



**Organization for Security and Co-operation in Europe**

**OSCE Mission to Croatia**

**News in brief**

**7 June – 5 July 2005**

**Status of formation of local government following the 15 May local elections**

Two months after the 15 May local elections, which gave inconclusive results in the struggle between the ruling Croatian Democratic Union (HDZ) and the centre-left opposition coalitions led by the Social-Democratic Party (SDP), the formation of local government coalitions has been completed, often after protracted negotiations. A few remaining administrations have not yet been formed.

Out of 13 counties in war affected areas where the Mission has field presence, the HDZ has taken hold of ten county governments, as compared to eight in the past. HDZ achieved these results through coalitions arranged by local party branches, with the far-right wing Croatian Party of Rights (HSP), or other small parties, in line with the policy of “political subsidiarity” promoted by Prime Minister Sanader. The most notable successes of the HDZ were in Dalmatia, where post-election coalitions allowed the ruling party to form the government of the Dubrovnik-Neretva County, and in Slavonia where HDZ took control of three counties, Vukovar-Sirmium, Brod-Posavina and Virovitica-Podravina. HDZ also won the city of Split over centre-left coalitions which had previously been in power.

However, in Osijek-Baranja County and in the City of Osijek (Eastern Slavonia), where the HDZ registered its worst elections results, the independent list of Branimir Glavas, a former HDZ regional leader, was able to form the administration, thanks to a coalition with the far-right wing HSP. In Central Croatia, an SDP-led centre-left coalition, with the support of the Independent Serb Democratic Party (SDSS), has taken control of the governments of the Sisak-Moslavina County and of the City of Sisak, which were traditional HDZ strongholds.

The far-right wing Croatian Party of Rights (HSP) has benefited from the intensive coalition-building process following the elections. This party has secured one county prefect (Virovitica-Podravina County in Western Slavonia) and eight county deputy prefects throughout the country. In addition, Anto Djapic, leader of the HSP, was elected Mayor of Osijek, the fourth largest city in Croatia.

HDZ coalitions with the HSP, not least in Knin, where the SDSS was sidelined although it won eight seats out of seventeen in the City Council, have caused much dissatisfaction among the Serb MPs of the Independent Democratic Serb Party (SDSS), who nevertheless continue to support the minority cabinet of Prime Minister Sanader in Parliament. There has not been progress towards a more inclusive government formula in Knin, although some media reported that HDZ could take some steps in that direction after the Summer recess. The SDSS, however, received the position of third Deputy Prefect in Vukovar-Sirmium County, in accordance with the stipulations of the Government’s Letter of Intent directly stemming from the 1995 Erdut Agreement, that guarantee deputy prefect posts for the Serb community in Vukovar-Sirmium County and in Osijek-Baranja County [see Fortnightly Report No

11/2005 for background]. In Osijek-Baranja County, although the position was offered to the former Serb Deputy Prefect, he has to date declined to accept the position.

On 7 July, the Government held a meeting with national representatives of the SDSS. According to media reports, it was agreed that by-elections would be organized in some municipalities where the SDSS was not satisfied with the outcome of the local elections and with the number of seats given to the Serb minority. Party vice-president Milorad Pupovac stated publicly to the media that it was not the intention of his party to topple the newly established local governments in these towns, but only to make certain corrections.

In that regard, the Mission is concerned that the electoral process could become subject to political negotiations, particularly regarding the number of seats allocated to minorities in the local assemblies, rather than being regulated by electoral provisions. In a letter sent to the State Secretary at the Central State Office for Administration on 15 June, the Mission requested clarification about the procedures used for the calculation of the number of minority seats. No answer has been received. The lack of clarity on this important issue, almost two months after the local elections, highlights the need for the creation of a professional body in charge of the administration of the elections, as well as clarity in the law regarding the allocation of local and regional representatives under the general provisions of the Constitutional Law on National Minorities.

