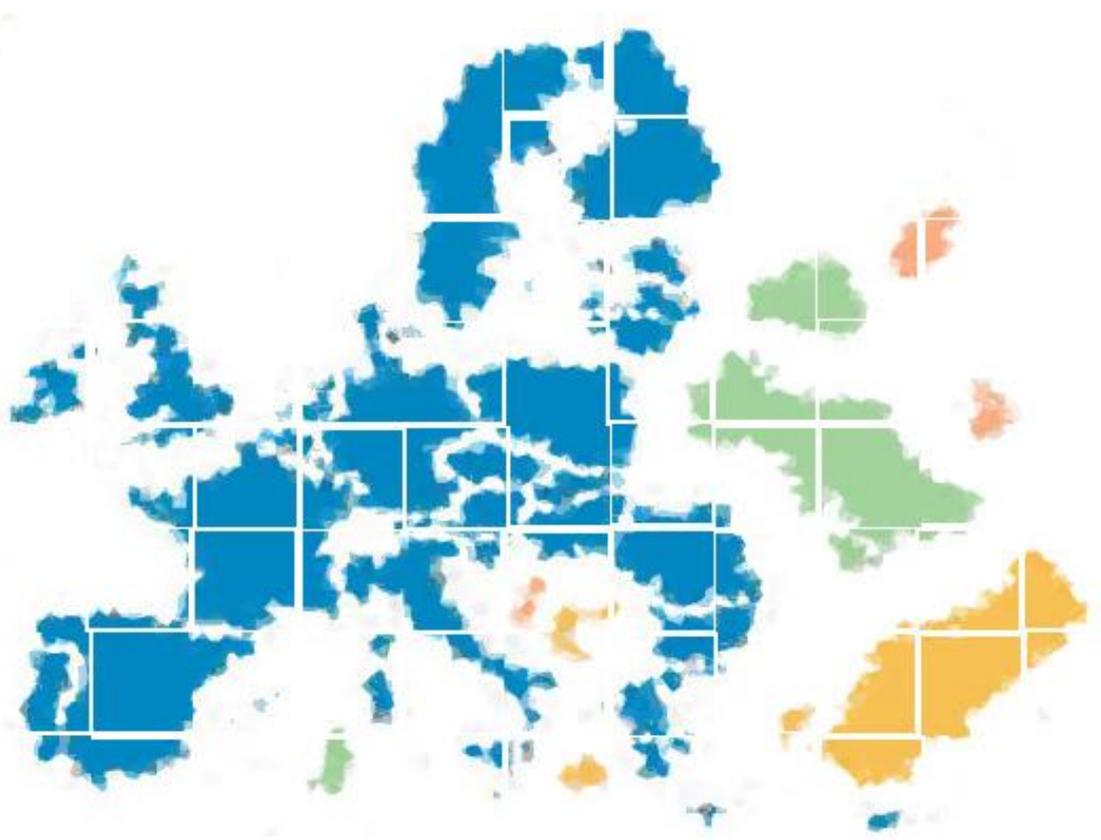


# EU Frontiers

Student Paper Series

## Contemporary Disputes between Serbia and Croatia: Roots and Perspectives

Nikola Kosović



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## Nikola Kosović

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## Executive Summary

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In this paper, the author analyzes contemporary disputes between Serbia and Croatia, their roots and perspectives. The Balkan Peninsula has been one of the most unstable regions in the world, which resulted in many severe wars over the last hundred years. Due to these wars, many countries still have unresolved issues one with another that not only influence their politics now, but also threat to have negative consequences for these countries' future. The article first sets to explain the historical roots of contemporary disputes and then observes the future of relations between Serbia and Croatia through the paradigm of several serious contemporary issues: territorial (border) dispute near the Danube river, accusations of genocide, refugees and minority rights. All these misunderstandings could in the future influence primarily Serbia's road towards the European Union, but also the stability of the region, which is why they need deeper understanding. The author also provides his recommendations of the best ways to resolve these issues and therefore contribute to further normalization of relations between Serbia and Croatia.

## Contemporary Disputes between Serbia and Croatia: Roots and Perspectives

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### Introduction—The short twentieth century on the Balkans<sup>1</sup>

The Balkan Peninsula has probably been the most unstable region in Europe during the twentieth century. Starting from the Austro-Hungarian annexation of Bosnia in 1908, and the two Balkan wars—the first in 1912–1913, the second in 1913—across the World War I (1914–1918) and World War II (on the Balkans from 1941 to 1945), and ending in several bloody civil wars during the 1990s and NATO intervention in 1999, this part of the world had come through many serious geopolitical changes. During this period, new countries arose, while others declined in power or disappeared. Their number changed from only two sovereign states in 1870 (i.e. two empires—Austro-Hungarian and Ottoman) to nine in 2006 (alphabetically: Albania, Bosnia and Herzegovina (BiH), Bulgaria, Croatia, FYR of Macedonia, Greece, Montenegro, Serbia, and Turkey).<sup>2</sup> Interestingly enough, only one country was involved in every single aforementioned wars that took place here—Serbia.<sup>3</sup> Therefore, not surprisingly, Serbia is probably the only country on the Balkans that even today still has disputes with almost all of its territorial neighbors. These disputes have different characteristics, some are territorial, and some are based on religion, ethnicity, or historical basis. Some of these disputes, namely those between Serbia and Croatia, will be the subject of this paper. I will give an overview of the issues in an attempt to find their roots and to suggest possible solutions. By comparing different sides' opinions about the best-case scenarios, I will approach these disputes objectively and give an unbiased answer on what would be the win-win outcome for both sides.

