

Good framework for reform of the judicial system

1. How do you assess the current situation regarding judicial reform in Croatia?

Our assessment of judicial reform is based on whether the right to a fair trial is guaranteed to all Croatian citizens. The right to a fair trial also has important human rights implications. From this perspective, it can be said that there exists a good framework for judicial reform in Croatia. The three most important areas of reform, as seen by the Mission, are the training of judges, ensuring that adequate resources are allocated for the judicial system to work and the need to develop a culture based on rule of law principles in Croatia. It is of utmost importance that there is respect of the judiciary in Croatia, both on the side of the public and the government. However, this respect will only be established in parallel with the increase in the quality of the work of the judiciary.

2. Over the last ten years, which segments have seen advancements and where are the greatest weaknesses?

The greatest challenges facing the judiciary in Croatia is the resolution of the extensive backlog of cases within Croatia's judicial system as well as ensuring that lengthy proceedings will become a thing of the past. These two weaknesses have resulted in many cases being brought before the European Court of Human Rights.

An area which has been the focus of special attention by the OSCE Mission is domestic war crimes trials in Croatia. The Mission, along with the Ministry of Justice, recently presented two reports on this topic which concluded that while improvements had been made over the last year, additional reform was needed to provide for impartial domestic adjudication of war crimes in all Croatian courts. This year we have observed increased government commitment to prosecute all war crimes perpetrators, regardless of national origin, as well as a growing public acceptance of this approach. However, the reports indicate that the national origin of defendants and victims continue to effect war crime proceedings in Croatia and also highlight the importance of improving inter-state judicial co-operation.

The OSCE Mission has commended efforts already undertaken by the Ministry of Justice, with the ICTY, to provide training for judges in the Zagreb, Osijek, Split, and Rijeka County Courts that may receive cases transferred from the ICTY. However, considering that other county courts will continue to conduct the vast majority of war crime trials in Croatia, the Mission has also suggested that training and other reform initiatives be extended to all judges, prosecutors, and defence lawyers responsible for such cases so that a two-tier system of justice for war crimes does not develop in Croatia.

3. How important is judicial reform for Croatia on its path toward the EU?

The importance of judicial reform in Croatia's path towards the EU cannot be underestimated. It was one of the main priorities mentioned not only in the opinion (*avis*) on Croatia's EU membership application by the European

Commission but also in the decision of the Europe Council when accepting Croatia as an EU candidate-country.

However, judicial reform cannot be viewed in isolation. The ramifications of this reform will be felt in almost all aspects of Croatia's well-being as a state. An independent and effective judicial system is an important precondition for, among others, Croatia's economic development and the promotion of investments. This will ultimately increase the well-being of Croatia's citizens and will contribute to the reconciliation of inter-ethnic relations.

4. Can you briefly compare Croatia's judiciary with that of other transitional nations, in particular the 15 new EU member-states

I am not in a position to assess the state of the judiciary in other transitional countries but it can be said that the need for judicial reform has been highlighted in the majority of transitional East-European countries. This is mostly due to the fact that judicial systems in authoritarian or totalitarian societies were not independent and therefore there is no tradition of rule of law in these countries.

Croatia however faces additional specific challenges related to the war. As mentioned in the previous question, war crimes trials are a very important facet of Croatia's judiciary as are inter-ethnic animosities which have resulted from the war. These are very sensitive issues and Croatian judges should learn to approach them in a fair and objective manner.

5. Is there anything I haven't asked you regarding this topic which you would like to emphasise

The EU is facilitating judicial reform not only in technical sense but also in providing a vision that can be shared by all. This cohesive vision of a tolerant, open, law-based society will positively affect the respect for laws in Croatia and the judiciary.