



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

**News in brief
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Parliamentary discussion on minority representation in the judiciary

Adoption of legal provisions related to the appointment of judges and other judicial personnel has been delayed in Parliament pending further negotiation between national minority MPs and the Government. Specifically, the Parliamentary Committee for Human Rights and National Minorities has proposed amendments to the Government's drafts of the Law on Courts and the Law on the State Judicial Council in order to implement the guarantee of appropriate levels of minority representation in the judiciary contained in Article 22 of the Constitutional Law on the Rights of National Minorities (CLNM).

Under-representation of national minorities, particularly Serbs, in the judiciary has been highlighted on numerous occasions. A lack of implementation of this CLNM guarantee was noted at the conference examining three years of CLNM implementation recently organised by the Mission [See Fortnightly No. 19/2005]. The European Commission included implementation of this guarantee as a key priority in the 9 November draft EU Council Decision on the Accession Partnership with Croatia, noting the need for the amendment of relevant legislation in its Progress Report issued on the same date. Finally, in September, the Committee of Ministers of the Council of Europe in its Resolution on the implementation of the Framework Convention for the Protection of National Minorities called on the Government to pay particular attention to the participation guarantee.

Parliament recently adopted legal provisions to implement the CLNM's minority representation guarantee in state administration. Namely, the Law on Civil Service as well as the Law on Local and Regional Self-government require state bodies to develop employment strategies for ensuring appropriate levels of minority representation. Croatian law already provides employment preferences for veterans and their family members with regard to state employment. The Law on the Rights of Croatian Defenders from the Homeland War and Members of their Families requires state bodies to give hiring preference to war veterans (and in certain cases their family members) who meet the basic requirements for a state position.

Task Force concerned about implementation of Sarajevo Declaration

The fourth meeting of the Task Force of the Sarajevo Declaration, regrouping representatives of Croatia, Bosnia and Herzegovina (BiH) and Serbia and Montenegro and the international community took place in Budva, Montenegro on 17 November.

The Government representatives managed to identify all the open issues in the respective Road Maps and came to the following conclusion: the BiH Road Map can be considered as final, since there were no additional comments on the document; in the Serbian Road Map two rather technical benchmarks were identified as still problematic while most of the open unresolved issues were identified in the Croatian Road Map.

These unresolved issues relate in particular to the following benchmarks which had been suggested to be included by the Serbian Government and international community partners:

compensation for lost occupancy tenancy rights (OTR) ; convalidation for working years spent in Serb-controlled areas during the war; amendments to the Law on Reconstruction; equal representation of minority returnees in public administration; extension of the deadline for regularization of status (article 115 of the Law on Foreigners); remedies for unsolicited claims for investments; repossession of agricultural land and business premises; inter-state exchange of data on war crime proceedings.

Apart from the firm statement by the representative of the Croatian delegation in the Task Force that the compensation for lost OTR would not be included into the Road Map, there was no in-depth discussion on the open issues and reasons for their non inclusion into the Road Map by the Croatian Government. Therefore the conclusion of the meeting was that all open issues should be dealt with in a ministerial consultative meeting in Sarajevo, which should take place before the official ministerial meeting where the Road Maps would be signed.

The jointly agreed international community position is that in order to achieve the political resolution of all refugee returns issues, the Road Maps need to be as comprehensive as possible. For all the open issues that the governments have chosen not to include into the respective Road Maps or the Operational Matrix, a clear reference in the respective Road Maps should set the mechanisms by which those issues would be resolved.

The IC representatives of the UNHCR, OSCE and EC delegations in the three countries agreed to propose a joint letter to the three states stressing the importance of a comprehensive process and urging the rapid resolution of the outstanding issues. Subsequently it was proposed that a meeting of the nine principals should be held in the forthcoming weeks in order to refine the approach of the 3x3 partners on the status of the process and the remaining open issues.

