



# Transitional Justice Bulletin

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## HLC Criminal Complaint against Božidar Delić in the Media in Serbia and Kosovo

On 8 May 2008, HLC filed a criminal complaint against Božidar Delić, a retired major-general, and 10 other persons, mostly members of the 549th motorized brigade of the Yugoslav Army and a number of members of the Ministry of Internal Affairs of the Republic of Serbia, for their role in the murder of several dozens of Kosovo Albanians (42 victims have been identified so far) on March 25, 1999 in the village of Trnje/Ternje in the Suva Reka municipality of Kosovo.

Acting in accordance with a preconceived plan Božidar Delić and 10 other persons committed these murders thus becoming criminally responsible for committing a war crime against the civilian population from Article 142, paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia (KZ SRJ), in connection with Article 22 of the KZ SRJ as co-perpetrators, while some of them are charged as instigators according to Article 23 of the KZ SRJ and accomplices according to Article 24, paragraph 2 of the KZ SRJ.



Božidar Delić

Danas (10-11 May 2008, page 2) *Prosecutor waits for Kandic to complete complaint*. Danas reported that HLC had filed the complaint against

Božidar Delić, as well as carrying the reaction of the Republic of Serbia Office of the War Crimes Prosecutor to the complaint: "The Prosecutor has since last year been leading a pre-criminal investigation into the case relating to crimes committed in the village of Trnje. The HLC's criminal complaint arrived at the Prosecutor's office on 8 May. It was agreed some months ago that Natasa Kandic would provide the statements of Albanian witnesses to the Deputy Prosecutor, but she did not do this until the day before yesterday, when they arrived with the criminal complaint".

HLC has written confirmation signed by one of the War Crime Prosecutors that the Republic of Serbia Office of the War Crimes Prosecutor received the witness statements in question at the end of January 2008.

Blic (10 May 2008, page 7) *Delić begged Carla Del Ponte to quash retirement decision*. Blic put the HLC's criminal complaint in the context of Božidar Delić's request made in 2005 to the former ICTY Chief Prosecutor Carla Del Ponte to do all she could to persuade the Supreme Defence Council of the then-Serbia and Montenegro not to retire him. The article continues with examples of cooperation between Delić and the ICTY Office of the Prosecutor, including Delić's supply of documentation to the Hague Tribunal and his testimony in the trial of Slobodan Milosevic. Blic devotes two sentences to the content of the criminal complaint, stating: "Yesterday a criminal complaint was filed against Delić and ten other members of the JNA and police who are accused of killings tens of Albanians on 25 March 1999 in the village of Trnje in the municipality of Suva Reka."

Blic (11 May 2008, page 17) *Contact with Carla now bothering Delić*. Before publishing the particulars of the HLC's criminal complaint again, Blic reports on the cooperation between Delić former ICTY Chief Prosecutor Carla Del Ponte, drawing attention to the thanks Del Ponte gave





Delić for the invaluable documents he provided in the Haradinaj case in her letter to the Supreme Defence Council of the then-Serbia and Montenegro dated 31 January 2005. In this article, Blic indirectly suggests that the Hague Tribunal did not investigate war crimes that occurred in Delić's area of responsibility during the armed conflict in Kosovo in 1999 in a trade for documents.

Kurir (10 May 2008, page 2) *HLC: Complaint against Delić*. Kurir reported that HLC filed a criminal complaint against Božidar Delić. Kurir writes that Delić told Kurir that HLC's accusation did not bother him since he had detailed documentation about what the units under his control did. According to Delić all those who committed war crimes were punished. "I was there and controlled the work of the units," Delić told Kurir.

Pravda (10-11 May 2008, pages 4, 5-6) *Tadić's lie to destroy me*. Pravda mentions the criminal complaint filed against Božidar Delić by HLC in the context of his not giving testimony before the Hague Tribunal in the Ramush Haradinaj case since he was not, he claims, invited to do so. In the interview Delić dismisses the criminal complaint as an attempt by the Democratic Party to discredit him.

