



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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Visiting Serbia President Mesić urges full implementation of Croatian-Serbian Agreement on minorities

On 15 October, President Stjepan Mesić met with representatives of the Croat minority in Vojvodina, northern Serbia. Following a meeting with the President of the Croat National Council, Josip Pekanović, and the leader of the Democratic Alliance of Vojvodina Croats, Petar Kuntić, President Mesić said that his hosts described current inter-ethnic relations in Serbia as relaxed compared to previous years. However, he emphasized that a lot remained to be done, highlighting in particular full implementation of the *Agreement on the Protection of the Croatian Minority in Serbia and Montenegro and the Serbian and Montenegrin Minorities in Croatia*. The *Agreement*, signed on the historic occasion of Prime Minister Ivo Sanader's first visit to Belgrade in November 2004, envisages the mutual protection of Serb and Croat minority rights in each country.

The President emphasized that Croatia wanted to see the *Agreement* fully implemented as it will help Serbia "achieve what has already been achieved in Croatia - European standards in the protection of ethnic minorities." While noting that anti-Croat incidents had decreased in number and that certain rights had been acquired by the Croat minority in Serbia, Mr. Pekanović underscored the fact that direct representation in the Serbian Parliament remained to be addressed. The *Agreement* stipulates that the political representation of minorities should be ensured in the representative bodies of each State at all levels.

A day later, on the margins of a conference in Belgrade which gathered seven Heads of State from Southeast Europe to address the fight against organized crime and terrorism, President Mesić met with his Serbian counterpart, President Boris Tadić, to further discuss the status of the Croat minority in Serbia.

ICTY President's annual report to UN Security Council on Croatia positive

On 10 October, the ICTY President presented the 13th annual report on the operation of the Tribunal to the UN Security Council. The President noted that co-operation with the Croatian government in regard to requests for assistance, information, archives, witnesses, and suspects remained "swift and satisfactory." He further credited the arrest of Ante Gotovina in December 2005 to Government efforts. The report also noted that co-operation with the Chief State Attorney in relation to the transferred Norac/Ademi case and other war crimes cases, has been "efficient and professional."

The President went on to highlight the importance of strengthening the judicial and prosecutorial capacity of the States of the former Yugoslavia, noting that these States would

be continuing the legacy of the ICTY. He emphasized that “it is crucial for reasons of stability and reconciliation in the region that these national trials uphold the highest standards of due process such that justice is done and is seen to be done.” He concluded that the ICTY’s Completion Strategy hinges on further development of the rule of law in these States, noting that if fair trials are not guaranteed in cases transferred to the region under Rule 11 *bis*, they may be referred back to the Tribunal.

ICTY rejects Croatia’s request to participate as *amicus curiae* in Prlić trial

In mid October, the ICTY rejected a request by Croatia to participate as a “friend of the court” or *amicus curiae* in the ongoing trial of Jadranko Prlić and five other military and political leaders for war crimes committed in Bosnia and Herzegovina. In mid September, Croatia proposed to submit a brief authored by Croatian lawyers, historians, and political scientists to assist the ICTY in determination of the truth about the participation of former Croatian leaders in a “joint criminal enterprise” with the defendants. In early October, the ICTY Prosecutor opposed Croatia’s request.

The Trial Chamber found that Croatia’s participation would neither facilitate proper determination of the case nor the interests of justice. It determined that the primary function of *amicus curiae* was to address questions of law - as Croatia did during the ICTY’s consideration of the Rule 11 *bis* transfer of the Norac/Ademi case - while in this case, Croatia sought to discuss historical and political facts related to the charges. The Chamber noted that many of the facts Croatia wanted to address went beyond the indictment and would not be useful in its deliberation. It also found that it would not be in the interests of justice to authorize a State, whose former political and military leaders are mentioned in the indictment as members of a “joint criminal enterprise,” to intervene as *amicus curiae*.

