

**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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OVERVIEW OF MONITORED TRIALS

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

In January and February 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 **8 war crimes 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);
- **in Zadar** (trial against Nikola Munjes for the crime in Perušić);
- **in Zagreb** (trial against Željko Gojak for the crime in Karlovac settlement Sajevac), and
- **in Šibenik** (trial against Goran Amanović for the crime in Suknovci and Oklaj).

Out of the aforementioned trials, only one trial that was conducted before the Zadar County Court against Nikola Munjes (crime in Perušić) was completed with a first-instance (non final) verdict.

In that trial, the War Crimes Council of the Zadar County conducted a reopened proceedings and rendered a verdict by which it upheld in its entirety the previous conviction of 9 October 1995 which sentenced *in absentia* defendant Munjes to 9 years in prison.

The defendant was found guilty that in his capacity as a police member of the so-called Republic of Serb Krajina, in Perušić near Benkovac on 22 September 1991 while bringing two locals of Croatian ethnicity to Benkovac police station on suspicion of collaborating with the HV, he tortured and treated them inhumanely.

Monte Negro extradited defendant Munjes to the Republic of Croatia in October 2010. The main hearing in the reopened trial began on 17 January 2011. A total of four trial hearings were held and the verdict was pronounced on 4 February 2011. After its pronouncement, Munjes' detention was extended.

During the reporting period (January – February 2011) began the main hearings in two cases:

1. On 22 February 2011, at the Osijek County Court began the main hearing in the fourth (third repeated) trial against **defendant Petar Mamula (crime in Baranja)**. It is scheduled to resume the hearing on 23 March 2011. The defendant is not held in custody (he was detained from 6 October 2000 to 7 May 2003).

In this particular case, the VSRH quashed the convictions rendered by the Osijek County Court on three occasions and reversed the case back to the first instance

court for a retrial. The VSRH, with its most recent quashing decision (I Kž-520/09 of 3 August 2010) quashed the Osijek County Court's verdict due to incorrect and incomplete establishment of facts. By the quashed verdict, the defendant was sentenced to four years and ten months in prison. The VSRH requested from the first-instance court to repeat the trial but this time before an entirely changed composition of the Council.

Defendant Mamula is charged that, in his capacity as a member of the armed rebellion of the local Serb population in Beli Manastir and other Baranja places in August and September 1991, he participated in intimidation and physical and mental abuse of non-Serb civilian population of Baranja.

2. On 31 January 2011 before the Šibenik County Court began the main hearing in the trial against **defendant Goran Amanović (crime in Suknovci and Oklaj)**. The trial hearing was also held on 14 February 2011 and the next hearing is scheduled for 8 March 2011. The defendant, extradited from the BiH to Croatia, is held in the detention unit of the Šibenik prison.

The indictment charges defendant Amanović that, as a member of Serb paramilitary units in Suknovci and Oklaj end of 1991 until 1994 at the then temporarily occupied Promina municipality area, he abused physically and beat elderly civilian population of Croatian ethnicity, causing death by sustained injuries to one elderly man. Also, he is charged with rape of one elderly female civilian, with attempted rape of one person and that he threatened, intimidated, terrorised civilians and plundered their property.

In other mentioned trials, the main hearings which began in 2010 have been resumed:

1. The Osijek County Court continued with the main hearing, which began on 22 December 2010, in the third (second repeated) trial against **defendant Čedo Jović (crime in Dalj IV)**. During January and February 2011, the court held a total of five trial hearings. The hearing should resume on 14 March 2011. The defendant is held in custody from 7 July 2008.

In this trial, the VSRH quashed so far two times (the first time due to procedural errors and the second time due to incorrect and incomplete establishment of facts) the first instance verdicts rendered by the Osijek County Court. In the mentioned verdicts, the defendant had been found guilty and sentenced to 5 years in prison for the commission of war crime against civilians under Article 120, paragraph 1 of the OKZRH, in conjunction with Article 28 (commission by no-doing).

The defendant is charged that, in his capacity as a 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 a result of which he died, and hitting five more injured parties).

2. The Osijek County Court continued with 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 Military Police Squad attached to the 76th independent battalion of the Croatian National Guard.

