



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

Osijek, Zagreb, 31 October 2013

Biweekly Report on War Crime Trials

Continuing protests because of the prosecution for war crimes of Croatian Homeland war veterans

Violent removal of Latin-Cyrillic signs in Vukovar, which continued throughout Croatia, has led to a revival of inter-ethnic mistrust and encouraged actions which do not contribute to the prosecution of all perpetrators of war crimes.

After the protests at the main square in Osijek organized by *the Headquarters for Defence of the Dignity of the Homeland War* because of extended detention against persons charged with crimes against Serb civilians in Sisak, a similar protest was held on 17 October 2013 before the Split County Court.

The association *Women in the Homeland War – Zadar* organized a protest which gathered its twenty or so members - mostly wives and family members of persons prosecuted for war crimes. They requested "a review of all trials against Homeland war veterans who have been convicted, indicted or under suspicion" for war crimes. It was pointed out that aggressors are abolished and victims are prosecuted, that human rights are denied to the war veterans charged with war crimes, that their families scarcely make ends meet, and that their children are exposed to public shame. Protesters pointed out that they support the idea of victims' dignity and legal protection of values of the Homeland War through adoption of "Lex - Homeland War".¹ They also stated that they have taken the side of the families of convicted and indicted war veterans, particularly members of the 72nd Military Police Battalion convicted in the "Lora" case which represents "a paradigm of Croatian judiciary". As they stated, Deputy Minister of Justice Sandra Artuković-Kunšt confirmed such attitude at the meeting on 25 September 2013 where unlawful trials in the "Lora" case were discussed. However, the Ministry of Justice quickly denied that the Deputy Minister took such stance.

It was mentioned on the War Veteran's Portal² that before the start of the gathering, when entering the court premises Slavko Lozina greeted the protesters by waving to them. Back in 2002, this person was a presiding judge who acquitted eight persons charged with the crime in Lora.

It is worrying that incorrect allegations are heard at the mentioned events alluding that Serb minority and/or members of Serb formations accused of war crimes enjoy a privileged status. Given the fact that the Split County Court issued no denial, the question arises whether it is possible that indication of support to such protests come from judicial circles.

One more indictment against the ex-commander of the military barracks in Osijek

On 15 October 2013, the Osijek County State Attorney's Office brought an indictment against Boro Ivanović also known as Horse [*konj*] for war crimes against civilians and prisoners of war.

¹ <http://slobodnadalmacija.hr/Hrvatska/tabid/66/articleType/ArticleView/articleId/224789/Default.aspx>

² <http://www.braniteljski-portal.hr/Novosti/Hrvatski-branitelji/Zene-iz-Domovinskog-rata-na-prosvjedu-Kada-ce-na-snagu-stupiti-Lex-hrvatski-branitelji->

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He was charged that in his capacity as commander of the 12th Proletarian Mechanized Brigade of JNA and commander to subordinate members of the local territorial defences and volunteers from Serbia, in the period from 7 July to December 1991, he ordered non-selective artillery and mortar attacks on Tordinci, Čelije, Orlovnjak, Ernestinovo, Laslovo, Antunovac and Palača, including their occupation. Although he knew that his subordinates were unauthorisedly apprehending, abusing and killing civilians, he failed to take any action to prevent such activities and punish the perpetrators.

So in Tordinci, 22 villagers were killed, 11 civilians were abused and then taken to a camp in Begejci in Serbia. He also ordered the attack on Čelije, which was completely destroyed. He was charged for failing to take any action to stop the killing of 21 civilians in Laslovo, Orlovnjak, Ernestinovo and Antunovac. During the occupation of these places, five civilians were apprehended and abused. Three members of the Croatian Army were captured and then killed with shots from firearms. Four persons were surrendered to Arkan's paramilitary unit, although it was known that they would kill them. Their bodies were thrown in a mass grave in Čelije, and the defendant personally came to Ernestinovo later on, just before the peaceful reintegration, and ordered the excavation of the bodies and transferral to a still unknown location.

Mentioned in the first indictment against Boro a.k.a. Horse were three civilians killed by Fred Marguš and "the Glavaš people"

On 17 November 2008, the Osijek County State Attorney's Office brought an indictment (No. KT-140/92) against Boro Ivanović a.k.a Horse and twelve more JNA officers. For ordering the shelling of Osijek and surrounding places from the area of occupied Tenja the "C" Military Training Range, occupied Baranja and other occupied places around Osijek, indicted were the following JNA officers: Boro Ivanović a.k.a Horse, Dušan Lončar, Budimir Popadić, Ilija Dekić, Milomir Milosavljević, Mitar Simić, Milan Rujanovski, Nenad Vodenik, Ljubomir Veljković, Bogdan Sladojević, Stevan Bjeloš, Miodrag Jovanović and Josip Masleša.

