

CROATIA

**BRIEFING TO THE HUMAN
RIGHTS COMMITTEE ON
FOLLOW-UP TO THE
CONCLUDING
OBSERVATIONS ON
CROATIA**

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

Amnesty International submits the following briefing to the Human Rights Committee in the context of its procedure for follow-up on concluding observations in relation to the Republic of Croatia. In the concluding observations on Croatia's second periodic report under the International Covenant on Civil and Political Rights (ICCPR), adopted during its ninety-seventh session from 12-30 October 2009, the Committee invited the state party to provide within one year information on the implementation of the recommendations contained in paragraphs 5, 10 and 17 of the concluding observations. On 17 January 2011 the Republic of Croatia submitted its reply to the Committee.¹

Amnesty International remains concerned about the ongoing failure of the authorities of Croatia to fulfil fully their obligations under the ICCPR, and in particular to demonstrate substantive progress with regard to a number of key issues identified by the Committee in its concluding observations.

The organization is particularly concerned about the ongoing failure of the authorities to investigate and prosecute crimes committed during the 1991-1995 war in line with international standards. Amnesty International has documented this failure in a number of reports published since the adoption of the Committee's concluding observations in October 2009.²

This briefing focuses specifically on the lack of follow up the authorities have given to key recommendations of the Committee as set out in paragraph 10 of the concluding observations.³ In particular, it focuses on the Croatian authorities' failure to:

- identify the total number of war crimes cases,
- prosecute war crimes cases expeditiously,
- investigate and prosecute war crimes in a non-discriminatory manner,
- refer cases to special war crimes chambers.

In the interim since our last submission, Amnesty International's research has also noted several other factors which hinder progress in addressing the Committee's recommendations, most notably those concerning registering the number of war crimes cases and prosecuting them expeditiously, for example by:

- failing to bring its legal framework in line with international standards. This includes the lack of specific legal provisions allowing for prosecution of crimes against humanity, war crimes of sexual violence as well as the lack of definition of command and superior responsibility which results in impunity for those crimes.
- failing to address allegations of crimes committed by senior officials.
- failing to provide adequate measures of witness protection and support.
- failing to ensure fair and adequate reparation for victims of war crimes.

As it was documented comprehensively in Amnesty International's report of December 2010, *Behind a Wall of Silence: Prosecution of war crimes in Croatia*, the barriers mentioned above are caused by a number of technical obstacles as well as the lack of political will on the side of the majority of the Croatian authorities to deal with the past.⁴

2. FAILURE TO IDENTIFY THE TOTAL NUMBER OF WAR CRIMES CASES

In October 2009, the Committee recommended that the authorities: "promptly identify the total number and range of war crimes committed, irrespective of the ethnicity of the persons involved, with a view to prosecuting the remaining cases expeditiously" (paragraph 10, bullet point c) of the concluding observations).

Amnesty International is concerned that this recommendation of the Committee has not yet been implemented.

The organization is concerned that the authorities continue to fail to identify the total number of crimes committed during the war, including the numbers of all persons killed as well victims of enforced disappearance, torture, rape and other crimes under international law. Identifying the total number of crimes is a necessary prerequisite to any meaningful effort to address impunity for these crimes. Without that the authorities are not able to identify the resources needed to promptly address those crimes, some of which were committed almost 20 years ago.

In January 2010 the State Prosecutor's Office in a meeting with Amnesty International's delegates stated that according to his records there were 700 cases in Croatia which had been reported to his Office and needed yet to be investigated.⁵

During a meeting with representatives of the State Prosecutor's Office in December 2010, it was explained to Amnesty International's delegation that the current number of recorded cases was less than 500 cases in total. The representatives of the State Prosecutor's Office explained that this reduction was due to the fact that the State Prosecutor's Office had put in place new software which makes it possible to group similar cases, resulting in the reduction of the total number of cases.

