

Centre for Peace, Nonviolence and Human Rights-Osijek  
Documenta – Centre for Dealing with the Past  
Civic Committee for Human Rights

# **MONITORING WAR CRIME TRIALS**

REPORT  
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**LIST OF ABBREVIATIONS used in the text:**

BiH	Bosnia and Herzegovina
DORH	State Attorney's Office of the Republic of Croatia
HV	Croatian Army
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
JNA	Yugoslav People's Army
MUP	Ministry of the Interior
OKZRH	Basic Criminal Law Act of the Republic of Croatia
RC	the Republic of Croatia
TO	Territorial Defence
VSRH	the Supreme Court of the Republic of Croatia
ZKP	Criminal Procedure Act
ŽDO	County State Attorney's Office

## SUMMARY

The period to which this report pertains was marked by the final stage of accession negotiations between the Republic of Croatia and the European Union and the closing of Chapter 23 related to judiciary and fundamental rights, in the light of which certain steps forward were also made with regard to prosecution of war crimes.

The synergy between the criticism on the part of non-governmental organizations and recommendations made by the European Commission contributed to the adoption of amendments to the Act on the Application of the Statute of the International Criminal Court (OG 55/2011) and amendments to the Court Standing Orders (OG 34/2011). The legislator's intention was to ensure specialization of court panels which will try war crimes cases (by stipulating exclusive competence of four county courts in all war crimes cases that are yet to begin) and to make it possible to use witness depositions collected by ICTY Prosecutor's Office investigators as evidence in those criminal proceedings, which was rendered impossible by the VSRH's interpretation in the ruling which quashed the sentencing verdict issued by the Požega County Court in the case against defendant Damir Kufner *et al.* for the crime committed in Marino Selo. It is yet to be seen in the forthcoming period to which extent will be institutions devoted to the implementation of these positive changes and which specific step forward they will lead to in practice.<sup>1</sup>

The first half of 2011 was also marked by pronouncing the ICTY's verdict against defendants Ante Gotovina, Ivan Čermak and Mladen Markač, which significantly affected the growing of social interest in the issue of war crimes, but which at the same time provoked predominantly negative reactions by the public and the political leadership alike. A lack of objective reporting on the trial that was conducted in the Hague, as well as a lack of impartial and professional interpretation of the verdict on the part of a big majority of the media, lead to numerous negative reactions by the public and manifestation of ethnic intolerance in the social and political context. Similar reactions, albeit less intensified, were also provoked by the arrest of Tihomir Purda in Bosnia and Herzegovina, which highlighted the issue of cooperation between prosecutor's offices of countries in the region.

The arrest of Ratko Mladić in the Republic of Serbia and his extradition to the ICTY represents a major step forward towards exercise of justice for victims and the end to impunity of the highest ranking officials responsible for the most severe forms of violations of international humanitarian law. His prosecution will undoubtedly contribute to the catharsis of post-conflict societies in the region.

During the reporting period we observed a trend of increased number of trials for war crimes conducted against members of Croatian formations and a repeated trend of increased number of trials conducted in the absence of defendants.

Bearing in mind all circumstances observed while monitoring all war crimes trials conducted in the Republic of Croatia, as well as while monitoring other tendencies related to prosecution of war crimes and dealing with the past, we deem the following to be necessary:

- In respect of cases in which courts erroneously applied the Amnesty Act to criminal offences of murder for which there is a suspicion that the acts constituted a war crime (for instance, the case of killing Damjan Žilić by four members of the HV at the Jakuševac garbage deposit site in Zagreb), it is necessary to allow for the possibility of new trials.

<sup>1</sup> After the aforementioned amendments came into force in May 2011, the War Crimes Council of the Osijek County Court refused to use witness depositions collected by ICTY Prosecutor's Office investigators as evidence in the repeated trial for the crime in Marino Selo, deeming that the VSRH had already assessed them as illegal in the same proceedings.

## Key Observations

- To render it possible through further amendments to the Act on the Application of the ICTY Statute that county court judges without actual competence in those cases, but who distinguished themselves in war crimes trials with their previous experience and the number of verdicts upheld by the VSRH, should be assigned to war crimes cases at the four 'specialized' county courts. Likewise, it is necessary to ensure that within the composition of the VSRH's trial council, when it conducts hearings in war crimes cases in second instance, lay judges are replaced with professional judges. Also it is necessary to regulate local competence of four county courts, which has not been done so far.
- The Government of the RC should urgently pass a decision by which the Republic of Croatia would waive the payment of litigation expenses by all plaintiffs who lost their lawsuits claiming restitution of damage for the death of a close person. It is necessary to adopt a national programme and a law which would regulate restitution of damage for the death of a close person in accordance with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

With the purpose of encouraging the implementation of efficient reforms in the Republic of Croatia and, among other, the progress made in the war crimes prosecution, within a group of 15 or so Croatian civil society organisations we advocate a continued monitoring of reforms related to Chapter 23 and this to be carried out not only in the period until Croatia's accession to the EU but also later on to cover the period of at least three years following Croatia's accession to the EU. The monitoring of reforms should be specified in the Accession Agreement between the EU and the Republic of Croatia.

## KEY OBSERVATIONS

### Political and social context in which trials are taking place

The first half of 2011 was marked by discussions about the readiness of the Republic of Croatia to close *Chapter 23 „Judiciary and Fundamental Rights“* as well as the entire negotiations pertaining to the accession of the Republic of Croatia into the European Union.<sup>2</sup>

An important segment on which the assessment of readiness of the Republic of Croatia to close *Chapter 23* depended, is a qualitative step forward in prosecution of war crimes, as well as conduct of investigations and prosecution of numerous, yet non-prosecuted crimes, the perpetrators of which are, for the time being, unknown.

However, during the aforementioned period, driven by trials initiated against some members of Croatian formations or by mentioning certain persons in the context of possible responsibility for committed crimes, a climate was created in the society that does not contribute to efficient and impartial prosecution of perpetrators of all war crimes.

The case of Tihomir Purda and the first-instance verdict of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the case of Gotovina, Markač and Čermak prompted the creation of atmosphere of “impunity of one's own crimes” and was undermining the hard-way achieved progress in prosecuting war crimes. Due to dissatisfaction caused by the ICTY verdict, the anti-European mood significantly increased among the general public.

In the first half of 2011, numerous protests were organized, at which the current authorities and the judicial bodies were requested to abandon criminal prosecution for war crimes against the accused members of Croatian formations, to suspend cooperation with judicial bodies of the Republic of Serbia and to suspend cooperation with the ICTY.

Civil society organizations that presented data on the killings of civilians during and after the military-police operation „Storm“ were criticised in the media.

Report by the Amnesty International, in which Vladimir Šeks, the current Deputy Speaker of the Croatian Parliament, was mentioned in the context of possible responsibility for the killings of civilians of Serb ethnicity in the area of Eastern Slavonia during 1991, prompted stormy reactions, both by the aforementioned Vladimir Šeks and by those opposing investigation and prosecution of all war crimes.<sup>3</sup>

All of the abovementioned indicates that social reactions against prosecution of members of Croatian formations are still very strong and that, at the situations of arrests or verdict pronouncements, there is a lack of support to try all crime perpetrators, a support which is otherwise stated, at the principle level at least, in all public opinion surveys.<sup>4</sup>

<sup>2</sup> On 10 June 2011, information was released that the European Commission proposed to the Council of the European Union to close the remaining four chapters in negotiations with Croatia. On 30 June 2011, the remaining four chapters were closed and negotiations for the accession of the Republic of Croatia to the EU were concluded.

<sup>3</sup> In February 2011, the Osijek County State Attorney's Office released the information that, following the conducted investigation and data collection, no reasonable suspicion was found that there existed a criminal responsibility of Vladimir Šeks for the killing of civilians of Serb ethnicity in the area of Eastern Slavonia during 1991.

<sup>4</sup> According to the 2006 public opinion survey and the more recent surveys: 61% of surveyed persons were of the opinion that all war crimes perpetrators should be punished – published in the publication of Kardov K., Lalić D., Teršelič V.: *Suočavanje s prošlošću u Hrvatskoj*;

### **The case of Tihomir Purda – the cause for protests by those opposing prosecution of all war crimes / indication of need for cooperation between prosecutor's offices of countries in the region**

The case of Tihomir Purda, who was arrested at the beginning of January at a border crossing between the Republic of Croatia and Bosnia and Herzegovina and kept at the extradition detention in BiH, and who was charged by the judicial bodies of the Republic of Serbia with the commission of a war crime against JNA members in Vukovar in November 1991, raised the issue of number of persons who are suspected in Serbia of committing war crimes<sup>5</sup>, while in a part of the public it also raised the issue of justification of cooperation between the judicial bodies of countries in the region.

Having been arrested and detained at the extradition detention, Tihomir Purda was interrogated by an investigating judge of the BiH Court in the presence of the Deputy War Crimes Prosecutor of the Republic of Serbia and the investigating judge from the Belgrade Higher Court, while the remaining two suspects in the same case (Danko Maslov and Petar Janjić - Tromblon), were interrogated in the presence of the same persons by a Zagreb County Court judge. Then, on 3 March 2011, the War Crimes Prosecutor's Office of the Republic of Serbia decided to abandon criminal prosecution against Tihomir Purda, Danko Maslov and Petar Janjić.

Unfortunately, some of many defenders' associations and individuals (among them Željko Sačić, who is under investigation for a war crime) used this particular case to organize numerous protests. At those protests, the current authorities and the judicial bodies were requested to abandon criminal prosecution of crimes committed by the accused members of Croatian formations and to suspend cooperation with judicial bodies of the Republic of Serbia. Due to a delayed revision of court proceedings that were initiated during the 90's at the military courts in Serbia, the issue of purpose of regional cooperation between prosecutor's offices in the region was raised at the protests, as well as among general public.<sup>6</sup>

Contrary to the positions of those opposing cooperation between judicial bodies of countries in the region, we are of the opinion that Purda case should actually represent an additional encouragement to intensify cooperation in order to eliminate the possibility of detaining persons (accused or sentenced) against whom there is actually no evidence that they were the perpetrators, and who were accused or sentenced in procedures in which standards of independence and impartiality were not respected. At the same time, such situation should represent an additional encouragement to use the exchange of evidence to contribute to efficient prosecution of actual perpetrators, which is necessary so that the process of dealing with the past, investigation and prosecution of war crimes would become an efficient mechanism of preventing future violence and crimes in Croatia, as well as in other countries which emerged following the disintegration of the former Yugoslavia.

### **Reactions against the ICTY verdict in the case of Gotovina, Markač and Čermak**

The first-instance verdict in which the ICTY on 15 April 2011 pronounced defendant generals Ante Gotovina and Mladen Markač guilty and sentenced them to 24 and 18 years in prison, respectively, while Ivan Čermak

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*stavovi i mišljenja aktera i javnosti u poraću, [Dealing with the past in Croatia; attitudes and opinions by activists and the public in post-war atmosphere] Zagreb, Documenta, 2010.*

<sup>5</sup> In July 2010, the Croatian and the Serbian ministries of justice exchanged the lists of persons under investigation, accused persons or persons sentenced for war crimes. The Serbian Ministry of Justice then received a list of 1543 persons which were sentenced in Croatia (538), indicted (563) or against whom investigation was underway (433) for war crimes. At the same time, the Croatian Ministry of Justice received a list of 40 persons suspected in Serbia to have committed war crimes. The aforementioned list mostly included persons from the so-called Republic of Srpska Krajina, but Tihomir Purda was not on that list. After Purda's arrest, Croatia received a list of 33 more persons, but in respect of the majority of them trial has already been discontinued.

<sup>6</sup> Similar revisions in war crime cases were also carried out by state attorney's offices in the Republic of Croatia. Since 2001, the state attorney's offices repeatedly re-examined cases in which many persons – mostly members of Serb formations – were accused, indicted or sentenced for war crimes.

was acquitted of charges, stirred almost general consternation in the Republic of Croatia.<sup>7</sup> The majority of media, both electronic (where public television played a major role) and print, only sporadically, very often in a biased manner, reported about the court proceedings announcing the acquitting verdict. By doing so, they contributed to the escalation of an obviously deeply rooted position in a major part of the Croatian society, the position of denying/justifying crimes committed by „our guys“.

The verdict in which Ante Gotovina and Mladen Markač were pronounced guilty that, together with the then Croatian political leadership (primarily President of the Republic, Franjo Tuđman and Minister of Defence, Gojko Šušak), they participated in a joint criminal enterprise the objective of which was permanent expulsion of Serb population from the area of the so-called Republic of Srpska Krajina, also stirred negative reactions from the highest-ranking political authorities. Such irresponsible behaviour approved, but also encouraged, the standpoint assumed by the public about the ICTY as a political court, the work of which was directed against the Republic of Croatia.

Erroneous interpretations and clearly expressed negative positions towards the verdict, in which (interpretations) it was stated „*that the first-instance chamber established that Croatia participated in a joint criminal enterprise, which is unacceptable for the Government of the RC*“ (Prime Minister of the Government of RC, Jadranka Kosor), that „*the formulation of 'joint criminal enterprise' is ill-founded and a serious insult to the Croatian people, as well as to justice in general*“ (the Croatian Bishops' Conference), encouraged distrust in the ICTY – an institution which, looking at its work as a whole, played a major role in impartial prosecution of war crimes committed at the territory of the former Yugoslavia, prosecuted (at least a part of) top-ranking officials belonging to political and military authorities of the conflicting parties responsible for war crimes, thereby providing a huge contribution to peace and recovery of societies devastated by war conflicts. The assessments by the President of RC Ivo Josipović were unexpected, albeit a bit more moderate („*we will respect the ICTY verdicts, but we do not have to admire them*“). Legally well-founded activities performed by the former President Mesić related to cooperation with the ICTY were also brought into question. The Government announced, and then subsequently abandoned, investigation on delivery of evidence to the ICTY.<sup>8</sup>

Explanations that a joint criminal enterprise does not represent the responsibility of the state, but a special form of individual criminal responsibility, that a decision by the state's top political and military leaders to ethnically cleanse the area of the so-called Republic of Srpska Krajina from Serb population was proclaimed criminal, but not the legitimate decision of the Croatian authorities to use military force to crush rebellion of the Serb population in the so-called RSK and regain control over its territory, such explanations did not have room in the media nor did they reach wider audience.<sup>9</sup> Unfortunately, expressions of support and empathy with the sentenced generals completely suppressed informing the public about the scope of crimes (killings, inhumane treatment, looting and destroying of property) and the mass-scale exodus of the Serb population. There was a lack of empathy and reverence for the victims of committed crimes.

