

Interview with the Head of the OSCE Mission to Croatia Jorge Fuentes Monzonis-Vilallonga

Ademi-Norac trial will be absolutely spotless

The OSCE Mission published its report on war crimes trials before the Croatian Courts last week. Although it was concluded that processing of war crimes becomes more objective and unbiased, several relevant remarks were highlighted: inconsistent standard of criminal accountability; bad quality of judicial decisions; inadequate defence by court-appointed counsel and the lack of inter-state judicial co-operation.

The Gotovina case received special attention; i.e. detailed calculation of all donations for the general's defence was made amounting to € 303,500. Particularly emphasised was the support of Milan Bandic as an elected official, and *Croatia Osiguranje*, as a state-owned company. As expected, that part of the report caused a stir among Gotovina's attorneys and HSP head, Anto Đapic, who have been warning that the OSCE has no mandate for such reports. Such a question was answered for *Slobodna Dalmacija* by the Head of the OSCE Mission to Croatia, Spanish diplomat, Jorge Fuentes Monzonis-Vilallonga.

Does the OSCE mandate in Croatia include counting of donations for Ante Gotovina?

I would like you to understand the situation. We are absolutely convinced that Gotovina deserves an adequate defense and is entitled to the presumption of innocence. However, statements that he is innocent go beyond the presumption of innocence. Gotovina will be tried in The Hague and the responsibility for that proceeding lies with the ICTY, not the Mission. It is our job to monitor trials in Croatia. Nevertheless, we fear that the attitude of the authorities towards Gotovina might have some influence on proceedings in Croatia.

You suspect that Gotovina case and the attitude of the authorities will have influence on other war crime trials?

That is precisely what we are trying to avoid. We hope that all trials in Croatia will be conducted in an appropriate manner and the procedures will run smoothly. The Mission will continue its monitoring of trials in all parts of Croatia.

Do you believe that there are double standards in the attitude of the Government towards Gotovina? On one hand, they do not want to interfere with the case, and on the other hand, state-owned companies are donating money?

Certain cases have significant "echoes" with the public and political repercussions, which requires the Mission to present its own conclusions.

Croatia will soon face the trial of Rahim Ademi and Mirko Norac for crimes committed in the Medak Pocket in 1993. Are you, due to Gotovina case, concerned for developments in that trial, especially for its fairness?

The fact that this case was transferred from The Hague to Croatia was a positive signal. The Hague decided that the Croatian judiciary is prepared to deal appropriately with the trial of Ademi and Norac. It would be premature to speak about the trial since it has not yet started. We anticipate everything will be in order, but will follow the case very closely.

You mentioned that you have no reservations regarding that case, however, it is visible from the OSCE Report that doubts pertaining to war crime trials still exist.

We have monthly meetings with the Minister of Justice, Chief State Attorney and other officials on these issues. We would be naïve if we would just sit and silently observe what is happening. It is our mission to be alert, not concerned, but alert. In our contacts with the Minister of Justice we receive reassurances that all processes would be conducted pursuant to the law and justice.

Some non-governmental employees claim that that so-called much-touted war crime trial cases are at the same time the only honest processes, thanks to the fact that they have all the attention of the public and authorities. However, what is with other local cases that being conducted far from the public?

You are right when you think that due to the notoriety of particular defendants, certain trials would be more transparent, given more attention and under a stronger international eye. This is precisely why we are sure that the Ademi and Norac trial will be completely spotless. Likewise, we monitor approximately 20 trials annually, most of which are low profile in courts throughout Croatia. We hope that the Croatian justice system will continue to develop sufficient experience to adequately cope with those cases.

Witness protection

Another much-touted war crime case is the one against Branimir Glavas. However, it is filled with problematic decisions, starting with persistent rejection of detention request, through threats made at witnesses and the change of testimonies. What is your opinion on those happenings?

That case is particularly important due to the witness protection issue. That was the reason for the transfer of that case to Zagreb in order to be able to provide witnesses with guarantees that they would be protected.

But witnesses in spite of that suffer attacks, for the media but even physical ones.

That is completely unacceptable as witnesses must be protected which is one of the basic rules of the legal system. If you do not protect witnesses, you put in danger the entire legal system.

Are you aware that there are currently 17 war crime defendants who await their trials at home?

This is allowed by law as long as certain precautions are taken to prevent the defendants from fleeing or interfering with witnesses.

Are you not concerned about that, especially in the light of witness protection?

Should not all war crime defendants wait for their trials in detention?

These decisions are made on a case-by-case basis, as decided by the State Attorney and the courts. The ICTY also releases defendants on provisional release to await trial given certain precautions.

The OSCE Report also mentions lack of uniform war crime trials of Croats and Serbs. Croats have many mitigating circumstances while Serbs are frequently tried in absentia, sentenced to draconian imprisonments, without taking into account mitigating circumstances.

