



Mission to Serbia

ORGANIZATION FOR SECURITY
AND CO-OPERATION IN EUROPE

OFFICE OF THE HEAD OF MISSION

The Head of Mission

**Report of the Head of the OSCE Mission to Serbia,
Ambassador Hans Ola Urstad, to the OSCE Permanent Council
Vienna, 29 March 2007**

Introduction

When I addressed this forum a year ago, I represented the Mission to Serbia and Montenegro. Today, I come as the Head of the OSCE Mission to Serbia, a country with a new constitution and a transitional government which is preoccupied with the future status of Kosovo. Serbia has made progress in many areas of its desired democratic reforms, but many challenges still lie ahead.

Working closely with the government, your Mission in Serbia has assisted reforms in all major areas relating to our mandate. I will not enumerate them all here, but will focus on highlights which demonstrate progress and areas requiring continued effort.

Political Context

First a word on the political context in which the Mission works: In 2007, Serbia stands as a democracy with a functioning market economy. Many of the right laws are in place to allow for respect for human rights, a more accessible government, freedom of access to information and a more transparent public procurement system. Media privatisation is on-going and judicial and police reforms are taking place. A new constitution is in place, which, though passed without public debate regarding its provisions, and considered by the Venice Commission to have certain weaknesses, is acknowledged to be a clear improvement over the Milosevic-era constitution.

During the three years of the outgoing Kostunica government, the Parliament passed 251 laws to bring Serbia's legislative framework in line with European standards. Economic growth has been maintained, and inflation has been decreasing, reaching single digits for the first time in two decades. Foreign exchange reserves and fiscal stability grew. Regional cooperation has advanced, with Serbia joining an adapted CEFTA treaty with the other SEE countries in December, 2006. The dissolution of the State Union with Montenegro was a model "velvet divorce" in stark contrast to the violent divisions of the former Yugoslavia in the 1990s.

Still, major issues require governmental attention. Cooperation with the ICTY, better implementation of new laws, resolution of the difficult situation for refugees and

internally displaced persons, further police reforms, strengthening of the media and fighting environmental degradation remain key challenges. Those challenges at the moment suffer from a lack of attention as negotiations to form a government and the debate about Kosovo's future status dominate official Serbia's agenda.

Adoption of the new constitution triggered early parliamentary elections. The election campaign confirmed the growing maturity of the Serbian electorate and proceeded in an orderly and mostly non-confrontational manner, focusing on the economy, social issues and the settlement of Kosovo's future status. In spite of transition hardships, the voters rewarded the reformist parties again providing them with an opportunity to form a parliamentary majority. The new parliament better reflects Serbia's multiethnic composition, since it has eight MPs representing national minorities, including, for the first time since 1997, an ethnic Albanian.

The main political obstacle slowing Serbia on its stated goal to European integration and further democratization remains its incomplete **ICTY cooperation**, in particular the failure to locate and deliver to The Hague, Ratko Mladic, accused of the Srebrenica genocide. This failure resulted in the suspension of talks with the EU on a Stabilization and Association Agreement in early May, 2006. High-level public commitment to arrest Ratko Mladic and condemn the Srebrenica genocide is essential to Serbia's coming to terms with the war legacy of the recent past.

Serbia's invitation to join NATO's Partnership for Peace program was a stated goal which it achieved. Serbia also strengthened relations with neighbouring states through conclusion of several bilateral defence agreements. Participation of Serbia, Bosnia and Herzegovina, and Montenegro as observers in the Adriatic Charter, was another step towards strengthening regional stability.

In sum, Serbia has made positive progress toward some of its stated aims of Euro-Atlantic integration. The current negotiations to form a government, lack of progress on ICTY cooperation and the government's focus on Kosovo status talks presents a challenging environment in which to advance reforms requiring political will, but the Mission is working hard to continue to assist Serbia in strengthening its democratic institutions.

Mission Activities

The Mission's programs and activities stem from a rather wide mandate. They are diverse and are regularly adjusted to rapidly changing needs. Our common aim is to assist Serbia in building the institutions of democracy, to make them more professional, accountable and free from undue political influences. We are making use of best international practices to contribute to the overall process of reforms.