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<sup>1</sup> The term “short twentieth century” was used by Eric Hobsbawm in his book “The Age of Extremes” to describe the period from 1914 to 1991. He argues that during the twentieth century occurred as many events as usually occur during an epoch, which makes this period “short” (see: Eric Hobsbawm, *Age of Extremes: The Short Twentieth Century 1914-1991*, New York: Abacus, 1995).

<sup>2</sup> There are different opinions on where the borders of the Balkan Peninsula are. Thus, some theorists consider Romania and Slovenia as Balkan countries as well, while some even exclude Croatia. Moreover, Kosovo declared its independence from Serbia in 2008. However, since this territory is still under dispute and is not a member of the United Nations, I will not treat it as a sovereign state. Therefore, when I write in this paper about the Balkan Peninsula, I have in mind nine aforementioned countries.

<sup>3</sup> During the wars in the 1990s, and especially during the war in Kosovo, involvement of Montenegro, which was the part of FR Yugoslavia at the time, was minimal.

## Historical roots of contemporary disputes

From 1918, when the Kingdom of Serbs, Croats and Slovenes was established, to 1991, when the civil war based on an ethnical principle broke out, Serbia and Croatia shared a common Yugoslav history. What first threatened the relations between Serbs and Croats during this period was the Second World War, in which the Independent State of Croatia (ISC) was established as a puppet state by the Axis. From 1941 to 1945, the regime of Ustashas, the followers of the fascism ideology, committed many severe crimes over Jews, Roma, Muslims, and—Serbs. Exceptionally brutal was the concentration camp Jasenovac, “the Auschwitz of the Balkans.”<sup>4</sup> Only in it, as some estimates show, the fascist regime killed between 122.300 and 130.100 people, out of which around 62% were Serbs.<sup>5</sup>

During the same war, Chetniks, the Serbian anti-Axis military movement, who supported the Serbian King Peter during the World War II while he was in exile in Great Britain, committed many serious crimes against the Croatian civilians in ISC. However, there is no consent among the Croatian historians about the number of people killed by Chetniks. The estimates go from around 3.000<sup>6</sup> to more than 20.000<sup>7</sup> men, women and children. Nevertheless, both Ustashas and Chetniks left a mark on the members of the two nations. The memories of the terrible crimes brought up the worst in people almost 50 years later—in 1991.

This year was the borderline—it ended one period of common history, and started the other, far more brutal than anything that happened in Europe after the World War II—the civil war. The war between Croats and Serbs, or more precisely—between Croatian forces and the Serb-controlled Yugoslav People’s Army (YPA) and later the Republic of Serbian Krajina, resulted in mass killings, concentration camps, ethnic cleansings, and, eventually, in accusations for genocide from both sides in a process being led in front of the International Court of Justice (ICJ). Consequentially, the roots for many

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<sup>4</sup> “Balkan ‘Auschwitz’ Haunts Croatia,” *BBC*, April 25, 2005, sec. Europe, available at: <http://news.bbc.co.uk/2/hi/europe/4479837.stm> (accessed on December 28, 2014).

<sup>5</sup> All translations from Serbian and Croatian in this paper are author’s translations.

Dragan Cvetkovic, “The suffering of civilians of the Independent State of Croatia in Jasenovac concentration camp” (in Serbian), *The courses of history*, Journal of the Serbian Institute for Contemporary History, 4/2007, Belgrade, 2007 pp. 160-161. This number is considered the most objective and undisputed estimate given so far. On one hand, the estimates of the Serbian government and some historians during the war in 1990s went up to 1.110.929 people (see: Radomir Bulatovic, *Concentration camp Jasenovac with a special look on Donja Gradina* (in Serbian), Sarajevo: Svjetlost, 1990), while, on the other hand, future Croatian president Franjo Tudjman at the time wrote about 30.000 to 40.000 victims (see: Franjo Tudjman, *Wilderness of historical reality. A discussion of the history and philosophy of iniquities* (in Croatian), Zagreb: Hrvatska sveucilisna naklada, 1989, p. 316). These numbers were used for propaganda during the war and neither of them has basis in reality.

<sup>6</sup> Igor Graovac, *Chetnik's Victims in Croatia 1941-1945, Sociological Aspects* (in Croatian) [dissertation], Zagreb: University in Zagreb, Faculty of Philosophy, 1996.

<sup>7</sup> Zdravko Dizdar, Mihael Sobolevski, *Unrevealed Chetnik crimes in Croatia and Bosnia and Herzegovina in 1941-1945* (in Croatian), Zagreb: Hrvatski institut za povijest, Dom i svijet, 1999, p. 79.

contemporary disputes lay in the events that occurred then, more than 20 years ago.

