

OSCE High Commissioner on National Minorities (HCNM) visits Croatia

The OSCE High Commissioner on National Minorities (HCNM) paid a working visit to Croatia from 17 to 18 February. Implementation of the Constitutional Law on the Rights of National Minorities (CLNM) and other Government commitments in the field of minority rights constituted the main themes of discussion. The HCNM also addressed the issue of ensuring an even-handed approach to all war crimes regardless of national origin.

The role of national minorities in the development and strengthening of Croatian society as a whole was discussed with President Stjepan Mesic. Similar themes were also discussed with Prime Minister Ivo Sanader and the Minister of Foreign Affairs, Miomir Zuzul, who informed the HCNM of the manner in which minority rights protection and the return of refugees were being addressed in the new Government's programme. The HCNM held meetings with the Ministry of Justice and the State Secretary of the Central State Office for Administration to discuss more specifically various components of the CLNM, and with seven of the current eight minority Members of Parliament (MPs) and the President of the national-level Council on National Minorities..

Low voter turnout for additional elections for national minorities

In line the Constitutional Law on the Rights of National Minorities (CLNM), two different sets of elections for national minorities took place in Croatia on 15 February. No major irregularities were reported.

One set of elections was required to elect 115 of the 469 CNMs and 27 of the 141 individual representatives. Overall voter turnout was very low, estimated at six per cent. The second set of elections was required to elect 23 Serb and Roma councillors to 19 self-government units where minority under-representation has continued since nation-wide local elections in May 2001. Voter turnout was marginally better for this set of elections, estimated at nine per cent.

The first possible reason for the low turnout is general voter apathy and fatigue. Nation-wide local elections are scheduled to take place again by May 2005 and this factor is one reason for the low voter turnout for this set of elections, while the method in which CNM members and individual representatives were elected contributed to the low turnout for this set of elections. (In most cases candidate lists for CNMs involved no competition among candidates since lists were prepared by single associations to contain the exact number of required.) Second, many voters may have been unaware of the role of the CNMs. While Prime Minister Ivo Sanader twice urged minorities to vote on 15 February, neither the former nor the new Government have undertaken any targeted election-awareness campaigns in order to educate minority voters and stimulate interest in the CNMs. Third, many national minority communities still lack the organization and capacity to effectively engage on their own and meet their civic responsibilities/ Many differences in opinion and priorities exist between and within minority communities with regard to the role and value of the CNMs. Some minority communities also remain apprehensive about publicly acknowledging their ethnicity, particularly in communities with a history of ethnic tension.

Government kick starts fresh media reforms; Mission co-ordinates expert advice

On 23 January the Head of Mission (HoM) met with the Deputy Prime Minister, Jadranka Kosor, to discuss media-related legislation. Immediately upon taking office at the end of 2003, the new Government has examined a number of freedom-of-the-media issues, including proposals to amend or introduce media-related legislation according to European standards. The Mission has responded to the Government's request for assistance by offering its advice and acting as a co-ordinator of international assistance in this field.

The HoM stressed the need to ensure that the Law on Croatian Radio-Television (HRT) and the Law on Electronic Media have safeguards against political interference on the oversight councils - the HRT Programme Council and the Council on Electronic Media, respectively. He also stated that the Law on Media should be amended in accordance with earlier recommendations from OSCE and Council of Europe (CoE) experts. Finally, the HoM stressed the need to decriminalize libel as recommended by the OSCE Representative on Freedom of the Media.

The Deputy Prime Minister stated that the new Government welcomed OSCE expert assistance and that it was eager to implement reforms to media-related legislation. She recalled that the Prime Minister had already announced changes to the Law on HRT and committed the Government to start work on amending the legislation as soon as possible. She acknowledged that civil society actors should be given a main role in the work of the HRT Programme Council. On libel, the Deputy Prime Minister stated the Government would give due consideration to the recommendations of the OSCE Representatives on Freedom of the Media. Further, the process of amending the Law on Electronic Media would be done with the goal of trying to include all CoE recommendations.

In a follow-up meeting between the HoM and the Deputy Prime Minister on 4 February, it was agreed that all three pieces of legislation which still require amendments be discussed and reviewed at the end of February 2004 by a group of senior European experts engaged by the CoE, the European Commission and the OSCE.

The appointment by the Minister of Culture on 13 February of a three-member commission tasked to draft amendments to the Law on HRT sparked a public debate on this issue. Some commentators noted that the Law had already been amended eight times in the last 10 years while others argued that further changes were necessary to build stronger safeguards against possible political interference on the HRT. Other commentators criticized the Minister's choice of the three individuals composing the commission since two of the three work in some capacity for the biggest media conglomerate in Croatia. The two experts responded by pointing at their professional and public records as a lawyer specializing in media-related issues and a civil and human rights activist.

A particular problem currently being encountered by the Government is the fact that, while it embarks on changes to the Law on HRT, the HRT Programme Council has begun to take decisions on the basis of the current law since it started functioning in December 2003. One of its decisions has been to issue a tender for a new HRT Director, which will now be appointed within 60 days and will be followed by the election of all other key positions at HRT. Since the Government's intention is to amend the very provision of the Law referring to the membership of the Council, many at HRT fear that this will result in a new period of uncertainty since the new appointments could only remain in power until the new changes take effect.

Supreme Court reverses war-crime verdict criminalizing Serb refugee return

On 6 February the Supreme Court reversed the war-crime sentence of 13 years issued by the Gospić County Court in September 2003 to a Serb returnee, Svetozar Karan, which relied on notions of collective guilt and criticized Government support to Serb returnees.

The Supreme Court criticized the trial court's "history lesson" in the guilty verdict. It held that the judge in issuing a guilty verdict went beyond the evidence presented during trial to apply his personal views and opinions. The Supreme Court ordered that the re-trial be conducted before a different judicial panel of the Gospić County Court in accordance with the *Law on the Application of the Statute of the International Criminal Court* that came into effect in late 2003.

The Supreme Court stated that the Court's references to collective guilt created "serious suspicion" about the trial court's impartiality.

The President of the Croatian Judges' Association (HUS) stated in the media that, if he were the President of the Gospić County Court, he would seek to initiate disciplinary measures against the judge by the State Judicial Council. However, given that the challenged conduct is the content of a judicial decision, the Mission believes that formal disciplinary action should, if contemplated at all, only be pursued based on clear and objective standards that were known at the time of the conduct, for example, that the speech in the decision amounted to a criminal offence for which the judge has been found guilty prior to any disciplinary measure. Asked whether Croatia was ready to take over war-crime cases for the ICTY, the HUS President commented that such prejudice could threaten the aim of impartial prosecution and indicate to those monitoring war-crime trials in Croatia that the judiciary does not apply an equal standard to all.