Southern Serbia

The Mission's activities in southern Serbia illustrate the effectiveness of our approach to keeping and consolidating stability and security in a multi-ethnic environment. This was achieved through confidence-building and through provision of targeted assistance to key democratic institutions.

Our efforts to make the local police and the judiciary more open, multi-ethnic and professional have been successful. Our current aim is to support further integration and improvement of the local Albanian community in region's economic and social life. This carries added importance in the context of efforts to reach an agreement on Kosovo's future.

We view it as very positive that an ethnic Albanian MP from southern Serbia became a member of the Serbian Parliament. The Mission actively supported participation of the local Albanian parties in the elections, the aim being that they will become more and more involved in the legislative and policy process in Serbia.

Currently, the Mission is working to better include the Albanian community in the legal profession by providing training for those who want to pass the bar exam. This means that there will be more candidates for vacancies in the judiciary as well as more ethnic Albanian attorneys, which will help build community confidence towards judicial institutions.

Apparent progress notwithstanding, economic problems in the region remain pervasive, and unemployment far higher than in the rest of Serbia. It is vital that the new Serbian government prioritizes financial and other assistance to improve economic opportunities in the southern Serbia municipalities.

Building on experiences in southern Serbia, the Mission has recently structured and thematically coordinated activities related to the southwestern region of Sandzak. This region also has considerable problems of economic and social development, is hurt by ineffectiveness of local institutions, and seems to be a center for organized crime. The initiative has been welcomed by local political actors and civil society, the Serbian government and the international community.

Rule of Law and Reform of the Judiciary

In May 2006 Serbia adopted a new Judicial Reform Strategy and Criminal Procedure Code. This meant progress after a period of stalled judicial reform. However, there are concerns that the executive might be infringing upon the independence of the judiciary because the new Code, as well as the Constitution envision prosecution to be a part of the executive branch.

The Mission assists in the structural reforms of the judiciary. The new Criminal Code is set to enter into force in June this year, but little has been done to prepare legal practitioners for these changes. We work to improve consultations of the Serbian judiciary with their counterparts in Bosnia and Herzegovina, who experienced similar reforms. In parallel, we build the capacity of the Judicial Training Centre.

The Mission continued to comprehensively assist Serbia in the fight against organized crime. The bi-lateral cooperation between the Serbian Organized Crime Prosecution and the Italian Anti-Mafia Directorate was enhanced. The Mission assisted in deepening the knowledge on cyber crime, which led to appointment of the Special Prosecutor for Cyber

Crime. The fight against organized crime still has a long way to go and the Mission promotes development of a National Strategy in this field.

Progress in tackling corruption is uneven. Some progress was made in the implementation of the National Strategy for Combating Corruption, developed with the Mission's support. But the deadline to appoint the members of the Supreme Audit Institution passed in May 2006 and the appointment is now on the agenda of the newly elected National Assembly. Key anti-corruption legislation is still not fully in place - the Law on an Anti-Corruption Council needs to be adopted. On a positive note, the Republic Board for Resolving Conflict of Interest has been very active at the central and local levels. Similarly, the Public Procurement Office and the Commission for the Protection of Rights worked effectively to improve the regularity of procurement procedures. The Mission has supported all three bodies since their establishment.

The institute of the Vojvodina Provincial Ombudsman matured with the Mission's assistance. However, implementation of the Law on Protector of Citizens (State Ombudsperson Institution) at the state level is stalled and the legal deadline for appointment of the Ombudsperson passed in March 2006. The appointment is to be discussed by the new national assembly. The Mission stands ready to support the office once it is established and to coordinate assistance to it, as requested by Serbian authorities.

Considerable progress continues to be made in prison reform. The Ministry of Justice, with the direct involvement of the Mission, implements the National Strategy for Prison Reform and the Law on Enforcement of Penal Sanctions. Key by-laws were adopted and some are being drafted with the Mission's support to regulate the new concept of alternative sentencing and to improve the prisons' accountability by further regulating the complaint procedures, use of force and internal oversight.

The Mission is assisting the War Crimes Chamber of the Belgrade District Court and the War Crimes Prosecutor's Office in Serbia, and is monitoring five war crimes trials currently under way. The Serbian judiciary showed a high level of competence and professionalism but there are serious challenges ahead, especially in regard to investigation and prosecution of war crimes committed in Kosovo/Serbia. The lack of co-operation from the Serbian police and reluctance of Albanian witnesses to testify are problems that remain to be addressed.

