

# **DEPORTATION OF BOSNIAN MUSLIM REFUGEES FROM MONTENEGRO**

## **ROLE OF THE STATE PROSECUTOR**

**MAY 1992 - FEBRUARY 2007**

**Prelevic Law Firm**

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It was in May 1992 that more than hundred Bosnian Muslim refugees were illegally deprived of liberty by Montenegrin law enforcement officers and delivered to their enemies, military formations of Bosnian Serbs in Bosnia and Herzegovina. Only ten of these deported refugees have survived.<sup>1</sup>

Majority of the data related to this war crime against civilians has been available to the public since the date of perpetration of the above crime. The Parliament of the Republic of Montenegro discussed the issue already in 1992 on the basis of detailed information presented to the Parliament by the Ministry of Interior of the Republic of Montenegro. The issue was covered responsively by the media at that time which also published facsimiles of many relevant documents.

Since 6 December 2004, the families of 37 victims of deportation have brought actions for reparations against the Republic of Montenegro, which is represented by the State Prosecutor in these civil proceedings.<sup>2</sup>

It was only under the public pressure and for the purpose of termination of civil proceedings that the State Prosecutor decided to file a Request on 18 October 2005 for the initiation of a criminal investigation against six former law enforcement officers of the Ministry of Interior of the Republic of Montenegro suspected of having committed a war crime against civilians - "enforced resettlement" of refugees from Montenegro to Bosnia and Herzegovina. The above State Prosecutor's Request is in contradiction with the actual and legal situation, the investigation has not been completed nor was anyone accused to date.

The constitutional and statutory position of the State Prosecutor's Office makes this institution a key factor for the processing of crimes committed in the wars of nineties, what is a precondition for confronting the past. Without a prompt, highly professional and sincere preparation of the case by the State Prosecutor, the court may not effectively deliver justice.

The present paper aims to clarify the role of the State Prosecutor of Montenegro with regard to its involvement in the crime, failure to proceed, as well as "fraudulent" proceeding in this particular crime that is different from other war crimes relating to Montenegro (such as Kaludjerski Laz, Morinj, Strpci, Dubrovnik, etc.) as it was completely organized and perpetrated by the authorities of the Republic of Montenegro.

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<sup>1</sup> Seki Radoncic, *FATAL FREEDOM* - Deportation of Bosnian refugees from Montenegro, Humanitarian Law Fund, Belgrade, 2005

<sup>2</sup> Prelevic Law Office acts on behalf of 182 plaintiffs, members of the families of 37 victims of deportation of whom only six survived (hereinafter, all plaintiffs are referred to as the "victims" pursuant to Item 8 of the UN General Assembly Resolution No. 60/147, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of Human Rights and Serious Violations of Humanitarian Law" of 16 December 2005.

## 1. The Prosecutor's Office Authorized the War Crime Against Civilians

- The police action in 1992 was conducted with the consent of the competent Prosecutor's Office:

"Having an open dilemma before us, and *in consultations with the Prosecutor's Office*, as well as being unable to carry out the prosecution in Montenegro due to the difficulties regarding the number of the accused and problems in obtaining material evidences and witness testimonies ... a decision has been brought to proceed with the persons who came from B&H in compliance with the police practice of servicing the claims for deprivation of liberty and extradition..." (italics added).

A written reply to a Parliamentary Question from the Office of the Minister of Interior of the Republic of Montenegro, 8 April 1993 (No. 278/02, 08.04.1993, page 2).<sup>3</sup>

Nobody has ever been prosecuted or investigated for authorizing this crime. No document was ever presented indicating the fact that any of the victims of deportation have ever been pursued or suspected in Bosnia & Herzegovina.

## 2. The Prosecutor's Office Failed to Proceed Thirteen Years from the Crime

Although various state authorities and the entire public were informed of the case from the beginning, the criminal investigation was initiated by the Prosecutor's Office only on 18 October 2005:

- Media wrote about this event throughout the period of thirteen years; even the statements made by the state officers, participants in the police action, were published.<sup>4</sup>
- The Parliament of the Republic of Montenegro at its sessions in 1992 and 1993 discussed the issues of deportation of refugees, a Parliamentary Question was put to the Ministry of Interior, the then Minister replied as stated above.<sup>5</sup>
- From 26 May 1992 onwards, families of the deported persons were continually informing state officials about the arrest, asking for the help and any kind of information, among else, Dr. Asim Dizdarevic, Vice President of the Parliament, Momir Bulatovic, President of the Republic of Montenegro, Pavle Bulatovic,

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<sup>3</sup> <http://www.prelevic.com/Documents/Odgovor%20na%20poslanicko%20pitanje.doc>

<sup>4</sup> *Pobjeda*, Boka is Safe, 30 May 1992; *Pobjeda*, Mobility for the Purpose of Peace, 8 June 1992, page 3; Slobodan Pejovic, *Radio Free Europe*, Hague Chronicle, 23 June 2004. The copies of these texts represent an integral part of the first claim for redress filed on 6 December 2004 by the Titoric family, as well as for all other claims.

