



Organization for Security and Co-operation in Europe

## OSCE Mission to Croatia

### News in brief

**4 April– 17 April 2007**

#### **Leader of main opposition party SDP resigns due to ill health**

On 11 April, the President of the Social Democratic Party (SDP), Ivica Račan, resigned from his post as party leader, stating that he was unable to continue his duties due to a serious illness. Mr. Račan tendered his resignation before senior SDP officials convened at the Zagreb hospital where he is undergoing treatment for cancer. In his letter of resignation Mr. Račan explained that he is facing a serious and life threatening illness. Stating that he is 'proud of the values - moral principles, work, honesty and tolerance - that [the SDP] have built into the political scene' of Croatia, Mr. Račan asked the party to find new strength at an electoral convention.

SDP Vice President Željka Antunović subsequently announced that the Main Committee of the SDP will hold its next session on 21 April where the party will call an early convention to elect a new president.

#### **Croatian media stir up confusion over international war crimes proceedings**

The volatility of reaction in Croatia to international war crimes proceedings was again demonstrated in mid-April amid widespread reports of misconduct allegations against the ICTY Chief Prosecutor and conflicts between the defense teams for Croatian ICTY indictees Ante Gotovina, Mladen Markač, and Ivan Čermak. Much of the discussion by media and public officials betrayed a considerable lack of understanding or knowledge about the distinct roles of two United Nations tribunals, the International Court of Justice (ICJ) and the ICTY, the distinct roles of courts and prosecutors, and the rules allowing states to invoke national security interests when providing documents to the ICTY in fulfillment of their co-operation obligations.

On 14 April, the Croatian daily *Jutarnji List* published a letter purportedly sent to the newspaper by Geoffrey Nice, the former lead prosecutor in the ICTY case against Slobodan Milošević. The letter alleged that the ICTY Chief Prosecutor had made an improper deal with Serbian authorities to keep confidential sections of Serbian Supreme Defense Council documents handed over to the ICTY in the Milošević case. Reacting to the media report on 15 April, Prime Minister Ivo Sanader was quoted as stating that he had ordered an investigation and if Mr. Nice's claims were proven, the UN Security Council should address the matter. Leaders of other political parties expressed related

views, with the Party of Rights (HSP) calling for a criminal investigation of the ICTY Chief Prosecutor. On 16 April, the ICTY Office of the Prosecutor (OTP) issued a written statement, rejecting the allegations “in the strongest terms.” The OTP explained that under the ICTY’s procedural rules, measures preventing the public disclosure of State documents on the grounds of national security interests are imposed by the Tribunal’s judges, not by the prosecutor. Croatia invoked such protective measures as a condition of handing over Croatian State documents in the case of retired Bosnian Croat General Tihomir Blaškić.

Accusations against the ICTY Chief Prosecutor followed widespread media coverage of escalating disputes between the defense teams of Mr. Gotovina, Mr. Markač, and Mr. Čermak, following several attorney disqualifications due to a conflict of interest. These conflicts were raised by the defense team for Mr. Gotovina as part of their opposition to a joint trial. Croatian media carried several reports, including editorial columns, suggesting that Mr. Gotovina’s legal strategy at the ICTY was to shift blame from himself onto Mr. Markač and Mr. Čermak. Mr. Gotovina’s brother was subsequently questioned by Croatian police in relation to possible death threats to a journalist expressing such an opinion.

### **Croatia indicts parliamentarian for war crimes against Serb civilians**

On 16 April, the Osijek County State Attorney indicted independent parliamentarian Branimir Glavaš and six others for the murder of ten Serb civilians, and the attempted murder of one further Serb civilian in Osijek in 1991 in the so-called ‘Sellotape’ case. All, including Mr. Glavaš, have been taken into custody. Mr. Glavaš has been charged with ordering his co-accused to unlawfully detain, torture, and murder these civilians, whose hands and mouths were bound with sellotape and whose bodies were later dumped in the Drava River. One witness, who managed to survive after being shot in the head, provided testimony during the judicial investigation leading up to the indictment. The accused have eight days in which to file objections to the indictment. This represents one of the first cases in which a Croatian indictment has been based at least in part on information obtained from the ICTY Office of the Prosecutor in relation to ‘Category 2’ cases.

