



PROJEKT GRADANSKIH PRAVA Civil Rights Project

CRP Sisak Activity Report - July 2006

Office activities

Despite of the beginning of summer holidays, the number of clients approaching the CRP office increased. In the reporting period, CRP Sisak received **300** clients, out of which there were **126** new clients and **174** old clients revisiting **259** times.

There were **19** court hearings held and attended by the CRP external lawyers before the municipal courts in Sisak, Hrvatska Kostajnica and Petrinja.

Number of clients:

<i>Origin</i>	<i>New Clients</i>	<i>Old clients revisiting</i>	<i>Total</i>
BIH	6	8	14
CRO	119	164	283
FRY	1	1	2
N/A	0	1	1
FRM	0	0	0
YUK	0	0	0
Total	126	174	300

Target groups

New clients by status:

<i>Status</i>	<i>Totals</i>
Bosnian Croat	4
Domicil	12
Refugee	43
Returnee	64
IDP	1
Not defined	2
Total	126

New clients by reception mode:

<i>Mode</i>	<i>Totals</i>
Office	45
Field	60
Letter	21
<i>Total</i>	126

The above numbers on reception mode show the importance of the CRP field offices in Hrvatska Kostajnica and Vojnić, as they show that many people in remote areas cannot (due to finances and old age) travel to Sisak and it is very convenient for them to go to field offices.

TYPE OF CASE	NUMBER OF EVENTS
Citizenship	16
Documents and status	95
Labour	10
Ownership	174
Other	22
Pension and health and social security	35
Tenancy rights	22
TOTAL	374

LEGAL ASSISTANCE

Appeals/complaints	15
Constitutional complaints	2
Letters	74
Lawsuits	10
Administrative lawsuits	5
Submissions	69
European Court Lawsuit	0
Administrative request	22
Legal counselling	75
Quick advises	105
TOTAL	377

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, the problems related to cases remain the same: lengthy proceedings, postponing of court hearings, favouring of temporary users over the owners, not encouraging the return of refugees, etc.

CRP shall herewith report on the most difficult issue, which is compensation for damage caused by terrorist acts and by the Croatian military and police forces members during the Homeland war.

A high number of clients have been approaching CRP for legal aid regarding the above mentioned issue. Most of them decided not to initiate court proceedings, as they were warned by CRP about the negative practice that resulted in payment of enormous legal costs. But to those who ignored the warnings and who trust in legal state and justice, CRP has been providing legal assistance and in-court representation.

In these cases, the period in which the damage were caused is mainly beginning of war in 1991 and at the end of war in 1995. The damage was caused within the territory of the Republic of Croatia, under the Croatian authorities jurisdiction and it was caused by murders, imprisonment, beating up, mining, putting buildings on fire, etc. The relevant bodies, mainly military police, did not do anything to prevent causing of damage, but they were oftenly involved.

According to the Law on Obligations (Article 180) that was valid at that time, the state, whose bodies were obliged to prevent causing of damage, was responsible for such damage. During the war period 1991-1995, this was not a big issue, which it became after the war, when the refugee return process started. The reaction of the state was irresponsible, both morally and legally. Though Croatia had a mechanism to protect the people and property, they did not, and also, though Croatia had an obligation to process the perpetrators, they did not do it. And finally, Croatia did not want to compensate for damage.

The Law on Amendments to the Law on Obligations was brought and came into the force on 2 February 1996. The Article 2 of the mentioned law determined that the proceedings for compensation for damage initiated on the basis of the Article 180 should be suspended till the new regulations are made. New regulations, the Law on responsibility for damage caused by terrorist acts and public demonstration, Law on responsibility of the RoC for damage caused by members of Croatian military and police forces during the Homeland war from 17 August 1990 to 30 June 1996 and Law on responsibility of the RoC for damage caused in former Yugoslavia and for which the former Yugoslavia was responsible, came into force on 31 July 2003.

Therefore, in the period from 2 February 1996 to 31 July 2003, such compensation cases were not proceeded. This time passing probably had effects.

Therefore, it took long time to have new law regulations and finally they do not follow the basic principle of right to compensation for damage from the Article 154 of the old law and Article 1045 of the new Law on obligations, especially the parts on objective responsibility. These regulations limit very much the right to compensation for damage.

Also, the compensation for damage caused by terrorist acts, which resulted in death and bodily injuries, is limited to HRK 350.000 (less than EUR 50.000), while the material damage is referred to the Law on reconstruction, which is not in line with institute of responsibility for damage and based on which, most of clients cannot get any compensation.

Regarding the damage caused by the Croatian military and police, the RoC would only compensate it if it is proved that it was not war damage.

Considering all the above mentioned, it is very difficult to handle such cases. However, CRP has been dealing with around **10** such cases, among which there are following cases:

Ms. A.M. (CRP case No. 809) lost her husband on 2 September 1991. He was arrested in Sisak in front of a coffee bar, together with two other persons that were JNA soldiers and who survived, by the Croatian military and police members. On 16 July 2004, the client approached the State Attorney's Office (SAO) claiming the compensation from the RoC out of court. On 17 January 2005, the SAO rejected her request stating "that there were no basis for responsibility of the RoC in accordance with the Article 1 and 9 of the Law on responsibility for damage caused by terrorist acts and public demonstrations." This answer is very hypocritical, because the client did not refer to any law, and it is obvious that the Law on responsibility for damage caused by the military and police members and the valid law at the time when the damage was caused should be referred to.

Mr. P.P. (CRP case No. 7459) at the beginning of war gave his weekend house, located at the confrontation line, to the Croatian Army to use it. The Ministry of Defence issued a certificate to the owner, confirming that the house was used by the Army in the period from 1991 to 1995, and also the colonel, who was commanding the Unit located in the house, gave a written statement to the owner on the damage caused to the house. The house is estimated to be 4th category of damage. Following the owner's request for compensation, the SAO rejected the request. The explanation is that it is war damage for which the RoC is not responsible and the Law on reconstruction cannot be applied, because it was weekend house and the owner did not have residence registered there. CRP filed a lawsuit.

Ms. D.S. (CRP case No. 7261) approached CRP for legal assistance regarding compensation for death of her 32 years old son who was killed on 16 November 1991 in his house by the three Croatian military members. CRP wrote to the SAO for out of court settlement, but they rejected the request and replied that, besides the statute of limitation, there was no responsibility of the RoC, as there is no evidence that the Croatian military members would be responsible for the death. The client is still considering either to file a lawsuit.

In the area covered by the County court in Sisak, there is no case in which the lawsuit was adopted. Therefore, the responsibility of the RoC was never established, i.e. compensation was never paid. Even further, the RoC claims and gets very high legal fees paid by its citizens, who were already damaged. There are many examples of this terrible practice where the legal costs amount to more than EUR 10.000.

Other activities

On 7 July 2006, the Legal Sub-group met and discussed the old foreign currency saving that were not paid to clients by former Yugoslav banks.

On 10 July, OSCE Sisak Rule of Law unit representative met with the CRP Sisak Mobile team to discuss which clients could be provided with in-court representation under the OSCE funded project.

From 10 to 14 July, a CRP representative attended the Human rights documentation course, which was organised by the OSCE Mission to SaM and the Centre for Peace – Vukovar in co-operation with HURIDOCS (Human Rights Information and Documentation Systems International) of Geneva.

CRP Sisak has continued its practice to visit the collective centre Barake Tehnika in Sisak two times per week, providing information and advice, exchanging of documents, etc.

Sisak, 7 August 2006

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