Koha Ditore (10 May 2008) *HLC acts in response to the work of the Serbian War Crimes Court - Kandic presses charges against general Delić for crimes in Ternje, Suhareka*. Koha Ditore reported that HLC pressed charges after the War Crimes Court failed to respond to the testimony of eye witness Bekim Gashi whose mother and four sisters were killed on the 25 March 1999 by Serbian military and police. The article reports that HLC pressed charges against Delić and ten other members of the army and police because War Crimes Court of Serbia failed to act following Bekim Gashi's testimony. Koha Ditore draws attention to the allegation that members of the 549 Motorized Brigade between 25 and 30 March murdered many civilians and that Delić ordered the shelling, burning, murders and forced eviction. To hide the crimes, the survivors and other civilians were evicted from the area and the bodies were buried in a mass grave in

the area of Dragash close to the Albanian border.

### **Regional Consultation yields Important Recommendations for Truth-seeking about War Crimes in former Yugoslavia**

In May 2006, HLC, the Research and Documentation Center (RDC), and Documenta, initiated a process of regional consultations on mechanisms of truth-seeking and truth-telling about war crimes in the former Yugoslavia. Consultations with associations of victims and war veterans, youth organizations, human rights organizations, artists, and journalists have been organized to date. Besides consultations with the aforementioned groups each attended by 35 participants, three regional forums have also been held which gathered a total of 900 civil society representatives from the post-Yugoslav countries. The First Regional Forum was organized in Sarajevo in May 2006; the Second was organized in February 2007 in Zagreb, and the Third in Belgrade in February 2008. During the third forum, HLC, RDC, and Documenta, triggered a debate on a possible regional commission for truth-seeking and truth-telling. Representatives of associations of victims, youth organizations, prosecutors, and judges strongly supported this initiative. The mandate and appellation of this regional commission was also the topic of a regional consultation with representatives of associations of victims, victims, and war veterans held on 9 May 2008, in Podgorica.

Representatives of associations of victims, victims, and war veterans from the post-Yugoslav countries that participated in a Regional Consultation in Podgorica on 9 May 2008 expressed support for the establishment of a Regional Commission for Truth-seeking and Truth-telling about War Crimes in the former Yugoslavia, whose mandate would be to establish and publicly disclose the facts about war crimes, since victims should be acknowledged by others in the region and not only by their co-nationals at a national level.

Participants believe that the initiative for establishing a Regional Commission will have strong support of victims in all post-Yugoslav countries, but are also aware that this initiative cannot succeed without the political will of national





governments in the region and strong support from the international community.

The creation of the Regional Commission requires the strong and broad support of participants in the consultative process, who can be jointly connected within a Regional Coalition. This Coalition should publicly advocate the establishment of a Regional Commission and should also put pressure on national governments to trigger debate in national parliaments and show commitment to the process of dealing with the past.

Media support is a prerequisite for creating an enabling environment for development of the regional approach to truth-seeking about war crimes. Strategies are needed for obtaining the support of the media. Communication experts within the Regional Coalition should be responsible for developing and implementing a communication strategy that would address this need.

Victims need to speak about their hardships, injustice, and the search for their family members. Their voice should also be heard in public. They support public hearings of victims as organized during the Third Regional Forum in Belgrade. They believe that the Regional Commission should create a public platform for the voice of the victims. Serious consideration and deliberation should be devoted to the issue of war veterans and war crimes perpetrators that are willing to admit their participation in war crimes.

The mandate of the Regional Commission for Truth-seeking and Truth-telling about War Crimes should be focused on truth-seeking about the gravest war crimes and missing persons.

The selection of the Regional Commission members should be delegated to a special appointing body comprising representatives of victims, human rights organizations, youth, representatives of national governments, a UN General Secretary's representative, and EU representatives.

The Regional Commission should open local and national offices that would report directly to the Regional Commission.

