



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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Local authorities donate to legal defense fund for ICTY indictees

On 5 April, the Mayor of Zadar announced that the city's executive would donate half a million HKN (approximately €68,500) from the city's budget to the *Fund for the Truth about the Homeland War* (Fund), hoping that the move would encourage other local governments to do the same. Subsequently, the authorities in Šibenik-Knin County have authorized a 100,000 HKN (approximately €13,700) donation with mayors from Knin, Drniš, Sisak, and Pakoštane declaring they will follow suit. The Mayor of Zagreb, a prominent member of the Social Democratic Party (SDP), has also declared he will be a donor.

The Fund was established in February in order to support the legal defense of retired General Ante Gotovina and other Croatian military personnel before the ICTY. Other announced purposes of the Fund include financing the education of Croatian defender's children and disseminating the 'truth' about the Homeland War. Among the founders and board members are Gotovina's wife, the Mayor of Gotovina's home town, Pakostane, and various academics and professionals. The Fund expects to raise 20 million HKN from private citizens, larger donors and the Croatian diaspora. However, according to media speculation, donations have so far been minimal. The recent announcement by the Fund's management that money raised will be used primarily for the defense of Gotovina has been criticized by the media and the defense attorney of another prominent Croatian indictee, General Mladen Markač. They claim it is biased and contrary to the Fund's stated aims and title.

Commentators have pointed out that, given the Government's commitment to cover the defense costs of former Croatian military personnel standing trial before the ICTY, Croatian citizens are already paying for their direct legal defense as well as *amicus curiae* on behalf of the Government. To date the Government has not published information related to the amount or type of these public expenditures. Immediately prior to her replacement, former Minister of Justice and President of the Democratic Center (DC), Vesna Škare-Ožbolt, publicly criticized the imbalanced and non-transparent nature of the Government's funding of ICTY defense costs.

Responding to questions about the lack of State financing for the defense of General Rahim Ademi, whose case together with that of retired General Mirko Norac has been transferred from the Hague tribunal to the Croatian judiciary, President Stipe Mesić said that it was illogical that Croatia should simultaneously prosecute and defend a person. The President stated that another instrument should be found in General Ademi's case.

In light of the ICTY's Completion Strategy, war crime prosecutions at The Hague and in Croatia are increasingly inter-linked. Support and financing by local and state authorities for ICTY indictees may call into question the impartiality of domestic war crime trials. More particularly, it could provide legal grounds for seeking a change of venue, particularly in those jurisdictions where governing authorities have made donations to the defense fund for ICTY indictees.

Eviction of ex-OTR holder contrary to Constitutional Court standard

In contravention of standards articulated by the Constitutional Court, Karlovac Municipal Court has scheduled the eviction of former occupancy/tenancy rights (OTR) holders Dragomir and Dragica Miljenović, on the grounds of participation in enemy activity. As early as 1999, the Constitutional Court ruled that the termination of occupancy/tenancy rights (OTR) under Article 102a of the Law on Housing Relations, i.e. for participation in enemy activity, was constitutionally permissible only if the OTR holder had been convicted of a conflict-related crime. Despite the lack of such a conviction against a member of the Miljenović family, the Ministry of the Interior, as represented by the Karlovac Municipal Attorney, obtained an OTR termination on these grounds and an order for eviction on the 25 May. A complaint by the Miljenović family has been pending at the Constitutional Court for more than two years without a decision.

While acknowledging that members of the Miljenović family had resided in the apartment throughout the war, the local court still terminated the OTR of Mr. Miljenović – and by extension his entire family – on the grounds that he had spent some time in occupied territory. The eviction will result in the first-time displacement of the family ten years after the end of the conflict.

This case indicates a lack of continuity between the Government's political undertakings in the Sarajevo Declaration process and its approach to court proceedings. Nearly two years ago, the Miljenović family applied for housing under the Government's housing programme for former OTR holders. No substitute housing has been provided, yet the State is preparing to evict the family.

High Commissioner on National Minorities visits Croatia

The High Commissioner on National Minorities (HCNM) paid a working visit to Zagreb on 25 April during which he held an intensive series of meetings and consultations with the Prime Minister, the Minister of Interior, the Assistant Minister of Justice, the Minister of Education, the head of the Central State Administration Office, the President of the National Council of National Minorities, minority representatives in Parliament, and NGOs dealing with minority issues.

