



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

28 June – 11 July 2006

Croatia Summit 2006 highlights Southeast Europe's commitment to EU and NATO

On 9-10 July, Croatia hosted senior officials from several European and Southeast European countries, as well as representatives of international institutions, including the HoM, at its 2006 Summit in the southern Adriatic city of Dubrovnik. Participants were gathered to discuss Southeast Europe's Euro-Atlantic integration. Among the guests were Albanian Prime Minister Sali Berisha, Montenegrin Prime Minister Milo Đukanovic, Romanian Prime Minister Calin Popescu Tariceanu, Bosnia and Herzegovina Prime Minister Adnan Terzić and Georgian President Mikhail Sakashvili. Although they did not participate in the conference, Serbian President Boris Tadic was frequently mentioned, being in Croatia to open the new Nikola Tesla Center, while Kazakhstan President Nursultan Nazarbayev was on a private visit to Dubrovnik.

Prime Minister Ivo Sanader said that Croatia's accession to the EU and NATO was a national priority, adding that it was necessary to complete Europe's southern dimension with Euro-Atlantic integration as a common goal for the region. President Stjepan Mesić expressed confidence in the current direction Southeast Europe is taking but warned that the settlement of unresolved constitutional issues in the region must not cause new crises.

Some representatives from the international community underlined the need for aspiring countries to engage more pro-actively in the implementation of EU and NATO accession criteria. Council of Europe Parliamentary Assembly President Rene Van der Linden said that countries in the region needed to be more determined in their reforms as EU membership was not a consequence of geographic position.

The Summit ended with the adoption of a joint declaration highlighting the commitment of Southeast European countries towards membership of NATO and the European Union. The declaration called on NATO leaders to issue a statement outlining the membership perspective for qualified candidates at the next Riga Summit and "to move forward without delay in 2008 by issuing invitations for NATO membership".

President of Serbia Boris Tadić visits Croatia

On 27 June Serbian President Boris Tadić visited Croatia at the invitation of his host, Croatian President Stjepan Mesić. Following their initial meeting, President Mesić told reporters that the visit of the Serbian President was testament to the continuing normalization of relations between the two countries. President Tadić responded saying that Croatia and Serbia share a common goal, to make their societies "more similar to societies in the EU" and eventually achieve EU membership. He stated that a more lenient visa regime was in the

interest of both countries and announced that Serbia would withdraw its army from the border with Croatia.

Having met with representatives of the Serb minority earlier in the morning, President Tadić underlined the need to treat each country's respective minority fairly, stressing that "they cannot be held hostage to our policies, they have to be envoys of our two peoples and loyal citizens of the countries where they live". Reiterating this sentiment, President Mesić said that national minorities needed to be understood as a bridge of co-operation between the two countries.

The two Presidents touched on the issue of co-operation with The Hague Tribunal and agreed on the need to individualize guilt for specific crimes in order to put an end to the stigmatization of entire peoples.

Some media noted that President Tadić failed to offer an apology for Serbian aggression against Croatia during the 1991-1995 war.

One of the central issues discussed by the two Presidents was the return of refugees. President Mesić stated that by enabling return, "Croatia demonstrates that it is a democracy with functioning institutions, where all are equal before the law." While acknowledging progress in regard to the return of refugees, President Tadić said that he expected Croatia to make further efforts in the future. Visiting Knin, in southern Croatia, the two Presidents met with local officials and visited the Serb returnee village of Orlić. President Tadić described his visit to Knin, a town where Serbs have been living for centuries, as "historic", adding that it gave him an opportunity to see places where wounds still needed to be healed and a new future built.

Montenegrin officials express apologies for Montenegro's role in the war

While visiting Croatia between 7-9 July to mark Montenegrin independence, high-ranking Montenegrin officials expressed gratitude for Croatia's recognition of Montenegro as an independent State and apologized for their country's role in the aggression against Croatia in the 1991-1995 conflict. Diplomatic relations were formally established between the two Republics on 7 July, following the exchange of diplomatic notes between the respective Foreign Ministries.

In his address to a session of the national coordinating body of Montenegrin minority councils in Zagreb on 7 July, vice-President of the Montenegrin Assembly Rifat Rastoder asked the people of Dubrovnik and Konavle for "their forgiveness or at least understanding" for Montenegro's role in the Serb-led military aggression against Croatia. On 9 July, head of the Montenegrin Orthodox Church, Metropolitan Mihailo Dedeić paid his respects to victims of the war in Vukovar, laying wreaths at the Memorial Cemetery and at the site of a former mass grave in Ovčara. In his speech, the Metropolitan also apologized for Montenegrin transgressions during the war, stating that dignitaries of the Montenegrin Orthodox Church were planning to visit Dubrovnik later this year to pay their respects.

