



## Civil Rights Project

### PROJEKT GRAĐANSKIH PRAVA

#### Activity Report - March 2006

##### Office activities

In the reporting period, CRP Sisak received **169** clients, out of which there were **41** new client and **128** old clients revisiting **205** times.

There were also **25** court hearings held and attended by the CRP external lawyers before the municipal courts in Sisak, Petrinja, Hrvatska Kostajnica, Glina, Karlovac, Dvor, Gvozd and Zagreb.

##### *Number of clients:*

<i>Origin</i>	<i>New Clients</i>	<i>Old clients revisiting</i>	<i>Total</i>
BIH	1	2	3
CRO	38	122	160
FRY	0	3	3
N/A	2	1	3
YUK	0	0	0
<i>Total</i>	<b>41</b>	<b>128</b>	<b>169</b>

##### Target groups

##### *New clients by status:*

<i>Status</i>	<i>Totals</i>
Domicile	19
Refugee	9
Returnee	13
<i>Total</i>	<b>41</b>

TYPE OF CASE	NUMBER OF EVENTS
Citizenship	23
Documents and status	23
Labour	6
Ownership	118
Other	13
Pension and health and social security	18
Tenancy rights	48
<b>TOTAL</b>	<b>249</b>

## LEGAL ASSISTANCE

Appeals/complaints	11
Constitutional complaints	1
Letters	51
Lawsuits	16
Administrative lawsuits	1
Submissions	68
European Court Lawsuit	1
Administrative requests	11

### Legal issues

In this month period CRP Sisak was dealing with the same legal matters as in last months: status issues such as citizenship, ownership issues both compensation for damage and repossession of property as well the constitutional right to trial within reasonable time. There have been some ideas coming from the Ministry of the Interior concerning improvement of position of persons with permanent residence in Croatia, but still there are no positive decisions of administrative bodies, which would represent the practical steps on solving these problems.

CRP Sisak shall now report on several cases regarding the mentioned issues.

### *Permanent residence ⇒ Citizenship*

One of the rare positive examples regarding this issue is the case of **Ž.S. (CRP case No.7086)**. This client has lived in Croatia (Sisak) since 1970 until 1992 when he left due the war to Germany to stay at his parents` house. After 3 years, he moved to Bosnia and Herzegovina. His wife is a Croatian citizen and they live in Petrinja now. In 1992, when client left Croatia, he was moved out from the national list of persons with residence in Croatia and he could not get any personal documents. His son attends primary school in Sisak.

Therefore, client filed Request for reopening the administrative procedure for granting a permanent residence in Croatia. The Ministry of the Interior accepted his request and brought a positive final Order. Client has now fulfilled all the conditions for granting of the Croatian citizenship. CRP advised him to acquire all needed documents and approach our office so we could write a Request for acquisition of the Croatian citizenship.

### *Violation of constitutional right to fair trial*

The case of **I.Š.(CRP case No.5662)** represents the obstruction of basic human rights guaranteed by the European Convention of Human Rights before the court in Bosnia and Herzegovina. This client has filed a lawsuit for compensation for damage against the Municipality of Zavidovići to the Municipal court in Zavidovići on 18<sup>th</sup> June 1986.

His catering firm was illegally closed down by the administrative bodies for a period of 5 months in 1984. This fact was established by the Administrative court in Bosnia and Herzegovina.

After 5 years the Municipal Court held first hearing on 10<sup>th</sup> September 1991. There was not court hearings scheduled since.

The client has filed complaints for several times to the President of the Municipal Court, the President of the County court in Zenica, as well as to the Ministry of Justice of Bosnia and Herzegovina, but he did not get any answers.

After 18 years passed since the lawsuit was filed, CRP wrote and filed an Application to the European court of human rights claiming that the client's right to trial within reasonable time was violated on 13<sup>th</sup> August 2004. We are still waiting for this court's judgement.

