

CROATIA**Velimir Ze_evi_ , retired judge**

Velimir Ze_evi_ is a retired judge from Dubrovnik of Serbian ethnic origin. He has worked both as a municipal court judge and a district court judge in Dubrovnik. He is reportedly shortly to go on trial before the military court of Split on charges of undermining the territorial unity of the Republic of Croatia, under Article 236 (b) of the Croatian Criminal Code. This is an offence punishable by three to 15 years' imprisonment.

On 12 December 1992 Velimir Ze_evi_ was indicted together with 12 other men of Serbian or Montenegrin ethnic origin, from Dubrovnik. Two of his co-defendants, Jovan Pejovi_ (aged 37) and Milenko Rajji_ (aged 70), are lawyers. Velimir Ze_evi_ is the only defendant currently under arrest and will almost certainly be the only defendant to be present at the trial: his co-defendants either fled before arrest or were exchanged in prisoner exchanges between Croatia and the Federal Republic of Yugoslavia in August 1992. Amnesty International does not know when criminal proceedings started in this case, but at least one co-defendant, Jovan Pejovic, was arrested in June 1992; he and three others were included in an exchange of prisoners between Croatia and Yugoslavia on 14 August 1992.

Velimir Ze_evi_ was reportedly beaten by police in Zagreb on the occasion of his arrest on 17 December 1992. A medical report of 18 December issued by the Clinical Medical Centre in Zagreb states that he had bruises on the left side of his face caused by blows. Since then he has been detained in custody (in Split and possibly in Dubrovnik).

It is also reported that over two weeks after the Deputy Military Prosecutor filed the indictment in this case, Velimir Ze_evi_ had still not been given a copy of the indictment, in clear contravention of legal guarantees in national law and international law, including Article 14(3) of the International Covenant on Civil and Political Rights.

Amnesty International is also concerned about the nature of the charges against Velimir Ze_evi_ et al: they are charged with "having by the use of force and other unconstitutional means sought the secession of a part of the territory of the Republic of Croatia and its annexation to other states". A closer examination of the text of the indictment reveals, however, that none of the defendants are accused of having used force, but rather of having taken part in meetings where the use of force was allegedly discussed. Amnesty International believes that the distinction between the use of force or its advocacy and the discussion of the use of force is a crucial one and is disturbed that in this case the distinction has been obscured in a manner which can only be to the detriment of the accused.

The charges against the defendants concern meetings which certain of them are alleged to have held in the period from April 1990 to October 1992 with Montenegrin political leaders, officers of the counter-intelligence service of Yugoslav National Army (JNA), and with Bo_idar Vucurevic, currently the leader of the self-proclaimed Serbian Autonomous Region of Eastern Herzegovina (in the Republic of Bosnia-Herzegovina), but at the time a local municipal chairman. The charges also refer to meetings the defendants allegedly held in Dubrovnik in which they are supposed to have discussed collecting arms and evacuating the Serbian population of Dubrovnik. Although this is not entirely clear from the indictment, it appears that these were meetings of the Yugoslav Independent Democratic Party in Dubrovnik, a political party which supported the maintenance of the Yugoslav federation and opposed Croatian independence.

Amnesty International notes that Article 236, under which the accused have been indicted, was published in the Croatian official gazette on 28 February 1991 - thus with regard to some of the points of the indictment it has been used retroactively against the defendants.

The specific charges against Velimir Ze_evi_ are that in June 1990 (that is, a year before Croatia declared its independence), he, together with Jovan Pejovi_ and one other defendant, had a meeting with the President of Montenegro, Momir Bulatovic, described in the indictment as "one of those who created the idea of the attack of the so-called JNA on the Dubrovnik area and its annexation to Montenegro". Amnesty International notes that the indictment does not state what the content of this meeting was, and that in principle, there is no reason why a meeting by three citizens of a federal state with the leader of one of the units of that state should be illegal. According to one of the participants, the subject of the meeting was their concern that the recent break-up of the League of Communists of Yugoslavia might herald the break-up of the Yugoslav state.