In early April, in a related development regarding a second war crimes investigation against Mr. Glavaš – the so-called ‘Garage’ case - Zagreb County Court granted Krunoslav Fehir the status of crown witness. Mr. Fehir had previously confessed to killing Serb civilians, testifying that he did so upon the orders of Mr. Glavaš. Under Croatian law, as a crown witness, Mr. Fehir will be immune from prosecution or the penalties associated with a criminal conviction.

Immediately after announcement of the ‘Sellotape’ indictment, Mr. Glavaš contacted the Mission, requesting that it monitor the proceedings. As reported in the media, the Mission has indicated that it will include this case in its overall war crimes monitoring programme.

## **Ombudsman's 2006 Annual Report issued**

In early April, the Ombudsman issued his Annual Report for 2006, which, as in prior years, discussed individual human rights complaints, general observations about the functioning of State institutions and recommendations for reform of the institution of the Ombudsman itself.

The Ombudsman reports that delays and failure to adhere to legal standards and administrative procedures by State bodies remain a significant problem. Both the Parliament and the Government were admonished for not tackling this problem sufficiently and note was made of the European Court of Human Rights finding in 2006 that remedies for administrative delays in Croatia were inadequate. The Ombudsman was particularly concerned by improper administrative procedures applied to minorities and returnees in relation to issues such as housing care, compensation for occupied property, non-validated marriages in the Danube region, reconstruction, and minority representation in public service employment. He noted the need for transparency and respect for legal remedies by State bodies when implementing the housing care programme for former occupancy tenancy rights holders.

The Ombudsman repeated his call for the urgent adoption of a free legal aid system and urged immediate reform of the system of attorneys' fees. The report also found little progress in addressing overcrowding and other sub-standard prison conditions noted in the Ombudsman's special report from March 2006.

Regarding the institution of the Ombudsman itself, recommendations for increasing citizen access included a proposal to establish permanent regional offices and a repeated request for improved facilities for the Ombudsman's office in Zagreb. The report also noted the absence of adequate Government funding for the work of the Ombudsman, in particular funding for citizen outreach, currently provided by the Mission through extra-budgetary contributions from Norway.

Noting that international bodies such as the United Nations and the Council of Europe Human Rights Commissioner *de facto* equate the Ombudsman with a national human rights institution, the Ombudsman recommended that the institution be explicitly designated as such in accordance with the UN 1993 Paris Principles.

Given a considerable number of complaints about delays in the judiciary, the Ombudsman repeated an earlier recommendation that the institution's jurisdiction be extended to include some review of court delays and irregularities in court management.

Observing the continuing trend for proposing additional specialized Ombudsman institutions the Ombudsman recommended a public debate about whether Croatian citizens are best served by numerous small, specialized institutions or whether the human rights Ombudsman should be strengthened. Croatia currently has the Ombudsman, the Ombudsman for Children and the Ombudsman for Gender Equality, with discussions underway for establishing at least two other specialized Ombudsman institutions for disabled persons and retired and senior citizens. An expert report commissioned by the Mission and ODIHR in 2003 also expressed concern about this trend.

## **Government resolves an infamous case of unsolicited investment**

On 5 April, the highest profile case involving unsolicited investments made to a State allocated property - the so-called '*Pizzeria Sara*' case – was finally resolved when the former 'temporary user' accepted an extra-judicial settlement offered by the State. At the end of last year, the Government adopted a Conclusion making the State responsible for compensating temporary users for investments made to approximately 25 State-allocated private properties.

In late 2003, even before the physical repossession of *Pizzeria Sara* by the Croatian Serb owner, Gospić County Court upheld an earlier first instance ruling ordering the owner to pay the former occupant €30,000 in compensation for investments made to adapt the residential property into a business premises. The former occupant had used the property in the municipality of Korenica, south central Croatia, as a business rent-free for more than eight years. Court auction of the property to cover these expenses was still pending until the former occupant accepted the extra-judicial settlement in April.

According to the settlement, the Ministry for Maritime Affairs, Tourism, Transport and Development assumed responsibility for the owner's debt of €30,000 on condition that the former occupant desists from pursuing the court order further.