One of the most significant resources for the work of the Regional Commission is the archive of the Hague Tribunal. In addition to having access to the publicly available documents in the Hague Tribunal archive, the Regional Commission should also have access to the confidential documents of the ICTY Office of the Prosecutor.

### **HLC calls on Government of Kosovo to investigate allegations of detention of Serbs in camps and organ trafficking**

On 8 May 2008, HLC and HLC-Kosovo sent open letters to the government of Kosovo and to UNMIK. They called on the government of Kosovo to order an investigation into the allegations made by Human Rights Watch that Serbs kidnapped in Kosovo after June 1999 were held in detention camps in Albania where they became victims of organ trafficking. HLC and HLC-Kosovo urged UNMIK to publicly disclose the report Court Investigation and Fact Finding in Albania dated February 2004 which contains findings about organ trafficking of Serbian prisoners in northern Albania. The fate of approximately 2000 forcibly disappeared inhabitants of Kosovo is still unknown.

The Serbian authorities are responsible for disclosing the truth about 1,500 missing Kosovo Albanians while the Kosovo authorities are responsible for the disappearance of about 500 Serbs, Roma, and members of other non-Albanian communities.

The Serbian authorities' silence about the fate of 1,500 forcibly disappeared Albanians does not justify the silence of the Kosovo government. Allegations made by the former ICTY prosecutor Carla Del Ponte, and subsequently by Human Rights Watch about cases of kidnapping of Kosovo Serbs after the deployment of the International Security Force (KFOR) in Kosovo, their transfer to camps in Albania and the organization of medical facilities for the removal of their internal organs are very serious. They reveal a little known brutal side of the fate of Serbs kidnapped in Kosovo after June 1999.





These are also serious allegations against UNMIK which was present in Kosovo at time Kosovo Serbs were murdered and kidnapped and when public buildings were turned into secret detention camps for Serbs, Roma, and Albanians who “cooperated” with the Serbs.

### **Trial for War Crimes against Croatian Civilians – Lovas Case**

On 17 April 2008, the Belgrade War Crime Chamber began the trial of 14 indictees for their alleged role in the killing of 70 Croatian civilians in 1991 in Lovas, Croatia.

The course of the trial is intensive; six main hearing sessions were held in April, while eight have been held during the month of May. In this period the trial chamber examined five defendants. Examining the defendants, the court heard how the Yugoslav Peoples Army (JNA) ordered the attack on Lovas, shelled the village prior to the initial assault conducted by Serbian residents of the village and members of the Dušan Silni (Dušan the Mighty) paramilitary formation, and participated in war crimes after the attack.

After taking control of the village, in which none of the examined defendants saw a single Croatian soldier, JNA and Serbian residents of Lovas established three prisons for Croatian inhabitants of the village where they were interrogated and beaten; politically engaged Croats were executed at various locations in Lovas. Military and civil authorities operated in the village in this period. Volunteers executed orders issued by both, military and civil authorities.

In examination, defendants from the thirteenth and fourteenth volunteer units made serious accusations in their testimonies against the other defendants, both Lovas residents and JNA soldiers. They denied that they participated in the killings but offered relevant information about the fate of 70 Croatian civilians, including the incident when civilians were forced into a minefield where 20 of them were killed and a large number wounded.

The Lovas Case is the first trial in which JNA officers have been indicted. However no charges have been brought against the officers who gave the orders to attack various locations in Lovas and who did nothing to prevent the subsequent terror against the Croatian inhabitants of the village.

In April and May 2008, organising all travel, accommodation and logistics, HLC enabled eight family members of the victims from Lovas to monitor each day of the trial.



Family members of the victims from Lovas outside the Belgrade War Crimes Chamber

Representing the victims in war crime cases, and enabling the family members of the victims to monitor war crime trials are core activities of the Humanitarian Law Center’s project: Victim-Witness Counselling and Legal Support, which is supported by the Institute for Sustainable Communities and USAID.

The examination of defendants will continue in September 2008.

