



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

**OSCE Mission to Croatia**

**News in brief**

**27 June – 17 July 2007**

**OSCE Chairman encourages mandate completion by end of 2007**

Between 6 and 7 July, the Government organized an international conference entitled ‘Croatia Summit 2007’ in Dubrovnik, which aimed to gather senior European, North American and regional leaders in order to discuss ways to maximize the process of Euro-Atlantic integration in South Eastern Europe.

Speaking at the conference, the OSCE Chairman-in-Office, Miguel Ángel Moratinos, expressed a favourable opinion towards the prospect of closing the OSCE’s Croatian Mission at the end of 2007. Following a positive assessment of Croatia’s progress toward mandate completion to date, he said “I call on the authorities to work closely with the OSCE Mission to Croatia to fulfill the remaining obligations and responsibilities as we move closer toward the OSCE Ministerial Council in November”. Minister Moratinos, further requested presidents, prime ministers and foreign ministers from South Eastern Europe and other OSCE regions present at the meeting to support the realisation of this goal.

**Prime Minister addresses OSCE Permanent Council**

During his address to the OSCE Permanent Council on 10 July, the Croatian Prime Minister, Ivo Sanader, thanked the Mission for its assistance over the past eleven years, stating that Croatia is now a stable democratic society, approaching full membership of the EU and NATO. He commended the close working relationship that existed between the Mission and the Government, particularly the mechanism of Ministerial and local plenaries, which he suggested could be a model for co-operation in other countries with OSCE Missions.

The Prime Minister thanked the Chairman-in-Office, Miguel Ángel Moratinos, for his positive assessment of Croatia’s progress at the ‘Croatia Summit 2007’ in Dubrovnik earlier in the month. While stressing his conviction that Croatian domestic institutions are now capable of continuing to resolve open issues independently, he noted that issues covered by the Mission’s mandate also formed part of the country’s EU accession negotiations, with concrete benchmarks enabling the monitoring of commitments.

In conclusion, the Prime Minister reiterated his firm commitment to continue working until fulfillment of the mandate, offering full guarantees that issues which remain pending will be resolved, including resolution of the housing care issue for former occupancy tenancy right holders who wish to return. Regarding the monitoring of war

crimes trials, Prime Minister Sanader said that Croatia remains open to finding the most appropriate solution and structure for monitoring war crimes proceedings in the event of mandate completion.

### **ICTY disqualifies two more attorneys in Gotovina, Čermak and Markač case**

In late June, the ICTY Appeals Chamber affirmed the disqualification of both attorneys representing Ivan Čermak who together with Ante Gotovina and Mladen Markač stands indicted for war crimes during and after the Croatian military operation 'Storm'. Given that Mr. Gotovina had indicated his intention to call Rahim Ademi, his former superior officer, as a defense witness, the Appeals Chamber confirmed that the attorneys' dual representation of Mr. Čermak at the ICTY and Mr. Ademi in the Rule 11 *bis* case referred to Croatia created a conflict of interest. The Appeals Chamber noted that the attorneys had been warned of the potential conflict of interest in January 2007 by the ICTY's Disciplinary Council of the Association of Defense Counsel. The Appeals Chamber concluded that continuing such dual representation could prejudice the interests of the accused and the wider interests of justice.

Previously, in May, the Appeals Chamber similarly confirmed the disqualification of one of the attorneys for Mladen Markač due to conflict of interest. The Appeals Chamber determined that the attorney, Miroslav Šeparović, who served as Minister of Justice at the time of the crimes alleged in the indictment had a personal interest in the case and was also likely to be called as a witness by Mr. Gotovina.

Other conflict of interest inquiries continue in this case. In late June, the Trial Chamber requested the Registrar to submit documents related to the accreditation of one of Mr. Gotovina's attorneys in order to assess a possible conflict of interest. The attorneys for Mr. Čermak and Mr. Markač contend that the attorney, Greg Kehoe, should be disqualified because of his previous work as an ICTY prosecutor, arguing that he was involved in the prosecution's investigation of crimes during 'Operation Storm' that are the subject of the indictment against their clients.

Both Mr. Čermak and Mr. Markač expressed difficulty in finding new counsel at this stage of the proceedings. The joint trial was originally scheduled to start in early May, but has been delayed indefinitely due to the disqualification of attorneys. During an ICTY Status Conference in early July, the Trial Chamber stated that the trial is not likely to start in the next six months and once it starts, it could be completed in 18 months.

