



Organization for Security and Co-operation in Europe

Mission to Croatia

Headquarters

News in Brief

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National debate over date for upcoming Presidential Elections

After Prime Minister Ivo Sanader indicated that the first round of the presidential election would be on Tuesday 21 December, a national debate has arisen on the choice of the most relevant date. Employers immediately warned that they could suffer huge financial losses if the elections were held on two Tuesdays which would become non-working days. "I am not happy that this will be a non-working day either [so] I am asking entrepreneurs and everyone in Croatia to support my idea to amend the Constitution," said Prime Minister Ivo Sanader on Tuesday 19 October, adding that he wanted constitutional amendments to secure that Presidential elections are held exclusively on a set Sunday in the year.

The Constitution stipulates that presidential elections are held 30 days at the earliest and 60 days at the latest before the expiry of the presidential term. The five-year term of President Stjepan Mesic expires on 18 February 2005, as he was inaugurated on 18 February 2000. Prime Minister Sanader told reporters that the government had requested advice from the President of the Supreme Court and Chairman of the State Election Commission, Ivica Crnic, and Parliament President Vladimir Seks, about the choice of constitutional dates for the election.

After a meeting on Wednesday 20 October between Prime Minister Sanader and the Social Democratic Party (SDP) President Ivica Racan to discuss the constitutional changes, it seems that an agreement could not be reached, and consequently the possible constitutional amendments announced earlier would not take place.

After consultation with the National Election Commission's Head, Ivica Crnic, Croatian Parliament Speaker Vladimir Seks declared on 21 October that the polls may be organised in January next year instead of December, with the first round to be held on Sunday 2 January and the second on Sunday 16 January.

Croatian Democratic Union (HDZ) nominates its presidential candidate

The Croatian Democratic Union (HDZ) nominated party Vice-President Jadranka Kosor as its presidential candidate, ruling party President Ivo Sanader said during a break in a session of the HDZ National Committee on Sunday 17 October. "We are certain that Jadranka Kosor will win the elections and will do everything to see that happen," Sanader said at a news conference. He added that Deputy Prime Minister Kosor affirmed herself through her performance, both in Parliament and in the Government, and was among the few politicians who did not start her political career in the former Socialist Yugoslavia.

Media noted that Kosor's candidacy will confirm HDZ's long-term orientation to take the center and center-right position on the political scene and that the choice of a woman

demonstrates the depth of the party's transformation. They expect Kosor to lead an affirmative campaign and to reject ideological or political positions that would reinforce divisions in the society. Almost all polls show that incumbent President Mesic still maintains a convincing lead.

Constitutional Court decides that counterclaims for investments do not block owner's repossession of temporarily occupied private property

On 29 September, the Constitutional Court determined that a claim by a temporary user for investments made into an occupied private property used as a business does not properly stand as an obstacle to the owner's repossession of the property.

The Court's decision, if followed by the lower courts in similar cases, has the potential to accelerate repossession of occupied private properties to Croatian Serb returnees that has previously been delayed by such pending claims. In many cases in the past, local courts have linked the owner's repossession of property with the user's counterclaim for investments. Counterclaims for investments can result in owners, mostly Croatian Serbs, losing their property through court-ordered sale in order to pay for the user's investments made in the property while it was occupied.

The Constitutional Court emphasized that the use of government-allocated private property for business purposes is illegal under the provisions of the 1998 Return Program which governs the process of return of all persons who left Croatia during the war.

Supreme Court rejects in absentia war crime trial

The Supreme Court in a decision released in mid-October upon the appeal of the local prosecutor overturned a decision by the Vukovar County Court to conduct a war crime trial *in absentia* against a defendant living in Serbia and Montenegro and not accessible to Croatian justice. The Supreme Court found that the trial court failed to take the necessary measures to ensure the presence of the defendant, in particular that no international warrant had been issued. In addition, the Supreme Court found that there were not *particularly important reasons* that could justify an *in absentia* proceeding especially in light of the fact that there is no statute of limitations for war crimes. The ruling of the Supreme Court underlines the exceptional character of *in absentia* procedures and refutes several trial court decisions that found that such procedures deal with the gravest offences which *per se* constitute particularly important reasons that would justify *in absentia* proceedings.

The Chief State Prosecutor issued an instruction in July 2002 mandating that local prosecutors refrain from pursuing *in absentia* trials, since such proceedings proved to be a loss of time and waste of resources. In light of the Supreme Court's decision, the Prosecutor indicated that the policy of his office would be to similarly appeal other trial court decisions to proceed with war crime trials *in absentia*. The Supreme Court's decision will likely further decrease recourse to *in absentia* war crime trials, which are almost exclusively sought against Serb defendants in war crime cases.

The Mission has repeatedly voiced concerns about *in absentia* proceedings. First, *in absentia* proceedings create an additional burden on the courts as defendants regularly make use of their guaranteed right for re-trial once accessible to Croatian justice. Second, while it is a valid argument that victims wish to see alleged perpetrators tried, the right of defendants to be present at trial and to defend themselves appropriately outweighs this concern. Third, a significant number of convictions do not stand once the defendant appears for re-trial.

The Mission's observations obtained through trial monitoring indicate that fewer Serb defendants were convicted *in absentia* in 2004. While a total of 27 Serbs were convicted in absentia in 2003, thus far only 5 Serbs were convicted without being present for trial in 2004. On a negative note, the Vukovar County Court in late October re-commenced a trial against 11 Serb defendants for war crime against the civilian population although none of the defendants were present.

OSCE Mission sponsors a visit by Croatian police to Federal State of Saxony-Anhalt in Germany

In early October, the OSCE Mission to Croatia conducted a one week study visit of police officials from the Ministry of Interior of Croatia, to the Ministry of Interior of the Federal State of Saxony-Anhalt in Germany. The aim of the visit was to inform the police officials about modern methods of human resource management in a European police service.

During their stay in Germany, the five Croatian police officials visited various police departments within the Interior Ministry of Saxony-Anhalt and were acquainted with the practical aspects of the methods and techniques employed in personnel planning and career development in a modern police service. The participants were familiarized with the education and training of police officers in Germany and had intensive exchanges of views with their counterparts in their respective departments.

The visit followed a workshop organized by the OSCE Mission earlier this year to assist the Interior Ministry in the reform of its human resource management system.

After the public presentation of the conclusions and recommendations by the visiting police officials, the Ministry of Interior will soon propose a European Commission PHARE Project on human resource management to the Croatian Ministry of European Integration.

OSCE Mission organizes field induction visit for newcomers of the Diplomatic Corps in Zagreb

For the third year, the OSCE Mission organized on 12 October, together with representatives of the Croatian Ministry of Foreign Affairs, a field induction visit in Central Croatia on rule of law and refugee-related issues for approximately 30 diplomats accredited in Zagreb, including the Ambassadors of Canada and Slovenia.

During their visit in the Sisak-Moslavina and Karlovac Counties, where they met with the Presidents of the Sisak County and Municipal Courts and the Sisak County State Attorney, they had the opportunity to familiarize themselves with judicial reform, domestic war crime prosecution and minority representation in the judiciary.

The second part of the visit revolved around problems faced by Croatian Serb returnees in war affected areas, including lack of access to housing, deliberate devastation of occupied houses by departing temporary occupants, and the lack of redress for individuals who lived in formerly socially owned flats and whose occupancy/tenancy rights (OTR) were terminated.

The members of the Diplomatic Corps could also evaluate the consequences of the progressive phasing out of international and national humanitarian assistance for the most vulnerable minority returnees.