During the reporting period, the hearing was held on 8 February 2011. Defendants Kufner, Šimić and Vancaš are not held in custody during the ongoing repeated trial, whereas Poletto, Tutić and Ivezić are detained. After quashing the verdict of guilty rendered by the Požega County Court because of procedural omissions made by the Court, the VSRH delegated the case to the Osijek County Court to repeat the trial.

Defendant Kufner is charged that he ordered unlawful confinements and, although this was his duty, he failed to prevent the killing of civilians, their inhuman treatment and unlawful confinement. Defendant Šimić is charged with failing, although this was his duty, to take measures to prevent ill-treatment and unlawful confinement of civilians, while defendants Vancaš, Poletto, Tutić and Ivezić are charged as direct perpetrators.

3. 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 Sajevec)**. One more hearing was held on 20 January 2011 but the hearing scheduled for 15 February 2011 was not held. Another hearing date will be scheduled subsequently. The defendant is held in custody from 22 October 2010.

The indictment charges the defendant that, in his capacity as an employee of the Karlovac Police Administration, in the Karlovac settlement Sajevec 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.

4. Ongoing at the Sisak County Court is the main hearing, which began on 25 October 2010, in the third (second repeated) trial against **defendant Rade Miljević (crime at Pogledić hill near Glina)**.

During the reporting period, one trial hearing was held on 25 January 2011 and it should resume on 1 March 2011. The defendant is not held in custody. Previously, the defendant was in detention from 10 March 2006 but was released from detention in December 2010 after the expiry of a maximum detention period.

In respect of this case, the VSRH quashed two times the convictions rendered by the Sisak County Court due to incorrect and incomplete establishment of facts, in which the defendant was sentenced firstly to 14 and then to 12 years in prison.

The defendant is charged that as a member of forces of the so-called SAO Krajina, in Glina on 20 September 1991, based on the previous agreement with members of Joso Kovačević's sabotage group, he took away from the Glina prison detained civilians Janko Kaurić, Milan Litrić, Borislav Litrić and Ante Žužić and surrendered them to the members of the mentioned group for the purpose of their execution.

5. Ongoing at the Vukovar County Court is the main hearing, which began on 13 April 2010, in the trial against **defendant Miloš Stanimirović and another thirteen persons (crime in Tovarnik)**. All fourteen defendants are tried in their absence. During the reporting period, one trial hearing was held on 11 February 2011. On that hearing, the Council President informed the present that the trial against defendant Katica Maljković was discontinued because she died. The next hearing is scheduled for 25 March 2011.

The defendants are charged with displacing, killing, mentally torturing Croats and non-Serb civilians in Tovarnik after 20 September 1991 and were seizing and destroying their property. Thus, they committed criminal offences: a genocide under Article 119 of the OKZRH, and a war crime against civilians under Article 120, paragraph 1 of the OKZRH by applying Article 43 of the same Act.

Scheduled main hearings but not held, in three cases:

1. At the Gospić County Court, the main hearing in the trial against **defendant Željko Žakula** did not begin.

It was scheduled to be held on 9 November 2010, and then on 20 January 2011. On both occasions, the main hearing had to be postponed because the defendant, who allegedly resides in the Republic of Serbia, failed to appear before the court.

The defendant is charged that, in his capacity as a member of the units of the so-called SAO Krajina in Čanak in March 1992, together with now deceased Dragan Barać, he took Blaž Grbac out of his family house and, after Barać stabbed Grbac's neck with a knife, Žakula fired several shots at Grbac causing gunshot injuries because of which he died.

2. At the Sisak County Court, the main hearing in the trial against **defendant Stojan Letica (crime in Novo Selište)** did not begin.

The first trial hearing was scheduled for 7 June 2010. The defendant was summoned to attend the hearing but did not come and thus the hearing had to be postponed. On the basis of the VSRH's decision of 1 December 2010, it was decided that the defendant Letica would be tried in his absence. The hearing was scheduled for 8 February 2011 but, this time, the summoned witnesses did not appear before the court. A new hearing date was scheduled for 22 March 2011.

The Indictment charges Stojan Letica that as a member of non-regular army of the so-called SAO Krajina, in Novo Selište on 30 November 1991, when on patrol, aware of the fact that Stjepan Šubić, a civilian person of Croatian nationality, was alone in his house, he fired several shots from the "M-70" rifle through the 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.

