



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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Putting the truth and victims first,
instead of denying crimes and
treating war criminals as heroes

*An interview with Mr. Serge Brammertz, the Chief Prosecutor of the
International Criminal Tribunal for the former Yugoslavia (ICTY)*

HLC: What are, in your opinion, the most significant achievements of the ICTY Office of the Prosecutor today, 23 years after its foundation?

The ICTY Office of the Prosecutor (OTP) has significantly advanced accountability for the crimes committed in the former Yugoslavia. It is important to remember that before the ICTY, impunity and amnesties for atrocities committed in conflict was the rule. So beginning the



Serge Brammertz (©ICTY)



accountability process in the former Yugoslavia and bringing to justice many senior officials for their crimes have to be considered as the OTP's most significant achievement.

The ICTY will complete its mandate with no war crimes fugitives it indicted remaining at large. Securing the arrests of fugitives is one of the greatest challenges facing international tribunals, and so the OTP can be satisfied with its achievement in this regard.

Finally, the OTP has worked with its colleague prosecutors in the countries of the former Yugoslavia and around the world to build an effective system of complementarity and cooperation. We have worked with national prosecutors to provide access to our evidence collection – which totals more than 9 million pages and is the largest of its kind – and help strengthen their capacities. As a result, evidence from the ICTY is being used every day in national war crimes prosecutions. The evidence we gathered will also remain available to future generations, to help educate them about what happened and stand against revisionism and denial.

HLC: What is the factual account of Serbia's responsibility for the crimes committed that the ICTY has left behind?

The OTP has certainly uncovered many of the facts about the crimes that were committed and how those crimes came about. The evidence can

be found in the ICTY's judgments and our records.

But the ICTY is only mandated to determine individual criminal responsibility. The International Court of Justice can and has made findings regarding the Republic of Serbia's state responsibility under international law.

This distinction is critical. Many accused before the ICTY falsely claim that there is collective responsibility for the crimes, suggesting that their guilt is the nation's guilt. But in fact the ICTY's work is premised on the opposite principle. What our prosecutions have demonstrated is that the crimes were committed by individuals who abused their authority and then lied to the public about what they had done.

HLC: Despite the existence of the court-established facts, relativization, negation and denial of responsibility for the crimes committed are still prevailing in the successor countries of the former Yugoslavia. What is still necessary to be done in order to serve justice and accept facts about violations of human rights committed during the armed conflicts in the former Yugoslavia?

Unquestionably denial of the crimes, relativizing atrocities and treating war criminals as heroes are still prevalent in the region, and unfortunately have become more prominent recently. It would have been hard to imagine just a few years ago that a Serbian cabinet member would say that a convicted

war criminal is a role model and an example for how a soldier should fight for his country.

At the same time, there are still positive steps even in this difficult climate, like when delegations pay their respects to the victims at places like Kazani and Srebrenica.

Acceptance of the facts is a difficult process. A critical element has been the work of NGOs and civil society, like the Humanitarian Law Center, Youth Initiative for Human Rights, Documenta, Women in Black, and many others. Despite the barriers and challenges civil society has faced, it has achieved immense results. Civil society is and must continue to be at the core of local efforts to promote justice, education, acceptance of the past and reconciliation.

But civil society cannot do it alone. There has to be political will and leadership. The ICTY has established the facts and held individuals accountable. Now it is up to politicians and government officials to be truthful with the public and help society to accept the facts.

HLC: How do you assess regional cooperation between Serbia, Croatia and BiH when it comes to the prosecution of war crimes? In your view, what are the causes and consequences of Serbia's nonparticipation at the regional meeting of war crimes prosecutors in Brioni?

Regional cooperation between prosecutors is strong in some

respects, and weak in others.

On a technical level cooperation has been progressing. There are still challenges of course, like the continued non-execution of Novak Djukic's sentence here in Serbia, which should have been easily and quickly resolved based on basic principles of international comity.

At the same time politics and diplomatic confrontations are having a clear negative impact, particularly for cases involving senior- or mid-level officials.

