

through ACCESSION towards JUSTICE



Humanitarian Law Center

The newsletter **through ACCESSION towards JUSTICE** will address the theme of obstacles to and solutions for establishing the rule of law and accountability for the crimes committed in our recent past. Also, it will seek to affirm, in the context of the EU accession talks, individual and societal needs arising from that experience.

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Why is the Strategy for the Prosecution of War Crimes important for Serbia?

Author: Bruno Vekarić, Deputy Prosecutor at the Republic of Serbia's Office of the War Crimes Prosecutor

The Office of the War Crimes Prosecutor of the Republic of Serbia (OWCP) is ready for the opening of Chapter 23 – Judiciary and Fundamental Rights.

The Draft Prosecution Strategy was produced in 2015. The National Strategy, which has been foreseen by the Action Plan, is in its final phase and is expected to be adopted no later than December 31st, 2015. The National Strategy envisages



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some of the obligations of the Office of the War Crimes Prosecutor.

In April 2015, the Ministry of Justice established a working group, which included representatives of the Office of the War Crimes Prosecutor, with the aim of developing a national strategy for the prosecution of war crimes.

Faced with numerous challenges to an adequate response to the issues of transitional justice in institutional dealing with the past, the Office of the War Crimes Prosecutor has, since its establishment twelve years ago, indicted 185 persons and sentenced 85 persons to a total of 881 years in prison for over five thousand (5605) dead victims.

Due to the massive scale and numerous specifics, many of the crimes committed have not yet been resolved - the facts have not been fully determined, the events have not been investigated to the very end and many of those responsible have still not been punished.

Currently, the Prosecutor's Office is dealing with dozens of pre-trial proceedings (involving 53 cases, according to data from the OWCP register); therefore, in the absence of sufficient resources/capacities for simultaneous work on all cases, it was necessary to provide a list of priority cases, established on the basis of set criteria for the selection of war crimes cases.

That is why the Prosecutor's Office adopted the suggestions

made by the Expert Mission of the EU to adopt and implement a prosecutorial strategy, without undue delay and as early as possible during 2015. The set goal is a focused investigation and the prosecution of those most responsible together with those low-ranking perpetrators who were responsible for extremely serious and well-known crimes.

In the period of the next ten years encompassed by the strategy, the Prosecutor's Office will be guided by the interests of the victims or their families. Special attention will continue to be paid to the protection of witnesses, because without their testimonies, owing to the specifics of war crimes cases it might not be possible to resolve many cases. The criteria established by domestic judicial practices, as well as rich field of international practice, will be taken into consideration.

Responding to the recommendations made in the European Commission Screening Report for Chapter 23, the draft prosecutorial strategy was finalized in late 2014 and sent to the representatives of the most relevant partner organizations and institutions for their inspection and opinion. The Prosecutor's Office submitted the draft document for their inspection and opinion to the following bodies: the EU Expert Mission (Mission of Independent Experts within the TAIEX EU Programme); the Office of the Prosecutor of the ICTY; the

Department of the Rule of Law and Human Rights of the OSCE Mission in Serbia, which monitors war crimes trials before the special Department for War Crimes of the Higher Court in Belgrade within the EU project; the Humanitarian Law Center and Belgrade Center for Human Rights who, along with the OSCE, also monitor war crimes trials; and finally, to independent legal experts for war crimes issues.

The Screening Report for Chapter 23 – Judiciary and Fundamental Rights, contains five recommendations made to the judicial authorities of the Republic of Serbia in the field of war crimes, and paying special attention to the impacts realized in connection with war crimes trials, which include: the avoidance of impunity (by making sure that all charges are investigated appropriately and then prosecuted, and by giving everyone the same treatment, including the suspects such as high-ranking military officials); reinforcing security measures for witnesses and persons who divulge information; promoting support for witnesses and informants; and providing a higher level of confidentiality during investigation.

The Prosecutor's Office has carefully reviewed these recommendations and suggestions and accepted all that contribute to the set objective, which is to increase the efficiency of the investigations and indictment processes, taking into account the passage of time and the availability

of witnesses and potential suspects.