#### **Government announces several changes to the electoral laws**

Amid widespread dissatisfaction over the more-than-one-month political bargaining which characterized the post-election period, Prime Minister Sanader announced on 23 June that reform of electoral procedures leading to the direct election of top local officials would represent “a key step forward in the democratization of Croatian society.”

On 26 June the SDP party convention also concluded that it was necessary to change the electoral system in order to introduce the direct election of mayors.

The following day, Parliament Speaker Vladimir Seks confirmed in an interview for Croatian Radio that he expected the Parliament to adopt by the end of the year a law that would establish the direct elections of municipal heads, mayors and county heads.

In addition, Seks confirmed that a bill had been prepared on the creation of an Election Commission as a permanent and professional body supervising all elections.

During his visit to the Mission on 7 June, the Prime Minister promised expeditious electoral law reform and also expressed the desire to reduce the number of political parties in Croatia, which he considered to be excessive.

In a press conference, Vesna Skare-Ozbolt, leader of the Democratic Centre (DC) and Minister of Justice, said it was unacceptable that, after 15 years of independence, Croatia regulated elections with as many as six different laws. She added that it was time to open a political and expert discussion on the modernisation of the election process. She proposed the establishment of a state election commission as a permanent body, and announced that the party would draw up its election bill and send it to Parliament in the autumn.

The Mission welcomes the renewed political interest for electoral reform. The reports by ODIHR following three elections in Croatia since 2000 as well as Mission observations

confirms that the Croatian electoral framework would be improved by a number of reforms. The creation of a permanent election body would be a first important step, but several other issues also need to be addressed including the management of voters' lists, campaign funding, out-of-country voting, minority representation at the local elections and fair access to media for candidates.

The Mission believes that electoral changes should be based on a broad consensus achieved among political and civil society actors after a public debate. The Mission is ready to provide the Parliament and such an *ad hoc* working group, with all necessary assistance, in particular through opinions and recommendations from experts of ODIHR and the Council of Europe / Venice Commission.

**The National Council of National Minorities urges the Government to fully implement the provisions of the Constitutional Law on the Rights of National Minorities concerning proportional representation of minorities in local self-government bodies**

In a regular session on 10 June, the National Council of National Minorities (NCNMs) discussed the update of the number of minority representatives, the so-called minority quotas, in the assemblies of local and regional self-government units (LRSGUs), following the 15 May local elections. The NCNMs is an advisory body, aiming at promoting the participation of national minorities in public life and regularly issuing suggestions on matters related to minorities.

According to the 2002 Constitutional Law on the Rights of National Minorities (hereinafter, the Constitutional Law), a proportional number of reserved seats for minorities should be achieved in the assemblies of LRSGUs, when their share in the total population is above 15 per cent. Prior to the elections, the calculation of the minority quotas should be determined on the basis of the official census results, as adjusted by the latest confirmed voters' lists. The Law on Local Elections states that if self-government bodies fail to determine the minority quota prior to the elections, the newly elected representative body shall determine it within 60 days from the date of its constitutive session.

The NCNMs asked the Croatian government to establish who should be held accountable for the failure to apply the provision of the Constitutional Law determining the minority quotas in the local assemblies prior to the local elections.

The president and vice-president of the Independent Democratic Serb Party (SDSS), Vojislav Stanimirovic and Milorad Pupovac, warned that the actual minority quotas, notably of Serbs, in county, city and municipal councils, have been determined in accordance with the 2001 census results, but have not been updated in accordance with the latest voters' list of 2005. They noted that this was to the detriment of the Croatian Serb minority, because many returnees and displaced persons had come back since 2001. They used the example of the town of Knin, the former capital of the so-called "Republika Srpska Krajina" during the 1991-1995 war, where there are currently a total of 18,000 voters, 7,800 of whom are Serbs. However, according to the 2001 census, local Serbs accounted only for 25 percent of the town population. They blamed the Central State Office for Administration of having poorly prepared the elections.

