

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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Biweekly Report on War Crime Trials

After the trial hearing, the defendant rushed at the witness in the court hall

The Zagreb County Court resumed the main hearing on 10 and 11 September 2013 in the trial against ex-member of the 9th HV Brigade Velibor Šolaja charged with the killing of one unidentified elderly female person during the „Pocket '93“ Military Action.

When providing depositions on 10 September 2013, witnesses Josip Kučić and Dragan Radoslav stated that defendant Šolaja had been carrying a handgun before and after the Military Action. Before the court room, immediately after the trial hearing was concluded, the defendant - who was noticeably in an agitated state - rushed at witness Dragan Radoslav. The defendant's wife tried to stop her husband in this attack but failed. The defendant was yelling at the witness and beating him up repeatedly saying that he had not been in possession of a handgun. Judiciary police officers observed what was going on but did not take any action to intervene. At the trial hearing which was held the following day, the Court Council' President reprimanded the defendant because of the mentioned rushing.

Personal armament of the defendant during the critical event (*tempore criminis*) is an important detail, particularly having in mind the witness depositions provided by Damir Kulašić and Grozdan Vučko a day earlier at the main hearing.

„One of my fellow soldiers, I don't recall his name, threw a grenade in the house which had just been entered by two elderly women. Later on, one of them was taken out of the house while the other one was found to be dead. I saw defendant Velibor Šolaja pulling out a handgun „Luger“ from the holster at his belt and firing at the old woman whose body twitched after she was hit. There were some 15 – 20 of us, this event was also observed by Damir Relić and Grozdan Vučak who stood in my close proximity“, stated witness Kulašić.

„The old woman could only have been shot by soldiers who came behind a military armoured vehicle, and, I think, Velibor Šolaja was among them.“, said witness Vučko and also stated that Šolaja was showing off, during those days, with his possession of the „Luger“ brand handgun.

Trial in absence of the defendant for killing two and maltreating several civilians

In the trial against Boban Arsić, indicted for a war crime against civilians, began a main hearing before the Split County Court on 11 September 2013. Arsić is charged that he, in his capacity as Serb military formation member, on 12 January 1992 in Drinovci, in the hamlet Bačići near Drniš, killed two civilians (spouses Mate and Marija Bačić) and that he maltreated and threatened on the same day the civilians which stayed in the village in the manner that he lined up three civilians against a wall and opened burst fire from automatic rifle only a few centimetres above their heads.

Arsić is unavailable to Croatia judiciary. International APB has been issued against him. However, has not been found neither at the registered stay in the Republic of Serbia nor in Bosnia and Herzegovina.

Although one could challenge the purposefulness of *in absentia* trials, the Split County Court and the Supreme Court were of the opinion in this particular case that gravity of the crime and interest by the public and the victim's families justify the decision that, in considering the fact that the crime was committed more than two decades ago, this criminal proceedings should be concluded as soon as possible and that a decision is to be made in respect of eventual criminal liability of defendant Arsić.

Office of the Prosecutor of the so-called Republic of Serb Krajina laid an indictment against Arsić in April 1995. In that indictment, the killing of spouses Bačić and intimidation against civilians was legally qualified as the murder crime and the crime of provoking general danger [*izazivanje opće opasnosti*].

New developments in the dispute between Croatia and the European Commission concerning the application of the European Arrest Warrant

End of August 2013, Prime Minister Zoran Milanović reacted rather sharply against the statement provided by Spokeswoman for EU Justice Commissioner Viviane Reding, who stated that following the amendments to the Judicial Cooperation in Criminal Matters with EU Act, “criminals suspected of the murder of Croatian dissidents in another European country during the communist regime can continue to hide behind Croatian borders”. Milanović noted that some member states had put in place time limits on enforcement of the EAW, adding that Croatia was particularly concerned about the fact that the EAW was not enforced equally throughout the EU.

In his reply to European Commission, Justice Minister Miljenić accepted the point of view that introduction of time-limit issue should have been dealt with, formally, in the course of accession negotiations - but it was not. Miljenić said that the Government will take the necessary measures to align its law in question with the *Acquis* as adopted during negotiations.

Later on, the EU Justice Commissioner requested from Croatia a swift and unconditional legislative action. The Ministry of Justice defined the necessary time frame for drafting legislative amendments, adopting by the Croatian Parliament and entry into force on 15 July 2014. However, the EU Justice Commissioner warned Croatia in a letter to Justice Minister that its promise that amendments would enter into force will be applied next year was not enough to the Commission and that Croatia made „a breach of trust“ with the other member states. The row between Croatia and EU still continues and the EC mentioned on several occasions the possibility of punishing Croatia. On 18 September 2013, the Commission has started the written consultation with Members States on proposed sanctions against Croatia.