On the basis of the categorization of war crimes cases, the criteria for the prioritization of cases have been defined; and the measures for the improvement of witness protection and support of victims have been determined, as well as the use of the resources of organizations and institutions specialized in providing assistance and support to victims and witnesses.

The draft prosecutorial strategy points out in particular the necessity for an increase of human and material capacities, by electing deputy prosecutors and assistant prosecutors and by allocating additional resources to the Office of the War Crimes Prosecutor.

The Office of the War Crimes Prosecutor has given special importance to promoting cooperation between prosecutors' offices in the region, which is being implemented thanks to the regional liaison officers, and all with the goal of improvement in the prosecution of war crimes in the Western Balkans, in accordance with the EU requirements, but primarily for the purposes of reconciliation and the fight against impunity.

The OWCP strategy for the prosecution of war crimes in Serbia was developed not only as „homework“ within the European integration agenda, but also in the light of the final strategy of the ICTY and in cooperation with



the Mechanism for International Criminal Tribunals, which will allow full inspection and research of the archives and analysis of documents.

The OWCP prosecutorial strategy has created a space for applying the institution of the crime against humanity and that of command responsibility. Realization of the prosecutorial strategy as envisaged for the next ten years should bring justice for the victims in terms of the number of cases and quality of judgments, in cases of violations of international humanitarian law and other most serious international crimes.

This is no longer a question of political will. War crimes trials are a question of standards of civilization. As stated in the Conclusions of the *Amnesty International* Report

for 2014, Serbia has started the process of accession to the EU which will take at least another five years. *Amnesty* states: „This process gives Serbia an opportunity to systematically and responsibly address the problems and challenges and to ensure that the measures are taken, the laws changed and the funds provided in order to ensure the existence of a functioning police and prosecution judicial system capable of independently, impartially and effectively dealing with the legacy of impunity in Serbia“, noting that it is necessary to have a complete and public support for the process of transitional justice and the institutions that are responsible for providing all victims with a guaranteed access to justice. The Office of the War Crimes Prosecutor is certainly one of these institutions.

[news]

European Commission evaluating Serbia's progress in establishing responsibility for war crimes

On November 10th the European Commission (EC) published the [Serbia 2015 Report](#), which follows the progress that Serbia has made in meeting the political and economic criteria for membership in the European Union.

The Report mostly repeats the findings from last year's Report, pointing out the lack of investigations against high-ranking members of the Serbian Army and Police, the

lenient sentences delivered by courts to perpetrators of war crimes, the inadequate legal framework for the reparation for victims of war crimes, and some serious shortcomings in the witness protection system which have not yet been removed. Because of these issues, the EC has proposed the adoption of a comprehensive national strategy for the prosecution of war crimes and the strengthening of regional cooperation with similar institutions in the region.

The EC particularly warned that political pressures on the Office of the War Crimes

Prosecutor (OWCP) obstruct its work, and that insufficient information relating to the locations of mass graves and difficulties in the identification of exhumed mortal remains make the efforts aimed at the clarification of the fate of more than 10,000 missing persons even more difficult.

As it did in the previous three years, the EC states that Serbia has provided active support to the Initiative for the establishing of RECOM.

In the area of procedural rights, the EC found that the legal framework for the protection of injured parties and witnesses



in proceedings has not yet been completed, that the support and protection of victims of criminal offences have not been harmonized with EU regulations and standards, and that there is a lack of efficient mechanisms for the protection of the rights of victims.

The Humanitarian Law Center (HLC) shared its [opinion](#) with the EC about the progress made by Serbia in the areas which are essential for the establishing of justice in cases of crimes committed in the past, in April 2015. The majority of the HLC's findings found their

place in this year's Report by the EC.

Transitional Justice as EU Priority in Post-Conflict and Post-Authoritarian Societies

On November 16th the Council of the European Union (EU) adopted the [EU's Policy Framework on Support to Transitional Justice](#) (Framework), which defines the manner in which the EU would engage in situations which require dealing with the legacy of gross

violations of human rights.

