



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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Sarajevo Ministerial Conference sets up a political framework to complete the refugee file by the end of 2006

At a one-day ministerial conference held in Sarajevo on 31 January, the Ministers responsible for refugee issues from Croatia, Bosnia and Herzegovina, and Serbia and Montenegro signed a joint declaration committing their countries to undertaking the necessary measures to complete the process of return by the end of 2006.

According to the declaration, the three countries have committed themselves to solving the issue of refugees and displaced persons by the end of 2006 by facilitating, on a non-discriminatory basis, the process of return or local integration for those who choose to stay in their host countries, and by providing assistance and support to refugees and displaced persons in co-operation with the UNHCR, the EU and the OSCE.

Based on these commitments, each country agreed to develop a “Road Map” in the next three months. The “Road Map” will contain a comprehensive list of the remaining tasks. An intergovernmental Task Force, which will meet at least four times a year, is mandated to produce a joint implementation framework out of the three Road Maps and to ensure a joint monitoring and review of progress and identification of remaining tasks. The three international organizations are being invited to assist this Task Force.

Minister of Maritime Affairs, Tourism, Transport and Development Bozidar Kalmeta led the Croatian delegation, which included two state secretaries and two assistant ministers. After the signing, Minister Kalmeta stated that "this is a political platform to speed up the resolution of a joint problem."

Speaking on behalf of the International Community Principals in Croatia, the Head of the European Commission Delegation in Zagreb highlighted three reasons for making a major effort to close the refugee file. Firstly, it is a humanitarian obligation to provide all those who were involuntarily displaced by the war with a decent future and a fair deal. Secondly, it is a political imperative to remove the issue from the political agenda once and for all; otherwise the issue could remain a political liability that could endanger political stability and security in the future. Thirdly, the closing of the refugee file will open the door for the societies in the three countries to look to the future rather than backwards and will mark a major step towards their European integration.

The Ministerial Conference came in response to three identical letters addressed on 5 October 2004 to the Governments of Croatia, Bosnia and Herzegovina, and Serbia and Montenegro by the Heads of the OSCE Missions, EC delegations and UNHCR offices in those three countries proposing that the three Governments agree on benchmarks for closing the refugee file as a political issue in the region.

This is the first time since the Dayton Accord that these three countries have come to agreement at the ministerial level on a common course of action regarding refugee return. The Prime Ministers of Croatia, Bosnia and Herzegovina and Serbia and Montenegro are expected to discuss the issue of refugee return at a regional summit in Sarajevo in October.

Prime Minister Sanader meets new Slovenian Prime Minister Janez Jansa

In their first official meeting in Mokrice, Slovenia, on 21 January, Prime Minister Ivo Sanader and Slovene Prime Minister Janez Jansa reviewed the state of bilateral relations and agreed on guidelines for solving outstanding issues. The Prime Ministers decided to work on an agreement on avoiding incidents along their maritime border in the Northern Adriatic. According to the two Prime Ministers, arbitration on the border issue is one possible method for finding a solution. They also stated, according to the Croatian media, that more efforts should be invested in settling outstanding issues bilaterally before resorting to arbitration. Both sides expressed positive viewpoints on the founding of a mixed historical commission to study historical relations between the two nations.

Prime Minister Janez Jansa guaranteed Slovenian continued support for Croatia's integration into the Euro-Atlantic alliance.

Speaking to the media after the meeting, Prime Minister Sanader said that there were more things uniting Croatia and Slovenia than dividing them, and that "the few outstanding issues could not cast a shadow on the good relations between the two peoples and countries."

Croatia and Bosnia and Herzegovina sign protocol on direct prosecutorial cooperation

On 21 January, the Chief State Prosecutor of Croatia and his counterpart in Bosnia and Herzegovina signed a protocol that establishes a mechanism for direct cooperation on prosecutorial matters. The protocol is intended to eliminate bureaucratic hurdles and thereby provide for more efficient investigation of the entire range of serious criminal offences that have inter-state aspects, including war crimes, organized crime, trafficking, and terrorism. The protocol, which became immediately effective, is expected to facilitate exchange of information, including statements of witnesses residing in the other country.

