

Discussion of General Gotovina's whereabouts dominates latest visit of ICTY Chief Prosecutor

On 6 October, the ICTY Chief Prosecutor, Ms. Carla del Ponte, paid a visit to Croatia for the second time in 2003. She met with Government officials on a number of issues related to ongoing co-operation with the ICTY. The visit of the ICTY Chief Prosecutor took place on the eve of her report to the UN Security Council on 10 October. The ICTY Chief Prosecutor was to report on Croatia's co-operation with the ICTY in relation to the UN Security Council Resolution 1503, which was adopted in early September and called for intensified co-operation, including the arrest of fugitive General Gotovina.

In her briefing to the Zagreb international community, del Ponte commented that Croatia's level of co-operation in terms of the production of requested documents had improved significantly, noting that more had been achieved in recent weeks than in past years. Del Ponte indicated that she was hopeful that co-operation would continue at this level with expeditious responses to requests. Del Ponte that she had provided specific information on the whereabouts of Gotovina to the Prime Minister and the Ministry of the Interior. She insisted that Croatia was in a position to arrest Gotovina or to assist other States in affecting his arrest within a matter of weeks. Finally, del Ponte indicated that part of the discussion with the Government had included the preparations necessary to ensure proper processing of cases transferred from the ICTY to be prosecuted in the domestic courts. Del Ponte specifically noted the ICTY's good co-operation with the Office of the Chief State Prosecutor.

Failed eviction of illegal occupant in well-known case in central Croatia highlights ongoing difficulties in property repossession cases

A recent representative case followed by the Mission describes how the process of execution of final verdicts in property repossession cases often remains hampered because illegal occupants succeed in postponing the execution process indefinitely.

In this case, a Croat settler already owning habitable property in Istria was scheduled to be evicted on 1 October from a restaurant that he has illegally occupied since 1996 in Krnjak, central Croatia. This case was described in a list of 88 multiple/illegal occupancy cases that was jointly presented in August 2000 to the Government by the Mission and the UNHCR. If executed this case would have represented the first successful eviction of illegal occupants from the numerous illegally occupied restaurants on the main road from Karlovac, through Knin to Split.

The eviction in question was to take place on the basis of a final verdict issued in March 2003 by the Karlovac County Court. The Serb owner applied for repossession of his property in 1997 and the case was referred in February 2001 to the court by the former housing commission in Krnjak. In order to obstruct the eviction, the illegal occupant filed two separate requests to the Karlovac County Court and the Supreme Court asking for the delegation of the jurisdiction of the execution process from the Karlovac court to the Zagreb Municipal Court. The occupant claims to have invested €150,000 for repairs to the property but has not filed any lawsuit for compensation so far. As a result, the eviction was postponed by the Karlovac Municipal Court. The owner was evicted from the house he had legally occupied in Banja Luka in Bosnia and Herzegovina already in 2002. As a result, he will again be forced to continue to seek temporary places of refuge indefinitely.

Mission organizes first training session for members of councils on national minorities

In order to support the implementation of the new Constitutional Law on the Rights of National Minorities (CLNM), adopted in December 2002, the Mission began working several months ago with the national-level Council on National Minorities (CNM) and the Serb Democratic

Forum (SDF) to design, fund and organize the essential training required. Through a series of planning sessions attended by the President of the national-level CNM, senior SDF representatives and Mission staff, it was decided to hold three pilot seminars in 2003. Approximately 100 new CNM members will be invited and the sessions are scheduled to take place in Sisak, Sibenik and Vukovar. Based on the lessons learned from the pilots, a much larger effort would be designed and launched in 2004.

The first session, held on 5 October in Sisak, confirmed the importance of such training. The training was designed to provide CNM members (Serbs, Bosniacs, Albanians, Czechs, Hungarians, Italians and Ukrainians) with the necessary practical guidance on their duties under the CLNM and how they are supposed to carry them out. Some participants expressed the view that local government representatives should be included in future training sessions.

Approximately half of the CNMs were elected on the local and regional levels in May 2003. About 200 have been officially registered country-wide; the elections for the remainder of the CNMs will take place at the same time as the next parliamentary elections, expected on 23 November 2003. The CNMs are intended to be bodies where each national minority is able to formulate and represent their interests at the local and regional levels.

Strasbourg court refers additional fair trial complaints to the Government; upcoming hearing on Croatian citizens' complaints against Slovenia

During September, the European Court of Human Rights (ECHR) referred five additional applications alleging fair trial violations to the Government for response. Four of the cases, *Cakalic v. Croatia*, *Svilokos v. Croatia*, *Mihajlovic v. Croatia*, and *Ivkovic v. Croatia* pose the same question, i.e., whether the Parliament's suspension in 1996 of pending court proceedings seeking compensation for damages resulting from terrorist acts violates the right of access to court. The ECHR has issued two prior judgements against Croatia finding that the Parliament's action violated the fair trial guarantee of the European Convention for the Protection of Human Rights and Fundamental Freedoms

A new feature in the recently referred cases as well as others already pending at the ECHR is the impact, if any, of the ECHR's decision on the Parliament's adoption in mid-July 2003 of the Law on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations (Law on Terrorist Acts). The Law on Terrorist Acts in effect retroactively eliminates many if not most of the 381 pending court claims. It also fails to provide any remedy for the seven and a half years of lack of access to court experienced by those whose cases have been suspended, regardless of whether they will continue under the new law. The cases referred by the ECHR all involve property compensation claims.

The ECHR also agreed in September to review the case of *Pibernik v. Croatia* that poses the question whether a four-year failure to execute a final court decision by the Zagreb Municipal Court violates the right to fair trial. *Pibernik v. Croatia* is the second case on this issue admitted by the ECHR and presents virtually an identical fact situation to that in the prior case of *Cvijetic v. Croatia*. Such cases constitute a significant part of the court backlog and pose one of the most significant challenges to the Government's plans for judicial reform.

Finally, on 9 October, the ECHR will hold a hearing on an application by Croatian citizens against Slovenia alleging a violation of their right to property with regard to savings deposited in *Ljubljanska banka* prior to the dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY). The Government of Croatia has intervened supporting its citizens' property claims. Slovenia for its part contends that the issue is to be resolved on the state level under the Succession Agreement of the former SFRY.

Mission funds conference on role of media in democratization

A regional conference organized by the Local Democracy Agency (LDA) programme of the Council of Europe, entitled 'The Role of Media in the Process of Democratization and Stabilization', was held on 26 September in Sisak, central Croatia. The conference was undertaken as a part of the training project 'Strengthening of Co-operation between Local Media and Local NGOs', which is funded by the Mission. Some fifty journalists from Croatia and Bosnia and Herzegovina as well as representatives of local authorities from Sisak-Moslavina County discussed relations between media and local/regional authorities, freedom of speech and access to information. Several representatives of local authorities underlined the importance of the role of media in the process of stabilization and democratization, as well as their impact on reconciliation in refugee return areas.