

# IHRP Summer Fellowship Final Report

Dimitrios (Jim) Molos

Friday, August 24<sup>th</sup>, 2018.

With the generous financial support of the International Human Rights Program, I had the privilege of working for the European Centre for Minority Issues (ECMI) at their Headquarters in Flensburg, Germany. My IHRP Fellowship was an amazing introduction to the practice of international human rights law. I was supervised by Dr. Ljubica Đorđević-Vidojković, Head of the Justice and Governance Research Cluster, as I commenced one of the ECMI's major legal research projects. Overall, my fellowship was professionally and personally rewarding.

## The European Centre for Minority Issues (ECMI)

The ECMI is an independent, international and interdisciplinary institution, conducting practice- and policy-oriented research, performing training seminars to facilitate institution- and capacity-building, and advising governments, intergovernmental organizations, minority groups and other entities on specific matters impacting majority-minority relations. The ECMI maintains active relationships with several academic institutions, and NGOs involved in interethnic relations and conflict resolution, in pursuit of its mission to improve the situation of Europe's minorities by providing actors with new knowledge and tools to facilitate constructive dialogue. The ECMI is a leading institution researching and consulting on national minority protection.





The ECMI is organized into five research clusters. I worked within the Justice and Governance Research Cluster, which is devoted to the analysis, evaluation and improvement of legal standards for national minority protection, under Dr. Ljubica Đorđević-Vidojković's supervision. Because Ljubica is not only a lawyer, but a former university professor with graduate degrees in law, this posting was a good fit for me, and I benefited immeasurably from her guidance. Additionally, several internationally renowned legal experts are affiliated with this research cluster; e.g., Fernand de Varennes (UN Special Rapporteur on Minority Issues), Kristin Henrard (Professor of Minority Protection, Erasmus University of Rotterdam), and Kinga Gál (Member of the European Parliament, and the Subcommittee on Human Rights). The Justice and Governance Research Cluster is comprised of people who are highly knowledgeable and experienced in the international law on national minority protection.

### **Major Project: Mapping the Effectiveness of Monitoring Procedures**

Due to my academic qualifications, my supervisor assigned me to begin the ECMI's project to analyze and assess the effectiveness of the monitoring procedures for the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages. The initial predictions from many prominent international law theorists and practitioners were quite pessimistic because these instruments are not justiciable, and the monitoring process is voluntary and dialogic, relying on the willing cooperation of states parties.



Two decades and several monitoring cycles after they have come into force, it is possible to begin to assess the accuracy of these initial predictions. The ECMI's project has been described as a monitoring of these international monitoring mechanisms, and it aims to identify issues where states parties fully or substantially implement their legal obligations, as well as recurring issues

where states parties demonstrate an inability, hesitation or resistance to comply with the Advisory Committee's recommendations. Ultimately, this project is designed not only to assess the degree of implementation or resistance by states parties generally and on specific issues, but also to contribute to the Advisory Committee's ability to encourage states parties to fully and effectively implement their legal obligations under the specified international human rights instrument.

The monitoring project is an ambitious undertaking involving two international instruments, a combination of over sixty states parties, and several monitoring cycles with documents from states parties and the expert advisory committees. Moreover, any observations, analysis or assessment would need to be re-examined as the monitoring process proceeds through future cycles. Given the project's scope, my supervisor limited my research to Croatia's implementation of the FCNM. Croatia was chosen due to its positive reputation in this area.

At our first general staff meeting, the Director and my supervisor clarified that I was not a typical intern, but rather operating as a senior researcher with considerable autonomy. I assisted by proofreading several documents, researching specific points to assist my colleagues' projects, and designing powerpoint slides for my supervisor's presentations, but I worked primarily on the monitoring project.

### **My Primary Project**

I began by researching the FCNM and the Explanatory Report, the Thematic Commentaries, and the secondary literature. The objective at this initial stage was to understand not only the FCNM's text, but also how the Advisory Committee has interpreted it.

Next, I read Croatia's State Reports on its implementation, the Advisory Committee's Opinions, the Government Comments, and the Committee of Minister's Recommendation. To analyze Croatia's implementation through four monitoring cycles, it was necessary to formulate a procedure for the analysis, and this procedure needed to be accessible to future researchers analyzing other states parties' implementation, but also updating the analysis on Croatia. To this end, I designed a template for tracking the comments on specific issues through monitoring cycles, and



a spreadsheet with pinpoint references. Based on these documents, I drafted a legal memorandum on the forty issues identified by the Advisory Committee, concluding my analysis of each issue with a determination of whether Croatia had (almost) fully or substantially implemented its legal obligation, or took some or (almost) no measures to implement it. With this detailed issue-by-issue analysis in hand, I compiled the four lists of the extent of implementation with specific articles, and searched for patterns and factors explaining Croatia's compliance record.

Ultimately, I concluded that Croatia has made substantial progress in implementing its legal obligations under the FCNM at the constitutional/legislative and institutional levels, but this success has been marred by resistance and disobedience at the level of local application. There are good reasons to be optimistic about the FCNM's monitoring procedure's ability to encourage states parties to enhance their national minority protection, particularly at the legislative and institutional levels, even though the monitoring process is voluntary and nonjusticiable; however, it is important to recognize that there may be hard limits to states parties' willingness to comply.

My primary research project was the basis for a presentation to my colleagues at ECMI Headquarters, as well as a forthcoming working paper. This first step of the larger project begs for an analysis of other states parties for the purposes of comparative analysis. I am confident that my work over the summer will ground the larger project as it develops.

### **Concluding Remarks**

I am immensely grateful for the decision of the ECMI and Director Tove Malloy to host me, Ljubica for her excellent supervision and our intriguing conversations, my ECMI colleagues for welcoming me, serving as tour guides and dinner companions, and ensuring that I integrated well into the office environment and the city, and the IHRP for furnishing me with such a rich and rewarding opportunity. My summer fellowship was not only a professionally enriching introduction to international human rights practice, but also a personally gratifying experience living and working abroad in Europe. I was inspired by my colleagues' work, and I witnessed the real influence exerted by international human rights practitioners on the evolution of national minority protection. Thank you all!