### **Arrest of Ratko Mladić – significant step forward towards exercise of justice for victims and end to impunity of perpetrators of the most serious crimes**

Ratko Mladić, former commander of the JNA Knin Corps and former commander of the Republika Srpska Army, who was charged by the ICTY that, in the period between 1992 and 1995, he participated in joint criminal enterprises the objective of which was to eliminate or forcefully and permanently remove Bosnian Moslems and Croats from large parts of BiH territory, crimes against civilian population of Sarajevo, taking

<sup>7</sup> Given the fact that the ICTY Prosecutor's Office did not appeal against the first-instance judgment until the expiry of the deadline, the verdict of acquittal in respect of Ivan Čermak became final (legally binding).

<sup>8</sup> When delivering a report to the UN Security Council on 6 June 2011, the ICTY Prosecutor Serge Brammertz stated that it is „*unfortunate that in the aftermath of the judgment, the highest ranking state officials failed to comment objectively on the outcome of the case.*”

<sup>9</sup> More about joint criminal enterprise is available in Appendix No. 1: Joint criminal enterprise or „the common purpose doctrine“, *Jelena Dokić Jović and Marko Sjekavica*.

## Key Observations

UN personnel hostage in May and June of 1995 and genocide in Srebrenica in July of the same year, was arrested in the Republic of Serbia at the end of May of this year and extradited to the ICTY.

However, after his arrest, a question arose in Croatian public as to why no indictment was filed against Ratko Mladić by the ICTY's Office of the Prosecutor for the crimes committed on the territory of the Republic of Croatia.<sup>10</sup>

We deem that the arrest of Ratko Mladić represents a significant step forward towards exercise of justice for victims and end to impunity of perpetrators of the most serious crimes. His prosecution before the ICTY, as well as, hopefully, arrest of the last Tribunal's fugitive, Goran Hadžić, might influence the change of negative opinion on a part of the public towards ICTY's work. That would also be contributed with the extension of the indictment against Ratko Mladić for the crimes committed on the territory of the Republic of Croatia but, according to the announcements made by the ICTY's Chief Prosecutor Serge Brammertz, the indictment will not be extended to include those crimes, as well. In order to inform the public, particularly victims, we deem it necessary that the ICTY Prosecutor's Office explains the reasons why Ratko Mladić will not be charged with crimes committed on the territory of the Republic of Croatia.

### **Amendments to the Court Standing Orders and the Act on the Application of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law**

In the context of many years of advocating the increase of efficiency in war crimes prosecution, in February 2011, together with other civil society organizations<sup>11</sup>, we requested amendments to the *Act on the Application of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law* – regarding the competence of courts and state attorney's offices and regarding the possibility of using evidence collected by the ICTY. After many years of our advocating and after the recommendations made by the European Commission, the aforementioned Act was amended.

#### **With regard to courts' competences**

For several years we have been warning about the problem of dispersion of war crimes trials over a large number of county courts in the Republic of Croatia.<sup>12</sup> We emphasised the need that amendments to the *Act on the Application of the ICC Statute* should stipulate exclusive (not facultative) competence of county courts in four biggest cities (Zagreb, Split, Rijeka and Osijek) in trials dealing with those cases. As an alternative to the stipulation of exclusive competence of the four abovementioned courts, we proposed the establishment of one court specialized exclusively for dealing with war crimes cases.

<sup>10</sup> Ratko Mladić had been tried in his absence (in one trial even sentenced) by the Croatian judiciary for the crimes committed in the Republic of Croatia:

- for the attacks on the village of Kijevo, the Sinj municipality area, Vrlika, the villages of Maljkovo, Potravlje, Šatrić and Dabar and the Šibenik area, the Šibenik County Court found Ratko Mladić guilty and sentenced him to 20 years in prison;
- an indictment was laid at the Split County Court for planning and organising the destruction of the dam and the Peruča Power Plant;
- an investigation is underway for the assault on civilian- and other facilities in the city of Zadar, attack on Donji Zemunik, Zadar, Posedarje, Slivnica Donja and Slivnica Gornja, Pridraga, Rupalj, Galovac, Kali on the island of Ugljan;
- an investigation is underway for issuing command to shell Požega.

According to the DORH information, copies of the aforementioned cases were submitted to the ICTY' Prosecution Office mid of 2003.

<sup>11</sup> 15 civil society organisations addressed a common document to the EU. It is titled: *A Common Opinion by Croatian Civil Society Organisations on preparedness of the Republic of Croatia for closing the negotiations in respect of Chapter 23 – Judiciary and Fundamental Rights, dated 16 February 2011.*

<sup>12</sup> In the past several years, trials were conducted at about 15 county courts.

We emphasised that concentration of trials at the four courts (or one specialized court) would contribute to further professional training (specialization) of judges working with this type of cases and that, by doing so, the possibility of negative influences on court proceedings in local environments would be eliminated.

After many years of disputing the need to stipulate exclusive competence of the four courts, executive and legislative authority bodies undertook steps in that direction during the first half of 2011, primarily because of the recommendation made by the European Commission and the need to fulfil the criteria to close *Chapter 23 – Judiciary and Fundamental Rights*.

In March 2011, the Ministry of Justice amended the Court Standing Orders. *Amendments to the Court Standing Orders (OG 34/2011)* ordered the establishment of special war crimes departments at the county courts in Osijek, Rijeka, Split and Zagreb. These amendments did not stipulate exclusive competence of the aforementioned county courts for trying this type of cases, but soon afterwards amendments to the act were proposed and adopted which regulated courts' competence.

Namely, on 14 April 2011, the Government of the Republic of Croatia filed *the Draft Act on the Amendments to the Act on the Application of the ICC Statute*. On 6 May 2011, the Croatian Parliament adopted *the Act on the Amendments to the Act on the Application of the ICC Statute*.<sup>13</sup> The aforementioned Act stipulated exclusive competence of county courts in Osijek, Rijeka, Split and Zagreb to try criminal procedures for war crimes in all „new“ cases (cases in which criminal proceedings have yet to start). Cases in which criminal proceedings were previously initiated will be completed by the courts at which the proceedings were initiated (competence according to the Criminal Procedure Act), but in these cases the President of the VSRH may approve delegation of the proceedings to one of the four courts, upon an explained proposal by the Chief State Attorney.

In compliance with the aforementioned amendments to the *Court Standing Orders*, war crimes departments were established at county courts in Zagreb, Osijek, Rijeka and Split which comprise a total of 16 investigating judges and 38 trial judges.<sup>14</sup>

However, we are of the opinion that, apart from judges from the aforementioned courts, it would be purposeful to also assign judges from other county courts to trial chambers, judges who distinguished themselves in war crimes trials with their previous experience and the number of verdicts upheld by the VSRH.

Although we emphasised the need that the *Act on the Application of the ICC Statute* should be amended with a provision that would stipulate the composition of the VSRH's council when it conducts hearings as the second-instance court in such a manner that lay judges are excluded from the council's composition and that council members should exclusively comprise VSRH judges, such amendments did not take place.

Likewise, although we emphasised the need that amendments to the *Act* should also stipulate exclusive competence of county state attorney's offices in Zagreb, Split, Rijeka and Osijek (or, possibly, to establish one state attorney's office competent exclusively to handle war crimes cases), which would contribute to the creation/strengthening of specialized teams of state attorney's offices as well as to a facilitated exchange of information about crimes and a more efficient regional cooperation in the prosecution of perpetrators, there were no amendments along these lines.

Still, specialized war crimes departments were established at county state attorney's offices in Zagreb, Osijek, Rijeka and Split, to which it will be possible to assign deputies from other county state attorney's offices, as well.

Apart from the aforementioned, amendments to the *Act on the Application of the ICC Statute* did not stipulate local competence of four county courts.

<sup>13</sup> It was published in the Official Gazette No. 55, on 18 May 2011.

<sup>14</sup> Data obtained from the county courts in Zagreb, Split, Rijeka and Osijek.

### With regard to use of evidence collected by the ICTY

Bearing in mind the position of the VSRH's council pronounced in the case of defendant Damir Kufner *et al.* (crimes in Marino Selo) that it was not possible to use witness depositions taken by the ICTY Prosecutor's Office investigators as evidence in criminal procedures before domestic courts, we were pointing at the noticed problem.

Namely, in the aforementioned case, the ruling of the Supreme Court of the RC of March 2010 quashed the first-instance verdict issued by the Požega County Court which found Damir Kufner and other defendants guilty as charged. The VSRH Council deemed that the first-instance verdict was based on illegally obtained evidence – depositions from survived victims provided to ICTY investigators. The Council assessed that, pursuant to Article 28 of the *Act on the Application of the ICC Statute*, evidence collected by ICC bodies (i.e. ICTY) may be used in criminal proceedings in the Republic of Croatia only in those cases that were transferred to the judicial bodies of the Republic of Croatia after the indictments issued before the ICC (ICTY) became legally binding.<sup>15</sup>

Bearing in mind that ICTY investigators conducted many investigations after which the ICTY Prosecutor's Office did not issue an indictment because the ranking of potential defendants was not at the level of ICTY's competence and that some of such cases were transferred to the judiciary of the Republic of Croatia, it was noticed that the impossibility of using the aforementioned depositions decreases the possibility to prosecute perpetrators of numerous crimes.

*The Act on the Amendments to the Act on the Application of the ICC Statute* amended Article 28 of the *Act on the Application of the ICC Statute*. The amendments stipulated that evidence collected by ICC (ICTY) bodies may be used in criminal proceedings in the RC providing that these evidence were presented in a manner anticipated by the Statute and ICC (ICTY) Rules of Procedure and Evidence and that they may be used before that court.

The purpose of this amendment should have been elimination of different interpretations of the Act regarding the (im)possibility to use the aforementioned evidence. However, after the amendments came into force, the War Crimes Council of the Osijek County Court in the repeated trial for the crime in Marino Selo refused to use witness depositions collected by ICTY Prosecutor's Office investigators, deeming that the VSRH had already assessed them as illegal in the same proceedings.<sup>16</sup>

### Data on crimes

During 2011, the State Attorney's Office of the Republic of Croatia presented on several occasions data on criminal reports and prosecuted and non-prosecuted war crimes cases.<sup>17</sup>

The Government of the Republic of Croatia also presented data on handling war crimes cases on 12 May 2011 in the *Report on the Fulfillment of Obligations from Chapter 23 – Judiciary and Fundamental Rights*.

Data, mostly pertaining to the situation as at 31 December 2010, will be presented below in the text.

<sup>15</sup> The case of defendants Rahim Ademi and Mirko Norac is the only case transferred to the Republic of Croatia after laying the indictment before the ICTY.

<sup>16</sup> The verdict was pronounced on 13 June 2011. Unlike the verdict in the first first-instance procedure, when all six defendants were found guilty, in the repeated first-instance procedure two defendants were sentenced to 15 and 12 years in prison, respectively, three defendants were acquitted of charges, while charges were dropped in relation to one defendant.

<sup>17</sup> "Postupanje u predmetima ratnih zločina" [How to handle the war crime cases], Davorka Radalj, Deputy in the War Crimes Department of the State Attorney's Office of the Republic of Croatia;

*Information on reports, prosecuted cases and victims of war crime cases and procedures conducted in respect of criminal offences committed during and after the Operation "Storm"*, the State Attorney's Office of the Republic of Croatia, Zagreb, 26 April 2011.

According to *the Report* by the RC Government, DORH's war crimes database contains data of 490 known war crimes (containing one or several cases that are logically, geographically and time-wise linked, which mostly include a large number of perpetrators and victims). Out of the aforementioned number (490), 179 crimes have still not been prosecuted.<sup>18</sup> Unlike the aforementioned number of non-prosecuted crimes, in the *Data on Reports, Prosecuted Cases and Victims of Criminal Offences of War Crimes and Procedures related to Criminal Offences Committed during and after the Operation „Storm“*, the DORH indicated that state attorney's offices' registers contain 546 war crimes cases in which perpetrators or order-issuing authorities remained unidentified.

Out of 490 known war crimes, 393 (80%) were committed by members of the Yugoslav People's Army or formations of the so-called SAO Krajina, 86 (18%) by members of the Croatian Army or police, two (less than 1%) by members of the so-called People's Defence of the Autonomous Province of Western Bosnia, and seven (1,4%) by members of the, for the time being, unidentified formations.

More than 6,000 war crimes reports against known persons were filed since 1991. One part of the reports was dismissed, while in another part of them, bearing in mind that those were actually criminal offences related to armed rebellion, reported persons were subjected to amnesty.<sup>19</sup>

Until the end of 2010, trials for war crimes were initiated against 3,655 persons, out of whom 95 members of Croatian formations.

After the conducted investigations, trials were suspended with regard to 1,406 suspects, of which 10 were members of Croatian formations.

Investigations are underway against 373 persons, out of which 15 are members of Croatian formations.

A total of 1,878 persons (71 members of Croatian formations) were indicted. Out of that number, 563 persons were finally sentenced (28 members of Croatian formations<sup>20</sup>), verdicts have not yet been passed with regard to 596 persons (33 members of Croatian formations), while 719 persons (11 members of Croatian formations) were acquitted by court decisions or the proceedings were finished with verdicts rejecting the indictment or rulings on suspension of proceedings.

According to DORH data, out of 563 finally sentenced persons, 366 were sentenced *in absentia*.<sup>21</sup>

<sup>18</sup> The expression 'prosecuted cases' means cases in which criminal proceedings commenced (investigation was initiated), irrespective of the fact whether an indictment was laid or a verdict was reached at a later stage.

<sup>19</sup> According to the DORH information, 21,641 persons were reported for armed rebellion and then prosecuted, and those persons were later amnestied.

