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Serbs' continued fight for property rights in Croatia

By Willy Fautré

EU Political Report (19.05.2020) - <https://bit.ly/2X8iHFh> - Twenty-five years after the end of Croatia's war for independence from Serbia, thousands of Serbs are still fighting for their property rights in that Western Balkan country which became a member state of the European Union (EU) in 2013 and is now chairing the EU.

Dalibor Močević, a Croatian citizen of Serbian descent, is one of thousands of Serbs who were deprived by Croatian laws of their houses, apartments or other property in the aftermath of the Yugoslav wars, which led to the breakup of the Former Yugoslav Republic.

In 1993, Močević, who was employed by a merchant shipping company, returned from a one-year trip working abroad. He discovered that his house in Dalmatia, a region along the Mediterranean Sea, had been confiscated by the authorities and handed over to Croatian refugees who had been displaced by the Yugoslav Wars.

Močević's house had belonged to his father who had received it in 1972 from his former employer, the Customs Office of Zadar, during the Communist period. This flat in Zadar had been Močević's permanent residence since his birth in 1972. When his father died in 1992, Močević and his mother automatically became the co-owners of the flat under the administrative/legal status of "specially protected tenancy".

In 1993, the Ministry of Finance, the Customs Administration and the Customs Office of Zadar brought a civil action against Močević and his mother in the Zadar Municipal Court to legalise their de facto eviction from the flat.

Since then, Močević has been fighting an endless battle against the Croatian administrations. In 2010, after ten years of 'ping pong' between the Municipal Court and the County Court of Zadar, he appealed the final local decision at the Supreme Court and then at the Constitutional Court, but to no avail.

The controversial Law on the "Temporary Takeover and Administration of Specified Property" that was passed at the end of summer 1995 is the legal instrument used by the state to justify the confiscation of homes and other property temporarily abandoned by their owners. Under this law, temporary possession and usage of such property could be given to Croats, including displaced persons and refugees as well as the families of killed or missing Croatian soldiers. There is no precise data on how many houses and apartments were placed under compulsory administration. [Some say tens of thousands.](#)

This law prohibited the sale or other use of the property by the original (Serb) owner once it had been transferred to the government. It granted the owners ninety days to "return to Croatia" and file a claim on their property to retain possession. For nearly all

Serbs displaced by the war to whom the law applied, a safe return to Croatia for filing this claim under such a short deadline was impossible. In fact, even ten years later, there were still reports of violence against Serb returnees according to a press release from the [OSCE](#).

Additionally, this law called for municipalities and towns to create commissions that would implement it and handle property claims. However, according to the [U.N. Centre for Human Rights](#), as of early March 1997, not a single case brought before these property commissions resulted in Serb owners regaining possession of their property.

The Organization for Security and Cooperation in Europe (OSCE), which as of 1997 had lodged [more than 160 complaints](#) with Croatian courts on behalf of Serbian homeowners described its success rate as "zero," and stopped taking new cases.

Furthermore, Croatia enacted over 20 discriminatory laws and regulations that formalised the confiscation of social housing inhabited by Serbs. Often, this was done in fast-paced lawsuits during which users were convicted "for hostile activity" or arbitrarily declared to have no right to occupy the flat, as in Močević's case.

The estimate of the damage these policies incurred on Serbs who were not involved in the war, like Močević, is incalculable.

Serbs were also excluded from the process of buying social housing. When that process began in Croatia, a large number of Serbs had already fled and, until today, Croatia has explicitly refused to grant them equal conditions for purchasing these apartments.

It was only in 2003 that there was a change in the Croatian attitude. Resolving the conflict around tenancy rights in Croatia was set as one of the conditions in the Stabilization and Association Agreement with the EU. Despite this, most Serbs who lived or had property in Croatia in the 90's did not regain their property rights.

In the midst of talks about the integration of other Western Balkans countries, property rights remain high on the agenda of the victims of the Yugoslav Wars. This issue is still a source of deep resentment that could easily be instrumentalised by extremist political forces.

Fascism and anti-Serb sentiments in Croatia

EU Reporter (11.05.2020) - <https://bit.ly/3bkcuuV> - ***On 1 May 2020, Croatia's president Zoran Milanovic left a state ceremony celebrating the 25th anniversary of the reconquest of territories held by rebel Serbs for four years in protest of a Nazi-era salute – writes Willy Fautré, director of Human Rights Without Frontiers***

The president's reaction was prompted by a war veteran who was wearing the emblem 'For the homeland ready' (Za Dom Spremni) used by the Ustashi fascists during WWII. Between 1941 and 1945, the Nazi-aligned Ustasha murdered tens of thousands of Serbs, Jews and Roma. They were known for their particularly brutal and sadistic methods of execution. Despite the connotation of the event, Prime Minister Andrej Plenković decided to stay, which demonstrated the challenges for politicians and society alike when confronted with the fascist past of the country.

The EU is currently developing a policy to support the gradual integration of the Western Balkans, including the accession of Serbia, but at the same time anti-Serb sentiments continue to increase in Croatia.

Dalmatia, a well-known touristic region along the Adriatic Sea, is one area where many Serbs do not feel at home.

An investigation with local Serbs that was carried out by *Human Rights Without Frontiers* (HRWF) about the situation in Zadar, the main city of Dalmatia after Split, is particularly enlightening. Since 1990, the Croatian Democratic Union (HDZ), a ruling party in Croatia and a member of the European People's Party (EPP) at the European Parliament, has continuously held the post of mayor of Zadar.

In 2008, Mayor Živko Kolega refused to lay a wreath at a monument for anti-fascists who died during WWII. Anti-fascists in Zadar objected, insisting that local and national authorities were not doing enough to combat the neo-Ustasha ideology. Anti-Serb hostility is a by-product of this fascist political agenda.

One example of how a political ideology has translated into hardship for individuals is the discrimination that Dalibor Močević faced. Močević is a Croatian citizen of Serbian descent who spoke to HRWF about the challenges he faced in receiving fair treatment by various administrations and the judiciary of Zadar.

From his birth in 1972 until 1994, Močević lived in an apartment in Zadar that belonged to his father. In 1992, his father died as a victim of the war in Bosnia after being placed in a sanatorium.

In 1993, Močević, who was employed by a merchant shipping company, returned from a one-year trip on foreign seas. He discovered that his house, which jointly belonged to him and his elderly mother, had been confiscated by the authorities and given to Croatian refugees who had been displaced by the war. After 15 years of judicial proceedings and conflicting decisions from the Zadar Municipal Court and Zadar County Court, Močević was deprived of his property rights. In 2010, he appealed this decision at the Supreme Court and then at the Constitutional Court, but to no avail.

In 2009, his mother died under suspicious circumstances. Močević requested access to a number of medical reports from the General Hospital in Zadar, which he is entitled by law, but his request was denied. He filed a complaint against the Ministry of Health but received no reply. Močević sent another complaint to the County Prosecutors Office in Zadar requesting an investigation based on his suspicions, but no criminal investigation was ever initiated.

Additionally, the second husband of his late mother, A. Radetić, who was friendly with some politicians that had dubious pasts, illegally took Močević's inheritance. In 2017, the Constitutional Court rejected Močević's complaint. Močević felt discriminated against because of the general anti-Serbian hostility that has persisted since the collapse of the Federal Republic of Yugoslavia. [On 2 May 1991](#), during one of the many clashes between Croats and Serbs, Radetić's uncle was part of a Croatian mob that ransacked over a hundred shops of Serbian companies and businesses and destroyed hundreds of Serb houses in Zadar. The police passively watched these violent incidents without interfering. In another case concerning his divorce, Močević was denied custody of his young son despite the fact that he had been taken from his ex-wife by the local Center for Social Welfare because of her persistent alcoholism and psychiatric problems.

Močević asserts that he was repeatedly denied justice in these instances because of his Serb origin. His lawyer shares the view that Serbs in Croatia are discriminated against

due to various personal or institutional collusions between a number of judges, political figures and extreme nationalists.

The President of Croatia did well to withdraw from a ceremony that had some fascist connotations, but there is still a long way to go before anti-Serb sentiments are eradicated entirely. The wars between 1991 to 2001 which led to the breakup of the Federal Republic of Yugoslavia and the current frontiers between newly established states left wounds at individual, societal and institutional levels. These urgently need to be healed for the wellbeing of all Croatian citizens and so as to allow successful integration of the seven Western Balkan states into the EU.

Willy Fautré is director of Human Rights Without Frontiers

Two complaints and no follow up

A Serb claims he is discriminated against by the Croatian authorities

By Willy Fautré, Human Rights Without Frontiers

HRWF (03.06.2019) - Complaints filed by Dalibor Mocevic, of Serbian descent, about the suspicious death of his mother and telephone threats have remained dead letter for many years in Croatia.



Dalibor Mocevic and his mother

The Croatian national courts acted against him solely on the basis of his nationality, he says.

In 1993, D. Mocevic was a victim of a first serious violation of his property rights about which a complaint has been lodged with the European Court of Human Rights. After

coming back home from a one-year travel on foreign seas (he was employed by a merchant shipping company), he discovered that his house, jointly belonging to him and his mother after his father's decease, had been confiscated and handed over to a Croatian family displaced by the war.

These cases of discrimination which took place in Zadar, the fifth largest city of the country situated on the Adriatic Sea, are to be related to the collapse of the Yugoslav Republic and the wars of independence by its various national populations from 1991 to 1995. During that period, Croats and Serbs fought against each other. This enmity has not disappeared since then and this is the general context of D. Mocevic's troubles.

A suspicious death

On 25 August 2009, Mrs Sofija Mocevic, passed away in the General Hospital (GH) of Zadar while her son Dalibor Mocevic was away. Her common-law partner she was living with after the death of her husband told him that she had died from a stroke. Right from the beginning, D. Mocevic suspected that she had died in unclear circumstances and her partner, Ante Radetic, a Croatian national, had some responsibility in her death.

When he got a copy of his mother's medical file, he noticed a number of differences from what he had been told by her partner.

Under the Rulebook on Conditions, Organization and Method of Outpatient Emergency Medical Assistance (Article 25, para. 6, 7 and 9) it is prescribed that there should be forms of the hospital emergency service in her medical file but inexplicably there were not any. D. Mocevic vainly tried to get an answer from GH Zadar but he did not get any.

According to the version of the facts told by Mr Radetic, D. Mocevic's mother was feeling bad round 1.30am and her left side got paralyzed. However, according to the hospital file, D. Mocevic found that she had only been admitted in the hospital at 3.30am, two hours later, although her apartment was only 100 m from the hospital. When D. Mocevic asked for a copy of the complete medical file, he only received a report from the protocol.

In the last month before her death, Sofija Mocevic's blood test had showed drastic changes in her white cells that were not reflected in her medical records. Noteworthy is the fact that, although there had not been any toxicological report, they mention there was no sign of poisoning.

Another intriguing detail. After Sofija Mocevic's death, the hospital gave back her necklace, her rings and her watch to her son. This is inconsistent with the fact that she had been transported from her bed at home to the hospital in the middle of the night and that she always removed such items before going to bed, according to her son.

After Mrs Sofija Mocevic's death, her common-law partner, Ante Radetic, hurried to sell the land, the apartment and other items. He also withdrew all the funds from their joint bank account.

All these facts further enhanced D. Mocevic's suspicions about the real cause of his mother's death.

Legal action

Due to these and other circumstances indicating suspicious handlings of his mother in hospital and unclear circumstances regarding her death, D. Mocevic sent a letter a letter dated 20 December 2010 to the County Prosecutors Office in Zadar, requesting some

investigation about his suspicions. The complaint was registered under Nr KR-DO-405/2010. The Prosecutor's Office asked the hospital to make a statement on the relevant facts and the police to carry out the necessary investigation.

In December 2010, D. Mocevic received several threats via text messages, from his mother's partner. These threats were communicated to the police with a copy of the list of telephone conversations and sms messages but they did not carry out any investigation.

In 2011, he received a threatening letter from Ante Radetic, who warned him "not to be a hero" and asked him for a payment of 25.500 € as a "debt" which was a part of his own mother's inheritance, for the collection of which A. Radetic said "I will not need the Prosecutors' office". This letter was sent to Mr. Močević after he reported his suspicions to the police.

The police interviewed D. Mocevic on 25 March 2011 and Ante Radetic on 10 May 2011. However, they never forwarded the letter to the Prosecutors' Office and they never took any other action or informed D. Mocevic about the outcome of the proceedings: the filing of a criminal report or the suspension of the proceedings.

During 2011, 2012 and 2013, D. Mocevic complained to the State Attorney (DORH) about the excessive duration of the preliminary investigation into the death of his mother and also threats he received on his phone. There was no reaction.

In 2009/2010, D. Mocevic also sent an inquiry to the Emergency Services of the Zadar County Hospital who refused to provide him with his mother's medical record for over a year. That is when he noticed significant discrepancies regarding the time of her admission in hospital and her complete check-up along with her blood test results.

On 28 March 2012, D. Mocevic filed a criminal complaint with the County Prosecutor's Office in Zadar, against the police but he was never notified about the follow up of his complaint.