The Mission has requested, by means of a letter sent to the State Secretary at the Central State Office for Administration on 15 June, clarification regarding the procedure used to determine

the minority quotas, and which final voters' lists (2001 or 2005) would be the reference for their adjustment.

In an open letter sent to the Croatian government on 14 June, the leading election monitoring NGO "GONG" complained that it had not yet received full data on the results of the 15 May local elections. "We believe that failure to publish complete results of the local elections would be a significant step backward in ensuring the transparency of the election process," the letter said.

### **Government-organized national conference identifies priority youth measures**

The Ministry of Family, Veterans and Inter-generational Solidarity organized a national conference on "Youth and society in transition" in Bjelolasica between 2 and 4 June 2005, attended by some 150 youth and government representatives. The conference aimed to encourage the participation of youth in social and political life in Croatia, enhance the role of youth in the EU accession process and improve implementation of the National Programme of Action for Youth (hereinafter the Programme).

The Programme, supported by all political parties and adopted by the Croatian Government in January 2003, intends to engage youth who are considered to be on the margins of social, political and economic processes and to implement a youth policy in line with the standards of the United Nations and the Council of Europe. The Deputy President of the Council for Civil Society Development (CCSD) however resigned at the end of 2004, in protest against the *de facto* suspension of the implementation of the Programme throughout 2004. The issue of the non-implementation of the programme was central in the presentations which the Ministry, some academic institutions and NGOs made to the plenary of the conference.

The disadvantaged position of youth and the poor visibility of youth NGOs in Croatian society were cited as two main reasons for many young people to wish to leave the country to seek opportunities elsewhere. It was acknowledged that youth NGOs are organized and competent but remain in a marginal position regarding state and local funds, and therefore still rely on foreign donations.

This Government initiative is an encouraging step, as youth is a sector of civil society that has been neglected and requires more attention, particularly in war-affected areas. The conference should provide a boost for the implementation of the measures and recommendations contained in the Programme.

### **Court order for repossession of private property remains not enforced after four years; the European Court of Human Rights (ECHR) agrees to review Croatia's scheme for temporary administration and repossession of occupied private property**

The process of repossession of private property nears completion in Croatia. However, numerous cases still exist where owners remain unable to regain possession of their homes, despite court orders aiming at the eviction of temporary occupants. According to the Government, 461 private residential properties belonging to Croatian Serbs remain occupied as of 1 June, out of a total of about 19,500 which had been allocated for temporary use before and after 1995. However, this official figure excludes 54 cases pending with the judiciary at different stages of proceedings (and 209 unclaimed properties).

The lack of enforcement of final eviction orders against the temporary occupants, in a significant number of cases, resulted in numerous decisions made by the Constitutional Court

as well as the European Court of Human Rights (ECHR) against Croatia, finding violations of the rights to fair trial and peaceful enjoyment of possessions.

The case of Mr. Bozo Mrdjen, a Croatian Serb who returned to Croatia in 1997, demonstrates that delays of more than four years in the execution of court orders for repossession continue. His apartment was allocated for temporary use in 1992 by the Karlovac Municipality to a Croatian war veteran. It was only in June 2001 that the Karlovac Municipal Court ordered the eviction of the temporary user, in response to a repossession claim initiated in 1997. Subsequently, four court-ordered evictions were not enforced for reasons such as the absence of the occupant on a shopping trip in Hungary, or fear that the evictee might have placed an explosive device in the apartment. In at least two occasions, Mr. Mrdjen paid the court fees for evictions that were not enforced. Recently, the temporary user handed over possession to a third person who now occupies the apartment of Mr. Mrdjen.

A court-ordered eviction is scheduled on 26 August for a fifth time, more than eight years after Mr. Mrdjen initiated the repossession process of his house.

