

# CROATIA

## Impunity for killings after Storm

### Flashback: 1995, the recently taken Krajina, Croatia

*The village of Solifi was almost a ghost town, visited by members of an Amnesty International delegation to the Krajina area of Croatia in September 1995 shortly after it was taken by Croatian forces from the control of rebel Serbs in Operation Storm, launched early in the morning of 4 August 1995. Few of the villagers remained. Most had fled to Serbia or Serb-held areas of Bosnia-Herzegovina in front of the Croatian Government forces' advance. One 81-year-old woman had lain indoors for a week after suffering injuries and shock caused by the blast of a rocket-propelled grenade launcher abandoned by the Croatian Serbs and let off in her garden by a Croatian Army soldier as she sat on a crude seat hewn from a tree trunk. She had not seen a doctor. A neighbour's house had been wrecked and looted by Croatian soldiers as he hid in the surrounding forest in the first days of the operation. He showed the delegates the beds tipped upside down, the clothing pulled from the cupboards and strewn across the floor, the shards of a window-pane shattered by bullets, and the holes those bullets had gouged in his bedroom wall.*

*A few steps up the hill behind his house lived an old man, almost blind, almost deaf, and alone. He had not seen his wife since the start of the Croatian Government operation. He hoped that she had managed to leave with the other refugees from the village in a great outflow that headed for northern Bosnia and for Serbia. Not a single ground-floor window in his house was intact. On 12 September, a week before the delegation's visit, two Croatian Army soldiers had arrived, asking him if he had any firearms. On leaving him, they threw three hand grenades into his house. On the walls of his bathroom were smears of blood, most likely from his injuries. The floor was covered with fragments of porcelain. His neighbours looked after him as best they could. "We give him a little water, a little bread," they said. Not far away the carcass of a donkey rotted in a garden. None of the old people who were all that remained in the village had the strength to bury it or to move it.*

*These people believed that they were lucky to be alive. Two days before the Amnesty International delegation met them, one of them had gone to visit a woman of 74 who lived fairly close, and whom he had seen the previous week in good health. He could not find her. Her house had been burnt, and what had not burnt was in disorder. The old people whispered fearfully about three people killed and buried in secret in a village nearby. When asked whether they would report the events to the Croatian civilian police, they say they would, although without conviction.*

*Even if they did so wish, they would have found it difficult. Although only a few kilometres away police cars drove up and down the main road, at the time of the Amnesty International delegates' visit -- 39 days following Operation Storm -- the police had only*

*visited the village twice, the last time 12 days before. The villagers said the police, when they did visit, acted correctly, but were unable to offer any adequate protection. Soldiers, they said, passed through the village almost every day.*

*These were not isolated instances. Similar reports of abuses were given again and again to Amnesty International in the few villages where Croatian Serbs remained. The majority of villages were deserted: burnt, looted and ransacked. Whatever was not wanted by the looters simply had been dumped in the streets, or piled up to make bonfires. Heaps of clothes, children's toys, schoolbooks, family albums lay in the road or on the verges. Pigs, sheep, horses and donkeys wandered about uncared for; others lay dead and rotting.*

*In the climate of insecurity in which the remaining Serbs lived, many were reluctant to report incidents. Indeed the lack of policing and communications in the villages meant that reporting was difficult and guarantees of protection afterwards were rare and considered unreliable. In one village about one kilometre from a main road the Amnesty International delegates found the decomposing corpses of two men, dressed in civilian clothes; one had been shot in the head and was apparently the victim of an extrajudicial execution. It appeared that local people had been too scared to report the bodies to United Nations (UN) peace-keepers, let alone the Croatian authorities. The delegates also visited graves where local people had buried the victims in secret, again too frightened to report them to the UN or the Croatian authorities.*

## **The Krajina: three years later**

Driving through the Krajina three years later the countryside retains an abnormal air. The majority of houses have been completely destroyed by fire or looting, and fields are overgrown. Here and there sown fields and laundry on the clothesline indicate life; however, most commonly the clothes hanging on the line include military uniforms or the cars parked in the drive bear license plates from Bosnia-Herzegovina. Apart from the devastated property, evidence of the human rights violations is unseen. However, town cemeteries contain row

*Knin cemetery, May 1998*

after row of closely packed wooden crosses marked only with numbers and the initials "NN" -- unidentified.

The attitude of most international organizations now working in Croatia is to look towards the future. The authorities, and Croatian mainstream public opinion, aspire towards European integration. While the Croatian authorities are eager to facilitate the resolution of cases of "disappearance" when the victims are of Croatian nationality, are vigorous in pursuing the prosecution of Croatian Serbs and others accused of committing war crimes against Croatian victims, and are facilitating the return of displaced Croatians to their homes within Croatia, the authorities have done little to address violations committed by its own side. The Croatian Serbs who fled in 1995 have been forced to remain in exile by the Croatian authorities, who place obstacles, administrative and physical (such as violence), in order to prevent their return to their own country, and the international community has been vociferous and adamant that the Croatian authorities assist its *de facto* citizens in returning to Croatia. However, no attention has been given to the continuing impunity for the human rights violations suffered by the Croatian Serbs who did not leave Croatia in 1995. Crimes remain unacknowledged, uninvestigated, and the perpetrators unpunished.

## **Background**

Demands for independence from the Socialist Federal Republic of Yugoslavia (SFRY) which came from Croatian nationalist politicians elected in multi-party elections in 1990 were strongly opposed by many Croatian Serbs, who then accounted for 11.5 per cent of the population of 4.5 million people in Croatia. Leaders of Croatian Serb enclaves in Croatia made it known at the time that if Croatia chose independence, they would demand that the internal frontiers between the SFRY's republics be redrawn so that areas with a predominantly Croatian Serb population would secede from Croatia to join the Republic of Serbia. This demand was supported by Serbian leaders in Belgrade (the capital of the SFRY), who argued that the right to self-determination cannot be confined to Croats.<sup>1</sup>

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". The Yugoslav National Army (JNA) was deployed to separate the parties in frequent clashes between local and Serbian paramilitary forces and Croatian security forces. The JNA's impartiality was soon contested by the Croatian authorities, who accused it of protecting

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<sup>1</sup>Serbia, however, denies the right of self-determination to ethnic Albanians in Kosovo province in southern Serbia, (see *Federal Republic of Yugoslavia: A human rights crisis in Kosovo Province, Document series A: Events to June 1998, #1: Background: A crisis waiting to happen*, June 1998, (AI Index EUR 70/32/98).

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Croatian Serbs in their campaign to gain territory. Following Croatia's declaration of independence on 25 June 1991, fighting intensified and by January 1992, when the first effective cease-fire was implemented, up to one-third of Croatia was under rebel Croatian Serb control, declared by the Croatian Serb leaders to be the "Republic of Srpska Krajina" (RSK).

At least one of the gross human rights violations committed during the 1991 conflict has become the subject of an indictment issued by the International Criminal Tribunal for the former Yugoslavia (Tribunal) -- the execution of 200 patients taken by the JNA from the Vukovar hospital in November 1991. All the suspects publicly indicted by the Tribunal for that act remain at large in the Federal Republic of Yugoslavia (FRY). However, many other human rights violations were committed during the armed conflict including extrajudicial executions, deliberate and arbitrary killings, torture (including rape) and ill-treatment of civilians and detainees. Many Croats were also expelled *en masse* from their homes by the Croatian Serbs. For information

**Croatia -- as of April 1995**

on some of the gross abuses of human rights committed by different forces during the conflict in 1991, see the Amnesty International reports, *Yugoslavia: Torture and deliberate and arbitrary killings in war zones*, (AI Index: EUR 48/26/91), November 1991 and *Further reports of torture and deliberate and arbitrary killings in war zones*, February 1992 (AI Index: EUR 48/13/92).

International diplomatic efforts accompanying the final cease-fire established a peace-keeping force deployed in certain parts of Croatia, the UN Protection Force (UNPROFOR). These areas, the "United Nations Protected Areas (UNPAs)", were divided into four zones -- Sectors North, South, East and West. Most of the UNPAs were held by Croatian Serbs. Only two of the UNPAs, Sectors North and South, were contiguous, comprising an area along the inner "elbow" of Croatia. Sector

West jutted north from the border of Bosnia-Herzegovina along the main road which led from Banja Luka, a city in what is now Republika Srpska, Bosnia-Herzegovina. Sector East

comprised a thin strip along the eastern border with what is now the Federal Republic of Yugoslavia, including the town of Vukovar.

With the exception of Croatian offensives which claimed certain areas of Sector South in January and September 1993, the line of confrontation remained unchanged from the time of the 1992 cease-fire. This line became a *de facto* internal border within Croatia, administered by UNPROFOR and crossed only by representatives of inter-governmental organizations, international humanitarian agencies and journalists.

A relatively small number of Croats or other non-Serbs remained in the Croatian Serb-controlled areas. This population was gradually reduced as people fled or sought to leave, partly as a result of the human rights abuses committed by the Croatian Serb *de facto* authorities, including violence or intimidation by soldiers or uncontrolled armed civilians.

Frustrated by the failure of the peace-keeping operation to reintegrate the areas held by Croatian Serbs, in January 1995 Croatia gave notice that it would not renew the UNPROFOR mandate. A revised mandate and force name, UNCRO (UN Confidence Restoration Operation in Croatia) was agreed but full implementation was not achieved before Croatian forces launched an offensive, called Operation Flash (*Bljesak*), taking control of Sector West on 1 May 1995.

Bosnian Croat military forces and Bosnian Government military forces, in alliance with the Croatian Army, made military gains in Bosnia-Herzegovina to the south-east of Sector South in late July 1995. Benefitting from these military gains, a much larger Croatian military operation was launched against the former Sectors South and North on 4 August 1995, called Operation Storm (*Oluja*). As was the case for Operation Flash, very little resistance was offered by the Army of the "RSK" and in fact, most of the Croatian Serb forces fled into Serbian-controlled parts of Bosnia-Herzegovina before the Croatian forces actually moved into the area. With them also fled most of the Croatian Serb population living in the Krajina, approximately 180,000 people. Croatian forces took control of Knin, the main town and "RSK" capital, on 5 August and within several days the last serious Croatian Serb resistance ended.

Approximately 9,000 people remained in Sectors North and South following Operation Storm. Most of them were elderly people living in remote areas, who did not want to leave the homes where they had lived their entire lives. Many were isolated and it was not uncommon to find villages where fewer than ten people had remained, and others which were completely abandoned.

A wide range of human rights violations were perpetrated during and in the wake of Operation Storm. These include gross abuses such as extrajudicial executions and "disappearances"; torture, including rape; a massive programme of systematic house destruction;

attempts at forcible expulsions and numerous incidents of ill-treatment.<sup>2</sup> While the majority of incidents were reported in the days and weeks immediately following the operation, these human rights violations continued to be perpetrated for several months afterwards, and Amnesty International documented killings, acts of violence and intimidation well into 1996, and they have not been completely eliminated as of 1998. The full extent of extrajudicial executions, other unlawful killings, and "disappearances" has yet to be revealed. Official Croatian sources stated that they had buried 903 bodies as of late November 1995, of whom they alleged 456 were civilians, 402 were soldiers, and 45 were "found in conditions from which the affiliation of the deceased could not be determined."<sup>3</sup>

Amnesty International fears that these numbers contain a high percentage of people who were extrajudicially executed or otherwise unlawfully killed. The number of deaths is likely much higher even than the official statistics; in some cases neighbours or relatives secretly buried the dead themselves without reporting the details to the authorities or UN personnel out of fear for their own safety. They were particularly fearful that the perpetrators of the killings might still be in the area or be able to return to carry out acts of reprisal.

Many still fear that should they report the crimes, it is they who will suffer. *Graves in Zadar cemetery. The cross marked with number 813 bears only the word "female."*

The UNCRO mandate was terminated on 15 January 1996, and as the mission's military and civilian components withdrew from Croatia, so also was reduced the international community's ability to monitor the human rights and humanitarian situation. Croatian human rights activists were extremely active in documenting violations and showing concern for the

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<sup>2</sup>The reports issued by international organizations at the time are too numerous to list. However, for one detailed account of some of the violations documented by international organizations at the time, see the section on Croatia in the "Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mrs. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights," transmitted to the UN General Assembly, the Security Council and the International Conference on the former Yugoslavia on 7 November 1995, A/50/727, S/1995/933.

<sup>3</sup>"Prilog uz Odgovor MUP-a na prvo izvješće posebne izvještiteljice Komisije za ljudska prava Ujedinjenih nacija", (Appendix to the response the report of Special Rapporteur of 5 November 1995), Ministry of Internal Affairs, 30 November 1995.

vulnerable Croatian Serb population. Some were attacked, verbally and physically, for their activities advocating for the human rights of Croatian Serbs.

During 1996, the violations committed were fresh enough in the international community's mind for it to demand of the Croatian authorities action to investigate and prosecute those responsible. As international attention shifted to the enormous peace implementation process in neighbouring Bosnia-Herzegovina, however, the international community stopped insisting to the Croatian authorities that it make good on its promises. The current international mission in Croatia of the Organization for Security and Co-operation in Europe (OSCE) was established in 1997, and is primarily concerned with the return of Croatian Serbs to their pre-war homes.

The human rights violations committed during and in the wake of Operation Storm have been all but forgotten. Unless action is taken, the vast majority of perpetrators may never have to face the deeds they committed, the victims may never obtain justice for the acts committed, and the facts risk being lost to history. There is a grave risk that the Croatian authorities will be able to teach the lesson that if one sits out the outrage and criticism, eventually the international community will lose interest and move on.

## **Extrajudicial executions and other unlawful killings**

### **Grubori: a crime ignored**

One of the most well-documented cases from 1995 was the killing of at least five, and likely six, Croatian Serbs in Grubori hamlet in the Plavno valley north of Knin on 25 August. That day, villagers had gathered in a nearby village school, where they expected to have a meeting with UN representatives. Some of them said that on their way to the school they had seen soldiers in dark green camouflage heading up the hillside towards Grubori, high in the hills accessible only by a rocky trail. Six of the 13 inhabitants of Grubori hamlet did not go to the meeting - several of them because they were too elderly or ill to manage the rocky trail easily.

The UN personnel, comprising representatives of various agencies and journalists, first had a meeting in a different town across the valley. Footage filmed by the journalists was later incorporated into a short piece for UN television. On their way to that meeting, shortly before midday, the UN personnel observed several blue Croatian police jeeps and approximately three larger white vans parked in a row on the side of the road in the centre of the valley; the police insignia and/or Zagreb license plates are clearly visible from the footage on a number of the vehicles. Just after midday, the UN personnel saw smoke rising from villages on the other side of the valley, and heard shots coming from that direction. The UN personnel went to Grubori village to investigate, arriving shortly before 2pm. After finding many of the buildings in roaring

flames (despite the pouring rain), the UN personnel returned to Knin and called for action from the Croatian civilian and police authorities. Later that day, UN personnel and foreign journalists returned to the hamlet, where villagers had found the body of 80-year-old Miloš Grubor lying next to his bed in his pyjamas in a pool of blood. The footage shows clear signs of him having been shot in the head at close range. Sixty-five-year-old Jovo Grubor was reported to have been found in a field; his throat had been cut. Two more people, Milica (Mika) Grubor (aged 51) and Djuro Karanović (aged 41 -- Jovo Grubor's nephew) were reported dead to UN personnel when they returned the

*Footage of houses burning in Grubori, 25 August 1995, filmed by United Nations Television.*

next day; the UN personnel noted that they had suffered gunshot wounds to the head. The remains of a fifth victim, 90-year-old Marija Grubor (Jovo Grubor's mother, and Djuro Karanović's grandmother), were found in the ruins of her completely burned house. Another man, Jovan (son of Damjan) Grubor (age 73), is still missing, although a relative saw him in his house shortly before departing for the meeting and believes he was burnt in his house and is buried in the rubble.

Lieutenant-General Ivan „ermak, the Croatian military governor of Knin, was interviewed by the UN television crew on 26 August. His response that day to the interview indicated that the anti-terrorist troops of civilian police were at the time engaged in "mopping up" operations in the Plavno valley. However, on 27 August, Lieutenant-General „ermak gave an interview to Croatian television in which he presented Grubori as a „*etnik*<sup>4</sup> stronghold", claiming "there were about 10 people who mounted resistance and the village was set on fire. Three members of the „*etnik* group and two civilians were killed in the operation". He then added "I went to the village of Grubor myself to see what happened and took you with me to see the facts and the truth, and prevent any more imputations to Croatia that there are cases of deliberate arson and murder."<sup>5</sup>

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<sup>4</sup> „*etniks* were Serbian fascists in the Second World War. Although some Serbian paramilitary troops used the term to refer to themselves in the recent conflicts, most find the term derogatory.

<sup>5</sup>Croatian TV Satellite service, Zagreb, 17:30 gmt 27 August 1995, as reported in by BBC Monitoring Service EE/2394, 29 August 1995.



On 31 August 1995, Lieutenant-General „ermak wrote to UNCRO, explaining again that the killings in Grubori had been a response by Croatian Police Special units to an attack by some eight-to-10 "enemy troops", one of whom was alleged to be Djuro Karanovič, alleged to be 45-years-old and from Belgrade (relatives confirm that indeed he had not been living in Grubori, but had come on a visit, organized by the Red Cross, to his parents). The other soldiers were alleged to have escaped deeper into the mountains towards Strmica and the border with Bosnia-Herzegovina. The house burnings were attributed to the use of bazookas and the armed clashes, and the shootings of Miloš Grubor, Jovo Grubor, and "two unidentified women" were attributed to "trajectory wounds".

Amnesty International wrote expressing its concern about the killings in Grubori hamlet in September 1995. The organization has never received any response from the Croatian authorities about this specific case. In fact, the killings at Grubori were mentioned in almost every single report issued by international organizations in 1995 and 1996. In a report to the international community in January 1996 (see below), the Croatian authorities indicated that an investigation into the killings at Grubori had been initiated by the police the very day that the UN personnel had been there (on 25 August). However, international observers had seen no sign of a police investigation when they returned to Grubori on 26 August and the villagers reported to them that no police had been to the hamlet. The villagers did say that the police had come to collect the bodies on 26 August and took them to Knin to be buried, against the wishes of their relatives who wanted them to be buried in their family plot in Grubori, but there was no detailed investigation. Although international organizations continued to note in their further reports that no action had been taken with regard to the case of Grubori, the Croatian authorities never provided any further elucidation of steps it had taken to investigate the crime, or copies of autopsies or other reports. The relevant prosecutors in Zadar and Šibenik Counties informed Amnesty International delegates in May 1998 that they had no record of any investigation or criminal proceedings into the killings in Grubori hamlet.

In May 1998, Amnesty International delegates visited Grubori. The hamlet is completely abandoned. Bloodstains are still visible on the floor where Miloš Grubor was killed, and the delegates found bullet casings in the room. It appeared as if an unsuccessful attempt had been made to set that house on fire. The rubble piles high in the burnt shell of Jovan (son of Damjan) Grubor's house, and his remains could still lie underneath.

## **Hundreds more killings**

Most of the killings committed in the Krajina in 1995 were not as well publicized as those in Grubori, and most of them similarly remain uninvestigated. By the end of November 1995 UN personnel had documented the deaths of more than 200 people, the majority of whom appeared

to be Croatian Serb civilians.<sup>6</sup> In the majority of these cases the bodies were seen or discovered by UN personnel, who reported them to the Croatian authorities, although in some cases it took the authorities weeks to respond. In other cases UN or staff of other international organizations saw evidence of killings although the bodies had already been removed. Many of the bodies which were seen by international observers had indications that they had been unlawfully killed such as bullet wounds to the head.

However, the UN documentation does not include other cases where deaths were not reported to or discovered by international personnel, or where the bodies or other evidence was first discovered, or destroyed, by the Croatian authorities. Amnesty International fears that the number of deliberate and arbitrary killings extends beyond the numbers documented by international organizations. For example, the elderly sisters Andja and Draginja Dragaš, allegedly killed in early September 1995, were not included among the 180 dead bodies documented by UN personnel in Sector South during that time. These two elderly women, one of whom was disabled and confined to her bed, were living alone in the hamlet of Dronjci near Strmica, outside Knin. The burned remains of their bodies were found in their house by Croatian police after the house had been set on fire. A Croatian police officer who had been serving in Strmica at the time, and who is currently serving as a police officer in another town in the Krajina, is currently on trial for shooting the two women and then setting the house and surrounding buildings on fire (see below).

Many extrajudicial killings took place in the days immediately following the establishment of Croatian control over the area. For example, Predrag Simiċ (born 1965), who had reportedly been serving a prison sentence imposed by the *de facto* Croatian Serb authorities because he refused to serve in the military, was released at the time of Operation Storm. He returned to his house in Orliċ (south of Knin) only to find that his family had already fled, and reportedly put a white flag in front of the house to indicate that he would offer no resistance to any Croatian forces. On 6 August 1995 at approximately 4pm Croatian forces entered Orliċ. A group of soldiers stopped in front of the Simiċ house, took Predrag Simiċ out into the courtyard and shot him; his neighbours buried his remains several days later in the garden next to the house. His parents have since returned to their home, and transferred his remains to the church graveyard

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<sup>6</sup> Information from Sector South indicates that 180 bodies had been documented, of which 129 were reported as civilians, 17 as military (of which four were clearly unlawfully killed), 46 were women, and 68 were aged 60 or older (from "List of dead bodies brought to the attention of UN Personnel following Operation 'Storm' 04 August 1995", 29 November 1995). Information from Sector North documented 51 bodies, although the vast majority of cases in that list did not include details about the bodies found; at least nine, however, were elderly, and five were women (from "Sector North Cases - by municipality and by case (Report #3)", 1 December 1995).

in Orli $\acute{f}$ . His mother wants justice for the killing of her son, but she claims that she was turned away by the president of the court in Knin when she attempted to request that the prosecutor initiate proceedings.

Many victims are believed to have been elderly or disabled. For example, Joka Mizdrak (born approximately 1945) was shot dead by two Croatian soldiers in Strmica on 8 August; she reportedly did not move quickly enough for the Croatian soldiers who were hurrying her along. Dušan Šujica (born 1927) was found dead in his house on the edges of Gudjara hamlet in the Zrmanje valley on 2 October, his throat cut. Croatian police refused to let his brother, who lived elsewhere in Croatia but came when he was informed about the killing, see the body. Three days before, another man in the village had been killed, Milan Mar $\acute{e}$ tij (born 1948), who had been ill in bed and was shot four times by uniformed men in front of his mother, who died in April 1998. Neighbours saw the uniformed men go in the direction of Dušan Šujica's house after leaving the Mar $\acute{e}$ tij house.

Donji Skrad, a village in Barilovi $\acute{f}$  municipality near Karlovac, is near the former line of confrontation in Sector North. The Dmitrovi $\acute{f}$  family had a complex of several buildings surrounding a courtyard, including a large house where Nikola Dmitrovi $\acute{f}$  (born 1930) and Danica Dmitrovi $\acute{f}$  (born 1931) lived, and where Zorka Gazibara (born 1910, Danica Dmitrovi $\acute{f}$ 's mother) had gone to take shelter at the time of the Croatian Army offensive. Nikola Dmitrovi $\acute{f}$ 's mother, Kata Dmitrovi $\acute{f}$  (born 1914), lived in a small house also on the courtyard, and her relatives Stanka Kon $\acute{a}$ lovi $\acute{f}$  (born 1905) and Smiljana Kon $\acute{a}$ lovi $\acute{f}$  (born 1942) were reportedly at her house at the time of the offensive. They have not been seen since, and compelling evidence suggests that they were killed and buried across the road from the house in a mass grave. Several days after Operation Storm, a relative who lives in a different location in the same village, worried about her relatives, went to the house. When she went inside, she noticed something sticky on her shoes; once outside she saw it was blood, but there were no remains inside the room where the blood had been on the floor. There were marks on the ground as if bodies had been dragged towards the other side of the road, and the relative noticed a patch of freshly dug earth. In January 1996, a relative who had gone to visit the house noticed a smell coming from the well in the courtyard and called the police. Relatives were not allowed to be present when a body was taken out of the well, nor were they called to identify it. Nevertheless, it was identified as the body of Danica Dmitrovi $\acute{f}$  and buried in a local cemetery. Relatives were never given a copy of an autopsy report nor told the cause of death. The relatives have convincing reasons to believe one account from a witness now outside Croatia who claims to have been hiding in the woods next to the house when the killings took place. According to this source, Nikola and Danica Dmitrovi $\acute{f}$  and Zorka Gazibara had also been hiding in the woods when a group of soldiers came to the house. The soldiers took the three into the room which Kata Dmitrovi $\acute{f}$  used as a bedroom. All of them were killed except Danica Dmitrovi $\acute{f}$ , who the witness claims was repeatedly raped by the soldiers but killed the next day, her body thrown into the well. Relatives have asked that the mysterious patch of ground across from the house be

exhumed, believing it may be a grave which contains the bodies of the other missing victims. The relatives already commemorate this place as a grave, but want their relatives to be properly buried in a graveyard with a headstone. They appealed to Amnesty International to also assist them in having this grave exhumed and the bodies transferred, since they say the police have told them that they will only do it "when all the Croat victims have been exhumed from Vukovar".

Reddish-brown stains, believed to be blood, are still visible on the wall of Kata Dmitrović's house. A memorial approximately 200 metres from the Dmitrović house is erected to the memory of three named Croatian Army officers, and dated 5 August 1995.

## "Disappearances"

According to the International Committee of the Red Cross (ICRC), as of the beginning of 1998 there were still approximately 700 Croatian Serbs whose families have requested information about their whereabouts to the Croatian authorities because they are believed to have become missing as a result of Operations Flash or Storm. While some of them may have gone missing as a result of legitimate armed conflict, or it is not known whether the authorities bear any responsibility for their whereabouts, many are known to have been last seen in the hands of the authorities. Many of the "disappeared" are believed to have been deliberately killed. Others on the lists of missing people may have been killed but the evidence is difficult or almost impossible to recover, for example if they were unable to escape their burning house when it was deliberately set on fire.

*Site relatives believe to be grave, Donji Skrad.*

Amnesty International has been campaigning continuously on behalf of people "disappeared" in Croatia in 1995. For example, Nenad Dujković and Dragan Mirković, brothers-in-law, were taken from an apartment in Knin where they had taken shelter with other family members during shelling of the town. On 5 August 1995 at approximately 10am two Croatian Army soldiers entered the apartment where the family was hiding. The soldiers told Nenad Dujković's wife that they would have to take the men for questioning, and that was the last time she saw either of them. The authorities have given no specific information in response to Amnesty International members' letters asking for clarification of the whereabouts of Nenad Dujković and Dragan Mirković. Vukašin Vujansinović (born 1927) was also taken from his house in Knin on 5 August 1995 by Croatian Army soldiers, who gave no explanation to his wife about where they were taking him.

The Croatian Helsinki Committee for Human Rights (HHO), a non-governmental organization, has recently published a document containing information on the cases of 141 people who are still unaccounted for; some of them were last seen in the hands of the authorities. For example, Milorad Milosavljević (born 1968) was on active duty with the "RSK" *de facto* army in May 1995, at the time of Operation Flash in Sector West. His family believes he was captured and that it was he who was interviewed by a journalist from Croatian television, broadcast on the news magazine program "*Slika na Sliku*" on 3 May 1995. Other Croatian Serbs who claim to have been detained with him say that he had been held at the Varaždin sports hall.

## **Other human rights violations**

While this document focuses on the lack of action regarding the killings which took place after Operation Storm, it is important to note other human rights violations which took place at the time. Most of them also remain uninvestigated. Almost all the Croatian Serbs with whom Amnesty International has spoken who had remained in the Krajina following Operation Storm describe the period following the Croatian offensive as one of widespread fear and intimidation. Harassment was commonplace, as was the ill-treatment or torture described at the beginning of this document.

Some of the women who remained behind, including the elderly, were raped by Croatian soldiers, police or uncontrolled civilians. The stigma associated with rape means that many women may have not reported the offence. However, Amnesty International is aware of several cases where the victims had the courage to report the offence and allow prosecutions to take place, for example, the rape of a 70-year old woman near Obrovac. Another case came to trial for the attempted rape of a woman near Korenica; that case only led to a final conviction after a successful appeal against the first-instance court ruling that acts of sodomy did not qualify as rape. In another case, for over two and a half years, no action has been taken to pursue the prosecution of two former soldiers accused of the rape of a middle-age woman in Knin on 6 September 1995. An indictment for that case was filed by the Zadar County Prosecutor in December 1995 (the accused are not in pre-trial detention).

The widespread and deliberate destruction of houses and other buildings throughout the Krajina is the most visible evidence remaining of the gross human rights violations committed after Operation Storm. According to the UN, in the former Sectors North and South more than 5,000 buildings were burned following Operation Storm; in Sector South around 73 per cent of the houses were completely or partially destroyed by fire and most of the remainder were vandalized, plundered and ransacked. Amnesty International is not aware of anyone who has filed complaints with the Croatian authorities having obtained compensation for the damage. Houses in Croat villages, or in Croat areas of mixed villages showed signs of damage, either by

shelling or deliberate fire-setting from the period of the 1991 war or later, but in 1995 few showed recent damage. House destruction is an effective means of ensuring that a population which has fled has nowhere to return to. Indeed, the deliberate destruction of property continues to be an effective means of making Croatian Serbs who wish to return to Croatia change their minds: the house of Mirko Mrkalj and his family in Donji Sjeni..ak was completely destroyed by an arson attack in early April 1998, just a month after they had come on a visit to plan their return. This case was one of 29 other cases of house destruction documented by HHO in the first quarter of 1998. More than 10 of the cases appeared to be specifically related to the return, or imminent return, of the original pre-war inhabitants. The HHO documented more than 70 other cases of the arson of other installations (such as barns or haystacks) many of which were also believed to be related to the return of the Croatian Serb owners to that property.

## Encouraging Impunity

The crimes committed in Croatia occurred under the watchful presence of the international community: at the time of Operation Flash and Operation Storm, the UN and the European Union both had significant field presences in Croatia, as did humanitarian organizations such as the UN High Commissioner for Refugees, the ICRC, and many non-governmental humanitarian organizations. The UN Security Council passed two resolutions specifically related to the violations of international humanitarian law and human rights in Croatia, in August and November 1995, requesting, among other things, that the Croatian authorities respect the rights of Croatian Serbs and to report back on measures taken to investigate violations which had been committed.<sup>7</sup>

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<sup>7</sup>UN Security Council Resolution 1009 (1995) of 10 August 1995 called on the Croatian authorities to "(a) respect fully the rights of the local Serb population including their rights to remain, leave or return in safety, (b) allow access to this population by international humanitarian organizations, and (c) create conditions conducive to the return of those persons who have left their homes; (S/RES/1009[1995], at paragraph 2)." The resolution also reminded the Croatian authorities "that all those who commit violations of international humanitarian law will be held individually responsible in respect of such acts." (*ibid*, at paragraph 4).