This agreement is based upon a model protocol that the Croatian Chief State Prosecutor presented to his counterparts of neighbouring countries at the OSCE-facilitated trilateral meeting on inter-state cooperation on war crime prosecution held in Palic, Serbia and Montenegro, in November 2004. It is anticipated that the Croatian Chief State Prosecutor will sign similar protocols with his counterparts in Serbia and in Montenegro in the near future.

Court orders sale of Serb refugee's home to pay €30,000 to compensate Croat temporary user who used property as business

Local courts continue to order owners to compensate temporary users, including illegal occupants, for investments in property that the users claim to have made, including those made for business purposes, while occupying the then State administered property and without the consent of the owner. This practice continues to be an impediment to refugee return and violates fundamental human rights standards.

In one notable example, the case of the 'Sara Pizzeria', the Korenica Municipal Court in south-central Croatia recently scheduled a court auction for 24 February to sell a Serb owner's property to recover approximately €30,000 of compensation that the court awarded

to the occupant – a Croat settler from Istria - who used the property rent-free as a pizzeria business for more than eight years. The court has ordered the occupant to be evicted two hours prior to the auction.

Some eight years ago, in 1998, the owner requested repossession and in July 2000 the Municipal Court ordered the user to vacate the premises; that order was repeated in December 2001 to no effect.

In the meantime, the temporary user's request for compensation moved efficiently through the local courts. Consequently, the Korenica Municipal Court ordered this compensation to the user despite the fact that the owner has been legally prohibited from claiming off-setting amounts of rent over seven years as a result of the Parliament's 1999 Authentic Interpretation of Article 14 of Law on the Status of Expellees and Refugees. The Court rejected the owner's request for rent since 1998.

The Government has so far declined responsibility for compensating temporary users for their investments, in spite of the properties having been assigned to temporary users by the Government. The Court ruling upholds the practice of making the owners responsible for such compensation – although they were denied access to their properties- rather than the Government. As a result, the ruling could potentially have an impact on other cases of property repossession whereby owners would face losing their homes as a result of orders to provide compensation, *inter alia* through court-ordered sales of properties.

ICTY seeks information regarding feasibility of referring indictment to Croatia

On 20 January, an ICTY Trial Chamber issued a series of questions to the Government, prosecution, and defence counsel regarding the Croatian law and practice that would be applied in the event the Trial Court referred the indictment against Rahim Ademi and Mirko Norac to the Croatian authorities.

The Trial Chamber requested responses to observations contained in the Mission's June 2004 report on war crime trials related to sentencing practices; delays in proceedings; indicators of a lack of an impartial tribunal; and the use of *in absentia* trials. This report was issued jointly by the HoM and the Minister of Justice in June 2004.

For purposes of clarifying the law that would apply to any referred proceeding, the Trial Chamber asked which criminal code would apply, the availability of witness protection measures, and the admissibility of ICTY evidence. The Trial Chamber also requested information as to any material differences between the law applied by the ICTY and Croatian law, specifically as related to command responsibility, and whether the ICTY indictment would have to be altered in order to be pursued before the domestic courts. The Trial Chamber also sought an explanation as to how it would be determined which domestic court would hear the case.

In addition, the ICTY Trial Chamber asked the Prosecution to indicate how it intended to monitor the proceedings in the event the indictment was referred to Croatia.

Prominent civil rights NGOs claim irregularities in the awarding of state grants to civil society

Discontent recently resurfaced among prominent civil rights NGOs following the released results of the regular annual review of applications for funding for 2005 within the State programme for institutional support for development and the stabilization of NGOs.

The National Foundation for Civil Society Development (hereinafter the National Foundation), the State's body responsible for promoting and developing civil society in Croatia, rejected the applications submitted by GONG, Croatia's leading election observation and support NGO. In addition, B.A.B.E., an NGO working on gender issues and providing free counselling to women, the Serb Democratic Forum, and the Croatian Helsinki Committee for Human Rights were refused funding. Less well-known non-governmental organizations received much of the funding.