Regional judicial co-operation in war crimes proceedings has improved. The Mission, the CPC and the Missions from Bosnia and Herzegovina, Croatia, and Montenegro worked together to assist the process (the "Palic process"). In 2006, the judges and prosecutors further enhanced their co-operation. The war crimes investigative services of the police also joined the process and formed combined investigation teams. Still, stronger political support is needed and the legal framework should be improved to provide for unimpeded investigation and prosecution of war crimes.

The Mission implements an outreach campaign to foster public awareness of wartime atrocities and to raise support for the prosecution of war crimes before domestic courts and for co-operation with the ICTY. Immediate stakeholders in this process range from war veterans to traumatized victims/witnesses. A recent public opinion poll showed that

the Serbian public is aware of and supports domestic war crimes trials. At the same time, confidence in and knowledge about the ICTY remains low.

Parliamentary Support and Democratic Institution-Building

In June 2006 the Serbian Parliament assumed from the State Union Assembly the competencies in international relations, security and defense. These new responsibilities warrant significant strengthening of the legislature. Parliament's work, however, has been at a standstill since the constitutional referendum and the election campaign starting in November, 2006. This has delayed adoption of key legislation.

The Mission devotes close attention to democratization of the security sector, a key aspect of which is ensuring the civil and parliamentary oversight. Progress is being made in areas of transparency and accountability of the security agencies. However, there seems to be no clear conceptual understanding as to what direction the reform of the security and police forces should take. There is no national security/police strategy and the laws on defense and security services are outdated. The Mission will continue to engage the parliament, the security sector and civil society in addressing these basic issues.

Human Rights

The new Constitution introduced comprehensive human rights guarantees in 2006, but despite improvements, the knowledge of Serbia's international human rights obligations among legislators, public officials, judiciary, and law enforcement officials remains insufficient. Actual application of such standards is also lagging. The Mission will continue to provide human rights training and advice to the various sectors of the government and to civil society to improve knowledge and respect for human rights standards.

A key human rights issue is finding durable solutions for refugees and displaced populations. Serbia is still hosting some 104,000 refugees, about two thirds from Croatia and most of the rest from Bosnia and Herzegovina. There are also 200,000 displaced people from the province of Kosovo waiting for durable solutions. The governments of Serbia, Montenegro, Bosnia and Herzegovina and Croatia committed themselves through the Sarajevo Declaration of January 2005 to resolve all outstanding refugee return and integration issues by the end of 2006, but the deadline was not met and little progress was made during the last year. There are particular difficulties in reaching a consensus on solutions for the two main outstanding issues of occupancy and tenancy rights and the convalidation of pension rights. The Mission, together with its international community partners, remains committed to upholding the rights of refugees, but a stronger commitment by the governments involved is needed.

In 2006 the new law on churches and religious communities was adopted, which gives preferential treatment to the traditional churches and religious communities without addressing the needs of other religious groups. The Law on Restitution of Property to Churches and Religious Communities applies only to expropriations after 1945. It makes it very difficult for the Jewish community in Serbia to receive compensation for their property expropriated in 1941 and onwards. In addition, physical persons, who also had

their property expropriated, do not yet enjoy similar statutory protection. The Mission has spoken out against these shortfalls and engages legislators and religious communities to discuss improvements.

National Minorities

For the first time, five ethnic minority parties won eight seats in the Parliament, while some other prominent minority representatives hold positions in other parties. Among minority MPs there are two representatives of the Roma community and the leader of the coalition of Albanians from southern Serbia. The abolition of the 5 per cent threshold for national minority parties to enter the parliament was instrumental in achieving this result. The increased representation should elevate the importance of minority issues in policy- and decision-making.

The Mission continues to focus on the development and implementation of Serbia's legal framework and its minority rights obligations under international law, providing assistance on national minority legislation, which has been stalled due to parliamentary elections. For example, the draft Law on National Minority Councils (NMCs) has been in limbo and as a result the four-year mandate of the NMCs has expired.