Standpoints regarding the European Arrest Warrant (EAW) and (lack of) statute of limitations on political killings/murders at the domestic political scene

During the almost three-month-long saga, serious issues that require argumentative discussion – on limitations in the application of the EAW and possible amendments to the Constitution or the legal framework so that criminal acts of killing would be exempt from statute of limitations – have boiled down to a string of petty daily-political confrontations between parties at the domestic political scene.

The public opinion, and particularly the opposition led by the HDZ, claimed that the act was amended at the end of June 2013 in order to prevent extradition of Josip Perković, former head of Yugoslav and Croatian secret services, who was charged by Germany with organising the killing of Croatian political emigrant Stjepan Đureković in 1983, as well as to render it impossible to prosecute political murders from that era.

However, Prime Minister Milanović is persistent that it is necessary to amend the Constitution in such a manner that all political killings would be exempt from statute of limitations. By doing so, he denied the standpoint of a large part of the general public and of the largest opposition party about the motives of introducing time limitations in the application of the EAW. By defending the introduction of time limitations only for the acts committed after 07 August 2002, governmental representatives stressed way back at the end of June 2013 that the purpose of limitations was the protection of Croatian Homeland War veterans against possible criminal prosecutions in the EU member states which apply the principle of universal jurisdiction.

President Josipović has emphasised that the Croatian society is now in a position to open the issues related to political subjects and crimes motivated by politics. He advocates for the punishment of perpetrators regardless of their political affiliation, along with clear criteria that would be equal for all. Whereas the largest opposition party advocates for the amendments to the Constitution that would exempt from statute of limitations only the political killings committed during the communist rule, President Josipović supports exemption of all murders from statute of limitations, including all political killings, regardless of political system during which they were committed.

***Slobodna Dalmacija daily* waived the request for compensation of litigation costs – an example for the Government of the Republic of Croatia**

Slobodna Dalmacija daily will waive the request for compensation of litigation costs in the amount of 14,760.00 kuna from Vjera Solar who lost a lawsuit in which she sued *Slobodna Dalmacija* for compensation of damage due to a slander caused by a text published in *Nedjeljna Dalmacija weekly* in 1995 which contained statements made by the then Head of Sisak Police Administration Vladimir Milanković.¹

Vjera Solar filed a lawsuit for compensation of damage due to the slander against *Slobodna Dalmacija* and the Republic of Croatia (the Ministry of the Interior), caused by publishing an article which contained Milanković's allegations that Vjera Solar's killed daughter Ljubica Solar was a girlfriend of a KOS officer (the former Yugoslav Counter-Intelligence Service) and that the very person, allegedly, known to the (Croatian) police for having committed war crimes and for possession of a pit bull dressed to kill people, and it was precisely him who had killed Ljubica, since pursuant to testimonies of his former girlfriends, he had been a person of violent nature. Mrs. Solar wanted to present her daughter's fate to the general public in order to push responsible people in Croatian institutions to investigate and prosecute Sisak killings. She also pointed out at the impermissible behaviour by police chiefs who, instead of investigating the crime, gave interviews to the media in which they presented incorrect information concerning private lives of victims, thus causing additional pain to their family members. However, the courts

¹ Criminal proceedings against Vladimir Milanković and Drago Bošnjak for the war crimes are pending before the Osijek County Court since 2011. They are charged with the execution of 24 citizens of Sisak.



rejected her claims, burdening Mrs. Solar with an additional obligation to pay the litigation costs – 14,760.00 kuna to *Slobodna Dalmacija* and 11,975.00 kuna to the Republic of Croatia.

Vjera Solar also filed a lawsuit against the state for inaction by the Sisak Police and the State Attorney's Office seeking compensation of non-pecuniary damage for mental suffering caused by the death of her daughter. That claim was dismissed as well, and Mrs. Solar was ordered to pay litigation costs in the amount of 8,580.00 kuna.

Vjera Solar has still not learned of the circumstances of her daughter's killing. She lives alone, receiving a modest pension. The Republic of Croatia has still not waived her claims against Mrs. Solar. On the contrary, on 26 July 2013, the Sisak Municipal State Attorney's Office forwarded a motion to the Sisak Municipal Court for a foreclosure of Vjera Solar's pension in order to collect litigation costs in the amount of 4,290.00 kuna (the half of the amount of 8,580.00 kuna) plus default interest.

After representatives of *Documenta* conducted several talks with the leading figures of the *Europapress Holding* and *Slobodna Dalmacija* and after they initially refused the plea to waive the request for a foreclosure, the leading figures of *Slobodna Dalmacija* realised that the lawsuit was the only way for a desperate mother to attempt to prevent the publishing of lies and to encourage institutions to prosecute perpetrators of Sisak killings.

Such action by *Slobodna Dalmacija* should be followed by the Government of the Republic of Croatia which should finally waive the debts by numerous family members of killed persons who lost lawsuits seeking compensation of non-pecuniary damage for the deaths of their loved ones from the Republic of Croatia. The lack of compassion for family members of persons who were killed in still non-prosecuted crimes is beyond any comprehension.