<sup>20</sup> By monitoring war crimes trials, we noted down 9 criminal cases with a total of 28 members of Croatian formations who received final verdicts (sentences):

- for the crime in Čepin, Fred Marguš to 15 and Tomislav Dilber to 3 years in prison;
- for the crime in Letovanić, Ivica Kosturin 7 and Damir Vrban to 7 years in prison each;
- for the crime in Brezovica forest, Ivica Mirić to 9 years;
- for the crime in Osijek, Branimir Glavaš to 8 years, Ivica Krnjak to 7 years, Gordana Getoš Magdić to 5 years, Dino Kantić to 3 years and 6 months, Tihomir Valentić to 4 years and 6 months and Zdravko Dragić to 3 years and 6 months;
- for the crime in the Military-Investigation Centre „Lora“, Tomislav Duić was sentenced in absence to 8 years, Tonči Vrkić to 8 years, Davor Banić to 7 years, Miljenko Bajić was sentenced in absence to 6 years, Josip Bikić to 4 years, Emilio Bungur was sentenced in absence to 6 years, Ante Gudić to 6 years and Andelko Botić to 6 years;
- for the crime in Cerna, Tomislav Madi to 15 years, Mario Jurić to 12 years, Zoran Poštić to 7 years, Davor Lazić to 7 years and Mijo Starčević to 8 years;
- for the crime in Paulin Dvor, Nikola Ivanković to 14 years;
- for the crime in Gospić, Tihomir Orešković to 15 years, Stjepan Grandić to 10 years and Mirko Norac Kevo to 12 years;
- for the crime in Medački Džep, Mirko Norac Kevo to 6 years (bearing in mind his previously pronounced sentence of 12 years in prison for the crime in Gospić, he received a joint prison sentence in the duration of 15 years).

<sup>21</sup> Based on the previous data, 464 persons were sentenced in absence in 118 cases. However, after the adoption of the new 2008 Criminal Procedure Act, state attorney's offices were rendered possible to request re-opening of trials against unavailable persons as well. Thus,

### Criminal offences committed during and after the military-police operation „Storm“

After the ICTY's verdict in the case of Gotovina, Markač and Čermak, data on crimes committed during and after the military-police operation „Storm“ were made public.

According to data presented by the **State Attorney's Office of the Republic of Croatia**, 6,390 reports were filed against known and unknown perpetrators with regard to criminal offences committed during and immediately after the „Storm“. Mostly included were criminal offences against property, jeopardizing safety (arsons), killings and, to a lesser extent, war crimes. A total of 4,128 known perpetrators were reported, out of whom 3,728 were prosecuted. 2,380 persons were sentenced. There are 2,262 registered reports for which perpetrators have still not been identified.

Out of the total number (6,390) of reports, 27 are registered as war crimes. However, no one has been sentenced for committing a war crime during or after the „Storm“ up to now. Namely, in 24 reported war crimes, the commission of which caused death to 156 persons, perpetrators are, for the time being, unknown. 10 members of Croatian formations were prosecuted in three cases due to the killing of 11 persons. Out of that number, trials against 8 persons are underway, while trials against two persons were suspended.<sup>22</sup>

Apart from the aforementioned war crimes reports, state attorney's offices recorded 47 victims of the criminal offence of murder. Perpetrators of killing of 26 victims have not been identified. 33 persons were prosecuted for the killing of 21 persons, out of whom 14 persons were sentenced.<sup>23</sup>

Therefore, DORH records contain data on 214 killed persons who died either as victims of war crimes or as victims of criminal offences of murder.

Unlike the DORH data, data from the **Croatian Helsinki Committee for Human Rights (HHO)**, published in „Military Operation Storm and Afterwards – Report“ publication in 2001, speak of 677 victims.

Records of the **Directorate for Detained and Missing Persons with the Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity**, contain data on 697 exhumed persons, while additional 563 persons are listed as missing.

Bearing in mind significantly differing data when it comes to the number of killed persons during and after the „Storm“, the State Attorney's Office of the RC stated that victims of criminal offences of murder and victims of war crimes often cannot be differentiated from war victims (persons who are not listed as members of conflicting parties and there is no criminal responsibility of conflicting parties for their death). However, the DORH requested from the competent state attorney's offices to take measures in order to determine the manner in which persons, stated on different lists, were killed.

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based on the information available to us, state attorney's offices filed requests for reopening of trials for 93 persons who were previously convicted in absentia. Moreover, in one case involving four persons, the state attorney's office filed a request for legality protection. Having changed legal qualification of criminal offences stated in the indictments or dropping charges against 72 persons, criminal proceedings had already been discontinued. Two persons were sentenced even after the conducted repeated proceedings. Other proceedings are underway. In addition to the requests filed by the state attorney's office for reopening the trials, certain trials were also reopened based on the requests filed by the persons previously sentenced *in absentia* (mostly after their arrest).

<sup>22</sup> Trials:

- Božo Bačelić, Ante Mamić, Luka Vuko and Jurica Ravlić are indicted for the crime in Prokljan. Since the 1<sup>st</sup> defendant Bačelić is unavailable to Croatian judiciary, the court ordered the stay of proceedings;
- the indictment against Frano Drlje, Božidar Krajina and Igor Beneta was laid for the crime in Grubor, after the investigation in 2010. Having concluded the investigation, the state attorney's office decided not to prosecute Berislav Garić any further. Investigation against Frano Drlja (the 1<sup>st</sup> defendant for the crime in Grubori) and Željko Sačić for the crime in Ramljani has continued;
- we have no data on the third trial, which was suspended and which was conducted against one accused person.

<sup>23</sup> The monitoring team of the Centre for Peace, Documenta and Civic Committee for Human Rights does not have at its disposal data on all cases involving perpetrators of murder who were sentenced. Information about the number of sentenced perpetrators of murder was presented by DORH representatives at the *Public Discussion on Non-prosecuted Crimes during and after the Military-police Action "Storm"*, held at the Human Rights House in Zagreb on 28 April 2011.

## Pre-investigations

Bearing in mind that all victims of war crimes have the right to establishment of facts and circumstances of their killings, we expect efficient work of the police, the DORH and the courts in investigations and impartial prosecution of all war crimes.

The number of non-prosecuted crimes (for which investigation has not been initiated) is still quite large. There are also many crimes that have not been prosecuted in a satisfactory manner. For instance, although in the trial conducted for the crimes committed in Medak Pocket against Rahim Ademi and Mirko Norac data were presented that may indicate responsible commanding persons, as well as names of possible direct perpetrators, the investigation has still not been initiated.<sup>24</sup>

A large number of prosecuted crimes is still at the investigating stage or indictments have been filed, but no verdict has been passed.<sup>25</sup>

In some cases in which verdicts were passed, particularly those which include a large number of defendants and victims, only a small number of perpetrators was sentenced and is serving a prison sentence.<sup>26</sup>

Criminal proceedings against 969 persons are ongoing. 563 persons received a final (legally binding) sentence, but out of that number as many as 366 persons were sentenced *in absentia*. Almost 1,000 persons, criminal proceedings against whom are ongoing, the majority of whom is unavailable to judicial bodies of the RC, and not more than 197 persons finally sentenced in their presence, speak of a need to intensify work on war crimes cases, as well as a need to intensify cooperation between judicial bodies of countries in the region (in which perpetrators are mostly residing) in order to bring as many perpetrators as possible to justice.

For the purpose of rendering efficient investigations and prosecutions, during the first half of 2011 the Ministry of Justice drafted the *Strategy for Investigating and Prosecuting War Crimes Committed Between 1991 and 1995*, the Ministry of the Interior adopted the *Implementing Plan*, and the DORH adopted the *Operational Programme*.<sup>27</sup> Working according to the aforementioned regulations has the objective of resolving the problem of unresolved crimes that are yet to be prosecuted. Related to that, back in 2010 the MUP and the DORH reached an agreement about the list of priority crimes, the perpetrators of which have still not been identified at the national and local level. A total of 127 crimes were determined as priorities, out of which 8 crimes were determined as priorities at the national level. Teams comprising police officers, state attorneys and their deputies were established to work on the aforementioned cases.

In the report to the Croatian Parliament for 2010, the Ministry of the Interior described for the first time its work on war crimes cases in detail, stating cases on which they worked. This made it easier to monitor the intensity of work in certain pre-investigation procedures.

<sup>24</sup> According to the DORH information, the inquests are underway.

<sup>25</sup> For instance: No first-instance verdict has been reached yet in the trial conducted at the Vukovar County Court for the crimes committed in Lovas. The indictments for genocide and a war crime against civilians were laid in 1994 and 2004. 18 persons were indicted. Until 2009, the main hearing was conducted against all accused persons. Then, the trial was separated in respect of unavailable defendants. However, no trial hearing has been held so far in 2011 in the trial against the only available defendant.

<sup>26</sup> For instance: 35 persons were indicted in 2006 for the crimes committed in Berak. The indictment charged them with the killing of civilians, confining them in detention camp, torturing and inhumanely treating them, engaging them in forced labour, plundering, misappropriating and destroying their property. The indictment included 40 killed or taken away and missing civilians. The main hearing was conducted against four available defendants, but only one was sentenced (to 3 years and 6 months in prison). Having amended the indictment in 2009, 12 accused persons were amnestied because the legal qualification of the crime that they were charged with was changed into armed rebellion. The indictment is still valid in respect of 19 unavailable defendants.

<sup>27</sup> The mentioned documents are not available to us.

### Investigations and indictments

In the first half of 2011, county state attorney's offices filed several investigation requests or, after they conducted investigations, filed indictments for war crimes.

Data on the cases are stated in communications from county state attorney's offices. We will present them below in the text.

In the cases in which it was requested to conduct an investigation, accused persons – members of Serb formations, are unavailable to judicial bodies of the Republic of Croatia:

- *at the end of April 2011, the Osijek ŽDO filed an investigation request with the Osijek County Court investigating judge against one person who is under suspicion that, between 22 November 1991 and 22 September 1992, in the area of Erdut, Aljmaš and Sombor, as a commander of Erdut militia station, he illegally brought, detained and abused civilian population and directly ordered his lower-ranking officers to do the same. While being abused at the militia station, six persons died. After being abused and handed over to Arkan's formations, four persons were killed and three were abused. Two persons disappeared without a trace;*
- *at the beginning of May 2011, the Vukovar ŽDO filed an investigation request with the Vukovar County Court investigating judge against one person who is under reasonable suspicion that, from 18 to 22 November 1991 in a primary school in Borovo Selo, where several hundreds of captured civilians were brought after the occupation of Borovo Naselje and Borovo Commerce, as a commander of TO Headquarters of Borovo Selo, he allowed the captured civilians to be illegally detained and allowed members of Borovo Selo TO and other paramilitary formations to take those civilians for interrogation and abuse them, and even kill some of them. Thus, a total of 38 captured civilians were killed in the school premises or after they were taken to the Danube river;*
- *in May 2011, the Šibenik ŽDO filed a request to conduct and extend investigation against eight persons with the investigating judge of the Šibenik County Court in relation to war crimes committed at the District Prison located in the old hospital in Knin. An investigation request was filed against two persons who were not prosecuted before, while the request to extend investigation was filed against six persons, against whom the proceedings are already ongoing. They are under suspicion that, between end of September and beginning of November 1991, they abused four Croatian civilians, one of whom died as a result of sustained injuries, while others suffered from serious health deterioration, as well as that they abused five war prisoners;*
- *in mid-May 2011, the Osijek ŽDO filed a request to extend investigation against one person who is suspected that, as commander of the 12<sup>th</sup> proletarian mechanized brigade of the JNA and, at the same time, a superior officer to members of territorial defences of Bobota, Silaš, Borovo Selo, Trpinja, Markušica and Vera, he was aware that, at a meeting between the JNA and the TO, a plan to attack and occupy the village of Čelije and expel Croatian population was agreed. Thus, when on 7 July 1991, members of his subordinated JNA and TO formations started a general and non-selective artillery attack with the objective to realize the aforementioned plan, he did nothing to stop them from doing so, and he also failed to prevent looting of property, arson and demolition of houses, as well as to undertake measures to punish perpetrators.*

*In the period between January - May 2011, after conducted investigations, several indictments were filed<sup>28</sup>, both against members of Croatian and Serb formations:*

- *at the beginning of January 2011, the Osijek ŽDO filed the indictment with the Osijek County Court against Veljko Marić, who is charged that on 31 October 1991 in the village of Rastovac, Grubišno Polje municipality, as a member of the Croatian National Guard, he entered the house of a civilian P. S. and killed him with shots*

<sup>28</sup> Note: At the beginning of June, the Zagreb ŽDO laid an indictment against Tomislav Merčep. He is charged that, as commander of the MUP reserve unit stationed in Pakračka Poljana and at the Zagreb Fair and as adviser in the MUP of the Republic of Croatia, he personally issued orders to have civilians unlawfully confined, tortured and killed in the period from October to December 1991. Although he knew that his subordinates, with no authority, were confining civilians, plundering them, mistreating, torturing and killing them, he failed to prevent such unlawful actions. Hence in the area of Kutina, Pakrac and Zagreb, his subordinates unlawfully confined 52 persons, and out of that number 43 persons were killed, three went missing whereas the remaining persons survived the torture and abuse inflicted upon them.

*fired from an automatic rifle, whereby he committed a war crime against civilians referred to in Article 120, paragraph 1 of the OKZRH;*<sup>29</sup>

- *at the beginning of March 2011, the Split ŽDO filed the indictment with the Split County Court against Tvrko Pašalić, Damir Boršić, Željko Maglov and Milorad Paić, who are charged that in the period between 2 March and 23 April 1992 in Šibenik, as members of military police responsible for military prison „Kuline“, after on 2 March 1992 the Croatian Army performed an action of liberating the village of Nos Kalik on which occasion members of Serb paramilitary formations of the so-called RSK were captured and brought to the aforementioned prison where they were detained, 21 war prisoners were physically and mentally tortured and abused, whereby they committed a war crime against war prisoners referred to in Article 122 of the OKZRH;*<sup>30</sup>
- *in April 2011, the Osijek ŽDO filed the indictment with the Osijek County Court against Aleksandar Vasiljević, the former Head of the Security Directorate of the Federal People's Defense Secretariat, and against Miroslav Živanović, lieutenant-colonel of the JNA and member of the Security Directorate for the commission of a war crime against civilians and a war crime against war prisoners. They are charged with crimes committed in detention camps at the territory of the Republic of Serbia (Begejci, Stajićevo, Sremska Mitrovica and Niš) and of the Republic of Croatia (Stara Gradiška).*

Defendant Vasiljević is charged that, after the setting up of the aforementioned detention camps, although he was aware that members of his subordinate- and other formations killed, tortured and inhumanely treated Croatian population and captured members of Croatian formations who were unlawfully brought into detention camps and detained there, failed to do anything to suppress such behaviour and punish the perpetrators. As a result, apart from a large number of detainees and war prisoners who sustained severe physical injuries, 19 persons were killed.

