

# “Forgive us our Debts”: Ecclesiastical insolvency in Croatia

Dr Djuro M. Djuric reports on the first case of bankruptcy of an ecclesiastical institution in the history of Croatia



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**I**n December 2023, the first case of bankruptcy of an ecclesiastical institution in the history of Croatia was in sight. Namely, the Commercial Court in Zagreb Croatian Financial Agency (FINA) initiated preliminary bankruptcy proceedings against the Diocese of Zagreb-Ljubljana of the Serbian Orthodox Church.

The Serbian Orthodox Church has been present on this part of the territory of Croatia since the 16th century, when its first monasteries were founded. Later, the Kings of Hungary and Emperors of Austria granted them numerous privileges for the purpose of defence of the southern borders from the Ottomans. This Diocese has jurisdiction over Orthodox Christians in northern Croatia and Slovenia. In the 20th century, the church was at the centre of the war conflicts and suffered both human and material losses. The Serbian Orthodox Church in Croatia, Diocese of Zagreb-Ljubljana was registered in the Register of Religious Communities of the Republic of Croatia on 16 November 2004 with its headquarters in Zagreb-Ilica Str. 7/II.

An important dispute between the Serbian Orthodox Church and the Republic of Croatia arose from the damaging of the palace of the Diocese in the Croatian capital of Zagreb at the beginning of the conflict in 1992, which led to judicial proceedings. The Diocese of Zagreb-Ljubljana of the Serbian Orthodox Church lost the case and had to pay a huge amount for

procedural expenses. Since its account was blocked, the proposal for opening preliminary bankruptcy proceedings followed. However, by the hearing scheduled for determining the bankruptcy ground, the debt was paid and proceedings were closed.

## Procedural steps

According to Article 115 of the Law on Bankruptcy of the Republic of Croatia, and based on the proposal for opening bankruptcy proceedings, the court issued a decision on the initiation of preliminary proceedings in order to determine the grounds for opening bankruptcy proceedings. Accordingly, the Croatian Financial Agency (FINA) submitted a request for the opening of bankruptcy for the Serbian Orthodox Church, more precisely its Diocese of Zagreb-Ljubljana, and on the basis of which, on 21 November 2023, the Commercial Court in Zagreb issued a decision on the initiation of the bankruptcy proceedings against the debtor, signed by Judge Mrs. Jadranka Madjeruh.

In the decision made by the Commercial Court, in accordance with Article 17 of the Law on Bankruptcy, in order to determine the grounds for the opening of bankruptcy proceedings, at the same time, it makes an exception in which it is ordered that the person authorized to represent the debtor submit to the court a list of the debtor's assets and liabilities, to include: real estate and movable property of the debtor, debtor's property rights on other people's things, monetary and non-monetary claims of the debtor, other rights that constitute

the property of the debtor, funds on the debtor's accounts and other property of the debtor, etc.

In other words, the Commercial Court requires a list of all assets and liabilities in the name of the debtor; and in case the person authorized to represent the debtor does not respond to the court's request, it will be fined. With this ruling, the reasons given by the court, and on the basis of Article 433 of the Law on Bankruptcy, the abbreviated bankruptcy proceedings initiated by the request of the Financial Agency were suspended on 4 October 2023, in order to initiate bankruptcy proceedings by adequately applying the general provisions of the Law on Bankruptcy.

According to the provisions of the Law on Bankruptcy, abbreviated bankruptcy proceedings are opened if the persons authorized to represent the debtor by law do not submit an inventory of the debtor's assets and liabilities within 15 days, or if it follows from that inventory that the debtor has assets that are insufficient to cover the foreseeable costs of the bankruptcy proceedings. Moreover, if within 45 days, no creditor proposes the opening of bankruptcy proceedings and does not advance funds to cover the costs of the proceedings, the debtor will be considered insolvent (Article 431 paragraph 1).

As a reason for the suspension of the abbreviated bankruptcy procedure, it is stated that, from the submitted documentation it follows that the entity disposes of property, namely real estate registered in the land registers



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maintained by the Municipal Court in Pula.

It is interesting that neither in the request of the Financial Agency nor in the documentation submitted by the court is the amount of the debt stated, due to which the preliminary procedure is initiated. To the question of the amount in question and how it was created, which the Serbian media sent to the Commercial Court, the court answered that the reason was the account of the Diocese of Zagreb-Ljubljana which was blocked due to the debt on it, which amount was slightly more than EUR 80,000, but that they have no knowledge of how the debt arose.

Thus, the Commercial Court in Zagreb, on 21 November 2023, scheduled a hearing for 19 December 2023 in order to determine the grounds for opening bankruptcy proceedings against the debtor. No appeal is allowed against the decisions and conclusions made by the court, based on Article 115 paragraphs 1 and 19 of the Bankruptcy Law.

### Media attention

The initiation of proceedings against the Eparchy of Zagreb-Ljubljana attracted a lot of attention, both in Croatian and Serbian media, considering that the Serbian Orthodox Church is the first of about sixty religious organizations in Croatia in relation to which it is proposed to open bankruptcy proceedings. Thus, the media could read headlines such as *“Due to debts, the property of the SPC is on the brink”*, *“The Serbian Orthodox Church in Croatia is in a financial mess, now they are facing bankruptcy”*, while the Serbian media noticed that the hearing was scheduled for 19 December, the day of the great church holiday of Saint Nicholas, according to the Julian calendar.

When it comes to the other side, the Serbian Orthodox Church issued a statement clarifying the reason for initiating the claim for compensation. Namely, the announcement stated that the Eparchy of Zagreb-



Ljubljana initiated the process of compensation for the Metropolitan Palace, which was mined on 11 April 1992 during the conflict in former Yugoslavia, because of the enormous damage to the building, which also destroyed the museum exhibition and the library. After several years of that process, the Diocese lost the lawsuit and was ordered to compensate the Croatian state for court costs in the amount of around EUR 100,000 (the failure to pay these being the reason for the bankruptcy petition). At the same time, the Serbian Orthodox Church states that, although they consider the judgment unfair, the amount will be fully settled.

### Latest steps...

Just prior to the hearing date, on 6 December 2023, the Commercial Court issued a decision suspending the hearing scheduled for 19 December 2023 and, according to Croatian media, it follows from the documentation of the Financial Agency that it submitted to the court on 5 December 2023 that the debtor, the Serbian Orthodox Church, no

longer has recorded outstanding debts for payment. Information on whether the Serbian Orthodox Church has paid off the debt for which they are charged is not stated in the documentation that is available to the public.

### Summary

This case raises questions of whether church bodies, as a type of organisation, are open to or immune from insolvency. The question has not been raised too often in insolvency law, but this may change in the future as societies become increasingly secular and the role of religion wanes. On the particular facts of this case, it is likely that the Serbian Orthodox Church did not wish to test the proposition before the courts in Croatia and simply arranged for the debt to be paid. However, future cases may not benefit from the same facility and the proposition will undoubtedly come to be tested again, whether in Croatia or elsewhere. ■



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