According to media reports, the decision of the National Foundation was harshly criticized at a meeting of the Forum of Civil Society Organizations on 24 January. Some irregularities in the review and decision-making process were highlighted, including possible conflict of interest (two members of the Management Board of the National Foundation are members of NGOs which were granted funding). A number of NGOs have requested a detailed written explanation for the reasons why the State decided to cease support for them.

According to the President of GONG, the official reason given for the rejection was that the NGO did not provide an analysis to prove that election monitoring was still necessary in Croatia. However, she added that the NGO "asked for funds for, among other things, projects to educate the citizens ahead of the elections. It is unclear why we have been rejected with such an explanation. (...) GONG did not ask for money to monitor the elections at all in their application."

The latest decision of the National Foundation points to a likely continuation in 2005 of tensions between prominent civil rights NGOs and the Government. The relationship deteriorated following the Government's decision in April 2004 to lift the value-added tax exemption for non-governmental organizations working on human rights, while other NGOs continue to be exempted from V.A.T. This action was strongly protested by GONG and B.A.B.E., as well as other NGOs. The ambassadors of the EU member states in Zagreb voiced concern about this issue by means of a letter sent to the Croatian Government in late 2004.

GONG has also strongly contested a fine of 31,000 kuna (approximately 4,000 euros) imposed by the Ministry of Finance in December 2004 for alleged irregularities in the recording and accounting of international transactions.

The Government announces changes of media legislation to align Croatian laws with European Union standards

The debate over the Law on Croatia Radio Television (HRT) has come under the spotlight again following the Parliament's discussion of the Government's 'National programme for the harmonization of Croatian legislation with European Union standards' in late January. The National programme includes a section on media legislation, including some proposals for change of the Law on HRT.

The daily *Jutarnji List* reported that the ruling Croatian Democratic Union (HDZ) intends to change the appointment procedure for the HRT Programme Council to ensure that civil society associations play a leading role in the regulatory council. The Social Democratic Party, the main opposition party, considered this proposal an attempt by HDZ to control Croatian Television.

The current Law on HRT of February 2003 does not fully take into account the recommendations of a joint expert mission by the OSCE, European Commission and Council of Europe to enhance the role of the HRT Programme Council, the supervisory body of the public service broadcaster, and to refine the nomination procedure to avoid that the HRT Programme Council is unnecessarily politicized or protracted. They also recommended, *inter alia*, that time should be given to drafters to prepare amendments to the Law, including consultations within Croatia and with international experts, and that the mandate of the current Council should not be disrupted by the adoption of the new Law on HRT.

The joint expert mission by the OSCE / CoE / EC reviewed the current Law on Electronic Media in early 2004, finding that the nomination procedure of the Council of Electronic Media as incompatible with European standards. As with the Law on HRT, the main issue of concern remains the independence and appointment of the regulatory body, the Council of Electronic Media, and also includes the need to promote funding and administrative support for the Council.

The Mission has stated on several occasions that the objective of future changes should be to create safeguards against the risk of political interference, to ensure a substantial role for civil society in overseeing HRT, and to guarantee stability in the work of HRT.

The NGO Local Democracy Agency of Sisak is awarded with the Prize of Human Rights of the Republic of France

At a ceremony attended by representatives of the EU Presidency, Ministry of European Integration and some MPs on 21 January, the French Ambassador awarded the annual Prize of Human Rights of the Republic of France to the civic organization Local Democracy Agency (LDA), an NGO based in Sisak, nearby Zagreb.

LDA was founded in 1996, with the support of the Council of Europe, to foster the values of tolerance, solidarity and freedom of expression in the local communities. The NGO has carried out numerous projects, such as training of journalists and municipal civil servants, organization of awareness campaigns in schools on human rights and democracy, workshops with minority representatives, promotion of women participation in the civic and political life.

The OSCE Mission, which has funded five of its projects, supported the candidacy of the Local Democracy Agency to this prize.