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Mocevic Case: Oral statement at the 47th UN Human Rights Council Session

Submission of the "Coordination des Associations et des Particuliers pour la Liberté de Conscience (CAP-LC)" for the oral statement, limited to 1'30"

CAP Liberté de Conscience (21.06.2021) - Mr. Dalibor Močević, a Croatian and Bosnian national of Serbian descent, is a victim of human rights violations in Croatia. Following the prohibition of discrimination based on race, sex, language and religion in the Charter of the United Nations, the adoption of the Universal Declaration of Human Rights became the next important step in the legal consolidation of the principle of equality before the law and the resultant prohibition of discrimination.

Being continually discriminated against by Croatian authorities because of his national and ethnic origin, Mr Močević was deprived of property belonging to his ancestors, his apartment in Zadar and passenger ship business, he had to abandon due to the discriminatory pressure from Croatian tax authorities and even the parental rights of children he has with ethnic Croat mothers.

Many troubles Mr. Močević and his family were faced with, stemmed from ethnically motivated discrimination and hatred that is widespread among the population and political parties that base their ideas on nationalism and xenophobia, especially towards the Serbs. Such treatment is especially evident in the region of Dalmatia and other places which are particularly Catholic, and where the population is of lower education and wealth.

Courts discrimination of Serb minority in Croatia: A case raised at the U.N. in Geneva



Mr Močević advocating the rights of the Serb minority at the OSCE

By Willy Fautre (HRWF)

The European Times (06.10.2020) - <https://bit.ly/3nv21o2> - At the 45th session of the UN Human Rights Council in Geneva, a case of discrimination based on ethnicity in Croatia was submitted to their delegation.

25 years after the end of Croatia's war for independence from Serbia, many Serbs living in Croatia report ongoing discriminatory treatment in court by the judiciary.

One such example is the case of Mr. Dalibor Močević, a Croatian citizen of Serbian descent, who has been fighting for decades in Croatian courts regarding property rights issues and, recently, a child custody case.

Mr. Močević was married to Ms. Ž. Šimunović from Našice from 1 January 2003 to 26 August 2006. One of the reasons for their divorce was that his ex-wife struggled with alcoholism and mental health issues. They have a son, I.M., who was born in February 2007.

On 17 June 2008, the Municipal Court in Našice ruled that I.M. was to be entrusted to the care of his mother. Mr. Močević was unable to get shared custody or even visiting rights from the court. He strongly believes that this decision was motivated by prejudices related to his Serb background.

In January 2010, the Našice Municipal Court granted custody of I.M. to his maternal grandparents, who lived at the same address. This was upon the request of the Center for Social Welfare of Našice due to concerns about his mother's struggles with alcoholism and psychiatric issues. Mr. Močević was not informed that such legal proceedings were taking place despite his address being known by the court. Again, he asserts that the court's negligence to notify him is because of his Serb origin. He has experienced this

prejudice before during a case in property rights after the independence of Croatia from Serbia in 1991.

In January 2011, the Municipal Court of Našice restored the custody of I.M. to his mother and allowed his father visitation once a month for 10-12 hours a time in Našice. Mr. Močević appealed the decision, referring to his broader rights as a father under the national Family Law.

On 10 March 2011, the Osijek County Court overturned the first instance ruling and remanded the case for retrial. The County Court ruled that the disputed decision was taken in violation of the right to a fair trial because the child's father was not allowed to participate. Mr. Dalibor Močević requested that his ex-wife undergo a psychiatric examination because he claimed that their son was experiencing chronic stress with her. Instead, the court ordered a psychiatric examination of Mr. Močević, who had no history of mental illness or any dependencies. Mr. Močević attributes this to anti-Serb sentiments.

In 2017, Mr. Močević's ex-wife abandoned their son and left Croatia for an unknown destination. A year later she was extradited from Austria where she had been homeless, mentally unstable and alcoholic. In early 2019, the Municipal court in Đakovo initiated new proceedings concerning the custody rights of I.M. Although his mother had abandoned him, the family court judge Ankica Wolf denied Mr. Močević's request for custody.

All challenges Mr. Močević brought to the Supreme Court of Croatia for his exclusion from these proceedings by both the judge and the president of the court in Đakovo, as well as the transfer of their case to another court were either rejected or left undecided.