Defendant Živanović is charged that, as the actual commander of Stajićevo and Begejci detention camps, he was aware that civilians and war prisoners detained in the camps were killed, tortured and inhumanely treated, but he failed to do anything to suppress such behaviour and punish the perpetrators. Thus, he agreed to continue with such actions, as a result of which a large number of persons sustained severe physical injuries, five persons were killed, while several women were systematically raped and sexually abused.

During the investigation, 250 witnesses were interrogated, mostly war prisoners, JNA documentation (orders) on the organization of the camps was obtained, while a part of documentation was also obtained from the ICTY;<sup>31</sup>

- *in April 2011, the Karlovac ŽDO filed the indictment with the Karlovac County Court against Marko Bolić, who is charged that on 4 November 1991 in Barilović, after two members of the Croatian Army surrendered, together with another person (R.B.) shot them from firearms. Due to inflicted injuries they died on spot and, by doing so, he committed a criminal offence of unlawful killing and injuring the enemy referred to in Article 124, paragraphs 1 and 2 of the OKZRH;*<sup>32</sup>
- *in May 2011, the Osijek ŽDO filed the indictment against the following five persons: Milan Marinković, Jovan Jakovljević, Dragan Rakanović and Milenko Mihajlović for the commission of a war crime against war*

<sup>29</sup> The main hearing at the Higher Court in Belgrade is underway against the same defendant and for the same event. The defendant is held in custody in the Republic of Serbia.

<sup>30</sup> During the investigation, the defendants were held in custody. At the beginning of March 2011, after the indictment was laid, the extra-trial council of the Split County Court decided to replace detention with precautionary measures (prohibition to leave residence and obligation of the defendants to report every 15 days to the rooster police official). However, at the beginning of April 2011, the VSRH issued a detention order against the defendants. At the beginning of June 2011, the Split County Court vacated the detention measure again and replaced it with precautionary measures.

<sup>31</sup> Both defendants reside in the territory of the Republic of Serbia and are unavailable to Croatian judiciary.

<sup>32</sup> The defendant is held in custody.

## Key Observations

*prisoners and sick persons referred to in Article 121 of the OKZRH and a war crime against war prisoners referred to in Article 122 of the OKZRH, and against Jovica Vučenović for a war crime against war prisoners referred to in Article 122 of the OKZRH.*

*The indictment charges them with the abuse of detained and severely injured policemen from the Osijek Police Administration at the beginning of May 1991 in Borovo Selo.<sup>33</sup>*

### Monitored main hearings

During the reporting period (January - May 2011) we monitored a total of 18 war crime trials at county courts in the Republic of Croatia.<sup>34</sup>

Main hearings were conducted at 10 county courts: in Sisak, Osijek, Zagreb and Zadar – 3 trials each, while in Rijeka, Šibenik, Vukovar, Slavonski Brod, Bjelovar and Karlovac (Office in Gospić) – 1 trial per each court.<sup>35</sup>

In another 3 trials, the scheduled main hearings did not begin because the defendants were not available to the court.<sup>36</sup>

In several trials, trial hearings were not scheduled or held for a long time not even for several years.<sup>37</sup> We observed somewhat shorter recesses in several other trials, but still longer than two months and thus main hearings had to start anew.<sup>38</sup>

<sup>33</sup> The first defendant Milan Marinković is held in custody, and other defendants are fugitives from justice and are thus unavailable.

<sup>34</sup> In 14 trials the criminal offence was legally qualified as a war crime against civilians, in 1 trial as genocide and war crime against civilians and in 3 trials as a war crime against war prisoners.

<sup>35</sup> It concerns trials at the following county courts in:

- **Sisak:** against defendant Rade Miljević (crime on the Pogledić hill near Glina); against defendant Jablan Kejić (crime in Zrin); against defendant Stojan Letica (crime in Novo Selište);
- **Osijek:** against defendant Čedo Jović (crime in Dalj IV); against defendant Petar Mamula (crime in Baranja); against defendant Damir Kufner *et al.* (crime in Marino Selo);
- **Zagreb:** against defendant Željko Gojak (crime in Karlovac); against defendant Emil Črnčec *et al.* (crime in Mlinište); against defendant Pero Đermanović *et al.* (crime in the villages along the Una river near Hrvatska Kostajnica);
- **Zadar:** against defendant Nikola Munjes (crime in Perušić); against defendant Nebojša Baljak *et al.* (crime in Ravni Kotari II); against defendant Milan Jurjević *et al.* (crime in Kruševo);
- **Rijeka:** against defendant Radoslav Čubrilo (crime in Lovinac);
- **Šibenik:** against defendant Goran Amanović (crime in Suknovci and Oklaj);
- **Vukovar:** against defendant Miloš Stanimirović *et al.* (crime in Tovarnik);
- **Slavonski Brod:** against defendant Janko Radmanović *et al.* (Slavonski Brod shelling crime);
- **Bjelovar:** against defendant Ivan Husnjak *et al.* (arson in the villages of Pušina and Slatinski Drenovac);
- **Karlovac – Office in Gospić:** against defendant Mićo Cekinović (crime in Slunj and surrounding villages).

<sup>36</sup> It concerns the trials against: defendant Željko Žakula (crime in the village of Čanak); defendant Mitar Arambašić (crime by the so-called Peruča group); defendants Branko Dmitrović, Slobodan Borojević, Milinko Janjetović, Momčilo Kovačević, Stevo Radunović, Veljko Radunović, Katica Pekić, Marin Krivošić and Stevan Dodoš (crime in Baćin). In the last mentioned trial, only Marin Krivošić is available to Croatian judiciary.

<sup>37</sup> Cases:

- in the trial conducted at the Rijeka County Court against unavailable Radoslav Čubrilo (crime in Lovinac), not a single trial hearing was held for more than three years. Therefore, the trial started anew in April 2011. In this case, the VSRH had previously quashed two times the first-instance verdicts reached by the Gospić County Court. Afterwards, it delegated the case to the Rijeka County Court;
- in the trial conducted at the Osijek County Court against available Željko Čizmić (crime in Dalj) not a single trial hearing has been held since 2009. The trial in this case started anew at the beginning of June 2011;
- in the trial conducted at the Bjelovar County Court against available Ivan Husnjak and Goran Sokol (arson in the villages of Pušina and Slatinski Drenovac), trial hearings were not held from May 2010 until May 2011. On 23 May 2011, the main hearing started anew, and only a day after the court pronounced the verdict by which the defendants were acquitted;
- in the trial conducted at the Vukovar County Court against available Ilija Vorkapić (crime in Lovas), there has been no trial hearing during 2011.

<sup>38</sup> Trials against defendant Željko Gojak (crime in Karlovac) and against defendant Milan Jurjević *et al.* (crime in Kruševo).

Out of the aforementioned 18 cases, two cases were delegated to one of the four courts „specialised“ for war crime trials in the course of 2011. It concerns the case against defendant Pero Đermanović *et al.* (crime in the villages along the Una river near Hrvatska Kostajnica) which was delegated from the Sisak County Court to the Zagreb County Court, and the case against defendant Mićo Cekinović (crime in Slunj and surrounding villages), which was delegated from the Karlovac County Court to the Rijeka County Court.

In addition, the case of defendant Branko Dmitrović *et al.* (crime in Baćin), in respect of which the main hearing scheduled at the Sisak County Court did not begin because the majority of the accused persons were unavailable to the court, was delegated to the Rijeka County Court.<sup>39</sup>

Out of 18 mentioned trials, seven trials were repeated. In the trial conducted at the Osijek County Court against defendant Petar Mamula (crime in Baranja), the main hearing had to be held for the fourth time, because the VSRH quashed three times the verdicts reached by the first-instance councils. In four trials, the main hearings were/are held for the third time<sup>40</sup> while in two trials the main hearings are held for the second time<sup>41</sup>.

Two trials were reopened. The trial held at the Slavonski Brod County Court against defendants Janko Radmanović and Radisav Stojanović (the Slavonski Brod shelling crime) was reopened on the basis of the request by the State Attorney's Office, while the reopened trial against Nikola Munjes (crime in Perušić), extradited from Monte Negro, was conducted on the basis of the request for re-opening of the trial lodged by Nikola Munjes who had been previously sentenced in his absence.

A total of 49 individuals were accused in 18 trials. In 4 trials, 16 individuals were indicted with committing crimes as members of Croatian formations, while 33 individuals were accused in 14 trials with committing crimes as members of Serb formations.

Twenty-six defendants attended the main hearings: 16 members of Croatian formations and 10 members of Serb formations. A total of 23 defendants (all of them members of Serb formations) did not attend the main hearings.<sup>42</sup>

Out of 26 present defendants, 17 of them were kept in custody: 11 members of Croatian formations and 6 members of Serb formations.

Five first-instance verdicts were reached: 3 convictions and 2 acquittals.

<sup>39</sup> According to the information published by the Government of the RC on 12 May 2011 in *the Final Report on the Meeting of the Benchmarks from Chapter 23 (Judiciary and Fundamental Rights)*, from 2005 until the end of 2010, the DORH requested 10 court cases to be delegated to another court (in respect of 15 identified accused persons and 4 unidentified perpetrators), and during 2011 it requested the same in respect of 13 court cases (19 identified accused persons and 8 unidentified perpetrators). We do not have information about all cases in which delegation of jurisdiction was requested since it also concerns cases which are still in pre-investigation stage and conducted against unidentified perpetrators.

<sup>40</sup> Trials against the following defendants: Čedo Jović (crime in Dalj IV); Rade Miljević (crime on the Pogledić hill near Glina); Mićo Cekinović (crime in Slunj and surrounding villages); Radoslav Čubrilo (crime in Lovinac).

<sup>41</sup> Trials against the following defendants: Damir Kufner *et al.* (crime in Marino Selo) and Pero Đermanović *et al.* (crime in the villages along the river Una near Hrvatska Kostajnica).

<sup>42</sup> Main hearings are/were conducted in the absence of the following defendants: Miloš Stanimirović, Stevan Srdić, Dušan Stupar, Boško Miljković, Dragan Sedlić, Branislav Jerković, Jovo Janjić, Milenko Stojanović, Dušan Dobrić, Đuro Dobrić, Jovan Miljković, Katica Maljković (the trial was discontinued because the defendant passed away in 2011), Nikola Tintor, Željko Krnjajić and Radoslav Stanimirović (crime in Tovarnik), Nebojša Baljak and Stevo Ivanišević (crime in Ravni Kotari II); Stojan Letica (crime in Novo Selište); Radoslav Čubrilo (crime in Lovinac); Dubravko Čavić (crime in the villages along the Una river near Hrvatska Kostajnica); Davor Tošić (crime in Kruševo); and Janko Radmanović and Radisav Stojanović (Slavonski Brod shelling crime) - reopened trial based on the request by the State Attorney's Office.

## Key Observations

The following persons were sentenced with first-instance verdicts (verdicts before appeal):

- after the third (second repeated) trial, Čedo Jović (crime in Dalj IV), member of Serb formations, was sentenced at the Osijek County Court to 5 years in prison;
- after the fourth (third repeated) trial, Petar Mamula (crime in Baranja), member of Serb formations, was sentenced at the Osijek County Court to 3 years and 6 months in prison;
- after the re-opened trial, Nikola Munjes (crime in Perušić), member of Serb formations, was sentenced at the Zadar County Court to 9 years in prison - thus confirming the conviction rendered before in his absence.

The following persons were acquitted with first-instance verdicts (verdicts before appeal):

- Goran Amanović, member of Serb formations (crime in Suknovci and Oklaj), based on the verdict reached by the Šibenik County Court;
- Ivan Husnjak and Goran Sokol, members of Croatian formations (arson in the villages of Pušina and Slatinski Drenovac), based on the verdict reached by the Bjelovar County Court.

More details about the mentioned trials are presented in *Appendixes – Table Overviews* that can be found at the end of this Report.

### Monitored sessions at the Croatian Supreme Court

During the monitoring period (January-May 2011), the VSRH's sessions were held in respect of four war crime cases.

In respect of two cases, the VSRH's panels quashed the first-instance verdicts in which the defendants were found guilty and received prison sentences:

- the Varaždin County Court's verdict of 21 December 2007 by which, after the third (second repeated) trial, defendants Luka Markešić, Zdenko Radić, Zoran Maras and Ivan Orlović (crime in Bjelovar), members of Croatian formations, were found guilty and received the following prison sentences: defendant Markešić - 4 years; and the remaining three defendants - 3 years each;
- the Gospić County Court's verdict of 25 February 2010 by which defendant Goran Zjačić (crime in Frkašić II), member of Serb formations, was found guilty and sentenced to 7 years in prison.

The VSRH upheld the Vukovar County Court's verdict of 12 June 2009 by which defendant Dušan Zinajić (crime in Borovo Naselje), member of Serb formations, was found guilty and sentenced to 4 years in prison.

By the Šibenik County Court's verdict of 22 September 2010, defendant Božidar Vukušić (crime in Dragišići), member of Croatian formations, was sentenced to 9 years in prison. The VSRH altered this verdict by sentencing him to 8 years in prison.

### **The still-unresolved issue of compensation of non-material damage caused by the killing of a close person**

The issue of a large number of plaintiffs, who lost their lawsuits in which they requested from the Republic of Croatia compensation of damage caused by the killing of their close relatives, and who were also obliged to pay court expenses, has still not been resolved.<sup>43</sup>

In cases in which criminal responsibility of perpetrators had been established in the criminal trials conducted before, the plaintiffs/injured parties mostly succeeded in receiving compensation for the non-material damage for the killing of a close person. However, in many of the cases in which litigation claims were filed without previously establishing criminal responsibility of the perpetrator(s), the plaintiffs/injured parties lost their lawsuits almost as a rule.<sup>44</sup>

The decision of the Government of the RC of 28 May 2009 by which the claims for court expenses awarded in respect of the defendant (the Republic of Croatia) were written off, only affects the plaintiffs who initiated the proceedings pursuant to Article 180 of the *Civil Obligations Act* (until 1996 when the mentioned Article was revoked). The mentioned decision did not include the majority of plaintiffs/injured parties who initiated proceedings after 1996.