For example, Croatian government policy has been hindering regional cooperation between BiH and Croatian prosecutors in important cases concerning crimes committed by mid-level officials of Herceg-Bosna and the Croatian Defence Council. And as you mentioned, for the first time in nine years the Serbian delegation did not attend the Brijuni conference on regional cooperation.

HLC: 172 individuals have been prosecuted and 51 perpetrators have been finally convicted before the specialized departments for the prosecution of war crimes in Serbia since 2003. What do you see as the key obstacles for an efficient prosecution of war crimes in Serbia?

Serbia needs its politicians and government officials to act responsibly by putting the truth, victims and the best interests of society first, instead of denying crimes, treating war criminals as heroes and undermining the rule of law.



When witnesses and prosecutors are being labeled traitors for telling the truth and acting impartially, there is something gravely wrong. If the political mindset and climate do not change, urgently, justice will be very difficult to achieve.

My Office and the European

Commission have welcomed the adoption of the National War Crimes Strategy earlier this year. The newly-elected government now can put its commitment to full accountability into practice and close the gap between its goals and the disappointing reality on the ground.

[Events]

Opening of Chapter 23

The presentation of the [EU Common Position](#) and [Serbia's Negotiating Position](#) on July 18th marked the opening of Chapter 23 - Judiciary and Fundamental Rights. The EU Common Position contains interim benchmarks in respect to which the EU will assess Serbia's progress in complying with the EU *acquis communautaire*. It emphasizes that tangible progress and unquestionable political commitment are essential in the field of war crimes prosecution. The EU expects Serbia not to allow impunity for war crimes, to provide adequate protection for

victims and witnesses, and to constructively cooperate with the institutions in the region and beyond.

The interim benchmarks for monitoring the progress made in the prosecution of war crimes before courts in Serbia include the following:

- implementation of the National Strategy for the Prosecution of War Crimes in Serbia;
- adoption and implementation of the strategy of the Office of the War Crimes Prosecutor (OWCP);
- higher proactivity of judicial bodies;
- confidentiality of investigations;
- improvement of

mechanisms for witness/victims protection and assistance;

- protection of victims' rights and access to justice without discrimination;
- adequate investigations into all allegations on war crimes committed and equal treatment of all suspects;
- augmentation of number of cases;
- prosecution of high-ranking individuals;
- harmonization of penal policy with international standards;
- effective cooperation with neighbouring countries in solving the fate of missing



persons;

- complete resolution of all the problems with other prosecutors' offices in the region with regard to conflicts of jurisdiction;
- full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and Mechanism for International Criminal Tribunals, with the acceptance and enforcement of all of their decisions.

European Commission: sincere effort in dealing with the past is essential

In a [letter](#) sent to the Prime Minister of the Republic of Serbia, the President of the European Commission, Mr. Jean-Claude Juncker, reiterated

the EU position that having good neighbourly relations, regional cooperation and reconciliation are key principles to be respected both by the candidate and EU member states. He also stressed that the EC has always been committed to respecting victims and commemorating their suffering, as well as punishing those responsible for the crimes committed. According to his words, "the long path towards reconciliation between peoples requires joint, sincere efforts from all sides and at all levels to recognise the acts of injustice of the past without bias and to come to terms with them together, thus preparing the ground for a shared and cooperative future". Mr. Juncker called on Serbia and Croatia to resolve all outstanding issues

through constructive dialogue and mutual understanding, emphasizing that such a process is in the interest of all parties in the region.

The EC President's letter is a response to a [letter](#) sent to him by the Prime Minister of the Republic of Serbia, Mr. Aleksandar Vučić, at the beginning of August. This exchange of letters followed after a new escalation of tensions in the relations between Serbia and Croatia, which occurred in July 2016.

Parliamentarians: improve the prosecution of war crimes and the protection of victims' rights

At the fifth meeting of the European Union – Serbia Stabilisation and Association Parliamentary Committee, held in Belgrade on September 22nd and 23rd, a [Declaration](#) calling for the effective implementation of the National Strategy for Prosecution of War Crimes, strengthening



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of the investigative and judicial authorities, improvement of the protection of witnesses and victims, and protection of victims' rights was adopted. The parliamentarians of both parliaments also stressed how important it is for Serbia to adequately investigate all allegations of war crimes, with equal treatment of all suspects, "without leaving the impression that one can be above the law, and without regard to the nationality of the suspects or victims".

