

had been killed there but quoted one historian's figure of a total Jewish population of 43 000 in the whole of Yugoslavia at the time of whom 26 000 had been murdered. From this he inferred that the number killed in Croatia must have been much less than 40 000.

He also said that the administration in Serbia had been the first to report to Berlin that all Jews there had been killed but this was not mentioned.

3. He considered the allegation that a Croatian group was responsible for the bombings in Australia in the early seventies had been refuted by subsequent evidence that "agents provocateurs" of the Yugoslav Government provided false evidence to Australia's security forces about responsibility for the bombings.

Further, this evidence tended to support the view that elements of the Yugoslav Government were behind the bombings so as to put Croatian nationalists in Australia in a bad light.

4. The programme showed archive film of a young man who had been shot in the street in Sydney. Mr Gilich said the script should have stated that the victim of that particular incident was Croatian and the perpetrator was Yugoslav from the consulate.

Otherwise the viewer might think from the context that the culprit was Croatian.

Mr Gilich said there were atrocities against Jews and other ethnic groups in several European countries. He felt that the focus on Croatia gave rise to an impression that Croatsians were anti-Semitic.

He said that in fact the Jews in Yugoslavia had gone there from Spain to escape persecution many hundreds of years ago and had settled largely in areas populated by Croats with whom they had lived harmoniously for centuries.

The Croatsians are a small community in New Zealand. New Zealanders know very little about Croatia and the programme was one of the few media treatments of their country. He felt that it was impossible for New Zealand Croatsians to escape being branded as part of a nation which conducted atrocities during World War II. As he put it at the hearing, "Not every New Zealander thinks I am a war criminal. But if 1 in 50 thinks I am, that would worry me."

Mr Gilich produced a statement by a friend made before a justice of the peace to the effect that 2 friends of the friend had said they had wondered whether Mr Gilich had been involved in war crimes during the war. In response to questions from the Tribunal, he said that his friends understood because the situation had been explained to them but friends of those friends had asked these sorts of questions about him.

Mr Gilich was supported at the hearing by Thea Gilich and by Mr Curin, a New Zealander by birth who had returned to Croatia as a child and had been an active member of the partisan resistance during the war. He said many Croats participated as he did. They were the largest single national group in the Partisan resistance even though it was dominated by Serbs. Mrs Gilich emphasised to the Tribunal that it was the historical and contemporary background in the programme which the complainants considered unbalanced, especially in the light of New Zealanders' almost complete lack of familiarity with Croatia and Yugoslavia generally. It was clear that, as New Zealanders of Croatian origin, they felt personally anything which they considered reflected adversely on Croatia or Croats.

Paul Norris, the Director of News and Current Affairs, and David Edmunds appeared for Television New Zealand. Mr Norris said that the item came from the top end of the Australian current affairs market and that Messrs Edmunds and Fabian had done a lot of research since the complaint. This research supported the contents of the programme and he was content to rely on this. He said it would be a damaging

precedent if this kind of programme could not be broadcast. He could understand the feelings of the complainants and said that Scots might feel the same way about recurring news references to Scottish football hooligan behaviour but that did not mean that such material should not be broadcast. Mr Norris stood by TVNZ's right to broadcast the programme.

### **Decision**

The Tribunal notes that TVNZ dealt with the complaint courteously and helpfully at all stages. Mr Edmunds and Mr Fabian researched the historical background and disclosed their findings fully to Mr Gilich. It was Mr Edmunds who, when he saw that Mr Gilich was not going to be satisfied, suggested the use of the formal complaint procedure.

Dealing with the points raised by Mr Gilich:

1. The historical reference material made available to the Tribunal and traversed in the course of the complaint state that King Alexander's assassin was Macedonian but that the Ustace was involved. The programme attributed the assassination to the Ustace. Mr Gilich himself accepted that those involved in the assassination may well have included Croatsians. The Tribunal therefore cannot say that it was wrong to attribute the killing to the Ustace. In a brief historical outline, it was unnecessary to explore any controversy or to state that the identities and nationalities of all those behind the assassination were never finally determined.
2. It appears that estimates vary of the number of Jews killed in Croatia. The Tribunal is not in a position to determine differences between historians. Mr Gilich conceded that many thousand of Jews were killed there. The point therefore does nothing to support his complaint that the programme was an unjustified slur. Judged from the standpoint of what the New Zealand viewer would think of the people who carried out these atrocities, no one would think them any better merely because they killed fewer than 40 000 people.
3. The new information on the 1970s bombings in Australia came to light after the programme had been broadcast, judging from the dates of newspaper clippings which Gilich produced. Until then, the accepted view in Australia seems to have been that the bombings were carried out by the Ustace or Croatian nationalists properly tried and convicted. The accuracy of statements in a programme has to be judged by the state of public knowledge at the time the programme was made, not by subsequent revelations. On the evidence available to the Tribunal, the new information remains a theory even at this stage and the identity of those who conducted the bombings has not been determined.
4. Mr Gilich saw something sinister in the failure to mention the nationality of the victim of the shooting. The Tribunal does not. The archive film was used as a visual illustration of ethnic violence generally and the voice-over at that point made this clear. The narrator at that point was questioning whether ethnic violence would be a consequence of the holding of war crimes trials in Australia. The use and the treatment of the archive film was not biased, nor partial, nor inaccurate. It is very doubtful that it would be interpreted by the ordinary viewer in the way it was seen by the complainant.

Essentially, the complainants saw the programme as giving their country and its nationals a "bad press". They wanted it to contain balancing material to show that atrocities were committed in other countries as well and that not all Croatsians supported the violent regime of Dr Ante Pavelic. Whether the complainants accept it or not, the direction in which they wanted to take the argument, both in the correspondence and at the hearing, was some distance away from the real subject matter of the programme.

The programme was not about Croatia or Croatsians or