In accordance with this document, the EU supports the strengthening of an independent, impartial and efficient judiciary, a strategic approach to the domestic prosecution of human rights violations, long-term support for witnesses and victims, the establishing of truth-seeking bodies, a system of reparations aimed at the full integration and rehabilitation of victims, the implementation of vetting procedures, and the introduction of lessons about the



Justus Lipsius building, the headquarters of the Council of the European Union (source: www.europa.eu)

events from the past into the education programmes.

Transitional justice takes a particularly important place in the EU's enlargement policy, since the application of its mechanisms represents a priority for candidate countries and for potential candidate countries. According to the Framework, the Copenhagen Criteria, which relate to the protection of fundamental rights and the rule of law, also cover the requirements from the field of transitional justice; and all the states striving to become members of the EU have to express dedication to the promotion of these principles and the removal of obstacles for the establishing of justice.¹

¹ More information can be found [here](#).

Outline of the first national strategy for the prosecution of war crimes

The Republic of Serbia Ministry of Justice published the [Draft National Strategy for the Prosecution of War Crimes for the Period 2016-2020](#) (Draft Strategy) on December 10th, and opened a public debate with this regard lasting until December 31st. Representatives of the responsible institutions and expert organizations participated in its drafting, and in this endeavour they relied on a number of relevant documents, including the HLC's [Analysis of the Prosecution of War Crimes in Serbia](#) and the [Model Strategy for the Prosecution of War Crimes in Serbia](#).

The objective of the Draft Strategy is to enhance the efficiency of the prosecution of war crimes in Serbia, which will reflect in the fight against impunity, security and support for

witnesses and victims, adequate defence for the accused, clarification of the fate of missing persons, reinforced regional and international cooperation, and greater social support for war crimes trials in Serbia. One of the measures, which is particularly important for the long-term acknowledgement and recognition of facts, is aimed at the "development of education programmes in such a manner which would allow students to obtain sufficient amounts of relevant information relating to the conflicts on the territory of the former Yugoslavia and to the war crimes committed during that period".

The priorities of the Draft Strategy rely on the recommendations of the EU given in the Chapter 23 Screening Report, which relate to the investigation of all serious allegations about war crimes, the securing of proportionality in the penal policy, equal treatment of





Meeting "Assessing Punishments Criteria Used to Date in Cases of War Crimes" (source: www.e-vijesti.com)

all suspects, security of witnesses and insider witnesses, confidentiality of investigations and testimonies, and adequate capacities of respective institutions.

The adoption of the Draft Strategy should be followed by a prosecutorial strategy for the OWCP, with the task of defining case selection criteria, in order to make sure that the resources allocated to the responsible institutions are used to their full capacity and in priority cases.

Expert Meeting on Penal Policy in Serbia

The Ministry of Justice organized an expert meeting on December 11th titled "Assessing Punishments Criteria Used to Date in Cases of War Crimes", which had been envisaged by the Chapter 23 Action Plan. The participants in the meeting were representatives of judicial institutions in Serbia, attorneys and experts in the field of law from Serbia and Croatia, and representatives of the ICTY and non-governmental organizations,

including the HLC. According to the statement made by the Minister of Justice, Nikola Selaković, the meeting "represents an introduction into the production and distribution of an overview of judicial practice of the Higher Court and the Court of Appeals in Belgrade and the Supreme Court of Cassation of Serbia in the prosecution of cases of war crimes". In his opening remarks, he emphasized that Serbia is devoted to the idea of consistent prosecution of war crimes regardless of the national or

religious background or rank of the perpetrators.

Participants in the meeting discussed the experiences and practices existing in Croatia, Bosnia and Herzegovina, the ICTY and Serbia with regard to the assessment of punishments in cases of war crimes, and the evaluation of mitigating and aggravating circumstances and their impact on the severity of the punishments delivered.

The participants agreed on the conclusion that no international standard has been set, which could be of help in the determination of punishments and establishment of mitigating and aggravating circumstances, and that they should be assessed and reasoned through in each particular case. They also concluded that courts often fail to provide reasons for the punishment

delivered or for the circumstances which they establish as mitigating or aggravating. Therefore, it remains unclear whether the sentence delivered represents an individualized sentence and how it is able to fulfil the purpose of the penalty. The participants in the meeting also agreed that courts should change this practice from now on.