Resolution 1019 (1995) of 9 November 1995 reaffirmed the Security Council's demand "that the Government of the Republic of Croatia take urgent measures to put an end to violations of international humanitarian law and of human rights, and investigate all reports of such violations so that those responsible in respect of such acts be judged and punished.... Reiterates its demand that the Government of the Republic of Croatia respect fully the rights of the local Serb population including their right to remain or return in safety and reiterates also its call upon the Government of the Republic of Croatia to lift any time-limits placed on the return of refugees to Croatia to reclaim their property." The resolution also requested the UN Secretary General "to continue to inform the Council on a regular basis of measures taken by the Government of the Republic of Croatia to implement resolution 1009 (1995) and the present

Amnesty International also brought the serious violations of human rights committed in the Krajina to the attention of the Croatian authorities on numerous occasions in 1995. For example, Amnesty International members who were part of the Urgent Action network wrote to the Croatian authorities from 15 September 1995, citing the case of an 80-year-old woman who was found dead in her house in Kistanje on 29 August, several hours after she had been seen entering the house with three Croatian soldiers in uniform who had arrived in the village. The body was reportedly removed by members of the Croatian civil defence, and international observers who were able to visit the scene discovered bullet holes in the walls of a room in the house and bloodstains on the floor. Amnesty International members wrote to the authorities, including the Ministers of the Interior and Defence, calling upon them to issue strict orders to soldiers and police to refrain from acts of violence or intimidation, and calling upon them to initiate thorough, impartial and independent investigations and for those suspected of perpetrating such violations to be brought to justice. Later in the year, following the publicity surrounding the killings of nine elderly Croatian Serbs in the village of Varivode on 28 September, Amnesty International members wrote again to the authorities, calling for urgent steps to improve the security situation for the remaining Croatian Serb population, and again calling for investigations of these and other human rights violations.

The Croatian authorities' initial reactions to the reports which emerged about killing, torture, house destruction and other human rights violations and acts of violence was denial, or else they claimed that all the victims had been engaged in military activity. As more cases continued to emerge, however, the authorities' reactions shifted to admitting that some crimes had been committed, but that they were the acts of uncontrollable individuals, or else were committed by civilians dressed in military uniform. The Croatian authorities disassociated themselves from any official connection to the violations to the extent that some soldiers seem to have been retroactively demobilized from the army (at least this was the conclusion of a judge, presented with such documentation, in the "Varivode" trial). It is not known whether any steps were taken to prosecute those responsible for issuing such retroactive orders.

Minister of Interior Ivan Jarnjak wrote a letter dated 23 August 1995 to the New Zealand Section of Amnesty International, and identical letters were sent to more than 70 other Amnesty International members, stating the following (in English):

"Regarding the cases you have mentioned, I would like to stress that after the liberation the police has come to those areas and started its regular work with keeping the public order and peace, and providing the necessary conditions for return of the population that had been banished from those areas. The police on the field were given the special instructions on protection of all the citizens that were come upon and those who

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resolution [Resolution 1019]". (S/RES/1019[1995], at paragraphs 6, 7, and 12).

returned and their property, as well as abandoned property. Under the mentioned circumstances, immediately after the military and police operations, there were a few cases of criminal behaviour. The police took the operational and criminalistic measures in order to identify the offenders. In all the cases in which the offenders were discovered, the police has taken them to the competent investigating court authorities after filing the crime reports, in order to take adequate penal measures."

However, a former police officer testifying at the trial for the killing of Andja and Draginja Dragaš (see above), who had clearly been in a position of at least *de facto* authority, claimed that he had not reported to the duty officer, his commander, or humanitarian organizations about the fact that while on a patrol in late August 1995 he and his colleagues had discovered two elderly women alone in an isolated hamlet, alive but extremely frail and confined to their beds. When asked in frustration by the prosecutor what, as a police officer, the witness' duties had been towards the civilian population in the area, he testified that it was to protect the church (presumably from looting and vandalism). Another police officer testifying at the trial, responding to a question about why he had fired his gun while on a patrol, explained that they had an "informal order" to shoot at anything which moved.

### **The strategy of statistics: blind them with numbers**

The letter cited above is typical in that the Croatian authorities did not give Amnesty International members information on what steps they had taken in response to the specific cases brought to their attention. Instead, regardless of the case which Amnesty International members wrote about, members received one of several standard replies. For example, the Deputy Prime Minister of the Government of Croatia responded to Amnesty International members with the following letter (in English):

"On several occasions the Republic of Croatia has stated that all alleged incidents, the perpetrators of which were individuals and groups, including some members of army units acting contrary to their authority and law, have been publicly condemned by the President and the Government of the Republic of Croatia. To this end, police and judicial measures have been taken. So far, criminal proceedings are underway in military and civilian courts against 1005 persons who stand accused of having committed crimes during and after Operation Storm."

The response is typical insofar as it vaguely refers to an enormous number of criminal prosecutions with no indication of how, if at all, the specific concern fits into those numbers. Depending on when the letters were issued and by whom, the statistics varied. In correspondence with Amnesty International and in other international fora, the authorities clearly intended to convey that these investigations and criminal proceedings were sufficient to address



the human rights violations and other acts of violence committed in the wake of Operation Storm.

A letter received by scores of Amnesty International members from Major-General Ivan Tolj, spokesperson for the Ministry of Defence, while informing Amnesty International members that individual incidents were being investigated and persons responsible being prosecuted, stated that "during the military and police operations 'Flash' and 'Storm' Republic of Croatia strictly applied the rules of the International Humanitarian Law, Geneva Convention and all other regulations on the protection of the victims in armed conflicts".

Letters also frequently referred to the fact that the Croatian authorities were taking steps to comply with Security Council resolutions 1009 (August 1995) and 1019 (November 1995). As noted above, these Security Council resolutions requested the Croatian Authorities to report on what measures it had taken against those who had committed human rights violations or acts of violence in the Krajina. Examining the Croatian authorities' responses meant to fulfill the requests gives more of a breakdown of the statistics. The Croatian authorities submitted at least two official reports to the UN regarding the measures it had taken, the first in January 1996 which contained, among other things, the misinformation described above about investigation into the killings in Grubori hamlet.

The second report, the "2nd report by the Government of the Republic of Croatia on the implementation of Security Council resolution 1019 (1995)" (Second Report), dated 10 June 1996, covered measures which the authorities claim had taken from 30 January to 1 June 1996. They claimed that the police had been taking steps to arrest and detain any individuals who had broken the law. The authorities also claimed that serious crimes had been "sporadic" since the "normalization of the situation in the liberated areas", and claimed that the police had solved most of them. The UN Secretary General disputed these claims in a report which commented on the Second Report, and noted that the Croatian authorities had not arrested suspects of acts of looting and threats even when names and license plate numbers were supplied to them.<sup>8</sup>

With regard to crimes which had been committed during and after Operation Storm, the authorities claimed "the Minister of Justice of the Republic of Croatia has issued a recommendation to the presidents of the respective courts, that trials conducted for crimes perpetrated in connection with Operation Storm should be awarded priority over other trials" (paragraph 22). An annex to the Second Report provided information on the criminal proceedings underway, claiming that they had been initiated against an aggregate of 2,849 people.

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<sup>8</sup>"Further report on the situation of human rights in Croatia pursuant to Security Council Resolution 1019 (1995)," 21 June 1998, S/1996/456, at paragraph 10 and 13.

