



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

2 May – 15 May 2007

SEECP Summit held in Zagreb

On 11 May, regional leaders gathered in Zagreb for the tenth summit of the Southeast European Co-operation Process (SEECP), at which Bulgaria took over the one-year chairmanship from Croatia. The SEECP is due to replace the Stability Pact for Southeast Europe as the leading body for regional co-operation, with the former body expected to be dissolved at the beginning of 2008. With the admission of Montenegro during the summit, the SEECP now comprises 11 countries from the broader Southeast European region, including Turkey and Greece.

In addition to heads of state, government and top officials from the countries in the region, the summit was also attended by German Chancellor and EU President Angela Merkel, European Commission President José Manuel Barroso, European Parliament President Hans-Gert Pöttering, EU Enlargement Commissioner Olli Rehn, US Under-Secretary of State Nicholas Burns, OSCE Secretary General Marc Perrin de Brichambaut and senior representatives from NATO and the Council of Europe.

Speaking at the opening of the summit, President Stjepan Mesić said that in relations with the EU, the regional dimension had become as important as the bilateral dimension, pointing out that Croatia continued to invest significant efforts in co-operation with all countries in the region. Parliamentary Speaker Vladimir Šeks said that providing for the future of Southeast Europe is no longer someone else's obligation but a task for the region and "a sign of [its] maturity". Prime Minister Ivo Sanader underlined the region's unique opportunity to leave a period of instability behind and complete its democratic transformation, adding that the region's political elite must recognize that the citizens have chosen "freedom and democracy and a life in the European family, in accordance with its standards and values". These sentiments were echoed by senior EU officials present at the summit, who stressed that it was up to the governments and peoples of the region whether or not to accept the future being offered to them by the European Union. Topics discussed at the summit also included political developments in Serbia and the future status of Kosovo.

The summit concluded with the adoption of a joint declaration reiterating the role of the SEECP in underpinning long-term political stability in the region. The SEECP charter was also amended to include decisions establishing a Regional Co-operation Council with a Secretariat General in Sarajevo. Current State Secretary for Political Affairs at the Croatian Ministry of Foreign Affairs, Hido Bisčević, will be appointed Secretary General.

Government calls minority elections for June

On 9 May, the Government called elections for local councils of national minorities – advisory bodies to local government - for 17 June. The Mission considers this to be a breach of the legislation governing minority elections which clearly states that elections must be held ‘on the third Sunday of May every fourth year’, which this year would have fallen on 20 May.

According to the Government decision, members of 19 national minorities have the possibility of voting for 308 minority councils and 228 individual minority representatives throughout the country. The decision also allows those people registered as ‘Muslim’ on the voter registration list to vote for members of the Bosniak minority in the upcoming elections. Prior to the official introduction of the national minority category ‘Bosniak’ in 2000, many members of the Bosniak minority in Croatia used the old, former Yugoslav category of ‘Muslim’ to officially identify their minority status. Many have not re-registered their minority status in the voters’ register. The Mission considers this solution problematic as members of the Roma, Albanian and other minorities may also be registered as ‘Muslim’, while wishing to vote for a national minority category.

Government adopts measures to reduce backlog of reconstruction appeals

Following repeated proposals by the Mission over the last two years, the Ministry for Maritime Affairs, Tourism Transport and Development (MMATTD) has developed a pragmatic solution to the problem of long delays facing some 14,000 reconstruction applicants appealing against previous negative decisions to their reconstruction requests. In view of the strict eligibility criteria required in order to qualify for reconstruction assistance, the MMATTD has proposed that these appeal cases be transferred to another less stringent housing programme providing State assistance in the form of building materials.

Since adoption of the State Reconstruction Programme in 1996, approximately 140,000, out of a total of 195,000 war-damaged housing units have been reconstructed. While initially benefiting citizens of Croat ethnicity, the reconstruction process has progressively embraced Croatian Serb applicants, who since 2003 have accounted for more than 70 per cent of all reconstruction beneficiaries. However, the strict eligibility criteria required by the 1996 Law on Reconstruction - formal proof of pre-war residence, clear ownership status, certified war-damage categorization, provable commitment to return - have resulted in a high number of negative decisions. Problems related to the poor quality of initial war-damage assessments and extensive delays in processing second instance appeals were highlighted in the Ombudsman’s 2006 Annual Report.

Upon receipt of a positive decision on housing care the applicants in question would have to withdraw any appeal against a reconstruction decision. However, with very limited chances of receiving a positive reconstruction decision, such applicants would at least receive building materials to reconstruct their own housing.

According to the MMATTD, such measures should guarantee the resolution of around 5,000 appeals. Of the 9,000 remaining appeals the MMATTD has said it will endeavour

to resolve these in a speedy manner. If implemented correctly, this combined effort should result in closure of the administrative and operational aspects of the reconstruction process.

