



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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Parliamentary debate on CLNM implementation triggers discussion on dual voting rights

On 16 March, the Government presented a report to Parliament assessing implementation of the Constitutional Law on the Rights of National Minorities (CLNM) in 2003 and 2004. This was the first report presented to Parliament since adoption of the CLNM in 2002 - despite the legal requirement to produce annual reports – triggering a lively debate on minority policy in Croatia.

Commending Government efforts to protect minority rights, Croatian Democratic Union (HDZ) deputies stated that the majority of European countries had not adopted such advanced legislative guarantees for minorities. Some deputies pointed out that Slovenia does not recognise Croats as a national minority and that they would be very satisfied if Serbia and Montenegro guaranteed the same level of minority rights as Croatia.

Minority deputies confirmed Croatia had made substantial progress in strengthening minority rights. However, they underlined that implementation of the CLNM was unsatisfactory and incomplete, and that more should be done regarding the official use of minority languages and minority representation in local government, the state administration and judiciary.

Speaking on behalf of a delegation of minority MPs who had visited President Stjepan Mesić earlier the same day, Furio Radin, representative of the Italian minority, stated that the President supported their requests, in particular improving the political representation of minorities through the adoption of dual voting rights. Dual voting rights would allow minority members to vote simultaneously both for general party lists and for separate minority slates in parliamentary elections. In the 2003 parliamentary elections minorities had the option of exercising either the universal franchise or voting for minority lists. Minority MPs are basing their request on the Constitution, which prescribes that '[b]esides the universal franchise, the law may ensure a special right to members of national minorities to elect their representatives into the Croatian Parliament.'

For the moment, the ruling HDZ prefers not to voice its opinion, while the leading opposition party, the Social Democratic Party (SDP), now declares its readiness to support such a possibility, in stark contrast to its policy in 2003.

The OSCE High Commissioner on National Minorities raised concern over this issue in 2002 when reviewing a draft of the CLNM. According to the High Commissioner, dual voting rights are inconsistent with the principle of equal suffrage as required by international law. Far more common, and preferred, is the implementation of general rules of electoral law,

adjusted, if need be, to increase the chances of success of the candidates from such minorities.

Ombudsperson and ECHR find Croatian prison conditions unsatisfactory

Following an inspection of Croatian penal institutions in the last quarter of 2005, a recent report by the Ombudsperson notes inhuman living conditions in prisons across the country. This is a finding echoed in the 9 March ruling of the European Court of Human Rights (ECHR) in the *Cenbauer* case. According to the Ombudsperson's report, the human rights of prisoners are being violated by overcrowded cells, inhuman living conditions and basic neglect.

The fundamental problem is one of overcrowding. Prisons in Varaždin, Osijek and Split hold twice their capacity. Notably, prisons are not overpopulated due to the number of convicted prisoners serving their sentences, but rather due to the large number of people awaiting final verdicts, amounting to 50 per cent of inmates currently held in Croatian prisons. The report found basic hygienic living conditions lacking. For example in a facility in Varaždin some inmates slept on the floor. Numerous prisons were without heating systems and cockroaches were noted in most facilities. Medical care was also found to be poor. The report made special issue of the fact that the Croatian penitentiary system is based on the principle of retribution rather than re-socialization. As a result, work or activities for prisoners were often lacking as was an individual approach.

In response to the Ombudsperson's report, the Parliamentary Committee for Human and National Minority Rights called upon the Government to undertake immediate measures to tackle the most critical cases. With prison conditions coming under scrutiny in EU accession negotiations relating to the *acquis communautaire's* chapter on Judiciary and Fundamental Rights, the Government and the Parliament were urged to prioritise the issue.

Similar concerns were raised by the ECHR in the *Cenbauer* case, where Croatia was found to be in breach of Article 3 of the European Convention on Human Rights, which prohibits inhuman and degrading treatment and punishment. The ECHR noted that the applicant was allotted less than the minimum of 4 m² required for single inmates in multi-occupancy cells according to domestic law and international standards and was confined to his cell for substantial periods of each day. The applicant was also found to have been subject to unhygienic and humiliating living conditions. In its ruling the ECHR acknowledged that the Government had shown willingness to comply with previous recommendations and had since renovated part of the prison where the applicant was held. However, this did not exculpate them with regards to the events preceding renovation, for which the Government could provide no credible explanation.

Government presents detailed housing care plan for ex-OTR holders

On 14 March, at the last monthly meeting between IC Principals and the Ministry of Maritime Affairs, Tourism, Transport and Development, the Government officially presented a four year Implementation Plan related to housing care programmes for former occupancy tenancy rights (OTR) holders.

The two housing programmes covered by the Plan were adopted by the Government in 2000 and 2003, and deal with non-war affected and war-affected areas respectively. Primarily

covering major cities located outside the war affected areas, the programmes aim at providing State owned apartments on lease or on purchase to former OTR holders. Former OTR holders remain the largest category of refugees and internally displaced persons still without a viable housing option in Croatia.

The Plan foresees a financial commitment amounting to two billion HKN (roughly €270 million), to be allocated from the State budget and partly funded by potential loans from international financial organisations such as the Council of Europe Development Bank. These funds will be devoted to the purchase or construction of approximately 7,000 apartments and houses nationwide over a four year period. Currently, the State Budget for 2006 has earmarked fewer funds for the two programmes than envisaged in the Plan. However, the Government has reassured IC Principals that it will increase them by rebalancing the budget. Overall the State has 8,500 applications to process which it intends to complete by the end of the year. According to the Plan, all 4,500 requests from outside the war-affected areas will be administratively processed by the end of the year with 400 families due to receive flats in the course of 2006.