This distinction is justified with the fact that the claimants for compensation of material damages caused by terrorist acts before February 1996 rested their claims on the basis of Article 180 of the *Civil Obligations Act*. However, from the day of the entry into force of *the Act on Responsibility for Damage Caused by the Acts of Terrorism and Public Demonstrations* in July 2003, such claims no longer had legal basis.

However, the victims who suffered non-material damage have legal grounds to seek damage compensation according to the new law, as well. It concerns, as a rule, serious damages like, for instance, the killing of a close person, where plaintiff's expectations were realistic.

Therefore, we deem it necessary to establish the mechanisms, such as the Fund for Indemnity to All Victims, that would render it possible for family members of the killed persons to receive compensation of damage caused by the killing of their close persons. We also deem that the Government of the RC should urgently pass a decision by which the Republic of Croatia would waive its right to charge expenses to all plaintiffs who lost their lawsuits.

The judgments of the European Court of Human Rights in two cases (the case of Jularić v. Croatia and the case of Skendžić v. Croatia), by which the Republic of Croatia was ordered to pay reparation to the plaintiffs for failing to carry out appropriate investigations about the crime, additionally indicate the necessity to provide indemnity to the victims' family members. If the Government of the RC fails to perceive that injustice is made by no-resolving the issue of indemnity to the victims, the aforementioned judgments will serve as guidelines to the plaintiffs/injured parties, whose close persons were mostly murdered by the commission of, for the time being, non-prosecuted or unsatisfactorily prosecuted crimes, to exercise their material satisfaction out of Croatia for the death of their close persons (before the European Court of Human Rights).

<sup>43</sup> For instance: Jasenka Borojević from Sisak, whose husband Stevo Borojević was detained, beaten up, tortured and killed in October 1991, received on 16 March 2011 a request from the Sisak Municipality Court to pay litigations costs in the amount of 26,950 kuna. Jasenka Borojević's income, as is the case with the majority of plaintiffs who lost their lawsuits, is only a small pension. The perpetrators of the crime have not been prosecuted. The case is still in the pre-investigation stage.

<sup>44</sup> Out of 105 analysed cases, the litigation claims were rejected in 74% of them. In 12 % of the cases courts accepted litigation claims and awarded restitution of non-material damage in favour of the plaintiffs. In other cases, the litigation proceedings is underway. In the majority of cases in which courts accepted the litigation claims, there exists a final conviction against perpetrators.

### **Expanding the network of support offices to victims and witnesses before courts**

Firstly, support offices to victims and witnesses of criminal offences were established at county courts in Vukovar, Osijek, Zadar and Zagreb and at the Municipal Criminal Court in Zagreb. Beginning of January 2011, three more support offices were established at the county courts in Rijeka, Split and Sisak.

Same as with the offices established before 2011, the offices at the county courts in Rijeka, Split and Sisak were established within the framework of the project of the Ministry of Justice and the United Nations Development Programme (UNDP).

The existing support system provides a good basis for further development of support to other courts, but we consider it necessary to expand this support system further to the state attorney's office and the police, especially bearing in mind the new role of state attorney's offices in investigation stage in accordance with the new *Criminal Procedure Act (OG 152/08)*, which will enter into force on 1 September 2011 and will apply to criminal proceedings for war crimes.

Jelena Đokić Jović and Marko Sjekavica

## JOINT CRIMINAL ENTERPRISE OR 'THE COMMON PURPOSE DOCTRINE'

Although the very form of the commission of a crime in a joint criminal enterprise (JCE) is not stipulated by the ICTY Statute, its three basic modes have been developed through the ICTY's jurisprudence, starting with the ruling reached by the Appeals Chamber in the *Tadić* case<sup>45</sup> on the basis of which this form of individual criminal responsibility was practically founded. Perpetrators of numerous crimes in Bosnia and Herzegovina, Croatia and in Kosovo were punished on the basis of implicit adoption of the concept of joint criminal enterprise liability<sup>46</sup>.

The JCE does not represent an incrimination which the defendant would be charged with, but, rather it is a means of imputing and proving individual criminal responsibility of perpetrators for participation in this specific form of association in the commission of a crime. Liability of a participant in the joint criminal enterprise is most similar to a co-principal's liability when the crime was committed by co-perpetration. Nevertheless, the ICTY practice has profiled the JCE as a special form of liability, distinct from co-perpetration, which, unlike co-perpetration, requires a lesser degree of probability that criminal behaviour will take place and a lower degree of contribution to the commission of an offence, which does not have to be crucial or essential.

The first and basic mode of JCE refers to a situation in which several persons have a common plan or design that represents or involves the commission of a crime, and participate in achieving the common purpose of the JCE. The contribution of an individual JCE participant alone does not necessarily constitute a crime in itself, but it must represent a contribution to the commission of a crime which is the purpose of the JCE. JCE participants share the intent to commit certain criminal offence.

The second mode of JCE is associated with organised systems of abuse such as concentration camps, which JCE participants are aware of and accept them and contribute to their further functioning.

The third mode of JCE covers situations in which one of its participants commits an incidental (unforeseeable) crime, which was not foreseen or specifically agreed upon within the framework of a common plan, but it can be considered a natural and foreseeable corollary of achieving this plan. In relation to the planned crimes, there exists the intent of participants in the joint criminal enterprise, while regarding the incidental crimes, there exists the indirect intent (*dolus eventualis*).

In the ICTY's *Gotovina et al.* case, it was established in the first-instance judgment that Ante Gotovina and Mladen Markač, together with other persons, had participated in a joint criminal enterprise, sharing a common intent to permanently remove Serb population of Krajina, by exercising force and intimidation or by threatening them with force, persecutions, forcible removal (transferrals) and deportation, plunder and destruction of their property or by some other means.

In respect of persecutions, deportation, plunder of public or private property and wanton destruction, it was established in the first-instance judgment that defendants Ante Gotovina and Mladen Markač participated in a joint criminal enterprise of the first mode, in which their shared intent encompassed the stated crimes. In relation to murder, inhumane acts and cruel treatment, the same defendants were found guilty based on their participation

<sup>45</sup> The verdict issued by the Appeals Chamber in the *Tadić* case (15 July 1999).

<sup>46</sup> *Tadić* (the 1999 decision of the Appeals Chamber), *Kvočka et al.* (the 2005 verdict of the Appeals Chamber), *Krajišnik* (the 2009 verdict of the Appeals Chamber), *Babić* (the 2005 verdict of the Appeals Chamber), *Martić* (the 2008 decision of the Appeals Chamber), *Vasiljević* (the 2004 decision of the Appeals Chamber), *Blagoje Simić et al.* (the 2003 decision of the Appeals Chamber), *Plavšić* (the 2003 decision of the Trial Chamber), *Stakić* (the 2003 decision of the Appeals Chamber), *Krnojelac* (the 2003 decision of the Appeals Chamber), *Blagojević & Jokić* (the 2005 decision of the Trial Chamber), *Milutinović et al.* (the 26 February 2009 decision of the Trial Chamber, Federal Republic of Yugoslavia's leadership: Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić, the case is in the appeal procedure), *Vujadin Popović et al.* (in the judgment (at first-instance) issued on 10 June 2010, it was established that the defendants acted as participants in a joint criminal enterprise (JCE) of murder and, through this form, genocide and a JCE of forcible transfer were committed), *Gotovina et al.* (the 15 May 2011 decision of the Trial Chamber).

in a joint criminal enterprise of the third mode in respect of the aforementioned crimes for which they had no direct intent, but these crimes were a natural and foreseeable corollary of actions committed in furtherance of the common plan or design, the risk which the defendants knowingly accepted. After the judgment was made public, a large number of false and malicious information appeared in the media which insinuated that the guilty verdict against the two aforementioned HV Army generals actually declared the entire liberating military-police action "Storm" as a joint criminal enterprise. However, the truth is that the judgment established that the purpose of this joint criminal enterprise comprised ethnic cleansing of Serb population from one part of Croatian territory, and the JCE participants achieved that purpose through murders, large-scale destruction and causing considerable damage, systematic looting, performing inhumane acts and cruel treatment, forcible transfer and/or deportation.

### Comparative practice of an *ad hoc* tribunal<sup>47</sup> and the International Criminal Court

All currently operating *ad hoc* tribunals embrace the concept of liability of joint criminal enterprise.

The Special Court for Sierra Leone, established jointly by the Government of Sierra Leone and the UN, as well as the Hague Tribunal, implicitly accepts the concept of JCE liability through all three of its modes as a necessary consequence of interpretation of the goals and the very purpose of the Statute, which is otherwise very similar to the effects of the statutes of the ICTY and of the ICTR.<sup>48</sup> We would like to point out to the fact that the Court's Statute expressly instructs the Special Court to follow the practice of the ICTY and the ICTR. *In concreto*, in Article 20, paragraph 3 of the Statute, the Appeals Chamber is instructed to follow the practice of ICTY's and ICTR's appeals chambers.

In terms of accepting the concept of liability inaugurated through the JCE, the same situation also applies to the International Criminal Tribunal for Rwanda.<sup>49</sup>

In 2010, the Pre-Trial Chamber of the Special Tribunal in Cambodia<sup>50</sup> adopted a decision stating that the third mode of JCE did not exist as a form of liability in 1979<sup>51</sup>. However, the first and the second mode of JCE did exist.

After the 2005 assassination of Rafik Hariri, the former Prime Minister of Lebanon, the United Nations in 2007 established a Special Tribunal for Lebanon (Special Tribunal for Lebanon - STL). In 2011, this Court adopted a decision allowing the Court to apply the first two modes of the joint criminal enterprise, but not

<sup>47</sup> The International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are courts with clearly defined characteristics of *ad hoc* courts. They were established on the basis of decision adopted by the Security Council in accordance with Chapter VII of the United Nations Charter. Along with the work of *ad hoc* tribunal, there were also activities marked by political compromises, aimed at the forming of mixed courts - special authorities for the prosecution of international crimes. The governments in Cambodia and Sierra Leone rejected the idea of international criminal tribunals such as the ICTY and the ICTR and therefore the so-called internationalised domestic courts were established. The Government of Cambodia accepted only the idea of a special national court in work of which foreign judges and legal experts are involved, but they represent a minority. Likewise, the Special/Extraordinary Chamber of the Court in Cambodia, as well as the Special Court for Sierra Leone, was established on the basis of bilateral agreements signed between the UN and the governments of the countries in question. As a result, this significantly weakens the international community's influence and distinguishes these courts from *ad hoc* tribunals which represent courts with a limited-life and which exist as exclusive bodies of the UN.

Such courts are frequently called as hybrid courts. Initially, this hybrid model was established in East Timor and later, with certain variations, it was proposed as a model for Cambodia and, finally, for Sierra Leone.

The court panel of the Section I for War Crimes of the Court of Bosnia & Herzegovina, as a type of court with international involvement, is incorporated in the national judicial system. The court also comprises five international judges from Slovenia (2), Malta and the USA (2) and it is not far from the idea of mixed courts.

<sup>48</sup> Cases: The Prosecutor vs. Issa Hassan Sesay, Morris Kallon and Augustine Gbao - the 2009 case (known as the RUF Case); The Prosecutor vs. Brima, Kamara and Kanu - the 2008 case (the AFRC case).

<sup>49</sup> The Prosecutor vs. Ntakirutimana & Ntakirutimana (ICTR-96-10-A and ICTR-96-17-A).

<sup>50</sup> On 10 August 2001, King Norodom Sihanouk signed "The Khmer Rouge Tribunal Legislation". This document enabled the establishment of a Special/Extraordinary Chamber within the existing court structure competent to prosecute crimes committed during the Khmer Rouge regime between 17 April 1975 and 06 January 1979, under the leadership of Pol Pot, in the then-Democratic Kampuchea, when more than three million people went missing. The crimes involved forcible displacement, forced labour and enforcing inhumane life conditions, murders, torture and similar. However, there are still no trials for the committed crimes.

<sup>51</sup> Case IENG Sary, 002/19-09-2007-ECCC/OCIJ (PTC35), Decision in the Appeal Procedure against the Order by Co-investigative Judges in respect of joint criminal enterprise (JCE), D97/14/15, ERN: 0048652-00486589.

the third one - the so-called extended or constructive form of JCE, on the grounds that terrorism does not represent a violation of the international humanitarian law.<sup>52</sup> The STL, however, stated that the Lebanese Criminal Law Act contained provisions for criminal liability that are very similar to the third mode of JCE.

It is still debatable what attitude in respect of the JCE issue will be taken by the permanent International Criminal Court (ICC), considering the fact that it still has not ruled any first instance-verdicts whatsoever, and not to mention final verdicts. However, the Rome Statute of the ICC leaves a possibility that the Court recognizes the first mode of joint criminal enterprise as a form of individual criminal liability and as a form of the joint commission of a crime, together with another person, or through another person, referred to in Article 25 of the Statute. This Article in its paragraph 3 (d) speaks about the possibility of contributing to the commission of a crime by a group of persons acting with the common goal. It is questionable whether the second (systemic) and the third (extended) mode of JCE will appear in ICC practice, although the possibility of developing such jurisprudence could find a foothold in the provisions of the Rome Statute regulating the secondary forms of liability.<sup>53</sup>

An identical position has been incorporated into the statutory structure of the Special Tribunal for East Timor<sup>54</sup>, contained in the provision of Article 14 entitled "Individual Criminal Liability", a form of the joint commission of a crime, or through another person (Article 14, 14.3 (a)), i.e. the possibility to contribute to the commission of a crime by a group acting with a common criminal goal (Article 14, 14.3 (d)).<sup>55</sup>

### **JCE and the rules of substantive criminal law in the Republic of Croatia**

The concept of JCE guilt is not an institution of Croatian law. The principles of European continental criminal law also differ from this form of liability. The JCE term was taken from the English law in the XIV Century. Its full affirmation was experienced in American criminal law in organised crime cases (Doctrine of Conspiracy in Common Law Jurisdictions).<sup>56</sup>

Criminal law regulations that were in effect at the time of committing mass atrocities in Croatia did not contain the concept of JCE liability, but were limited to stipulating criminal liability for the organisers of criminal associations, which are close to the JCE concept.

