

28 May 2020

Marija Pejčinović Burić
Secretary General
Council of Europe
Avenue de l'Europe
F-67075 Strasbourg Cedex
France

**Re: Request for Inquiry Concerning Dunja Mijatović, Commissioner
for Human Rights**

Dear Secretary General Pejčinović Burić:

I write to request your assistance in securing a review of recent statements by the Council of Europe's Commissioner for Human Rights, Dunja Mijatović, to determine whether her comments are consistent with (1) the Council of Europe's mandate that she act "independently and impartially," and (2) Resolution 1481 (2006) of the Parliamentary Assembly of the Council of Europe, which called for the condemnation of crimes committed by communist, totalitarian regimes.

The world recently marked the 75th anniversary of the victory over fascism in Europe. As you know, in the immediate aftermath of World War II, Yugoslav partisan and communist forces under the command of Josip Broz Tito engaged in an extrajudicial killing spree in a widespread and systematic attack directed against defeated prisoners of war as well as civilians. Several hundred Catholic priests and "class enemies" were also murdered by the communists as part of the criminal campaign. These crimes are known in Croatia as the crimes of "Bleiburg and the Way of the Cross."

According to historian Ivo Goldstein, the "Catholic church was treated with particular harshness in comparison with other church communities because some of its clergy cooperated – actually or allegedly – with the Ustasas in Croatia and Bosnia-Herzegovina. However, the conflict was really founded on the fact that the Catholic clergy were hostile to the ideology of the new authorities. They supported free Catholic press, schools, associations and charitable activities, personal freedom and the return of confiscated property. In 'squaring accounts with the enemies of the people' several hundred priests and monks were killed, some churches were destroyed, and monasteries, convents and seminaries were closed."¹ Goldstein conservatively estimates that the Yugoslav communists and partisans extrajudicially executed up to 55,000 people, most of whom were buried in hundreds of unmarked mass graves throughout Slovenia, Croatia and Bosnia-Herzegovina.

His Eminence Vinko Cardinal Puljić, the Archbishop in Sarajevo, held a Mass in the Cathedral in Sarajevo on 16 May 2020 to commemorate the tens of thousands of victims of what was undoubtedly a crime against humanity committed by communist and partisan forces. However, the Mass was quickly politicized by those sympathetic to Tito who are self-described "anti-

¹ Goldstein, Ivo. "Croatia: A History," McGill-Queen's University Press (2007), at p. 156.

fascists.” Cardinal Puljić was accused of holding the Mass for the purpose of glorifying Nazi collaborators, without any evidentiary basis for such accusations. Politicians, media and pro-Tito protesters pressured Cardinal Puljić to cancel the Mass, but he refused to surrender to the pressure tactics and held the Mass as scheduled.

In this politicized climate, Commissioner Mijatović used the office of the Commissioner of Human Rights to enter the political debate and further enflame the emotional attacks on Cardinal Puljić. She issued an official press release, in her capacity as the Commissioner of Human Rights, on 15 May 2020,² claiming that the Mass “risks becoming a glorification of those who supported the Nazi-allied fascist Ustasha regime, complicit in the death of hundreds of thousands of human beings.” Please note Commissioner Mijatović’s use of the word, “risks.” She stopped short of claiming that Cardinal Puljić actually had any intention to glorify fascism, because she has no such evidence. Instead, Commissioner Mijatović used her official office to join in the public pressure campaign against Cardinal Puljić based on her subjectively perceived “risk.”

Notably absent from Commissioner Mijatović’s statement was any reference to, or condemnation of, the crime against humanity committed by Yugoslav communist forces. Instead, her statement focused exclusively on condemnation of the commemoration of the crime. The Council of Europe’s Commissioner *for Human Rights* thus officially condemned the commemoration of the mass execution of at least 55,000 people, while ignoring the 75th anniversary of the massive human rights violations which were being commemorated.

Commissioner Mijatović is a native of Sarajevo. Yugoslav communist forces are reported to have executed up to 4,000 citizens of Sarajevo beginning in April 1945. Recent press reports in Croatia and Bosnia-Herzegovina have highlighted tweets by Commissioner Mijatović in which she emphasized her connection to her grandfather, Vojo Ljujić, who was himself a Yugoslav partisan military commander and communist. Vojo Ljujić was the first military commander of the city of Sarajevo during the time that extrajudicial executions were committed by Yugoslav partisan and communist forces in Sarajevo:

² “Statement of the Council of Europe Commissioner for Human Rights concerning the Bleiburg commemoration,” 15 May 2020, as found at: <https://www.coe.int/en/web/commissioner/-/statement-of-the-council-of-europe-commissioner-for-human-rights-concerning-the-bleiburg-commemoration>



I have not investigated Vojo Ljujić and therefore make no assertion, express or implied, that he was personally involved in the crimes against humanity. Nevertheless, it is clear that Commissioner Mijatović feels a personal connection to the Yugoslav partisan and communist forces, both from her public expressions of admiration for Vojo Ljujić and from her tweeting of the phrase, “Smrt fašizmu, sloboda narodu,” a phrase which was the slogan of the Yugoslav Communist Party and which subsequently also became the motto of the Yugoslav partisan resistance movement.

