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THE ERASED OF SLOVENIA: FIGHTING FOR RETRIBUTION

Katherine Oliver



“We were locked in this country. I felt literally like a prisoner. I couldn’t go anywhere.”

“I’ve lived here for so many years, I had permanent residence registered in Ljubljana, my children were citizens and Slovenes through their father...and I had a regular job...I couldn’t know that I was going to lose my rights if I didn’t take citizenship. And how many rights I lost!”

“Apparently, I had been erased on 26 February 1992 and didn’t know it until 1994 when I wanted to transfer ownership of a car.”

—“The Erased: Information and Documents.”

Slovenia had long been lauded for being the most successful post-Yugoslavia country. The first former communist country to join the European Union (EU), followed by impressive economic growth, the Republic of Slovenia was viewed as an excellent example of a thriving, prosperous EU member. Slovenia did enjoy success in many areas, and those victories should be neither forgotten nor diminished. However, the booming economy and flourishing state of the Republic overshadowed grave injustices within the country; one of the most notable was the issue of the *Izbrisani* (Erased) people.

Six months after gaining independence, the Slovenian government performed a mass Erasure of at least 25,000 inhabitants legally

residing in the country. The Erasure resulted in the removal of names from official databases, ultimately giving these individuals the status of illegal aliens, even though many had lived and worked in Slovenia for years. Along with the removal of their legal status was the loss of all their rights: social, economic, and political. All of this transpired in 1992.

For two decades the government of Slovenia has allowed a portion of its population, collectively known as the Erased, to reside in Slovenia without basic human rights. Occasionally the government has commented on the unconstitutionality of their status yet has done little to fix the situation. Now, with the European Court of Human Rights (ECHR) involved, Slovenia is being pressured to

compensate the individuals who became victims of Erasure two decades ago. As the Republic of Slovenia designs the compensation plan, the government must devise a strategy that encompasses all those affected by Erasure—those who have gained status, those without it, those who have left the country, and those who have passed away—and that remunerates those who suffered with appropriate compensation for what they lost during the years they were erased.

I begin by briefly outlining Slovenia's history and transition to an independent state. Next I detail key pieces of legislature that enabled the government to refuse thousands of individuals their basic rights. In an effort to highlight the injustices suffered, I recount stories shared by Erased individuals. I examine Slovenia's inefficient and incomplete attempts at remedying the situation before focusing on the intervention of the ECHR and the resulting legislation in Slovenia. Finally, I outline the improvements that have been made as well as the measures that still need to be implemented to create a more complete and satisfying form of retribution.

History: Yugoslavia through Slovenian Independence

Socialist Federal Republic of Yugoslavia

In 1963, after the acquisition of new land and several name changes, the land in the southern part of central Europe, formerly known as the Kingdom of Serbs, Croats, and Slovenes, officially became the Socialist Federal Republic of Yugoslavia (SFRY). Although seen as one large republic, the SFRY comprised six smaller republics: Bosnia and Herzegovina, Croatia, Slovenia, Macedonia, Montenegro, and Serbia. Serbia itself contained two autonomous provinces, Vojvodina and Kosovo. Individuals living in the SFRY retained dual citizenship—citizenship of the republic in which they were born as well as Yugoslav citizenship. Josip Tito, Yugoslavia's President for Life, strived to maintain unity within this ethnically heterogeneous region by suppressing any nationalistic demonstrations. After Tito's death in 1980, ethnic tensions that had been building for years

began erupting more frequently within the republics. The tension and issues escalated, eventually resulting in republics severing their relationship with Yugoslavia. It was in this hostile environment that the Socialist Republic of Slovenia seceded in 1990 ("Case of Kurić...", 2010, p. 5).

It was not until June 25, 1991, however, that this separated republic officially became the independent Republic of Slovenia. On this same day, the new republic enacted the Citizenship of the Republic of Slovenia Act. According to Article 39 of this act, continuous Slovenian citizenship was provided to any individual who held it while Slovenia was part of Yugoslavia—in other words, all persons born in Slovenia. The following article, Article 40, permitted individuals from other former SFRY republics to apply for Slovenian citizenship if they met the requirements. In order to be eligible to apply, Article 40 stated that an applicant must have had permanent residence status on or before December 23, 1990 (the day they voted on independence), must be living in Slovenia (i.e., earn a living in, dwell in, and fulfill obligations to the state [Medved]), and must apply within a six-month period from the day the act was issued (no later than December 25, 1991). Under these specifications two groups of people were immediately barred from acquiring citizenship: those who became permanent Slovenian residents after December 23, 1990, and those who lived and worked in Slovenia but did not have permanent residence. Aside from those already holding Slovenian citizenship, acquiring citizenship in the newly independent Republic of Slovenia was voluntary (Jalušič and Dedić).