However, based on its research, Amnesty International believes that the number of the outstanding cases is probably higher than stated. This is for the following reasons:

- Amnesty International has documented wide discrepancies between the numbers of incidents of war crimes that families of victims and other witnesses cite and the numbers recorded by the authorities. In the Sisak area, for example, the estimates on the numbers of victims vary. The Croatian authorities, including the County Prosecutor in Sisak, estimate that 35 Croatian Serbs were killed or forcibly disappeared in the Sisak area. However, the associations of victims give much higher estimates. Vjera Solar, the president of the Civic

Association against Violence (Građanska Udruga Protiv Nasilja) collected the names of 115 victims; the Union of Serbs in the Republic of Croatia (Zajednica Srba u Republici Hrvatskoj) in their criminal complaint filed in April 2007 with the County Prosecutor in Sisak provided names of 600 people who were killed or forcibly disappeared. Although Amnesty International takes no position on which figure of Croatian Serb victims is accurate, the organization is of the opinion that those significant discrepancies in the reports of numbers of possible victims may indicate that the real number of victims in Sisak has not yet been established. The problem seems to be relevant in many other areas of the country.

- The statistics largely do not include persons in command or superior responsibility. In its 2010 report on prosecution of war crimes in Croatia entitled *Behind a Wall of Silence* Amnesty International documented in detail allegations related to the potential command responsibility of some senior officials for war crimes committed during 1991-1995. Those allegations were related to Davor Domazet Lošo (General of the Croatian Army), Vladimir Šeks (Deputy Speaker of the Croatian Parliament) and Tomislav Merčep (War-time Assistant Minister of the Interior). The crimes for which those individuals might have been potentially responsible are not reflected in the database. Amnesty International is concerned that other crimes based on principle of command or superior responsibility may also not be included in the database.
- The information and possible evidence from civil compensation cases related to war crimes filed by the families of victims of war crimes is not included in the database. Amnesty International is aware of at least 50 such cases.

3. FAILURE TO PROSECUTE CASES EXPEDITIOUSLY

As already cited above, the Committee recommended in October 2009, that the authorities prosecute “the remaining cases expeditiously.”

Amnesty International is concerned that the authorities have failed to implement this recommendation of the Committee. They also continue to fail to increase the capacity of the justice system to promptly investigate and prosecute war crimes.

Unless significant measures and resources are put in place, the slow progress in prosecution of war crimes cases in Croatia will result in an irreversible impunity for those crimes.

According to statistics provided by the Ministry of Justice in the five-year period between 2005 and 2009, the authorities prosecuted 195 persons in 88 war crimes cases – on average less than 18 cases a year.⁶ However, these figures include also 71 people who were prosecuted *in absentia* (65 members of the Croatian Serb forces or the Yugoslav National Army (JNA) and six members of the Croatian Army and police forces). This raises two important issues.

Firstly, trials *in absentia* often violate fair trial rights enshrined in international law, as the accused cannot effectively defend themselves before the court.⁷ Secondly, most of those cases will need to be tried again when the accused becomes available to the judiciary and therefore verdicts in the *in absentia* trials should not be included in the number of final war crimes verdicts in the first place.

As observed above, the Croatian authorities now refer to the figure of 500 unresolved cases of war crimes. Amnesty International disputes this number as not final. However, the organization also observes that even if the total number of 500 cases is correct, it would take at least 30 years to prosecute them, as the Croatian justice system is able to prosecute only an average of 18 cases per year.

Amnesty International considers that this low capacity of the Croatian justice system could lead to irreversible impunity for the majority of war crimes, as with the passage of time fewer witnesses are likely to be available to testify in war crimes proceedings as their memories may fade and thus crucial evidence may be lost.

4. FAILURE TO INVESTIGATE AND PROSECUTE WAR CRIMES IN A NON-DISCRIMINATORY MANNER

In its concluding observations the Committee raised concern about “reports that many potential cases of war crimes remain unresolved, and that the selection of cases has been disproportionately directed at ethnic Serbs” It recommended the authorities to “take effective measures in order to ensure that all cases of war crimes are prosecuted in a non-discriminatory manner, independently of the perpetrator’s ethnicity, and collect statistical data on victims and defendants of past and current war crimes trials” (paragraph 10, bullet point b).

Amnesty International is concerned that the authorities have largely failed to implement this recommendation of the Committee. Prosecution of war crimes continues to be targeted against Croatian Serbs while cases in which Croatian Serbs are the victims receive very little attention. Extensive application of mitigating circumstances by Croatian courts in cases in which defendants are members of the Croatian Army and police forces further provides for discrimination against Croatian Serbs who cannot benefit from the same mitigating factors.

