

Federal Court



Cour fédérale

**Date: 20150313**

**Docket: IMM-6941-13**

**Citation: 2015 FC 310**

**Ottawa, Ontario, March 13, 2015**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**ZELJKO TRAVANCIC  
GORDANA TRAVANCIC  
TONI TRAVANCIC  
DARKO TRAVANCIC**

**Applicants**

and

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGEMENT AND REASONS**

[1] This application to review and set aside the decision of the Refugee Protection Division [RPD] rejecting the applicants' claims for protection must be dismissed. The applicants raised several issues of concern regarding the decision under review, some of which may have merit; however, I find that the RPD's finding that the applicants had failed to rebut the presumption of state protection is reasonable, and the ultimate decision stands on that finding alone.

## **Background**

[2] The applicants are citizens of Croatia. Zjelko Travancic is of Croatian nationality and his wife, Gordana Travancic, is Serbian. They were both born in Zenica, Bosnia-Herzegovina. In 1994, they left Zenica due to civil unrest, relocating first to other parts of Bosnia and then to Serbia. Their firstborn son, Darko, was born in Serbia. While in Serbia, Mr. Travancic suffered physical and verbal threats due to his nationality. The situation escalated to the point where he left the family and lived alone in Omis, Croatia (a small town outside of Split, Croatia) from August 1996 to December 1999.

[3] The applicants decided to relocate back to Zenica and their second son, Toni, was born. They faced problems in Zenica because of their mixed ethnicities and religions. Mr. Travancic approached police but nothing came of it. The applicants were forced to leave Bosnia again because of the threats and attacks and in January 2001, they moved to Omis, Croatia.

[4] The applicants began to experience problems when Darko enrolled in elementary school in September 2002. He was subjected to harassment because he was born in Serbia and was not a "pure Croatian." He was the victim of vicious attacks and the applicants' home was vandalized with graffiti saying, "Go back to Serbia, you Serbian bastards." The applicants allege that similar incidents occurred to Toni when he started school.

[5] Mr. Travancic reported these incidents to the police but no action was taken. He tried to speak to the parents of the offending children, but they called him names and harassed him. He was called a traitor to the Croatian people because he had married a Serbian.

[6] Mrs. Travancic was unable to obtain work as a teacher and she claims this is because she is Serbian. She did, however, obtain other employment throughout their time in Croatia. There was an incident in 2010 where Mrs. Travancic had her bracelet with Orthodox motifs ripped off her by someone in the street.

[7] In early 2011, Toni was accused of committing some "bad deeds" that he had not done. He was assaulted by one of their neighbours. He was also insulted and intimidated by nationalists in the elevator in the applicants' building. Mr. Travancic reported these incidents, but no action was taken.

[8] In his attempts to protect his children, Mr. Travancic became targeted by persons who were members of the military during the war. He was assaulted, beaten and threatened with weapons. He believes that he was targeted because of his Croatian Bosnian background and involvement in the Serbian military. He was threatened not to go to the police. He was aware that many people had disappeared because of such threats, so he made no report to the authorities.

[9] In mid-April 2011, Darko was attacked and robbed by five Croatian nationalist young men while on his way to high school in Split. He was not able to identify his attackers. This incident was reported to the police in Split, but the applicants were told that "there are too many incidents like this" and the police were unable to provide an escort for Darko. The police suggested that Mr. Travancic accompany Darko to school, which he was able to do for ten days by taking time off work. The applicants began to receive anonymous calls with direct threats to

leave Omis or be killed. The applicants claim to be dissatisfied with the police response but took no further actions.

[10] While the applicants were living in Croatia, they visited their families in Bosnia and Serbia regularly. Their most recent trip was one month prior to coming to Canada.

[11] The applicants feared for their lives and safety and they claim that there was nowhere in the region where they could live safely. They entered Canada on June 23, 2011 and applied for refugee protection days later, claiming that they would be persecuted due to their mixed background if returned to Croatia.