It seems, though, that the consequences of not obtaining citizenship were not well communicated, and many inhabitants who did not apply did not do so because they were unaware of what foregoing citizenship would cause them to lose ("The Erased: Information..."). Sixteen years earlier, in 1976, the Citizenship Act of the Socialist Republic of Slovenia had granted both citizens and non-citizens equal rights, with the exception of a few citizenship-only rights, like voting (Medved, p. 308). Equal rights for all legal inhabitants for the past 16 years may have contributed to people's beliefs that because they were legal, foregoing the acquisition of Slovenian citizenship would

have no impact on their status and standard of living (“Constitutional Court Decision...”). In the 1999 Constitutional Court ruling (“Constitutional Court Decision...”), the Court explicitly stated that SFRY foreigners had the right to presume that their residence and way of life would continue in the new Republic. This was especially true for inhabitants with permanent residency, because this alone ensured many civil, social, economic, and some political rights. One Erased woman wrote:

We didn’t apply for citizenship in 1991. My husband was working all the time, I had a job and three daughters to take care of, and because we both knew we had permanent residence and employment with unlimited contracts, we thought acquiring Slovenian citizenship wasn’t necessary. We weren’t aware of possible consequences. We never talked to anyone about citizenship and why we should apply for it (“The Erased: Information...”).

Another possible reason for the decision to forego obtaining citizenship was the Yugoslav law stating that upon the acquisition of citizenship in one republic, citizenship in another republic was revoked. The desire to retain citizenship in one’s republic of origin may have contributed to the Erased choosing not to apply for Slovenian citizenship (“Case of Kurić...,” 2010, p. 5). Regardless of why they chose not to apply, this woman and her family were certainly not alone in their assumptions that life without Slovenian citizenship would carry on as normal.

Erasure

The six-month window to apply ended on December 25, 1991. According to the Ministry of Interior, nearly 171,000 permanent residents from other former Yugoslav republics applied and were awarded Slovenian citizenship. In contrast, 2,400 applicants were denied, and a reported 11,000 individuals left Slovenia (“Case of Kurić...,” 2010, p. 6). The remaining foreign Slovenian inhabitants consisted of foreigners from outside the SFRY and former SFRY citizens, two populations that both failed to apply for or secure Slovenian citizenship. After December 25, 1991, these remaining individuals

fell under the jurisdiction of the Aliens Act—an act, according to Slovenia’s Constitutional Court, that was intended to control the status of foreigners entering Slovenia *after* independence. In this instance, however, the government applied it to foreigners legally living in Slovenia prior to independence (“Case of Kurić...,” 2010, p. 31). The “type” of foreigner that persons were dictated which article of the Aliens Act they were subjected to. Non-SFRY foreigners holding permanent residence permits were protected by Section 82. Section 82 ensured permanent residence permit validity for these foreigners if the permit was in their possession at the time of the Aliens Act enactment and if it was issued through the Movement and Residence of Foreigners Act. Meanwhile, foreigners immigrating from SFRY republics were governed by Section 81, which only afforded them two months after December 25, 1991, before legally becoming aliens (“Case of Kurić...,” 2010, p. 27). Many of these SFRY citizens had been living in Slovenia for years prior to independence—some for as long as 15 years. Still, on February 26, 1992, the Ministry of the Interior transferred former SFRY persons who had yet to apply for Slovenian citizenship, or whose applications were rejected, from the Register of Permanent Residence to the Register of Aliens without a Residence Permit; in other words, they were erased. All of this was done without the knowledge of the people to whom it was happening (“Case of Kurić...,” 2010, p. 7).