4.1 BIAS AGAINST CROATIAN SERBS IN PROSECUTION OF WAR CRIMES

Amnesty International is concerned that the ethnicity of the accused has played an important role in the decisions which have been made about which cases to investigate and prosecute. In particular, there are indications that a disproportionate number of cases investigated and

prosecuted involve incidents in which the alleged perpetrators are Croatian Serbs while the cases in which the alleged perpetrators are ethnic Croats have received very little attention.

This concern has been raised not only by non-governmental organizations, including Amnesty International⁸, but also by international human rights monitoring bodies and intergovernmental organizations.

EU Progress Reports on Croatia have referred to the issue several times in the past. The 2010 progress report observed that “[...] impunity for war crimes remains a problem, especially where the victims were ethnic Serbs or the alleged perpetrators were members of the Croatian security forces. Many hundreds of cases remain to be investigated and prosecuted, despite recent action by the police and prosecutors. Problems persist in certain localities.”⁹

Amnesty International is aware of some measures undertaken by the Chief State Prosecutor's Office to address the issue of bias against Croatian Serbs. These have included the adoption by the State Prosecutor's Office of instructions for the state county prosecutors aimed at establishing general criteria for work on war crimes cases, including their selection.¹⁰

However, Amnesty International is concerned that since the adoption of those instructions in October 2008 the situation has not changed significantly as the county prosecutors have failed to act on them. No disciplinary measures against those prosecutors have been applied, and neither has there been an analysis of the reasons for an ongoing bias.

The bias in prosecution is evident from the statistical information provided by the government of Croatia. In official statistics for the period 2005-2009, out of the total number of 88 war crimes verdicts adopted in Croatia, 73 related to members of the JNA or Croatian Serb forces or paramilitary units.¹¹ Cases against Croatian Serbs constituted nearly 83 per cent of all war crimes cases prosecuted in Croatia in the last five years.

In terms of the number of prosecuted persons in the same period, 148 members of the JNA or Croatian Serb forces or paramilitary units were prosecuted out of the total number of 195 individuals prosecuted for war crimes in Croatia in the same period.¹² Thus nearly 76 per cent of individuals prosecuted for war crimes in Croatia were members of the JNA or Croatian Serb forces or paramilitary units.

Many of the prosecutions which took place in *in absentia* trials were largely targeted against Croatian Serbs. Out of 148 members of the JNA or Croatian Serb forces or paramilitary units prosecuted for war crimes nearly 44 per cent (65 individuals) were tried in their absence.¹³ In contrast, only six out of 47 members of the Croatian Army or police forces prosecuted for war crimes in the same period were tried *in absentia*, amounting to approximately 13 per cent.

In his report on the latest visit to Croatia the Commissioner for Human Rights of the Council of Europe observed that “the quality of trials in absentia was reported to be low. For example, in some cases the right to a defence counsel was reported not to have been properly safeguarded. This practice has so far led to a perception, especially in the refugee community, that ethnic Serbs, regardless of their war-time past, are potentially subject to arrest and prosecution upon return to Croatia.”¹⁴

4.2 BIAS AGAINST CROATIAN SERBS IN SENTENCING

The apparent ethnic bias is reflected not only in the decisions by prosecutors on which cases to prosecute but also in the sentencing by trial panels of persons convicted of war crimes. Amnesty International's analysis of Croatia's war crimes verdicts shows that mitigating circumstances have been considered more often and more broadly when the perpetrators were ethnic Croats and their victims Croatian Serbs or members of other ethnic communities.

A glaring example of this is the 2009 trial panel verdict at the Požega County Court of members of the Croatian military in the case of Damir Kufner and five other accused.¹⁵

The case against the accused related to war crimes committed by members of the Croatian military police in Marino Selo, near Pakrac. Twenty-five Croatian Serb civilians were detained and interrogated between November 1991 and February 1992. The court concluded that during the course of detention the civilians were subjected to torture and other ill-treatment which included cutting off their ears and fingers, rubbing salt into their wounds, stamping on them, hitting them with metal bars and wooden batons as well as application of electric shocks. As a result of the torture and ill-treatment 18 of the detained civilians died.