That is also one of the items discussed every month with the Minister of Justice, Ana Lovrin.

How much does this double standard applied to trials render difficult the return of Serbs, especially in a situation when one attack on Serb returnees per week is being recorded?

The return of refugees is in my opinion the most important issue. Serbs have to stop being perceived as enemies or a threat to Croatia. The authorities are assuming with great responsibility the acceptance of returnees. They are providing them with accommodation, employment, creating an atmosphere of reconciliation. I deem that Croatia takes this issue very seriously. I have meetings on a monthly basis with Minister Kalmeta in this regard. The construction of several thousand of apartments for returnees by 2011 represents a great economic effort for Croatia.

What about the personal safety of Serb returnees? Can it be guaranteed to them?

We carefully monitor all those attacks on Serb returnees and it is a very serious problem. Those cases vary to a great extent, from graffiti to physical assaults and even murders. In the past several months, the authorities have become much more active in that respect. The police has started detecting perpetrators, which they were not doing before. I personally believe that reconciliation is one of the most important chapters of Croatia's future. Personal courage of returnees is not a solution. The solution is a legal system which will protect them.

Zero tolerance for corruption

The fight against corruption has become particularly topical these days. Are you satisfied with the Government's activities, is there still a lot to be done?

Certainly, there is still a lot of work. Europe has become very sensitive to corruption. No country is immune to that, and Croatia has declined from 55th to 71st position on the corruption scale. However, I am convinced that Croatia's rating will improve with the measures undertaken by the Ministry of Justice and that Croatia will develop zero tolerance to corruption. To eradicate corruption completely is going to be almost impossible, because it is ingrained in human nature, but that is why no government should tolerate even 0.01 per cent of corruption. We hope that the situation will improve with the Government's measures on a yearly basis.

Despite the proclaimed zero tolerance, some high-level Government officials, such as Miomir Zuzul or Minister Branko Vukelic, were involved in corruption scandals. Obviously, there is still some tolerance in some cases.

I do not want to talk about specific names. What is interesting is that in Croatia corruption can be found in three areas otherwise non-typical in Europe: the judiciary, the health system and the police. The main reason for corruption in the judiciary is a huge backlog of a million and a half cases in courts, in the health system it is the long waiting lists so people are trying to buy themselves a position on the list for an operation, while corruption in the police is a more difficult to explain..

Where is Croatia today when its path towards the European Union is concerned? Is it closer to Bulgaria and Rumania or to other countries in the region?

Firstly, I am personally convinced that all European countries, including the countries in the Balkans, need to become EU members as soon as possible. Secondly, the difference between the first one who enters into the EU and the last one, who has not even began its accession, should not be too large. Thirdly, Croatia expected to join the EU by 2009, which means that the negotiations must be completed in 2007, which would be too great an effort after all. I deem that 2010 is a more realistic scenario.

Still, the peddling of different time-frames for accession creates great psychological pressure, causing varying public opinion towards joining the EU.

I believe Croatia negotiates well and fast and it will soon become a member of the Union. All members had to go through the same procedure. You will often have a feeling that you are doing something bad, that Brussels does not like you, that you are worse than any of those who joined before you. I heard those complaints from Britons, from Spaniards and from Austrians. The farther you are from the *acquis communautaire*, the more difficult it gets. And on top, the *acquis* is becoming thicker and thicker.

As soon as possible towards the EU

There are two schools of thought in Croatia: according to one, it is better to join the EU as soon as possible and then get adjusted, while the second considers that it is better to join the EU as prepared as possible. Should Croatia hurry with the accession?

The conservative approach is that Croatia must prepare well in order to compete better with other EU members. However, my personal position is that it is better to enter the EU as soon as possible. Then you will be adjusting. These were, after all, the thoughts of every country which joined, no one will wait for anyone, while no one is closer than Croatia currently, certainly not Turkey.

MODERATELY SATISFIED WITH SITUATION IN THE MEDIA

The media are also one of the areas monitored by the OSCE. Are you satisfied with the situation in the media?

Not a hundred per cent, but moderately.

More than a year ago?

Yes, yes, definitely. The situation is quite good in Zagreb. Here one can express oneself and publish more freely. In other environments it is much more difficult. Local control is much stronger and journalists have less freedom. We are convinced that Croatia is in a much better condition than many neighbouring countries, when media are concerned. That is why we can be moderately satisfied and continue with careful monitoring.

President Mesic strongly criticised Croatian media recently, stating that they are still dependant on political interests, if not on pressures. You obviously do not share his opinion.

It is good that the President can say it publicly. Because, if the situation in the media has escaped the authorities' control, it is a sign that freedom has taken root. I can nevertheless tell you that we are moderately satisfied.