Their child has been living for over 10 years now in a state of mental anguish. Mr. Močević is convinced that judges are refusing to grant him custody of his son because he is of Serb descent.

In 2018, the European Commission on Racism and Intolerance (ECRI) of the Council of Europe (CoE), expressed alarm over the rise of right-wing extremism and anti-Serb hostility in its [fifth](#) report about Croatia, the first of the seven Western Balkans countries to join the EU.

In line with the ECRI's findings, Mr. Močević insists that he has been repeatedly denied justice because of his Serb origin. His lawyer has shared that this is not unique to Mr. Močević's case, as other Serbs in Croatia have been discriminated against due to various personal or institutional collusions between a handful of judges, political figures, and extreme nationalists.



Coordination des Associations et des Particuliers pour la Liberté de Conscience

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Courts repeatedly deny father custody over his child because of his Serb origins

Case submitted to the Croat delegation at the 45th session of the UN Human Rights Council in Geneva at the end of September

HRWF (25.09.2020) - Mr. Dalibor Močević was deprived of custody over his 13-year old son despite not having a criminal record, being employed and being socially well integrated. His son's mother was deprived of custodial rights due to her struggles with alcoholism and homelessness.

Mr. Dalibor Močević, a Croatian citizen of Serb descent, claims he has been discriminated against in a child custody case because of his Serb origin.

To support his allegation, he refers to a report by the European Commission on Racism and Intolerance (ECRI) of the Council of Europe (CoE) that was published in 2018. This was the ECRI's fifth report about Croatia, the first of the seven Western Balkans countries to join the EU, and it expressed alarm over the rise of right-wing extremism and anti-Serb hostility there (See <https://bit.ly/35TegEr>).

He asks that the Croat authorities implement the European Convention on Human Rights (ECHR) and the Convention on the Rights of the Child (CRC) to provide for the best interest of his son and grant him custody.

The facts

Mr. Močević was married to Zeljka Simunović from Našice from 1 January 2003 to 26 August 2006. One of the reasons for their divorce was that his ex-wife struggled with alcoholism. In February 2007, their son, I.M., was born.

On 17 June 2008, the Municipal Court in Našice ruled that I.M. was to be entrusted to the care of his mother. Mr. Močević was not granted shared custody nor even visiting rights from the court. He strongly believes that this decision was motivated by his Serb heritage.

In January 2010, the Našice Municipal Court gave custodial rights to I.M.'s maternal grandparents who lived at the same residence. This was in response to the request of the Center for Social Welfare of Našice due to concerns of I.M.'s mother's ability to care for him while struggling with alcoholism and psychiatric issues. Mr. Močević was not informed nor notified that such legal process was in progress although his address was known by the court. Again, he suspects that this exclusion is because of his Serb origin.

Mr. Močević only became aware of this development much later. He filed a request for custody with the Našice Municipal Court on 20 December 2010 because he wanted to protect his son. His ex-wife opposed this proposal. In January 2011, the Municipal Court of Našice restored parental rights to I.M.'s mother and ruled that Mr. Močević could see his son once a month for 10-12 hours per time in Našice. Mr. Močević appealed the decision, referring to his rights under the Croatian Family Law.

In accordance with the provisions of the Family Law, if one parent is unable to care for a child, then this obligation is taken over by the other parent. Only if he or she is unable to care for the child will they then be entrusted to another person.

On 10 March 2011, the Osijek County Court overturned the first instance ruling and remanded the case for retrial. The County Court ruled that the disputed decision was taken in violation of the right to a fair trial because the father was not allowed to participate.

Mr. Dalibor Močević requested a psychiatric examination of I.M.'s mother, because he believed that I.M. experienced chronic stress due to her mental illness. Instead, the court ordered a psychiatric examination of Mr. Močević, who has no history of mental illness or any substance abuse issues. Again, Mr. Močević believes this stemmed from anti-Serb prejudices.

In 2017, Mr. Močević's ex-wife abandoned their son and left Croatia without telling anyone where she was going. A year later she was deported from Austria where she had been living on the streets. She had relapsed with her alcoholism and been mentally unstable.