The crimes for which the accused were charged carry a sentence either between five to 15 years in prison or the long-term prison sentence of 20 years. Nevertheless, the two accused who were charged in relation to their command responsibility, Damir Kufner and Davor Šimić, received prison sentences of four and a half years and one year, respectively. Both of these sentences are below the minimum prescribed by law. They were imposed following the consideration by the court of "mitigating circumstances". These included among other things, the fact that the crimes were committed in a war situation; the young age of the accused at the time when the crimes were committed; their present family situation as well as the fact that according to the Court's assessment, the first accused "was obviously led by patriotic enthusiasm" at the time when the crimes were committed.

Amnesty International considers that some of the circumstances that the trial court considered as "mitigating" are inappropriate and discriminatory and that the sentence imposed by the Požega County Court was also inconsistent with international standards as it was not commensurate with the gravity of the crimes for which the two accused were found guilty.

The other four accused, Pavao Vančaš, Tomica Poletto, Željko Tutić and Antun Ivezic, were also convicted and sentenced to prison sentences of three, 16, 12 and 10 years in prison, respectively.

On 23 March 2010 the Supreme Court of Croatia quashed the verdict of the Požega County Court on procedural grounds and ordered the case to be retried before the same court.¹⁶

Amnesty International notes with concern that service by the accused in the Croatian Army or police forces during the war is itself considered to be a mitigating factor in sentencing in war crimes trials in county courts in Croatia. Amnesty International considers that such practice runs counter to the duty of judges presiding over war crimes trials to ensure that sentences for such crimes are commensurate with the gravity of the crimes and are not affected by the ethnicity of the accused or the victim.

The organization is extremely concerned that the apparent practice of Croatian county courts

of considering service in the Croatian Army or police forces during the war as a mitigating circumstance in sentencing has been approved and endorsed by the Supreme Court of the Republic of Croatia.

The case against Rahim Ademi and Mirko Norac which was one of the most high-profile and rare cases in Croatia in which the accused were members of the Croatian Army is such a case. The Supreme Court, in its March 2010 verdict, concluded that the trial panel of the Zagreb County Court correctly established the mitigating circumstances in the sentencing of Mirko Norac. The circumstances considered to be mitigating included, among others: the fact that war crimes were committed as part of a lawful military action by the Croatian Army; the participation of the accused in the war for independence; and that he had received medals and decorations for his contribution to the defence of the country. In its verdict, the Supreme Court expanded the application of the mitigating circumstances by concluding that the accused was no longer able to repeat the same acts and that he had committed the crimes in the context of a war situation. In its verdict the Supreme Court also stated that the accused was pursuing the legitimate goal of defending his country against an armed aggression. The Supreme Court considered that the mitigating circumstances were applied too narrowly and that the sentence of seven years' imprisonment imposed by the first instance court was too severe. Consequently, Mirko Norac's sentence was reduced to six years' imprisonment. The acquittal of the other accused, Rahim Ademi, was upheld.¹⁷

Similarly, in the case against Branimir Glavaš and five other co-accused, the ruling of the Supreme Court of Croatia in July 2010, considered the service of the accused in the Croatian Army and the fact that the Republic of Croatia was under attack by foreign forces to be mitigating circumstances to be taken into account in sentencing. The Supreme Court while explaining its decision to decrease the sentence of Branimir Glavaš from 10 to eight years' imprisonment by the application of mitigating circumstances stated that:

“the accused Branimir Glavaš is a person who has not been convicted before, with a very significant contribution to the defence of the Republic of Croatia against the aggressive war, from which he left with the rank of General of the Croatian Army. It should also be appreciated that the underlying criminal acts were committed in the most difficult moments for the survival of the Republic of Croatia, the incriminating acts of the second point were committed after the collapse of Vukovar and the horrible crime that took place against the Croatian civilian population, which does not justify the commission of this crime, but refers to a situation of panic and fear in which the City of Osijek found itself after the fall of Vukovar [...]”¹⁸

A different panel of judges of the Supreme Court in November 2009 also considered the service of the accused in the Croatian Army as a mitigating factor in the appeal of the sentence imposed in a war crimes case against Mihajlo Hrastov.¹⁹

In relation to the verdict in the case against Rahim Ademi and Mirko Norac Amnesty International is extremely concerned that the Supreme Court of Croatia concluded that it was permissible for the Zagreb County Court to consider as a lawful mitigating factor the fact that the war crimes which Mirko Norac was found guilty of were committed as part of a lawful military action by the Croatian Army. Of similar concern is that the Supreme Court also expanded the application of mitigating circumstances by ruling that the sentencing court should have also considered when sentencing him that the accused was pursuing the

legitimate goal of defending his country against an armed aggression.