Finally, the Chamber stated that it retained the discretion to call as witnesses any of the experts proposed in Croatia’s *amicus curiae* request. Similarly, the defendants and prosecutors will be able to call these persons as witnesses. Experts called as witnesses would be subject to cross-examination, which is not possible with *amicus curiae*. In response, the Government indicated it was prepared to make available its experts as well as any documents requested.

Croatia has also lodged a similar request to participate as *amicus curiae* in the joint trial of former Croatian Army Generals Ante Gotovina, Ivan Čermak, and Mladen Markač for crimes committed in Croatia during and after the military action known as ‘Operation Storm’. This trial has not yet begun and the Tribunal has yet to issue a decision on Croatia’s request. Gotovina has supported Croatia’s request to participate while Čermak and Markač have indicated they will take no position.

Co-operation between Croatian and Serbian prosecutors on war crimes

In mid October, the Chief State Attorney of Croatia and the War Crimes Prosecutor of Serbia signed an Agreement establishing a mechanism for co-operation in the prosecution of citizens or residents of their respective countries suspected of committing war crimes in Croatia. This agreement was announced in late September at a meeting in Zagreb between the Croatian and Serbian Ministers of Justice.

The Agreement will function within the existing legal frameworks of both States. These currently bar the extradition of nationals and the formal transfer of war crimes proceedings between courts of these States. Given these legal restrictions on judicial co-operation, the two parties state their intention to prosecute suspected war crimes perpetrators residing in their respective States through the exchange of information and evidence. In 2005, the Chief State Attorney had already signed a framework memorandum with his counterparts in Bosnia and Herzegovina and Serbia to facilitate co-operation in relation to all serious criminal offenses that have inter-state aspects. These memoranda have so far facilitated co-operation in some individual war crimes cases. The new agreement between Croatia and Serbia concerns all war crimes cases that involve the two States.

This November, Croatia and Serbia should notify each other of all cases they are currently pursuing in relation to war crimes committed in Croatia by persons who either reside in or are citizens of the other State. Notice of any new cases should be provided within three months of either State becoming aware of a suspected perpetrator residing in or citizen of the other State. After reviewing information received on pending cases, each side should inform the other whether it will undertake prosecution in any or all cases. If so, the other party should provide all relevant information and evidence within two months of notification. Each party should report to the other on the status of any cases in which prosecution has been initiated.

Unlike a formal transfer of proceedings between courts of different states, it is understood by the parties that any verdict resulting from prosecution based on evidence transferred pursuant to this agreement will not be binding on the sending State. If, for example, Croatia were not satisfied with the outcome of a trial conducted on the basis of evidence transferred to Serbia, it could initiate its own prosecution of the same person.

In late July, the Chief State Attorney signed a similar agreement with the Prosecutor of Montenegro. However, that agreement differs from the Croatian-Serbian agreement in that it does not contemplate that Montenegro will transfer evidence to Croatia. To date, no cases or evidence have been transferred from Croatia to Montenegro as the Croatian side is taking additional steps to ensure that cases transferred are adequately substantiated.

Court resumes auction of Serb owned property to pay for unsolicited investments

Local courts continue to order the auction of repossessed private property when Serb owners cannot afford to pay court-ordered compensation to former temporary users for investments made to the property during the period it was allocated by the Government. During negotiations in the Sarajevo process, the Croatian Government pledged to adopt corrective measures. As a result some courts postponed auctions. However, as these corrective measures are yet to materialize, courts have resumed the scheduling of auctions.

The most recent example is the so-called 'Pizzeria Sara' case. In December 2003, Gospić County Court in south-central Croatia upheld an order by Korenica Municipal Court compelling Jovan Rapajić to pay approximately €30,000 to the temporary user of his house - a Croat settler from Istria. In 1996, the Government allocated Mr. Rapajić's home to Stanica Nikolić, who operated a restaurant in the premises until February 2005, when Mr. Rapajić repossessed his home after an eight-year judicial proceeding. Because Mr. Rapajić cannot afford to pay €30,000, the court has ordered the auction of the house to allow the occupant to re-coup her investments. An auction scheduled for June 2006 was postponed by the court given Government assurances that it would soon assume responsibility for paying the debt. However, in early October, Gospić County Court re-scheduled the auction for 14 November

2006, stating that the Government could not properly seek postponement of the auction as it was not a party to the proceeding and had not undertaken steps to compensate the former occupant for her investments.