Implementation of the Action Plan for Chapter 23

The Council for Implementation of the Action Plan for Chapter 23 issued the third [Implementation Report](#) in October. The Report states that the implementation of the National Strategy for the Prosecution of War Crimes has begun, that the process of electing a new war crimes prosecutor is in progress, and that the working group for the development of

the OWCP's Strategy has discussed the final draft of this document and has collected professional public comments.

According to the Report, the implementation of a series of measures was prevented by the absence of a War Crimes Prosecutor and a Prosecutorial Strategy (strengthening the capacities of the OWCP and hiring a psychologist for victims and witnesses support, training programmes and training for employees of the institutions dealing with war crimes, cooperation with the ICTY Office of the Prosecutor, publishing reports on the OWCP's activities, and amendments to the provisions regulating access to confidential information).

The only measures that have been fully implemented include the development of a new OWCP website and holding an expert meeting on penal policy in war crimes cases. However, although held in December 2015, to this day the conclusions of this meeting have not been published, although publication

is a separate measure within the Action Plan.

Among other measures, according to the Report, a draft analysis of the situation and needs of the War Crimes Investigation Service has been produced. In this analysis, among other things, it is stated that the Service supports the view that „ members of the Ministry of the Interior who participated in armed conflicts should not be engaged in the investigation of war crimes“.

Furthermore, the cooperation between the OWCP and the ICTY with respect to the transfer of knowledge and jurisprudence in cases of high-ranking perpetrators is in progress; the first draft of the Guidelines on performance of the services for informing and supporting victims and witnesses in Public Prosecutor's Offices has been made, and work has begun on the development of the Communication Manual for prosecutors and support officers on communication with victims and witnesses of crime; there is also a special working group devoted to discussing



the adoption of legislation for effective application of change of identity as a measure of witness protection; and there are ongoing consultations between relevant institutions on improving the capacity of the Witness Protection Unit (WPU). In addition, performance assessment of the WPU has been conducted, and measures for improvement of its work have been defined; but the Ministry of the Interior has not submitted information on the implementation of measures which require the application of the findings from this analysis.

Publishing the reviews

of the jurisprudence of the Higher and Appellate courts, and the Supreme Court of Cessation, in terms of sentencing for war crimes in Serbia, has been carried out only partially, with the publication only of the decisions of the Supreme Court of Cessation on its website.

In terms of procedural rights, the Report states that the analysis of compliance with the EU acquis is in progress. Within this framework, there is a measure that entails full enforcement of stronger procedural guarantees for victims of war crimes. Also, an analysis of compliance

with the Directive 2012/29/EU, which requires minimum standards in the field of the protection of the rights of and support to victims of crime, was conducted, and the findings were sent to members of the working group which is drafting amendments to the Criminal Procedure Code.

European
Commission:
Reconciliation
implies dealing
with all war
crimes

On November 9, the



(© Evropska komisija)

European Commission published its annual report, on Serbia which monitors the process of harmonization with EU legislation within the 35 thematic chapters, meeting the political and economic criteria for membership in the EU, and normalization of relations with Kosovo.

The EC stresses in the report that regional cooperation and good neighbourly relations, as they contribute to stability, reconciliation and addressing the legacy of the past, are an important part of the process of the European integration of Serbia. In this regard, the report states that Serbia has continued to support the initiative for the establishment of RECOM.

For the first time in several years, the EC has expressed concern about the lack of cooperation of Serbia with the ICTY, and insisted on the implementation of all the decisions of this court.

In the field of prosecuting war crimes before domestic courts, the EC recommends

that Serbia accelerate the implementation of the National Strategy for Prosecution of War Crimes and adopt the strategy for the OWCP, preserve the important jurisprudence and knowledge gained during the processing of complex cases, as well as support, adequately train and equip the OWCP.

The EC noted that during the year 2015, only two indictments were filed, that there was no progress in prosecuting high-ranking perpetrators, that the deficiencies in the system of witness protection have not been remedied, that the support and protection of victims of crime are not in accordance with EU standards, and that effective mechanisms of protecting victims' rights are absent. In addition, the EC is concerned with the failure over several months to elect a new war crimes prosecutor.