Article 24 of the Basic Criminal Law of the Republic of Croatia<sup>57</sup> stipulated criminal liability and culpability of organisers of criminal associations. Anyone who creates or uses an organisation, gang, conspiracy, group or other association for the purpose of committing criminal offences is criminally liable as a direct perpetrator, regardless of whether, and in what capacity, he/she directly participated in the commission of each of these offences. Liability for the serious consequence is based on a lower degree of guilt. Namely, unlike the second (systemic) mode of JCE, which implicitly includes the knowledge of the existence of a system of abuse i.e. possible existence of intent (*dolus eventualis*) in relation to the crimes committed outside the common purpose in the so-called extended mode of JCE, our legislator has based the liability for serious consequences arising from a criminal offence on the negligence.<sup>58</sup>

<sup>52</sup> The Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging, case No. STL-11-01/I (Feb. 16, 2011).

<sup>53</sup> Gunel Guliyeva: "The Concept of Joint Criminal Enterprise and ICC Jurisdiction", CASIN, 2008.

<sup>54</sup> The (special) Ad-Hoc Court for East Timor was established on the basis of the UN Security Council Resolution (No. 1410/2002) through the Dili District Court's Special Panel for serious criminal offences. During the occupation of Timor by Indonesia from 1975 until 1999, more than 18,000 people were killed or went missing, another 80,000 people died of the consequences of famine and illnesses. Fifty-five trials were completed in the period of four years. Eighty-four individuals were convicted and three were acquitted. Highly ranking Indonesian officers evaded the trials. Indonesia refused to extradite them ("Experiences and lessons from "Hybrid" Tribunals: Sierra Leone, East Timor and Cambodia" by Eileen Skinnider, International Centre for Criminal Reform and Criminal Justice Policy, Vancouver).

<sup>55</sup> REGULATION NO. 2000/15 ON THE ESTABLISHMENT OF PANELS WITH EXCLUSIVE JURISDICTION OVER SERIOUS CRIMINAL OFFENCES.

<sup>56</sup> "What is the distinction between "Joint criminal enterprise" as defined by the ICTY Case Law and Conspiracy in Common Law Jurisdictions" by Raif K. Punja, Case Western University.

<sup>57</sup> Official Gazette, No. 31 of 16 April 1993.

<sup>58</sup> Article 13, paragraph 15 of the OKZRH.

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

### a) Trials in which first instance verdicts were rendered by county courts from January-May 2011

	Case	Criminal offence / Court / Council	
1	<p><b>CRIME IN DALJ IV</b></p> <p>Previously, the VSRH<sup>2</sup> quashed twice the convictions rendered by the Osijek County Court wherein the defendant was found guilty and sentenced to 5 years in prison. In the third trial (second repeated) on 15 March 2011, the War Crimes Council of the Osijek County Court found the defendant guilty again and sentenced him to 5 years in prison.</p>	<p>War crime against civilians</p> <p>Osijek County Court</p> <p><b>War Crimes Council in the third (second repeated) trial:</b> judge Darko Krušlin, Council President; judges Ante Kvesić and Katica Krajnović, Council Members</p>	←
2	<p><b>CRIME IN BARANJA</b></p> <p>On 23 March 2011, after the fourth (third repeated) trial, the War Crimes Council of the Osijek County Court found defendant Petar Mamula guilty and sentenced him to 3 years and 6 months in prison.</p> <p>Previously, the VSRH quashed three times the verdicts rendered by the Osijek County Court in which the defendant received the following prison sentences: 5 years and 6 months – in the first trial, and 4 years and 10 months – in the second and third trial.</p>	<p>War crime against civilians</p> <p>Osijek County Court</p> <p><b>War Crimes Council:</b> judge Zvonko Vrban, Council President; judges Ružica Šamota and Dubravka Vučetić, Council Members</p>	←
3	<p><b>CRIME IN PERUŠIĆ</b></p> <p>On 4 February 2011, defendant Nikola Munjes was found guilty and sentenced to 9 years in prison by the Zadar County Court's first instance verdict (non-final), thus upholding the verdict rendered by the same Court on 9 October 1995 when he was sentenced in his absence to 9 years in prison.</p>	<p>War crime against civilians</p> <p>Zadar County Court</p> <p><b>War Crimes Council:</b> judge Boris Radman, Council President; judges Dijana Grancarić and Ante Anić, Council Members</p>	←
4	<p><b>CRIME IN SUKNOVCI AND OKLAJ</b></p> <p>Having concluded the main hearing which began on 31 January 2011, the War Crimes Council of the Šibenik County Court rendered a verdict on 20 May 2011 in which it acquitted the defendant.</p>	<p>War crime against civilians</p> <p>Šibenik County Court</p> <p><b>War Crimes Council:</b> judge Nives Nikolac, Council President; judges Sanibor Vuletin and Branko Ivić, Council Members</p>	←
5	<p><b>ARSON IN PUŠINA AND SLATINSKI DRENOVAC</b></p> <p>On 24 May 2011, the War Crimes Council of the Bjelovar County Court pronounced a first-instance verdict in which the defendants were acquitted of charges.</p> <p>Considering the fact that no trial hearings were scheduled from May 2010 until May 2011, the main hearing had to start anew.</p>	<p>War crime against civilians</p> <p>Bjelovar County Court</p> <p><b>War Crimes Council:</b> judge Sandra Hančić, Council President; judges Mladen Piškorec and Ivanka Šarko, Council Members</p>	←

<sup>1</sup> Translator's note: County State Attorney's Office (hereinafter: the ŽDO)

<sup>2</sup> Translator's note: the Supreme Court of the Republic of Croatia (hereinafter: the VSRH)

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Indictment No. / ŽDO <sup>1</sup>	Defendants	Names of victims
➔	<p>Indictment No. K-DO-52/08 issued by the Osijek ŽDO on 4 November 2008, amended (specified) on 31 March 2009 and at the hearing held on 15 March 2011.</p> <p><b>Prosecutor:</b> Dragan Poljak, the Osijek County Deputy State's Attorney</p>	<p><b>Čedo Jović</b></p> <p>Member of Serb formations</p> <p>In detention as of 7 July 2008</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>killed:</b> Antun Kundić</li> <li>- <b>physically abused:</b> Ivan Horvat, Ivan Bodza, Karol Kremerenski, Josip Ledenčan and Emerik Hudik</li> </ul>
➔	<p>Indictment No. KT-136/94 issued by the Osijek ŽDO on 3 April 2001 and amended on 14 March 2002, 4 May 2006 and 23 March 2011.</p> <p><b>Prosecutor:</b> Miroslav Dasović, the Osijek County Deputy State's Attorney</p>	<p><b>Petar Mamula</b></p> <p>Member of Serb formations</p> <p>Spent time in detention from 6 October 2000 until 7 May 2003</p> <p>At present, the defendant attends the trial and is not detained.</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>maltreated:</b> Antun Knežević, Veljko Salonja and Jovan Narandža</li> <li>- <i>after the amendments to the indictment dated 23 March 2011, the defendant is no longer charged that he maltreated Veljko Salonja and Jovan Narandža</i></li> </ul>
➔	<p>Indictment No. KT-9/95 issued by the Zadar District State Attorney's Office on 27 June 1995.</p> <p><b>Prosecutor:</b> Radovan Marjanović, the Zadar County Deputy State's Attorney</p>	<p><b>Nikola Munjes</b></p> <p>Member of Serb formations</p> <p>Extradited from Monte Negro, kept in custody in the Zadar prison as of 20 October 2010.</p>	<p><b>Victims - maltreated:</b> Duje Pešut and Grgo Pešut</p>
➔	<p>Indictment No. K-DO-30/06 issued by the Šibenik ŽDO on 27 December 2010.</p> <p><b>Prosecutor:</b> Emilio Kalabrić, the Šibenik County Deputy State's Attorney</p>	<p><b>Goran Amanović</b></p> <p>Member of Serb formations</p> <p>Spent time in detention of the Šibenik prison. Extradited to the Republic of Croatia from Bosnia and Herzegovina.</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>died of sustained injuries from beating:</b> Krsto Cota</li> <li>- <b>victim of the rape:</b> female person (we do not provide the name)</li> <li>- <b>victim of attempted rape:</b> female person (we do not provide the name)</li> <li>- <b>maltreated:</b> Stanko Bara</li> </ul>
➔	<p>Indictment No. K-DO-6/06 issued by the Bjelovar ŽDO on 23 September 2008.</p> <p><b>Prosecutor:</b> Branka Merzić, the Bjelovar County State Attorney</p>	<p><b>Ivan Husnjak and Goran Sokol</b></p> <p>Members of Croatian formations</p> <p>The defendants attend the trial undetained</p>	<p><b>Injured persons – owners and holders of destroyed facilities:</b></p> <ul style="list-style-type: none"> <li>- 17 destroyed houses in the village of Pušina and the Orthodox church tower damaged;</li> <li>- 19 houses destroyed in Slatinski Drenovac;</li> <li>- destroyed the hunters' lodge between Pušina and Slatinski Drenovac</li> </ul>

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

### b) Ongoing trials

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
1	<p><b>CRIME IN TOVARNIK</b></p> <p>The trial is ongoing. The main hearing began on 13 April 2010.</p>	<p>Genocide and war crime against civilians</p> <p>Vukovar County Court</p> <p><b>War Crimes Council:</b> judge Nikola Bešenski, Council President; judges Nevenka Zeko and Zlata Sotirov, Council Members</p>	<p>Indictment No. DO-K-34/00 issued by the Vukovar ŽDO on 1 February 2001.</p> <p><b>Prosecutor:</b> Miroslav Šarić, the Vukovar County Deputy State's Attorney</p>	←
2	<p><b>CRIME IN MARINO SELO</b></p> <p>The repeated trial before the War Crimes Council of the Osijek County Court is underway.</p> <p>Previously, the VSRH quashed the verdict rendered on 13 March 2009 by the War Crimes Council of the Požega County Court by which the defendants were found guilty and received the following prison sentences: Kufner - 4 years and 6 months, Šimić - 1 year, Vančaš - 3 years, Poletto -16 years, Tutić - 12 years and Ivezić 10 years.</p> <p>After that, the trial was delegated to the Osijek County Court.</p> <p>Note: On 13 June 2011, a verdict was pronounced which found defendants Poletto and Tutić guilty as charged. Poletto received 15 years in prison, while Tutić received 12 years. Kufner, Vančaš and Ivezić were acquitted of charges, while with regard to Šimić a verdict was rendered rejecting the indictment.</p>	<p>War crime against civilians</p> <p>Osijek County Court</p> <p><b>War Crimes Council:</b> judge Zvonko Vrban, Council President; judges Miroslav Rožac and Darko Krušlin, Council Members</p>	<p>Indictment No. K-DO-48/10 issued by the Osijek ŽDO on 28 June 2010, amended on 31 May 2011.</p> <p><b>Prosecutor:</b> Zlatko Bučević, the Osijek County Deputy State's Attorney, and Božena Jurković, the Slavonski Brod County Deputy State's Attorney</p>	←
3	<p><b>CRIME ON THE POGLEDIĆ HILL NEAR GLINA</b></p> <p>The third (second repeated) trial is ongoing before the War Crimes Council of the Sisak County Court.</p> <p>Previously, the VSRH quashed twice the convictions rendered by the Sisak County Court in which the defendant was sentenced to 14, i.e. 12 years of prison, respectively.</p>	<p>War crime against prisoners of war</p> <p>Sisak County Court</p> <p><b>War Crimes Council:</b> judge Melita Avedić, Council President; judges Alenka Lešić and Željko Mlinarić, Council Members</p>	<p>Indictment No. K-DO-03/06 issued by the Sisak ŽDO on 4 September 2006, amended at the main hearing held on 9 May 2007.</p> <p><b>Prosecutor:</b> Marijan Zgurić, the Sisak County Deputy State's Attorney</p>	←

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Defendants	Names of victims
➔	<p><b>Miloš Stanimirović, Stevan Srdić, Dušan Stupar, Boško Miljković, Dragan Sedlić, Branislav Jerković, Jovo Janjić, Milenko Stojanović, Dušan Dobrić, Đuro Dobrić, Jovan Miljković, Nikola Tintor, Željko Krnjajić and Radoslav Stanimirović</b></p> <p>Members of Serb formations</p> <p>All defendants are unavailable to the Croatian judiciary, they are tried in their absence</p> <p>Available defendants Milenko Stupar, Strahinja Ergić, Dragoljub Trifunović, Đorđe Miljković, Mičo Maljković and Janko Ostojić were tried before. Stupar, Ergić, Trifunović and Maljković were acquitted, and in respect of Ostojić charges were rejected, while Đorđe Miljković was sentenced to 3 years in prison.</p> <p>Afterwards, following his arrest, Aleksandar Trifunović was tried too. However, during the main hearing and after his release from detention, he fled from Croatia. Proceedings were discontinued in respect of defendants Jovan Medić and Božo Rudić because they passed away.</p> <p>At the hearing held on 11 February 2011, the Council President informed the present in the courtroom that proceedings were discontinued in respect of defendant Katica Maljković because she passed away.</p>	<p><b>Victims (according to the indictment, in respect of 24 defendants):</b></p> <p><b>- killed:</b> Ruža Jurić, Ivan Jurić, Željko Vrančić, Antun Šimunić, Berislava Šimunić, Danijel Marinković, Mato Ćuk, Marijan Mioković, Rudolf Rapp, Ivan Zelić, Stjepan Matić, Stipo Kovačević, ? Bilić, an unidentified person, Karlo Grbešić, Anto Markanović, Marko Bošnjak, Ivo Maleševac, Đuro Grgić, Marin Mioković, Branko Salajić, Tomo Glibo, Filomena Glibo, Ivan Burik, Pavao Vrančić, Ilija Džambo, Krešo Puljić, Mato Čulić, Vojko Selak;</p> <p><b>- tortured:</b> Mirko Markutović, Živan Markutović, Andrija Jurić, Tomislav Grgić, Stjepan Marinković, Pavo Donković, Božo Grbešić, Žarko Grbešić, Dragan Hajduk, Glibo Stjepan, Branko Šimunić, Ratko Dovičin, Marin Mitrović, Marijan Matijević;</p> <p><b>- expelled:</b> Ilija Šimunić, Tomislav Grgić and his mother, Jozo Beljo and his family, Vlatko Glavašić, Ivan Palijan's family, Ivo Đurić, Juro Beljo, Mato Ćuk, Mijo Siketić's family, Andrija Jurić, Stipo Glibo, Vjekoslav Mioković, Josip Đurčinović, Martin Đurčinović, Marija Topić, Marica Grgić, Đuro Grgić, Ivan Zelić, Stjepan Matić, Dragan Hajduk, Mijo Petković;</p> <p><b>- coerced to forced labour:</b> Mijo Siketić, Mile Ivančić (wounded), Stipo Kovačević, Bilić, one unidentified person, Martin Habčak;</p> <p><b>- burned houses:</b> Marin Šijaković, Vlatko Glavašić, Rudolf Rapp, Dragan Hajduk;</p> <p><b>- misterated:</b> Marija Palijan, Tanja Palijan, Martin Habčak, Adam Čurčinović</p>
➔	<p><b>Damir Kufner, Davor Šimić, Pavao Vancaš, Tomica Poletto, Željko Tutić and Antun Ivezić</b></p> <p>Members of Croatian formations</p> <p>Defendants Damir Kufner, Davor Šimić and Pavao Vancaš are not kept in custody during the trial. Defendants Tomica Poletto, Željko Tutić and Antun Ivezić are kept in custody.</p>	<p><b>Victims:</b></p> <p><b>- maltreated and tortured:</b> Branko Stanković, Mijo and Jovo Krajnović (inhabitants of the village of Kip); Milka Bunčić, Jeka Žestić and Nikola Ivanović (inhabitants of the village of Klisa)</p> <p><b>- maltreated, tortured and killed:</b> Pero Novković, Mijo Danojević, Gojko Gojković, Savo Gojković, Branko Bunčić, Nikola Gojković, Mijo Gojković, Filip Gojković, Jovo Popović – Tein, Petar Popović, Nikola Krajnović, Milan Popović (inhabitants of the village of Kip); Jovo Žestić, Jovo Popović Simin, Slobodan Kukić, Rade Gojković, Savo Maksimović, Josip Cicvara (inhabitants of the village of Klisa)</p>
➔	<p><b>Rade Miljević</b></p> <p>Member of Serb formations</p> <p>He was in detention as of 10 March 2006. His detention was vacated in December 2010 because the maximum detention period had expired.</p>	<p><b>Victims - killed civilians:</b> Janko Kaurić, Milan Litrić, Borislav Litrić and Ante Žužić</p>