In May, the European Court of Human Rights (ECHR) decided to review Croatia's scheme for temporary administration and repossession of private property (hereinafter the scheme) in the proceedings of the claim Radanovic v. Croatia. In that case, the ECHR noted that the applicant was unable to access her property for more than seven years, regaining possession in 2004. When deciding on the merits of this case, the Court is expected to determine whether Croatia's scheme is consistent with the rights to peaceful enjoyment of possessions and an effective domestic remedy. Croatia's scheme includes a compensation programme for owners for being unable to use their property allocated to temporary users. The compensation programme was introduced in November 2002.

**Government extends the application deadline for housing programme for former occupancy / tenancy rights (OTR) holders outside the Areas of Special State Concern**

The Government decided on 30 June to extend a deadline of key importance for enabling refugees to return. The application deadline for the Government housing programme for refugees who used to live in apartments with occupancy / tenancy rights (OTR) outside the war-affected areas, i.e. the so-called Areas of Special State Concern, and who wish to return, was extended from 30 June to 30 September 2005.

These former residents of socially owned apartments are the largest remaining category of refugees and displaced persons who may decide to return to Croatia. The two Government programmes adopted in 2000/02 and 2003 aiming at providing State housing on lease to this particular refugee category still remain largely unimplemented.

Until now, around 2,600 applications for the housing care programme covering the urban areas of Croatia have been filed. The International Community Principals i.e., the Heads of Mission of the UNHCR, European Commission Delegation and the OSCE as well as the American Ambassador, reiterated to the Government that the physical provision of apartments to eligible applicants before the expiration of the application deadline would represent the best possible testimonial for hesitant potential applicants and would reflect positively upon the Government's commitment to fully implement the housing care programmes. As of end June, however, no households had been provided with a housing solution. Therefore, confidence by refugees in the programme remains very low and this could account in part for the low number of new applications.

The Mission has actively supported the governmental information campaign to explain the options to former OTR holders, also facilitated by the UNHCR, by promoting the housing programmes through appearances in the Serbian media and by funding a series of community meetings with displaced Croatian Serbs across Serbia and Montenegro and in Bosnia and Herzegovina. In Spring, the Head of Mission and the Head of the Department for Return and Integration repeatedly appeared in the Serbian-Montenegrin media to encourage Croatian Serbs there to apply.

**The Mission continues to support police reform in Croatia.**

In June, the Mission organized two five-day workshops aimed at supporting the process of decentralization of the Croatian Police in Valbandon (Central Croatia). Four human resource management experts from the Ministry of Interior of the Federal State of Saxony-Anhalt (Germany) as well as Mission police advisors facilitated the workshops, which gathered senior police officers from all Police Administrations, the General Police Directorate, the Police Academy and the Ministry of Interior. At the workshop, the German and the Croatian models of police career development and advancement were introduced. Participants identified and analysed the problems (and their causes) within the Croatian human resource management system. Participants are expected to submit a draft final report of the two workshops to the Minister's cabinet.

These two workshops represented a planned follow-on to an earlier workshop on human resource management organized by the Mission in 2004. The Mission continues to emphasize the importance of keeping off the political interference from police by encouraging the development of a fully transparent human resource management system for the Croatian Police.

In addition, the Mission organized from 26 June to 2 July a visit to Croatia for a delegation of Police Officers from Lincolnshire (U.K.), to support the Community Policing programme. The Ministry of Interior introduced this programme in 2002 as a major part of the police reform process in Croatia. The programme requires the police to work more closely with local communities and supports the police involvement in solving community problems, through the training and deployment of local police community officers, the so-called "Contact Officers." With Mission advice, over 400 officers have been trained and it is envisaged that the number of trained officers will reach 700 by March 2006.

The Lincolnshire's delegation, which consisted of four police officers and a "Street Warden" –an employee of a local council that works in partnership with the police– shared their experiences and ideas about the role of the Contact Officer and the Street Warden in a two-day seminar with the participation of the Croatian Police counterparts.

The visit, which was funded by the Embassy of the U.K. in Croatia, is a follow-up to a study visit to Lincolnshire Police that took place in March 2005.