EP's Draft Resolution on Serbia

The European Parliament's (EP) Rapporteur for Serbia, David McAllister, presented a Draft Motion for a Resolution on the 2015 Report on Serbia in the session of the EP's Committee on Foreign Affairs. The Draft Motion for a Resolution commends Serbia for its good cooperation with the ICTY; it also emphasizes the importance of the existence of

a comprehensive national strategy for the prosecution of war crimes and encourages Serbian authorities to continue working on the clarification of the fate of the missing. The deadline for filing amendments to the Draft Resolution expired on December 17th.

The HLC shared its [amendment](#) to the Draft Motion for a Resolution, which supplements its findings in the fields of cooperation with the ICTY, the prosecution of war crimes before the courts in Serbia and cooperation with similar institutions in the region, respect for the right of victims to reparations, opening of archives, removal of individuals responsible for crimes from institutions, and support for the Initiative for the Establishing of RECOM, with the Rapporteur for Serbia and certain representatives of the Committee on Foreign Affairs.



[★] We Have Croatia, What Do We Need Justice For?

Author: Mario Mažić, Director of Programs, Youth Initiative for Human Rights in Croatia

Croatia has been a member of the European Union for two and a half years now. This membership arrived after years of exhausting negotiations conducted in a series of Chapters. In fact, the first Minister for European Integration was appointed when Franjo Tuđman was still in power. One of the negotiation conditions had been for Croatia to implement lasting and comprehensive reforms. These reforms should have been permanent and irreversible (?!), in order to meet the required standards, and they referred to the economy, administration, judiciary, borders, relations with neighbours, legislation, and a series of other fields and issues.

Chapter 23 (Judiciary and Fundamental Rights) was defined to regulate the key areas for restoring the rule of law as based on European values and achieved international standards. This Chapter was particularly complex because of the manner in which criteria for the assessment of successes achieved in the implementation of reforms were determined.

Later on, however, as we approached the final stage of the negotiations



Mario Mažić

process, it turned out that this 'complexity' came down in practice to a matter of political assessment, and provisory assessment became a possible model.

The European Commission lacked a clear strategy for the key problems relating to the issues of the legacy of mass violations of human rights committed during 1990s. There were no strategies for transitional justice or reconciliation. The EC demanded full cooperation with the International Criminal Tribunal for the Former Yugoslavia, and the development of a domestic judiciary able to prosecute crimes against values protected by international law.

In the final phase, the demand relating to the cooperation with ICTY was mostly fulfilled, with an exception relating to cooperation in revealing the fate and delivery of artillery diaries relevant to the *Gotovina et al* case.

The EC's demands relating to the prosecution of crimes before the courts in Croatia and cooperation with the judiciaries in neighbouring countries, were often modest and vague. It was also clear how much the EC avoided situations in which the process would become politicized. In this context, the EC did not ask for the foundation of a special court or, at least, of a special prosecution office. It was only in the final phase, after a series of indicators pointing to the way trial processes were affected by politics, that it asked for the cases of war crimes to be transferred to four grand county courts. These political impacts were neither naive nor harmless. For instance, a judge in Sisak stated in 2010, when deciding in a case of war crimes committed in Novska in 1991, that *she felt sorry (...) to prosecute our soldiers for crimes that we are used to seeing the opposite party committed*.² A year later, a researcher of the Youth Initiative for Human Rights was arrested in Split because he was researching the crime committed against the civilian population in Žrnovci. This happened because one of the probable perpetrators

was linked to the police, the authority which should have been investigating this case³. Both of these situations represented examples rather than exceptions.

Still, the trials were mostly transferred to four grand county courts, and the State Prosecution Office adopted a prosecution strategy, which should have shown that Croatia was ready to prosecute members of the Republic of Croatia Army as well. The EC and member states found this to be satisfactory, without even thinking that this Strategy should have been adopted a long time before, in order to contribute to the building of an independent and professional prosecution system.

Civil society woke up a little bit too late in this process. It had probably lived for too long a time believing that the EC measures really represented a mechanism for making a sustainable change possible. We were focussed on the clarification of these processes, the achievement of transparency and encouraging other insights. We were not so much focussed on designing recommendations for other, clearer assessment criteria. And when we were, not many of us were listening.

Civil society organizations had switched positions in a matter of months, and from a being

² See: <http://m.tportal.hr/vijesti/97276/Sramota-hrvatskog-pravosuda.html> (available in Croatian language only)

³ See: <http://www.slobodnadalmacija.hr/Hrvatska/tabid/66/articleType/ArticleView/articleId/125924/Default.aspx> (available in Croatian language only)



partners providing additional and independent insights, they became annoying stakeholders who insisted too much on the issues of the past or details with regard to the human rights. At one moment during a meeting in the EU office in Zagreb in 2011, I was personally offered a piece of advice - to focus more on the democratic mechanisms which already existed within the state itself, instead of running to Brussels with every objection.

It was in late 2011 that it first became apparent that these reforms were a 'Potemkin village', when the Croatian Parliament passed a law, *which annulled all legal acts of the former JNA (Yugoslav Peoples' Army), its judicial bodies, the judicial bodies of the former SFRY and judicial bodies of the Republic of Serbia which related to the Homeland War in the Republic of Croatia, by which citizens of the Republic of Croatia were suspected, accused or convicted of committing crimes against values protected by international law.*⁴

The time between the decision on the closing of the negotiations and Croatia's entry into the EU was quite difficult for the critically inclined members of the civil society. Unlike several member states, which continued with the critical monitoring of these processes,

we remained without significant advocacy channels.

So the YIHR published a shadow report in June 2012 focussing on a series of failures in the prosecution of individuals responsible for war crimes, and shared it with the UN Human Rights Committee. Very few people expressed concerns regarding this Report. Following Croatia's entry into the EU, we had a meeting with the Vice-President of the European Commission Responsible for Judiciary, Fundamental Rights and Citizenship, Viviane Reding, in order to relay these concerns of ours to her. However, the answer we received from her was that the EC had no mechanisms to put pressure on Croatia following its accession into the EU.

I will quickly go back to June 2015, to show only one example of the so-called 'European Croatia'. At this time, the Government discussed in its session a Draft Conclusion by which Croatia addressed Bosnia and Herzegovina with a warning not to dare mention the participation of the Republic of Croatia's troops on the territory of BiH in any context relating to the commission of or support for the commission of crimes. The Croatian government, therefore, did not refrain from making repeated and explicit political interventions in judicial proceedings conducted for the purpose of establishing responsibility for the crimes committed during the 1990s, which

⁴ Zakon o ništetnosti određenih pravnih akata pravosudnih tijela bivše JNA, bivše SFRJ i Republike Srbije, NN 124/11, October 2011, <http://www.zakon.hr/z/506/Zakon-o-nistetnosti-odredenih-pravnih-akata-pravosudnih-tijela-bivse-JNA-bivse-SFRJ-i-Republike-Srbije> (available in Croatian language only)

had been initiated in the absolutely minimum number of cases.

In this new situation, in which most of the fundamental rights have been left exclusively to the domestic mechanisms, we should ask ourselves which mechanisms these would be. There are at least two key approaches which would facilitate efficient democratic pressure on the resolution of these problems. The first would be to have strong independent institutions or powerful parliamentary committees, and the second would be to possess a sufficiently intense critical group in the society. It becomes clear that Croatia lacks both of these mechanisms.

I am convinced that this is a result of the EC's focus on institutional rather than social change. In fact, Croatia has implemented rather successfully a series of comprehensive and complex reforms. Some institutions work significantly better today as compared to the situation preceding 2010.

However, it has become quite clear that every institutional change and

reform is reversible. The expectation that reforms would be irreversible has come to represent a failed hope, and a situation of all talk and no action. Each institutional reform which is not followed by the development of a compatible political culture renders the reform unsustainable, even on the short-term. The Croatian political culture, however, has remained almost intact throughout the negotiation process. It still promotes the belief that love of country should be expressed through denial and avoidance, instead of the assumption of responsibility. We still have a situation in which changes are not being made - although we behave as if suddenly these changes have been made. We are still not bothered by the fact that not a single person has been held accountable so far for the systematic crimes committed by our political leaders. On the contrary, we are bothered even at the very mention of these crimes.

