



PRESIDENTIAL PARDONS IN CROATIA

CRIMINOLOGICAL, VICTIMOLOGICAL & HUMAN RIGHTS PERSPECTIVES

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INTRODUCTION

- criminological, victimological and human rights analysis of normative and practical aspects of presidential pardons in Croatia
- based on a criminal case (study) that has recently received huge media and public attention in Croatia and in Germany
- discusses the case (study) in light of relevant ECHR case law while aiming at conceptually discussing the institute of presidential pardoning in social settings that are perceived to be highly corrupt
 - what impacts on (media and public) perceptions of (in)justice might such presidential pardoning's have?
 - how do pardons, and amnesties in more general, fit within a social and normative context of the growing concern for victims and victims' rights?
 - how can one achieve the right balance between (perceived) justice, mercy, forgiveness, victims' needs, retribution and special as well as general prevention?



CASE STUDY

- **1983:** execution of S. Đureković
- **1997 & 1999:** Cro. Prosecution dismisses crime reports against J. Perković
- **2008:** K. Prates convicted for murder (gave key to J. Perković)
- **2009:** BKA arrest warrant Z. Mustač & J. Perković
- **2011:** German press reports on Croatian intel. agency destroying documentation incriminating J. Perković
- **2013:** Lex Perković (European Arrest Warrant – crimes committed after 2002), BKA again issues arrest warrant, EU accession Croatia, political pressure... – amended Lex Perković (no time clause)



CASE STUDY

- **2014:** Z. Mustač & J. Perković arrested and extradited to Germany
- **2016:** both found guilty as co-perpetrators for the murder of S. Đureković (life sentence)
- **2018:** ECHR dismisses their application
- **2019:** transferred to Croatia for sentence serving (Z. Mustač 40 years; J. Perković 30 years)
- **2022:** public announcement followed by submission of pardoning plea to the President of the Republic of Croatia via Ministry of Justice and Administration



MEDIA/PUBLIC DISCOURSE



ECHR PERSPECTIVE

MAKUCHYAN AND MINASYAN v. AZERBAIJAN AND HUNGARY (Appl. no. 17247/13)

Acknowledgment and adoption by Azerbaijan of R.S's conduct as its own

- Azerbaijan took measures in the form of pardoning R.S., releasing him immediately upon his arrival, awarding him eight years' salary arrears, providing him with a flat for his own use and promoting him within the military
- each of those measures certainly constituted the subsequent **"approval" and "endorsement"** of R.S.'s acts..., and that "approval" and "endorsement" strongly resonated with the feelings of Azerbaijani society at large
- such measures as awarding R.S eight years' salary arrears or promoting him within the military are indications of not only the State's explicit, clear and unequivocal "endorsement" of the crimes committed by him, but also of **their appreciation** of R.S.'s conduct



ECHR PERSPECTIVE

MAKUCHYAN AND MINASYAN v. AZERBAIJAN AND HUNGARY (Appl. no. 17247/13)

Acknowledgment and adoption by Azerbaijan of R.S's conduct as its own

- whether they constituted not the mere “approval” and “endorsement” by the State of Azerbaijan of the criminal acts committed by R.S., but also their **“acknowledgment” and “adoption”**
- R.S.'s criminal acts were **purely private acts of a criminal nature**, and not related, whether directly or indirectly, with any State action at the time when they were committed
- Court is unable to conclusively find that such **“clear and unequivocal” “acknowledgement” and “adoption”** indeed took place (difference to case study)



ECHR PERSPECTIVE

MAKUCHYAN AND MINASYAN v. AZERBAIJAN AND HUNGARY (Appl. no. 17247/13)

Duty of the State to establish and implement effective criminal-law provisions, supported by adequate law-enforcement machinery, to ensure the punishment of breaches of the right to life

- **duty to conduct such an investigation** arises in all cases of killing/suspicious deaths, whether the perpetrators were private persons or State agents
- national courts should not under any circumstances be prepared to allow life-endangering offences on physical and moral integrity to go **unpunished**
- **when an agent of the State is convicted of a crime that violates Art. 2 or 3 of the Convention, the subsequent granting of an amnesty or pardon could scarcely be said to serve the purpose of an adequate punishment**



CURRENT STATE OF AFFAIRS

- pardoning plea has been submitted to the President via the Ministry of Justice and Administration (Ministers recommendation: not to grant pardon)
- President thus far has not responded to any of the current 298 pardoning pleas (01/082022) submitted to him



PRELIMINARY CONCLUSIONS

- What impacts on (media and public) perceptions of (in)justice might such presidential pardoning's have?
 - **CLIMATE OF IMPUNITY**
- How do pardons, and amnesties in more general, fit within a social and normative context of growing concern for victims and victims' rights?
 - **NOT AT ALL**
- How can one achieve the right balance between (perceived) justice, mercy, forgiveness, victims' needs, retribution and special as well as general prevention?
 - **HIGHLY DEPENDENT ON SOCIAL CONTEXT –
CORRUPTION & LOW LEVELS OF TRUST IN JUDICIARY**
 - **CASE AT HANDS – MESSAGE TO ALL REGIME OPPONENTS**





**THANK YOU
FOR YOUR ATTENTION**

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