Of these 2,849 cases which the authorities claimed were before the courts in June 1996, less than two per cent concerned cases of killings. For the criminal act of murder (then Article 34 of the Croatian Criminal Code), the authorities claimed that 22 individuals were under investigation, that legal proceedings were under way against 30 people, and that final decisions had been made against one person. When Amnesty International spoke to prosecutors in May 1998 and inquired about why, when in some of the cases the perpetrators had been on active duty with the military or police, they had not been charged with "war crimes against a civilian population" (Article 120 of the Croatian Criminal Code, and the criminal act under Croatian Law with which soldiers who had been serving with the RSK army are normally charged if the act involves the killing of a civilian), the prosecutors were unable to provide a response. Amnesty International fears that the reason may be political, given the widely-cited comment from Milan Vuković, president of the Supreme Court of Croatia, to the effect that Croats by definition cannot commit war crimes since they were defending the homeland.

Later reports from the authorities reflected an increase in the number of criminal proceedings underway, which would normally be interpreted to mean that the authorities had exercised some degree of diligence and the increased numbers were the fruits of their extra efforts to resolve the cases from Operation Storm. The Ministry of Justice requests from its courts in the Krajina information, on a quarterly basis, about all investigations and proceedings which are underway. These statistics continue to be what is submitted to international organizations who inquire about the authorities' efforts to bring to justice those responsible for criminal acts committed in the Krajina's following Operation Storm. They were, for example, cited in the UN Special Rapporteur for the Commission on Human Rights (Special Rapporteur) January 1998 report, which stated that "a total of 5,580 criminal proceedings had been carried out in relation to the military operations carried out in the former Sectors North and South, of which 559 are at the investigative stage, 3,785 are in first instance proceedings, and 1,236 have been brought through to final decisions."<sup>9</sup> However, in a meeting with Amnesty International in May 1998, representatives of the Ministry of Justice refused to give specific information on the cases such as the names of the individuals under investigation, the incidents investigated, the charges pursued, or the date the proceedings began. They also refused to give the delegates information on the disposition of each of those charges (guilty, non-guilty, or dismissed) for cases where final decisions have been taken, the sentences imposed and whether those sentences were being served. In fact, during that meeting, while the Justice Ministry did provide Amnesty International with a breakdown of the statistics which reflected the numbers of individuals charged with particular offenses before particular courts, the representatives of the Justice Ministry noted that these statistics do not in fact solely relate to criminal acts committed in 1995, but represent the criminal cases which are currently before the courts in the relevant regions. The Ministry of Justice representatives confirmed that there is no way to discern from the

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<sup>9</sup>Final Report of the Special Rapporteur for the UN Commission for Human Rights, January 1998, E/CN.4/1998/63, at para. 29.

statistics provided which cases were for acts committed in 1995 and which are for acts committed in, for example, 1996 or 1997, nor is it possible to conclude any information about who the victims or suspects might be.

A worrying recent development is an instruction of 28 May 1998 by the president of the Supreme Court to all the lower courts that they "restrain themselves from too much correspondence with [international] organizations and refrain from conversations about important questions", specifying such information to include the number of cases before the court and average length of procedures.<sup>10</sup> This has resulted, in at least one case, in instructions from the president of one court (the Supreme Court for Petty Offenses), to its judges, requesting them to inform the Court on Petty Offenses about "any attempt of any organization and individual to seek any kind of information".<sup>11</sup> While the instructions were clear that the appropriate channel for such information should be the Ministry of Justice, as noted above, even if the Ministry of Justice had a history of actually providing such information when given specific requests, such procedures would be ridiculous and overly bureaucratic for international organizations based in the field who were, for example, attempting to monitor a specific trial and wanted to know the next hearing's date.

### **Beneath the rhetoric: the truth behind the statistics**

Looking at the information from the authorities on the cases which were claimed to be underway according to the statistics provided by the Ministry of Justice in 1996, it is clear that most prosecutions were for acts of looting, vandalism, or house destruction. There was no information on how many such cases resulted in prosecutions or what sentences were received by the reported offenders, and whether they indeed served them. Included in the Government's statistics were also cases against more than 200 people facing trial for armed rebellion, therefore most likely Croatian Serbs who had been arrested during Operations Flash or Storm.

The statistics with regard to killings, however, were at best misleading. The authorities have only been able to provide details for several cases where prosecutions actually resulted in convictions, and it is unknown whether the authorities took any steps to resolve those cases where the accused were acquitted of the charges. The prosecutors in many relevant courts were reluctant or refused to meet with Amnesty International delegates visiting Croatia in May 1998 without express permission of the Ministry of Justice. However, the organization was able

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<sup>10</sup>Cited in Ivica Djikić, "Niko ne sme da vas pita", (No one is allowed to ask), *Feral Tribune*, number 665, 15 June 1998.

<sup>11</sup>*ibid.*

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to meet with the prosecutors handling most of the cases of killings committed in former Sector South, the Zadar and Šibenik County Courts.<sup>12</sup>

The information in the June 1996 Annex to the Second Report indicated that at the Zadar County Court (responsible at the time for the majority of prosecutions in Sector South, including the area of Knin), proceedings were at the investigative stage against two people and criminal proceedings were underway against 14 people. The information stated that a final verdict had been reached in proceedings against one person, most likely the case of a defendant who had been tried and convicted for the killing of Janko „akif; that individual had the remainder of his unserved sentence commuted in May 1997. Many of the most notorious cases, including Grubori, were not the subject of the investigations or prosecutions against the other 16 people. In fact, at least two of the individuals who faced criminal proceedings for killings seem to have been Croatian Serbs, in one case a man who had killed his wife and attempted to kill himself in a dual suicide, the other case reportedly a vendetta killing between two Croatian Serbs.

With regard to other cases before the Zadar County Court, eight people were tried in connection with several cases joined into one trial, known as the "Varivode" trial. This trial was for the killing of 18 Croatian Serb civilians in Varivode, Gosifi and two other hamlets in former Sector South. The result of the trial was the conviction of one person for one killing who was sentenced to six years' imprisonment, the conviction and sentencing to eighteen months' imprisonment of another for "violent behaviour", looting and attempted murder, and the acquittal of the other six accused individuals. That trial was widely described by international monitors, non-governmental organizations following the trial, and others as an attempt to appease the international community that the Croatian authorities were taking action against offenders.<sup>13</sup> The first-instance verdict has been appealed.

Another of the mere handful of cases before the Zadar courts included the case of a Croatian soldier who was acquitted in February 1996 in first instance proceedings for the murder of Manda Tišma. He had testified, with eyewitness corroboration by fellow Croatian soldiers, that he had killed the elderly woman by machine gun fire. The acquittal was based on the

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<sup>12</sup>In late March 1998, changes to the borders of the Zadar and Šibenik counties went into effect which transferred many municipalities which had been in Zadar County to Šibenik County, including Knin and many others in former Sector South. As a result, ongoing criminal cases also were transferred from the responsibility of the Zadar County Prosecutor and Court to the Šibenik County Prosecutor and Court. As a result, the dust has been blown off several outstanding cases, which are now coming to trial in Šibenik County.

<sup>13</sup>See Human Rights Watch/Helsinki, "Croatia: Impunity for abuses committed during 'Operation Storm' and the denial of the right of refugees to return to the Krajina" August 1996, Vol. 8, No. 13 (D), p. 24-25.

assertion that the soldiers believed she had a weapon concealed under her apron. The Supreme Court, granting the prosecutor's appeal, returned the case to second instance proceedings. However, a date for the new trial has still not been set (the accused is not in pre-trial detention).