The organization believes that such assessment of the Supreme Court is inconsistent with international criminal law as highlighted in the ICTY's judgment in the case against Dario Kordić and Mario Čekez. The ICTY Appeals Chamber stated that:

"The unfortunate legacy of wars shows that until today many perpetrators believe that violations of binding international norms can be lawfully committed, because they are fighting for a "just cause." Those people have to understand that international law is applicable to everybody, in particular during times of war. Thus, the sentences rendered by the International Tribunal have to demonstrate the fallacy of the old Roman principle of *inter arma silent leges* (amid the arms of war the laws are silent) in relation to the crimes under the International Tribunal's jurisdiction."²⁰

The ICTY has repeatedly rejected assertions contained in rulings of the Supreme Court of Croatia that it was lawful to consider as a mitigating circumstance that the crimes perpetrated by the accused were committed in the context of a war situation. For example in its judgment in the appeal of case against Tihomir Blaškić the ICTY Appeals Chamber explained that:

"[A] finding that a 'chaotic' context might be considered as a mitigating factor in circumstances of combat operations risks mitigating the criminal conduct of all personnel in a war zone. Conflict is by its nature chaotic, and it is incumbent on the participants to reduce that chaos and to respect international humanitarian law. While the circumstances in Central Bosnia in 1993 were chaotic, the Appeals Chamber sees neither merit nor logic in recognizing the mere context of war itself as a factor to be considered in the mitigation of the criminal conduct of its participants."²¹

Amnesty International is concerned that the Supreme Court of Croatia's rulings on the lawfulness of consideration of particular mitigating circumstances has resulted in judicially approved discrimination, as it endorses more favourable sentencing treatment of individuals for war crimes for those who fought in the war in defence of Croatia. The fact that these rulings, unless and until challenged in an international forum, will serve as a precedent to be followed by the county courts presiding over war crimes trials is of extreme concern.

Amnesty International's concerns about this issue, raised in numerous meetings with the Croatian authorities, have been echoed by others. For example, the European Commission, in its Progress Report on Croatia in October 2010, observed that "the use of mitigating factors in sentencing gives rise to different treatment linked to ethnicity."²²

The Commissioner for Human Rights of the Council of Europe in his latest report on Croatia urged the Croatian authorities "to take effective measures to ensure that cases of war-related crimes are always prosecuted in an unbiased manner, independently of the alleged perpetrator's ethnic or other background, in accordance with the general prohibition of discrimination of Protocol No 12 to the European Convention on Human Rights. Service in the Croatian army or police forces should not be a mitigating circumstance for serious human rights violations."²³

5. FAILURE TO REFER CASES TO SPECIAL WAR CRIMES CHAMBERS

Amnesty International is concerned that the Croatian authorities have failed to fulfil the recommendation of the Committee to “ensure that the possibility to refer cases to the special war crimes chambers is utilized to the fullest extent” (paragraph 10, bullet point c).

The organization notes with concern that the special war crimes chambers have not been formally established in Osijek, Split and Rijeka and that these courts have not received any war crimes cases for prosecution which could be transferred to them based on the 2003 Act on the Application of the Statute of the International Criminal Tribunal and on the Prosecution of Criminal Offences against International Military and Humanitarian Law. Since the law was adopted in 2003 only the Zagreb County Court has received war crimes cases from outside of its jurisdiction based on the provisions of the 2003 Act, and then only two such cases.

The 2003 Act also mandated the establishment of special investigative centres within the special war crimes chambers which were supposed to assist in investigation of crimes under international law. Those investigative centres have not been created by the authorities in any of the special war crimes chambers.

In January 2010, the president of the Osijek County Court informed Amnesty International that a special war crimes chamber had not been established in Osijek. He said that he did not consider it to be necessary due to the very small number of war crimes cases prosecuted within the county.

