



CONFERENCE

THE CIVILIAN VICTIMS OF WAR IN CROATIA

THE RIGHT TO LEGAL REMEDY AND REPARATION FOR VICTIMS OF GROSS VIOLATIONS OF HUMAN RIGHTS AND SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW

July 10, 2012

CONFERENCE REPORT

21 year after the war has ended, the civilian victims of war are still being a marginalized social group. Instead of the right to moral and material satisfaction, the victims still have not received the public acknowledgment of their suffering. Thus, the time to change this situation has come – responsible state institutions should find legal solutions that will cover a comprehensive compensation, was stated at the conference dedicated to civilian victims of war in Croatia - *The right to legal remedy and reparation for victims of gross violations of human rights and violation of International Humanitarian Law*, organized by *Documenta* - Centre for Dealing With the Past.

In the conference that took place on July 10, 2012 in Zagreb, was pointed out that the number of civilian victims of war in Croatia is still unknown. However, some sources state that the figure ranges from 4000 to 8000 killed, wounded and abused persons.

In her presentation, **Emina Bužinkić**, Program Coordinator of *Documenta*, stated that the suffering of many family members of war victims is still not recognized, perpetrators have not been criminally persecuted, and most of civilian victims of war lost the damage compensation proceedings against Republic of Croatia, thus have been obliged to pay the high costs of litigation process. Ms. Bužinkić continued by pointing out the fact that there is a small group of this people that gained the status of civilian victim of war under which some minimum social rights could be realized. *Documenta* seeks to draw attention to the position of civilian victims of war and appeals for suitable solutions for reparations in Croatia.

During this conference, the media campaign *Žrtve su predugo čekale* (The victims have waited too long) was presented. Campaign contains eight video clips (directed by Andrej Korovljević and graphically designed by Barbara Blasin) that present personal stories of eight civilian victims of war who have been waiting for years for their suffering to be recognized; Daliborka Mikulić from Slavonski Brod, Đorđe Gunjević from Pakrac, Krešimir Ivančić from Daruvar, Marica Kadić from Petrinja, Robert Kajušić from Zagreb, Vjera Solar from Sisak, Zemina Jaroš from Osijek and anonymous P.Z.

The video clips and web site www.civilnezrtve.hr are a sign of solidarity with civilian victims who are facing difficulties and humiliation in realizing their rights, even after so many years since the war has ended, said **Eugen Jakovčić**, Media Coordinator at *Documenta*, emphasizing that the message of the campaign is primarily directed towards competent state institutions because the victims have waited too long.

At the opening, on behalf of civilian victims, the conference was addressed by **Marica Šeatović**, President of the Association of Killed, Missing and Abducted Families, whose husband was killed, **Krešimir Ivančić**, President of HVIDRA (Association of Croatian Homeland War Invalids) in Daruvar, whose father was killed

in Daruvar, **Marija Lukšić**, President of Association of Croatian Civil Victims of Homeland War, who pointed out that the civilian victims are dis-empowered and that the State has no respect for civilian victims.

The conference was also addressed by the Deputies of Chief State Attorney **Jasmina Dolmagić** and **Federica Meijer Dusman**, noting that in the past decade there have been corrected a number of flaws in the work of DORH (State Attorney's Office) and that immense efforts has been invested in the investigation and prosecution of war crimes. Whereas, on the responsibilities of the competent institutions spoke **Jakob Miletić**, President of the Civil Division of the Supreme Court. On the importance of prosecution of war crimes and lack of efficiency of the judiciary spoke **Milorad Pupovac**, Member of Croatian Parliament. The lawyer **Dražen Štivić**, representative of civilian victims in legal proceedings for damage compensation, brought to attention a number of problems that victims face in the legal system.

At this conference, a particular attention was drawn from the shocking testimonies of civilian victims of war: **Tonka Pezelj**, **Đorđe Gunjević**, **Đurđa Gmaz** and **Jovica Brkić** from Bjelovar.

During the conference, within three thematic discussions that took place, participants paid special attention to social rights for the civilian victims of war, the necessary institutional and legislative changes, and rehabilitation, reintegration, and reparation processes, aiming at establishing a comprehensive mechanism for reparation of civilian victims of war in Croatia. Below we present a number of recommendations and suggestions of participants based on the thematic areas discussed during the conference.

- ***Social rights for civilian victims of war – Recommendations***

In accordance with the Resolution of the UN General Assembly on *Basic Principles and Guidelines on the Right to a Legal Remedy and Reparation*, all victims have the right to effective, prompt and appropriate reparation with the aim of achieving justice in proportion to the gravity of the violations and harm suffered. The objectives of this discussion were: to foster the development of a system for granting social rights of the civilian victims of war, as well as facilitating prompt obtaining of the status of civilian victim of war; to develop a scope of social rights and to raise minimum material expenditures in order to provide a dignified life; and, to improve the administration of public records and analysis with regard to the number of civilian victims who receive social right compensation.