In the area of regional cooperation in the prosecution of war crimes, the EC notes the continuation of cooperation with prosecutors' offices

in the region and the higher dynamics of the exchange of evidence and information, but also the unreasoned absence of the OWCP from the regional expert meeting of war crimes prosecutors, which has been held continuously for 10 years now.

In the area of reparations, the EC for the third year in a row notes that within the current legal framework, many victims are denied access to effective reparations for the crimes and wrongdoings they were subjected to.

The assessment that the large number of missing persons whose fate has not been determined still poses a humanitarian problem of the Western Balkans region has been mentioned again. The EC urges for the stronger efforts necessary to find information on potential locations where the mortal remains of victims are situated, and information relating to the fate of persons for whom families are still searching.



[★] Justice for atrocity: can the EU deliver?

Iavor Rangelov, global security research fellow at the London School of Economics and co-chair of the London Transitional Justice Network

Marika Theros, doctoral candidate at the Department of International Development, London School of Economics, and senior researcher at the Institute for State Effectiveness

Nataša Kandić, founder of the Humanitarian Law Center and regional coordinator of the RECOM Initiative

Few issues galvanise citizen action and activism in conflict-affected areas like justice for atrocity crimes and economic crimes. This high demand for justice reflects the criminalised character of both the violence and the war economy in today's conflicts. Most people on the ground experience conflict as daily encounters with different forms of abuse and predation that make their lives profoundly insecure.

Halting such abuses is the first priority. But while international actors focus on top-down peace negotiations, local civil society groups tend to emphasise holding perpetrators accountable and providing redress to victims. They emphasise justice because they are aware that the spectrum of abuse and criminality – human rights violations, organised crime, corruption – is often at the heart of the conflict and persists even when the hostilities have ended. And they recognise that the problem has to be tackled from both ends: by marginalising

the networks that drive and benefit from such abuses, and by addressing the grievances they produce, which otherwise further polarise communities and swell the ranks of extremists.

In conflict-affected areas where the EU is involved in some way, the EU often becomes the focal point for local advocates of justice and their demands. These 'justice networks' take different forms in different places: from protest movements in Ukraine and Bosnia that demand accountability for endemic corruption, to grassroots activists and journalists in Afghanistan and Syria that document and publicise human rights violations, often putting their own lives at risk. What is remarkable is the extent to which so many of these actors seek engagement with the EU, seeing it as their ally and hoping that its support will make all the difference.

The [RECOM](#) initiative in the Balkans is typical in that respect. It is a regional civil society initiative that advocates

the creation of a regional truth commission to establish the facts of war crimes committed on the territory of the former Yugoslavia between 1991 and 2001 and to resolve the problem of the remaining thousands of persons that are still missing.

The Coalition for RECOM has conducted extensive consultations at local, national, and regional levels with victims and veterans associations, NGOs and religious communities, women's and youth groups, artists, journalists and other groups in civil society. These consultations brought into a conversation many people whose politics are often seen as irreconcilable, like victims groups from different ethnic communities. They resulted in a draft statute of the commission and more than 500,000 signatures of citizens who support the initiative. The Coalition has even collected some of the documentation on which the commission can build. The future of RECOM, however, now depends on the EU. It hinges on whether the EU takes the lead in facilitating the next stage of the process: the inter-governmental negotiations that are necessary for establishing the commission.

RECOM is just one example of the ways in which EU is called upon to engage in local struggles for justice. It suggests a distinctive role for the EU in today's conflicts: strengthening the justice networks and weakening the conflict networks. The [Human Security Study Group](#) has identified the need to marginalise the conflict

networks as a critical issue because these actors are adept at subverting EU policies for ending conflict and building peace, or hijacking them for their own political and economic gain at the expense of ordinary citizens. The EU has instruments at its disposal to respond to local demands for addressing pervasive abuse and criminality. In doing so, the EU can also build an alternative source of legitimate political authority and a constituency for genuine reform.

Can the EU deliver? Our [study](#) commissioned for the Strategic Review identified two main challenges. One of them has to do with EU justice policies and the other with the experience of the member states that shapes these policies.