While a positive first step in the implementation of the Government's Conclusion, 24 such cases remain pending before Croatian courts, with four owners imminently at risk of losing their properties through court ordered auctions. In light of the recent extra-judicial settlement, the Mission anticipates a similar resolution to those cases still pending.

## **Delays in eviction proceedings stall completion of repossession process**

Despite significant progress achieved in the property repossession process since 1995 - less than a hundred cases remain unresolved from an original 20,000 - extensive delays in judicial eviction proceedings still hamper the process. Such delays have been the subject of recent ECHR judgments, most notably in *Radanović and Kunić vs. Croatia*.

In 1996, the private house of Croatian Serb Milica Miladinović in the northern Croatian municipality of Stubičke Toplice was temporarily allocated by the State to Mirsudin Nikšić, a Croatian war veteran. In December 2005, the Municipal Court in nearby Donja Stubica ordered the eviction of the temporary occupant based on the fact that alternative housing had been provided for him and his family in Western Slavonia. Court evictions scheduled for 23 January and 11 April this year have both been postponed due to the alleged sickness of the occupant's children and the subsequent need to find alternative housing.

Of concern is a letter sent by Deputy Prime Minister and Minister for Family, Veterans Affairs, and Intergenerational Solidarity, Jadranka Kosor, to the President of the Municipal Court in Donja Stubica. In the letter, dated December 2006, the Minister requests that the eviction scheduled by the court for 23 January be postponed in light of the '*active and prominent role played by Mr. Mirsudin Nikšić in the recent Homeland War*'.

The Mission is currently collecting an inventory of similar pending cases which will be presented to the Government.

### **ICRC Mission to Croatia closes**

In mid-April, the International Committee of the Red Cross (ICRC) formally closed its Mission in Croatia after 15 years. At the closing ceremony, the ICRC emphasized the importance of resolving the fate of more than 2,000 persons still missing from the 1991-1995 conflict in Croatia, which are listed in the *Book of Missing Persons from Croatia* published in February 2007. While ICRC will remain engaged from its regional office in Budapest, responsibility for resolving the fate of all missing persons now lies with the Croatian Red Cross and the Government Directorate for Detained and Missing Persons, part of the Ministry for Family, Veterans Affairs, and Intergenerational Solidarity.

At the closing ceremony, the ICRC Head of Operations for Europe and North America noted that this was the first time ICRC had transferred its activities to a national Red Cross society and a government. While pointing to the trust in Croatian institutions reflected by this ICRC decision, the responsibility the State thus assumed for resolving the fate of all missing persons was also stressed. Deputy Prime Minister Jadranka Kosor, who is responsible for the State Office for Missing Persons, thanked the ICRC for its trust in Croatian institutions and its work during and after the war.

The ICRC's *Book of Missing Persons from Croatia* includes all who went missing in Croatia, regardless of their national origin, citizenship or affiliation with one or the other of the warring parties and will be updated periodically. It was intended to facilitate consensus about the remaining number of persons missing from the conflict in Croatia, and end disputes about different numbers and lists, which were often related to the national origin of those missing. However, the issue continues to be politicized with official statements by Deputy Prime Minister Kosor that Croatia is seeking approximately 1100 missing persons, i.e., primarily Croats from the early years of the conflict, with no reference to Croatian Serbs who went missing, mainly during and after Croatian military operations. The resolution of the fate of a significant number of those missing has a likely correlation with ensuring accountability for war crimes.

### **Joint Government/CoE roundtable on amendments to Local Election Law**

On March 27, the Central State Office for Administration (CSOA) organised, in co-operation with the Council of Europe (CoE), a roundtable in Zagreb on the Draft Law on Amendments to the Law on the Local and Regional Self-Government. The Law is being amended *inter alia* to provide for the direct election of mayors and county prefects. Associations of mayors and county prefects attending the roundtable spoke favourably of their relations and co-operation with CSOA. However, the CoE regretted the fact that the CSOA had organised the roundtable just prior to the Draft being sent to the Parliament and that their comments had not been shared with mayors and prefects.