<sup>5</sup> <http://www.prelevic.com/Documents/Odgovor%20na%20poslanicko%20pitanje.doc>

Minister of Interior, Nikola Pejakovic, Deputy Minister of Interior, Slobodan Kalezic, Vice President of the Red Cross Organization of the Republic of Montenegro, as well as many others.<sup>6</sup>

- Danijela Stupar, the spouse of Alenko Titoric who disappeared after arrest and deportation from Herceg Novi on 27 May 1992, wrote to the then prime Minister of the Republic of Montenegro Milo Djukanovic. On 18 August 1992 she received a reply that her husband had been deported to Bosnian Serbs in order to be exchanged for apprehended Serb fighters.<sup>7</sup>
- The Office of the United Nations High Commissioner for Refugees (UNHCR) intervened with Montenegrin authorities to stop further execution of the crime in 1992 and continued searching for information in with the competent authorities in 1994 as well.<sup>8</sup>
- The Office of the International Committee of the Red Cross in Podgorica intervened on several occasions with the competent Montenegrin authorities in 1996 trying to get any kind of information about the destiny of the disappeared persons.<sup>9</sup>
- Seki Radoncic, a journalist & researcher, publicized details of this crime in 1996 in his book entitled *A Black Box - Police Torture in Montenegro 1992-1996*, published by *Monitor*, a weekly from Podgorica.
- Hikmeta Prelo wrote on two occasions in 1998 to the then Prime Minister of the Republic of Montenegro Milo Djukanovic, asking for any kind of information regarding the arrest and destiny of her son, brother and brother-in-law.<sup>10</sup>
- The ICTY passed on 15 March 2002 a judgment against the warden of the Foca concentration camp *Milorad Krnojelac*, Case No. IT-97-25-T;<sup>11</sup> in paragraphs 190 and 191 of the judgment, it was ascertained that Muslim refugees had been illegally deported from Herceg Novi on 25 May 1992 and taken to the Foca concentration camp.

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<sup>6</sup> Written Records of the testimony of Emil Redzematovic , case No. 851/2005; written record of the testimony of Sanja Bosnjak, case No. 3659/2004 and Diana Borovac, case No. 193/05, Attachment; written record of the testimony of Vahida Isakovic, case No. 749/05; written record on the testimony of Azra Lojo, case No. 565/05; written record of the testimony of Emina Cemo, case No. 1237/06.

<sup>7</sup> <http://www.prelevic.com/Documents/Pismo-D-Stupar-Titoric.doc>

<sup>8</sup> *United Nations High Commissioner for Refugees*, Stockholm, Sweden, 22 November 1994

<sup>9</sup> <http://www.prelevic.com/Documents/Pismo-D-Stupar-Titoric.doc>

<sup>10</sup> The letters are part of the case file No. 98/05 with the First Instance Court in Podgorica

<sup>11</sup> <http://www.un.org/icty/krnjelac/trialc2/judgement/index.htm>.

When the Prosecutor's Office denied the authenticity of the official UN internet presentation of the judgement, the lawyers acting for the families provided from the ICTY the copies of the judgment for the Basic Court in Podgorica and the State Prosecutor's Office.

- On 6 December 2004, the first of 37 claims for redress of the victims of deportation was filed with the Court; it was supported with a thorough description of events with written evidence attached and presented to the State Prosecutor acting for the state of Montenegro, the defendant.<sup>12</sup>
- 3. Public Pressure and Victim's Claims Urge Initiation of Inappropriate Criminal Investigation**
- On 18 October 2005, the Higher State Prosecutor in Podgorica filed a Request for the opening of a criminal investigation against six persons suspected of perpetration of a War Crime Against Civilians.
  - This Request was filed only two days before the first civil hearings were due to take place upon the claims of the families of victims of deportation.
  - On 20 October 2005, the Request for the opening of the investigation was presented to the public in such a manner as to favor the state of Montenegro's request to stay in all civil proceedings for redress until such time as the criminal proceedings be completed, though the criminal procedure had only just been initiated by the Request.

