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INTERVIEW: JORGE FUENTES, *Head of the OSCE Mission to Croatia*

FUENTES

Sanader's Government wants to bring back Serb refugees

On 17 November Croatia awaits the new OSCE Report. The Head of the OSCE Mission to Croatia, Spanish diplomat Jorge Fuentes, says that the Report will be very sincere and balanced

He reveals that the general tone will be positive and that this will not be merely a reflection of optimism of his Mission but a reflection of the real situation. After a long time, Croatia made a certain breakthrough with regard to the difficult issue of refugee return and political reform; it opened negotiations with the EU and heard many compliments for its effort and success. As a result, there were speculations in the Croatian public already about the forthcoming closing of the OSCE Mission. In the course of the interview we conducted on Thursday, the first man of the OSCE in Croatia reveals where and how the greatest steps forward were made, where are the obstacles for the completion of the processes he follows, and emphasizes the OSCE Mission in Croatia is no longer supervisory mission but an advisory one. However, the decision on the closing down of the Mission will be made based on the results of its activities. This means that deadlines are still very open to speculation.

What kind of a general tone and assessment can we expect in the forthcoming OSCE Report on Croatia?

When the document is published, you will see that one third of it is very positive, one third is very critical and one third is neutral. You will see that we were able to establish progress in certain areas, mostly in the field of media, police and civil society. With regard to the areas of refugee return, political reform, electoral legislation, rule of law, war crimes and other issues, progress was more moderate, but these are also areas where the problems are more difficult. This is my second report since I arrived to Croatia and I am satisfied with it as it has my stamp. It is very balanced because it does not contain only appraisals of Croatia and it is not a utopian one either, quite the contrary. We try to be sincere as that is the only way we can help.

You have been warning the Government repeatedly that it is not sufficient to simply provide for the physical return of returnees but they also need to be provided with a dignified life. What is the situation in that regard?

The return does not mean simply saying: "Do return!" The Government is fully aware that at least four things need to be provided in relation to return. One is facilitating the acquisition of documents for returnees. The second is the provision of houses to which they can return, which means reconstruction. The Government will need time to do that as this is simply something that requires a lot of work. The third key is providing returnees with something to do, meaning that jobs need to exist. People cannot come back,

just sit and watch the stars. Good economic conditions for work need to be created. If returnees are retired, they need to have pensions. The Government knows that very well. The fourth issue is avoiding incidents. Returnees need to be well accepted, both by their neighbours and throughout the country, meaning that a good atmosphere needs to be prepared for their return. The Government is particularly conscious of those problems. They claim that the number of incidents is not that high to discourage people from returning and that Croatia does not have more incidents than West-European countries. Moreover, they claim that it probably has even fewer incidents.

Let us mention only three cases: the Karin murder, the planting of bombs in Eastern Slavonia, setting on fire a plaque on the building of the Islamic Community in Dubrovnik... The public was not able to follow those investigations and to date we have not seen the results. What kind of effect does that have on the general return climate?

You emphasized several very serious cases which are most probably ethnically motivated. Therefore, we insisted very much that the Government conducts a more efficient prosecution of the perpetrators and arrests them. The Ministry of the Interior has not been very successful so far. They are aware of this and are trying to do their best so we will see if they will resolve those cases in the next few months. We are carefully following all the developments. We can see that an incident takes place every few days. That is too much. Even a single incident would be too much, but every few days is really too much. The main problem is the difficulty to differentiate between an ethnically motivated incident and other types. The Ministry of the Interior claims that only 20 to 25 percent of incidents are ethnically motivated. The rest of the incidents are similar to those happening all over Europe.

What is the situation with returnees who become victims of court practice, of slow resolution of cases, in the pursuit of their property?

Well, the judiciary is quite out-of-date, yes, and the backlog of cases is too big. I heard some impressive figures. In the best case, there are a million and a half cases pending in courts, which is more than one per family. I heard even worse figures - about three million cases. I hope that this is not true as we all tend to exaggerate a bit from time to time. However, a million and a half is more than enough. We talk about that quite frequently with the Minister of Justice and she is completely aware of the problem. She hopes that relieving judges from a part of the duties they have to perform now should resolve in an expedite manner a backlog of at least a million cases.

Is the problem only the accumulation of cases? Can it be resolved through the reform of the judiciary itself or it is also a case of a lack of political will?

The reform itself cannot resolve the problem since there are indeed plenty of cases that need to be resolved. That is why we told Minister Kalmeta that something needs to be done. Upon our insistence, they replied with a very clear *Road Map* according to which every individual housing problem should be resolved within a year and two months. It is their intention to complete everything by the end of next year. I often reiterate to them that there are three different problems in this area. One of them is political will, the second is technical skills and the third is the funds. Now, after having spoken with

Minister Kalmeta on several occasions, I am completely convinced that there is a very clear political will.

On the national level, definitely. Does the political will exist with local authorities as well?