In the case of **P.M. (CRP case No.3008)** there has been a serious violation of the same human right. This client has filed a suit before the Municipal Court in Hrvatska Kostajnica in 1999 after he received a decision on termination of contract of employment. Thinking this decision was not in accordance with the law, the client claimed for protection of his right before the Croatian court. Unfortunately, this civil procedure has not ended yet, after 78 months. During this period, the court held 13 hearings and did not reach a final judgement still. On 9<sup>th</sup> March 2004, the Commercial court in Sisak (which is empowered in this case on the fact that the bankruptcy against the defendant was opened) passed a judgement by which our client's lawsuit was dismissed. The High commercial court of Croatia did not accept this legal opinion and reversed judgement of the 1<sup>st</sup> degree court. Then the Commercial court in Sisak brought a second decision saying that the procedure had to be stopped.

CRP wrote an appeal considering this decision to be opposite to the law and the 2<sup>nd</sup> degree court also took this legal opinion and reversed judgement again.

After analysis of this case, we have concluded that the client's right to fair trial has been violated, especially taking into consideration the nature of dispute (right to work and protection from illegal termination of labour) and the period of 78 months in which court has not reached a final judgement. Therefore CRP wrote and filed a Request for protection of right to trial within reasonable time to the High Commercial Court of Croatia on 30<sup>th</sup> March 2006.

### ***Tenancy rights***

Although it is the longest lasting issue CRP is dealing with since the beginning, after the European Court of human rights' verdict in the case Blečić vs. Croatia it has become actual again.

The case of **D.R and M.R. (CRP case No.6728)** is one of those that could actually have a positive solution. These clients have lived in Croatia since 1970 when they came as students until the beginning of war in Croatia. The husband left in summer 1991 and went to Bosnia and Herzegovina and his wife stayed in Zagreb. The husband could not return due the war circumstances until 2001. In August 1992 the Ministry of the Interior brought an Order by which their tenancy right was terminated claiming they have not lived in flat for more than 6 months. The Ministry executed this Order although it was not empowered to bring this decision as well for the execution. After that, the wife also left for Bosnia and Herzegovina in August 1992. In 1994 Croatia filed a lawsuit for termination of tenancy right since the administrative body decision was cancelled by the Administrative Court of Croatia. The Municipal Court in Zagreb accepted this suit and reached a negative verdict for our clients even though they filed a Request for purchase of flat and also filed a lawsuit for repossession of real estate (which they were entitled as holders of tenancy right).

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After they both found out about this judgement, they submitted a Request for reopening of court procedure and the Municipal Court in Zagreb accepted this request and reopened the civil procedure. Now the court is deciding whether there was basis for cancellation of tenancy right or clients left their flat with justified reasons.

We strongly believe this case has a strong chances to be finished in favour of our clients considering the facts that the Ministry of the Interior forced them to leave by reaching an illegal Order and did not get our clients a chance for fair trial and also a fact that the clients took all possible legal acts in protecting their rights.

The next court hearing is scheduled for 23<sup>rd</sup> January 2007.

### ***Ownership – compensation for damage***

The next case (M.R. ; CRP case No.6656) could also be represented as a violation of constitutional right to fair trial due to the fact the court procedure lasts for 10 years period now. In this case, our client is co-owner of real estate (flat) in Karlovac which has been possessed by the Town of Karlovac in 1991 and given to temporary user (disabled person, member of Croatian Army) and then given again in April 1992, this time to refugees even though the administrative body of the Town of Karlovac was not entitled to do so regarding the fact that the real estate is a private property. Therefore, our client filed a lawsuit against the Town of Karlovac claiming for compensation for illegal use and destruction of movable property. Temporary users left the real estate in September 1996.

So far the Municipal Court in Karlovac reached a verdict on 3<sup>rd</sup> July 2002 partly accepting the claim but this judgement was cancelled and the case was readjudicated to the first degree court in Karlovac. The Municipal Court determined a building expertise with a duty to establish the price of rent per month that belongs to our client for the period between December 1992 – August 1996. After it was properly done, CRP wrote and filed submission in which the claim was specified on 17<sup>th</sup> March 2006. We are waiting for court hearing to be scheduled.

Client **R.R. (CRP case No.3414)** is the co-owner (together with the Town of Sisak) of real estate in Sisak that was bought in 1996 from the previous owners but was never registered in the Land Register. In the meantime, in 1992 this real estate was possessed by mala fide possessors who claim the real estate was given to them by the Town of Sisak, although there is no written document confirming this statement. Actually, they have violently possessed this real estate hoping that the owner would not claim for protection. Also the Town of Sisak confirmed this possession was illegal, since they have not made any decision for temporary use to these persons.