### Serbo-Croatian disputes: how many “Gulfs of Piran” are there?<sup>8</sup>

The first issue that will be discussed here, and the one that is most likely to cause trouble to both sides in the future, is a territorial, or more precisely—a border dispute. Border disputes characterized the post-war relations between practically all former Yugoslav countries. There are still unresolved issues between Slovenia and Croatia, Croatia and Montenegro, Croatia and Bosnia and Herzegovina, Serbia and Bosnia and Herzegovina, etc. One of the troublesome factors during the breakdown of Yugoslavia was that in the early 1990s Serbia did not admit the borders of other Yugoslav republics established by the Constitutional amendments of 1971 and enforced by the 1974 Constitution of the Socialist Federal Republic of Yugoslavia. Serbian leadership recognized as legitimate only the outer borders of Yugoslavia. As reported by some authors, “all internal ones, i.e. republican boundaries were repeatedly referred to as ‘administrative’ and ‘invented by the communist regime’.”<sup>9</sup> In some places, these borders were confirmed after the war, but some of them still cause disputes between the countries in term. More precisely, when it comes to relations between Serbia and Croatia, what is agreed upon is the land border, while the border on the Danube is still a controversial subject.

Serbia and Croatia share 259 km of borders.<sup>10</sup> Out of this number, 108.5 km is the land border, and the other 150.5 km is the Danube border.<sup>11</sup> And while the “part of the boundary passing through heavily populated Western Sirmium (Srem) was delimited in considerable detail and is not subject to dispute, the 87 mile (140km) Danube River portion of the boundary remained (and remains) problematic.”<sup>12</sup> The issue here is that the “cadastral boundary was defined prior to alternations to the course of the river.”<sup>13</sup> In other words, the cadastral boundaries were determined and agreed upon during the SFR Yugoslavia period, before the changes that occurred because of the

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<sup>8</sup> The Gulf of Piran, or the Piran bay is one of the disputed territories between Croatia and Slovenia that the latter used in 2008 to temporarily block the Croatian negotiations with the European Union on its admission. This issue was agreed to be solved by an arbitration tribunal and the process has not yet started. The analogy here arises from the fact that the disputes discussed in this paper could be used by Croatia to temporarily block Serbia’s future negotiations with the EU.

<sup>9</sup> Mladen Klemencic, “Boundary Issues and Solutions Following the Breakdown of Yugoslavia,” *International Boundaries Research Unit (IBRU) Boundaries and Security Bulletin* 1.1, 1993, p. 49.

<sup>10</sup> Serbian Ministry of Internal Affairs, Border police data, “Characteristics of the borders of the Republic of Serbia” (in Serbian), *mup.gov.rs*, available at: [http://www.mup.gov.rs/cms\\_lat/direkcija.nsf/granicna-policija.h](http://www.mup.gov.rs/cms_lat/direkcija.nsf/granicna-policija.h) (accessed on: December 28, 2014).

<sup>11</sup> *Ibid.*

<sup>12</sup> Mladen Klemencic, Clive Schofield, *War and Peace on the Danube: The Evolution of the Croatia-Serbia Boundary*, Durham: International Boundaries Research Unit, Department of Geography, University of Durham, 2001, p. 17.

<sup>13</sup> *Ibid.*

construction of several canals nearby the Danube. Due to these construction works, the river significantly changed its course towards modern Croatia, thus “reducing” its territory by around 10.000 hectares.<sup>14</sup> Therefore, Croatia insists on returning the boundary to the ones defined in the land-registries. In contrast to this, Serbia argues that the border should remain untouched, meaning that the principle of division should be the thalweg, or the lowest point of the main flow of the Danube, which is in accordance to the international law practice.

However, what troubles Serbia in this case is that Croatia is the member of the European Union. Therefore, it can impose the same scenario on Serbia, as Slovenia did on Croatia, when it blocked the negotiations between the EU and Zagreb for almost a year in 2008 due to a dispute about the Gulf of Piran. According to the Croatian Prime Minister Zoran Milanovic, his country will not hesitate to put this condition in front of Serbia during its negotiation process.<sup>15</sup> On the other hand, a strong argument against the Croatian claims is that “if this issue were solved following Croatian arguments, management of river navigation would become extremely complicated and both sides would control enclaves on the other side of the river.”<sup>16</sup> This can easily be observed in figure 3.1.



**Figure 3.1.** Croatian suggestion for resolving the border issue with Serbia. Yellow area marks parts of the Serbian territory that are claimed by Croatia, while the green area marks the parts of the Croatian territory that, according to the Croatian claims, belong to Serbia. *Source: User: Tomobe03, [License CC BY-SA 3.0], via Wikimedia Commons, available at: [http://commons.wikimedia.org/wiki/File:Croatia\\_Serbia\\_border\\_Backa\\_Baranja.svg](http://commons.wikimedia.org/wiki/File:Croatia_Serbia_border_Backa_Baranja.svg) (accessed on March 30, 2015).*

<sup>14</sup> Ankica Barbir-Mladinovic, “Croatia and neighbors: All border misunderstandings”, *Radio Slobodna Evropa*, July 24, 2012, available at: <http://www.slobodnaevropa.org/content/hrvatska-i-susjedi-svi-nerijeseni-granicni-sporovi/2465551.html> (accessed on December 28, 2014).

