RESPONSE OF AMNESTY INTERNATIONAL TO THE "OBSERVATIONS ON AMNESTY INTERNATIONAL'S REPORT "BEHIND A WALL OF SILENCE"

AMNESTY INTERNATIONAL

Amnesty International Publications

First published in 2011 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

Index: EUR 64/003/2011
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

Cover photo: [Credit]

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

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1. GENERAL OBSERVATIONS

Amnesty International welcomes the public discussion on the prosecution of crimes committed during the 1991-1995 war in Croatia following the organization's report *Behind a wall of silence: Prosecution of war crimes in Croatia* (EUR 64/003/2010), published in December 2010.

Amnesty International is aware that the Ministry of Justice of the Republic of Croatia has issued observations on the organization's report, and would like to take this opportunity to address here some of the issues raised in those observations.

Amnesty International would also like to reiterate its overall conclusions that despite some progress in a number of areas, there remain serious shortcomings in the prosecution of war crimes in Croatia.

2. METHODOLOGY OF RESEARCH WORK

A. AMNESTY INTERNATIONAL'S LONG HISTORY OF WORK ON CROATIA

Amnesty International has been working on the issue of war crimes in the former Yugoslavia since 1991 when the war in Croatia started. Crimes committed in Croatia were, for example documented in the following reports issued by the organization at the beginning of the war:

- *Yugoslavia: Torture and deliberate and arbitrary killings in war zones*, Index: EUR 48/26/1991, November 1991

- *Yugoslavia: Further reports of torture and deliberate and arbitrary killings in war zones*, Index: EUR 48/13/1992, March 1992

Since then the organization has been actively involved in documenting the occurrence of war crimes in Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia (including Kosovo). In all of the countries the organization has been calling on the authorities to bring those responsible for the war crimes to justice in proceedings which meet international fair trial standards, and to provide the victims, including the families of those forcibly disappeared, abducted or killed with access to reparation as defined by international law.

B. INITIAL RESEARCH AND COUNTRY VISITS FOR *BEHIND A WALL OF SILENCE*

The research for the report on Croatia entitled *Behind the Wall of Silence* started in January 2007 when Amnesty International visited Croatia to collect information about the measures undertaken by the authorities to address the issue of war crimes committed in the country.

Researchers met with members of the Croatian judiciary, victims of war crimes and their families, lawyers representing victims, representatives of the international community and government officials. In February 2008 another research mission took place.

In April 2008, the Secretary General of Amnesty International travelled to Croatia, where she met and discussed the organization's findings with senior Croatian officials including

- Chief State Prosecutor Mladen Bajić,
- the then-Minister of Justice Ana Lovrin,
- the then-Deputy Prime Minister and current Prime Minister Jadranka Kosor
- and the then-President Stipe Mesić.

The authorities were urged to undertake urgent measures to address the issue of war crimes.

During these meetings Amnesty International was assured that the authorities of Croatia treated prosecution of war crimes and addressing the legacy of the conflict as their highest priority. The officials committed themselves to undertaking a series of urgent measures to address the issue.

Between April 2008 and January 2010 Amnesty International continued monitoring the implementation of those commitments by the Croatian authorities by conducting a desk research from its headquarters in London.

C. ADDITIONAL RESEARCH AND OFFICIAL MEETINGS IN 2010

In January 2010 Amnesty International visited Croatia again, and met:

- the then-Minister of Justice Ivan Šimonović and other representatives of his ministry as well as officials from other government departments including:
- Ministry of Foreign Affairs
- Ministry of the Interior
- Government Commission on Missing Persons
- Chief State Prosecutor Mladen Bajić and his deputies.

Meetings with Croatian non-governmental organizations, lawyers representing victims of war crimes and journalists took place in Zagreb and Osijek. The research team also visited the county courts in Zagreb and Osijek and talked to the presidents of those courts as well as the staff responsible for providing witness support services. Amnesty International representatives met with the representatives of the UN Development Programme (UNDP) to discuss the implementation of their project on witness support services in Croatia.

During a further visit between March and April 2010 an Amnesty International team spent a

month conducting field research in Croatia. They talked to victims of war-time human rights violations in different locations in the country. Visits to the county courts in Sisak, Vukovar and Bjelovar took place where Amnesty International conducted war crimes trial monitoring and met with the presidents of those courts. In Vukovar an Amnesty International delegate meet the court staff providing witness support services. In Sisak, a meeting was also held with the Head of the Police and his deputies as well as with the Sisak County Prosecutor and his deputy.

The current report *Behind the Wall of Silence* was based on the interviews conducted by Amnesty International with the above-mentioned interlocutors between 2007 and 2010. Official documents and statistics provided by the Croatian authorities were also taken into consideration along with their written replies to questions from Amnesty International. [1] Other information used included public reports by NGOs monitoring war crimes cases in Croatia, war crimes judgments available in the public domain or obtained directly from the authorities, and public reports and recommendations issued by international human rights bodies. International legal standards and jurisprudence of international courts as well as domestic legislation relevant to prosecution of war crimes was also analysed in this report.

D. CONSULTATION WITH CROATIAN AUTHORITIES PRIOR TO PUBLICATION

In July 2010 Amnesty International addressed the State Prosecutor's Office in writing informing him about the upcoming report on prosecution of war crimes which was initially intended to be published in September 2010. The organization also communicated to him the allegations against some high ranking political and military leaders against whom sufficient public information existed to open an investigation. Those allegations, among others, were related to the potential command responsibility of Vladimir Šeks, Davor Domazet Lošo and Tomislav Merčep. In order to allow more time to the authorities to reply the date of the launch of the report was postponed until December 2010. Despite that no response was received from the State Prosecutor's Office.