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
4	<p><b>CRIME IN KARLOVAC</b></p> <p>The main hearing began on 17 December 2010.</p> <p>The last hearing was held in January 2011, thus the main hearing will have to start anew.</p>	<p>War crime against civilians</p> <p>Zagreb County Court</p> <p><b>War Crimes Council:</b> judge Siniša Pleše, Council President; judges Martina Maršić and Gordana Mihela Grahovac Council Members</p>	<p>Indictment No. K-DO-188/10 issued by the Zagreb ŽDO on 22 November 2010.</p> <p><b>Prosecutor:</b> Jurica Ilić, the Zagreb County Deputy State's Attorney</p>	←
5	<p><b>CRIME IN RAVNI KOTARI II</b></p> <p>The main hearing began on 24 March 2011.</p>	<p>War crime against civilians</p> <p>Zadar County Court</p> <p><b>War Crimes Council:</b> judge Marijan Bitanga, Council President; judges Dijana Grancarić and Vladimir Mikolčević, Council Members</p>	<p>Indictment No. K-DO-51/07 issued by the Zadar ŽDO on 14 September 2009</p> <p><b>Prosecutor:</b> Slobodan Denona, the Zadar County Deputy State's Attorney</p>	←
6	<p><b>CRIME IN MLINIŠTE</b></p> <p>The trial is ongoing. The main hearing began on 8 March 2011.</p>	<p>War crime against prisoners of war</p> <p>Zagreb County Court</p> <p><b>War Crimes Council:</b> judge Marijan Garac, Council President; judges Rajka Tomerlin Almer and Zdravko Majerović, Council Members</p>	<p>Indictment No. K-DO-287/09 issued by the Zagreb ŽDO on 18 June 2010</p> <p><b>Prosecutor:</b> Jurica Ilić, the Zagreb County Deputy State's Attorney</p>	←
7	<p><b>CRIME IN SLUNJ AND SURROUNDING VILLAGES</b></p> <p>The main hearing in the third (second repeated) trial at the Karlovac County Court – Office in Gospić began on 2 March 2011. However, based on the information available to us, the case was then delegated to the Rijeka County Court.</p> <p>Previously, the VSRH quashed two times the verdicts rendered by the Karlovac County Court by which the defendant was sentenced to one i.e. four years in prison.</p>	<p>War crime against civilians</p> <p>Karlovac County Court – Office in Gospić</p> <p><b>War Crimes Council:</b> judge Dušan Šporčić, Council President; judges Dubravka Rudelić and Milka Vraneš, Council Members</p>	<p>Indictment No. KT-36/95 issued by the Karlovac ŽDO on 30 July 2009, amended at the main hearing held on 4 May 2010</p> <p><b>Prosecutor:</b> Zdravko Car, the Karlovac County Deputy State's Attorney</p>	←
8	<p><b>CRIME IN KRUŠEVO</b></p> <p>Due to a trial recess which began on 2 November 2010, the main hearing in the third (second repeated) trial started anew on 24 May 2011.</p> <p>Previously, the VSRH in 2000 quashed the first instance verdict of acquittal reached on 1 December 1997. Then, in 2007, it also quashed the verdict by which the first instance court on 15 September 2005 found the defendants guilty sentencing defendant Jurjević to 4 years and defendant Tošić to 15 years in prison.</p> <p>Note: On 8 June 2011, the War Crimes Council of the Zadar County Court pronounced the verdict in which the defendants were acquitted.</p>	<p>War crime against civilians</p> <p>Zadar County Court</p> <p><b>War Crimes Council:</b> judge Enka Moković, Council President; judges Boris Babić and Dijana Grancarić, Council Members</p>	<p>Indictment No. KT-266/97 issued by the Zadar ŽDO on 18 June 1997</p> <p><b>Prosecutor:</b> Radoslav Marjanović, the Zadar County Deputy State's Attorney</p>	←

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Defendants	Names of victims
➔	<p>Željko Gojak</p> <p>Member of Croatian formations</p> <p>In detention</p>	<p><b>Victims – killed:</b></p> <p>Marko Roknić, minor Danijela Roknić and Dragica Ninković</p>
➔	<p>Nebojša Baljak and Stevo Ivanišević</p> <p>Members of Serb formations</p> <p>The Court has no information where the defendants reside and they are unavailable to Croatia state authorities.</p>	<p><b>Victims - intimidated, sustained physical injuries:</b></p> <p>Zvonko Zelić, Bore Zelić, Mile Zelić, Ivan Paić, Stoja Paić</p>
➔	<p>Emil Črnčec, Tihomir Šavorić, Antun Novačić, Robert Precehtjel, Nenad Jurinec, Goran Gaća and Robert Berak</p> <p>Members of Croatian formations</p> <p>In detention as of 28 October 2009.</p>	<p><b>Victims (killed):</b></p> <p>Radoslav Lakić, Pero Vidović, Petar Jovanović, Dragoslav Mutić, Borislav Vukić and one unidentified male person</p>
➔	<p>Mičo Cekinović</p> <p>Member of Serb formations</p> <p>In detention as of 16 April 2009.</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>killed:</b> Pavo Ivšić</li> <li>- <b>maltreated and unlawfully detained:</b> Tomo Kos</li> <li>- <b>expelled:</b> entire population of Croatian ethnicity</li> </ul>
➔	<p>Milan Jurjević and Davor Tošić</p> <p>Members of Serb formations</p> <p>Defendant Jurjević is not kept in custody during the trial (he spent time in detention from 26 May until 1 December 1997), while defendant Tošić is at large and is tried in absentia.</p>	<p><b>Victim – killed:</b> Mile Brkić</p>

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
9	<p><b>CRIME IN NOVO SELIŠTE</b></p> <p>The trial is ongoing. The main hearing began on 22 March 2011.</p>	<p>War crime against civilians</p> <p>Sisak County Court</p> <p><b>War Crimes Council:</b> judge Melita Avedić, Council President; judges Željko Mlinarić and Ljubica Rendulić Holzer, Council Members</p>	<p>Indictment No. K-DO-44/06 issued by the Sisak ŽDO on 26 November 2008</p> <p><b>Prosecutor:</b> Sonja Rapić, the Sisak County Deputy State's Attorney</p>	
10	<p><b>CRIME IN ZRIN</b></p> <p>The trial is ongoing. The main hearing began on 14 April 2011.</p>	<p>War crime against prisoners of war</p> <p>Sisak County Court</p> <p><b>War Crimes Council:</b> judge Snježana Mrkoci, Council President; judges Predrag Jovanić and Višnja Vukić, Council Members</p>	<p>Indictment No. K-DO-37/10 issued by the Sisak ŽDO on 13 December 2010</p> <p><b>Prosecutor:</b> Marijan Zgurić, the Sisak County Deputy State's Attorney</p>	
11	<p><b>CRIME IN LOVINAC</b></p> <p>The third (second repeated) trial began in October 2006.</p> <p>The main hearing started anew in 2011 because there had been a trial recess which exceeded three years and because the prosecution dropped charges against all defendants except the 1<sup>st</sup> defendant Radoslav Čubrilo.</p>	<p>War crime against civilians</p> <p>Rijeka County Court</p> <p><b>War Crimes Council:</b> judge Jadranka Kovačić, Council President; judges Nasta Mijatović and Srebrenka Šantić, Council Members</p>	<p>Indictment No. K-DO-53/06 issued by the Rijeka ŽDO</p> <p><b>Prosecutor:</b> Doris Hrast, the Rijeka County Deputy State's Attorney</p>	
12	<p><b>CRIME IN THE VILLAGES ALONG UNA RIVER NEAR HRVATSKA KOSTAJNICA</b></p> <p>The repeated trial is ongoing. The main hearing began on 31 May 2011.</p> <p>On 22 December 2010, the VSRH quashed the first-instance verdict rendered on 23 April 2010 by the Sisak County Court which found the defendants guilty and sentenced them to following prison sentences: Pero Đermanović 11 years, Dubravko Čavić 9 years and Ljubiša Čavić 2 years in prison. The VSRH upheld the verdict with regard to Ljuban Bradarić who received one year in prison.</p> <p>After that, the case was delegated to the Zagreb County Court.</p>	<p>War crime against civilians</p> <p>Zagreb County Court</p> <p><b>War Crimes Council:</b> judge Zdravko Majerović, Council President; judges Željko Horvatić and Tomislav Juriša, Council members</p>	<p>Indictment No. K-DO-10/09 issued by the Sisak ŽDO on 5 November 2009</p> <p><b>Prosecutor:</b> Robert Petrovečki, the Zagreb County Deputy State's Attorney</p>	
13	<p><b>SLAVONSKI BROD SHELLING CRIME</b></p> <p>This trial was re-opened on the basis of the State Attorney's request.</p> <p>Previously, the defendants were found guilty and sentenced in absentia by the verdict (no. K-82/91 of 25 October 1993) rendered by the Požega District Court. Each defendant was sentenced to 15 years in prison.</p> <p>Note: On 1 June 2011, a verdict was pronounced which left in force the previous verdict by which the defendant were found guilty and sentenced to 15 years in prison each.</p>	<p>War crime against civilians</p> <p>Slavonski Brod County Court</p> <p><b>War Crimes Council:</b> judge Jadranka Đaković, Council President; judges Mirko Svirčević and Zlatko Pirc, Council Members</p>	<p>Indictment No. KT-72/91 issued by the Požega District Public Prosecution on 6 December 1991, amended at the main hearing held on 25 October 1993 – at present it is registered as Indictment No. K-DO-8/10 issued by the Slavonski Brod ŽDO</p> <p><b>Prosecutor:</b> Stjepan Haramustek, the Slavonski Brod County Deputy State's Attorney</p>	

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Defendants	Names of victims
➔	<p><b>Stojan Letica</b></p> <p>Member of Serb formations</p> <p>Unavailable to Croatian judiciary. Based on the VSRH's decision of 1 December 2010, the defendant will be tried in his absence.</p>	<p><b>Victim - killed:</b> Stjepan Šubić</p>
➔	<p><b>Jablan Kejić</b></p> <p>Member of Serb formations</p> <p>In detention</p>	<p><b>Victim - killed:</b> Šefik Pezerović</p>
➔	<p><b>Radoslav Čubrilo</b></p> <p>Member of Serb formations</p> <p>Unavailable to Croatian judiciary. Tried in his absence.</p>	<p><b>Victims - killed:</b> Kata Šarić, Stjepan Katalinić, Jure Sekulić, Marko Pavičić, Ivan Ivezić, Martin Šarić, Milan Sekulić</p>
➔	<p><b>Pero Đermanović, Dubravko Čavić and Ljubiša Čavić</b></p> <p>Members of Serb formations</p> <p>Defendant Pero Đermanović is kept detained, defendant Dubravko Čavić is unavailable and is tried in absentia, and defendant Ljubiša Čavić attends the trial undetained after the pronouncement of the first-instance verdict.</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>unlawfully detained, tortured and killed:</b> Vladimir Letić</li> <li>- <b>burned houses:</b> owned by Stevo Karanović and Ivo Karanović</li> <li>- <b>intimidated:</b> Danica Devedžija</li> </ul>
➔	<p><b>Janko Radmanović and Radisav Stojanović</b></p> <p>Members of Serb formations</p> <p>Tried in absentia</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>sustained serious injuries:</b> Ivan Babić</li> <li>- <b>sustained light injuries:</b> Marica Miloš, Konstantin Bašić, Marija Kovačević and Drago Vidaković</li> </ul>

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

### c) Trials in which main hearings began, but no trial hearings were held during this reporting period

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
1	<p><b>CRIME IN LOVAS</b></p> <p>The trial is ongoing. The last hearing was held in December 2010.</p>	<p>Genocide and war crime against civilians</p> <p>Vukovar County Court</p> <p><b>War Crimes Council:</b> judge Jadranka Kurbel, Council President; judges Berislav Matanović and Željko Marin, Council Members</p> <p>Note: Beginning of 2009, the Council's composition changed. Until then, the Council comprised: judge Ante Zeljko, Council President; judges Zlata Sotirov and Nevenka Zeko, Council Members</p>	<p>Indictment No. KT-265/92 issued by the Osijek ŽDO on 19 December 1994 and Indictment No. K-DO-44/04 issued by the Vukovar ŽDO on 1 October 2004, merged into a single indictment No. K-DO-39/00 issued by the Vukovar ŽDO</p> <p><b>Prosecutor:</b> Vlatko Miljković, the Vukovar County Deputy State's Attorney</p>	←
2	<p><b>CRIME IN MALI LOŠINJ<sup>3</sup></b></p> <p>The trial is ongoing. The last hearing was held in June 2010.</p>	<p>Murder of an official person, attempted murder of an official person and instigating another person to commit murder of an official person</p> <p>Rijeka County Court</p> <p>Court council: Judge Ika Šarić, Council President</p>	<p>Indictment No. KT-122/91-IV issued by the Rijeka ŽDO on 30 June 2008</p> <p><b>Prosecutor:</b> Darko Karlović, the Rijeka County Deputy State's Attorney</p>	←

<sup>3</sup> Although this is not a war crime case, we are monitoring it because the conflict perpetrators were members of the Yugoslav National Army (JNA) i.e. of the Croatian formations.

