



Organization for Security and Co-operation in Europe Mission to Croatia

Statement by Ambassador Jorge Fuentes, Head of the OSCE Mission to Croatia, to the OSCE Permanent Council, Vienna, 17 November 2005

The latest *Status Report* (the 17th) of the OSCE Mission to Croatia, covering the period between July and November, has been distributed to all delegations prior to today's meeting. In order to continue with the policy of transparency earlier established by the Mission, a draft version of the report was shared with the Government and other International Community partners. Whenever appropriate, their comments have been taken into consideration.

Since my arrival in early May, I have set as a top priority to further develop the policy of dialogue between the Mission and the Government initiated by my predecessors. Undoubtedly, the visit of Prime Minister Sanader to the Mission headquarters in June, followed by the participation of the Ministers of Foreign Affairs and European Integration, of Culture and of Justice, at the Mission's extended morning meetings, gave a new impetus to this partnership. These invitations have contributed to raising the visibility of the work of the Mission and will continue on a regular two-per month basis.

Early in October, in the headquarters of the Mission, President Mesic participated in the celebration of the 30th anniversary of the signing of the Helsinki Final Act which launched the Conference on European Security and Cooperation. He expressed his support for the work of the Mission and observed that the time of monitoring was nearing an end, adding however that cooperation with the OSCE would not diminish but rather acquire new frameworks and a new quality.

As a consequence of this policy of enhanced dialogue, the Government accepted the Mission as a useful support in the necessary transformation of the country; there is at present recognition that the Mission will stay as long as necessary and no pressure is felt to complete the mandate before its agreed implementation.

During the reporting period, the principal political event was the EU Council of Ministers' decision on 3 October to open accession talks with Croatia. The decision followed the conclusion pronounced the same day by the ICTY Chief Prosecutor that for the past few weeks, Croatia had been "cooperating fully" with the Tribunal.

The Government, which had focused its resources since the postponement of the talks in March in achieving full cooperation with the ICTY, celebrated the event. Prime Minister Sanader said that "it has been fully acknowledged that Croatia is a mature democracy". In my view, the EU decision will provide the Government with an additional incentive and energy to further pursue the fulfilment of the OSCE mandate.

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The progress noted by the ICTY and confirmed by the EU is consistent with the Mission's perception of the growing maturity of the Croatian democratic institutions in general. In some areas covered by the mandate, there are signs that the domestic institutional framework, the media and the civil society are gaining confidence and ability in addressing the outstanding issues. However, only ten years after the end of the war, a very short period of time in historic terms, the wounds are not fully healed and relations between the Croat majority and the Serb minority remain sensitive.

In August, the commemoration of the tenth anniversary of Operation Storm revived internal debates about the conduct of the war. Both the Croatian President and the Prime Minister officially recognized, in an important step, that war crimes were committed on the Croatian side during the operation.

After the spring local elections, there was a controversy in the autumn about the calculation of minority representation in local assemblies. Since the beginning of the year, there have been a number of ethnic incidents and there is no indication that this number is decreasing as compared to previous years.

Progress is nevertheless measurable in *refugee return*, a major issue for the Mission and a challenge for the Government. Mission policy is that all conditions should be established to permit those refugees who wish to return to Croatia to do so, with a sense of resuming a normal life.

Lack of access to adequate housing, non-recognition of acquired rights, destroyed infrastructure and unemployment continue to slow down refugee return in war affected areas. On the positive side, the property repossession process should be completed in the course of 2006; the administrative handling of reconstruction assistance to war-damaged properties is satisfactory and physical reconstruction should be completed in the course of 2007. The implementation of the housing care programmes for the largest refugee category of former holders of occupancy/tenancy rights (OTR) who lived in socially owned flats, has just timidly started and needs to be accelerated and intensified. The legal issues related to OTR termination remain to be determined at the European Court of Human Rights.