Dunja Mijatović is entitled to her own personal political beliefs. This is not subject to dispute. However, in her capacity as Commissioner, Ms. Mijatović is not entitled to use the office of the

Commissioner for Human Rights to defend her personal political and military heroes (the partisans and communists) from attempts to commemorate crimes they committed. She is not entitled to use the office of the Commissioner for Human Rights to deny a massive crime against humanity (her failure to recognize in her press release that Yugoslav partisan and communist forces committed any crimes at all is tantamount to denial of the crimes), while simultaneously condemning the Archbishop in Sarajevo because of a subjective “risk” he allegedly created by commemorating the victims of that crime.

Commissioner Mijatović’s actions cannot be an expression of the values that the Council of Europe intended to uphold when it created the office of the Commissioner for Human Rights. On the contrary, Commissioner Mijatović’s actions in this case directly undermine Resolution 1481 (2006) of the Parliamentary Assembly of the Council of Europe, which expressed the “**Need for international condemnation of crimes of totalitarian communist regimes**”:

The totalitarian communist regimes which ruled in central and eastern Europe in the last century, and which are still in power in several countries in the world, have been, without exception, **characterised by massive violations of human rights**. The violations have differed depending on the culture, country and the historical period and **have included individual and collective assassinations and executions, death in concentration camps, starvation, deportations, torture**, slave labour and other forms of mass physical terror, persecution on ethnic or religious grounds, violation of freedom of conscience, thought and expression, of freedom of the press, and also lack of political pluralism...

[T]he Assembly believes that those **victims of crimes committed by totalitarian communist regimes who are still alive or their families, deserve sympathy, understanding and recognition for their sufferings...**

[T]he Assembly strongly condemns the massive human rights violations committed by the totalitarian communist regimes and expresses sympathy, understanding and recognition to the victims of these crimes.

Furthermore, it calls on all communist or post-communist parties in its member states which have not yet done so **to reassess the history of communism and their own past, clearly distance themselves from the crimes committed by totalitarian communist regimes and condemn them without any ambiguity.**³

There is no doubt that the Yugoslav communists were a Stalinist, totalitarian regime at the time of the commission of the crime against humanity at Bleiburg and the Way of the Cross in 1945, and therefore this crime falls squarely within the Parliamentary Assembly’s Resolution 1481. Rather than implementing the Council’s express desire that Croatia and Bosnia-Herzegovina “reassess the history of communism and their own past, [and] clearly distance themselves from the crimes committed by totalitarian communist regimes and condemn them without any ambiguity,” Commissioner Mijatović used the office of the Commissioner for Human Rights to side with those who would stop any commemoration of these crimes by Yugoslav communist forces.

³ Emphasis added.

The Commissioner for Human Rights is required to act “independently and impartially.”⁴ By using her office to condemn a Catholic Archbishop for commemorating the murder and persecution of over 55,000 people, Commissioner Mijatović allowed her personal beliefs and interests to distort her judgment and to hinder the Council’s goal of promoting human rights and condemning the crimes of communist, totalitarian regimes.

Accordingly, I respectfully ask you to refer this matter to the appropriate bodies with oversight over Commissioner Mijatović, including the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, so that they may assess whether Commissioner Mijatović acted in a manner consistent with her mandate, and to take appropriate measures in the event they conclude that she acted inappropriately.

A public acknowledgement by the Commissioner for Human Rights of the massive crimes at Bleiburg and the Way of the Cross, as well as a call for Croatia and Bosnia-Herzegovina to “clearly distance themselves from the crimes committed by the [Yugoslav] totalitarian communist regime and condemn them without ambiguity,” would be an appropriate first step.

Sincerely,



Luka Misetic
1211 Avenue of the Americas
New York, New York 10036
USA

cc: Commissioner Dunja Mijatović
Gianluca Esposito, Ethics Officer

⁴ Resolution (99) 50 On the Council of Europe Commissioner for Human Rights (*adopted by the Committee of Ministers on 7 May 1999 at its 104th Session*), Article 2.