**Failures of the Request for the initiation of a criminal investigation:**

- **There was no motion for the presentation of any material evidences**, in defiance of a number of documents issued by the Ministry of Interior of the Republic of Montenegro on which the claims of the families had been based and which had been presented to the State Prosecutor together with the claims.<sup>13</sup>
- **All previously publicized evidence were ignored** - *Vijesti* daily published on 24 August 2004 an interview with Danijela Stupar, spouse of the disappeared Alenko Titoric, entitled *I shall sue the state of Montenegro*, as well as a facsimile of a letter received from the Ministry of Interior stating exactly the following:

“Your husband Alenko Titoric was arrested on 26 May 1992 in Herceg Novi together with 34 other persons, and on request of the Republika Srpska of B&H, extradited to the authorized officers of the Secretariat of Internal Affairs of Srebrenica - Petar Mitrovic and Predrag Perendic. **On that same day he was delivered to the military police of the Territorial Defense Headquarters in Bratunac, where he was to be one of the members of the group to be exchanged for apprehended Serb territorial fighters**”.<sup>14</sup>

The above evidence, also presented to the Prosecutor's Office in the family's claim of 6 December 2004, was not mentioned in the Request for

<sup>12</sup> [http://www.prelevic.com/deportation\\_written\\_evidence.htm](http://www.prelevic.com/deportation_written_evidence.htm)

<sup>13</sup> *Ibid.*

<sup>14</sup> <http://www.prelevic.com/Documents/Pismo-D-Stupar-Titoric.doc> A copy of the text published in daily *Vijesti* 24 August 2004 may be obtained from Prelevic Law Firm upon request.

the initiation of a criminal investigation of 18 October 2005. Neither Danijela Stupar nor any other families of the victims of deportation have ever been summoned by the Prosecutor's Office as witnesses to give their statements or help the investigation in any other manner.

All claims for reparation brought by the victims of deportation, commencing from the first one filed on 6 December 2004, became the subject of a great interest of all the media; everything was thoroughly covered - statements of victims, as well as excerpts from various documentation.<sup>15</sup>

In June 2005, Seki Radoncic, a journalist & researcher, published and delivered personally to the Supreme State Prosecutor a copy of his book *Fatal Freedom - Deportation of Bosnian Refugees from Montenegro*, containing numerous statements made by the families of the victims and witnesses of deportation, including copies of some key written evidence.<sup>16</sup>

- **victims of deportation who had not survived**, were proposed to be heard in the investigation as witnesses, though in the same Request they were listed as victims of the crime for which the criminal investigation was being initiated;
- **"enforced resettlement" has been stated as the only offence** in the perpetration of this war crime against civilians for which no circumstantial evidence exists, while "taking hostages", "collective punishment", "unlawful taking into concentration camps, and other unlawful detention", "denial of the right to a fair trial", was omitted, all these being the offences constituting the perpetration of a war crime against civilians undoubtedly committed in this Montenegrin police operation and for which there exists relevant written evidence;
- **there is no mention of deportation of the group of 21 Muslim refugees from Herceg-Novi into the prison camp in Foca**, although this fact was alleged in several written documents of the Ministry of Interior submitted to the Prosecutor's Office, as well as in the above mentioned ICTY judgment in the case against Milorad Krnojelac in 2002;<sup>17</sup>

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<sup>15</sup> All press clipping is available from Prelevic Law Firm upon request.

<sup>16</sup> Seki Radoncic, *FATAL FREEDOM - Deportation of Bosnian Refugees from Montenegro*, Humanitarian Law Fund, Belgrade, 2005 (copies in English are available for free).

<sup>17</sup> ICTY Trial Chamber judgment of 15 March 2002 in the case Prosecutor v. Milorad Krnojelac judgment, paras. 190 and 191: „190. The Prosecutor has alleged in **par 5.5** that FWS-71 was beaten, kicked and hit with rifle butts by soldiers when he arrived at the KP Dom in a group of 21 detainees on 25 May 1992. 191. The Trial Chamber is satisfied that, on that date, FWS-71 was transported from the police station in Herceg-Novi to the KP Dom in a group of 21 detainees.<sup>554</sup> On arrival, these men were met by a group of about ten individuals in uniforms.<sup>555</sup> These soldiers started beating the Muslim detainees one by one as they were getting off the bus. The soldiers lined them up against the wall of the KP Dom and struck each one with a rifle butt.<sup>556</sup> During the beatings, the soldiers used expletives and offensive language.<sup>557</sup> FWS-71 was kicked and hit a number of times by several soldiers during this incident. His mistreatment resulted in a bruise on his right shoulder which was clearly visible for between five and ten days. He also had pain around the rib cage and in the shoulder area.<sup>558</sup> Slavko Koroman, Zoran Mijovic and Milenko Elecic of the regular KP Dom prison guard staff were present at the entrance to the KP Dom