A major problem is that for the EU, justice tends to be only a question of principle. It is about commitment to ethics and norms in foreign policy. When the EU's normative commitments are seen to clash with strategic considerations for peace and stability, justice is often compromised and deferred. For instance, the EU often considers justice and peace to be competing goals in peace processes. Cutting deals with perpetrators is seen as a pragmatic strategy for ending the violence. But when narrowly negotiated deals are used to entrench the conflict networks in power structures - instead of enabling their marginalisation over time, peace agreements end up foreclosing space for reform or paving the way for renewed violence. These were some



of the unintended consequences of the [Dayton](#) agreement in Bosnia and [Bonn](#) in Afghanistan.

The other reason why justice is marginalised in EU foreign policy has to do with the experience of the member states. With the partial exception of the Holocaust, European states have done little reckoning with their own legacies of abuse and injustice inherited from war and repressive rule in Europe and the former colonies. The negotiated transitions from dictatorship to democracy in Southern and Eastern Europe involved either very limited justice or none, as in Spain's 'pact of silence'. In large parts of Eastern Europe, this enabled former elites to convert their political power into economic power and paved the way for plunder and criminalisation after the revolutions of 1989. Likewise, decolonisation was not accompanied by acknowledgement and redress even for the most egregious abuses of the colonial period, such as the French atrocities in Algeria.

This combination of amnesty and amnesia cannot provide a blueprint for dealing with today's conflicts. And its dark underside is increasingly revealed in Europe itself, where unaddressed legacies of past abuse and injustice are one factor in the rise of neo-fascist, racist, xenophobic and other extreme movements and parties on the far right. A creeping 'authoritarian nostalgia' in some

parts of Europe also feeds off historical revisionism, challenging the democratic order and the European project itself.

Our research suggests that the EU needs to prioritise justice both internally and externally, encouraging the member states to deal with their own past and creating space for justice networks and initiatives inside and outside Europe. A similarly calibrated approach is needed to address economic criminality, much of which is transnational in character. Conflicts generate huge profits from illegal arms sales, drugs, smuggling, embezzlement and corruption, contributing to the global illicit financial flows estimated at more than USD 1 trillion a year. Money laundering of criminal proceeds exacerbates inequality both at their origin and destination. It fuels the monetization of politics by creating incentives for political leaders to connect to criminal networks. And it affects European citizens directly, for instance by turning finance and real estate in places like London and Paris into major drivers of inequality.

In fact, violent conflict could be seen as a sort of mechanism for predatory global redistribution of power and resources. Justice is critical for disrupting this mechanism and redressing some of its pernicious consequences.

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[War Crimes Trials] – An Overview

*First instance proceedings

Bosanski Petrovac – Gaj Case

Milan Dragišić was charged with the murder of three and attempted murder of another three Bosniak civilians on September 20th, 1992 in Gaj (Bosanski Petrovac, BiH). The defendant was a member of the Republic of Srpska Army at the relevant time.

at, while the other witnesses had no direct knowledge of the critical event. At the main hearing on September 15th, defense witnesses Milorad-Mile Radošević, Željko Tubić and Duško Karanović testified to the mental state of the defendant at the time when the body of his brother, who had been murdered, was delivered (revenge for the brother's murder is considered to be the motive for the commission of the criminal offense), and they stated that the defendant was screaming and "wailing" over the death of his brother at the time, and that he seemed "lost" and absent when people came to offer their condolences.

At the main hearing on July 1st, the prosecution witnesses - Fadila Bašić, Vasva Hujić, Fedhija Kurtović, Suphija Butlić and Predrag Rokvić – were examined. Only one of these witnesses, Fadila Bašić, saw the defendant running down the street and shooting, although she did not see who the defendant was shooting

Trnje/Tërrnje Case

Pavle Gavrilović and Rajko Kozlina were charged with killing 27 Albanian civilians on March 25th, 1999 in the village of Trnje/Tërrnje (Municipality of Suva Reka/Suharekë, Kosovo).



The defendants were members of the Yugoslav Army at the relevant time.