The construction of extra apartment blocks, particularly in urban centres such as Osijek, Karlovac and Sisak, will start at the beginning of 2007. In the meantime, the Government has promised to keep IC Principals informed on a monthly basis regarding the preparatory stages, such as urban planning, the purchasing of building sites and the process of issuing public tenders. IC Principals are particularly concerned that the ghettoisation of Croatian Serb beneficiaries be avoided through a balanced allocation of apartments in ethnically mixed blocks of flats.

Following the previous resolution of a symbolic number of housing care applications, the Government's Implementation Plan represents a comprehensive approach to the problem of lost occupancy/tenancy rights. If implemented in a fair, timely and transparent manner, this plan could significantly further the resolution of refugee related issues in the region, at least until the issue of OTR receives legal clarification.

Government adopts two draft laws furthering electoral reform

On 16 March, the Government adopted a final draft Law on the State Election Commission (SEC) and a final draft Law on the Election of Municipal Heads, Mayors, County Prefects and the Mayor of the City of Zagreb. Both have been forwarded to Parliament, which is expected to adopt them in April.

The draft Law on the SEC establishes a permanent and professional electoral body in Croatia, in accordance with international recommendations. The latest recommendations were raised at a December 2005 roundtable in Parliament, co-organized by the Mission and the Central State Administration Office (CSAO), as drafter of the law. The participation of experts from the OSCE/ODIHR and the Council of Europe/Venice Commission (CoE/VC) at the roundtable, helped ensure that some of these recommendations were taken into practical consideration. They include a requirement that all SEC sessions remain open to the public and a clear elaboration of the grounds on which a SEC member can be removed.

In the final draft law, the number of SEC members increased from five to seven with a term in office of eight years and no limitation on the number of terms. No changes were made to the appointment procedure, with Parliament remaining in charge of deciding appointments.

Although included by the drafter, the Government removed from the final draft a recommendation to involve other branches of State in the selection process. The Government also opted not to give the SEC authority to manage voter's lists.

The final draft Law on the Election of Municipal Heads, Mayors, County Prefects and the Mayor of the City of Zagreb envisages the direct election of officials and their deputies in local elections from 2009. Currently mayors and prefects are elected by legislative assemblies. However, the relationship between top officials and their assemblies and the respective competencies of the legislative and executive bodies, are still to be defined by the draft Law on Amendments to the Law on Local and Regional Self-Government. Following a request by the CSAO for assistance with these amendments, the Mission organized a working visit from a CoE/VC expert between 15 and 16 March. Co-operation with the CoE/VC expert, praised by the CSAO, is expected to continue throughout the drafting process, with the CSAO due to forward the draft Law to the Government shortly.

National seminar recommends improving minority consultation at the local level

On 17 and 18 March, the Government Office for National Minorities (GONM) and the National Council for National Minorities (NCNM) organized a national seminar on the current status of local Councils for National Minorities (CNMs). Although established as elected advisory bodies by the Constitutional Law on the Rights of National Minorities (CLNM), local CNMs have yet to be recognized as institutional partners by many local authorities.

Co-sponsored by the Mission, the national seminar concluded a series of four regional 'best practice' seminars. Approximately 90 CNM representatives from across the country attended the national event, in addition to minority parliamentarians and state officials. At the opening, Deputy Prime Minister Jadranka Kosor said "the Government regards Croatia's 22 minorities as a national treasure" and intends to create the conditions necessary for their full participation in the decision-making process at all levels. As such, she assured those present that the Government would pay attention to the seminar's conclusions.

Addressing the gathering, the Head of Mission remarked that the CLNM could be considered as a model for the countries of Central and South-Eastern Europe. He said that Croatia deserved praise for granting its 22 minorities a set of political and cultural rights that required substantial economic support. However, he noted that dialogue between Croatia's 250 or so CNMs and their local authority counterparts needed to be stimulated further.

Underlining the complexity of local minority representation, Independent Democratic Serb Party (SDSS) MP, Milorad Pupovac, called the work of CNMs "pioneering." While warning that it would take time before CNMs become fully operational, he pointed to a growing public awareness regarding minority issues. However, he stressed that the state administration should be better prepared to deal with minority issues.

The main conclusions from the seminar highlighted the need to: issue central-level instructions obliging local authorities to provide minimum funding to CNMs and define working relations and communication channels more clearly; give legal personality to regional and national co-ordinations of CNMs; align the dates of CNM and local elections; and finally, upgrade the operational capacity of both the GONM and NCNM, enabling them to assume the role of informing and training CNMs. To date, no agreement has been reached

between CNM representatives and the GONM/NCNM regarding dissemination of the conclusions to the media and state officials.

Ministry of Interior presents Mission with plans for 2006

On 9 March 2006, the Director General of the Croatian Police provided the Mission with an overview of the current situation in the police force and outlined plans for 2006. It was agreed that in future such meetings should be held on a monthly basis.

Regarding the current situation, the Director General gave a positive overall assessment, saying that the police force was functioning well and achieving good results. However, problems in relation to personnel and equipment remain significant. In view of this, emphasis will be placed on the education of personnel throughout 2006. An annual report on community policing has shown that communication between contact-officers and citizens has improved with a positive effect on crime prevention. Plans related to re-organizing the Ministry of Interior in line with EU standards and proposed amendments to the Law on Police were also presented. The Director General informed the Mission that the OSCE/ODIHR training seminar on the issue of hate crime will be held at the Police Academy in Zagreb in May.