New draft law to modernize organization of intelligence services

A new bill on the intelligence services will soon be put into parliamentary procedure. In a presentation at the Ministry of Foreign Affairs and European Integration, the head of the EC Delegation and the head of the OSCE Mission to Croatia were informed about the principles guiding this reform. The main objective of this draft law would be to bring the organization of secret services in line with democratic standards and fulfill one of the tasks of the Government Action Plan aiming at achieving full cooperation with the ICTY. The activities of the secret services would follow general rule of law principles and would be supervised by the Council for National Security. However, the Mission was not given access to the document.

According to the media, one of its major aspects is the establishment of a surveillance and wiretapping agency. It is intended that these activities will not be under the jurisdiction of Counterintelligence Agency, but will be carried out by an independent agency. All other agencies and the police will use the services of the new agency. As has been the case so far, they will need the approval of the Supreme Court.

The final draft of the bill was adopted by the National Security Council two weeks ago. Recommendations given by the Council of Europe were considered in the drafting process in order to avoid further changes during the process of EU harmonization.

President of National Council for Civil Society Development resigns

Slowness of the Government in addressing issues relating to the NGO sector were among the reasons given by Nives Ivelja when she resigned as president of the National Council for

Civil Society Development (the Council) on 14 November. Earlier that week, the NGO member of the Council had resigned for similar reasons, leaving the Council with majority government representation.

Media reported that the president's resignation was partly due to the recent interview given by the head of the Government's Office for Associations Jadranka Cigelj in which she accused some NGOs of treachery, as well as because the majority of laws and acts important for the sustainability of the NGO sector are still not finalised, such as the Law on Volunteerism and Law on Public Benefit Organizations. Moreover she expressed dissatisfaction with the fact that foreign donations to NGOs are now taxable.

Mrs Ivelja is president of one of the leading civic-based NGOs in Croatia, Association MI, a longstanding partner of the Mission. She herself represents an important pillar of the evolution of Croatian civil society since the early 1990s, and her efforts have served to consolidate the NGO sector by bridging the gap in NGO-Government cooperation.

The Mission is concerned by this latest resignation which evokes the events of a year ago in November 2004 when the deputy president of the same Council, Goran Richembergh, submitted a letter of resignation to the Deputy Prime Minister and Minister of Family, Veteran Affairs and Intergeneration Solidarity, Jadranka Kosor. This was a sign of protest prompted by his dissatisfaction with the scanty functioning of the Council and the lack of implementation of the civil society regulatory framework among other reasons reported at that time.

The Mission hopes a new president will be appointed in a reasonable time frame. While the Council convened more regularly in 2005 after a standstill in 2004, more regular consultation with the Council by the government on matters of Croatia's civil society would also be welcome. It is encouraging that the Council lobbied for, and set in motion, the development of a Civil Society Strategy. However its council members were discouraged when the government appointed a new committee to the task without consultation.

Another three journalists facing prison for libel charges

Even though amendments to the libel provisions in the Criminal Code, which became effective in October 2004, allowed a more liberal regime, libel still has not fully been decriminalised. Evidence of such claims was the most recent verdicts by which several journalists and a writer received suspended prison sentences.

The first such case was that of Predrag Matvejevic, a renowned writer, given a suspended five month sentence for libelling and insulting his colleague, Milan Pesorda. The ruling was reached by Zagreb County Court on 3 November. Matvejevic was found guilty of libel and insult for writing that Pesorda was a "Taliban and quisling". This statement was published in *Jutarnji list* in 2001. Commenting on the verdict, Matvejevic said that he would not appeal, and added that he was ready to serve his prison sentence. The guilty verdict against Matvejevic was strongly criticised by numerous media organisations.

Not long passed before another journalist faced a similar destiny. On 16 November media reported that Ilija Marsic, a former *Slobodna Dalmacija* deputy editor-in-chief, was facing a 20-day prison sentence as he failed to pay a HRK 6,600 fine for libelling a former Split State Attorney. Marsic accused the former attorney of covering up the *Slobodna Dalmacija* privatisation case in a press conference held in 2001. Marsic's appeal against the guilty verdict was dismissed. Bitter at such a decision, Marsic refused to pay the fine.