Indictment included 307 killed civilians, 171 civilians who sustained serious body injuries, a significant number of civilians who sustained less serious injuries and 1188 damaged buildings.

Among 307 killed civilians, there were also three civilians who were killed by members of Croatian formations. It was stated in the indictment that **Vukašin and Svetozar Bulat** were killed by grenade explosions in the settlement of Jug II on 2 October 1991. However, with the final judgment of the Osijek County Court of 21 March 2007. (confirmed on 19 September 2007) it was established that Fred Maruš killed Vukašin and Svetozar Bulat by shots from firearms in Čepin on 20 November 1991. In addition, it was stated in the indictment that **Svetislav Vukajlović** was killed in Osijek on 12 May 1992. However, with the final verdict issued by the Zagreb County Court on 8 May 2009 (confirmed on 2 June 2010) it was established that unidentified members of the secret group under the supervision of Branimir Glavaš and Ivica Krnjak took away Svetislav Vukajlović out of his house and killed him on the bank of the Drava and threw his body into the river.

Boro Ivanović also known as Horse is still not available to Croatian judiciary.

Former JNA officer, earlier convicted in his absence, has been arrested

Slobodan Dotlić was arrested at the border crossing between Croatia and Hungary on 18 October 2013. He had been convicted earlier to 15 years in prison for war crime against civilians which he committed by shelling Gospić.

With the Gospić District Court's judgement (no. K-5/93-1 of 21 July 1993), confirmed by the VSRH ruling (no. I Kž 816/1993-3 of 24 February 1994), fourteen defendants were found guilty in their absence because in their capacity as active military or civilian persons serving to JNA Garrison stationed in Gospić they were ordering shooting at population, schools, the hospital, the church and other civilian buildings in Gospić and were shooting from artillery weapons, which resulted in the death of many civilians and massive damage to buildings.



Marcel Dusper, Relja Tomić and Duško Bajić were each sentenced to 20 years in prison, whereas Tomo Čačić, Jovo Kuprešanin, Bogdan Odanović, Mićo Vasić, Goce Koneski, Slobodan Dotlić, Dragoljub Lazarević, Radovan Radenković, Bratislav Milojković, Stevo Milošević and Miloš Bogdanović were each sentenced to 15 years in prison.

The charges against Dane Drakula, the only accused person who was present at the trial, were rejected after the County State Attorney had dropped charges.

Dotlić is currently being kept in the Gospić prison. In 2011, the Karlovac County Court endorsed his request for reopening of the case; however, the proceedings still have not been conducted since the case was transferred to the Rijeka County Court in the meantime.

A person accused of the war crime committed in Croatia apprehended in Germany

According to the information conveyed by many internet media portals, during the routine control of a bus, on 19 October 2013, near the town of Passau at the German-Austrian border, German police apprehended a citizen of Serbia. The stated person had been listed among those searched for based on the international APB, and the person had been charged of abusing several prisoners of war on the territory of the Republic of Croatia in 1991. In addition to the stated, the person was also charged with armed entry into a UN agency building which the person had made together with several armed persons in 1993. Name of the apprehended person and the details of the events have not been revealed.

The arrested person is currently being kept in custody in Passau.

The charges against Josip Boljkovac for execution of civilians in the mid-1945 upheld by the Indictment Court

On 28 October 2013, the Indictment Court Council of the Zagreb County Court upheld the charges against Josip Boljkovac, the World War II member of the People's Liberation Movement, later on highly-ranked intelligence- and police official, and the first Minister of the Interior of the Republic of Croatia after the multiparty elections.

The 93-year-old Boljkovac was charged in his capacity as the Chief of the Committee of the People's Security Department (OZNA) for the Town of Karlovac and the Karlovac County according to which he was held responsible for the arrests and executions of the civilians suspected of collaboration with Ustasha authorities.

News from the ICTY

a) Implications of the Harhoff issue

On 07 October 2013, by majority vote and with a dissenting opinion by the judge Liu, the Commission appointed by the ICTY's Vice-President dismissed the request made by the ICTY's Office of the Prosecutor for the renewed revision of the decision dated on 28 August 2013 according to which the motion of the accused **Vojislav Šešelj** for exclusion of the judge Frederik Harhoff from Šešelj's case had been upheld.

Šešelj's allegations of Judge Harhoff's partiality were initiated by the letter published in the media in which Harhoff had been criticising the acquitting judgements rendered against the Serbian and Croatian generals.