Interestingly, during the drafting of the Aliens Act, the Slovenian government did recognize that SFRY foreigners who did not want citizenship were in a unique situation and would therefore need a special provision to guide their transition in the independent country. The legislators decided that it was not in their power to regulate the legal states of citizens from other countries. Instead, the legislators agreed that the legal status should be decided between the republics in a bilateral agreement. Unfortunately, due to wars raging between ex-Yugoslavian countries, among other issues, the bilateral agreements never came to fruition and SFRY foreigners were left erased and without a solution (“Constitutional Court Decision...”).

The results of Erasure vary extensively.

Some people succeeded in obtaining temporary residence permits and continued their relatively normal lives. Some went without status for a brief period, and others were without status for years. Regardless, the consequences of being erased were apparent in their daily struggles. For instance, one family, originally from Bosnia and Herzegovina, learned of the entire family's erasure—including the youngest daughter who was born in Slovenia—in 1993, when police officers showed up at their house and demanded their passports. After losing their passports, visas were necessary for them to stay in the country. These visas, however, were valid only for a few months before needing to be renewed. Thus, from 1993 until they gained citizenship in 2007, this family bore the heavy financial burden associated with the constant renewal of visas. To make matters worse, the family had only one source of income after the mother was fired from her job in 1992 because she was not a citizen and her work permit expired. Although she registered as unemployed, she received no social aid because she was a foreigner in the country. The family was eventually able to obtain citizenship but not until they provided certificates from Bosnia and Herzegovina proving that they had no criminal record there. The youngest daughter, who had been born in Slovenia and never traveled to Bosnia and Herzegovina, was also expected to provide such documentation.

Another man recounts how his lack of status or proper documentation prevented him from continuing his education. Another discusses the difficulties many Erased faced when searching for jobs because many employers were afraid to employ illegal foreigners. Consequently, they struggled to pay their bills and lost pensions, either because they could not find employment or because they were employed illegally. Health insurance was often revoked, and one man went without healthcare for ten years. Adding to his troubles was the necessity to reach the Bosnian Embassy in Italy to obtain proper documentation, but because he no longer had valid documents, he was not allowed entry into Italy. Securing his documents over the phone was not an option because he no longer had a permanent address, a consequence of Erasure. There was nothing he could do (“The Erased: Information...”).

Estimates of just how many people were erased vary, but the ECHR contends that in all 25,671 former SFRY citizens lost their permanent residence status as a result of the Erasure (“Case of Kurić...,” 2010, p. 10). Some ethnic Slovenes became victims of the Ministry of Interior's actions, but a majority of those affected were individuals originating from former Yugoslav republics. As aliens, these people were no longer legally living in the country. They lost social, economic, and political rights. Their identity cards, drivers' licenses, passports, and any other sources of identification were nullified and sometimes even destroyed by officials. With their records gone, these people were effectively erased.

Post Erasure: Legal History

Many members of government refused to acknowledge this grave human rights violation, with some even supporting it because the Erased “consciously forfeited [their rights], and that for this reason the determination of the Aliens Act must be thoroughly followed” (Pistotnik, p. 227). Yet there were members of government pushing for the return of the Erased's rights. Although there were several instances of the Slovenian government demonstrating support for the Erased, none had a greater potential for improving their plight than the Constitutional Court decisions made on their behalf.

The first of these decisions came in 1999, almost four years after the first complaint was filed against the Aliens Act (Pistotnik, p. 228). The Constitutional Court found that several articles in the Aliens Act, including Sections 13 and 16, but in particular Section 81, lacked legal basis and violated the Constitution, thereby making the actual act of Erasure illegal (“Case of Kurić...,” 2010, pp. 31–32). The Court explained that placing the Erased under the jurisdiction of the Aliens Act—a move that should never have happened because they were not aliens at the time of independence—subjected them to worse conditions than non-SFRY foreigners. While the Aliens Act outlined the transition of non-SFRY foreigners after independence and provided them with continued permanent residence permits (“Constitutional Court Decision...”), Section 81 only stated that

SFRY foreigners had a two-month period between the application deadline and when they fell under the jurisdiction of the Aliens Act. Because Section 81 failed to provide guidelines for when or how the Erased could apply for status after this two-month period, an unconstitutional “legal void” had been created, effectively leaving them without directions or options (“Case of Kurić...,” 2010, p. 32). Moreover, the government’s failure to regulate the Erased’s statuses violated Article 14 of the Constitution, which promises equal rights and fundamental freedoms to all those in Slovenia, regardless of personal circumstance (i.e., national origin, race, sex, social status, etc.) (“Case of Kurić...,” 2010, p. 31; Republic of Slovenia...). In a fourth ruling, judges found Article 40 of the Citizenship of the Republic of Slovenia Act discriminatory and at odds with the Constitution because of the stricter regulations it applied to Erased people in comparison to other foreigners. For instance, the authorities judging applications had the power to arbitrarily decide whether an applicant was a threat to Slovenia (Pistotnik, p. 230) and were, therefore, arbitrarily accepting and rejecting applications.