In 2018, the Center for Social Welfare in the city of Nasice initiated new court proceedings which led to both Mr. Mocevic and his ex-wife losing parental rights and custody of their child. The decision was made by the Municipal court in Nasice, the same court and the same judge - Ankica Wolf – that ruled in the custody proceedings in 2010. Mr. Mocevic had sent powers of attorney to a lawyer representing his interests, but the court ignored it for arbitrary reasons.

Again, Mr Mocevic suspects that his interests were not defended because of his Serb origin.

Legal analysis

Croatia has ratified the ECHR and the CRC. The ECHR spells out the basic rights that all children have – without discrimination: the right to survival; to develop to the fullest; to be protected from harmful influences, abuse and exploitation, etc.

In the present case, the Croatian courts didn't act in accordance with the child's best interest. Moreover, Mr. Močević's rights under Articles 2 and 14 of the United Nations International Covenant on Civil and Political Rights (ICCPR) were violated. Arguably, Article 26 of the ICCPR, which forbids any discrimination to the equal protection of the law based on national or social origin, was also not upheld.

Furthermore, Mr. Močević's right to a fair trial was violated because the court excluded him from most of the custody proceedings and failed to guarantee his constitutional right to equality before courts and other state bodies. It can be argued that the biased decisions of Judge Ankica Wolf have caused ongoing damage to I.M., which is counter to the principle of acting in the best interest of the child.

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Discrimination based on ethnicity in Croatia – Submission to the UN

HRWF / CAP (25.05.2020) - Mr. Dalibor Močević, a Croatian citizen of Serb descent, claims he is discriminated against in a child custody case following his divorce because of his Serb origin.

Political background of the discrimination by the judiciary

Twenty-five years after the end of Croatia's war for independence from Serbia, many Serbs living in Croatia go on complaining about the discriminatory treatment of their cases in courts by the judiciary.

Thousands of Serbs were displaced by the conflict until the mid-1990s. They were then illegally dispossessed of their property by the Croatian authorities on the basis of a controversial law on the "Temporary Takeover and Administration of Specified Property" passed at the end of summer 1995 but condemned by the OSCE. Their houses and apartments were then given to displaced Croats and could never be restituted to their legitimate owners through the Croat court system. Anti-Serb sentiments and discrimination by the Croat administration and the judiciary have not disappeared since.

In 2018, the European Commission on Racism and Intolerance (ECRI) of the Council of Europe (CoE), expressed alarm over the rise of right-wing extremism and anti-Serb hostility in its fifth report about Croatia, the first of the seven Western Balkans countries to join the EU.

The facts

Mr. Močević was married with Željka Šimunović from Našice in the period from 1 January 2003 until 26 August 2006. The alcoholism of his wife was one of the reasons of the divorce. A son, I.M, was born from this marriage in February 2007.

On 17 June 2008, the Municipal Court in Našice ruled that I.M was to be entrusted to the care of his mother. Mr. Močević was unable to get a shared custody and even visiting rights from the court. He strongly believes that the decision was motivated by his Serb background.

In January 2010, the Našice Municipal Court entrusted the child to the care of his maternal grandparents, living at the same address, upon request of the Center for Social Welfare Našice because of the alcoholism and psychiatric problems of the mother. Mr. Močević was not informed or notified that such legal process was in progress although his address was known by the court. Again, he thinks that it is because of his Serb origin.

Mr. Močević only became aware of this development much later. He filed a request for custody of his son with the Našice Municipal Court on 20 December 2010 because he wanted to preserve his son from any physical and psychological damage. The mother was opposed to such a proposal. In January 2011, the Municipal Court of Našice restored the care of I.M. to the mother and allowed the father to see his son once a month for 10-12 hours in Našice. Mr. Močević appealed the decision, referring to his rights under the Family Law.

In accordance with the provisions of the Family Law, if one parent is unable to care for a child, then this obligation is taken over by another parent, and only if he or she is unable to care, the child can be entrusted to another person.

On 10 March 2011, the Osijek County Court overturned the first instance ruling and remanded the case for retrial. The County Court ruled that the disputed decision was taken in violation of the right to a fair trial because the father was not allowed to participate. Mr. Dalibor Močević proposed to conduct a psychiatric examination of the mother, because he claimed that the child was under constant and chronic stress when he was with her. Instead, the court ordered a psychiatric examination of Mr. Močević, who had no history of mental illness or any dependencies. Again, Mr. Močević considers that this was due to anti-Serb sentiments.

In 2017 Mr. Močević's ex-wife abandoned her son and left Croatia to an unknown destination. A year later she was extradited from Austria where she lived as a homeless person, mentally unstable and alcoholic. In early 2019 the Municipal court in Đakovo initiated new proceedings about the custody of I.M. Although the mother had abandoned her child, the family court judge Ankica Wolf ignored all evidence against the mother and denied Mr. Močević. All requests Mr. Močević made in 2019 for the exclusion from the proceedings of the judge and the president of the court in Đakovo as well as the transfer of the jurisdiction to another court were either rejected or left without any decision by the Supreme Court of Croatia. The child is living for over 10 years now in a state of mental anguish. Mr. Močević is convinced that judges do not want to give the custody of his son because he is of Serb descent.

Legal analysis

By decision of the Municipal Court in Našice to grant the sole custody of I.M. to his mother who was under treatment for alcoholism and borderline personality disorder, the Croatian authorities violated Mr. Močević's right to respect for his family life, as guaranteed by Article 8 § 2 of the European Convention and the Convention on the Rights of the Child.

The Convention entered into force on 2 September 1990 and has been ratified by 191 countries, including Croatia. The Convention spells out the basic human rights that children have everywhere – without discrimination – : the right to survival; to develop to the fullest; to be protected from harmful influences, abuse and exploitation etc.

In the present case the courts didn't act in accordance with the child's best interest, their decision was based on an 18 months old report from the psychiatric hospital that treated Mr. Močević's former wife. Moreover, the disputed procedure was not supported by relevant and sufficient reasons to justify such interference in Mr. Močević's family life.

Therefore the court's decision did not correspond to any overriding requirement in the child's best interests. On the contrary, it clearly endangered such interest, in such a way that the national authorities overstepped their margin of appreciation when they granted the sole custody to a mentally unstable person. It thereby violated Mr. Močević's rights under Articles 2 and 14 of the United Nations International Covenant on Civil and Political Rights, as well as Article 26 of the same Covenant, that forbids any discrimination to the equal protection of the law, based on national or social origin.

The behavior of the Family Court in Našice is also in complete breach of Articles 2, 3 and 9 of the Convention on the Rights of the Child

Mr. Močević's right to a fair trial was also violated because the court excluded him from most of the custody trial and failed to guarantee his constitutional right to equality before courts and other state bodies. Moreover, the biased decisions of judge Ankica Wolf, based on his ethnic origin according to Mr. Močević, caused systematic and continuous damage to the best interest of the child.

In addition to this, the expertise was entrusted to an expert who is not specialized in children's psychology, despite Mr. Močević's arguments. Moreover, the court did not need to carry out a psychiatric evaluation of the father as he has no history of any mental or psychiatric problems, unlike the mother to whom the court entrusted sole custody of the child. In addition, Mr. Močević was discriminated against on the basis of his professional activities since it was alleged that a seaman he could not have had frequent contacts with the child.

In the divorce proceedings, the courts and the Center for Social Welfare were acting with obvious bias and prejudice and prevented him from having a regular contact with his son.

These troubles have an obvious political connotation but they continue unhindered despite the domestic and international legal obligations of Croatia, which is currently chairing the EU.

These obligations in the case of Mr. Dalobor Močević have not only been unfulfilled by Croatia, but they have been actively undermined due to the persistent anti-Serb climate maintained by nationalist and extreme-right groups.

Conclusions

Mr. Močević insists that he was repeatedly denied justice because of his Serb origin. His lawyer also shares the view that other Serbs in Croatia are discriminated against due to various personal or institutional collusions between some judges, political figures and extreme nationalists.

Western Balkans countries still face "lot of work" to prove EU credentials

A leading human rights group says a "lot of work will still have to be done" before all of the Western Balkans countries are ready to join the European Union



By Martin Banks

EU Today (22.05.2020) - <https://bit.ly/3eixkNc> - This comes after the recent adoption of the so-called Zagreb Declaration in which EU leaders reaffirmed their determination "to further intensify their engagement at all levels to support the region's political, economic and social transformation".

At a video conference on 6th May, the EU reconfirmed its support for the integration of the Western Balkans after the 27 EU leaders held a meeting with their six Balkan counterparts.

In March, North Macedonia and Albania won approval to start EU membership talks after a two-year delay. Four others, Bosnia and Herzegovina, Kosova, Serbia and Montenegro, are still waiting and Willy Fautré, director of Brussels-based Human Rights Without Frontiers (HRWF), argues that each is yet to demonstrate they are "sufficiently mature" to integrate "European values and principles".

He cites, as an example, the very country which is currently at the helm of the EU decision-making process: Croatia.

Integration into the EU presupposes there will be a multi-lateral reconciliation process between the Western Balkan states but also with Croatia which joined the EU on 1 July 2013, the bloc's most recently enlargement.

Concretely, Croatia and Serbia will have to reconcile.

However, in 2018, the European Commission on Racism and Intolerance (ECRI) of the Council of Europe (CoE), the respected Strasbourg-based human rights watchdog, expressed alarm over the rise of right-wing extremism and neo-fascism in its fifth report about Croatia, the first of the seven Western Balkans countries to join the EU.

A report on 5th May, published by Balkan Insight, which focuses on investigative reporting from southeast Europe, denounced the anti-Serb activities of the HOS (Croatian Defence Forces) associations which it says are used by right-wing cliques within the ruling party, Croatian Democratic Union (HDZ), to promote anti-Serb rhetoric and historical revisionism about WWII in exchange for institutional support. The same report also points to the involvement of HOS soldiers in illegal and often violent evictions of mainly Serb occupants of former Yugoslav People's Army owned apartments in Split.

In fact, some 25 years after the end of Croatia's war for independence from Serbia, thousands of Serbs are still fighting for their property rights in the country that is chairing the EU for the first six months of 2020, arguably the most turbulent period in the bloc's entire history.

Behind the politics there are, as always, deep personal, often tragic, stories that highlight current failings.

One such example is that of Dalibor Močević, a Croatian citizen of Serbian descent, whose plight has been illustrated by rights groups, including HRWF, as being of *"real cause for concern."*

He 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. From his birth in 1972 until 1994, Močević, a citizen of Croatia from Serb descent, lived in an apartment in Zadar that belonged to his father. In 1992, his father died in a sanatorium as a victim of the war.

In 1993, a nasty surprise was awaiting Močević, who was employed by a merchant shipping company, when he 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.

From 1993 until 2018, he vainly brought his case of property dispossession to court. For 15 years the municipal court and the county court of Zadar issued conflicting decisions until he was deprived of his property rights. In 2010 Močević lodged an appeal with the Supreme Court which was dismissed one year later. He also lodged a complaint with the Constitutional Court against the Zadar County Court decision, alleging violations of his constitutional rights to equality before the law and fair proceedings as well as his right to peacefully enjoy his possessions. It was all to no avail.

In the meantime, Močević was forced to leave Croatia due to the fear of his own safety as he repeatedly received threats to his life. Močević considers that he was discriminated against by the Croatian authorities because of his Serb origin.

This property case which took place in Zadar, situated on the Adriatic Sea, has 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 Močević's troubles.

In 2009, his mother died in the General Hospital in Zadar under suspicious circumstances that he wanted to clarify. He requested an investigation but there was no follow up, neither from the hospital nor from the Ministry of Health and the County Prosecutors Office.

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 insists that he was repeatedly denied justice because of his Serb origin. His lawyer also shares the view that other Serbs in Croatia are discriminated against due to various personal or institutional collusions between some judges, political figures and extreme nationalists.

Fautré concludes, *"At this stage, despite the effort jointly performed by the EU as well as countries from the region, a lot of work will still have to be done before all of the Western Balkans countries and their populations become sufficiently mature to integrate the European values and principles and can join the EU."*

Serbs' continued fight for property rights in Croatia

By Willy Fautré

EU Political Report (19.05.2020) - <https://bit.ly/2X8iHFn> - 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.