

Montenegro: restitution unresolved, the black holes of privatization.

US HUMAN RIGHTS REPORT Montenegro April 2016 - Property restitution

“A large number of restitution claims for private and religious properties confiscated during the communist era remained unresolved.

EU COUNTRY REPORT Montenegro October 2016 - Property rights

The process of restitution of properties expropriated in the past is the main challenge affecting property rights. Procedures remain cumbersome, decision-making is slow...

The process of restitution of nationalized property in Montenegro began with the law of restitution in 2004, then revised in 2007. However the creation of a specific legislation, implemented through a system of commissions strictly controlled by the Ministry of Finance never has generated a real restitution neither a compensation process to citizens deprived of their property at the time of communism. In fact after thirteen years since the passing of the law of restitution, the results are absolutely inadequate if not ridiculous: restitution is a play performed before the European Commission, the US Department of State and other diplomacies. The Montenegrin government probably hopes that, as time buries history and the people, the restitution commitments shall also lapse.

It was the European Commission who encouraged Montenegro to adopt a restitution law to repair the property crimes committed by communism. But if in Western culture the respect of property rights is deeply rooted so that in case property were alienated by acts of war or political events there is an imposing obligation to return property or to compensate it - as it happened with the assets stolen by the Nazis - sadly this civic sense is often not so strong in Montenegro where restitution remains unresolved for the reasons that will be outlined here. In this country successful restitution has taken place only for a few privileged people close to the central administration. Obstructionism is far more widespread than restitution because returning of property is not in the DNA of a government who is rather more inclined to abstract. Recently someone has defined it “kleptocracy of the Montenegrin system”. In fact restitution is felt as an inconvenient burden inherited from the past, the whole administration lacks any sense of historical responsibility and awareness of the crimes committed against people’s property, therefore, the will to return or to compensate is simply non-existent. As a matter of fact, all the activities of the booth set up by the Ministry of Finance

with its intricate system of first and second degree commissions, cross-checks of the Protector of State assets and the Fund for Compensation, are designed to avoid, to delay or to invalidate the restitution mechanism. And in the lucky case there were a second grade decision of restitution in favour of someone it is simply not executed. So we face a never ending story of deep-rooted passivism policy.

In the Montenegrin administration rather prevails the will of usucaption or prescription - i.e. to exercise the right of possession of the property of others - than the will to return them, following a strong belief that what was confiscated around sixty years ago now belongs by right to the state or to the municipality in which the property is located. Paradoxically, in front of a legitimate claim for restitution it is the state or the municipality who feels cheated and in such case, rather than returning property to the former owners the state or the municipality was very quick to privatize the assets keeping for itself all the revenue. Needless to say the privatizations have made restitution more complicated and hard.

The Protector of State assets, an odd figure of the Ministry of Finance, who was created to oppose the restitution of property is literally inactive when the same assets are privatized. So the state sells property claimed by former owners, cashes huge amount of funds and does not share them with the claimants, and this does not even represent a scandal. In the absence of a civic consciousness inside the government, the legal restitution commitments obviously fails. Moreover the lack of moral obligations determines the belief that it is possible to continue to privatize, to expropriate or to confiscate the property of others, if necessary also with the support of special laws *ad hoc*. The state regards himself as the sovereign landlord.

The phenomenon of kleptocracy is confirmed here by the villainous sale of the property of others. Here stands the fragility of the concept of property in this country. The issue of restitution and privatization is actual because it shows how much private property is at risk and how much it represents a substantial income for the state.

But at this point we must question: where and whom does the Montenegrin privatization funds go ? A question which we address to the High State Prosecutor of Montenegro and to the Prime Minister who also holds the office of President of the Council of privatization.

Let's see some privatization cases of the former Zuber-Gregovic properties:
- House Sutjeska, where Anastasija Gregovic Zuber was born, on the waterfront of

Petrovac sold to Nikola Rajkovic for € 740,000 in February 2006. Presently on this place was built a 5 star hotel with a restaurant and terrace.

- Kastel / Lazzaretto Petrovac, originally owned by the shipping company Zetska Plovidba, sold in 2004 to a Russian figure head for an unspecified amount, currently houses a nightclub.
- villa Kamelija in Kotor, built in 1933 by Lale Zuber as the headquarters of the shipping company Zetska Plovidba, privatized in 2008 to € 1.8 million to a company related to Darko Saric. It is currently an integral part of Kamelija Shopping Centre Kotor.
- Landplots in Škaljari-Kotor, 24,000 square meters, owned by Zetska Plovidba shipping company, including the Jugoceanija old building, sold to a company related to Vesko Barovic in 2005 for € 5,000,000. In this area it is now planned the construction of a marina.
- Landplots in Slovenska Plaza Budva, 14,800 square meters. owned by Zetska Plovidba shipping company, currently privatized for € 1,000 per sqm.

Through the privatization revenue the Ministry of Finance could have paid the restitution debt to the Zuber Gregovic claimants, if it wanted. As far as we know no social aid project neither humanitarian program has benefitted from the privatization revenue as well, so the identity of the privatization beneficiaries remains a mystery. In Montenegro there are hundreds of cases like ours, with the only exception that the Zuber-Gregovic former properties have considerably increased the GDP of the country through privatization.

Privatization goes on and restitution is blocked; there is no independent or external body overseeing the conduct of the Montenegrin government and checking out for embezzlement or financial mismanagement in privatization. The matter is certainly the competence of the High State Prosecutor and of the Prime Minister who should investigate and take up responsibility for the disappearing of funds in the black holes of privatization and for neglecting the rule of law.

These facts are contrary to the principles of legality and respect of civil rights required for the access of Montenegro to the NATO and to the European Union, principles which define unequivocally the moral stature of a country.

Ambra Declich Grandi
www.zuber-gregovic.me