Velimir Ze_evi_ is also accused of having met Bo_idar Vucurevic, then chairman of the Trebinje municipality (in Herzegovina), in May 1991 (again before Croatia's declaration of independence, and before the outbreak of war). At this meeting he, Milenko Reljic and one other defendant allegedly discussed the evacuation of the Serbian population of Dubrovnik to Trebinje, in the event of war.

Velimir Ze_evi_ is accused, together with the other defendants, of knowing of the plans to attack Dubrovnik and annex the Dubrovnik region to Montenegro, and in the period after the founding of the Yugoslav Independent Democratic Party in Dubrovnik in 1990 (to Amnesty International's knowledge this political party was not illegal at the time) up to October 1991, of having met each other and discussed the collection of arms and the evacuation of the Serbian population of Dubrovnik, with the aim of facilitating the JNA attack on Dubrovnik.

Lastly, Velimir Ze_evi_ and a number of others are accused of having left Dubrovnik after it was attacked in order to give the false impression that the Serb inhabitants of the town were under threat from Croatian extremists.

The indictment does not cite any evidence in support of these charges other than to call for the examination by the court of one witness and for the examination of the court file, including documentation found at the defendants' homes during police searches. The court records appear to include statements by four of the accused (who were exchanged in prisoner exchanges).

From the above it is clear that none of the accused are charged with having used violence; the issue of whether they advocated its use is less clear. In the specific case of Velimir Ze_evi_, it is alleged that he participated in meetings of the Yugoslav Independent Democratic Party at which the collection of arms was discussed - however, the indictment does not state that he personally advocated the collection of arms. Amnesty International believes, accordingly, that he may be a prisoner of conscience, detained because of his non-violent exercise of his right to freedom of expression, in violation of Article 19 of the International Covenant on Civil and Political Rights.

[Amnesty International further notes that on 17 December 1992, the day of the arrest of Velimir Ze_evi_, his son Vojislav Ze_evi_, a lawyer, found that a member of the Croatian Army had forcibly taken possession of his office in Dubrovnik. Although the municipal court of Dubrovnik the following day ordered that Vojislav Ze_evi_ be reinstated in his office, the Croatian Army declined to offer any assistance in dislodging its member. Vojislav Ze_evi_, who at the time was acting as defence lawyer for a Serb in another similar trial, was consequently denied access to his office and to his documentation. He has since reportedly left Croatia.]

GENERAL BACKGROUND INFORMATION

In 1990 multi-party elections took place in all six republics of Yugoslavia bringing nationalist parties to power. In the Republics of Croatia and Slovenia these parties began to press for independence. These demands were blocked, primarily by Serbia, which had large minorities both in Croatia and in the Republic of Bosnia-Herzegovina. Croatia's moves towards independence were strongly resisted by many Serbs in Croatia (who accounted for 11.5 per cent of a total population of 4.5 million in Croatia) who saw the end of a federal Yugoslavia as effectively changing their status as members of the largest national group within federal Yugoslavia to that of a minority within Croatia. Their fears were fuelled by constitutional changes which they regarded as confirming this reduction in their status and by various measures which revived memories of the persecution and massacre of Serbs, Jews and Gypsies by the fascist Ustasha authorities in the state of Croatia established under German and Italian protection in the Second World War. Nationalist sentiment and resentments were exploited by media and politicians in both Serbia and Croatia. Leaders of Serbian enclaves in Croatia made it known that if Croatia chose independence they would demand a revision of internal borders so that areas with a predominantly Serbian population would secede from Croatia to join the Republic of Serbia. By the end of 1990 Serbian paramilitary forces had effectively established areas in Croatia under their own control and began to proclaim these areas as "Serbian autonomous districts". Clashes between local Serbian paramilitary forces and Croatian security forces had become a frequent occurrence by February 1991. The federal army, that is the JNA, was deployed to separate the parties in conflict. Its impartiality was soon contested by the Croatian authorities who accused it of protecting Serbs in their campaign to gain territory. Following Croatia's declaration of independence on 25 June 1991, clashes between Serbian paramilitary forces and Croatian security forces multiplied. By 7 September 1991, when a European Community-sponsored Yugoslavia peace conference opened in the Hague, Serbian paramilitary forces, with the support of JNA units, had gained control over almost a third of Croatian territory. Dubrovnik, which was under siege by JNA units for many months, and suffered heavy shelling, became a symbol for the international community of Serbian aggression and destruction. The effect of all these events in Dubrovnik was inevitably to radicalise Croatian nationalist sentiment and to increase the fears of local Serbs that they would be persecuted because of their ethnic origin. While some Serbs clearly opposed Croatian independence, others had mixed loyalties or supported the Croatian side in the conflict. Amnesty International has received complaints that Serbs in Dubrovnik, and elsewhere in Croatia, have been unfairly dismissed from work, have