<sup>15</sup> Drazen Ciglenceki, “We Won’t Be Like Slovenes, but the Danube Border Will be a Condition for Serbia” (in Croatian), *Novi list*, 21 March 2014, available at: <http://www.novolist.hr/Vijesti/Hrvatska/Necemo-bitikao-Slovinci-ali-cemo-Srbiji-granicu-na-Dunavu-uvjetovati> (accessed on: December 28, 2014)

<sup>16</sup> Rosa Balfour, Dijana Basic, “A bridge over troubled borders: Europeanising the Balkans” [policy paper], *European policy centre*, November, 2010

As seen here, the control over the boundaries would become practically impossible, especially since the Danube is one of the most important river trade routes in Europe. Changing the boundaries in accordance to the Croatian suggestion would cause any ship that sails on the Danube to cross more than 10 borderlines on only 140 kilometers portion of river. Therefore, although legally Croatian side probably has better arguments and “historical evidence (...) generally underpins the Croatian claim”<sup>17</sup> it seems more reasonable to solve this dispute by not changing the boundaries that are currently in power.

Whatever the outcome will be, it is essential that both sides no longer have any territorial claims towards one another. For this to be achieved, the two sides should be encouraged to solve this problem as soon as possible, and the main actor entitled to do so is the EU. However, the EU should use neither sticks nor carrots towards either of these two countries. It should use merely its influence to insist on a democratic and institutionally well-based approach to this issue, the one that would take into consideration ethnic characteristics of the land, as well as the necessary protection of minority rights. Therefore, it would be useful to include even more actors in resolving this dispute, apart from the highest-level government officials, namely non-governmental organizations in this region, as well as the local governments from both Serbia and Croatia. This is the only way to ensure that no further conflicts will occur over this area. By achieving this in a way that is acceptable for both sides, the EU will prove itself more capable to solve issues on its borders than it was in 2008 during the Piran bay dispute, but also that it is willing to learn on its own mistakes.

### **Serbo-Croatian genocide lawsuits: multi-billion dollar questions resolved**

The second issue that until recently presented a heavy burden in contemporary relations between Serbia and Croatia were two genocide lawsuits—the one that Croatia filed against Serbia in 1999, and a countersuit filed by Serbia in 2010. If any of these two countries had proven its case, this could have cost the other side several billions of dollars, since they both had asked for similar things—for the other side to pay compensations to all those who were affected by this crime. However, on 3 February 2015, the court decided to dismiss both claims.<sup>18</sup> Although *actus reus* of genocide existed in both cases, they both lacked *dolus specialis*, and based on this the court was able to reject both Serbian and Croatian suits.<sup>19</sup> In other words, the court

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<sup>17</sup> Klemencic, Schofield, *War and Peace on the Danube*, p. 22.

<sup>18</sup> United Nations News Service Section, “UN News - International Court of Justice Dismisses Genocide Claims by Croatia and Serbia,” *UN News Service Section*, February 3, 2015, available at: <http://www.un.org/apps/news/story.asp?NewsID=49977#.VRmTi-GNgVZ> (accessed on March 15, 2015).

<sup>19</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), ICJ Press release, February 3, 2015, available at: <http://www.icj-cij.org/docket/files/118/18448.pdf> (accessed on March 15, 2015).

concluded that “Croatia [failed] to substantiate its allegation that genocide was committed,”<sup>20</sup> while, on the other, “it has [also] not been proven that genocide was committed during and after the Operation ‘Storm’ against the Serb population of Croatia.”<sup>21</sup> However, there is a reasonable doubt that this case might have further implications for the relations between Serbia and Croatia. However, for explanatory purposes of this issue, we need to start from the beginning of the case.

Both sides claimed that the other party had committed a crime that violated the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on December 9, 1948. Namely, both Croatia and Serbia aimed to prove the violation of the Article II, in which the definition of elements of genocidal act is given. As stated in the Convention:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>22</sup>

What is important here is that not only the *act* of genocide is punishable by the international law, but also a “conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide.”<sup>23</sup> It also needs to be said that this was not the first case of the kind against Serbia in front of the ICJ. In 2007 the court ruled that Serbia was not responsible for genocide in Bosnia and Herzegovina, but that it could have prevented the genocide in Srebrenica, and not the whole Bosnia, as claimed by the accusing side—Bosnia and Herzegovina.

Croatia submitted its lawsuit on July 2, 1999, accusing Serbian side of being responsible for numerous human rights violations during the 1991 and 1992, which all amounted to the act of genocide. At this time, the Yugoslav People’s Army advanced to occupy one third of territory that was under Croatia’s control. As stated by the Croatian officials in their application instituting proceedings.

By directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of the Republic of

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<sup>20</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, General List No. 118, 2015, p. 120, available at: <http://www.icj-cij.org/docket/files/118/18422.pdf> (accessed on March 15, 2015).

<sup>21</sup> *Ibid*, p. 142

<sup>22</sup> UN General Assembly, “Convention on the Prevention and Punishment of the Crime of Genocide”, *United Nations, Treaty Series vol. 78*, 9 December 1948, p. 277.

<sup>23</sup> *Ibid*, pp 277-278.

Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, the Federal Republic of Yugoslavia [Serbia is the legal successor of Yugoslavia–N.K.] is liable for the “ethnic cleansing” of Croatian citizens from these areas—a form of genocide which resulted in large numbers of Croatian citizens being displaced, killed, tortured, or illegally detained, as well as extensive property destruction—and is required to provide reparation for the resulting damages.<sup>24</sup>

In an answer to these accusations, Serbia first called into force argument that it could not have been held accountable for any events that occurred prior to “27 April 1992, i.e., prior to the date when Serbia came into existence as a State and became bound by the Convention on the Prevention and Punishment of the Crime of Genocide.”<sup>25</sup> Moreover, in its countersuit, filed on January 4, 2010, Serbia accused Croatia of genocide. Serbian authorities claimed that the Croatian leadership committed this crime against humanity during the 1995 Operation “Storm”, when “Croatia retook most of the territory, and some 230,000 Serbs fled or were ethnically cleansed.”<sup>26</sup> The Serbian argument was the following:

- a) Acts listed in Article II, points (a), (b), and (c) of the Genocide Convention were committed against Krajina Serbs, as a substantial part of the national and ethnic group of Serbs in Croatia;
- b) These acts were committed during and after the operation Storm, which was designed, planned and executed by the State organs of the Republic of Croatia;
- c) These acts were committed with the intent to destroy the said group, according to the plan devised by the highest leadership of the Republic of Croatia;
- d) The Republic of Croatia is accordingly responsible for genocide committed against Krajina Serbs as a substantial part of the national and ethnic group of Serbs in Croatia;<sup>27</sup>

The hearings in this case were held from March 3, to April 1, 2014. During this procedure, both sides provided arguments for their claims and demanded that the other side pays compensations for all the damage that occurred during its military operations. This included reparations to national

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<sup>24</sup> Application of the convention on the prevention and punishment of the crime of genocide (Croatia v. Yugoslavia), Application instituting proceedings, General List No. 118, 1999, p. 2, available at: <http://www.icj-cij.org/docket/files/118/7125.pdf> (accessed on December 28, 2014)

<sup>25</sup> Application of the convention on the prevention and punishment of the crime of genocide (Croatia v. Serbia), Conclusion of the Public Hearings, Press release No. 2014/15, April 2014, p. 3, available at: <http://www.icj-cij.org/docket/files/118/18258.pdf> (accessed on December 28, 2014)

<sup>26</sup> T.J. “The International Court of Justice Croatia v Serbia,” *The Economist*, March 11, 2014, available at: [www.economist.com/blogs/easternapproaches/2014/03/international-court-justice](http://www.economist.com/blogs/easternapproaches/2014/03/international-court-justice) (accessed on December 28, 2014).

<sup>27</sup> Application of the convention on the prevention and punishment of the crime of genocide (Croatia v. Yugoslavia), Counter-memorial submitted by the Republic of Serbia, Volume I, December 2009, p. 466, available at: <http://www.icj-cij.org/docket/files/118/18188.pdf> (accessed on December 28, 2014)

economies and to all the victims of this potential crime in an amount that is to be decided by the court.

Even long before the verdict in this case was brought, most experts expected both lawsuits to fail.<sup>28</sup> For instance, Marko Milanovic, an international lawyer at the Nottingham University believed that “unless the court [had] a collective aneurysm, the outcome (of the case) [was] already predetermined. There was no genocide, full stop.”<sup>29</sup> Thus, a crucial question arises—why did the countries even start this trial if it was that obvious that neither of them could win? The answer is very simple—it was all done for the sake of domestic political needs and promotion. Although the Serbian officials tried to persuade their Croatian counterparts to withdraw their lawsuit even by making them sure Serbia would do the same,<sup>30</sup> there was no real willingness from neither of the two sides to do so. Moreover, what was certain to many experts, no decision could have led to any improvement in relationship between Serbia and Croatia. The court’s verdict in favor of any of these two countries would have implied a new circle of accusations and celebration on one side, and dissatisfaction and refusal to accept it on the other. This could have further implied new waves of problems between the two countries. On the other hand, even though the court ruled out both lawsuits, some could interpret the verdict as not being able to resolve the case, thus making no one responsible for committed crimes. This could also be observed right after the judgment when the “leaderships in both countries (...) shared their dissatisfaction with the ICJ ruling.”<sup>31</sup>

Bearing all this in mind, it seems reasonable to argue that the best-case scenario would have been, as proposed by the Serbian officials on multiple occasions, if both lawsuits had been withdrawn prior to any further processing. This way, since that was not done, the only outcome from this process are several millions of dollars spent on both sides and the serious “harm [to] the relationship between the two countries,”<sup>32</sup> as confirmed by Aleksandar Popov, the director of Centre for Regionalism, well-known political think-tank from Novi Sad, Serbia. What these millions of dollars could have been invested in is to work on “finding missing persons [and]

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<sup>28</sup> Marija Ristic, Josip Ivanovic, “Croatia-Serbia Genocide Lawsuits Expected to Fail”, *Balkan Insight*, February 27, 2014, available at: <http://www.balkaninsight.com/en/article/serbia-croatia-genocide-lawsuits-expected-to-fail> (accessed on December 28, 2014).

<sup>29</sup> T.J. “The International Court of Justice Croatia v Serbia”.

