2013. Since this trial is a rare example of the war crime cases committed during or immediately after the Military Operation "Storm" for which the Croatian judiciary has initiated the criminal proceedings, this case has great significance and additional gravity for the victims as well as for the Croatian society which is still being in the process of dealing with its own past.

Nobody still has been convicted for the crimes committed during or immediately after the Military Operation "Storm" by a final, second-instance court judgment. Only the member of the Croatian Army - Božo Bačelić - was convicted by the first-instance court judgment for the killing of an elderly married couple of Serb ethnicity in the village of Prokljan and for the killing of a captured Serb soldier in the village of Mandići. Bačelić was convicted by the first-instance court judgment which sentenced him to 5 years and 10 months in prison, which was reported on in our Quarterly Report published in July 2013.

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<sup>2</sup> Following the decision of the Party President Vesna Pusić, the HNS party (Croatian People's Party) suspended M.C. several days later. M.C. was the HNS party member and the President of the Stjenjičak-Utinja local town committee. The HNS will reach the decision on possible M.C.'s expulsion from the party after the investigation has been finalised.

<sup>3</sup> For instance, the (non)clarified circumstances surrounding the death of one of the accused persons, regarding whom the Republic of Croatia Ministry of the Interior established that his death was actually a suicide.