At one of its upcoming sessions, the Government is supposed to adopt a Conclusion establishing a pragmatic mechanism for the resolution of such cases based on extra-judicial settlements offered by the State to the occupants/investors. The Mission is aware of approximately 30 similar cases.

Owner of regional daily suspends editor-in-chief and six journalists

On 5 October, seven journalists including the editor-in-chief of the regional daily *Glas Istre* were suspended from their posts by Chairman of the Board, Željko Žmak. Mr. Žmak also notified the suspended employees that procedural steps for the termination of their contracts had been taken due to ‘distorted behavior’. Justifying his decision, Mr. Žmak explained that the group had been “meddling in business instead of doing their job, which is writing”, as well as jeopardizing the interests of the paper in their articles.

In response to these statements, former editor-in-chief Eni Ambrozić and her colleagues have claimed that the purge is part of an orchestrated attempt by some members of Istria’s political and business elite to take control of the region’s media. Many understood the criticism to be directed at Ivan Janković, the County Prefect and President of Istria’s ruling party, the Istrian Democratic Congress (IDS). The IDS have refuted all allegations as absurd.

The suspensions have been condemned by the Croatian Journalists’ Association (HND), the Journalist’s Union (SNH) and the Media Council of the Croatian Helsinki Committee (HHO). Condemning the dismissals, the HHO stated that it was “unacceptable to justify such mass and unexplained replacements with the absolute right of the newspaper’s private owner”, adding that the purge gravely undermines media freedom and the rights of journalists. Calling the purge a precedent in recent media practice, the HND has offered to facilitate in a meeting between the two parties in order to find a solution to the current situation.

Mission collaborates with UNDP and ADRA on ‘winterization’ project

In co-operation with the UNDP Office in Croatia, the Mission has developed a project targeting one of the most vulnerable groups of Croatian Serbs who have returned to Croatia. These are returnee families currently living in very poor conditions because they are unable to access reconstruction assistance from the State - due to the strict eligibility criteria stipulated in the 1996 Law on Reconstruction – or from international agencies following their phasing out of humanitarian assistance to Croatia.

Following a proposal by the Mission, the UNDP has expressed interest in funding a winterization project, including basic repair assistance for around 40 returnee houses with a damage category of one to three. The project will total €100,000 and will commence immediately so that reconstruction can be completed before the onset of winter. Together with ADRA Croatia - one of the few remaining humanitarian agencies in Croatia - the Mission has compiled a list of the most urgent cases from the Counties of Sisak-Moslavina, Karlovac and Lika-Senj.

After this initial effort, the UNDP intends to launch a broader fund raising exercise in 2007 with the aim of raising €1-2 million through a sophisticated sponsorship exercise. This will also be used to support the sustainable return of families.

Mission organises community policing workshop

Between 2 and 5 October, the Mission funded and organised a workshop for community policing coordinators in Bjelolasica, north-west Croatia. There are approximately 800 contact officers currently in Croatia, whose work is overseen by 25 community policing coordinators.

This was the first workshop for community policing coordinators to take place since 2003 when the community policing project was first introduced in Croatia. There were 27 participants from all 20 Police Administrations under the Uniformed and Crime Police Directorates. The workshop aimed to encourage the exchange of best practices and improve internal co-operation, both between different Police Administrations and between officers and senior management. On the final day, participants presented conclusions from the workshop to the senior management of the General Police Directorate. These conclusions will be used in the development of future guidelines for the work of Croatian contact-officers.