At the main hearing on June 6th, the [witnesses](#) Aleksandar Stevanović, Bojan Gajić and Dragan Rajić were examined, as members of the Yugoslav Army and the Battalion commanded by the defendant Gavrilović. The witness Dragan Rajić did not have any direct knowledge of the critical event. The witness Bojan Gajić, as an eyewitness, accused the defendant Kozlina of the murder of an elderly man, and also accused him indirectly of participating in the murder of a group of civilians in a backyard. The witness Aleksandar Stevanović stated that, to his knowledge, an order was issued by “someone holding a higher rank” to burn down all the houses in the village of Trnje/Tërrnje and to kill everyone. He also said that shots were fired everywhere in the village, that he saw soldiers shooting civilians, and that after two days they returned to the village with the defendant Rajko Kozlina to collect the corpses.

Doboj Case

Dušan Vuković was charged with inflicting physical injuries and psychological torture on several persons who were deprived of their liberty in the period from May 1992 to March 1993, thus causing great physical

and psychological suffering to the prisoners, with one of the prisoners succumbing to injuries and consequently dying. At the time, Dušan Vuković was employed as a guard in the County jail in Doboj (BiH). Other guards also allegedly participated in the commission of the criminal offenses.

At the main hearing on July 14th, the defendant denied that he had committed the crimes he was charged with. At the hearing on October 11, the [witness](#) Mustafa Kovačević, who was in prison during the relevant period, stated that he saw the defendant beating a prisoner.

Ključ-Kamičak Case

Marko Pauković and Dragan Bajić were charged with killing 5 Bosniak civilians on October 10th, 1992, in the village of Kamičak (Municipality of Ključ, BiH). The defendants were members of the Military Police unit within the Republic of Srpska Army's 6th Sana Brigade at the relevant time.

At the main hearing, held on September 8th, the defendants denied that they had committed the crimes they were charged with. The defendant Dragan Bajić stated that he was not in Kamičak on the relevant

day, because in this period he was convalescing after suffering injuries inflicted on him on the battlefield in August 1992. The defendant Marko Pauković stated that he got on well with the residents of Kamičak, and that this case was „staged by the judicial authorities of Bosnia and Herzegovina“.

Bratunac Case

Dalibor Maksimović was charged with killing 4 Bosniaks, a crime which he allegedly committed on May 9th, 1992, in the villages of Repovac and Glogova (Bratunac, BiH), together with 4 still unidentified members of the Republic of Srpska Army, and with holding 2 Bosniak women as slaves, one of whom he raped on a number of occasions.

At the main hearing on June 29, the defendant denied committing the offenses he was charged with, stating that at the relevant time, as a member of the Army of the Republic of Srpska, he was in a location which is about 10 km away from the scene of the events. At the hearing held on September 9th, one of the women held captive testified as [protected witness VS 1](#), and described in detail how she was raped by the defendant; and she also stated that he had murdered 4 Bosniak civilians. At the hearing held on October 5, [the wife and daughter of one of the murdered Bosniak civilians testified](#). As eyewitnesses,

they described how their husband and father was murdered, and they described the person who did it. The description they gave matched the description of the defendant which was provided by protected witness VS 1.

Bosanska Krupa Case

Ranka Tomić was charged that she, as the head of the unit called “Women of the Petrovac Front” (Fronta žena Petrovac), together with other members of this unit, had committed acts of torture, inhumane treatment, infliction of great suffering, and violation of bodily integrity, and that, finally, she had participated in the killing of a prisoner of war, who was a nurse in the V Corps of the Army of BiH in July 1992 in Radić (Municipality of Bosanska Krupa, BiH).



The mortal remains of the killed military nurse Kar-men Kremencic were found in 2015, 20 years after the crime (© bihac.net)



At the main hearing, held on October 14th, the defendant denied committing the offense she was charged with. She stated that she learned of the whole event only after she was called in for questioning, and that at the relevant time she was in Belgrade.

Ključ-Šljivari Case

Milanko Dević was charged with murdering a Bosniak civilian in the second half of July in 1992 in Šljivari (Municipality of Ključ, BiH), a crime which he allegedly committed as a member of the Republic of Srpska Army and together with two other soldiers.