Commemoration of Tesla's birth marked by speeches of reconciliation

A ceremony commemorating the birth of Nikola Tesla (1856-1943), renowned scientist and inventor of alternating electric power was held on 10 July in his birth place of Smiljan, in Lika-Senj County.

President Stjepan Mesić and Prime Minister Ivo Sanader, accompanied by Serbian President Boris Tadić and other high-ranking Croatian officials marked the occasion by opening a high-tech, multi-media museum and memorial. Speeches given at the occasion called for tolerance and the acceptance of minority citizens. Both the Croatian President and Prime Minister recalled the oft-quoted statement by Tesla that he was equally proud of his Serb ethnic background and his Croatian homeland, indicating the increasing normalization of Croatian-Serbian relations. President Mesić added that the far-reaching impact of Tesla's theoretical work made him "a citizen of the world."

President Tadić honoured Tesla as a man with strong moral principles, who struggled against fascism and campaigned to prevent the Second World War. The Serbian President mentioned other famous personalities with both Croatian and Serbian heritage such as Nobel Prize winning novelist Ivo Andrić and botanist Josip Pančić. In conclusion President Tadić said that leaders in the region "have a particular responsibility towards [their] citizens and peoples, to offer them a new vision of a future inside the European Union."

ECHR finds inadequate judicial remedies for administrative delays

In June, the European Court of Human Rights (ECHR) issued its first judgments against Croatia involving administrative proceedings, finding excessive delays as well as insufficient remedies for domestically challenging such delays. The decisions highlight the need for structural reform in Croatia's public administration.

In *Božić v. Croatia* and *Počuča v. Croatia*, the ECHR found that administrative pension proceedings ongoing for approximately seven years violated the right to a fair hearing in a reasonable time. In *Božić v. Croatia*, the ECHR noted that the primary reason for undue delays was a deficiency in the procedural system allowing for an unlimited number of remittals, in this case three. In both cases, the ECHR determined that the Constitutional Court (CC) did not serve as an effective remedy for challenging delays in administrative proceedings. Contrary to ECHR case law, the CC considers only the time a complaint has been pending at the Administrative Court, excluding the period a dispute was pending before administrative bodies. These ECHR judgments continue a pattern in which the CC is deemed to be an ineffective domestic remedy due to its overly narrow interpretation of the right to a fair hearing in a reasonable time.

In *Buj v. Croatia* the ECHR found that a four-year delay in registering property in the cadastre as ordered by a court violated the right to a hearing in a reasonable time, as this administrative act was considered the functional equivalent of the enforcement of a final court decision. The ECHR further concluded that no domestic remedy existed for challenging such delays, thereby finding a violation of the right to an effective domestic remedy.

Since Croatia became subject to the ECHR's jurisdiction in late 1997, the ECHR has found the CC failing to serve as an effective remedy for lack of access to court, length of judicial proceedings and non-enforcement of court decisions. In response to these ECHR findings, the CC has been amending its practice accordingly, while Parliament was moved to amend the CC's jurisdictional statute in 2002. This *ad hoc*, reactive approach is likely to be repeated following the latest ECHR rulings.

Criminal Code revised in relation to libel, hate crime and witness protection

On 28 June, important amendments to the Criminal Code (Code) relevant to libel, hate crime and witness protection, which the Mission has long advocated for, were published in the Official Gazette.

The Code defines hate crime as any and every crime which is motivated by hatred of the victim due to his/her origin or characteristics, including race, gender, sexual orientation, language, religion, national or social origin. It remains to be seen how this new definition will be applied in practice in terms of investigating, prosecuting and sentencing.

While libel remains a criminal offense, the recent amendments eliminate imprisonment as a sanction for libel. The only sanction for libel is now a criminal fine. In contrast to the prior law, failure to pay a fine will not result in imprisonment. Instead the court will order the seizure of assets to pay the fine. If there are no available assets to seize, the court can impose a sentence of community service.

Regarding the exposure of a protected witness' identity, the Code expands the crime to include not only those who reveal the identity of persons formally included in the Witness Protection Programme, but also that of persons who are in the process of being included in the Programme. This amendment will close a loophole whereby the identities of witnesses participating in war crimes investigations could be revealed immediately prior to their formal inclusion in the Programme. Finally, the Code now makes it a crime to reveal confidential information related to a civil judicial proceeding, previously applied only to criminal, administrative, and public notary proceedings.

These amendments to the Criminal Code will enter into force as of 1 October 2006. The Mission notes that the Parliament has delayed implementation of the new provisions in a manner consistent with the Constitution, thus addressing concerns recently raised by the Constitutional Court.

The Director of ODIHR commends Croatian efforts to combat hate crime

On 30 June the Director of ODIHR, Ambassador Christian Strohal, attended a series of meetings in Zagreb with high-ranking officials from the Ministry of Justice and the Ministry of Interior. He also met with the General Director of the Croatian Police, Marijan Benko, at Mission headquarters. The main topic discussed during the visit was the fight against hate crime. In a statement released by ODIHR, the Director commended the Croatian authorities in their efforts to counter hate crime, referring in particular to the recently amended Criminal Code which now includes a definition of hate crime. He also praised Croatia as the first country in the region to offer its police officers training in relation to hate crime.

In a speech delivered at the Police Academy, Strohal stated that "Croatia is providing the lead in the region by developing its capacity to respond to hate crimes. This is done by improving relations between law enforcement agencies and the communities they police". Nine police officers have been trained by Croatian experts with support from the United Kingdom and the United States. Training includes improving the initial response and ability to investigate such crimes, upgrading the police's capacity to gather intelligence and share information, as well as the successful management of relations with victims, witnesses and affected communities

Ministry of Education and Mission promote mixed schooling in the Danube Region

The Ministry of Science, Education and Sports has informed the Mission of plans to reorganize secondary education in Vukovar to increase interaction between children of Croat and Serb ethnicity currently attending classes in separate facilities or in separate shifts.

The Mission has established good working relations with the Ministry, which is currently devising a long-term strategy aimed at phasing out physical separation between pupils of Serb and Croat ethnicity in the Danube Region. With joint shifts already introduced in one of four secondary schools in Vukovar, the Ministry is planning to re-organise joint facilities and/or shifts in the remaining three by the beginning of the coming school year in September. This physical re-unification of children has been prepared together with school principals, Serb representatives and local authorities. If implemented as planned, this would represent a major step forward for mixed schooling.

In a related development, the Mission's minority education project 'Children Together' has begun implementation. With the full support of the Ministry of Education, the Mission is sponsoring an art, literature and sports contest among children in 30 ethnically mixed primary schools in Vukovar-Srijem and Osijek-Baranja Counties. On 6 July, Assistant Ministers, Martin Oršolić and Mirko Marković, Mission members and NGO project partner ANKH presented the project to school principals/representatives and local authorities. Assistant Minister Oršolić explained that the goal of the project was to bring minority and majority children closer together through extra-curricular activities. The HoM and Minister for Education, Dragan Primorac, will officially launch the project at the beginning of the school year in September.

Mission supports framework for civil society development in Croatia

On 1-2 July the HoM attended a national Conference in Opatija entitled, 'The Legal, Financial and Institutional Framework for Civil Society Development', organized by the National Foundation for Civil Society Development and the Budapest-based European Centre for Non-profit Law. Addressing the conference, Ambassador Fuentes said that Croatia is currently setting an example for civil society development in Southeast Europe, and has made considerable progress this year.

The conference, gathering 70 participants from various ministries, civil society bodies, international organisations and local authorities focused on the current situation of civil society development in Croatia, using examples from other countries for comparison. Several local government representatives highlighted the benefits of co-operating with the civil society sector, particularly in war-affected areas, where the Mission has implemented a number of projects to develop such co-operation.

The conference also provided a platform for discussing the future development of civil society in Croatia, once the National Strategy for Civil Society Development and its Operational Plan are adopted by the Government.

Mission organises training for Police Union and Ministry of Interior staff

On 28 June, the Mission, with the participation of representatives from the Swedish Police Union, organized a one-day workshop for members of the Croatian Police Union. The Croatian Police Union has branch offices located in each of Croatia's 20 Police

Administrations. Through the exchange of best practices, the workshop aimed at upgrading the role and capacity of the Croatian Police Union so that it becomes an integral part of the decision making processes at the Ministry of Interior.

On the same day, the Mission organized a parallel seminar for Ministry of Interior staff and members of a working group involved in developing new legal and sub-legal acts governing the Ministry's human resource management (HRM) system. This project aims to assist the Ministry apply modern, transparent and democratic standards to its HRM system using the guidance of Swedish police officers with experience in reforming their own HRM system.