Yes, it does, because they receive instructions. They are being told that they need to continue with processes. They are aware themselves that the resolution of the property repossession issue is not followed only in the OSCE Headquarters in Vienna but also in Brussels. This issue is very important to both organizations. You simply need to resolve these issues otherwise we will not be able to advance. During my talks with many county prefects and mayors, I saw that there is a clear political will with the local authorities as well.

What does the problem of technical skills exactly mean?

I often repeat that the operation of provision of housing for returnees, even if you have the money and political will, is extremely complicated. You have to relocate thousands of people. Some of them are illegal occupants, some need to be returned to the places from where they came. The third group needs to be moved into other houses, they should be assisted in constructing those houses, and some people need to go to the place where the former ones once lived... very complicated. I often ask people who are responsible for those operations whether they have the technical skills and whether they need help. They reply that they do not need help and are able to work alone. We follow the whole process very carefully and we are ready to assist wherever necessary.

Can all issues related to return really be resolved by the end of next year?

Sometimes I doubt that. There are some indications that the time period given might be too short and that the Croatian Government might need more time due to financial reasons. Maybe it would be better to space deadlines rather than to try to resolve everything within a year. A little more time will be needed. I think the process might be prolonged until mid 2007. However, I do not want to talk about deadlines, because you should understand that this is not my decision. By the end of next week I need to convince 25 ambassadors in Vienna of our report's findings. They might adopt the report but they also might say "no, you need to continue pushing and there is no chance of leaving the country until the Mission's Mandate has been fulfilled". The Minister of Foreign Affairs will hold her presentation on Wednesday and we will present ours on Thursday. I hope we will convince Vienna that we are on the good path.

What are the major obstacles in the implementation of the Constitutional Law on the Rights of National Minorities?

In the course of our recent and very important conference, we met with representatives of all 22 national minorities in Croatia and we discussed issues with them. To my surprise, they were not disappointed with the mode of representation of national minorities. However, they are disappointed with their representation in local administrations, police and several different professions. I believe that is the main problem.

However, I would like to emphasize something very important. We have to realize that it is very difficult for a country with 22 national minorities to integrate so many ethnicities, unless it has a very strong democracy. Some countries would have great difficulties in dealing with 22 minorities. Only countries with advanced democracy and economic strength can afford minorities and consider them as a source of progress and cultural diversity. Croatia is already dealing with this quite well.

Politicians sometimes explain it as a conflict between the right to representation and the right to free expression of ethnic affiliation. Does such a problem really exist?

I believe this is not a real problem. Nobody has to or should have to hide himself. Honestly, I see no problem in that. I have never come across a case in the field that someone hid his ethnic affiliation.

Why are minorities then numerically underrepresented in state administration, police and judiciary?

Greater efforts need to be invested in the employment of minorities in state administration, police and judiciary. One of the problems is that the Constitutional Law on the Rights of National Minorities contains a provision on minority representation in the aforementioned categories but its implementation is insufficient because the Government is still preparing a plan pertaining to this part of the Law. There is a need for a strategy that will determine a plan of employment and some specific goals. The OSCE Mission advocates a policy of positive discrimination and we do hope that the Government's plan would include the resolution of that issue. At the same time, positive discrimination in the employment of minority representatives should not be used at the expense of adequate qualification.

Why are Roma people only now in such a loud manner mentioned as a problem of discrimination of minorities in Croatia?

Roma people are an ethnic group that faces problems in all European countries. States and governments have a hard time assimilating and integrating Roma communities. The European Union will soon have 27 countries, short after that 28, and in the following 25 years that number could be 35 or 36. When that moment comes, and it is not far away, the European Union will have a Roma minority of almost ten million people. That is the population of Serbia and Montenegro, Portugal, Greece or a little less than the entire population of Belgium. A lot of people who are not integrated anywhere. I participated in the work related to this issue in the Council of Europe and in the European Union and I am aware that it will be very difficult to resolve that problem. However, here, in Croatia, you have to keep trying since the Roma minority is quite numerous. Not as numerous as in Romania or Bulgaria, but numerous. The representatives of the Roma minority attended our conference. I visited Roma settlements in different counties and the situation is not good. The level of education is very low. Some of them start working already as children. Something needs to be done. I spoke with the county prefects and mayors in those areas where the settlements are more numerous and they are also aware of that. As we speak, the report is being completed. When reading, I will pay special attention to the chapter on Roma people.

If the situation is like that, what are the arguments for the transfer of cases from The Hague to the Croatian judiciary?

The Hague Tribunal was very clear with regard to that. Cases may be transferred to other countries if the judiciary in that country is at a high enough level. It does not have to be extraordinary, but it has to be sufficient, which, *inter alia*, means that the countries are capable of protecting witnesses. That is, for example, very important. However, we recently witnessed cases in which they failed to do so and we have to be very careful, otherwise there will be no transfer of cases. The second important issue is a sufficiently functional level of judicial co-operation with other countries, in this case with Bosnia and Herzegovina and Serbia and Montenegro. Finally, we also need an institution that will be able to monitor operations, follow the cases and trials and check if the trials are being conducted in a democratic, transparent and correct manner. Different organizations were taken into consideration, non-governmental organizations, private attorneys-at-law and other possibilities. At the end, they realized that the only reliable organization with sufficient capacity, with lawyers and other infrastructure, is our organization. We take pride in that, we are well established in the field and we will do that work. That does not mean that we have to be here until the monitoring of all cases has been completed. The Hague Tribunal could stay here for five to six years and we might not stay that long. At a given moment, a decision will be made on who will monitor processes after the OSCE.