[12] The RPD found that the applicants had not established that the discrimination and harassment they experienced in Croatia amounted to persecution or that they will face persecution if they return. It also found that the applicants' did not have a subjective fear of persecution because they did not first try to move from the small town of Omis to a larger city in Croatia, because there was a long delay in departure from when the incidents first started, and because they frequently visited family in Bosnia and Serbia and reavailed themselves to Croatia. All of those findings are challenged by the applicants.

[13] Critically, for the purposes of this application, the RPD found that the applicants had failed to rebut the presumption of state protection.

## **Issues**

[14] As stated previously, if the state protection finding is reasonable, the decision cannot be set aside even if the other errors alleged are upheld because the applicants are not in need of protection.

## **Analysis**

[15] Mr. Travancic reported the bullying of his sons' starting in 2005 at the one police station in Omis. After the April 2011 assault, he attended with Darko at the police. However, the Board noted that no police reports had been submitted to corroborate these events and that neither parent had not reported any problems anywhere else or followed up with the police when they were not satisfied.

[16] The RPD then considered the objective documentary evidence and found that Croatia is a functioning democracy, respect for minority rights has improved and the authorities have taken steps to protect and increase representation of religious and ethnic minorities. The RPD acknowledged that members of minorities still face harassment and discrimination and that the authorities may be slow or ineffective at dealing with these issues.

[17] The applicants submit that the RPD erred in finding that they had not rebutted the presumption of state presumption since a claimant is not required to continue to approach the state for protection when it is clear that it will not be forthcoming. They say that they reported numerous incidents to the police and nothing was done. They further submit that the conclusion

is unreasonable because the objective documentary evidence demonstrates that state protection in Croatia is not adequate to protect ethnic minorities.

[18] The respondent submits that the RPD reasonably concluded that the applicants did not take all reasonable steps to demonstrate that protection was inadequate. They may have established that the police station in Omis did not effectively respond, but when they approached another police station in Split, the police did try to identify the perpetrators, providing evidence of adequate state protection. The applicants claim to have been dissatisfied with the responses, but they took no further action. It is also noted that Mr. Travancic did not report to the police when he was assaulted and knew one of the attackers.

[19] The respondent submits that the RPD reasonably concluded that the documentary evidence was mixed and therefore it alone was not clear and convincing evidence of the state's inability to protect. The RPD acknowledged that discrimination against minorities remains an issue in Croatia and that there have been criticisms of the effectiveness of the authorities' reactions to some allegations of discrimination. On the basis of this mixed record, the RPD found that the state's efforts have yielded concrete results to improve the situation for minorities and address ethnically motivated incidents.

[20] Having reviewed the evidence of the applicants' attempts to seek police protection and the documentary evidence, I am unable to conclude that the presumption of state protection was rebutted. Mr. Travancic testified that he went to the police in Omis "a couple of times" from 2005 to 2010, and once in 2011 but nothing was done. He also went to the police in Split once in

April 2011 with his son but the police who were prepared to assist could not as the culprit could not be identified. I agree with the respondent that the local failure of a small police force in the small town of Omis does not provide persuasive evidence of a failure of state protection, especially when there is evidence that the police in Split, a larger town, were prepared to offer protection.

[21] I also agree with the respondent that it was not unreasonable for the RPD to find that the mixed objective evidence from the documents did not provide a clear and convincing rebuttal of the presumption of state protection, as required.

[22] For these reasons, the decision of the RPD on state protection cannot be set aside and accordingly, this application must be dismissed.

[23] Neither party proposed a question for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application is dismissed and no question is certified.

“Russel W. Zinn”

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Judge



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6941-13

**STYLE OF CAUSE:** ZELHKO TRAVANCIC v THE MINISTER OF  
NATIONAL REVENUE

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 27, 2015

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** MARCH 13, 2015

**APPEARANCES:**

Paul Vandervennen FOR THE APPLICANT

Daniel Engel FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

VanderVennen Lehrer FOR THE APPLICANT  
Barristers and Solicitors  
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario