

Update on election-related issues and Mission activities

Croatian Democratic Union (HDZ) calls on all Serb refugees to return to Croatia

On 13 October, the President of the main Croatian opposition party, the Croatian Democratic Union (HDZ), called on all Serb refugees to return to Croatia. In an interview for *Agence France Presse*, the HDZ President stated: "I call on all Serb refugees to return to Croatia. We shall guarantee them all rights, including ownership rights". He also stated that the HDZ was committed to the process of normalization with Serbia and Montenegro, and that Croatia's EU accession would also assist Serbia and Montenegro in achieving the same aspirations. Most of the HDZ's potential coalition partners subsequently expressed their support for the announcement.

The leading ruling coalition, the Social Democratic Party (SDP), welcomed the HDZ announcement but regretted that the statement was not made to a Croatian media outlet. The SDP also argued that such a call by the HDZ could have been made four years ago when the party was in power; if so, Croatia may have become part of the first wave of EU enlargement. The Serb People's Party (SNV) and the Independent Democratic Serb Party (SDSS), expressed their caution and skepticism, noting that announcements during the pre-election campaign would have to be followed up by effective measures.

The Mission welcomed the latest HDZ statement in support of refugee return. In line with similar first-time comments made by Prime Minister Racan in June 2003, the Head of Mission stated in a press release that it was important that the Government and the Opposition had now both made firm commitments to supporting the return of refugees.

Mission and EC Delegation hold joint meetings on out-of-country voting issues

The Mission continued during the reporting period with its election-related activities, in particular those related to Croatian citizens and refugee voters in Serbia and Montenegro. Because this category of voters is relatively large, abroad involuntarily and largely lacks relevant information on election procedures and regulations, the Mission has argued that special measures on the part of the Government of Croatia were justified to facilitate a higher turnout, including simplified registration procedures, a specifically targeted information awareness campaign and extra polling stations in addition to the six confirmed at the embassy and consular services in Belgrade, Subotica and Kotor. Whereas some new regulations were introduced to simplify out-of-country registration and voting, it remains uncertain to what extent refugee voters will benefit from these on election day. Targeted information has not been provided to the refugee voters, and the Croatian Ministry of Foreign Affairs has not accepted the recommendations to establish polling stations in additional locations.

On 7 November the Head of Mission (HoM) and the Head of the Delegation of the European Commission (EC Delegation) met with the Deputy Minister of Foreign Affairs to follow up a joint OSCE/EC letter to the Minister of Foreign Affairs, H.E. Tonino Picula. The letter argued the need for additional polling stations and offered possible advice and assistance to support voter awareness and transportation options to and from polling stations in the Vojvodina region and north-central Serbia. In explaining the reasons why the Ministry decided not to initiate negotiations with the Government of Serbia and Montenegro on additional polling stations, the Deputy Minister noted possible security concerns associated with voting outside of embassies and consular services and the Ministry's expectation of a low voter turnout among this category of voters. The Ministry believed that the majority of voters who would cast their vote were in a position to reach the embassy and consular services.

The President of the Croatian State Election Commission informed the HoM and the Head of the EC Delegation at another joint OSCE/EC meeting on 12 November that the Ministry of Foreign Affairs was solely responsible for assessing the need for polling stations in other countries. He subsequently issued a letter to Foreign Minister Picula, requesting an urgent reassessment of the number and location of polling stations in Serbia and Montenegro. The Minister responded to the letter on 13 November, restating the Ministry's arguments to the Mission and the EC Delegation. The Minister also noted the role that he expected political parties and NGOs to play in informing voters and facilitating access to polling stations.

Government of Serbia facilitates transportation to polling stations

In order to facilitate greater access to the four polling stations in Belgrade and Subotica, the Government of Serbia decided on 13 November to organize and finance transportation assistance. It decided to fund the cost of fifty buses over the course of the voting period abroad (22 and 23 November) to assist Croatian citizens and refugees in the Vojvodina region and north-central Serbia in reaching the polling stations. The Mission is also providing advice to the EC Delegation, which will finance additional buses in order to augment the schedule proposed by the Government of Serbia.

First media monitoring results of pre-election environment

A media monitoring project on coverage of the parliamentary elections in both broadcasting and print media, undertaken by the Croatian Helsinki Committee for Human Rights (HHO) and funded by the Mission, commenced on 12 October. The HHO did not register any substantial differences in the quality or type of reporting by the various media outlets. Croatian Television broadcast more reports on the main opposition party, the Croatian Democratic Union (HDZ), and on the work of various Government bodies, while Nova TV devoted more airtime to the leading ruling coalition party, the Social Democratic Party (SDP), the work of the Parliament and individual parties. Croatian Radio devoted more attention to the activities of the Government while *Obiteljski Radio* covered both Government and individual parties equally. Most attention by the radio stations was given to the two strongest ruling coalition parties, the SDP and Croatian Peasant's Party (HSS), and the HDZ. In comparison to radio and television, print media was characterized by a greater focus on commentaries and diversity of information. Approximately 17 per cent of issues analysed by newspapers were related to the pre-election activities of parties and coalitions.

Government postpones additional elections for minorities until 15 February 2004

The Government has again decided to postpone two additional elections for minority voters that were originally scheduled to take place at the same time as the parliamentary elections. The Government decided to hold additional elections on 15 February 2004 for minority representatives to approximately 250 regional and local councils on national minorities, in line with the provisions of the Constitutional Law on the Rights of National Minorities, as well as for the 19 regional and local governments where minority underrepresentation still persists following the local elections in May 2001. Previously, the Government had decided to postpone these elections until 14 December.

Croatian Radio-Television (HRT) Programme Council holds founding session

The 11-member Croatian Radio-Television (HRT) Programme Council held its founding session on 14 November, following its appointment by the Parliament on 17 October. The appointment of the HRT Programme Council is the first step in the implementation of the Law on HRT which was adopted in February 2003. The implementation of the Law was

delayed for several months due to disagreement between the ruling government coalition and opposition parties on the nomination of Council members.

The new HRT Programme Council replaced the previous 25-member HRT Council, which was, in contrast, appointed directly by civil society institutions. Following his appointment, the Chairman of the HRT Programme Council stated that he did not expect any polarization between the Council members, six of which were nominated by the Government coalition and five by the Opposition. At its next sessions, the HRT Programme Council is expected to appoint the HRT Director General, the directors of Croatian Radio (HR), Croatian Television (HTV) and Music Production, the heads of programmes and editors-in-chief of news programmes, as well as adopt the HRT Statute.

New admissibility decision on violation of right of access to court; ECHR judgement on passport seizure find excessive length of proceedings and violation of freedom of movement

The European Court of Human Rights (ECHR) has issued four judgements against Croatia for denial of access to court and has accepted 25 additional cases for review of the same question. The cases are related to the Croatian Parliament's suspension of pending court cases seeking compensation from the Government for various war-related damages to life and property.

On 23 October the ECHR agreed to review this question again in the case of *Basic v. Croatia*, in particular whether the Parliament's suspension in 1999 of pending court proceedings seeking compensation for damages by military and police violated the right of access to court. Basic initiated an action in October 1997 for damages to a food production facility allegedly caused by the Croatian army. In December 2000, the local court suspended the proceedings in accordance with the Parliament's 1999 legislation suspending all such cases. Basic's complaint has been pending without decision at the Constitutional Court for nearly three years. In October the ECHR found a violation of the right of access to court in the similar case of *Acimovic v. Croatia*.

In a related action, the Government decided on 13 November that it would not develop new legislation regulating compensation for property damage caused by terrorist acts. In July 2003, when the Parliament adopted the Law on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations, it requested that the Government forward new legislation within six months that provides for such compensation. Under the law, all pending court claims seeking compensation for property damage that have been suspended since 1996 will be dismissed, given the Parliament's retroactive elimination of property damage claims. Soon after the adoption of the Law, applications have been submitted to the ECHR claiming that the Parliament's retroactive elimination of pending court claims constitutes a violation of a property interest.

Finally, the ECHR issued its judgment on 13 November in *Napijalo v. Croatia* finding that the authorities' two-year seizure of a passport as well as the delayed court proceedings related thereto violated both the right to fair trial within a reasonable time and the right to freedom of movement. In March 1999, Napijalo filed a lawsuit against the State seeking the return of his passport and monetary damages caused by his inability to leave Croatia due to the lack of a passport. Once Napijalo finally regained his passport in April 2001, he revised his request for legal relief, seeking instead a declaration that the passport had been taken and held by state authorities for more than two years. The ECHR concluded that three and a half years

constituted an excessive length of proceedings and also found that the seizure was not a measure “necessary in a democratic society” and thus a violation of the right of freedom of movement.

Successful implementation of civil society and institution-building projects in Knin

Eleven civil society projects have been implemented in 2003 by the Mission’s democratization staff at Field Centre (FC) Knin and the Field Offices in Korenica, Zadar and Split, southern Croatia.

‘Empowerment of Women’ is a civil society development project that aims to create better conditions for the sustainable return of refugees by providing women and youth from multiethnic communities in the Obrovac region of southern Croatia with self-employment opportunities. Education in traditional art and craft techniques offers Serbs and Croats the common goal of developing viable, local small-scale commercial enterprises and contributes to a better atmosphere of tolerance and reconciliation in the community. The project’s NGO implementer has identified the need to find additional markets for the products and the Ministry for Small and Medium-Sized Enterprises has shown interest in financing further classes.

The ‘Travelling Lawyer’ project focuses on institution-building and is implemented by the Serb Democratic Forum (SDF) and monitored by FC Knin. The project is a component of a larger SDF initiative in three targeted areas of return which focuses on providing legal aid and advice to mainly elderly inhabitants who often live in very remote settlements. Issues faced by these people include problems with applying for Croatian citizenship, eligibility for social welfare and pensions, applications for reconstruction assistance, access to humanitarian aid, and the return of private property.