The failure of the authorities to establish the special war crimes chambers in Osijek, Split and Rijeka as well as the very limited number of only two war crimes cases prosecuted in the only special war crimes chamber established in Croatia, the one in the Zagreb County Court, run counter to recommendations made by several international human rights bodies. Already in 2001 the Human Rights Committee recommended the establishment of the special war crimes chambers.²⁴ In 2009 the Committee urged the Croatian authorities to “increase [their] efforts to ensure that the possibility to refer cases to the special war crimes chambers is utilized to the fullest extent”.²⁵

The Commissioner for Human Rights of the Council of Europe, in a report following his visit to Croatia in April 2010 encouraged “the reinforcement of the four county courts which specialise in war-related crime trials, as well as the establishment of efficient, special investigation departments therein.”²⁶

The problem of the lack of use of the special war crimes chambers has also been also recognized in the 2008, 2009 and 2010 EU Progress Reports on Croatia.

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Further, witness support services exist in only two out of four county courts in which the special war crimes chambers were supposed to be established (the County Court in Osijek and the County Court in Zagreb).

Amnesty International is concerned that the failure of the authorities to effectively establish and support the special war crimes chambers in Croatia may reflect a lack of political will to make prosecution of war crimes in the country a priority.

ENDNOTES

¹ See *Information received from the Republic of Croatia on the implementation of the concluding observations of the Human Rights Committee*, CCPR/C/HRV/CO/2/Add.1, 4 February 2011, available at: http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.HRV.CO.2.Add.1_en.doc; and *Concluding observations of the Human Rights Committee – CROATIA*, CCPR/C/HRV/CO/2, 4 November 2009, <http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.HRV.CO.2.doc>. For Amnesty International's submission in advance of the Committee's consideration of Croatia's state report see *Briefing to the Human Rights Committee on the Republic of Croatia*, AI Index: EUR 64/001/2009, 21 January 2009, <http://www.amnesty.org/en/library/info/EUR64/001/2009/en>.

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² Those documents include: *Croatia: Response of Amnesty International to the "Observations on Amnesty International's report "Behind a Wall of Silence"*, AI Index: EUR 64/003/2011, 8 February 2011, <http://www.amnesty.org/en/library/info/EUR64/003/2011/en>; *Croatia: Behind a Wall of Silence: Prosecution of war crimes in Croatia*, AI Index: EUR 64/003/2010, 9 December 2010, <http://www.amnesty.org/en/library/info/EUR64/003/2010/en>; *Croatia: Briefing to the European Commission and member states of the European Union (EU) on the progress made by the Republic of Croatia in prosecution of war crimes*, AI Index: EUR 64/002/2010, 23 April 2010, <http://www.amnesty.org/en/library/info/EUR64/002/2010/en>; and *Croatia: Briefing to the United Nations Committee against Torture*, AI Index: EUR 64/001/2010, 15 April 2010, <http://www.amnesty.org/en/library/info/EUR64/001/2010/en>.

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³ Paragraph 10 of the Concluding Observations of the Committee reads:

"Notwithstanding the State party's public commitment to proceed with all outstanding war crime cases, the Committee remains concerned about reports that many potential cases of war crimes remain unresolved, and that the selection of cases has been disproportionality directed at ethnic Serbs. It regrets the lack of statistical information provided by the State party on the ethnicity of the perpetrators and victims in national war crimes proceedings. It notes the low number of cases prosecuted before special war crimes chambers. The Committee also regrets the lack of detailed information on cases in which the Amnesty Law has been applied. Finally, the Committee notes with concern that the State party still has not located and turned over to the International Criminal Tribunal for the former Yugoslavia (ICTY) the necessary records concerning military shelling by Croatian forces during the 1995 Operation Storm, to allow the Tribunal's investigation to proceed. (arts. 2, 6, 7, 14 of the Covenant).