Two weeks before being published, the draft of the report was sent to the Croatian authorities for their comments but no comments were received by the launch date. The following Croatian authorities received draft copies of the report:

- Prime Minister - Jadranka Kosor
- Chief State Prosecutor – Mladen Bajić
- Minister of Justice – Mladen Bošnjaković
- President - Ivo Josipović

Amnesty International requested meetings before the launch of its report with the authorities mentioned above. Unfortunately the Prime Minister declined to meet with Amnesty International delegation but assured the organization that the government would be represented by the Minister of Justice. While the Minister of Justice declined to meet with our delegates in person, we were able to meet with several officials from his ministry.

Amnesty International had a very good and open dialogue with the President and with the

representatives of the State Prosecutor's Office although the State Prosecutor himself did not attend the meeting in person.

3. MATERIAL CONSULTED BY AMNESTY INTERNATIONAL DURING RESEARCH

As stated earlier, Amnesty International based its research for *Behind a Wall of* Silence on a range of sources that included first-hand observation, interviews and consultation of other publicly-available research on the topic of war crimes prosecutions in Croatia, including that provided by the government of Croatia. The Ministry of Justice asserts that Amnesty International has failed to consider certain relevant material; specifically they cite two Status Reports by the Organization for Security and Co-operation in Europe (OSCE).

Amnesty International notes that the Status Reports by the OSCE are not public, which is the reason why they were not used in the report. However, Amnesty International has now requested those reports and will analyse them along with other reports produced by the OSCE on Croatia.

It appears that the two, short reports by the Head of the OSCE Office in Zagreb which the Ministry of Justice cites do not represent the full picture of the OSCE's analysis. Amnesty International observes that the OSCE Office in Croatia in the period between 2005 and 2010 (which was the period covered by Amnesty International's report) produced many more reports on the issue of war crimes. While it is true that some OSCE reports are more positive in their assessment of the issue than is Amnesty International or other international organizations, many are also quite critical.

The material includes fortnightly reports on particular issues and war crimes cases. Amnesty International believes that the best indication of the assessment of the OSCE on whether Croatia has fully addressed the obstacles to effective prosecution of war crimes cases in line with international standards is the fact that on 16 December 2010 the Permanent Council of the OSCE decided to extend the mandate of the Office in Croatia.

More importantly, Amnesty International's report considered and largely agreed with the assessments of several other international and domestic organizations which have made public findings and recommendations on prosecutions of war crimes cases in Croatia. These reports included:

- Concluding observations of the UN Human Rights Committee from 29 October 2009[2]

- Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visit to Croatia from 6 to 9 April 2010

- Annual reports on war crimes prosecution by the Centre for Peace, Non-Violence and Human Rights Osijek; Documenta – Centre for Dealing with the Past; Civic Committee for Human Rights as well as other publically available case reports by these three Croatian non-governmental organizations

Many problems identified by Amnesty International were also highlighted in the Progress Reports issued by the European Commission in 2009 and 2010 as well as in the closing benchmarks for Chapter 23.

4. AMNESTY INTERNATIONAL TAKES NO POSITION ON THE CAUSES OF THE WAR IN CROATIA

Amnesty International does not have an opinion on nation formation or on the causes of wars and has never expressed an opinion on who started the war in the former Yugoslavia. Amnesty international is a human rights organization and as such its focus has always been the human rights of all people irrespective of their nationality. The question of origin of wars or state formation is beyond the remit of the organization. No such opinions were expressed in Amnesty International's report entitled *Behind a Wall of Silence*.

In order to avoid the potential for misunderstanding on this and other issues, Amnesty International made available drafts of the report for comment by the Croatian authorities two weeks prior to publication.

5. STATISTICS AND WAR CRIMES DATABASE

The figure of 700 pending cases in Croatia which was used in the report is based on the information provided by the State Prosecutor's office in January 2010 in a meeting with Amnesty International's delegates.[3] In several letters sent to the authorities of Croatia, Amnesty International requested updates to those statistics, but never received a reply. Additionally, the statistics used by Amnesty International were not disputed by the authorities when a draft copy of the report was presented to them ahead of its publication.

During the meeting with representatives of the State Prosecutor's Office in December 2010, a day before the publication of the report, it was explained to Amnesty International's delegation that the current number of 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.

Amnesty International observes however that even if the total number of 500 cases is correct, it would take at least 30 years to prosecute them, based on the statistics provided by the government (which were not disputed) that at the moment the Croatian justice system is able to prosecute only an average of 18 cases per year.

However, based on its research, Amnesty International believes that the number of 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. The Sisak area is just one of such examples

- The statistics largely do not include persons in command or superior responsibility. For example names such as Davor Domazet Lošo, Vladimir Šeks and (until recently) Tomislav Merčep are not recorded in the database

- The information and possible evidence from civil compensation cases related to war crimes filed families of victims of war crimes is not included in the database. Amnesty International is aware of at least 50 such cases.

6. RETROSPECTIVE APPLICATION OF THE LAW IN PROSECUTION OF CRIMES UNDER INTERNATIONAL LAW

Amnesty International urges the Croatian government to use its 1997 Criminal Code, as subsequently amended, in the prosecution of international crimes committed during the war. This code contains crucial additions – such as the inclusion of crimes against humanity – that are missing from the 1993 Criminal Code currently in use in such cases.

The Croatian Ministry of Justice objects to applying the 1997 code to crimes committed during the war on that grounds that this would violate the principle of legality. This argument is incorrect.

The principle that states may enact legislation defining crimes under international law as crimes in their penal code after those crimes were committed has been recognized since 1948 when the Universal Declaration of Human Rights was adopted. Article 11 (2) states:

"(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it

was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed."

This provision, as well as similar provisions in human rights treaties, was included to remove any doubt concerning the legality of the judgments of the International Military Tribunal at Nuremberg and the International Military Tribunal for the Far East at Tokyo and to ensure that future crimes under international law could be punished in accordance with the same principles.[4] The same concept of legality is included in the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Article 15 of the ICCPR provides:

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 7 of the European Convention on Human Rights contains nearly identical language.[5]

These provisions indisputably do not apply to the punishment of crimes which, at the time of their commission, constituted crimes under international law. The prohibition against crimes against humanity has been recognized as part of customary international law since the Second World War. The prohibition is also recognized as *jus cogens*. All states are legally obliged to punish perpetrators of crimes against humanity, or extradite them to a state capable of doing so, regardless of whether crimes against humanity were explicitly criminalized under their domestic law at the time of their commission or not. Since crimes against humanity are universally recognized as crimes under international law – and were so during the time such acts were committed in the former Yugoslavia – it does not violate the principle of legality to punish them, even if they were not expressly criminalized in domestic law at the time they were committed.

Indeed, it is this principle, recognized in the Nuremberg Charter and judgments, which the international law exceptions in Article 15 of the ICCPR were designed to address.[6] If this were not the case, prosecutions of the most serious international crimes, such as those tried at the International Military Tribunal at Nuremberg, or the International Criminal Tribunal for the former Yugoslavia, would not be possible.

This principle has also been upheld by the European Court of Human Rights.[7]

Croatia is a state party to the Vienna Convention on the Law of Treaties, which not only provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith (*pacta sunt servanda*) but also, and more importantly, states that "[a]

party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."[8] This applies to all treaties to which Croatia is a state party, including the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, which applies to these crimes "irrespective of the date of their commission."[9]

http://www2.ohchr.org/english/law/pdf/warcrimes.pdfThe Ministry of Justice's objection that the Croatian Constitution, in Article 140 prohibits direct domestic application of treaties without ratification and publication is therefore irrelevant. Croatia is obliged to recognize in all circumstances the supremacy of both conventional international law and customary international law with regard to its national law. This obligation applies to all national law, including constitutions and legislation. Therefore, Croatia, should have undertaken all legislative and constitutional amendments necessary to comply with its obligations under treaties and customary international law – such as the obligation to investigate and prosecute those responsible for crimes under international law.

In addition, it appears that the professed inability to apply customary international law domestically is contradictory to the earlier assertions of the Croatian government when it was seeking the transfer of the case of Rahim Ademi and Mirko Norac from the ICTY under rule 11bis. As the decision to refer states, "The Government and the *Amici* submit, however, that these differences between the Tribunal's jurisprudence on command responsibility and the applicable law of Croatia will not necessarily lead to acquittal. It is suggested, thus, that the Croatian courts, although not bound to do so, may choose to apply customary international law because, at the time of the alleged criminal conduct, command responsibility was part of customary international law. A second possibility, proposed by both the Croatian Government and *Amici*, would be to apply Additional Protocol I to the Geneva Conventions, which has been ratified by Croatia".[10]

7. LACK OF DEFINITION OF CRIMES AGAINST HUMANITY

Crimes against humanity are not specifically defined in the 1993 Basic Criminal Code of Croatia which results in impunity for perpetrators of such crimes, irrespectively of their ethnicity. To ensure that there is no doubt by prosecutors and judges that persons can be prosecuted in Croatia for crimes against humanity they should be included in national criminal law. It is also consistent with Croatia's complementarity obligations as a party to the Rome Statute of the International Criminal Court to ensure that its courts are able and willing genuinely to try persons suspected of crimes against humanity.

8. LACK OF ADEQUATE DEFINITION OF COMMAND RESPONSIBILITY

Behind a Wall of Silence raises the concern that the 1993 Basic Criminal Code does not explicitly define command or superior responsibility and that this important omission facilitates the practice of failing to adequately investigate or prosecute those in positions of authority during the commission of war crimes. The Ministry of Justice of Croatia in their response maintained that despite this omission in the current legal framework, courts have nonetheless been able to hold persons in positions of command or superior responsibility legally responsible.

International standards on superior and command responsibility

Article 86 of Additional Protocol I to the Geneva Conventions, which Croatia ratified on May 1992 provides the following:

"Failure to act

1. The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so.

2. The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach."

Article 87 of Additional Protocol I to the Geneva Conventions sets out the duty of commanders:

"1. The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol [….]

3. The High Contracting Parties and Parties to the conflict shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or of this Protocol, to initiate such steps as are necessary to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof."

Command responsibility is described in the Statute of the ICTY as criminal responsibility of a commander or other superior who knew or had reason to know that a subordinate was about to commit or had committed acts which violate international humanitarian law and are subject to the ICTY's jurisdiction under the Statute "and

the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof."[11]

In support of this claim the Ministry of Justice cites the case against Mirko Norac and Rahim Ademi in which the first accused was convicted for his command responsibility based on Article 28 of the 1993 Basic Criminal Code which defines acts of omission.

However, as Amnesty International noted in its discussion of this case in *Behind a Wall of Silence*, the organization is concerned that this example remains an isolated one, and that it falls considerably short of what international standards on command responsibility require.

In the case of Rahim Ademi and Mirko Norac prosecuted before the Special War Crimes Chamber in Zagreb and appealed to the Supreme Court, Mirko Norac was convicted for war crimes against civilians and war crimes against prisoners of war under the 1993 Basic Criminal Code because he knew that his subordinated officers were committing crimes but did not do anything to prevent them from doing that in his capacity as a commander.

However, the Supreme Court found that Mirko Norac could not be criminally liable for the crimes which were committed by the units under his command on the first day of the military operation "Međak Pocket" (9 September 1993), reasoning that he could not have prevented them until he learnt that those crimes took place.[12] The Court did not appear to consider, as it is required by the current international standards, whether he *should have known* that the crimes were about to be committed -- nor did it consider his failure to take measures to ensure the perpetrators were punished for their actions to be criminal and that their cases were submitted to prosecuting authorities for the purpose of prosecution.

As a result 7 victims of the crimes committed on the first day of the military operation were denied justice and the conviction related only to 5 victims who were killed after the first day of the operation. In addition, crimes against almost 30 victims who were named in the indictment were not taken into conisideration as the court panel decided that the command responsibility for those crimes rested within the police forces.

Accordingly, Amnesty International shares the concerns of two Croatian, non-governmental organizations monitoring this case, Documenta and the Civic Committee for Human Rights, that the application of the principle of command responsibility based on the 1993 Basic Criminal Code is not consistent with the definition of superior and command responsibility under international law and in it may, in fact result in impunity for war crimes, both for military commanders and civilian superiors.[13]

9. LACK OF ADEQUATE DEFINITION OF WAR CRIMES OF SEXUAL VIOLENCE

Behind a Wall of Silence documents shortcomings in the definition of crimes of sexual violence in the 1993 Basic Criminal Code which, coupled with a lack of adequate investigation into crimes of sexual violence, often results in impunity for these crimes.

Among the most serious failings of this law, it includes only rape and enforced prostitution as crimes and provides no definition of either crime. Amnesty International expressed the concern that Croatian courts, consistent with their practice of not applying the law in line with international standards, would not reflect international jurisprudence on sexual violence, which rejects the requirement of force and focuses on the absence of consent, and on coercive circumstances.[14]

The Ministry of Justice recalled its current Criminal Code and also mentioned that the draft of the new Criminal Code explicitly adopts provisions in line with international standards. A reference was made to "the absence of consent as a central feature in qualifying rape, as opposed to the application of force or threat" in the new draft Criminal Code.

Amnesty International welcomes the progress made by the Croatian authorities towards upgrading the country's legal framework.

However, the organization is concerned that the practice of the Croatian courts is not to apply the current Criminal Code but to rely on the 1993 Basic Criminal Code which does not criminalize war crimes of sexual violence in line with international standards. Consequently, the use of force might need to be proven as an element of rape which is inconsistent with international standards. Such practice has been in fact been creating impunity for war crimes of sexual violence.

The case law of the ICTR and the ICTY have both rejected that force or threat of force is a requirement of rape – although it may exist in many cases. In the Kunarac case, the ICTY approached the crime of rape as a violation of sexual autonomy and noted that such autonomy was violated "wherever a person subjected to the act has not freely agreed to it or is otherwise not a voluntary participant."[15] The Tribunals went on to determine that coercion and coercive environments may also amount to rape even where there was no direct use or threat of force. The International Criminal Court's Elements of Crimes states:

"The invasion was committed by force, or by threat of force or coercion such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against a person or another person , or by taking advantage of a coercive environment , or the investigation was committed against a person incapable of giving genuine consent."

Similar problems would also be encountered in prosecution of war crimes of sexual violence based on the current Criminal Code. Although Article 188 of the 1997 Criminal Code, recognizes the principle of coercion, it only applies where someone "coerces another by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him." A separate offence of sexual intercourse by duress in Article 190 in similarly limited to "a serious threat or serious harm." Although Article 189 recognizes sexual violence taking advantage of vulnerable persons, the offence is based on their inability to resist rather than their inability to provide genuine consent. Importantly Article 191 does provide for a crime of sexual intercourse by Abuse of Position. Therefore, it is clear that the national provisions fail to implement many of the provisions on coercion and taking advantage of a coercive environment set out in international law.

10. ISSUE OF *IN ABSENTIA* PROCEEDINGS

Amnesty International raised several concerns related to the practice of trying defendants *in absentia*. These concerns dealt with the human rights (most notably fair trial) implications of these trials, but also with the tendency towards bias against ethnic Serb defendants.

In response, the Ministry of Justice asserts that these concerns have been met by a review of all *in absentia* judgments with the possibility to seek review of judgments based on new evidence and by amendments which allow for those convicted in such judgments to seek a retrial.

However, Amnesty International remains concerned that the limited scope of this review is insufficient to fully ameliorate the deficiencies we have noted. For example, according to the 2010 OSCE Status Report (which the Ministry of Justice referred to in their response to Amnesty International's report), as of October 2010 the State Prosecutor's Office had sought judicial review of only in 20 per cent of convictions (93 convictions out of the total number of 465).

The 2010 OSCE Status Report also observed that "based on the new legal possibility, four defendants have requested such renewals, with three of them having had their requests rejected". The report further noted: "Edita Radjen is the only defendant who got her request for renewal granted for the time being, after proceedings which lasted over four years."

Based on the information provided by the OSCE Amnesty International believes that the issue of *in absentia* proceedings still remains to be fully addressed as 80 per cent of in absentia convictions are yet to be reviewed.

In addition to that the organization is concerned that the new procedure which theoretically allows individuals to request reviews of *in absenti*a conviction is ineffective. This is due to the fact that 75 per cent (three out of four) of such requests have been rejected. It is also of great concern that the only review which was granted upon the applicant's request took four years to be decided. Moreover, such review does not address the need to vacate all judgments

obtained *in absentia* and to provide new trials with a full opportunity to present a defence and to contest the evidence before different judges.