frequently been refused Croatian citizenship or received no response to their applications, and have been subject to other forms of discrimination, particularly as regards housing. Many have left Croatia.

According to official Croatian figures, some 20,000 people were charged between August 1990 and June 1992 with armed rebellion, many of whom were tried *in absentia*. Over 70 per cent of those charged were Serbs. Among these were people who appeared to have been prosecuted solely because of their ethnic origin. For example, a Serb from the Split area arrested in June 1992 and charged together with 44 others with "armed rebellion" was detained in prison for two months, despite lack of evidence against him. He was then, against his will, offered in an exchange of prisoners with the Federal Republic of Yugoslavia. In August 1992 he refused to be exchanged and returned to Split, where he was rearrested for 24 hours before finally being released. Proceedings against many people charged with "armed rebellion" were discontinued under an amnesty granted in September. Amnesty International has been informed that the offence with which Velimir Ze_evi_ and his co-defendants have been charged is not covered by the amnesty.

LEGAL BACKGROUND

Following the outbreak of conflict, President Tudjman decreed various changes to the law governing the competence of courts, and to the application of the Codes of Criminal Law and Criminal Procedure. According to the Croatian lawyer Slobodan Budak (cited in the Split newspaper *Slobodna Dalmacija* of 25 January 1993), these changes were made in violation of the Croatian constitution which provides that such changes can only be made with the support of the majority of the members of the Assembly, which President Tudjman did not ask for. Slobodan Budak was also critical of the fact that these changes were officially justified on the grounds that the country was in a situation of war, although no state of war was ever formally proclaimed and correspondingly no end to this state (and to "war legislation") need be declared. In addition, the Croatian Government did not inform the Secretary General of the United Nations of the restrictions it had placed on certain rights, as it is legally bound to do as a signatory of the International Covenant on Civil and Political Rights.

The changes decreed by President Tudjman included the expansion of the competence of military courts to cases in which civilians are charged with offences "from the military sphere". Thus, despite the fact that a ceasefire came into effect on 3 January 1992, allowing plans to go ahead to establish a UN peace-keeping force in the zones of conflict in Croatia, the defendants in this trial, although civilians, are to be tried by a military court.

Further procedures for cases tried by military courts have been simplified. An indictment can be filed without an investigation having been carried out, and there is no possibility of filing an appeal against an indictment. If an investigation is carried out, it does not have to be carried out by an investigating judge, but may be conducted by an army officer. Evidence and witnesses do not have to be examined in court. Evidence-taking may be reduced to the simple reading of statements by witnesses. The accused may be convicted in his or her absence on the basis of such evidence. Appeals in cases tried by military courts are heard in the absence of the parties (whereas in cases tried by civilian courts both prosecutor and defence lawyers may be present and raise points they consider important to the assessment of the appeal).

In the case of Velimir Ze_evi_ and his co-defendants it appears that an investigation was carried out by a qualified military investigating judge. Amnesty International considers it almost certain that Velimir Ze_evi_ has a defence lawyer; however, it does not know who is currently defending him; it is possible that he has been assigned a lawyer *ex officio*.