The most recent case occurred on 18 November when a *Novi List* daily journalist, Slavica Mrkic Modric was sentenced to two months in prison with a probation period of one year for defamation. Modric was sued over a satirical article he wrote in 2002. In the first phase of the process Modric was acquitted, but found guilty on appeal.

This latest ruling was obviously the turning point for Justice Minister Vesna Skare Ozbolt. Therefore she finally announced new changes to remove these provisions from the Criminal Code relating to defamation. She reiterated that defamation had been decriminalized with the latest legislative changes (Oct 2004), however, in the year following these changes, at least five journalists and a writer have faced prison sentences, indicating that the implementation of those legislative changes remained a problem.

Commenting on the issue, head of the OSCE Mission to Croatia, Ambassador Jorge Fuentes, drew attention to worrying events such as the fact that journalists continued to receive prison sentences in libel cases. He cautioned Croatia not to take a step backwards in media freedom.

Tensions raised in Croatia's public broadcaster

The recent news that one of the two hosts and editors of Croatian Television's (HTV) '*Otvoreno*' (panel and current affairs) show, Tihomir Ladisic, was permanently suspended from the show echoed strongly with the public.

The entire issue began when the leadership of HTV's Current Affairs Programme concluded that Ladisic made omissions in recently televised shows about the extradition of a controversial tycoon Hrvoje Petrac, and ICTY indictee Ivica Rajic. The most contentious show debated Rajic's plea bargain with the ICTY Prosecution and conducted a viewer's telephone poll question on Croatia's involvement in the war in Bosnia and Herzegovina. Media associations and journalists raised their voice and sharply reacted against Ladisic's suspension. The Croatian Journalists' Association called on HTV to retract its decision, while the president of the Citizens' Committee for Human Rights, Zoran Pusic, termed the case as a disgrace.

Ladisic's colleague and host of the '*Latinica*' programme, Denis Latin, also strongly condemned the suspension as being an attack on freedom and democracy. Latin pointed out that auto-censorship and a general atmosphere of fear prevailed at Croatian Television, adding that employees feared further dismissals. Aleksandar Stankovic, also from HTV, publicly supported his colleague in one of his shows called '*Sunday at two*' and by doing had his salary cut by 30 percent.

Commenting on the case, the HRT Director General Mirko Galic explained that the decision against Ladisic was made due to his programme oversights, emphasising that the dismissal was not politically motivated, adding that if there were any indications that this was a political dismissal, he would re-examine the penalty for Ladisic.

Spokesperson for the OSCE Mission to Croatia said that apart from the Ladisic affair, the OSCE Mission was also paying attention to the case of another reporter, whose salary was cut as a penalty for refusing to reshuffle a report. She added that the two cases drew the OSCE Mission's attention as they indicated worrying signs of Government pressure.

Security situation affecting Croatian Serbs

A Serb returnee was killed by an explosion in a forest near his home in central Croatia on 13 November. This follows an almost identical fatal incident in October which caused the death of another returnee in the same vicinity, which was not marked as a suspected mined area.

Police say there is a high possibility that both incidents were not due to mines, but hand grenades. OSCE Mission representatives, on visiting the family of the latest fatality, the mayor and local police, expressed concern over these recent events but voiced confidence that the police investigation would be thorough. Serb minority MP Milorad Pupovac reacted strongly, stating that, “this is not violence, this is terrorism, and expect the police to stop these obviously prepared deeds.”

In Split the offices of a Serb cultural association were burgled during the weekend of 19/20 November. Computer equipment was stolen and attempts were made to set fire to the premises. Police are classifying the incident as a burglary, not wanting to comment on media allegations of an ethnically related motive. However, the association secretary said, “that while the damages were large, the message was even larger.”