Discussions centered on four main topics: the competencies and responsibilities of executive bodies in local government, relations between the executive and legislative bodies, impeachment procedures and possible problems between local government

officials when elected according to different legislation, for example minority representatives elected according to the Constitutional Law on National Minorities.

The Draft Law is currently in parliamentary procedure with the new system expected to be in effect for the next local elections in 2009.

### **Regional anti-trafficking operation results in charges against 62 people**

At a press conference on 11 April, representatives of the Ministry of Interior announced that charges have been pressed against 62 persons for the trafficking of human beings in and through Croatia. This was the culmination of Action 'East', a regional anti-trafficking operation begun in 2005 and involving police forces from Croatia, Bosnia and Herzegovina, Italy, Slovenia and Montenegro. The Croatian Office for Fighting Corruption and Organized Crime (USKOK) also supported the operation.

Of the 62 criminal charges, 52 were pressed against Croatian citizens. So far, 28 people have been arrested in Split and Rijeka. Criminal charges were also brought against six Slovenian and four Bosnian citizens. Arrests are ongoing.

Speaking at the conference, the Ministry of Interior estimated that during the two year operation, the group of traffickers monitored, were responsible for trafficking at least a thousand people to western Europe through Croatia and that the financial gain for traffickers amounted to approximately €1 million.

In a separate discussion with the Croatian office responsible for combating trafficking, the Mission learned of at least one other recent action by Croatian police leading to the break up of a trafficking ring in Split. In this case, however, no convictions were possible because the victims refused to press charges against the traffickers.

### **HoM attends SEECP conferences of Justice and Interior Ministers and Parliamentary Speakers**

On 13 and 16 April, the Head of Mission attended two conferences of the Southeast European Co-operation Process (SEECP) held in Zagreb; the first of Justice and Interior Ministers and the second of Parliamentary Speakers. The SEECP - due to replace the Stability Pact for Southeast Europe as the leading body for regional co-operation - is currently made up of ten countries in the broader Southeast European region, including Turkey and Greece. It will be chaired by Croatia until May.

The first conference entitled 'Standards for the EU and the Rule of Law in Southeastern Europe' was opened by Croatian Prime Minister Ivo Sanader and addressed regional co-operation on judicial reform, combating cross-border crime and illegal migration. In addition to ministerial representatives from the ten SEECP member States, European Commission Vice President and European Commissioner for Justice, Freedom and Security, Franco Frattini, also attended the conference, together with Stability Pact Coordinator Erhard Busek. In a final declaration adopted at the end of the conference commitments to judicial, legal and institutional reform, intolerance for corruption and strengthening regional co-operation were all reiterated.

The second conference entitled 'New Southeast Europe: Role of Parliaments' was opened jointly by Croatian President Stjepan Mesić, Prime Minister Sanader and Croatian Parliamentary Speaker Vladimir Šeks. The conference addressed the role of parliaments in the process of Euro-Atlantic integration and regional co-operation. In addition to parliamentary speakers from the ten member States, Deputy Speaker of the European Parliament Ángel Miguel Martínez, Vice President of the OSCE Parliamentary Assembly Wolfgang Grossruck and Mr. Busek were also present. In a final declaration adopted at the end of the conference the responsibility of national legislatures to contribute to regional stability was stressed, with emphasis on the promotion of democracy, political and social dialogue, the protection of human and minority rights and the stimulation of economic growth. All participants confirmed that European Union membership was the best incentive for co-operation, stability and lasting peace in the region.

In respect to the SEECP's institutionalisation from a 'process' into an organization, it was agreed that a permanent General Secretariat for inter-regional parliamentary co-operation and co-operation with European institutions will be established in Sofia, Bulgaria. The capitals of Sarajevo and Belgrade are currently candidates for the headquarters of the Secretariat. For the position of Secretary General, the Croatian candidacy of Hido Bišćević, State Secretary for Political Affairs in the Ministry for Foreign Affairs and European Integration, remains strong.

Despite the common goal of all SEECP member states to join the European Union, they remain very much committed to the SEECP as a sub-regional organization that will be of great support once they are integrated into Euro-Atlantic organizations, in the same way as other sub-regional groupings have been, such as Benelux, Višegrad, the Central European countries and the Baltic States.