<sup>30</sup> “PM Favors Withdrawal of Genocide Lawsuits,” *B92 English*, November 14, 2014, available at: [www.b92.net/eng/news/politics.php?yyyy=2013&mm=11&dd=14&nav\\_id=88349](http://www.b92.net/eng/news/politics.php?yyyy=2013&mm=11&dd=14&nav_id=88349) (accessed on December 28, 2014).

<sup>31</sup> Denisa Kostovicova, *The ICJ ruling on genocide by Croatia and Serbia should be a starting point for genuine reconciliation between the two countries*, LSE European Politics and Policy (EUROPP) Blog (11 Feb 2015), Blog entry, available at: <http://blogs.lse.ac.uk/europpblog/2015/02/10/the-icj-ruling-on-genocide-by-croatia-and-serbia-should-be-a-starting-point-for-genuine-reconciliation-between-the-two-countries/> (accessed on March 15, 2015).

<sup>32</sup> Ristic, Ivanovic, “Croatia-Serbia Genocide Lawsuits Expected to Fail.”

collaborating on the return of stolen goods.”<sup>33</sup> Moreover, instead of wasting money on futile cases, “the governments should [have supported] regional civil society initiatives in forming commissions of inquiry, discussing the construction of memorials, supporting survivors with psychosocial programs and reviving war-hit areas through employment-boosting measures.”<sup>34</sup> This would have indeed helped those who suffered during and after the war as well as those whose memory needs to be respected, those who lost their lives to some other people’s “greater cause”.

### **Refugees issues: forgotten ghosts from the past**

Lawsuits for genocide are not the only dispute that is still ongoing due to the civil war. The questions of restitution to Serbian companies in Croatia, the missing persons, war crimes prosecutions and the return of cultural goods stolen from Croatia during the war are just some of them.<sup>35</sup> Nevertheless, the problem that seems the most urgent is the refugees issue in both countries. According to the United Nations High Commissioner for Refugees’ (UNHCR) most recent data, “there are 49.056 refugees from Croatia registered in the region, almost all ethnic Serb.”<sup>36</sup> Other estimates state that out of almost 250.000 people who fled from Croatia, only about 70.000 have returned.<sup>37</sup> On the other hand, there is no official data on how many Croatian refugees have left Serbia during the war, but the official website of the Community of the Displaced Croats from Srem, Banat and Bachka states the number of about 45.000 people.<sup>38</sup> It is unknown how many of them have returned to Serbia after the war. More importantly, the problems people on both sides face nowadays are very similar. Among others, there are “unsolved issues [that] include the regulation of their right to pensions they have acquired,”<sup>39</sup> and, as stated by the US Department of State, problems with “inadequate housing, unemployment, lack of higher education, lack of documentation, unresolved

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<sup>33</sup> Mark Kersten, “A Futile Endeavour: Croatia v. Serbia at the ICJ,” *Justice in Conflict*, April 1, 2014, available at: <http://justiceinconflict.org/2014/04/01/a-futile-endeavour-croatia-v-serbia-at-the-icj/> (accessed on December 28, 2014).

<sup>34</sup> Ibid.

<sup>35</sup> Bodo Weber, Kurt Bassuener, “Serbia – Croatia – What awaits us after Croatia’s entry into the EU? Challenges for the Republic of Serbia’s regional policy”, *Proceedings of a policy roundtable organized by Heinrich Boll Foundation Serbia*, Belgrade: Heinrich Boll Stiftung, 2013, p. 5

<sup>36</sup> UN High Commissioner for Refugees (UNHCR), *Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91-95 conflict, including cessation of refugee status*, UNHCR, April 2014, p. 3.

<sup>37</sup> Omer Karabeg, “Is the assimilation a threat for the Serbs in Croatia or Croats in Serbia” (in Croatian), *Radio Slobodna Evropa*, June 9, 2013, available at: <http://www.slobodnaevropa.org/content/most-preti-lisimilacija-srbima-u-hrvatskoj-i-hrvatima-u-srbiji/25011237.html> (accessed on December 28, 2014).

<sup>38</sup> Community of the Displaced Croats from Srem, Banat and Bachka, “About the community” (in Croatian), available at: <http://www.udruga-hrvata-iz-srijema.hr/o-udruzi> (accessed on December 28, 2014).

<sup>39</sup> Bodo Weber, Kurt Bassuener, “Serbia – Croatia – What awaits us after Croatia’s entry into the EU?”, p. 5

claims to property (...) and loss of occupancy and tenancy rights.”<sup>40</sup> Nevertheless, the UNHCR believes that it is time for the refugee status of these people to end. The UN officials argue that the cessation clauses built into the 1951 Refugee Convention “provide for refugee status to end once fundamental and durable changes have taken place in the country of origin and the circumstances that led to flight no longer exist.”<sup>41</sup> Since there is no proof of any real threat to refugees neither in Croatia, nor in Serbia, these people should no longer be treated as refugees. However, this does not solve the problem. Pulling down the label from these people will not return them their homes, will not give them jobs, nor their deserved pensions. Moreover, one should not neglect the seriousness of the situation, nor should think of it as of an easy solvable issue.