3. At the Sisak County Court, the main hearing in the trial against **defendant Branko Dmitrović et al. (crime in Baćin)** did not begin. The charges against the defendant accuse him of a war crime against civilians under Article 120, paragraph 1 of the OKZRH.

The trial hearing date was scheduled for 25 January 2011 but the hearing was not held because eight (out of nine) summoned accused persons did not appear. For that reason, the hearing was postponed.

The 8th defendant Marin Krivošić is the only available defendant to the judiciary. He was extradited from Monte Negro and is held in custody. Other defendants (1st defendant Branko Dmitrović, 2nd defendant Slobodan Borojević, 3rd defendant Milinko Janjetović, 4th defendant Momčilo Kovačević, 5th defendant Stevo Radunović, 6th defendant Veljko Radunović, 7th defendant Katica Pekić and 9th defendant Stevan Dodoš) are unavailable to the Croatian judiciary.

The case file will be submitted to the extra-trial chamber for it to render a decision on conducting a trial *in absentia*.

The charges against the defendants (1st - 4th) accuse them that, for the purposes of ethnic cleansing in the then-occupied territory of Hrvatska Dubica, Cerovljani and Baćin from 18 to 21 October 1991, together with now deceased Stevo Borojević a.k.a. Gadafi, he planned and made a list of remaining population in the villages Cerovljani and Hrvatska Dubica and ordered their killing, whereas the defendants (5th – 9th) by following the mentioned order issued by their superiors on the basis of the made list, brought by force and detained at least seventy civilians of Croatian ethnicity in the Fire Department facilities in Cerovljani and Hrvatska Dubica. Out of the mentioned number of detained civilians, owing to interventions by relatives and friends, at least ten persons were released from the detention. Following to that, the remaining civilians (at least 56) detained in the Fire Department building in Hrvatska Dubica were taken to Baćin by bus which was followed by an armed escort on 21 October 1991 where the policemen of the “Militia SAO Krajina” led by now deceased Militia commander Stevo Borojević a.k.a. Gadafi killed them the mentioned civilians by shooting from automatic weapons at the site known as “Skelište”.

In several trials which we monitored in 2010, no hearings were held during January and February 2011 and therefore 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 a genocide under Article 119 of the OKZRH 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 died. 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 several times (due to changes made regarding 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 hearing was held on 2 November 2010.

The third (second repeated) trial began in May 2010.

Back in 2000, the VSRH quashed in this case 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 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.

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.

3. In the trial conducted before the Bjelovar County Court against **defendants Ivan Husnjak and Goran Sokol (arson in the villages Pušina and Slatinski Drenovac)**, the last trial hearing was held on 18 May 2010. The new hearing has not yet been scheduled.

In this trial, the defendants are charged that in February 1992 as the HV officers - a commander and a deputy commander - in the villages Pušina 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-ethnicity 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 Pušina, the Orthodox church tower damaged by fire shots, 19 houses set on fire in Slatinski Drenovac including the hunters' lodge between Pušina and Slatinski Drenovac).

b) Monitored sessions at the Supreme Court of the Republic of Croatia

During the reporting period (January and February 2011), the VSRH Council held its session only in one war crime case of Luka Markešić *et al.* (crime in Bjelovar).

The VSRH Appeals Chamber held a session on 1 February 2011. It quashed the conviction no. V K-11/07 of 21 December 2007 rendered by the Varaždin County Court and reversed the case to the first-instance court for a retrial. In the mentioned (quashed) verdict of the Varaždin County Court, the defendants were found guilty in the third (second repeated) trial and sentenced to the following prison sentences: Luka Markešić to 4 years, and Zdenko Radić, Zoran Maras and Ivan Orlović to 3 years in prison each.

The defendants are charged that, in their capacity as members of Croatian formations, with premeditation, they aided and abetted the others to kill war prisoners and to attack one civilian causing a serious bodily harm to that person. Thereby, the defendants

committed a crime against humanity and international law because they aided and abetted in the perpetration of a war crime against war prisoners (Article 122 of the OKZRH in conjunction with Article 22 of the same Act) and a crime against humanity and international law because they aided and abetted in the perpetration of a war crime against civilians (Article 120, paragraph 1 of the OKZRH in conjunction with Article 22 of the same Act).