

INTERNATIONAL ASSOCIATION OF PROSECUTORS

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**Objective standards in processing
war crimes of the State Attorney's Office
of the Republic of Croatia**

Josip Čule

Deputy Attorney General
Office of the Attorney General
Republic of Croatia

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development of Criminal-law legislation

-definitions of war crime are clearer more than ever before

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the reflections on war crimes differ among countries:

- in countries which experienced war on own territory
- other countries

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specific for Croatia:

- war on the territory of the RoC,
- huge destruction,
- numerous victims,
- perpetrators of crimes - from the aggressor army,
 - from the domestic armed forces,
- war crimes committed on the territory of RoC and of an another state

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problems in proceedings during the war:

- large numbers of reported crimes and alleged perpetrators,
- availability of witnesses and evidence,
- trials *in absentia* ...

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Objective standards - "*conditio sine qua non*":

not to discriminate in the prosecution of a war crime:

- on the basis of a perpetrator of a criminal offence
(divide them into "them" and "us")
 - towards the victims
(divide them into "them" and "us")
- on the basis of a place (locality) of the perpetration of the crime
(divide them in "our" or "their" territory)
- on the basis of the country in which the crime was perpetrated

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Objective standards -starting points:

- assess whether a reported criminal offence is actually a war crime,
- assess if there is a reasonable suspicion that the reported person committed a war crime.

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**assessing whether a reported criminal offence
is actually a war crime**

- a) Does the event burdening the suspect contain all important characteristics of a war crime or some other criminal offence?**
- b) Is the criminal quantity of non-law (illicit or punishable act) such that it transfers from one criminal offence or other punishable act into criminal offence of a war crime?**
- c) What were the motives of the perpetrator?**

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**assessing whether a reported criminal offence
is actually a war crime**

Is the description of the criminal offence sufficiently concrete in relation to the suspect, so that the description clearly and without any obscurity depicts the act of execution of the criminal offence?

- **what did the superior military or civil person order to his subordinates,**
- **what did the responsible person omit doing to prevent a war crime, or to report a war crime and perpetrator,**
- **immediate perpetrator – the act of execution depicted in an indisputable manner**

war crime or crime committed during the war

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**a reasonable suspicion that the reported person
committed a war crime**

- a) the availability of credible and sufficiently evidence concrete to produce reasonable suspicion that the defendant is the perpetrator of a criminal offence**
- knowledge of witnesses about perpetrator without any doubt,**
 - quality of documents,**
 - audio or video recordings: origin; author; admissibility in court**

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**a reasonable suspicion that the reported person
committed a war crime**

- b) the lack of indisputable evidence or information regarding the defendant**
- c) the initiation of the the procedure on the basis of a hearsay witness**

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Objective standards - advantages:

- good grounds for conducting quality proceedings in an objective manner,
- the conduct of proceedings towards all perpetrators, without any ethnic or other prejudice,
- providing realistic possibilities to reach a quality decision in the procedure,
- uniqueness in criminal prosecution.

Thank you for your attention!

josip.cule@dorh.hr

www.dorh.hr