The Council of Europe Commissioner for Human Rights in June 2010 stated the following:

"The Commissioner is concerned that despite this progress, war-related criminal trials in absentia against ethnic Serbs continued, despite the reported opposition from the State Attorney's Office. In 2009 54% of Croatian Serb defendants were reported to be tried in absentia, in the context of two large trials in the county court of Vukovar. 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."[16]

11. MITIGATING CIRCUMSTANCES AND BIAS IN SENTENCING AGAINST CROATIAN SERBS

The Ministry of Justice concedes that Croatian courts consider service on the Croatian side of the war as a mitigating circumstance in the punishment of war crimes. However, it incorrectly asserts that this practice is neither impermissible nor discriminatory.[17]

The consideration of the political motive for which a person fought in the context of war crimes prosecutions fundamentally blurs the distinction between *jus ad bellum* and *jus in bello* – a fundamental distinction in international humanitarian law between the reasons for which a war is fought, and the manner in which it is fought.

As we note in our report, the ICTY has explicitly rejected the consideration of motive or "just cause" in the sentencing of crimes under international law.[18] The Special Court for Sierra Leone, citing approvingly the judgment of the ICTY, has similarly concluded that "[a]llowing mitigation for a convicted person's political motives…undermines the purposes of sentencing rather than promoting them. In effect, it provides implicit legitimacy to conduct that unequivocally violates the law."[19]

As stated by the International Committee of the Red Cross: "The fact of being the aggressor or the victim of aggression, of espousing a just or an unjust cause, does not absolve anyone from his obligations nor deprive anyone of the guarantees laid down by humanitarian law, even though it may be relevant and have an effect in other fields of international law."[20]

Quite simply, there exists no political cause which can justify the commission of war crimes or crimes against humanity.

The Ministry of Justice also asserts that the consideration of participation on the Croatian side of the war as a mitigating circumstance in sentencing is not discriminatory since such participation has also been considered as an aggravating circumstance, and because Croatian forces at the time encompassed a range of political beliefs and ethnicities. However, Amnesty International is not aware of any cases in which participation in the Croatian Armed Forces was considered an aggravating factor in a war crimes prosecution.

Moreover, the political beliefs of members of the Croatian Army and police forces are not relevant to the question of discrimination based on ethnicity. While it may be true that the Croatian Armed Forces contained soldiers of multiple ethnic backgrounds, it is indisputable that the consideration of this factor would disproportionately favour ethnic Croats and would disproportionately not be available to ethnic Serbs.

12. ON THE POTENTIAL COMMAND RESPONSIBILITY OF VLADIMIR ŠEKS FOR WAR CRIMES IN EASTERN SLAVONIJA

Amnesty International is extremely concerned by the response of the Ministry of Justice regarding Vladimir Šeks in relation to his potential command responsibility for war crimes. The refusal by the Ministry to consider whether evidence in the public domain may warrant an investigation demonstrates a troubling lack of impartiality which may be perceived as pressure on the independence of the justice system, including the State Prosecutor's Office, whose responsibility it is to investigate such evidence.

As explained in Amnesty International's report, the concerns we raise regarding Vladimir Šeks were based on Croatian court judgments. Amnesty International, while conducting its research, also sought clarification of those allegations from the State Prosecutor's Office. To this end on 27 July 2010 Amnesty International communicated its concerns related to the alleged command responsibility for war crimes of Vladimir Šeks to the State Prosecutor's Office. The organization has not received a reply to this letter. The draft of the report was also sent to the Ministry of Justice and to the State Prosecutor's Office in advance of its publication.

Our concerns regarding Vladimir Šeks are based on several facts established by the Zagreb County Court in its verdict of 8 May 2009 in the case against Branimir Glavaš and other co-accused.

As established by the Zagreb County Court in the verdict of 8 May 2009 in the above-mentioned case, on 29 July 1991 Vladimir Šeks was appointed President of the Regional Crisis Headquarters for the Eastern Slavonija Region.[21] In this post, Vladimir Šeks was

responsible for "general supervision of the activities of the Headquarters and managed the work of the Headquarters as a whole", while the military commander of the Headquarters, Colonel Franjo Pejić, was responsible for the military command of armed units.[22] Apart from Vladimir Šeks and Franjo Pejić, five more people were appointed members of this Headquarters, including Branimir Glavaš.[23]

As it appears from the testimony of Branimir Glavaš, as referred to in the verdict of the Zagreb County Court of 8 May 2009:

"Vladimir Šeks performed the duty of the President of the Regional Crisis Headquarters for Eastern Slavonija and Baranja from July until September 1991 and in that capacity he had supreme military and political powers in Slavonija, and he was informed about all events which took place in Osijek."[24]

The same verdict referring to the events which took place in Osijek on 31 August 1991 reads:

"the target of the alleged terrorist was exactly the 1st defendant Branimir Glavaš, although at the time there were persons who were formally more significant in the chain of command than the 1st defendant, including Vladimir Šeks in the capacity of the President of the Regional Crisis Headquarters."[25]

Other witnesses testified that in addition to his formal role, Vladimir Šeks, together with Branimir Glavaš, were unofficial leaders in the town of Osijek. This was claimed by witness Josip Boljkovac who, according to the May 2009 verdict in the Glavaš case, said that:

"[D]uring 1991, Osijek was outside of the control of the then leadership of the Republic of Croatia and that it was impossible to do anything in the city without Vladimir Šeks and the first defendant Branimir Glavaš, who were in charge."[26]

In the context of his potential liability for command responsibility, Amnesty International is concerned by the statement of Vladimir Šeks cited in the above-mentioned verdict of the Zagreb County Court:

"The witness Vladimir Šeks testified that on 31 August 1991 around midnight, he was returning from the field. On that occasion he found a group of men in the yard of the complex where the Regional Crisis Headquarters was located, and he saw a man lying on the ground who was probably dead. At that moment the on-site investigation was taking place and when he asked what had happened, one of the soldiers present told him that it was a terrorist who jumped over the fence and headed towards the Municipality building in which the Regional Crisis Headquarters, the SNO [Sekretarijat narodne obrane – Secretariat of National Defence] and other bodies were located. After that, he went to the SNO, to Branimir Glavaš' office, where he also met Colonel Franjo Pejić, from whom he heard with regard to that terrorist the same thing that he had already heard in the yard. He stated that in the period from July, August and September 1991 he did not see civilians being brought to the garages next to the SNO building or to the building itself or that they were abused, that is tortured, there, nor did he ever receive information about such events."[27]

From this public information, it appears that Vladimir Šeks may not have taken any steps with respect to members of the armed forces under his command or other persons under his control, to prevent and, where necessary, to suppress or to report to competent authorities breaches of the Geneva Conventions and of Protocol I.

The Zagreb County Court in its May 2009 verdict established that indeed individuals were brought in to the garages next to the SNO building and to the building itself, and that some of them were tortured there. Part of conviction against Branimir Glavaš was based on this assessment. [28]

Given that Vladimir Šeks claimed that during a period of three months he did not see any civilians being brought to the garages, saw torture or other abuses or received information about such events, it appears possible that he may not have acted on information which should have enabled him to conclude in the circumstances at the time, that some of his subordinates were committing or were going to commit such breaches and that he may not have taken all feasible measures within their power to prevent or repress the breach.

The facts indicating that Vladimir Šeks might potentially have had command responsibility for crimes committed in Osijek which were established by the Zagreb County Court include:

- Testimony of Vladimir Šeks– pages 48 and 82 of the verdict of the Zagreb County Court
- Testimony of Josip Boljkovac – page 54 of the above verdict
- Testimony of Ivica Krnjak – page 15 of the above verdict
- Testimony of Branimir Glavas – page 9 of the above verdict
- Decision of the President of the Republic of Croatia dated 29 July 1991

Those facts were confirmed by the verdict of the Supreme Court of Croatia in July 2010.

Following the publication of Amnesty International's report new information became publicly available. This includes:

- Testimonies of victims of war crimes in Eastern Slavonija submitted on 13 January 2011 to the State Prosecutor's Office by the Croatian NGO Youth Initiative for Human Rights. One of the victims who gave those testimonies explicitly claimed to have attempted to report the enforced disappearance of her husband to Vladimir Šeks who failed to undertake measures to investigate the case when he realized that the victim was Croatian Serb [29]

- A video reportedly from 1991 which was published on the web site of Croatian daily *Novi List* in which Vladimir Seks, wearing what appears to be an army uniform, makes the following statement as the President of the Crisis Headquarters in Eastern Slavonija: "All [military] units of the Republic of Croatia, on the territory of the town of Osijek, will act in accordance with orders of the Crisis Headquarters"[30]

- An article published on 25 January 2011 in the Croatian weekly *Nacional* in which the alleged killing of 20 civilians and police officers in Sarvas was documented. The article

claimed that Vladimir Šeks, due to his superior position in Eastern Slavonija, must have known about these crimes and had failed to exercise his duty under the principle of command responsibility[31]

13. WITNESS SUPPORT AND PROTECTION

Amnesty International reiterates its position that measures of witness support and protection are not available to the majority of witnesses in war crimes proceedings in Croatia. At the moment only four county courts have established witness support units and plans to expand those services to other courts have not been yet implemented.

The organization welcomes the plans to establish such units in Split, Sisak and Rijeka.

However, Amnesty International remains concerned that most serious cases of witness intimidation remain unaddressed in Croatia. This includes the killing in August 2000 of a potential witness of the ICTY, Milan Levar. More than a decade later the perpetrator of this crime has not been brought to justice.

Other cases of witness intimidation documented in the latest report by Amnesty International are still waiting to be addressed. They include:

- intimidation of witnesses during the trial against Branimir Glavaš
- intimidation of witnesses in Sisak, including Vjera Solar
- ongoing intimidation of witnesses in court room by members of associations of former combatants.

14. USE OF THE SPECIAL WAR CRIMES CHAMBERS

Amnesty International in its report documented how the county courts in Croatia lack the capacity to prosecute war crimes cases.

This lack of capacity manifests itself in the limited number of cases prosecuted so far: trials which fall short of international criminal law and international fair trial standards; lack of measures of witness support and protection; pressure on victims and witnesses in war crimes proceedings by local communities and members of the associations of Croatian veterans; and ethnic bias against Croatian Serbs in case selection by county prosecutors and in sentencing by trial panels. In addition, allegations of war crimes committed by senior military and

political leaders remain unaddressed as those allegedly responsible are still in positions of power.

Amnesty International in its report recommended the use of the special war crimes chambers in prosecution of war crimes.

In their response to Amnesty International's report the Ministry of Justice stated that the organization provided an incorrect number of cases prosecuted in those special war crimes chambers. The Ministry maintained that in 2010, 10 cases were transferred to the special war crimes chambers.

Amnesty International welcomes the transfer of those cases.

The organization would like to emphasize, however, that only two cases have actually been prosecuted in special war crimes chambers so far, and this number which Amnesty International referred to in its report is still correct. In the report the organization was referring only to competed cases. The 10 cases mentioned by the Ministry of Justice in their response are still at very early stages of investigations. In some of them indictments have not even been yet issued and none of those, newly transferred cases has been concluded.

It may still take several years before persons suspected of committing war crimes in those cases are brought to justice.