War-time amnesty used to bar State responsibility for Serb civilian murders

In a decision issued in April, the Supreme Court prohibited the family of a Serb mother and daughter killed by five Croatian Army soldiers in their home in Novska, Western Slavonia, in December 1991, from recovering damages from the State. Rejecting the claim made by Petar and Goran Mileusnić, the Supreme Court reasoned that no crime had been committed as the perpetrators were amnestied by Zagreb Military Court in November 1992. The 1992 Amnesty Law provided for the amnesty of crimes committed in or related to the armed conflict from 17 August 1990 until 25 September 1992. The Supreme Court further determined that the family could not benefit from the criminal statute of limitations. Since the civil claim was filed in 2004 under the 2003 Law on the Responsibility of the Republic of Croatia for Damages Caused by Military and Police, the Supreme Court found that it was time barred by the three-year civil statute of limitations.

In a similar case also from Novska, the Sisak County Court found that the wife of Mihajlo Šeatović, a Serb killed by Croatian Army soldiers in November 1991, was also barred from recovering damages from the State. The Court reasoned that, although the soldiers - including one involved in the Mileusnić killings – were amnestied in 1992 by Zagreb Military Court, the crimes were committed ‘off duty’ and hence couldn’t be attributed to the military. The Court further found that the killings could be explained as a result of the perpetrators’ reactions to TV images of Serb civilians saluting Serb paramilitary forces entering Vukovar in November 1991.

The decisions in both these cases, based on the legality of the preceding amnesty decisions, are notable given the decisions of the Supreme Court and Constitutional Court in relation to Antun Gudelj, whose extradition from Australia is currently pending. In March 2001, the Constitutional Court determined that the Supreme Court had improperly amnestied Gudelj for the murder of Osijek police Chief Josip Reihl-Kir because the crime was not linked to the conflict, although it occurred during the conflict. The Supreme Court in April 2001 denied the application of amnesty, finding that the war-related suffering of the accused was an inappropriate basis for amnesty. Also of note is the fact that the State Attorney charged with prosecuting war-related crimes also represents the State in these civil proceedings, using the argument that war-time amnesties free the State of civil liability.

Constitutional Court finds Croatia’s retirement scheme gender discriminatory

A recent Constitutional Court (Court) decision will require extensive reform of Croatia’s pension system over the next ten years in order to eliminate features that discriminate between women and men and against common law spouses.

The Court determined that the retirement scheme under which men retire at 65 and women at 60 impermissibly discriminates on the basis of gender. After surveying standards set forward by the European Court of Human Rights, the Council of Europe,

and the European Union, the Court found that there was no justification for the five-year difference in retirement age other than gender. In ordering a remedy, the Court noted that in 2008 Croatia would complete a five-year transition phase, which raised the retirement age of men from 60 to 65 and from 55 to 60 for women. As a result, the Court allowed Croatia until the end of 2018 to remedy the discrimination by additionally raising the retirement age for women from 60 to 65.

The Court also found that contrary to constitutional protection for families, the pension scheme disadvantages common law spouses by limiting eligibility for the 'family pension' of a deceased pension recipient to formally married spouses. The Court did not invalidate this provision, but instead issued a Report to Parliament requesting that the pension law be amended consistent with its decision.

Mission-funded video presented at CoE seminar on combating domestic violence

On 9 and 10 May, in co-operation with the Ministry of Family, Veterans Affairs and Intergenerational Solidarity, the Government Office for Gender Equality and the Council of Europe's (CoE) Directorate General for Human Rights organized a seminar in Zagreb entitled, 'Men's Active Participation in Combating Domestic Violence'. The seminar was one of five regional seminars organized for 2007, as part of the CoE's *Campaign to Combat Violence against Women, Including Domestic Violence*, launched in Madrid in November 2006. The first seminar entitled, 'Legal Measures to Combat Violence Against Women', was held in the Hague in February.

The seminar was opened by Deputy Secretary General of the CoE, Maud de Boer-Buquicchio, the UN Special Advisor on Gender Issues and the Advancement of Women, Rachel Mayanja, Vice President of the CoE Task Force to Combat Violence against Women, Dubravka Šimunović and Croatian Deputy Prime Minister and Minister for Family, Veterans Affairs and Intergenerational Solidarity, Jadranka Kosor. Representatives from nine CoE member states also attended, together with interested NGOs and human rights specialists.

Participants exchanged ideas and best practices on raising awareness among men and engaging them in the fight against domestic violence. The agenda included discussions on the role of men in preventing domestic violence and protecting victims, educational programmes both for school children and professionals in contact with the victims of domestic violence as well as intervention programmes aimed at protecting individual victims.

During the seminar, Deputy Prime Minister Kosor presented a short video entitled, 'Report Violence Against Women' co-funded by the Government, the Mission, UNHCR, the Croatian Red Cross and several Embassies.