When I take a look at the other countries of the region, I hope their societies, as well as the EU, will learn some lessons from this experience.



[War Crimes Trials]

- Overview

***Judgments rendered**

The Case of the Bijeljina II

The Higher Court in Belgrade rendered a judgement on November 24th in the repeated trial and acquitted the accused Miodrag Živković once more of the charges⁵ that he, as a member of a volunteer unit, together with four other individuals who have been finally convicted of the same crime, killed a Bosniak civilian in Bijeljina (BIH) in June 1992 and raped and sexually abused his daughter and daughter-in-law.

***Appellate proceedings**

The Case of the Tuzla Column

The main hearing was conducted in the appellate proceedings before the Court of Appeals in Belgrade against Ilija Jurišić for the criminal offence of the Use of Unlawful Means of Combat. The indictment filed by the Office of the War Crimes Prosecutor (OWCP) alleged that he, as a duty officer in the Tuzla Public Security Service Operational HQ, issued an order on May 15th, 1992, in violation of the agreement on the peaceful retreat of JNA soldiers from the „Husinska buna“ military barracks, for an attack on the military column which was peacefully leaving Tuzla, which resulted in the death of at least 50 soldiers and the wounding of at least 51 other soldiers.

⁵ See HLC's [press release](#) "No Justice For Wartime Victims of Sexual Abuse", issued on November 25th, 2015.

The Court of Appeals quashed the first instance guilty judgment in the repeated trial and opened a main hearing on its own. In the main hearing held on December 2nd, an expert witness, who conducted an acoustic analysis of the shooting at the Brcanska Malta intersection in Tuzla, was examined, and stated that he supported his earlier finding that the first shot was fired in a still position in the area between the buildings, while the following two shots were fired on the move, as well as the fourth burst of fire, after which the general shooting started. The parties presented their final arguments in which the OWCP demanded that the court confirm the first instance guilty judgment, whereas the Defence Counsel asked that the Court of Appeals acquit the accused of criminal responsibility.

of Skočići (the Municipality of Zvornik, BiH), which they committed as members of 'Simo's Chetniks' paramilitary unit, and held in detention for several months three injured parties, girls who were 13, 15, and 19 years old at the time, beat them, raped them and sexually humiliated them.

The OWCP filed an appeal against the not guilty judgment, so following the presentation of the judgment in the public part of the Chamber session, the Deputy Prosecutor presented his appeal, whereas the Defence Counsel presented their answers to the appeal. The ruling of the Court of Appeals is expected in early 2016.

The Case of Skočići

A public part of the Appeals Chamber session was held on December 18th before the Court of Appeals in Belgrade against Damir Bogdanović and five other accused. The Higher Court in Belgrade rendered a judgment in a repeated trial in June 2015, acquitting the accused of charges that they committed a war crime against a civilian population. They were acquitted of the charges that in 1992 they tortured, robbed, and then killed 28 Roma people in the village



Mortal remains of the Ribić sisters found in the Crni vrh mass grave in 2003 (source: Anadolujia)



*Repeated proceedings

The Case of Ćuška/ Qushk

A repeat trial against Toplica Miladinović and 13 others accused of the criminal offence of a war crime against a civilian population is pending. The OWCP's indictment has charged them with the killing of at least 109 Albanian civilians, a crime they allegedly committed as members of the 177th Peć Military Territorial Detachment during March and April 1999 in the villages of Ljubenić/Lubeniq, Ćuška/Qushk, Pavljan/Pavlan and Zahać/Zahaq (the Municipality of Peć/Pejë, Kosovo).



A Memorial for the Victims in Ćuška/Qushk

The Case of Bosanski Petrovac

A repeat trial of Neđeljko Sovilj and Rajko Vekić for the war crime against civilian population is pending. The OWCP's indictment charges them with the killing of a Bosniak civilian, a crime committed on December 21st, 1992, as members of the Republic of Srpska Army on the local Jazbine – Bjelaj road, in the Municipality of Bosanski Petrovac (BiH), in the forest known as "Osoje".