Consequently, in July 1999, the National Assembly passed the Act Regulating the Legal Status of Citizens of the Former SFRY Living in the Republic of Slovenia (ARLSC). A successful ARLSC application would provide a permanent residence permit to former SFRY citizens who were registered as permanent residents on December 23, 1990, and who had been living in Slovenia since that date. It also allowed foreigners with continued Slovenian residence since June 25, 1991, the ability to obtain permanent residence. The act went into effect in late September, and from that time people had three months to apply for permanent residence. In all, 12,199 persons were eventually granted permanent residence permits under this act (Pistotnik, p. 230).

Four years later, in April 2003, the Constitutional Court ruled that some articles in the ARLSC were unconstitutional. The Court cited the failure to grant retroactive status and regulate permanent residence permits for those deported from Slovenia; the ambiguity of the term, “in fact residing”; and the short 3-month application period as unconstitutional. The Constitutional Court ordered the Ministry of

the Interior to amend the unconstitutional sections within six months as well as to inform all persons already with permanent residence permits that their permanent residence status would be retroactively extended to February 25, 1992 (“Case of Kurić...,” 2010, p. 33).

Meanwhile, the Slovene National Party (SNP) asked the National Assembly to reject the Constitutional Court’s decision that Erasure was unconstitutional and to forego attempts to remedy the situation. The SNP argued that laws attempting to remedy the situation were supporting opponents of Slovenian independence. Moreover, the SNP would not acknowledge Erasure as an actual act, claiming that no one was erased but rather that they willingly chose to stay out of the register of citizens of the Republic of Slovenia. However, not only does that claim ignore the many applicants who were rejected but also it fails to recognize that the decision to forego citizenship was the result of a lack of communication between the government and the people about the consequences associated with remaining without citizenship. In attempts to disregard the Erased people and their plight, the SNP urged the Constitutional Court to reconsider the constitutionality and legality of the ARLSC, which would ensure the Erased remained without permanent residence permits. Coming to the SNP’s aid, the Party of the Slovene Nation began collecting signatures for a referendum against the return of permanent residence status for the Erased (Pistotnik, p. 234).

After deliberation, the Ministry of the Interior proposed two legislative solutions to fix the ARLSC’s unconstitutional violations: the Technical Act and the Systemic Act, both of which were ultimately rejected by the National Assembly (Pistotnik, p. 248). For SFRY foreigners who held permanent residence prior to Slovenia’s independence as well as those who acquired it under the ARLSC or the Aliens Act, the Technical Act outlined the new provisions and procedures to reacquire permanent residence. The Systemic Act focused on providing a permanent, regulated status to the Erased still without any legal status, to the Erased with temporary residence permits and their children, and to the Erased granted permanent residence because of familial ties (Pistotnik, p. 236). The period between the Systemic Act’s

proposal and ultimate rejection lasted about a year and was marked by repeated referendums and stalled voting, all initiated by the opposition. During that time, the Erased were in limbo as the implementation of the Constitutional Court's 2003 decision to provide retroactive status was delayed. Gaining retroactive status is critical because it proves prolonged inhabitation in the country, which aids in meeting the eligibility requirements for gaining citizenship. Retroactive status also ensures that individuals are compensated for the correct number of years they were erased. Through their actions, the opposition succeeded yet again in postponing any real improvement for the Erased.

In 2007, a Constitutional law geared toward the plight of the Erased was drafted. If passed, Amnesty International argued that it would have preserved discrimination against the Erased, allowed authorities to remove retroactive status already granted, and failed to reinstate permanent residence status to all those erased ("Slovenia: Draft..."). Erased supporters saw the law as one more way to avoid carrying out the Constitutional Court's 2003 decision to give out retroactive status. After much debate, the law died at the completion of Parliament's term, once again leaving Erased individuals with no real progress in their fight to gain legal status and rights.