- **the list of suspects ends with those constituting lower links of the chain of command**, excluding thereby higher state officials who must have been informed of the above police operation, taking into consideration the fact that they in their official capacity received daily police bulletins and had all statutory powers to issue binding orders;
- **no requests for detention** - even following the formal opening of the criminal investigation on 23 February 2005 by Podgorica High Court, the Prosecutor's Office never requested detention of any of the suspected persons, which is unusual if one considers the usual practice of the State Prosecutor in Montenegro.

The above failures indicate that the Request for the initiation of a criminal investigation has not appeared as a result of long and thorough preliminary investigative procedures some 13 years after the crime, but that the Request has been compiled in haste, with the aim to stay the civil proceedings brought by the victims against the state of Montenegro. The Request has never been changed or enhanced according to the knowledge of the victims or their legal representatives.

#### 4. Failure to Provide Evidence & Failure to Respond to Destruction of Evidence

- **Ministry of Interior of the Republic of Montenegro**

It was only in June 2005 that the Prosecutor's Office requested the Ministry of Interior of the Republic of Montenegro to provide information on the documentation relating to deportation to the Republika Srpska of one of the victims, but solely *in connection with the claim of family members* and not for the needs of the preliminary investigative procedure that allegedly was underway at that time.<sup>18</sup> The Ministry of Interior's reply was that they contacted the Herceg-Novi Police Headquarters but that they did not have in their possession any documents regarding the deportation of refugees to the Republika Srpska of Bosnia and Herzegovina.<sup>19</sup>

The Prosecutor's Office has never initiated the procedure to determine liability for destruction of evidence of any of the Ministry of Interior's officials.

- **Parliament of the Republic of Montenegro**

In January 2005, replying to the request of lawyers acting for the families of the victims to be allowed to inspect the documentation on file in the Parliament related to the case of deportation, the Secretary of the Parliament publicly acknowledged that the key evidence on this crime (Information on the measures undertaken in respect to the displaced

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building, right next to where the detainees were lined up, when the incident occurred.<sup>559</sup> These guards did not react at all while the detainees were being beaten.<sup>560</sup>

<sup>18</sup> [http://www.prelevic.com/human\\_rights\\_odgovor\\_Mup-a.htm](http://www.prelevic.com/human_rights_odgovor_Mup-a.htm)

<sup>19</sup> [http://www.prelevic.com/human\\_rights\\_odgovor\\_Mup-a.htm](http://www.prelevic.com/human_rights_odgovor_Mup-a.htm)

persons, 1992 and a Reply to a Parliamentary Question, 1993) were destroyed in October 2004 as “worthless material” explaining it by the fact that these were the documents issued by the Ministry of Interior and that the Parliament is not obliged to keep any documents not issued by itself. The approval for destruction was given on 7 July 2004, three days following the television broadcast *Open Issues* (Montenegro RTV), when the issue of responsibility for deportation has been initiated.<sup>20</sup>

No procedure has ever been initiated to determine liability of any of the officials of the Parliament for destruction of the documentation of historical importance at the time when the criminal investigation of the case was being announced, nor of any responsible persons in the State Archives who approved the destruction.

## 5. Conflict of Interest

The Supreme State Prosecutor and her deputies act for the state of Montenegro, as the defendant in all civil proceedings for reparation brought by the victims of deportation. The official representatives of the Council of Europe have recently indicated the existence of an apparent conflict of interest when it is expected from the same person to conduct impartially the criminal investigation against state officials for war crimes and at the same time to defend the state against the claims brought by the victims of the same crime. The Council of Europe official representatives have thus requested separation of these functions and establishment of the institution of a State Attorney as one of the prerequisites for the Republic of Montenegro to be admitted to this European organization.