The HCNM noted progress towards full implementation of the Constitutional Law on the Rights of National Minorities (CLNM) adopted in late 2002. He was updated on recent legislation and the accompanying steps taken towards fulfilling CLNM guarantees for adequate minority representation in the judiciary, State and local administration. The Interior Minister informed the HCNM about efforts to bolster police presence in ethnically mixed areas and involve local communities in the prevention of incidents. The High Commissioner also discussed several issues with the Minister of Education including education in a minority language and script and the physical separation of Croat and Serb pupils in Eastern Slavonia.

The HCNM was also briefed on the increasing role played by the National Council of National Minorities.

Increased re-electrification of returnee areas in 2006

Some 7-8,000 Croatian Serb returnee households should be reconnected to the electricity network this year compared to 2,000 reconnections in return areas last year. This improvement is the result of a concerted advocacy effort co-ordinated by the Mission in addition to a budget increase for the Croatian Electric Company (HEP).

In March the Minister for Maritime Affairs, Tourism, Transport and Development (MMATTD) increased HEP's 2006 budget by 50 million HKN, earmarking the funds for the re-electrification of return areas. In response to this, a Mission-led Task Force made up of representatives from the MMATTD, HEP and the Serb National Council (SNV) prepared a list of some 155 returnee villages in need of re-electrification. Following HEP's cost assessment a final decision is expected by the end of May.

The SNV estimates that following HEP's 2006 budget increase some 7-8,000 households can now be reconnected this year, compared to the previously estimated 3,600. In addition, connection will be possible for some remote war-affected areas, where costs are particularly high due to the dispersion of houses and heavy damage to the electrical infrastructure. The Mission and SNV have agreed to assist vulnerable returnees apply for reconnection. In some localities, the absence of applications has led HEP to presuppose a low interest in reconnection. However, in many instances returnees lack the information and initiative to apply.

In view of HEP's markedly positive attitude towards the re-electrification concerns of returnees, the Mission plans to gradually hand over full responsibility for this issue to local actors.

Charters on co-operation between civil society and the public sector

The Mission continues to provide vital encouragement and support to the formalization of relations between local authorities and civil society organizations (CSO). This is achieved primarily through direct contact with stakeholders in the field but also by supporting projects aimed at improving co-operation between local authorities and CSOs. The Mission has been instrumental in getting Charters of co-operation signed in many parts of Croatia, including two counties and three cities/municipalities. The Mission is in contact with other local governing bodies considering charters. This year, the Mission will fund four projects resulting in support for this process in over 30 municipalities. However, a lack of goodwill on the part of some local authorities is hindering the process, for example in Split a draft agreement has been pending with the city authorities since 2004.

Experience gained thus far indicates that Charters tend to act as stepping stones, often leading to jointly agreed criteria on the transparent allocation of funds to CSOs. Charters also necessitate an increased level of networking among NGOs, encouraging the establishment of local NGO networks, something currently lacking in Croatia. In Osijek-Baranja County and the city of Osijek in Eastern Slavonia, the process has resulted in the establishment of official civil society boards.

To a degree these local charters compensate for the lack of a legal framework governing civil society nationwide. A Code of Positive Practice, designed to provide guidelines for the allocation of public funds to CSOs, has been pending for several years. As long as relations between local authorities and CSOs remain informal, the position of civil society continues to be insecure and open to the whims of local politicians.

NGO Association organizes a roundtable on inter-ethnic incidents

On 26 April a Zagreb-based Association of NGOs named the "Coalition for Promotion and Protection of Human Rights" (Coalition) organized a roundtable on the issue of inter-ethnic incidents in Croatia. The meeting was opened by the President of the Association, Ljubomir Mikic followed by key note speeches from Đoko Tepša, Assistant Minister of the Interior and Žarko Puhovski, Head of the Croatian Helsinki Committee. The following topics were debated by participants:

- The need to revise current legislation in order to precisely define what represents an ‘ethnically motivated incident;’
- The need for strong political condemnation of incidents at both the national and local level;
- The need for a greater level of professionalism and transparency from the Police and the judiciary when handling these cases;
- The need to avoid sensationalizing the number of inter-ethnic incidents by ensuring that incidents have been classified correctly.

While the initiative to organise such a roundtable was welcomed by the Mission, the discussion was rather limited due to a low level of participation. In co-operation with the Ministry of Interior and the Ministry of Justice, the Mission has agreed to organize the next roundtable with a focus on the professional and technical handling of such incidents.