ENDNOTES

1 Between 2008 and 2010 Amnesty International addressed the Croatian authorities in relation to prosecution of war crimes cases on several occasions and asked the authorities to provide written answers. These letters included, a letter to the Chief State Prosecutor dated 9 July 2009 (reference number TG EUR 64/2009.001); letter to the Minister of Justice dated 9 July 2009 (reference number TG EUR 64/2009.002); letter to the Minister of Justice dated 11 February 2010 (reference number TG EUR 64/2010.002); letter to the Chief State Prosecutor dated 11 February 2010 (reference number TG EUR 64/2010.003); letter to the Minister of Justice dated 03 March 2010 (reference number TG EUR 64/2010.005); letter to the General Director of the EU and International Cooperation, Ministry of Justice (reference number TG EUR 64/2010.015). All of the letters apart from the one addressed to the Chief State Prosecutor dated 11 February 2010 remained unanswered.

In addition, Amnesty International's members have been contacting the authorities asking them about the measures undertaken in several individual cases of war crimes. Most of those letters have remained unanswered by the authorities.

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

3 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: Izvješće o radu državnih odvjetništva u 2008. godini, The Chief State Prosecutor's Office June 2009. Table 24, p142

4 Raimo Lahti, 'Article 11', in Gudmundur Alfredsson and Asbjørn Eide, eds., The Universal Declaration of Human Rights: A common standard of achievement, The Hague/Boston/London, Martinus Nijhoff Publishers, 1999, 239, 247.

5 The Articles reads: "1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations."

6 See Nowak, Manfred, U.N. Covenant on Civil and Political Rights: CCPR Commentary, 2nd revised edition (2005), p. 360 and 368 ("The reference to international law ("droit international") in Art. 15(1) is attributable by Uruguay and France in the HRComm in 1949. According to the proponents of these proposals, this was to prevent a person from escaping punishment for an international crime by pleading that the offence was not punishable under the national law of the State in question. It can furthermore be seen from the discussions in the 3d Committee of the GA that the term "international" law was to mean both international treaty law and customary international law. As in Art. 15(2), the reference to international law in para. 1 also represents a limitation on the guaranteed right. A person may be held guilty of an act or omission that was not punishable by the applicable national law at th time the offence was committed so long as this was punishable under international treaty law or customary international law in force at the time the offence was committed…the travaux préparatoires show that Art. 15(2) was primarily to relate to the principles of international law recognized in the Nuremberg Charter and judgments," [Citations omitted].

7 See Papon v. France, (No. 2) no. 54210/00. November 15, 2001; Touvier v. France, No. 29420/95, January 13, 1997; Kolk and Kislyiy v. Estonia, Nos. 23052/04 and 24018/04, January 17, 2006; and Streletz, Kessler and Krenz v. Germany, Nos. 34044/96, 35532/97 and 44801/98, March 22, 2001 (Loucaides, J., concurring). The case cited by the Ministry of Justice of the Republic of Croatia, Başkaya and Okçuoğlu v. Turkey, Nos. 23536/94 and 24408/94, is not relevant to this question, since it deals with the retroactive application of domestic law – a fundamentally different legal question.

8 Vienna Convention on the Law of Treaties, Vienna, 23 May 1969, Arts. 26 and 27.

9 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, Adopted and opened for signature, ratification and accession by General Assembly resolution 2391 (XXIII) of 26 November 1968, Entry into force: 11 November 1970.

10 ICTY, Decision For Referral to the Authorities of the Republic of Croatia Pursuant to Rule 11bis, Case No.: IT-04-78-PT, 14 September 2005, para. 37.

11 Statute of the International Criminal Tribunal for the former Yugoslavia, as amended on 7 July 2009 by Resolution 1877. Article 7.3.

12 RH vs. Rahim Ademi and Mirko Norac, verdict of the Supreme Court of Croatia of 18 November 2010, I Kz 1008/08-13.

13 The statement by the Civic Committee for Human Rights (Konferencija za tisak povodom presude VSRH u predmetu okrivljenih Ademija i Norca za zločin počinjen u Medačkom Džepu) is available under the following web address: http://www.goljp.hr/ratni-zlo%C4%8Dinmeda%C4%8Dki-d%C5%BEepademinoracpresuda the statement by Documenta Presuda VSRH za Medački džep is available under the following web address: http://www.documenta.hr/documenta/index.php?option=com_content&view=article&id=189%3Apresuda-vsrh-za-medaku-dep&catid=55%3Apravomocno-presudjena&Itemid=63&lang=hr

14 Amnesty International in its report documented at least one case in which the application of the current legal framework led to impunity for war crimes of sexual violence.

The accused Damir Raguž-Vide and Željko Škledar were tried before the County Court in Sisak. According to the judgment they verbally and physically abused the three male victims, and hitting them around the head, forcing them sing Croatian nationalist songs, and stabbing them with knives and bayonets. They broke the arms, legs and fingers of their victims. They also cut off the genitals of one of their victims and made a wound in the testicles of the other one. Later they killed all three men with a burst from a machine gun. The accused took Sajka Rašković to the bedroom upstairs where she was forced to undress and lie down on the bed. The accused cut her neck and chest with knives and bayonets and killed her by firing several bullets at her. According to witnesses the victim was found naked in the bed with her legs spread wide.

Despite the clear indication that acts of sexual violence might have been perpetrated against both male and female victims, the prosecutor working on the case, relying on the 1993 Basic Criminal Code decided not to charge the accused with any of such acts.

15 Prosecutor v. Kunarac et al. (IT-96-23, IT-96-23/1). Known also as the Foča case.

16 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. 16-17, para 82.