The Mission is completing the implementation of the Roma Assistance Programme that led to the establishment of a government-sponsored Roma Teacher's Assistants programme, a Roma National Strategy Secretariat to co-ordinate policy and a Centre for the Re-integration of Returnees.

Gender equality

Serbian women doubled their representation in the new Parliament from 10 to 20 percent. However, women in Serbia continue to face challenges on the way towards gender equality. The key issues include family violence; lack of representation in decision-making posts in politics; stereotypes conveyed through media, public discourse and school programs; disregard for equal employment opportunities and a higher unemployment rate. Gender-based discrimination is particularly aggravated for some categories of women, such as Roma and minority women, disabled, unemployed and rural women. The Mission supports gender equality mechanisms, the adoption of a Gender Equality law, and provides support for the implementation of the National Plan for Action in the domain of gender equality.

Fight against trafficking in human beings

In December 2006 Serbia adopted a National Strategy for Combating Trafficking in Human Beings. The challenge for Serbia and for the Mission now lies in transforming this Strategy into concrete action plans backed by financial commitments, covering prevention, prosecution of crimes and protection of victims.

Importantly, for the first time in 2006 the government financially supported an NGO dealing with direct victim assistance. One of the key successes in the field of combating human trafficking by the government is its ownership of the assistance coordination process.

The Mission is concerned by the lack of awareness and specialised knowledge on trafficking in the judiciary. The Mission implements a training program together with the Serbian Judges Association targeting judges, prosecutors, and the police. We encourage other international actors to join us in tackling this problem.

The reintegration of trafficking victims is a growing problem. The statistics from the past few years show that the number of Serbian victims is increasing, including children and victims with mental disorders, alcohol or drug addicts. These trends are especially worrying as adequate institutional means to deal with such victim groups are lacking.

Media

In May, 2006 the state run Radio Television Serbia transformed into two new public service broadcasters: Radio Television Serbia (RTS) and Radio Television Vojvodina (RTV). The Mission helped draft the documents for the transformation, restructuring and downsizing and was also involved in capacity building and training of the media professionals employed by both public services.

The Mission provided expert advice to the Republic Broadcasting Agency (RBA) to ensure that the licensing procedure for commercial broadcasters in Serbia is carried out with full transparency and equity. Regrettably, the work of RBA Council was plagued by lack of independence, insufficient accountability and lack of transparency in allocating radio and TV frequencies. The OSCE and other international organizations publicly voiced their concerns. Flaws in licensing led to a number of law suits against the RBA, some of which are pending before the Supreme Court.

The Mission provided targeted expert support in capacity building of Serbian media professionals. More than 150 different journalists, editors and technicians participated in educational activities to improve reporting on corruption, organized crime, police investigations, economy, business and politics, ecology and environmental issues.

Drafting of the Code of Journalists, which was adopted in December 2006 by both major journalists' associations, was supported by the Mission, along with the establishment of the independent self-regulatory body for both electronic and print media currently being discussed among media professionals in Serbia.

Mission experts have initiated consultations with the authorities to help prevent the trend of media concentration and to further improve transparency of media ownership in Serbia by drafting new legislation harmonized with the European standards.

The Mission provided expert assistance to the development of the broadcast media market and closely monitored developments related to privatization of municipal broadcast media

in Serbia that is to be completed by December, 2007. The Mission also assisted media outlets in multi-ethnic regions that broadcast programs in national minority languages.

The Mission played a lead role in supporting the implementation of the Law on Free Access to Information. Together with the Office of the Commissioner for Information and a strong network of NGOs, the Mission helped teach public officials how to handle requests for access to information from citizens and the media.

Law Enforcement

The sustainable reform of the police service remains one of the Mission's key priorities. A memorandum of understanding between the Mission and the Serbian Ministry of Interior (MoI) outlines eight priority areas of assistance that continue to form the focus of the Mission's work.

One of the biggest challenges to the effectiveness and sustainability of the Mission's efforts in police reform is the lack of an overall reform strategy and strategic planning in the different areas of the Ministry's work. To ensure that progress is made, the Mission puts an increasing focus on assistance to help the Ministry of Interior to develop a strategic approach to the reforms. As strategic planning lays the groundwork for activities across the spectrum of police affairs, the Mission would encourage additional support from the participating States in this area.

