

### **Update on election-related issues; additional elections scheduled for 14 December**

The Mission is continuing to undertake a number of activities related to the upcoming parliamentary elections on 23 November 2003. The Mission has focused on providing recommendations to address the situation faced by out-of-country refugee voters. Many of these voters may be difficult to contact and cannot themselves reach embassies or consular services, their documents may not be in order, or they may lack necessary information on registration procedures and deadlines. The Mission has proposed that the Government consider simplifying registration procedures, organizing access to additional polling stations and undertaking a tailor-made, targeted information campaign for this category of voters.

The Head of Mission (HoM) met on 23 October with the President of the State Election Commission (SEC). The SEC President stated that discussions had taken place with the Croatian Ministry of Foreign Affairs on the need for additional polling stations in addition to the requisite embassies and consular services. The HoM also held a follow-up meeting with the Minister of Justice, Administration and Local Self-Government. The Minister confirmed that all voters will be allowed to check voter registration lists by telephone. If voters are not registered, they may fax the required registration documentation by the applicable voter registration deadline (8 November). At a meeting on 27 October with the responsible Assistant Minister of Foreign Affairs, the HoM discussed the Ministry's responsibility for preparing out-of-country voting arrangements at embassies and consular services.

The Government announced on 23 October that it will hold two other elections on 14 December that were previously scheduled for 23 November. These elections are still required to elect minority representatives to 19 regional and local governments following local elections in May 2001, as well as for approximately 250 councils on national minorities and numerous individual minority representatives in line with the Constitutional Law on the Rights of National Minorities.

### **Mission attends meeting between leading media editors-in-chief and directors from Croatia and Serbia and Montenegro**

Mission representatives recently attended a meeting between senior journalists from Croatia and Serbia and Montenegro that was held from 21 to 23 October in Croatia, the second such meeting since the armed conflict ended. The meeting focused on key issues affecting media and the work of journalists in the two countries.

Concerns were voiced over large foreign media houses acquiring a dominant position in the media market in the region. On the question of libel, most participants agreed that no prison sentences should be foreseen for journalists on the basis of what they write, in spite of legislation to the contrary in both countries. In order to ensure the further development of freedom of the media in the region, Mission representatives suggested that focus should be placed on ascertaining best practices and on achieving the relevant standards put forward in international conventions. The Mission's Head of Media and Public Affairs stated that the professional discussion among journalists in the two countries is increasingly focused on the same set of issues, particularly with regard to professional journalism standards.

A substantial part of the debate during the meeting was dominated by the recent news that Croatia had been ranked 69th in a freedom of the media index of 166 countries compiled by the French-based NGO *Reporters Sans Frontières (RSF)*. Croatia was ranked 33rd in 2003. One Croatian media analyst argued that the recent package of new media laws adopted by the Croatian Parliament this year represented a step backward compared to previous legislation

and justified the latest *RSF* ranking of Croatia. The President of the Croatian Journalists' Association (HND) strongly disagreed, arguing that Croatia's media-related legislation was among the best of all transition countries. Press reports also suggested that the new legislation criminalizing libel and the planting of a bomb under the car of a prominent publisher earlier this year contributed to the worsened rating. It was also pointed out that *RSF's* analysis was based solely on three individual responses to its questionnaire. The President of the Croatian Journalists' Union pointed out, however, that there had not been a single attack in 2003 in Croatia against journalists. The Minister of Culture regretted that *RSF* did not contact the HND, the Croatian Helsinki Committee for Human Rights or the OSCE Mission to Croatia in order to make its assessment, as they "... knew the real situation of media freedom and media legislation in the country".

#### **ECHR issues additional judgment against Croatia for denial of right of access to court**

The European Court of Human Rights (ECHR) recently issued a judgment against Croatia in the case of *Acimovic v. Croatia* finding that the Parliament's suspension in 1999 of pending court proceedings seeking compensation for damages by military and police violated the right of access to court. The ECHR followed the legal reasoning used in three earlier judgements on the same and related issues in *Kutic v. Croatia* (March 2002), *Kastelic v. Croatia* (July 2003) and *Multiplex v. Croatia* (June 2003). The ECHR awarded €4,000.00 in non-pecuniary damages for the fair trial violation.