The State party should:

- a. promptly identify the total number and range of war crimes committed, irrespective of the ethnicity of the persons involved, with a view to prosecuting the remaining cases expeditiously;
- b. take effective measures in order to ensure that all cases of war crimes are prosecuted in a non-discriminatory manner, independently of the perpetrator's ethnicity, and collect statistical data on victims and defendants of past and current war crimes trials;
- c. increase its efforts to ensure that the possibility to refer cases to the special war crimes chambers is utilized to the fullest extent; and
- d. ensure that the Amnesty Law is not applied in cases of serious human rights violations or violations that amount to crimes against humanity or war crimes; and
- e. expedite the recovery and delivery of the records of Croatian military operations required by the ICTY in the completion of its investigative work;
- f. ensure the suspension of the operation of the statute of limitation for period of the conflict to allow the prosecution of serious cases of torture and killings."

⁴ The report is available under the following link:
<http://www.amnesty.org/en/library/info/EUR64/003/2010/en>.

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⁵ During the meeting Amnesty International delegates were also provided with the latest annual report of the State Prosecutor's Office which contained the same number of cases. See: *Izveštje o radu državnih odvjetništva u 2008. godini*, The Chief State Prosecutor's Office June 2009. Table 24, p142.

⁶ *Government Comments on the report by Mr Thomas Hammarberg*.

⁷ In its concluding observations adopted in October 2009 the Committee also expressed concern about those war crimes trials held *in absentia* and recommended the state party to "ensure that persons convicted in absentia have access to effective remedies with the possibility to re-open a case, and that all such trials are held in conformity with article 14 of the Covenant in light of General Comment No. 32 (paragraphs 31 and 36)", see paragraph 11 of the concluding observations.

⁸ See as examples, *Croatia: Briefing to the European Commission and Member States of the European Union on the Progress Made by the Republic of Croatia in Prosecution of War Crimes Cases*, AI Index EUR 64/002/2010, April 2010; *Croatia: Briefing to the Human Rights Committee on the Republic of Croatia*, AI Index EUR 64/001/2009, 21 January 2009.

⁹ *Croatia: 2010 Progress Report*, European Commission, 9 November 2010, p8.

¹⁰ *Naputak u svezi primjene odredbi OKZRH i ZKP u predmetima ratnih zlocina – kriteriji (standardi) za kazneni progon*. The Chief State Prosecutor's Office (Drzavno Odvjetnistvo Republike Hrvatske). Number: O-4/08, 9 October 2008.

¹¹ Official statistics provided by the Government of Croatia in the *Government Comments on the report by Mr Thomas Hammarberg*.

¹² *Government Comments on the report by Mr Thomas Hammarberg*.

¹³ *Government Comments on the report by Mr Thomas Hammarberg*.

¹⁴ *Report by Mr Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Croatia from 6 to 9 April 2010*. p. 17, para 82.

¹⁵ *RH vs. Damir Kufner, Davor Šimić, Pavao Vančaš, Tomica Poletto, Željko Tutić and Antun Ivezić*, Požega County Court, case number K 11/o9.

¹⁶ *RH vs. Damir Kufner, Davor Šimić, Pavao Vančaš, Tomica Poletto, Željko Tutić and Antun Ivezić*. Decision of the Supreme Court of the Republic of Croatia, case number I Kz 585/09-11.

¹⁷ *RH vs. Rahim Ademi and Mirko Norac*, I Kž 1008/08-13.

¹⁸ *RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić*, Case No. I Kz 84/10-08. Verdict of the Supreme Court of Croatia announced on 30 July 2010.

¹⁹ *RH vs. Mihajlo Hrastov*, III Kž 12/09-10.

²⁰ *Prosecutor v. Kordić & Čerkez*, ICTY, Case No. IT-95-14/2-A, Judgment (Appeals Chamber), December 17, 2004. para1082.

²¹ *Prosecutor v. Blaškić*, ICTY, Case No. IT-95-14-A, Sentencing Judgment (Appeals Chamber), July 29, 2004, para711.

²² *Croatia: 2010 Progress Report*, European Commission, 9 November 2010. p50.

²³ *Report by Mr Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Croatia from 6 to 9 April 2010*. p19, para99.

²⁴ *Croatia: Concluding observations of the Human Rights Committee*, CCPR/CO/71/HRV, 30 April 2001, para10.

²⁵ *Croatia: Concluding observations of the Human Rights Committee*, CCPR/C/HRV/CO/2, 29 October 2009, para10.

²⁶ *Report by Mr Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Croatia from 6 to 9 April 2010*. pp19-20, para100.

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