

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

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Bi-weekly Report on War Crime Trials

The accused person extradited from Serbia was sentenced to 3 years in prison for the crime in Bapska

Subsequent to the conclusion of the reopened proceedings, the War Crimes Council of the Osijek County Court, on 20 March 2013, sentenced Radojko Radmilović to 3 years in prison for commission of war crime against civilians of Croat ethnicity in the village of Bapska.

Radmilović, together with another eight accused persons, was tried in absence in 2004, found guilty and sentenced to 3 years in prison. In December 2011, Radmilović was arrested in the village of Martinci, in the vicinity of Sremska Mitrovica, in the Republic of Serbia, where he was residing as a refugee. Since Radmilović was not a citizen of the Republic of Serbia, he was extradited to the Republic of Croatia in 2012.

The War Crimes Council (judges' panel) of the Osijek County Court decided that the verdict passed in 2004 should have remained in force, except for the section containing the factual aspects of the criminal offence, considering the fact that the indictment was precisely formulated in January 2013. Concretely, Radmilović (born in 1974) was convicted for his participation, together with several other accused persons, in intimidations and expulsion of 69 persons of Croat ethnicity in Bapska since the mid-1992 until May 1995; Radmilović personally evicted one person of Croat ethnicity from the house which was immediately occupied by a person of Serb ethnicity from Western Slavonia; Radmilović was threatening to beat up one female person unless she moved out of her house, the accused Radmilović confiscated her deep freezer; Radmilović forcibly entered into another house owned by a person of Croat ethnicity.

Pero Đermanović, Dubravko Čavić and Ljubiša Čavić found guilty for the third time

On 26 March 2013, the War Crimes Council of the Zagreb County Court pronounced the verdict which, after the completed third (the second repeated) proceedings, found Pero Đermanović, Dubravko Čavić and Ljubiša Čavić guilty of criminal offence of war crime against civilians committed in Stubalj, Graboštani and Donji Hrastovac and Gornji Hrastovac – the villages along the Una river in the vicinity of Hrvatska Kostajnica. Đermanović was sentenced to 9 years in prison, Dubravko Čavić received the sentence of 7 years in prison and Ljubiša Čavić was sentenced to 2 years in prison.

The accused persons were found guilty as charged that they, in their capacity as members of illegal armed formations of the so-called SAO Krajina (Serb Autonomous Region of Krajina), had illegally detained, tortured and killed the civilian Vladimir Letić (accused Pero Đermanović and Dubravko Čavić) and burnt down the houses owned by civilians of Croat ethnicity Stevo Karanović and Ivo Karanović (the accused Pero Đermanović and Ljubiša Čavić).

The accused Pero Đermanović and Ljubiša Čavić were present at the trial. During the course of the third (the second repeated) trial, they were regularly attending court hearings, however, they did not appear at the announcement of the verdict. The accused Dubravko Čavić was tried in absence since he was/has been unavailable to the judicial bodies of the Republic of Croatia.

The indictment in respect of this case was issued in 2009. The Supreme Court of the Republic of Croatia has quashed the first-instance convicting verdicts on two occasions so far – the verdict passed by the Sisak County Court and the verdict passed by the Zagreb County Court, which both sentenced the accused persons to similar-length prison sentences.

Although the *Criminal Procedure Act* has prescribed that, subsequent to the announcement of the verdict, the War Crimes Council President is to present the summarised causes/explanations of the verdict, the Council President in this case failed to do so, stating that he was not obliged to present to the public the explanation of the judgment if the accused persons themselves failed to attend the announcement of the verdict. In our opinion, such an interpretation has not been based on the provisions of the *Criminal Procedure Act*.

A motion was put to conduct investigation in respect of a 44-year-old person for commission of war crime against civilians

In the statement issued by the Osijek County State Attorney's Office on 27 March 2013, the mentioned office issued a warrant on conducting investigation on a Croatian citizen (born in 1969) due to a probability of cause for commission of criminal act of war crime against civilians stated in Article 120, Paragraph 1 of the OKZ RH. There is a probability of cause that the 44-year-old person, together with another member of Serb paramilitary formations, both armed with firearms and hand grenades, with the intention of subjecting the remaining members of non-Serb civilian population to humiliation and abuse, threatening to kill two female civilian persons (born in 1948 and in 1957), they raped the two civilians in Vukovar in February 1992. The investigation judge of the Osijek County Court received a motion to order detention of the suspect person in the remand prison due to a danger of his escape and the extremely grave circumstances in which the criminal offence had been committed.

Probe excavations in Sotin

In the mid-March 2013, the officials of the Republic of Croatia's Government Office for Detainees and Missing Persons have commenced with the probe excavations in the village of Sotin, in the area of Ciglana (old brick factory), which was the actual location of the primary mass grave of the killed civilians from Sotin. The goal is to find the secondary mass grave with 13 inhabitants of Sotin who were killed on 27 December 1991. The total of 64 inhabitants of Sotin of non-Serb ethnicity was killed or went missing during the armed conflict. Out of the stated number, 31 persons still have not been found.

The probe excavations have also been attended by the officials of the Republic of Serbia's Commission for Humanitarian Issues and Missing Persons. At the beginning of February 2013, an investigation was instituted in Serbia in respect of two former members of Militia and the (Serb) Territorial Defence of Sotin due to a suspicion that the two had killed 16 civilians of Croat ethnicity in 1991.

In 2007, the Vukovar County State Attorney's Office had issued the indictment against Milan Ostojić and another 16 persons accused for the crimes committed in Sotin, however, not a single person has ever been convicted for the Sotin crimes.

Protests by the ex-detainees of the former Morinj Detention Camp

The detainees who, during the armed conflict and attacks on Dubrovnik, had been detained in the Montenegrin detention camp "Morinj", protested at the Karasovići border-crossing (Croatia-Montenegro) on 24 March 2013 over the whole situation dealing with the criminal proceedings held for the crimes committed in the stated detention camp.

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Namely, the ex-detainees believed that the criminal proceedings held in Podgorica, Montenegro, had turned into a judicial farce. The protesters announced their firm intention to request the proceedings to be conducted before the Croatian judiciary since “the Montenegrin judiciary was obstructing the proceedings”.

The third trial (the second repeated trial) has been currently held, at the Higher Court in Podgorica, against six members of the JNA (the Yugoslav National Army) accused of issuing orders, inflicting torture, inhumane treatment and inflicting great suffering upon the prisoners of war and civilians brought to Morinj from the Dubrovnik area in the period from October 1991 until August 1992. According to the indictment, 169 civilians and prisoners of war had been abused in the Morinj Detention camp.

In the two first-instance court proceedings completed so far, the accused persons were sentenced to prison sentences ranging from the minimum of 1 year and 6 months up to the maximum sentence of 4 years – which were all way below the minimum sentence legally prescribed for the criminal offence they had been charged with. The Appellate Court quashed both first-instance court verdicts.