Acimovic initiated an action in 1996 for damages to his house in Gospic, south-central Croatia, which was used between August 1992 and August 1995 by the Croatian Army for its military needs. In 2000, the local court suspended the proceedings in accordance with the Parliament's 1999 legislation suspending all such cases. The Constitutional Court rejected Acimovic's challenge to the suspension of his case in late 2000, on the grounds that the lower courts could not proceed on the action given the Parliament's action.

In its judgement, the ECHR went on to observe that in July 2003 the Parliament passed new legislation concerning the Government's liability for damage resulting from acts of members of the Croatian army and police when acting in their official capacity during the Homeland War. The ECHR noted that the new law retroactively interferes with Acimovic's previously established right to compensation by setting new conditions under which the State will be held liable. However, given the broad standard of 'war damage' to be applied by the Croatian courts when the cases are continued under the new law, the ECHR withheld its judgement on the substance of the law. It is likely that the new law's retroactive elimination of all property claims will be reviewed in one or more of the cases pending review at the ECHR.

#### **Update on domestic war crime proceedings in September and October**

The Mission's Field Centres and Field Offices continued to monitor a number of domestic war crime arrests and proceedings during September and October. Newly initiated investigations of Croats accused of war crimes against Serb civilians resulted in indictments against the suspects. There were a number of arrests of long-time Serb residents and recent returnees based on long-standing pending charges.

On 22 October the County State Prosecutor in Sisak, central Croatia, raised an indictment against two former Croatian policemen accused of war crimes for the killing of a Serb civilian in 1992. The defendants were arrested in June 2003 and remain in detention. This case is the first such indictment against ethnic Croats in Sisak-Moslavina County.

On 28 October the Sibenik County Court acquitted a Croat who had been held in detention for four years. The individual was a former officer in the Yugoslav People's Army and was accused of having committed war crimes against wounded and sick persons in 1991. The inconclusive opinions of two forensic and ballistic experts were the primary reasons cited by the Court as the basis for the acquittal, which came during the third trial in this case. Prior to his arrest in 1999, the individual was convicted and sentenced *in absentia* to 12 years imprisonment. In 1993 the Supreme Court confirmed the verdict and increased the sentence to 15 years granting the prosecutor's appeal. During the first re-trial in October 2000, the individual was again convicted. In November 2002 the Supreme Court overturned the guilty verdict issued in October 2000 and ordered a second re-trial that resulted in the recent acquittal.

Arrests in September and October involved both persons travelling into Croatia as well as long-term residents. On 24 October, a Serb was arrested in Sibenik, southern Croatia, on suspicion of having committed war crimes against prisoners of war. He remains in detention. On 20 October, a Serb was arrested at the border with Serbia and Montenegro under suspicion of committing war crimes against the civilian population. He was transferred to the prison in Gospic, south-central Croatia. The arrest was based on an *in absentia* indictment and an arrest warrant issued in 1994. A Serb included in a group indictment against 58 persons for war crimes against civilian population in the Baranja region of Eastern Slavonia was extradited on 10 October from Switzerland.

Police arrested a long-term Serb resident in Vukovar in the Danube Region based on a 1993 arrest warrant for genocide and war crimes against civilians. He was released shortly thereafter on bail. He was arrested after a witness in the ongoing *in absentia* trial against a group of defendants including this individual indicated in open court that the person was residing in the community. In late September, a Serb returnee, suspected in an investigation of war crimes against prisoners of war committed in 1991 was arrested in Benkovac, southern Croatia, and detained. After Mission staff contacted the authorities about the status of the case, the suspect was released. The Deputy County State Prosecutor stated that that the returnee was erroneously arrested due to mistaken identity.