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Defendants	Names of victims
→	<p><b>Ilija Vorkapić</b></p> <p>Member of Serb formations</p> <p>Attends the trial</p> <p>On 29 April 2009, the trial was separated in respect of available defendants (Ilija Vorkapić and Milan Tepavac) from the trial against the defendants who are unavailable to the Croatian judiciary (Ljuban Devetak, Milan Devčić, Milenko Rudić, Željko Krnjajić, Slobodan Zoraja, Željko Brajković, Ilija Kresojević, Milan Rendulić, Obrad Tepavac, Zoran Tepavac, Milan Radojčić, Milan Vorkapić, Dušan Grković and Đuro Prodanović).</p> <p>In December 2010, the Tepavac case was separated from the Vorkapić case due to the incapability of Milan Tepavac to stand trial.</p>	<p><b>Victims:</b></p> <ul style="list-style-type: none"> <li>- <b>24 persons died in a mine field:</b> Božo Mađarac, Mijo Šalaj, Tomislav Sabljak, Slavko Štrangarić, Nikola Badanjak, Marko Vidić, Mato Hodak, Tomo Sabljak – junior, Ivica Sabljak, Slavko Kuzmić, Petar Badanjak, Marko Marković, Ivan Conjar, Ivan Kraljević – junior, Ivan Palijan, Josip Turkalj, Luka Balić, Željko Pavlić, Darko Pavlić, Darko Sokolović, Zlatko Božić, Ivan Vidić, Antun Panjek, Zlatko Panjek</li> <li>- <b>45 persons were killed at different locations in Lovas:</b> Danijel Badanjak, Ilija Badanjak, Antun Jovanović, Anka Jovanović, Kata Pavličević, Alojzije Polić, Mato Keser, Josip Poljak, Ivan Ostrun, Dragutin Pejić, Stipo Mađarević, Pavo Đaković, Stipo Pejić, Živan Antolović, Milan Latas, Juraj Poljak, Mijo Božić, Vida Krizmanić, Josip Kraljević, Mirko Grgić, Mato Adamović, Marko Sabljak, Zoran Krizmanić, Josip Jovanović, Marin Balić, Katica Balić, Josip Turkalj, Petar Luketić, Ante Luketić, Đuka Luketić, Jozefina Pavošević, Marijana Pavošević, Slavica Pavošević, Stipo Luketić, Marija Luketić, Josip Rendulić, Rudolf Jonak, Andrija Deličić, Pero Rendulić, Franjo Pandža, Božo Vidić, Zvonko Martinović, Marko Damjanović, Anica Lemunović, Đuka Krizmanić</li> <li>- <b>15 seriously injured persons in a mine field:</b> Marko Filić, Emanuel Filić, Stjepan Peulić, Josip Sabljak, Stanislav Franković, Milko Keser, Ivica Mujić, Ljubo Solaković, Milan Radmilović, Zlatko Toma, Josip Gešnja, Mato Kraljević, Petar Vuleta, Lovro Geistener, Dragan Sabljak</li> <li>- <b>18 seriously injured persons due to maltreatment:</b> Mato Mađarević, Đuro Filić, Zoran Jovanović, Marija Vidić, Đuka Radočaj, Berislav Filić, Emanuel Filić, Pavo Antolović, Ivo Antolović, Željko Francisković, Ivan Đaković, Anđelko Filić, Zvonko Balić, Vjekoslav Balić, Man Pejak, Petar Sabljak, Marko Grčanac</li> </ul>
→	<p><b>Vlado Grbin, Petar Petrović and Radovan Anđić</b></p> <p>Officer (the 1<sup>st</sup> defendant) and conscripts-soldiers (the 2<sup>nd</sup> and the 3<sup>rd</sup> defendant) of the JNA</p> <p>Grbin and Petrović are tried in their absence and Anđić attends the trial</p>	<p><b>Victims – killed:</b> Rifet Mustić and Mladen Bujačić</p> <p>- <b>attempted murder:</b> Željko Krulić, Valter Dajčić and Herkul Alaburić</p>

## APPENDIX NO 2 - OVERVIEW OF THE MONITORED WAR CRIME TRIALS

### d) trials in which main hearing, although scheduled, did not begin

	Case	Criminal offence / Court / Council	Indictment No. / ŽDO	
1	<p><b>CRIME IN THE ČANAK VILLAGE</b></p> <p>The main hearing was scheduled in November 2010 and in January 2011.</p> <p>The defendant failed to attend the main hearing and hence the main hearing had to be postponed.</p>	<p>War crime against civilians</p> <p>Gospić County Court</p>	<p>Indictment No. KT-23/97 issued by the Gospić ŽDO on 16 October 2009</p> <p><b>Prosecutor:</b> Pavao Rukavina, acting Gospić County State's Attorney</p>	←
2	<p><b>CRIME BY THE SO-CALLED PERUČA GROUP</b></p> <p>Although scheduled for 19 April 2011, the main hearing did not begin because the defendant did not appear in court.</p> <p>Previously, in its decision No. I Kž 932/08-15 of 28 April 2009, the VSRH quashed the Split County Court' verdict No. K-56/06 of 9 June 2008 by which its previous verdict No. K-15/95 of 26 May 1997 (upheld by the VSRH's verdict No. I Kž-497/97 of 1 June 2000) was left in force in the repeated trial. In this verdict, the defendant was found guilty and sentenced to 20 years in prison.</p>	<p>War crime against civilians and war crime against prisoners of war</p> <p>Split County Court</p>	<p>Indictment No. KT-121/95, an extract from which is registered under No. K-DO-50/06</p> <p><b>Prosecutor:</b> Michele Squicquimaro, the Split County Deputy State's Attorney</p>	←
3	<p><b>CRIME IN BAČIN</b></p> <p>Although scheduled for 26 January 2011, the main hearing did not begin because eight defendants did not appear in court. After that, the case file was forwarded to the extra-judicial council to decide on a trial in absentia.</p> <p>Next, the main hearing was scheduled for 5 May 2011, but it was not held because the case had been delegated before that to the Rijeka County Court.</p>	<p>War crime against civilians</p> <p>Sisak County Court</p> <p><b>War Crimes Council:</b> judge Snježana Mrkoci, Council President; judges Ljubica Balder and Željko Mlinarić, Council Members</p>	<p>Indictment No. KT-89/94 issued by the Sisak ŽDO on 29 October 2010</p> <p><b>Prosecutor:</b> Stipe Vrdoljak, the Sisak County State Attorney</p>	←

## BEFORE CROATIAN COUNTY COURTS FROM JANUARY TO MAY 2011

	Defendants	Names of victims
→	<p><b>Željko Žakula</b></p> <p>Member of Serb formations</p> <p>Resides in the Republic of Serbia. Unavailalbe to Croatian judiciary</p>	<p><b>Victim – killed:</b> Blaž Grbac</p>
→	<p><b>Mitar Arambašić</b></p> <p>Member of Serb formations</p> <p>Spent time in extradition detention from 5 September 2002 until 25 January 2006. He served his sentence from 26 January 2006 until 17 May 2006. From 18 May 2006 until the VSRH rendered a decision in April 2009 he was kept in custody.</p> <p>The defendant did not respond to the court summons. He resides in Canada where he sought asylum.</p>	<p><b>Victims:</b></p> <p>- <b>killed civilians:</b> Luca Cvitković, Jozo Budić, Ivan Vidosavljević, Pava Glavinić, Mara Vardić, Petar Kurdić, Iva Cvitković, Iva Mihaljević, Blaž Cvitković, Iva Cvitković (wife Blaža), Ivan Knezović, Milica Jukić, Iva Jukić, Ana Jukić, Marijan Bešlić and Filip Bešlić</p> <p>- <b>killed war prisoners:</b> Ivica Grubač, Bogoslav Lukić and Kažimir Abramović</p>
→	<p><b>Branko Dmitrović, Slobodan Borojević, Milinko Janjetović, Momčilo Kovačević, Stevo Radunović, Veljko Radunović, Katica Pekić, Marin Krivošić and Stevan Dodoš</b></p> <p>Members of Serb formations</p> <p>The 8<sup>th</sup> defendant Marin Krivošić is the only defendant available to the Court. He was extradited from Monte Negro and is kept in custody.</p>	<p><b>Victims - killed:</b></p> <p>Antun Švračić, Marija Švračić, Josip Antolović, Marija Batinović, Nikola Lončarić, Soka Pezo, Mijo Čović, Ana Ferić, Stjepan Sabljar, Terezija Kramarić, Filip Jukić, Antun Djukić, Marija Djukić, Ana Dikulić, Mijo Krnić, Antun Mucavac, Katarina Vladić, Marija Milašinović, Marija Jukić, Marija Šestić, Antun Krivaić, Ana Tepić, Veronika Jukić, Soka Volarević, Kata Lončar, Marija Antolović, Katarina Alavančić, Kata Ferić, Juraj Ferić, Terezija Alavančić, Barbara Kropf, Ana Piktija, Pavao Kropf, Ruža Dikulić, Veronika Stanković, Ivan Kulišić, Sofija Dikulić – all from Hrvatska Dubica; Ana Blinja, Andrija Likić, Ana Lončar, Josip Blinja, Kata Blinja – all from Cerovljani; Mara Čorić from Predore and thirteen for the time being unidentified persons.</p>

## APPENDIX NO. 3 – OVERVIEW OF PUBLIC SESSIONS AT THE CROATIAN

	Case	Criminal offence / Court	
1	<p><b>CRIME IN BJELOVAR</b></p> <p>The VSRH quashed the Varaždin County Court's verdict reached on 21 December 2007 by which, after the third (second repeated) trial, the defendants were found guilty and received the following prison sentences: defendant Markešić 4 years, and other defendants (Radić, Maras and Orlović) 3 years in prison each.</p> <p>Previously, the VSRH quashed the Bjelovar County Court's verdict of 20 January 2001 and the Varaždin County Court's verdict of 28 February 2005 by which the defendants were acquitted.</p>	<p>War crime against prisoners of war and war crime against civilians</p> <p>The session of the VSRH's Appeals Chamber was held on 1 February 2011.</p>	←
2	<p><b>CRIME IN BOROVO NASELJE</b></p> <p>The VSRH upheld the verdict reached on 12 June 2009 by the War Crimes Council of the Vukovar County Court by which the defendant was found guilty and sentenced to 4 years in prison.</p>	<p>War crime against civilians</p> <p>The session of the VSRH's Appeals Chamber was held on 24 March 2011.</p>	←
3	<p><b>CRIME IN FRKAŠIĆ II</b></p> <p>Due to the essential violation of the provisions of the Criminal Procedure Act, the VSRH quashed the verdict reached on 25 February 2010 by the War Crimes Council of the Gospić County Court by which the defendant was found guilty and sentenced to 7 years in prison.</p>	<p>War crime against prisoners of war</p> <p>The session of the VSRH's Appeals Chamber was scheduled for 11 May 2011. However, it was not held because the first instance verdict was quashed for procedural reasons.</p>	←
4	<p><b>CRIME IN DRAGIŠIĆI</b></p> <p>At the session held on 19 January 2011, the VSRH partially upheld the defendant's appeal, altered the verdict rendered by the Šibenik County Court which sentenced defendant Vukušić to 9 years in prison and sentenced him to 8 years in prison.</p>	<p>War crime against civilians</p> <p>Session of the VSRH's Appeals Chamber was held on 19 January 2011.</p>	

## SUPREME COURT REGARDING WAR CRIME TRIALS FROM JANUARY TO MAY 2011

	Indictment No. / ŽDO	Defendants	Names of victims
➔	Indictment No. K-DO-57/01 issued by the Bjelovar ŽDO on 25 September 2001, amended by a memo issued by the Varaždin ŽDO into a K-DO-27/04 of 23 February 2005 and also amended at the main hearing held on 27 November 2007	<b>Luka Markešić, Zdenko Radić, Zoran Maras and Ivan Orlović</b>  Members of Croatian formations  Attend the trial	<b>Victims:</b> <b>- killed:</b> Radovan Berbetović, Zdravko Dokman, Radovan Gredeljević, Ivan Hojsak, Boško Radonjić and one unidentified person <b>survived:</b> Savo Kovač
➔	Indictment No. K-DO-5/06 issued by the Vukovar ŽDO on 29 December 2006, amended on 9 June 2009  <b>Prosecutor:</b> Vlatko Miljković, the Vukovar County Deputy State's Attorney	<b>Dušan Zinajić</b>  Member of Serb formations  Attends the trial	<b>Victim (wounded):</b> Tomislav Kovačić
➔	Indictment No. K-DO-13/08 issued by the Gospić ŽDO on 9 March 2009  <b>Prosecutor:</b> Željko Brkljačić, the Gospić County Deputy State's Attorney	<b>Goran Zjačić</b>  Member of Serb formations  In detention as of 28 September 2008.	<b>Victims:</b> <b>- physically abused (according to the indictment and the verdict):</b> Johannes Tilder, Ivan Čaić, Ivan Dadić (HV members); Marko Tomić (HVO member); Kadir Bećirspahić (BIH Army member)
	Indictment No. K-DO-16/10 issued by the Šibenik ŽDO on 15 July 2010  <b>Prosecutor:</b> Emilijo Kalabrić, the Šibenik County Deputy State's Attorney	<b>Božidar Vukušić</b> Member of Croatian formations In detention as of 17 June 2010.	<b>Victim - killed:</b> Jovan Ergić

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