The Supreme State Prosecutor and her deputies proceed in practice in an apparently absurd manner, denying absolutely in all the above civil proceedings the claims of the families and insisting thereby on the following:

- time-bar of the claims for redress,<sup>21</sup> and
- lack of a causal link between the unlawful deprivation of liberty of the Bosnian refugees, handing them over to the enemy army during the war, and the fact that that hostile army caused their immediate or subsequent deaths or tortured them in prison camps,  
  
in defiance of the fact that the Prosecutor’s Office has initiated a criminal prosecution for the War crimes against civilians
- where no statute of limitations apply with respect to such crimes, and
- in the presence of clear written evidence that the officers of the Ministry of Interior of the Republic of Montenegro at the time of transfer of refugees to the territory of

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<sup>20</sup> The file on the communication between the Prelevic Law Firm and the Parliament together with the above mentioned decisions on destruction of the evidence in question and the relative press-clipping may be obtained upon request from the Prelevic Law Firm. Also, a tape on the TV Broadcast of 4 July 2007 is available upon request.

<sup>21</sup> Instructions of the Supreme State Prosecutor to the Basic State Prosecutor, 8 June 2005, available upon request.

the Republika Srpska were absolutely aware of the life-threatening situation they exposed them to by such an act:

- 1) The Minister of Interior of the Republic of Montenegro in his reply to a Parliamentary Question describes in detail the then circumstances in B&H and thus the reasons why Montenegrin police authorities decided not to expose their officers to war actions in the territory to which they deported the refugees of Muslim nationality:

“It was on the basis of our tactical appraisal regarding *the scope and size of war operations in the territory of the former Republic of B&H that might endanger the security of our police officers* assigned the duty of extradition of these persons, that it was agreed that officers of the Secretariat of Internal Affairs from Srebrenica come to Herceg-Novi, where the handing over of refugees took place” (italics added).<sup>22</sup>

- 2) Deterrent statements and acts by Montenegrin police officers, participants of this operation, such as that they “should take out 2 kilos of Muslim eyes and deliver it to Alija”,<sup>23</sup> as well as the torture inflicted upon Bosnian refugees following their arrest, along with sharpening of their bayonets by the police and uttering threats “Balije (*an assaulting name used for Muslims*), can you imagine what is going to happen to you?”<sup>24</sup> putting their knives beneath the refugees’ throats<sup>25</sup>, threatening with slaughter of their children<sup>26</sup>, all the above show that these Montenegrin police officers participating in the 1992 operation against refugees did not only suppose what would be the final destiny of their victims, but had overtly showed their appraisal of such an outcome.
- 3) Articles published in the Montenegrin daily *Pobjeda* in April and May 1992, prove that at the time of deportation of refugees from Montenegro to the KP Dom prison camp in Foca, it was a generally known fact in Montenegro that a war was going on in Foca and that military forces of the Republika Srpska had occupied Foca in the mid of April that year. Copies of these press articles were all presented to the State Prosecutor for all of the cases initiated under the claims for reparation by the victims of deportation.

## EPILOGUE

However, the manner of proceeding by the State Prosecutor of Montenegro may be better understood much if one recalls how Filip Vujanovic, the actual President of the independent Republic of Montenegro, then in the capacity of the Minister of Justice, commented on the key written evidence of the crime - the reply of the Minister Pejakovic to Danijela Stupar that her husband had been deported to B&H as a hostage to be exchanged for war prisoners:

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<sup>22</sup> This paragraph is an extraction from the claim filed for redress by the family of Alenko Titoric on 6 December 2004.

<sup>23</sup> Testimony of Vahida Isakovic, case No. 1512/2006

<sup>24</sup> Testimony of Ekrem Cemo, one of the survivors, case No. 1237/06

<sup>25</sup> Testimony of Nihad Borovac, case No. 193/05

<sup>26</sup> Statement made by Hava Bosno added to the case file No. 851/2005

*"I do not know what could I state regarding the Minister Pejakovic's letter, simply because the act described in that incriminated letter had no connection whatsoever with the judicial system nor with the institutions supervised by the Ministry of Justice".<sup>27</sup>*

There have been statement, however, by some honorable and regrettably powerless jurists. Nebojsa Vucinic, Ph.D., professor at the Faculty of Law in Podgorica: "What we have here is a most flagrant violation of the Convention on the Status of Refugees signed and ratified by Yugoslavia, as well as a war crime against civilians", and Stevan Lilic, Ph. D., professor at the Law Faculty in Belgrade: "The intonation of the letter is regrettably such that it suggests no confession, as confessions usually imply some remorse, but rather suggests mere establishment of facts, which is even worse. An impression is created that it has been a usual and routine operation, as subsequently confirmed. Thus, as it appears to me, this act constitutes *an evidence of the apparent clinical death of the rule of law here*".<sup>28</sup>

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<sup>27</sup> Belgrade weekly *Vreme*, 11 April 1994

<sup>28</sup> Ibid.