European Court of Human Rights

After more than a decade of unsatisfactory results, Milan Makuc and ten other Erased individuals decided that the Slovenian government was not the solution to their problems. Therefore, on July 4, 2006, they filed a lawsuit with the ECHR (Pistotnik, p. 255). Their lawsuit outlined their unlawful removal from the Register of Permanent Residence and their resulting statelessness. It explained the discrimination they faced and that, in spite of the Constitutional Court's decisions, Slovenia had still not created an "effective legal remedy" ("Case of Kurić...", 2010, p. 2). After another four years, the applicants finally received a ruling in July 2010. The ruling held that Slovenia had violated Article 8 of the European Convention on Human Rights ("Kuric v. Slovenia"). Article 8 provided that each person has the right "to respect for his private and family life, his

home and his correspondence" and that government cannot interfere with that ("Case of Kurić ...," 2012, p. 60). The Slovenian government opposed these findings, however, and responded in 2011 by requesting that the lawsuit be taken to the Grand Chamber of the ECHR for another ruling. The following year, in 2012, the Grand Chamber reached the final verdict: Articles 8, 13, and 14 of the European Convention on Human Rights had been violated. Article 13 states that people whose constitutionally guaranteed rights and freedoms have been violated are guaranteed an effective remedy. Article 14 prohibits discrimination on any grounds, including national minority ("Case of Kurić...", 2012, pp. 71–72). Not only did the Grand Chamber rule in favor of the applicants but also it ordered Slovenia to pay €20,000 in respect of non-pecuniary damages to each of the six remaining applicants. In addition, the Grand Chamber granted Slovenia one year to decide on the amount each applicant should receive in respect of pecuniary damages, warning that if Slovenia did not settle this matter in a timely fashion, the Grand Chamber would intervene and decide the amount for her. By early 2014, the government had yet to decide upon an amount for pecuniary damages, so the ECHR decided instead. The amount of compensation ranged from €29,000 to €72,700 and was based on the length of their Erasure and circumstances (European Court..., p. 4). Although these amounts are probably greater than what most of the Erased will receive, they are certainly not equivalent to what was lost.

Compensation Plan

In November 2013, Slovenia passed the Act Regulating Compensation for Damage to Persons Erased from the Permanent Population Register. It states that Erased individuals will receive €50—an increase from the €30 outlined in the original draft—for each month they were erased. The payment plan¹ depends on the amount the individual will receive and

¹Total compensation less than €1,000 is to be paid all at once within 30 days of the administrative unit's decision. For amounts over €1,000, the first installment is due within one month of the decision, and the rest will be paid in annual installments.

be distributed in installments (five installments maximum), with the first installment coming within 30 days of the administrative unit's decision. (The administrative unit refers to the local authority where an Erased person applies.) The act also provides for the possibility of receiving up to three times the determined amount if a case is brought to court. In comparison to earlier drafts of the act, the final version amended the requirements for receiving compensation to be more inclusive, thereby potentially increasing the number of Erased who will benefit. Still, the conditions set forth prohibit thousands of Erased from being compensated. In particular, those who applied for status after the 2010 Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia (which provides retroactive status to those already with permanent residence permits) and those who remain illegal are not eligible for compensation. This exclusion and other provisions of the act—such as the lack of uniformity in determining how much compensation each applicant receives²—illustrate some of the flaws within this piece of legislation (not discussed further in this article). Nonetheless, the act also contains some positive elements, including government contributions to compulsory health insurance, priority consideration in social assistance programs, state scholarships, rights to public funds, priority treatment in solving housing problems, access to education, and access to programs aiding in the integration into Slovenian life. This act went into effect in June 2014 and provided applicants a three-year window (from June 2014) in which they will have to apply for compensation. However, if individuals acquire permanent residence status or citizenship after June 2014 under the stipulations outlined in the act, they have three years from the date of acquisition to apply (Council of Europe, Secretariat General).