17 The MoJ's response makes reference to a document analysing this legal practice, which was accepted as credible by an Australian court adjudicating an extradition request. However, the use of this document in a domestic Australian proceeding regarding a wholly different subject matter cannot be considered as any indication of the legal merit of the use of such mitigating circumstances in domestic war crimes prosecutions in Croatia.

18 Amnesty International, Behind a Wall of Silence: Prosecution of War Crimes in Croatia, 2010, EUR 64/003/2010, p. 25. Contrary to the MOJ's assertion, the rejection of this rationale by the ICTY is not due to the lack of a definition of aggression as an international crime.

19 Special Court for Sierra Leone, Prosecutor v. Fofana and Kondewa, Judgment of the Appeals Chamber, 28 May 2008, paras. 533-4.

20 Commentary on Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, http://www.icrc.org/ihl.nsf/COM/470-750002?OpenDocument.

21 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p43 and the Decision of the President of the Republic of Croatia of 29 July 1991, (case sheets 8876-8884).

22RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p43.

23 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p43 and case sheets 8876-8884.

24 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p9.

The text of the verdict in Croatian reads "Vladimir Šeks je dužnost predsjednika Regionalnog kriznog štaba za Istočnu Slavoniju i Baranju obnašao od srpnja do rujna 1991. i u tom svojstvu je imao vrhovnu vojnu i političku vlast u Slavoniji, te je bio upućen o svim događajima u Osijeku [...]"

25 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009.p93.

The text of the verdict in Croatian reads "Meta navodnog teroriste bio upravo I optuženi Branimir Glavaš, iako se u to vrijeme tamo nalazile osobe koje su formalno u zapovjednoj hijerarhiji bile značajnije u odnosu na I optuženog, te Vladimir Šeks, kao predsjednik Regionalnog kriznog štaba, potvrđuje njegovu povezanost s ovim događajem."

26 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p54. Case sheets 9054-9057.

27 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p82.

The text of the verdict in Croatian reads "Svjedok Vladimir Šeks je iskazao da se 31. kolovoza 1991. godine oko ponoći vraćao s terena. Tom prilikom je u dvorištu kompleksa gdje se nalazio i Regionalni krizni štab zatekao skupinu ljudi, a na tlu je vidio čovjeka koji je vjerojatno bio mrtav. U tom trenutku vršen je očevid, a na upit što se dogodilo, netko od prisutnih mu je rekao da je to terorist koji je preskočio ogradu te se uputio prema zgradi općine u kojoj su se nalazili Regionalni krizni štab, SNO i drugi organi. Nakon toga on je otišao u SNO, u ured Branimira Glavaša gdje se nalazio i pukovnik Franjo Pejić, od kojih je u vezi tog teroriste čuo isto ono što su mu rekli i na dvorištu. Navodi da u razdoblju od srpnja, kolovoza i rujna 1991. godine nije vidio da bi se u garaže pokraj zgrade SNO-a, pa niti u samu zgradu, dovodili civili i da bi tamo bili zlostavljani odnosno mučeni, niti je o takvim događajima dobio informaciju."

28 RH vs. Branimir Glavaš, Ivica Krnjak, Gordana Getoš-Magdić, Dino Kontić, Tihomir Valentić and Zdravko Dragić, Case No. X K-rz-1/07, Zagreb County Court. Judgment of 8 May 2009. p3.
The pertinent part of the verdict, attributing criminal responsibility to Branimir Glavaš, reads: "On 31 August 1991, after members of the same unit brought up two persons to one of the garages in the yard next to the Secretariat, one of whom was Čedomir Vučković, they were hitting Čedomir Vučković the whole day with hands, legs and weapon parts, while in the evening hours a member of the aforementioned unit, Zoran Brekalo, poured acid from a battery and forced Čedomir Vučković to drink it. After Čedomir Vučković, due to strong pain caused by the acid, broke through the garage door and went out to the yard, Krunoslav Fehir fired several shots in his direction, two of which hit him in the abdomen and hand causing him a gunshot wound to the abdomen and a gunshot wound to his right forearm, but the death of Čedomir Vuković was the result of sulphuric acid poisoning."

The text of the verdict in Croatian reads: "31. kolovoza 1991. nakon što su u jednu od garaža u dvorištu pored Sekretarijata pripadnici iste postrojbe priveli dvije osobe od kojih je jedna bila Čedomir Vučković, cijeli dan Čedomira Vučkovića udarali rukama, nogama i dijelovima oružja, a u večernjim satima pripadnik navedene postrojbe Zoran Brekalo istočio kiselinu iz akumulatora te natjerao Čedomira Vučkovića da je popije, pa nakon što je Čedomir Vučković zbog jakih bolova uzrokovanih kiselinom provalio vrata na garaži i izašao van na dvorište, Krunoslav Fehir u njega ispalio nekoliko hitaca od kojih su ga dva pogodila u trbuh i ruku zadavši mu prostrijelnu ozljedu trbuha i prostrijelnu ozljedu desne podlaktice, ali je smrt Čedomira Vukovića nastupila od otrovanja sumpornom kiselinom."

29 Youth Initiative for Human Rights. Press Release on War Crimes Comitted in Vukovar in the Summer of 1991. Available under the following web address: http://hr.yihr.org/en/article/66

30 VIDEO: Šeks znao sve o događajima u Osijeku ''91? Available under the following web address: http://www.novilist.hr/hr/Vijesti/Hrvatska/VIDEO-Seks-znao-sve-o-dogadajima-u-Osijeku-91

31 Pokolj policajaca i civila u Sarvašu: Slučaj o kojem je Šeks morao znati. Nacional, 25 January 2011. The article is available here: http://www.nacional.hr/clanak/100454/pokolj-policajaca-i-civila-u-sarvasu

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