Despite the Croatian authorities' assurance that instructions had been given to the relevant courts to pursue prosecutions from Operation Storm as a matter of priority (see above), Amnesty International can find no indications that in fact this was the case. Some cases where indictments had been issued in 1995 or early 1996 were transferred to the Šibenik County Court without a trial date ever having been set, the case of two former soldiers accused of rape noted above being one such example (the indictment was issued in December 1995). Another example is the trial for the killing of Andja and Draginja Dragaš (noted above), which began in Šibenik in May 1998 although the indictment had been filed by the Zadar County Prosecutor in September 1996 -- that would have been one of the two cases for which the authorities supplied information that an individual was under investigation in June 1996.

### **Inadequate investigations and failure to protect evidence**

Many individuals, including civil servants and those working within the justice system, have indicated their frustration in pursuing prosecutions given the nature of investigations at the time following Operation Storm. Amnesty International and other non-governmental and international organizations repeatedly called on the authorities to provide the necessary policing and investigative capabilities in order to properly investigate the killings which had been committed. However, reports by international organizations at the time, as well as what emerged during the trials for the few cases which did make it to the courts, indicate severe deficiencies in the investigations. Evidence was not preserved, crime scenes were not protected or well documented, and it is not clear that autopsies were conducted on persons where there was a reasonable suspicion of death by unnatural causes. For example, Mirko „anak (born 1933), whose left side was paralysed as a result of a stroke, was found by relatives in Potkom in the Zrmanje valley after he had been buried by a neighbour who was himself later extrajudicially executed. On 13 September 1995 the authorities exhumed the body. According to a relative who was present and saw the body before the authorities took it away, Mirko „anak's throat had been cut. The police photographed the body, and one relative pointed out to them that he had been slaughtered, asking for them to take action. Contrary to the wishes of the relatives, who wanted the body to be buried in the village cemetery, the body was buried in a cemetery in Gra..ac, but under the wrong name (Mirko „orak). Although the family was given a death certificate, they were never given any copy of an autopsy report. According to the relevant prosecutor, acting on a complaint filed by the relatives who want justice for the killing of Mirko „anak, the police do not now have any information relating to his death on file, despite the fact that a relative saw photographs being taken at the exhumation.

In another case, the authorities have "lost" all information relating to the case of a woman who is believed to be buried in Knin cemetery. The woman, JM (born 1907)<sup>14</sup>, had been found dead in the basement of her house near Kistanje on 27 August 1995. The authorities were not able to come to the scene and remove the body until the next day, at which time the entire family was present (the case had not been reported to international organizations). According to relatives, the authorities documented and photographed the scene, took a statement signed by the relative who had found the body, and told them that the body was taken to the "department of pathology" in Knin. They were told that the body would be buried in Knin cemetery and that they would not be permitted to be present, but that they would receive a copy of the autopsy report stating the cause of death. The relatives were told that the body had been buried in Knin cemetery under identification number 543, and indeed a wooden cross in Knin cemetery bears the woman's name and that number. However, relatives never received an autopsy report. The relatives wanted to rebury JM in a family plot, and sought an exhumation on 6 November 1996. Present were a "sanitary inspector" from Zagreb, four police officers, and three graveyard diggers. When they opened a nylon bag containing the body which had been buried in the plot marked with the relevant cross, the corpse was that of a male. The gravediggers then exhumed three bodies adjacent to the one under number 543, and while two of them were the bodies of women, and one bore a tag which marked the body as number 543, the relatives claim that the bodies were obviously not JM (as they were present when the body was found, they were able to identify that the clothing was not the same, also, the bodies exhumed did not have the correct colour hair or height). No explanation was given to the relatives, and the Ministry of Interior has reportedly disavowed any responsibility for finding the body of JM and officials now claim they have no information relating to the autopsy or investigation.

Possible objections that the high demand meant that they did not have the resources to adequately investigate crime scenes cannot explain why investigations at crime scenes which were discovered long after the end of the military operations were not adequate. For example, the body which is believed to be that of Danica Dmitrović was taken from a well in Donji Skrad in January 1996 (see above), and still it appears no autopsy was conducted nor was the body properly identified by those capable of making such a positive identification.

### **The conscience speaks: admissions of complicity and possible attempts to maintain silence**

Over the past twelve months, a number of individuals have come forward publicly with information about human rights violations they said they witnessed or took part in as active members of military, paramilitary, or policing bodies. The motivation of some has been their

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<sup>14</sup>The woman's full name is known to Amnesty International.

conscience or the post-traumatic stress syndrome which pushes them to talk about their war-time experiences. In other cases the "confessions" are a product of material dissatisfaction from individuals who feel financially deprived and cast off despite allegedly taking risks and carrying out orders from individuals now amassing political power and material wealth.

The media and the Croatian leadership has treated these "confessions" as lies and the "confessors" as traitors. More worrying are the physical attacks and other acts possibly intended to silence those who come forward with information about human rights violations. For example, in March 1998 explosive devices were detonated in a weekend house belonging to a man who had reported in the media that he had provided information to the International Criminal Tribunal for the former Yugoslavia (Tribunal) which would be useful for its investigations into abuses in Croatia. A suspect who gave a detailed interview to the Croatian weekly *Feral Tribune* published on 1 September 1997 about activities as part of a paramilitary organization, primarily in 1991, was quickly incarcerated. However, he claims he has been intimidated while in prison and recently suffered injuries which left him hospitalized. The Zagreb County prosecutor recently announced that the trial of that man (and that of his codefendants) is due to begin in September 1998. Amnesty International is also looking into the killing of a former special police officer in „akovac (near Zagreb) in May 1998; although the drive-by shooting outside a nightclub where the individual worked as a doorman may have looked like the result of organized crime, the individual previously had made approaches to a human rights organization after a car bomb was placed under his vehicle but failed to fully detonate.

## **The duty to acknowledge, investigate and prosecute, and the risks of inaction**

Impunity for the human rights violations committed following Operation Storm is only one of the consequences of the authorities' inaction. Three years after the violations were committed, serious questions remain concerning whether the authorities are willing to pursue prosecutions. The attitude of the international community, and to some extent sympathetic elements within Croatia, is to leave prosecutions to the Tribunal. However, the jurisdiction of the Tribunal is concurrent with national courts, and the Tribunal Prosecutor has made it clear that she will not pursue prosecutions in every case, but expects national authorities also to initiate proceedings. Regardless who is to pursue the prosecutions, it is clear that time is running out for effective investigations or prosecutions.

When Amnesty International delegates visited some victims or their survivors in May 1998, the delegates discovered that the individuals still live in fear. While all describe the security situation today as vastly improved, low-level harassment means that they are still too afraid to speak openly of the terror they experienced in 1995 and 1996. Without the protection of international organizations, many are even more reluctant now than in 1995 to even report the

violations, or the secret graves where the victims are buried. For example, one witness who had given much detail about the killing of his mother in 1995 is now reluctant even to talk about her death, explaining that Croatian Army soldiers live near his house and he doesn't want any trouble.

Most of the victims or their survivors never had any expectation that they would receive any justice, and the evident impunity and continued harassment they suffer, however low scale, only contributes to their skepticism. Amnesty International believes that although the authorities have tried to assert that they have sought to earn the confidence of the Croatian Serb population, without addressing the glaring impunity for violations committed in 1995 such confidence will be impossible. It was precisely the impunity for abuses committed by communist-led *Partizan* forces during the Second World War which many in Croatia, including at times the authorities, have used to rationalize acts committed in revenge.<sup>15</sup> The authorities frequently respond to calls that they truly commit to human rights by asking what has been done to investigate human rights violations and abuses committed by other parties to the conflicts in former Yugoslavia, particularly where Croats were victims.