Although this act is undoubtedly a step toward progress, there are still many issues that need to be addressed. First, it only com-

pensates Erased individuals who have already legalized their status; this excludes approximately 13,000 currently illegal inhabitants (“Case of Kurić...,” 2010, p. 10). Two problems arise from this: 1) adequate justice is not forthcoming when only a fraction of the victims are compensated and 2) the act ignores one of the main issues in the fight for the Erased—thousands of individuals are still without basic human rights. Compensation is important in this situation, but ensuring that everyone recovers his or her rights remains a primary goal. Second, the amount awarded—equivalent to only €600 annually—is nowhere nearly equivalent to what the Erased have lost in terms of salary, pension, child benefits, or social assistance, to name only a few financial losses. Slovenia is facing difficult economic times right now, but proper compensation that better reflects the losses of Erased individuals ought to be awarded.

Possible Solutions

As discussed previously, Slovenia has taken some important steps in its attempts to redress the problem of Erasure. Unfortunately, its efforts are still lacking in some crucial areas. This section outlines potential solutions for some of the problems still without resolution: the necessity of providing legal status for all Erased individuals, the importance of creating a more just compensation plan, and how the creation of a temporary commission to oversee such procedures would be beneficial and more efficient.

Arguably the main issue remaining from the Erasure is the illegal status still associated with thousands of individuals and the rights they have lost as a consequence. In the past, Slovenia has created acts (like the ARLSC and Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia) meant to aid Erased individuals in regulating their status. However, these measures were often poorly advertised and had requirements difficult for the Erased to meet because of the barriers accompanying their status as Erased. By creating an all-encompassing piece of legislation, the Slovenian government could efficiently provide thousands of Erased individuals with legal status, thereby providing them with all the

²Applicants apply in the territories where they last held permanent residence, and administrative units in these different areas decide how much compensation an applicant receives.

rights they have been stripped of over the past two decades. This is both possible and reasonable, as evident by the success of other nations in similar predicaments. For example, Estonia and Latvia, former USSR countries, dealt with similar issues when the USSR was dismantled, and both were left with Russians and Russian speakers within their borders. In Estonia, like Slovenia, automatic citizenship was granted to individuals who held it before the Soviet occupation, along with their offspring. There was a clear divide between Estonians and Russians, and Russians found it difficult to become citizens because of the language requirement. The Estonian government passed legislation designed to minimize the hurdles present in the application process. It implemented measures to improve Estonian language education, to expedite the application process, and to help elderly people obtain citizenship as well as to make it easier for some children to gain citizenship (“Left Behind...”). Moreover, even without citizenship, life as a stateless person in Estonia does not seem incredibly difficult. As the U.S. Department of State noted, “Many residents preferred Russian citizenship of statelessness to Estonian citizenship” (“2011 Human Rights Reports: Estonia”). Latvia, in a similar position to that of Estonia after the dissolution of the USSR, granted all would-be stateless persons the status of “non-citizen.” Although non-citizens do not enjoy the rights of full citizens, such as voting or holding some professions, their social and economic rights are well protected (“Latvia...”). Slovenia should, therefore, study the methods and legislation employed by these two countries and use them as models for improving its current stateless persons’ predicament.

From what the government has suggested in the past, an act with a foundation similar to that of the Systemic Act—which was never passed—seems most appropriate. The Systemic Act was intended to provide legal, retroactive status to those without legal status, to those with temporary residence permits and their offspring, and to those without retroactive permanent residency (Pistotnik, p. 236). If someone already has permanent residence status, the new act should retroactively extend it to February 26, 1992. For all those without any legal status or who have only obtained tem-

porary residence status, the act should ensure the approval of their permanent residence applications, retroactive to February 26, 1992. Additionally, the ability to acquire retroactive permanent residence status should be available to those Erased who no longer live in Slovenia. After years of living abroad, these individuals may no longer desire permanent residence status or Slovenian citizenship, but many of the individuals who fled Slovenia are still regarded as stateless persons. This title carries a stigma and difficulties of its own, such as no legal protection, little access to social services, and unfavorable employment opportunities (“Statelessness”). Thus, providing them with legal status is important. Furthermore, gaining legal status would put them under the jurisdiction of the new compensation act, and they would become recipients of its benefits. Including the Erased who live abroad in the compensation plan would be costly, so it may be something the government tries to avoid. It is imperative, however, that all those who were erased, regardless of whether they remained in the country or not, be included in the new legislation and compensated justly.