1. The obligation of the State with regard to granting social rights should be based on principles of social solidarity, equal distribution of public interests, and fair and prompt compensation.
2. The administrative procedure related to the realization of the status of civilian victim of war should include a larger number of beneficiaries, because, to date, the legal actions have not been able to provide such status and will not be able to do so in the future as long as it does not cover a broader range of civilian victims and their relatives including those cases that have been ruled as conditional, ineffective and slow criminal prosecutions, and exclude freezing of assets of the accused as a basis for compensation of damage etc.
3. It is necessary to prepare a comprehensive list/register of civilian casualties during the war.
4. Draft new or amend the existing law so as to enable all civilian victims a form of reparation, regardless of the financial condition of the victim or its family members, through recognition of the status, through broader definition of civilian victims including victims of rape and sexual abuse, and through deleting all discriminatory provisions, (in accordance with the recommendations that derived from the discussion in the other group).
5. With regards to the legal and institutional framework there should be ensured equal social rights of military and civilian war invalids.

- ***Institutional and legislative changes - Recommendations***

In accordance with the Resolution of the UN General Assembly on *Basic Principles and Guidelines on the Right to a Legal Remedy and Reparation*, all victims have the right to compensation for harm

suffered. According to the Resolution, the States should establish national compensation programs and other assistance to victims. At the heart of this discussion is drafting of a law on compensation of civilian victims of war and development of national reparation program for civilian victims. In addition, the debate served as a space where proposals for institutional reform were offered in terms of appropriate forms of compensation and reparations.

1. Urgently deduct litigation costs to families of killed and harmed by war and terrorist acts in accordance with Government Decree on the criteria, standards and procedures for the deferral of payments, installment debts and sale, deduction or partial deduction of outstanding debts.
 2. Determining the number and systematic analysis of the needs of civilian victims.
 3. Establishing an equally functioning department within the Ministry of Veterans with the aim to establish a system of recognition of the status of victims, allocation and registration of social rights is evidenced.
 4. Appointment of a Deputy Prime Minister responsible for inter-ministerial coordination of matters related to civilian victims.
 5. Build quality and appropriate legislative framework for the realization of the rights of civilian victims of war:
 - Abolition of discriminatory regulation, such as means-testing, non-recognition of mental trauma and suffered pain and exclusion of certain categories of civilian victims of war, such as victims of rape.
 - Adoption of a new Law on Civil and Military Invalids and a Law on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations (categories of civilian casualties, the abolition of means-testing, compensation for family members killed, property damage and other forms of suffering, not preventing war damage by the Croatian Army).
 6. Provide proper assistance to victims and witnesses in cases of war crime trials.
 7. Provide psycho-social and legal assistance to victims either from institutions, experts, or supported organizations.
 8. Encourage cooperation and coordination between different organizations of civilian victims.
 9. Build strategic and operational mechanisms of transitional justice aiming at the recovery of individuals and communities (e.g. Strategy for Transitional Justice of Bosnia and Herzegovina).
 10. Demand for a stronger interest from political structures in accordance with the Program of the Croatian Government and binding international and national documents.
- ***Rehabilitation, reintegration, reparations – Recommendations***

In accordance with the Resolution of the UN General Assembly on *Basic Principles and Guidelines on the Right to a Legal Remedy and Reparation*, all victims of gross human rights violations have the right to full and effective reparation. The forms vary, starting from restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The discussion went into direction of defining appropriate forms of reparations for the civilian victims in Croatia.

1. Decisions about penalties adjudicated to perpetrators should be adequate for the offense committed. It is immensely important to have the verdicts for the perpetrators, although one should be aware that the total number of perpetrators convicted will hardly be more than 10%.
2. Improve the quality of media reporting on crimes, because seldom there is a lack of appreciation for the victims, and sometimes the verdicts for war crimes are questioned by the media. Request to grant civilian victims a public space where their voice could be heard and encourage a wider public debate

about the sufferings during the war and dealing with the past.

3. With regard to rehabilitation, reintegration and reparation, it is of crucial importance to work systematically and consistently and advocate for systematic resolution of all cases as well as provide continuous measures, such as psychological support, by clear criteria of selection.
4. Provide education, training and employment for the victims in a consistent manner will result with their reintegration into society.
5. It was stated that it is importance to prepare a text with examples of good practice, especially with those containing legal solutions from neighboring countries, and organize meetings with politicians, where the text would be presented. Also, it is important for the politicians to meet with victims and have direct communication with them.
6. Shift the emphasis from material to symbolic reparations, from apology to marking the places of suffering. It is important to educate people in decision-making positions on various forms and practices of reparations in order to avoid the perception that reparations are related to material compensation only.
7. It is important to ensure remembrance is paid to the victims, through the marking of places of suffering as well as promote interpretation of history based on facts about all the victims.
8. Encourage open discussion about the war in Croatia in order to avoid biased approach that dominates in all post-Yugoslav countries. Reparations should also be directed to the generation of victims and youth in order to memorize facts about the sufferings. It was also expressed the aspiration to further continue and discuss about reparations.