The costs of returning people home does not only include building them homes and paying for the trip back. These people need to re-socialize, regain trust of the other side, find a proper job and be able to support their families independently from any governmental help. They need not to be discriminated or treated unequally in any other sense compared to the rest of the community. To achieve this, many material and non-material efforts are needed. Some “material” steps are already being undertaken. For instance “the Regional Refugee Housing Project [backed by the UN Refugee Agency, the EU and the United States–N.K.], which involves Croatia, Serbia, BiH and Montenegro, will provide housing to about 24,000 refugee families in the region.”<sup>42</sup> The realization of this project would significantly solve the housing problem of the refugees, but the next step still awaits. More efforts need to be put in by all countries involved in order to make sure that people stay once they return. This could be achieved by investing more money into programs dedicated to retraining the labor force, and making it more adaptable to new life conditions. Moreover, countries should insist on proper representation of the refugees in both local and national level governments, as well as on providing these people proper social benefits and health care. Additionally, the strong protection of minority rights needs to be enforced by all sides in order for the events of the 1990s to never happen again.

These are just some of necessary conditions that need to be fulfilled to successfully solve the refugees issue between not only Serbia and Croatia, but the whole region. However, it seems rather unlikely that this could happen in the closest three to five years. This problem is still used in populist speeches, but there is still no real initiative from neither the Serbian, nor the Croatian side for the solutions to be agreed upon. Until then, the refugees in these two countries will simply remain the forgotten ghosts from the past.

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<sup>40</sup> Bureau of Public Affairs Department of State, “Refugees from Croatia and Bosnia in Serbia,” *U.S. Department of State*, February 28, 2011, available at: <http://www.state.gov/j/prm/policyissues/issues/protracted/countries/157402.htm> (accessed on December 28, 2014).

<sup>41</sup> UN High Commissioner for Refugees (UNHCR), *Implementation of the Durable Solutions Process*, p. 3.

<sup>42</sup> “Refugees Issue Still Pending in the Balkans,” *ReliefWeb*, July 10, 2013, available at: <http://reliefweb.int/report/serbia/refugees-issue-still-pending-balkans> (accessed on December 28, 2014).

### Minority rights—not so minor problem

Finally, the last group of disputes between Serbia and Croatia involves the issues of protection of minority rights. The Croats stress two major minority rights that are being violated by the Serbian officials. The first one is the right to representation of the Croatian minority in the Serbian parliament, and the second is the violation of the right to education in native language.<sup>43</sup> Peter Kuntic, the head of Democratic Union of Croats in Serbia, argues that even ten years after the Croatian minority was recognized by the government in Belgrade there are still no schoolbooks in Croatian available for sale.<sup>44</sup> More importantly, he calls for an implementation of an agreement between Serbian and Croatian government that was achieved in 2004 and in which the proper representation of the Croatian national minority in local, regional and national governing bodies in Serbia is guaranteed.<sup>45</sup> On the other hand, the Serbs in Croatia also claim they are discriminated in several areas. First of all, they argue their right to personal ownership is violated, especially when it comes to housing issues.<sup>46</sup> Moreover, their representatives often point out the problem of getting a job in public service. Similarly, The European Commission against Racism and Intolerance (ECRI) noted “many allegations of discrimination against ethnic Serbs regarding access to public sector jobs.”<sup>47</sup> The most serious dispute between the two countries about the rights of minorities arose recently around the anti-Cyrillic protests across Croatia in 2013.

The protests started in early September, after Cyrillic signs have been put up on governmental offices in Vukovar, one of the towns that symbolizes the Croatian fight for independence. This is the city that was crushed to stones by the Serb forces during the 1991 offensive, while in 1995 it was the one from which most Serbs fled during the Operation “Storm”. Therefore, for Croats this city represents their version of Stalingrad,<sup>48</sup> a city of resistance and the biggest victory on the way to freedom. It is a symbol of “a terrible defeat, but also a symbol of martyrdom.”<sup>49</sup> Thus, it is unacceptable for Croats, and especially their war veterans, that there is anything in the city, which would imply that Serbs have the power. Nevertheless, what needs

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<sup>43</sup> Omer Karabeg, “Is the assimilation a threat for the Serbs in Croatia or Croats in Serbia”

<sup>44</sup> Ibid

<sup>45</sup> “Agreement between Serbia and Montenegro and the Republic of Croatia about the protection of the rights of the Serbian and Montenegrin minorities in the Republic of Croatia and the Croatian minority in Serbia and Montenegro”, *Official Gazette of Serbia and Montenegro – International contracts*, 3/05, 2005, Article IX.

<sup>46</sup> Ljubomir Mikic, “Croatia: Challenges for Sustainable Return of Ethnic Serb Refugees” [micro study], *Minority Rights Group International*, June 2005, p. 2.

<sup>47</sup> European Commission Against Racism and Intolerance (ECRI), *Third Report on Croatia, Adopted 17 December 2004*, Strasbourg: Council of Europe, June 2005, p. 19.

<sup>48</sup> “25,000 Protest against Cyrillic Signs in ‘Croatian Stalingrad,’” *Russia Today*, April 8, 2013, available at: <http://rt.com/news/croatia-cyrillic-vukovar-protest-494/> (accessed on December 28, 2014).