The *Sarajevo process* on refugee return initiated in January 2005 by the three States of Bosnia and Herzegovina, Croatia and Serbia and Montenegro, and the representatives of the OSCE, EC and UNHCR in the three countries, with the aim of resolving the remaining issues by the end of 2006, is providing additional impetus to the Government's efforts. The Croatian Road Map, containing concrete benchmarks and financial commitments, was adopted by the Government in July. Representatives of the UNHCR, the EC and the Mission proposed some additional benchmarks in order to improve its quality; discussion is ongoing to reach a common position.

To conclude on this topic, I would like to mention the forthcoming *Public Awareness Campaign* which the Mission has developed over a period of time with key partners, namely the Government, the EC Delegation in Zagreb and the UNHCR. The campaign,

which includes a 30 second TV spot, radio spots, posters and billboards, as well as a number of public events, newspaper articles and other forms of public information, is directed at displaced and refugee populations within and outside Croatia, as well as the receiving communities inside the country. The campaign has been designed to contribute to an atmosphere conducive to the return and re-integration of the Serb refugee population. The campaign is supported by the President and the Prime Minister, and the final phase of the campaign – with the all important visual element - will be launched at a press conference in Zagreb by the Mission at the end of this month, with the presence of the two relevant Cabinet Ministers.

Regarding *judicial reform*, the Ministry of Justice's recent judicial reform strategy appears to outline in greater detail both problems and solutions, underscoring increasing political support for an improved legal climate in Croatia. Consolidation of reform, including the elimination of excessive delays and the implementation of a free legal aid system, will require sustained efforts.

An important development in the area of *domestic war crime proceedings* was the formal transfer by the ICTY of the Norac-Ademi case to the Croatian judiciary on 1 November. The ICTY cited witness protection, cooperation with the neighbouring states and Mission monitoring as among the factors supporting its decision. An increasing number of third countries are becoming involved in war crime proceedings as Croatia seeks the extradition of war crime defendants. To date, in order to address the significant number of war crime suspects wanted by Croatia and living in Serbia and Montenegro and Bosnia and Herzegovina, inter-state judicial cooperation continues to gain ground, on a case-by-case approach. A systematic approach would be however desirable. Positive developments were noted with renewed investigation of murders of Serb civilians during the war in the Osijek area, although a significant number of such cases remain unprosecuted. The issue of missing persons remains a potent one; while some progress in cooperation has been observed, this issue deserves renewed focus, including compilation of a single list of the missing in Croatia regardless of their date of disappearance or national origin.

The level of success in securing the *rights of national minorities* three years after the adoption of the Constitutional Law on National Minorities (CLNM) is at best mixed. At a conference organized in October by the Mission to draw a balance with respect to minority rights, it was agreed that representation in the National Parliament (Sabor) was fully satisfactory, but that problems continue in determining the correct minority representation in regional and local governing bodies. In addition, despite some recent positive moves, legal guarantees related to employment of minorities in the judiciary, police, State and local administration are mostly unimplemented. Issuance of a national plan to combat discrimination intended to propose measures for implementing these rights has been delayed. Physical separation between Croat and Serb pupils in some schools of Eastern Slavonia also remains an issue of concern. While certain progress has been noted in the implementation of measures designed to enhance the position of Roma, further support for these measures is appropriate.

On *electoral reform*, following the presidential and local elections held in the first semester of this year, which highlighted some gaps and deficiencies in the current

legislation, the Prime Minister reiterated in the autumn his commitment to engage in the consolidation of the electoral framework. An agreement was recently reached with the Prime Minister that the Mission co-organize with the relevant administration, and the assistance of ODIHR, a series of roundtables to discuss draft electoral laws. The first roundtable will take place in December to review a key draft law on the establishment of a permanent election commission and will be opened by the Prime Minister.