Regarding these circumstances, our client filed a lawsuit against the temporary mala fide possessors claiming for repossession of real estate as well as the compensation for illegal use for the period of 78 months (December 1999 – March 2006). The mala fide possessors are still possessing real estate without any intention of respecting our client's ownership.

After the information on price of rent per month for this real estate was given to the court, CRP wrote submission with specified the claim and filed it to the court on 21<sup>st</sup> March 2006. The defendants did not respond to this claim yet.

Next court hearing is scheduled for 6<sup>th</sup> April 2006.

Although difficulties occurred based on the fact that our client did not register his ownership immediately after he bought it, there is reasonable hope he will succeed with his claim.

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In conclusion, we would like to point out the case of **M.K. (CRP case No.268)** whose optical story was blown up by explosive on 11<sup>th</sup> November 1991. It was done by unidentified perpetrator as an act of violence and because of client's Serbian ethnicity.

The entire inventory and other equipment together with documents were destroyed. The Police performed an inspection after the explosion has happened and the criminal investigation was initiated, but the perpetrator (s) was never found.

The client brought a suit against Croatia in 1994 claiming for pecuniary losses with claim of 354.000,00 kuna total, also emphasising the state's obligation to provide safety and protection of personal rights of every citizen, especially the protection from terrorist acts. This state's liability for damages is also established by the Law on responsibility for damage caused by terrorist acts and public demonstrations, which came into force on 31<sup>st</sup> July 2003.

The client has filed a Request for reconstruction to the administrative body trying to realise his right for compensation for destroyed business premises. The administrative body of 1<sup>st</sup> degree rejected his Request and CRP wrote an appeal on 3<sup>rd</sup> March 2006. We are waiting for decision of the Ministry of the sea, tourism, transport and development as 2<sup>nd</sup> degree administrative body.

We think this client's request will not be accepted as justified based on a fact he is not the owner of real estate but only tenant. That way he could not get proper satisfaction for all the damage since Law on Reconstruction recognises this right only to the owners.

It is also difficult to say which stand on this issue will the Municipal court in civil procedure take. It is likely possible that the client will not get any compensation even though his property was ruined by terrorist acting. This case is an example of direct violation of human rights to protections of ownership, right to fair trial and right to due process of law.

### **Other activities**

On 17 March, the Legal Sub-group met and discussed the compensation for damage caused by the terrorist acts and the Croatian military and police members. Two private attorneys from Sisak and Zagreb were invited to the meeting to present their experience with such cases. It was concluded that the issue was very complicated and that the clients in such cases were put in very bad position and therefore the Legal Sub-group will continue this discussion at the next meeting.

On 15 March, CRP signed an agreement with the Partnership for Social Development, NGO from Zagreb, on the co-operation on the project "Local Civil Society Development through Multi-Level Capacity Building program."

On 28, 29 and 30 March, CRP attended a training on strategic planning and management of projects, organised in Stubičke Toplice by the Partnership for Social Development.

On 20 March CRP attended a meeting of the Working Group of the Initial Co-ordination of the Sisak-Moslavina County NGOs.

On 20 March, CRP signed a contract with the OSCE Mission to Croatia for the implementation of the Project “Mobile team providing free legal aid to returnees, refugees, IDPs, minorities and other socially vulnerable population in the areas of special state concern.” The project shall be implemented in the period from 1 April to 30 November 2006.

CRP Sisak provided OSCE and UNHCR with the list of clients that have problems with regulating their status in Croatia, residence and citizenship, in order that the complete list for Croatia is presented at the meeting with the Ministry of the Interior.

CRP Sisak has continued its practice to visit the collective centre Barake Tehnika in Sisak two times per week, providing information and advice, exchanging necessary documents, etc. During the reporting period, CRP met several times with SDF Zagreb to co-ordinate the work regarding the beneficiaries from the collective centre.

On 31 March, CRP attended the OSCE and UNHCR Area Return Facilitation Group meeting in Sisak.