In conclusion, preliminary criminal investigation into two different issues concerning D. Mocevic lasted for eight years without any outcome, because he is of Serbian origin and the man against whom he lodged complaints is a Croatian, he says.

Dalibor Mocevic v. Croatia: Denial of justice and ethnic discrimination in a property right case

Willy Fautré, director of *Human Rights Without Frontiers*

HRWF (26.04.2019) - In a never-ending property right dispute, Dalibor Mocevic, a Croatian and Bosnian national of Serbian descent, has been a victim of human rights violations in Croatia.

He and his attorney at law, Miljan Timotijevic, are of the opinion that discrimination based on ethnic origin is in the core of all his troubles and travails of his family during the years, caused by Croatian authorities. In the center of this case is the fact that Dalibor Močević is a Serbian national with both Bosnian and Croatian citizenship, his late ancestors.

D. Mocevic had a permanent residence in a flat located in Zadar, at 6 Ugljanska Str. where he had lived since his birth in 1972 until 1994. This flat belonged to his father,

Savo Mocevic, who had received it in 1972, during the Communist period, from his former employer, the Customs Office of Zadar. According to the relevant legislation in force, D. Mocevic and his mother became automatically the co-owners of the flat under the administrative/legal status of "specially protected tenancy".

On 15 September 1992, D. Mocevic's father died as a victim of the war in Bosnia in a sanatorium where he had spent the last years of his life.

In 1993, the Ministry of Finance, the Customs Administration and the Customs Office of Zadar brought a civil action against Dalibor's parents in the Zadar Municipal Court, seeking the eviction of D. Mocevic and his mother from the flat. However, as a co-owner of the flat, he was entitled to use and purchase it in accordance with the Housing Act. At the beginning of 1993, D. Mocevic also submitted a request for the property right transfer to his name.

In January 1993, D. Mocevic, who was employed by a merchant shipping company, left Zadar on a ship for one year.

In February 1994, he came back to Croatia and found that the flat was occupied by a family of refugees. His personal belongings had remained untouched. He had however no other place to live in. His mother had in the meantime been given a 58 sqm flat by her own employer under the status of "protective tenancy" but she was living there with a new partner and his children.

During the proceedings, the court received a certificate from Zadar police confirming that his registered residence had been at 6 Ugljanska Str. in Zadra since 29 September 1988.

Ten years of "ping pong game" between the Municipal Court and the County Court in Zadar

On 9 February 1999, the Municipal Court cancelled the specially protected tenancy rights of Dalibor's mother concerning the flat at Ugljanska Str.

On 26 April 2001, the Municipal Court deprived Dalibor of any rights on the flat but he appealed the decision.

On 11 September 2003, the Zadar County Court quashed the first instance judgment and remitted the case.

On 11 November 2004, the Municipal Court ruled again for the defendant state (Croatia) but Dalibor appealed the decision.

On 27 September 2006, the Zadar County Court quashed again the first instance judgment and remitted the case.

The "ping pong game" between the two courts continued for four more years.

On 31 August 2010, the Zadar County Court dismissed Dalibor's appeal and upheld the first instance judgment, which hereby became final and enforceable.

Proceedings at Constitutional Court and the Supreme Court

On 25 October 2010, D. Mocevic lodged a complaint with the Constitutional Court against the County Court's decision, alleging violations of his constitutional rights to equality before the law and fair proceedings as well as his right to respect for his peaceful

enjoyment of his possessions. Indeed, the Government had never disputed the fact that the flat in question was his actual place of residence.

D. Mocevic also lodged an appeal on points of law with the Supreme Court. Relying on section 382 (1) and 382 (2) of the Civil Procedure Act, he argued that his case raised legal issues important for ensuring the uniform application of the law and equality of citizens.

On 3 March 2011, the Supreme Court declared his appeal on points of law inadmissible.

At the end of 2011, D. Mocevic left Croatia due to fear for his own safety as he repeatedly received phone threats.

As his mother had died in 2009 and he had no living relative left in Croatia, he had no knowledge of the outcome of the proceedings of the Constitutional Court for several years.

In November 2016, after repeated inquiries by electronic mail, he received a notification from the Constitutional Court saying that a decision had been taken on 22 February 2012. He was orally informed that his complaint had been dismissed as unfounded.

A complaint for denial of justice and ethnic discrimination has been lodged with the European Court of Human Rights. As of the end of April 2019, the admissibility of the case has not been examined yet.