The lack of confidence in the authorities is critical for addressing the return of Croatian Serbs to Croatia. The authorities, and to some degree international organizations currently facilitating the process of return in Croatia, have at times suggested that Croatian Serbs overreact to acts of harassment, described by the authorities as minor incidents. While Amnesty International was visiting Croatia in May 1998, two men in Croatian Army uniforms stole two lambs from an elderly couple in the Krajina. After the theft, the couple practically barricaded themselves in their home. This reaction is completely understandable when put in the context of the unaddressed crime experienced by that very couple since 1995: starting with the comprehensive arson which completely destroyed the village at the base of the hill where they

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<sup>15</sup>The SFRY government decried acts of the fascist *Ustaša* leaders of the Independent State of Croatia (*Nezavisna Država Hrvatska* - NDH), but was silent on its own violations committed during the Second World War. President Tudjman and other nationalist Croats have gained popular support in Croatia for publicizing and condemning some of the human rights violations suffered by soldiers and others loyal to the NDH.



lived, followed by the killing of their two closest neighbours and at least seven others in neighbouring hamlets, and then continuing with acts of violence and looting against them and all of their neighbours which, while gradually decreasing over 1996 and 1997, have clearly not been brought to an end. International organizations currently operating in Croatia should take into account the cumulative effect of such impunity to the confidence of Croatian Serbs.

What many survivors do actively desire is dignity for the victims. For the relatives of the missing and "disappeared," this means a grave where they can mourn. For the relatives of victims buried in "garden graves", it means a properly marked grave where descendants will also be able to commemorate the dead. For relatives of those whose remains are buried in the sardine-like rows of wooden crosses in town cemeteries, it is burial in the family plot with a proper headstone.

The majority of the some 9,000 people who remained in the Krajina following Operation Storm are elderly. The context of the abuses, in which the population was so dispersed and isolated, means that the passing of the Krajina population is also the passing of the sources of much of the truth about the Krajina. On two occasions, when Amnesty International delegates sought to follow up on specific crimes committed in 1995, the sole witnesses were found to have died recently. Such witnesses not only have important information for the cause of justice, but possibly also information related to the location of *Secret grave shown to Amnesty International delegates in September 1995.* actual or possible burial sites. In this context, the delays to publishing the truth about the crimes committed in the Krajina asks for an even more urgent response.

## **Amnesty International's Recommendations**

To end the impunity for the human rights violations committed during and in the wake of Operations Flash and Storm in 1995, and to remedy the then-inadequate procedures related to investigations and procedures, Amnesty International recommends that prompt, independent, impartial and thorough investigations and prosecutions, reparations to victims and measures to

prevent future violations be undertaken in strict accordance with international law and standards.<sup>16</sup> In particular, Amnesty International recommends:

1) To address the inadequacies of past procedures, the authorities should promptly, independently, impartially, and thoroughly investigate human rights violations and other unchallenged acts of violence committed during and in the wake of Operations Flash and Storm and bring to justice those responsible. The inaction must end, and these cases should be given the priority which was promised in 1996. The Government should request that the Ministry of Justice undertake a detailed and comprehensive survey of progress in the cases from Operations Flash and Storm, replacing the insufficient statistics which have to date been submitted to it by the Ministry of Justice. A proper survey should include the following information about each case: the date and place of the crime; the stage of proceedings (disciplinary hearing, criminal investigation, prosecution); the investigative or prosecutorial body; criminal charges, if any; the court; verdict and sentence; and whether it is being served.

2) The Government should also consider taking other steps to ascertain whether any attempt was made to cover up the crimes committed during and after Operations Flash and Storm. If it is true that policing authorities do not have information related to killings which is known to have been compiled at the time, for example forensic evidence taken by the police at the time of burial, an independent and impartial commission of inquiry with adequate powers and resources should be established to determine what happened to such evidence, where it is now, who is responsible for its "misplacement", and the findings should clearly lead into a judicial process so that anyone who may be found to have tampered with evidence can be brought to justice. In the interests of transparency, the findings of any such commission should be made public and families should be able to be represented by legal counsel at all hearings before the commission. Such a commission should be established in accordance with international standards for such commissions of inquiry, including the UN Principles Relating to the Status of National Institutions, adopted by the UN Commission on Human Rights on 3 March 1998 in Resolution 1992/54.

3) In addressing the extrajudicial executions committed in 1995, as well as those committed at other times during the conflict, authorities should implement the provisions of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions,

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<sup>16</sup>These requirements are set out in the Geneva Conventions of 1949, their two Protocols, the Guidelines for the Conduct of UN Inquiries into Allegations of Massacres, the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary, and Summary Executions, the UN Declaration on the Protection of All Persons from Enforced Disappearances, the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Guidelines on the Role of Prosecutors, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and other instruments.

welcomed by the UN General Assembly on 15 December 1989. In particular, no matter how old the case, thorough, prompt and impartial investigations should be made of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. The Croatian authorities should establish and maintain investigative offices and procedures to undertake such inquiries. The investigations should include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation should distinguish between natural death, accidental death, suicide and homicide.

4) The investigative authority should have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation should have at their disposal all the necessary budgetary and technical resources for effective investigation. Prosecutors in Croatia should avail themselves of the extensive documentation by international organizations with a field presence in Croatia when pursuing prosecutions. Organizations whose field mission in Croatia has since been terminated should ensure that appropriate channels of information are established so that the evidence which they collected can be made available to prosecutors, not just of the Tribunal, but also for trials in national courts.

5) Where autopsies have not already adequately been conducted and made available to investigating and prosecuting authorities, the body of the deceased person should not be disposed of until an adequate autopsy is conducted by a physician who should be an expert in forensic pathology. Those conducting the autopsy should have the right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred. If the body has been buried and it later appears that an investigation is required, the body should be promptly and competently exhumed for an autopsy. If skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques.

6) The body of the deceased should be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy should, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be determined to the extent possible. Detailed colour photographs of the deceased should be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report should describe any and all injuries to the deceased including any evidence of torture. In order to ensure objective results, those conducting the autopsy must be able to function impartially and independently of any potentially implicated persons or organizations or entities.

7) Those potentially implicated in extrajudicial executions should be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.

8) Families of the deceased and their legal representatives should be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and should be entitled to present other evidence. The family of the deceased should have the right to insist that a medical or other qualified representative be present at the autopsy.

9) A written report should be made within a reasonable period of time on the methods and findings of such investigations. The report should be made public immediately and should include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report should also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government should, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

10) Victims of extrajudicial execution and suspected extrajudicial executions, as well as their families, should receive the dignity that they deserve. The authorities should make every effort to exhume secret graves and suspected mass graves when they are brought to their attention. The bodies of the deceased should be returned to them upon completion of investigations. The costs of exhumation and reburial in the cemeteries of the relative's choice should be born by the authorities if the original burial was not at a site requested by the relatives. Given the lack of confidence in the Croatian authorities, international monitors and the Tribunal prosecutor should be invited to monitor such exhumations and should be given adequate notice to make attendance a realistic possibility.

11) Thorough, prompt and impartial investigations of all cases of "disappearance" should be carried out in strict accordance with the requirements set forth in the UN Declaration on the Protection of All Persons from Enforced Disappearance, in particular Articles 9 and 13.

12) Victims and their families should receive reparations, including restitution, compensation, and rehabilitation, as required by the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

13) Human rights organizations and others who are attempting to document fully the extent of human rights violations in the Krajina should be rendered every possible assistance. The authorities should recognize that independent scrutiny of their activities is an essential component of democratic society, and as an immediate priority, acts of violence, intimidation, and threats

against human rights defenders must stop. International organizations which documented human rights violations in 1995 should give every assistance to non-governmental organizations which are still making an effort to publicly document the violations, in particular those organizations who no longer have a presence in Croatia and so therefore could not pursue such cases themselves.

14) Acts of violence and intimidation against those who come forward with information of possible human rights violations should be brought to an end. The authorities should ensure that the protection of witnesses is adequately provided for in practice as well as, if necessary in law.

15) Effective steps should be taken to prevent a repetition of such crimes including comprehensive human rights and humanitarian law training in cooperation with experts such as the ICRC and the UN Commission for Human Rights.