Regarding *freedom of media*, the Mission continues to stress the importance of finding adequate legal solutions to shield public media from political interference. Amendments to existing laws are currently being prepared by the Government and shared with the Mission. The indictment for contempt of Court by the ICTY of journalists who had published the identity and testimony of a protected witness triggered a public media debate on the need to strike a balance between media freedom, responsibility and observance of the rule of law. The Mission has until now deemed that journalists in Zagreb enjoy a relative media freedom, while the control of local media by local authorities and the concentration of media power in the hands of a small number of owners remain issues of concern. However, some recent events could be interpreted as forms of political pressure, especially on the public broadcaster. Croatia should ensure not to make a step backwards in that respect. Criminal libel continues to be a problem, with journalists still punished with prison sentences, but on the positive side, a working group has been established by the Minister of Justice to harmonize libel legislation with best European practices.

General police reform needs to focus on greater administrative and operational decentralization. A further step would be the revision of the overall human resources management system. The community policing concept still needs to be better recognized and implemented on a larger scale.

The legislative framework to consolidate the contribution of *civil society* is still undergoing preparation amid a turbulent but healthy public debate. The Mission, with the support of other international partners, continues to act as a facilitator between local NGOs and the two national level official institutions in charge of the promotion of the civil society. The Mission also believes that the positive role of human rights and civic NGOs should be recognized in the national strategy on civil society. Among the positive developments to be noted, local authorities are more proactively engaged in good governance projects and charters of cooperation with NGOs.

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As a result of Prime Minister Sanader's clear commitment to addressing outstanding Mission mandate issues, coupled with, *inter alia*, the 3 October EU decision to begin negotiations, the outlook for fulfilment of the Mission's mandate is favourable. I believe that we are presented with an opportunity to make the OSCE Mission to Croatia a success story by completing the mandate in a finite period of time.

From all the countries where the OSCE has Missions, it seems to me that Croatia is a very special case: it benefits from an advanced democratic construction, a good economic situation and is among Europe's main tourist destinations; last but not least it has started accession talks with the EU. As for myself, I do not find it exaggerated to say that the

mandate is well-advanced. To open a Mission is of course a great success, but to close a large Mission and fulfil the mandate given to that Mission, will be an even greater success.

However, in order for the Mission to succeed in the final implementation of its mandate, and to be able to support the Croatian Government in meeting its own strategic goals, a strong Mission presence will be essential in the coming period. In short, the Mission's activities will continue to require adequate resources and personnel until closure. As a matter of fact, three major challenges lie ahead.

On *refugee return*, the target date of end 2006 for the completion of the refugee return issues, according to the Sarajevo Trilateral Declaration, may not be reached due to the high financial and budgetary implications of the process. Croatian authorities have recognized that fact and there is a consensus that the resolution of these complicated refugee-related issues could take no less than one year and a half. In any case, the dynamic approach which has been recently adopted by the responsible Minister in charge sends the best signal about the satisfactory resolution of this difficult problem.

On *judicial issues*, the primary upcoming challenge will be the effective and impartial adjudication of war crimes by the Croatian judiciary, including cases transferred from The Hague Tribunal. As part of its ongoing war crime trial monitoring activities, the Mission will, in line with the Letter of Agreement between the CiO and the ICTY Chief Prosecutor, monitor the transferred cases until a longer-term solution is found.

The consolidation of the *electoral framework*, with the Mission's and the ODIHR's support, is expected to progress in the course of the winter and the first concrete results should be visible by spring 2006, in particular with the establishment of a permanent State Election Commission.

Regarding *media, police* and *civil society* issues, the ongoing cooperation between the Mission and Croatian authorities, and the active role of domestic NGOs and the free press, provide encouraging signs that continuing progress in these areas will reach a decisive stage in the course of 2006.

The Mission will continue to be a *credible partner* for the Government in the coming period. Not failing to take note of progress made by the Government, which it continues to make regarding implementation of the Mission mandate, I have made the proposal for our 2006 Programme to include a **6% reduction** in the budget. Like all HOMs, I would ask that this proposal is supported.

Finally, along those lines, I would like to confirm my commitment to present a "Mid-Term Review" in June 2006.