<sup>49</sup> For more on what Vukovar represents to Croats, see: Marcus Tanner, “Strange Hold of Vukovar A Town That’s Turned Icon,” *The Independent*, available at: <http://www.independent.co.uk/news/world/strange-hold-of-vukovar-a-town-thats-turned-icon-1599267.html> (accessed on December 28, 2014).

to be said here is that the minority's freedom to use its language and script is guaranteed both by the Croatian Constitution in Article 15,<sup>50</sup> and by the Constitutional Law on the Rights of Minorities in Article 10.<sup>51</sup> Moreover, Article 12, Paragraph 1 of the Constitutional Law reads that the "equality in the official use of a minority language and script shall be exercised in the territory of a self-government unit where the members of a national minority make at least one third of the population."<sup>52</sup> According to the Croatian Census, conducted in 2011, Serbs make up 34.87% of population in Vukovar.<sup>53</sup> Therefore, the Serbian minority in Vukovar should have the right to use its language and script on governmental offices. However, these protests served their cause—the City Council voted in changes of the city Statute, proclaiming Vukovar a "city of special significance" and thus exempting it from the obligation to respect the rights of minorities.<sup>54</sup>

Although the anger and the arguments of the Croats can be understood, the "solution" that is currently in power does not solve the problem, it simply temporarily sweeps it under the rug. There is only one real permanent solution to this issue—dialogue between all interested actors. In this case, those would be the Croatian local and state government, the Serbian government and representatives of the Serbian minority in Croatia, and the European Union. Croatia is obligated by domestic legislature and several international agreements, as well as by the membership in international organizations, such as the Council of Europe and OSCE, to respect and *protect* the rights of minorities, including the Serbian one, no matter the history and no matter the territorial unit. On the other hand, Serbia and the EU should use the tools available to them to put pressure on Zagreb to fulfill its obligations. Reaching an agreement that would prevent further escalation of conflicts and discrimination in Vukovar and elsewhere in Croatia is the only way to protect the minorities both in Croatia and in Serbia. Moreover, even if the Croatian side does not show more tolerance towards the Serbian minority, Belgrade should make the first step and start paying more attention to the problems Croatian minority in Serbia faces. By resolving these issues, Belgrade would send a message across the Danube, and be in a

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<sup>50</sup> Article 15, Paragraph 4 of the Constitution states that "Members of all national minorities shall be guaranteed the freedom to express their ethnic affiliation, freedom to use their language and script, as well as a cultural autonomy", see: *Constitution of the Republic of Croatia*, 22 December 1990, official translation available at: <http://www.refworld.org/docid/3ae6b551c.html> (accessed December 28, 2014)

<sup>51</sup> Article 10 of the Constitutional Law states that the "Members of national minorities shall have the right to freely use their language and script, privately and publicly, including the right to display signs, inscriptions and other information in the language and script which they use, in compliance with the law", see: *Croatian Constitutional Law of 2002 on the Rights of National Minorities*, 23 December 2002, unofficial translation available at: <http://www.refworld.org/docid/3ae6b4dd18.html> (accessed on December 28, 2014)

<sup>52</sup> *Croatian Constitutional Law of 2002 on the Rights of National Minorities*, 23 December 2002.

<sup>53</sup> Full data from the 2011 Census is available on the official website of the Croatian Bureau of Statistics under Population by Ethnicity, by Towns/Municipalities: [http://www.dzs.hr/default\\_e.htm](http://www.dzs.hr/default_e.htm) (accessed on December 28, 2014)

<sup>54</sup> Boris Pavelic, "Croatia's Vukovar Bans Cyrillic After Protests", *Balkan Insight*, November 5, 2013, available at: <http://www.balkaninsight.com/en/article/vukovar-city-council-bans-cyrillic> (accessed on December 28, 2014)

better position to demand reciprocal determination from the other side. Either Croatia or Serbia need to make the first move, or these not so minor problems of national minorities will stay under the rug, and be able to haunt both sides for a long time. However, as in most cases discussed so far, there is no political will on neither side.

### **Conclusion – What will the future bring?**

What is most important to bear in mind about the contemporary disputes between Serbia and Croatia is that none of these problems is that hard to resolve. Nevertheless, one should be aware that if these problems were not solved soon, they could grow and eventually cost both countries a lot of time and effort to solve. These disputes have been around for almost 20 years now and it is time for Serbia and Croatia to get rid of the past and move on together. There have been many attempts by the EU to help with this process, as well as by the UN, there have even been several regional initiatives that still exist, like the South-East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Initiative (CEI), or the Adriatic-Ionian Initiative (AII), but until there is enough political will in Zagreb and in Belgrade, none of this will be achieved. In order for this political will to appear, the governments of both countries need to stop acting in a populist way, and be more future-oriented. They need to become more responsible towards future generations, and solve the issues many of them were involved in during the 1990s. Until then, it needs to be made sure that the people from neither country feel the consequences of their deeds.

What could be the worst outcome for the future Serbo-Croatian relations is Croatia starting to use the fact that it is a member state of the EU, while Serbia aspires for membership, and to put new conditions in front of the Serbian government, without the real intention to resolve the problems in mutual interest. Being selfish and unwilling to listen to the other side's arguments is what brought the two countries in current position. We can only hope that current elites will indeed be more cooperative and put more effort into hearing each other. Only that can bring a brighter future to both nations and make it possible for them to improve their relations.

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