### **Parliament fast-tracks election of Constitutional Court Judges**

In mid-July, just prior to adjourning for the summer break, the Parliament conducted the nomination and appointment process for eight Constitutional Court (Court) judges in a three-day period, replacing those whose mandates expire on 1 December. The relevant Parliament Committee interviewed 24 candidates and presented a 'short-list' of ten for vote by the entire Parliament. However, only three candidates - the current Court Vice President, the current State Secretary of the Ministry of Justice, and an attorney in private practice - received sufficient votes to be selected. These appointees will assume their posts, which carry eight-year mandates, in December. Five vacancies remain to be filled

in the autumn, when the nomination and appointment process will be repeated. One vacancy, which occurred on 1 March, was filled in late June, with the selection of a professor at the Zagreb Law Faculty. In total, nine of the Court's thirteen judges will be appointed in 2007, marking the first major change in the Court's composition since the Administration of former President Franjo Tudman.

As with the prior nomination process the candidates were asked numerous questions related to their views on fundamental rights, such as abortion, gay marriage, and artificial insemination for single women. As a result of such questioning, new appointees could be challenged as having pre-judged questions that may come before the Court. Candidates were also asked their opinions on several current events including an ongoing corruption investigation of state employees related to privatization.

The swift appointment process was challenged by most opposition parties, which argued that parliamentarians and the public should have more time to evaluate the candidates. In the end, most opposition deputies did not participate in the voting. The Speaker of the Parliament argued the need for an accelerated vote in order to ensure that the Court had a functioning majority in December, in the event Parliament fails to finalize all appointments in the autumn. It is anticipated that Parliament's autumn session, which begins on 15 September, will be short, with an early dissolution in advance of Parliamentary elections anticipated for late November. Given the Court's role in deciding election disputes, nomination of the Court majority during the pre-election season increases the political overtones of the process.

### **Constitutional Court invalidates residence requirement for voting in referenda**

The Constitutional Court (Court) in early June invalidated a provision adopted in 2001, which restricted the right to vote in national referenda to citizens who have resided uninterruptedly in Croatia for at least one year. In so doing, the Court exercised a rarely used facet of its jurisdiction, which permits the Court to review the constitutionality of laws on its own initiative.

In its three-page decision, the Court found that the residence requirement violated the constitutional guarantee that authority in Croatia derives from its citizens – resident or not - and is exercised through elections of representatives and referenda as well as the rights of citizens to vote and receive equal protection under the law. By analogy, the Court pointed to the law regulating Parliamentary elections, which explicitly provides suffrage for non-resident citizens. The Constitution provides that citizens “who find themselves outside the borders at the time of the elections” should be able to vote for the Parliament and President. Parliament interprets this provision to include non-resident citizens or diaspora.

The Court's decision has the effect of significantly increasing the electorate that would participate in national referenda, including referenda on whether Croatia joins the European Union. The decision comes at a time of considerable debate between the Government and the opposition concerning the participation of diaspora voters, particularly those who are resident in and citizens of Bosnia and Herzegovina, in Parliamentary elections.

**Government adopts more favourable purchase conditions for housing care beneficiaries in war affected areas** Following the Government's commitment to improve its housing care programmes, the 2003 Decree on Conditions for the Purchase of a State Owned Family House or Apartment in the Areas of Special State Concern (ASSC) was amended at the end of June. The amendment, which entered into force on 10 July, enables eligible housing care applicants and beneficiaries in the ASSC - including former occupancy tenancy right holders - to purchase an estimated eleven thousand State owned housing units under more favourable conditions.

The aim of the amendment is to stimulate sustainable return to the heavily war affected areas by providing up to eighty per cent discount on the market price of State-owned housing stock and simplifying the purchase procedure. According to the Government, the new price takes into consideration the low standard of living of most beneficiaries and the need to rectify the imbalance created by the State during the 1990s when housing stock outside the present ASSC was sold well below the market price. All proceeds from the sale of these State assets will feed into the revenue of local authorities in the ASSC and as such, should stimulate the reconstruction or construction of infrastructure and social housing.

Discounts are calculated in several consecutive steps starting from a base price per m<sup>2</sup> determined by the Law on Subsidized Housing Construction. Then, depending on the location and condition of the property, previous investment into the property by the housing care beneficiary and method of payment further deductions are made. No purchasing time limits apply, so current housing beneficiaries remain under protected lease agreement until they decide or are able to purchase. Discounts will be determined by a special five-member committee composed of Government and relevant local authority representatives. According to the Government, all committees should be created by the end of July and discussions on including representatives of the Serb minority are ongoing.

Apart from the timely establishment of committees, the ownership of State housing in the ASSC needs to be clarified in order for the amendment to be implemented. At this stage, ownership of a significant number of properties is still registered under different public or State-owned companies.

### **Head of Mission addresses European Union's COELA working group**

On 11 July, following an invitation from the Portuguese Presidency of the European Union (EU), the Head of Mission addressed the EU COELA working group for enlargement in Brussels.

The Head of Mission briefed and updated the group about the present situation in relation to mandate fulfillment in Croatia. A questions and answers session followed, with queries from Member States Cyprus, Sweden, the Netherlands, the United Kingdom and Romania, as well as a European Commission delegate.