**Outcome of re-trial after *in absentia* war crime conviction suggests appropriateness of systematic review of war crime charges**

The dropping of war crime charges during a recent re-trial following an *in absentia* conviction demonstrates the need for systematic review of the hundreds of *in absentia* war crime convictions issued primarily against Serbs by the Croatian judiciary during and after the conflict.

In April, Sava Sasic returned to Croatia, voluntarily surrendering to Croatian authorities in order to request reconsideration of an *in absentia* conviction for war crimes. Sasic, together with 29 others, was convicted by the Sibenik County Court in April 1993 of war crimes against civilians and sentenced to ten years imprisonment. Upon his return to Croatia, Sasic was taken into police custody at the border between Bosnia and Herzegovina and Croatia, transferred to Sibenik and imprisoned as a convicted felon to serve his sentence. However, as the conviction was *in absentia*, Mr. Sasic was granted a new trial.

On 27 June, local prosecutor re-qualified the charge after several days of trial from war crimes to armed rebellion, an offence subject to the application of the Amnesty Law. The same day, after three months in detention, Mr. Sasic was released and the case concluded.

In numerous similar cases, Croatia has issued international arrest warrants that have resulted in the arrest, detention and initiation of extradition proceedings against the accused in third countries. For example, Damir Travica, another of the 30 persons originally convicted in the mentioned case, is currently appealing against extradition to Croatia from the United Kingdom. Other recent arrests based on international arrest warrants issued in other cases occurred in Bulgaria, Germany and Bosnia and Herzegovina.

The outcome of the re-trial of Mr. Sasic suggests that at least some of the *in absentia* convictions may not be sufficiently substantiated by evidence. Under the current law and practice, each time an individual convicted *in absentia* is apprehended, there should be an individual re-trial, with the potential of 30 re-trials just in the case under consideration.

It would appear that Croatia could economize on the use of scarce judicial resources both in Croatia and third countries, and avoid unwarranted arrests and detention where war crime charges are unsubstantiated, if it would develop a mechanism for systematic review of *in absentia* convictions to assess whether they are substantiated. This could parallel the review undertaken by the Chief State Prosecutor that resulted in 2004 in the dropping of hundreds of unsubstantiated war crime charges that had not yet gone to trial. In the event the case was deemed substantiated, inter-state cooperation related to the transfer of the accused or the criminal proceeding could then be pursued.

### **International Community calls on government to discuss the regulatory framework for civil society**

Following the Bratislava Conference on “Sustainability of Civil Society Organizations,” the Mission organized a meeting on 23 June to discuss the status of the legal framework for the development of civil society organizations, with representatives from the Government Office for Associations, the National Foundation for Civil Society Development and the Central State Office for Administration.

The adoption of a number of essential draft documents pertaining to the regulatory framework of civil society, that went through the procedure of public debate and government comments two and three years ago, would be an important step forward to bring more transparent rules for State spending and to professionalize the working environment of NGOs.

These documents are the Draft Strategy for Civil Society Development (2003), the draft Code of Good Practices, Standards and Measures for the realization of financial support to NGO

programmes (2002). In its response to the European Commission questionnaire in 2003, the Government stated that "...the proposed Code [..was] adopted by the Croatian Government at its 54<sup>th</sup> session held on 10 July 2003, after which [it] was forwarded to Croatian Parliament. The Croatian Parliament shall discuss and pass both legal acts in September 2003." In addition, the 2002 Draft Act on Volunteerism was emphasized by Deputy Prime Minister Jadranska Kosor at the 5 December 2004 celebration of the Day of Volunteers as a key document that would be sent to Parliament for adoption. Another important document that would encourage philanthropy and financial sustainability of public benefit organizations is the Draft Law on Foundations (2004).

In the meeting, the representatives of the Government Office for Associations confirmed that the Draft Code of Good Practices and a Strategy for Civil Society Development should be adopted in September in one package. The representative of the Central State Office for Administration advised that more time is required to account for comments on the Draft Law on Foundations, but gave assurances that a package of some of the mentioned legislation could be adopted this year.