You mentioned that the situation in the media is satisfactory. Within less than a week we had a verdict for libel against Predrag Matvejevic and the removal of Tihomir Ladisic from the show “Otvoreno”, allegedly because of a problematic viewers’ poll question. How do you comment on that?

The Croatian Radio and Television (HRT) Director General, Mirko Galic, visited us this morning. We have an interesting practice of inviting people from the fields of culture, politics and media to our Mission to discuss different topics. The Prime Minister and ministers were here as well. Within an hour and a half with Galic, we talked a lot about these issues. He explained in detail the background of each case and said that he would protect his people if there is a political reason behind a replacement. However, if the reason is a technical or professional mistake or someone’s limits in their performance, that needs to be corrected. One cannot give notice to a person who committed such a mistake. The person may be warned but a moderate approach is necessary. Galic intends to do so and he promised that we would meet in a week in order to see what the situation with those specific problems is. However, I have to tell you that there are not that many television directors in the world who would co-operate with us regarding that matter in the manner that Galic did. He was more transparent and democratic than his counterparts in many countries tend to be. That speaks both about this area and about the situation in Croatia, in general. My impression in general is that the chapter related to media has advanced. In large cities such as Zagreb or Split, which are also big centres of journalists, the situation is good. Journalists are independent enough, newspapers are independent, there are different TV channels and the freedom of media exists there. When you go to small local communities, the picture is different. The political determination and degree of receiving instructions are stronger. Therefore, the independence of journalists is weaker. However, generally speaking, we are satisfied with the situation of the media.

Is it possible that the OSCE stays in Croatia when the stage of ratification of the accession agreement starts after the completion of negotiations?

I know that there are certain doubts about that in public. Yes, theoretically that is possible since our mandates are separated. We often think in the OSCE why not open a mission, for example, in the USA or some of the EU member countries since there are things that could be improved there as well. Therefore, it could happen that the country is still in the EU and still needs a mission. Honestly, I think that will not be the case in Croatia.

MEETINGS WITH MINISTERS

IT IS ENOUGH TO MEET KALMETA FOR ONE HOUR PER MONTH

You mentioned progress with regard to property repossession. What improvements did you notice?

The OSCE had 41 very urgent cases related to occupancy/tenancy rights. Until two months ago not a single case had been resolved. In the mean time, upon my insistence, we introduced a new practice: three representatives of the international community, the US ambassador, Minister Kalmeta, State Secretary Biscevic and their colleagues, a bigger group of people, meets every month for an hour. Those meetings had been arranged already after the meeting of ministers in Sarajevo in January. When I arrived to Croatia, we did not meet for three or four months. I managed to convince Minister Kalmeta to dedicate to those meetings only an hour per month, but to hold to them. I asked for only an hour. Not more. An hour a month during which we work with precision and meaningfulness is sufficient. The first such meeting we held in July or August and we have been meeting since then on a regular basis. That has created a new atmosphere. Already after the first meeting, out of 41 cases which I mentioned, 11 were resolved immediately. With such a pace, all of the pending cases could be resolved in the following two to three months. Believe me, the Government accepted almost everything we asked for. Therefore, I am convinced that the Prime Minister spoke to them and told them that we have to work together. We have to advance in a successful manner. After all, the international community is only trying to recognize problems and facilitate the path towards democracy and integration, and we do that well. I am generally satisfied with the progress and I think that my colleagues and other representatives of the international community are satisfied as well.

ALTERNATIONS MADE ON HOUSES SHOULD NOT BE PAID FOR

How can we resolve the issue of temporary occupants who are involved in court proceedings requesting money for investments made into houses in which they used to live for years?

We were very clear with regard to that. Temporary occupants have no right to compensation if they made improvements on houses that were not requested by the owner. On the contrary, in the western world, they could be legally compelled to return the house into the original state if the real owner of the house does not like the alternations. They could be legally compelled to additional expenses for returning the house into its original state. However, the owners here did not ask for that. They only ask that they themselves do not have to pay anything for returning into their houses. Minister

Kalmeta and others are perfectly aware of the problem and they will continue working on this.

What about the provision of housing care in towns? The Government undertook a legal commitment to act and the 3,000 submitted applications still await decisions.

That is something we are not satisfied with since the numbers we have are not good. We insist very much on this issue and we hope that those three thousand cases would be resolved. The Ministers already decided on that. They are very well aware that this is not a case of the three thousand but even more cases, so they included their resolution into the *Road Map*. They should also be resolved by the end of next year.