Retroactive status, which both the Council of Europe Commissioner for Human Rights and the European Commission against Racism and Intolerance support (“Case of Kurić...,” 2010, pp. 39–40), should be a necessary outcome of this new legislation. Retroactive status would serve as proof of the Erased’s continued residence in Slovenia, thereby making them eligible to receive full compensation for the pension, healthcare, and other social services they lost during their Erasure. New legislation should also grant the option of acquiring citizenship if an individual so wishes. If the individual has remained in the country since Erasure, then citizenship would have been a valid option had he or she not been erased. For most individuals it will probably be difficult to provide proof of their continued residency because they will not have legal documents, so the government should refrain from imposing stringent demands and instead work with these individuals to help satisfy the requirements.

Another major roadblock to obtaining residence permits is the difficult application process. The Peace Institute of Slovenia argues that the administrative fee and conditions

necessary to complete an application are too intense for Erased individuals who most likely do not have the finances or resources. To list just a few requirements, an applicant must pay €96, provide a criminal record from his or her country of origin, and provide an address, which is something they do not legally have (“The Erased: Information...”). Neza Kogovsek Salamon, head of the Peace Institute of Slovenia, noted in an interview that some conditions, such as proof of attempted return to Slovenia by those deported, can be incredibly difficult to meet, which is why the rejection rate for applications from the Erased is high. New legislation, then, should simplify the conditions necessary for Erased individuals to satisfy application requirements. In fact, both the Peace Institute and Amnesty International go so far as to suggest that either legal status be returned unconditionally or that the only condition be that an Erased person has registered for a permit at the proper location (“The Erased: Information...”). I think there should be some restrictions in approving applications to ensure that only the Erased are benefiting and that foreigners are not abusing the system, but the process should be reconstructed and simplified.

Lack of proper documentation is another way that the application process can be delayed or can end in rejection, and it is an inevitable consequence of illegal inhabitation. Offices receiving applications should, therefore, be more lenient in this regard and consider certain documents previously considered invalid—like passports or identity cards—as proper documentation. All in all, fewer and less stringent requirements from the government will allow for an easier application process, resulting in more successful applications and a substantial reduction in the number of Erased persons without status.

As of early 2014, Slovenia has been in the midst of an economic slump, which may be one of the reasons the government is offering assistance only to those with legal status, and small amounts at that. In order to compensate the 12,000 or so individuals the Slovenian government ultimately expects to apply for damages, it has set aside €130 million (Council of Europe, Secretariat General). As it currently stands, due to the restrictions in the Act Regulating

Compensation for Damage to Persons Erased from the Permanent Population Register, the maximum amount that could be awarded is only €36,000 (Council of Europe, Secretariat General), and an individual who has been erased for 21 years will only receive €12,600 (without going to court). This amount is significantly smaller than what should be considered a just amount. To highlight the disparity, consider that the average annual Slovenian wage in 2002 was €13,701, and in 2011 it was €22,046 (“Organisation For Economic Co-operation and Development”). Thus, the total amount that an average individual potentially could have earned in 21 years far exceeds the €12,600 he or she will be paid. This, of course, does not include the 21 years of pension, healthcare, and social aid that were also lost. Put simply, the difference between what the Erased will receive and what they deserve is substantial.

The government’s job, if done correctly, will be laborious and intense. That is why I propose that it organizes a temporary commission specializing in dealing with issues of the Erased. The leaders of this commission could comprise government members and individuals knowledgeable about Erasure and could be appointed by the Constitutional Court. Such a commission would ensure that decisions being made are executed in a timely manner, a quality that has been remiss in the past. Furthermore, having a group of dedicated individuals would expedite the task of solving the ongoing problems of Erasure. In the past, the Ministry of the Interior had planned to implement certain measures to aid the Erased in the application process. These measures included a toll-free help line for legal assistance, disseminating important information within Slovenia and abroad via media, and training staff members to handle these applications properly (“The Erasing and the Erased”). If adopted by the commission, these measures could be of great benefit to the Erased community. Once an equitable solution has been reached, this commission would be disbanded.

Conclusion

Slovenia is facing a critical moment in her history. Not only is the world watching how she will solve her financial woes but also

she has an opportunity to solve what is arguably the greatest social injustice plaguing the country in its young history. Slovenia should dedicate sufficient resources to the cause, ensuring that all individuals affected by Erasure

gain legal status and are compensated appropriately. After 23 years, it is time the country fully supports the Erased in their fight for retribution.

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