"...More than a month after the Office of the Prosecutor filed a motion to have the decision on disqualification of Judge Frederik Harhoff revised due to "fundamental errors in making conclusions", the Special Council appointed by the Vice-President Carmel Agius stated that there would be no revision after all. Concerning the fact that everybody, in the meantime, believed that the "revision was in progress", it remained unclear why it had taken so long only to issue the statement that the revision would not happen after all. Is it because of the last-week's "presidential elections" which were marked by the triumph of the leading tandem Meron-Agius..."



...Also dismissed is the request for "clarification" submitted by the judges of the "Šešelj's (Trial) Chamber" – Antonetti, Lattanzi and Harhoff – asking for an explanation of why the Special Council had considered neither the report submitted to the President Meron by the Trial Chamber's Presiding Judge nor the written report/plea submitted to them by the "suspected" Danish Judge. According to the stated interpretation of the rules and court practice of the Tribunal, the Special Council has no obligation whatsoever to take into consideration their opinions and attitudes. Almost like some kind of a "court martial" which has neither need for witnesses (who might be, in this case, Harhoff's colleagues, judges Antonetti and Lattanzi) nor for the report/plea of the Danish judge whom Šešelj had accused of "partiality in favour of conviction of the accused military commanders" ... "

Excerpt from the text titled: "The Dismissal of the Request for Revision of Disqualification of the Judge Harhoff", Sense Tribunal, Den Haag, 17 October 2013

The announcement of the judgement against Šešelj, scheduled for 30 October 2013, was postponed indefinitely in September 2013. The appointment of the new member of the Trial Chamber has been expected.

According to the indictment, Šešelj founded the Serbian National Renewal (party) in June 1990, which was later on renamed into the Serbian Chetniks Movement (SČP). After the interdiction of the SČP, in February 1991 Šešelj was appointed as President of the newly-established Serbian Radical Party (SRS).

Šešelj participated in the joint criminal enterprise with an aim to have the majority of Croats, Muslims and other non-Serbs forcibly and permanently removed, by committing crimes, from the area of the approximately one-third of Croatia, as well as from the large parts of Bosnia and Herzegovina and some parts of Vojvodina, in order to include those areas into the territory of a new country under the domination of Serbs.

By acting on his own, and in agreement with other participators of the joint criminal enterprise, Šešelj participated in the recruitment, founding, supplying, providing support and in managing/leading Serb(ian) volunteers connected with the Serbian Radical Party and/or the Serbian Chetniks Movement. He was issuing war-mongering speeches which were published in the media, at the public appearances and during his visits to the voluntary military formations and other Serb forces in Croatia and Bosnia and Herzegovina, enticing them to commit crimes. In his public speeches, Šešelj was calling for the expulsion of Croat civilians from the parts of Vojvodina.³

After the disqualification of the Judge Harhoff was upheld, the defence counsels of the accused highly-ranked Bosnian Serbs **Mičo Stanišić** and **Stojan Župljanin** requested from the Appeal Chamber to nullify the trials and to dismiss the case.

Judge Harhoff was the member of the Trial Chamber which convicted Stanišić and Župljanin on 27 March 2013 and sentenced them to 22 years in prison respectively. Župljanin's defence counsel requested also the exclusion of Judge Liu from the Appeal Chamber, since Liu had pleaded/voted against the disqualification of Judge Harhoff.

b) Prlić et al. case – the motion upheld confirming that Slobodan Praljak is able to fully cover the cost of his defence counsel; the Appeal Chamber to render its judgment on the first-instance judgment not earlier than year 2017

In respect of the case against six highly-ranked officials of the Croatian Union of Herzeg-Bosnia and the Croatian Defence Council (HVO) who had been convicted by the first-instance court judgement, the President of the ICTY on 07 October 2013 dismissed the request submitted by Slobodan Praljak for the revision of the decision regarding Praljak's property status previously made on 25 July 2013. The stated dismissal of the request actually confirmed the fact that Praljak has been able to fully cover the cost of his defence counsel.

The Appeal proceedings in the case against *Prlić et al.* will be finalised in the mid-2017 – this information may be grasped from the ICTY President Theodor Meron's address to the United Nations General Assembly held on 14 October 2013 during the presentation of the Annual Report.⁴

³ Please read more on the Šešelj case on http://www.icty.org/x/cases/seselj/cis/bcs/cis_seselj_bcs.pdf

⁴ Please read more about Theodor Meron's address to the UN General Assembly on <http://www.icty.org/sid/11386>
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