The repeated trial continued on November 23rd with an examination of the former protected witness Zoran Rašković, who confirmed his earlier statements. Rašković stated that he remembered that the accused Krstović and Ivanović were present in the village of Ljubenić/Lubeniq on the day in question (April 1st, 1999), and that between 60 and 100 men, Albanian civilians, were executed on this occasion, but he could not remember all of the persons who were shooting. The accused, Miloško Nikolić, "verified" the survivors by stepping on the bodies of the people and shooting them.

The trial continued on November 25th with the examination of the witness Milorad Kolundžija who, according to the allegation of one of the crown prosecution witnesses Milo Vukelić, allegedly possessed direct information relating to this murder. However, the examined witness strongly denied this allegation.

The Case of Lovas

Milan Devičić and another 10 accused are being tried in repeat proceedings for a war crime against a civilian population. The OWCP's indictment charged them with the killing of 41 civilians of Croat nationality in Lovas (Croatia) during October and November 1991 a crime they allegedly committed in their capacity as members of either the JNA, the "Dušan the Mighty" paramilitary formation or local government.

During the trial session held on November 23rd, the Court played a VHS footage made on March 1990 in Lovas at the HDZ Founding Assembly, inspected the documents obtained from the VBA relating to the 2nd Infantry Motorized Brigade and the Registry of Croatian Defenders for persons from Lovas. The Court also inspected the defence cases of the now deceased co-defendants, witness statements, the findings and opinion of a medical expert witness, and other documents in the case file. The closing arguments are scheduled for late January 2016.

*First instance proceedings

The Case of Gradiška

Currently, Goran Šinik is standing trial for a war crime against a civilian population. The OWCP's indictment charged him with the killing of a civilian of Croat nationality, Marijan Vištica, in the place known as Bok Jankovac (BiH), a crime he allegedly committed as a member of the Republic of Srpska Army on September 2nd, 1992.

Witness Nikola Kolar was examined during the main hearing session held on November 16th. He was on the bus with Vištica, when the accused came and took him out and placed him inside a car in which Sladojević and Prčić had already been sitting. The witness and the accused were confronted, and on this occasion the accused claimed that he did not know the witness and that he was not in Gradiška on the day in question, whereas the witness confirmed his earlier statement.



The Case of Bosanski Petrovac – Gaj

Milan Dragišić is standing trial because of a war crime against a civilian population. The OWCP's indictment charged him with the killing of three and attempted killing of another three Bosniak civilians, a crime he allegedly committed as a member of the Republic of Srpska Army in the settlement of Gaj in Bosanski Petrovac (BiH) on September 20th, 1992.

The Case of Sanski Most – Kijevo

The trial of Mitar Čanković for a war crime against a civilian population is currently ongoing. The OWCP's indictment charged him with the killing of one Bosniak civilian in the settlement of Kijevo, in the vicinity of Sanski Most (BiH), which he allegedly committed in the capacity of soldier of the Republic of Srpska Army on September 19th, 1995.

Four prosecution witnesses were examined in the main hearing session held on November 18th, two of whom were eyewitnesses of the incident in question. Witness Branko Srdić stated that he saw the accused kill Asim Kavaz, while witness Asmir Lemeš stated that the accused tried to kill him as well by shooting at him from an automatic rifle. The other two witnesses did not have any direct information about the incident in question.

During the main hearing session held on November 26th, the Court inspected the documents from the case file and ordered medical and ballistic expertise, in order to establish the causal relation between the wounding of the injured party and the consequences that occurred, the manner in which the injuries were inflicted and the means with which the injuries were inflicted.

The Case of Trnje/ Termje

The proceedings against Pavle Gavrilović and Rajko Kozlina for a war crime against a civilian population are pending. The OWCP's indictment charged them with killing 27 civilians of Albanian nationality, a crime they allegedly committed in the capacity of JNA members on March 25th, 1999 in the village of Trnje/Termje, in the Municipality of Suva Reka/Suha Reke (Kosovo).

The trial session scheduled for November 27th could not be conducted, because the accused Rajko Kozlina failed to appear before the court, which he justified with a letter from a military medical institution in Belgrade. The next trial session is scheduled for January 18th, 2016.


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