At the main hearing, held on October 21st, the defendant denied committing the offense he was charged with. He stated that, as a member of the Republic of Srpska Army, he was deployed at a different location – in the area of the municipality of Vakuf (BiH) at the relevant time. The witnesses Fikret and Hikmet Šljivar, the sons of the murdered victim Ismet Šljivar, were examined, and they stated that they do not have direct knowledge of the event, but that Luka Polić told them that the defendant killed their father. The witness Siniša Obradović stated that he also had heard from Bogdan Šobot that the defendant had murdered Ismet Šljivar, while the witness Semir Šljivar saw the defendant, Bogdan Šobot, and another soldier, whom he did not know, taking away his uncle Ismet.

*Repeated trials

Ćuška/Qushk Case

Toplica Miladinović and 12 other defendants were charged with killing at least 109 Albanian civilians in the villages of Ljubenić/Lubeniq, Ćuška/Qushk, Pavljan/Pavlan and Zahać/Zahaq (municipality Peć/Pejë, Kosovo) in April and May of 1999, crimes which they allegedly committed as members of the 177th Peć/Pejë Military Territorial Detachment.

The repeated trial procedure resumed on July 6th with the examination of the witness Svetozar Jović, who was a member of the Yugoslav Army at the relevant time. This witness had no direct knowledge of the relevant events, and denied having any contact with the defendant Toplica Miladinović in the relevant period.

Lovas Case

Milan Devčić and 9 other defendants were charged with killing 44 Croat civilians in Lovas (Croatia) in October and November 1991. The defendants were members of the Yugoslav People's Army, in the formation called „Dušan Silni” (Dušan the Mighty), and they were also representatives of the local government.



Lovas: The silo used by Serbian forces and the mine field in which civilians were killed (© Humanitarian Law Center)

Evidentiary hearings resumed on July 19th and September 23rd. The court inspected the documents in the case file at these hearings.

*Trial judgments

Gradiška Case

Goran Šinik was charged with killing Marijan Vištica, a civilian of Croatian nationality, in Bok Jankovac (BiH) on September 2nd, 1992, a crime which he allegedly committed as a member of the Army of the Republic of Srpska.

On September 12th and October 6th, the OWCP and the defense presented their closing arguments. The OWCP analyzed the evidence presented and assessed that during the proceedings the charges were completely proven, and proposed the court pronounce

the defendant guilty and sentence him to imprisonment for a term of 9 years. The defense claimed that the OWCP had failed to present a single piece of valid evidence showing that the defendant committed the offense in question, and proposed that the defendant be found not guilty and acquitted of charges.

On October 13th, the Higher Court issued the judgment acquitting the defendant of the charges, finding that the OWCP had failed to prove during the proceedings the allegations in the indictment.

Bosanski Petrovac Case

Neđeljko Sovilj and Rajko Vekić were charged with killing a Bosniak civilian on the local Jazbine-Bjelaj road (Bosanski petrovac, BiH), in the forest called „Osoje“ on December 21st, 1992. The defendants were members of the Republic of Srpska Army at the relevant time.

During the main hearing in the repeated trial held on June 30th, the witness Vera Radošević was questioned about the circumstances relating to the time of the murder of her brother, who was friends with the defendants, which the OWCP assessed to be the motive for their commission of the offense. She confirmed that her brother Zoran



Škorić was killed in December 1992 and that he was buried at the end of the same month. After this testimony, the OWCP and defense attorneys presented their closing arguments. The OWCP assessed that during the proceedings the charges that the defendants committed the offense were proven, and proposed the court pronounce the defendants guilty

and sentence them each to 10 years of imprisonment; while the defense attorneys assessed that there was no evidence supporting the indictment and proposed the court issue an acquitting judgment.

On July 19th, the Higher Court issued a judgment finding the defendants guilty and sentencing them to 8 years of imprisonment each.


Humanitarian Law Center

12 Decanska St.
Belgrade 11000, Serbia


Tel: +381-11-3349-600
+381-11-3349-766
+381-63-210-536

e-mail: office@hlc-rdc.org
www.hlc-rdc.org

Social networks:

 @FHPHLC #towardsJUSTICE

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