



PROJEKT GRAĐANSKIH PRAVA Civil Rights Project

Activity Report – March 2011

Office activities

In the reporting period, CRP Sisak received **466** clients, out of which there were **214** new clients, both in the CRP Sisak office and the field offices in Hrvatska Kostajnica, Dvor, Gvozd, Krnjak and Glina.

Target groups:

NEW clients by status:

<i>Status</i>	<i>Totals</i>
Domicile	64
Returnee	95
Settlers	11
Refugee	14
Not defined	28
<u>Total</u>	214

NEW clients by reception mode:

<i>Mode</i>	<i>Totals</i>
Office	66
Field	148
<u>Total</u>	214

TYPE OF CASE	NUMBER OF EVENTS
Citizenship	37
Documents and status	99
Ownership	106
Pension and health and social security	83
Housing care/tenancy rights	42
Labour	11
Free legal aid	15
Crime cases/misdemeanour	5
Other: other legal issues, information, etc.	115
TOTAL	513

During the reporting period, there were **262** successfully solved requests. They mainly relate to documents, establishment of ownership and other cases.

ASSISTANCE

Appeals/complaints	22
Lawsuits	24
Administrative lawsuit	7
ECHR application	1
Letters	80
Requests	42
Submissions	97
Legal counseling	271
Quick advises	80
TOTAL	624

Legal issues

The legal issues that CRP has been dealing with remain the same, as it can be seen in the table above (type of case.) Also, despite of some changes in proceedings, the problems related to cases remain generally the same: lengthy proceedings, postponing of court hearings, not encouraging the return of refugees, etc. The courts and administration do not act impartially when the State is involved in the case, but exactly the opposite, being completely on the side of the State. The laws, even when they are good, are not being applied well, etc.

CRP would like to tackle the issue of **convalidation** of working years once again, as it still remains one of the problems related to the war and return of refugees. CRP has **63** ongoing cases of convalidation.

Namely, there is no general progress regarding this issue, except for a couple of decisions of the Constitutional court, which were positive for the clients, and for the convalidation of the agricultural insurance years in the area of Dvor, where most of

the cases, according to the CRP field office in Dvor and its lawyer, were successfully solved.

In proceedings on convalidation of years in service of persons employed in areas protected or administered by the United Nations during the war, they are requested to corroborate with documents the exact period of service with different bodies or legal persons in areas protected or administered by the United Nations (pursuant to Paragraphs 1 and 4 of Article 4 of the Rules of Procedure on convalidation of decisions and individual acts from the area of pension insurance, Official Gazette 53/08).

However, considering that most of the records of pension and disability insurance of workers in those areas have been lost or destroyed in the war and that most of the bodies and legal persons from those areas do not exist nowadays, it is very difficult to substantiate the status of the insured. Even if some legal persons are still in existence, they have failed to preserve the documentation from that period due to the war. E.g. the case of Lj.V. from Petrinja, who worked with "Gavrilović" Petrinja.

Since it is not reasonable to expect that the applicants corroborate their claims with evidence from the „Para-fund“, because they do not possess that evidence and are not responsible for their destruction, we believe that, in absence of documentation, witness statements should be taken as evidence, seeing that in many cases that is the only way of proving they were employed in areas protected or administered by the United Nations.

In some cases, even when the applicants have written evidence on employment from that period, the right to convalidation is not approved for unclear reasons.

Some examples:

- **R.T.** (CRP 2788) from Dvor, who worked in the House of Correction in Glina, which is in the scope of the Ministry of Justice, and who possesses a report on the Retirement Proposal from 1994, issued by the Ministry of Justice and Administration. Work in a house of correction is aimed at rehabilitation of delinquent youth and cannot be considered as working towards the destruction of the legal order;
- **P.K.** (CRP 11716) from Sunja, who worked as an electrician in "Pounje" Hrvatska Kostajnica and possesses the Decision on Disposition of Requisitioning of Workers;
- **M.B.** (CRP 11485) from Hrvatska Kostajnica, whose only means of corroborating that she spent the period from 1991 to 1995 in agricultural insurance are witnesses, and the Decision clearly states that witnesses are only backing evidence;
- **N.S. (CRP 10657)** from Glina, who possesses a health insurance card issued by the Health Insurance Fund at the time Glina was one of the areas protected or administered by the United Nations;
- **O.R.** (CRP 12364) from Gvozd, who possesses the health insurance card and working booklet;
- **Ž.I.** (CRP 12502) from Dvor, who possesses the health insurance card and working booklet
- **M.S.** (CRP 12433) from Dvor, who possesses documents on her working place.

Therefore, these negative decisions, from first and second instance bodies, as well as from the Administrative court, are contradictory to the decisions of the Constitutional court (Official Gazette 109/08 and 85/09), which brought decisions that working booklet and other work related evidences were valid evidences.

Great problems arise when it is necessary to determine the status of a person insured with agricultural insurance, not only for the period of protection or administration by the United Nations in some areas of the Republic of Croatia, but for the prewar period as well. Due to the destruction of documents during the war or due to other reasons, the Croatian Pension Insurance Institute does not have a record of convalidation applicants paying their fees for agricultural insurance. The applicants do not possess slips which would prove their fees have been paid. The applicants are mostly returnees to the Republic of Croatia. When they return to regulate their pensions, pension or health insurance, they are informed that they have to pay large sums of money for due but unpaid pension insurance fees. Seeing that these are mostly older people in poor health, people who are in need of health insurance, many of the returnees have signed a statement on record in the offices of the Croatian Pension Insurance Institute, statement whose meaning they haven't fully understood. By signing this statement they waived their accumulated pension years in return for writing off the debt for due but unpaid pension insurance fees (these fees have actually been paid, but since there is no record of it, the applicants cannot prove the fees have been paid). The applicants emphasize that they haven't fully understood the meaning of the given statement, that they haven't been properly advised about the consequences of signing the statement and that they would never willingly give up their accumulated pension years. Therefore we believe that on the grounds of that statement, the applicants cannot and should not lose their period of insurance. We also believe that the statement made on record does not have the legal force necessary to annul someone's pension years.

Examples of clients that have problem with determining years of service spent in agricultural insurance from 1980 to 1991: **M. D. (CRP 10058)** from Sunja, **Lj.V. (CRP 11756)** from Sunja; **M.M. (CRP 6690)** from Sunja; **M. A. (CRP 11764)** from Glina.

Insured persons are not obliged to take evidence and to keep it. There are employers and services that are entitled to do registration and cancellation, payment of contributions, to keep forms, keep documentation and records, archives, etc. Even during the peaceful times, and especially during the war, it is possible that such materials are missing or destroyed, especially in companies that went bankruptcy or did not continue working after the war. It is about vis maior, but the related Regulations did not treat the war circumstances as vis maior. Therefore, the liability for nonexistence of documentation was transferred from the institutions to individuals, which is not correct, because they were not in charge of documentation.

These regulations and practice are contradictory to the main law and its implementation, as well as to the Law on Pension Insurance, which in the Article 99 Para 2 and 3, left the possibility and allowed to prove the working years by witnesses.

These regulations are also contradictory to the main procedural law, i.e. the Law on Administrative Procedure. The Law, in the Article 159 Para 2, lists, without grading or conditioning, de facto disqualification, all evidences and emphasizes that “everything that is adequate for establishment of state of case and what suits to individual case will be used as evidence.” Therefore, the Pension Insurance Institute, when dealing with convalidation, acts selectively and does not recognize all provisions of the Law on Administrative Procedure, though they are regularly referring to it.

Other activities

On 15 and 16 March, CRP was visited by the TV Novi Sad crew “Putevi nade”, within the UNHCR project, in order to make a TV show for refugees in Serbia on the housing care and other return related issues. The TV visited the CRP Sisak office, as well as the field offices in Dvor and Krnjak.

On 21 March, CRP attended the presentation of the scientific paper “Development and changes of policies of Croatian citizenship from 1990 till today”. The paper was made and presented by Viktor Koska of the Faculty of political sciences. The conclusion was that the Law on Croatian citizenship, after 20 years, needed to be changed and that the legislator needed to recognize that the citizens was a person with no regard as to the social status, national or racial background.

On 23 March in Zagreb, CRP attended a meeting of ENAR (European network against racism) Croatia. CRP joined ENAR in 2008. The meeting presented the 2010 report. The coordinator of the ENAR Croatia was elected and it was Mr. Zoran Pusic.

On 24 March in Zagreb, CRP attended a meeting on “Regulation of co-financing of civil society projects within the EU programs in 2011”. The projects are to be financed through the Office for NGOs of the Croatian government. The conclusion of CRP was that the amounts of co-financing are very low and regulations are not clear.

On 29 March in Sisak, CRP attended a forum on “Human rights and European initiatives of Croatia”. The lecture was given by Slobodan Uzelac, vice prime minister. The conclusion was that there was a lot to be done in sector of human rights, especially of national minorities, women, etc.

On 30 March in Sisak, CRP attended a meeting organized by IKS Petrinja within the “E-misija” project. The project is a part of the program for regional development and strengthening of NGOs. The meeting discussed the open calls for applications for NGOs.

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