Police accountability remains a concern, both for the citizens of Serbia and the international community. Personal and political animosities have hindered the efficiency and professional development of the MoI's office for internal oversight. Formally, the introduction of the institution of Police Director operationally independent from the Minister in June, 2006 was a step to depoliticize the police. Political will needs to be strengthened to enable internal oversight to conduct investigations independently.

During the past year, the Mission has continued to assist the Ministry of Interior to develop and independently utilise its own national capacity to design, implement and evaluate police training and education.

In the area of basic police training, the Mission made great strides in its long-term endeavour to transform the Police High School in Sremska Kamenica, which currently trains the majority of police recruits in the country, into a basic police training centre. The 2007 will be a pivotal year for the police education as the MoI prepares to recruit and enrol its first cohort of students, male and female, under a new basic police training system.

Organised crime remains a destabilising factor in Serbia. The Mission has assisted the Serbian police to combat organised crime by introducing modern approaches to forensics and crime scene management, enhancing capacities in surveillance and criminal intelligence, by building the skills of border police and by contributing to a regional approach in addressing what is essentially a cross-border problem.

The Mission continues to assist the Ministry in implementing a national Integrated Border Management (IBM) Strategy. By January, 2007, the Interior Ministry completed the demilitarization of the country's borders.

Since March, 2006, the Mission has continued to enhance the capacity of Serbian police to investigate war crimes and breaches of international humanitarian law, and has directly facilitated closer co-operation between investigators and prosecutors on the national and international level.

The Mission continued to assist the MoI in establishing and developing a community policing approach that suits Serbia's cultural, social and political context. This included local level initiatives that encourage greater communication and co-operation between police, citizens, and local government, particularly in ethnically diverse municipalities. The Mission sought to improve relations between the media and the police through roundtable meetings held throughout the country, which culminated in concrete guidelines. The Mission also launched a programme to improve police sensitivity to issues specific to minority and socially vulnerable groups including attention to the issue of hate crimes.

In some of the Mission's critical areas of assistance to police – the fight against organised crime in particular – we are facing a need for a sustained donor commitment in order to see through reforms to a satisfactory level of implementation.

In the area of police reform assistance, the Mission is facing a challenge in recruitment. Meeting the demand for qualified seconded advisors in the area of police education and training is critical to fulfilling our commitment to the sustainable implementation of reforms.

Economy and Environment

The Mission promotes economic security and sustainable development by promoting best international standards in environmental legislation, policy and implementation, by supporting entrepreneurship and by promoting sustainable energy policies.

In 2006, the Mission continued to support the creation of Business Incubator Centres that have proven an effective mechanism for the development of Small and Medium Size Enterprises.

The Mission initiated a new round of the Young Entrepreneurship Spirit programme to train the young, educated, yet unemployed people in the least developed regions of Serbia. Since the launch of this programme in 2004, over 600 participants completed the training.

The Mission supported the translation and publishing of the "Trade in Service: An Answer Book for Small and Medium-Sized Exporters" in a joint effort with the Serbian Chamber of Commerce and the World Trade Organisation.

To foster public awareness on energy security issues, the Mission supported educational projects to introduce issues surrounding renewable energy, the environmental impact of

energy production and consumption, responsible energy policy and the concept of rational energy management.

The Mission helped develop a Local Environmental Action Plan in Blace, a small municipality in Central Serbia. The plan addressed the decades-old issues of water pollution, inadequate waste disposal, growing waste dumps and, above all, low level of public participation in environmental decision making. The Blace example serves as a model of empowerment for local communities.

Conclusion

The future of Serbia looks very different than its prospects in the nineties. There is a clear vision of the democratic road ahead, which requires constant commitment from Serbia's reformist forces. Their task is not easy and their responsibility is huge, but the results will be visible and tangible to Serbian citizens - regardless of ethnicity or religious background. The international community in Serbia works cohesively in reaching out to Serbia to help in this process. I am proud of our Mission's contributions to Serbia's progress toward its goals of democratic reforms and look forward to continued cooperation to tackle some of the tough problems that have not yet been resolved. I ask your help in committing the resources - especially human -we need to get the job done according to the mandate with which you entrusted us.