



Organization for Security and Co-operation in Europe Mission to Croatia

Presentation by Ambassador Peter Semneby, Head of the OSCE Mission to Croatia, to the OSCE Permanent Council, Vienna, 10 July 2003

Introduction

The Mission's latest (12th) *Status Report* has been distributed before this meeting to all Delegations. As with previous reports, it gives a detailed account of the state of affairs concerning the Mission's mandate issues. In keeping with practice begun last year, we submitted a draft report to the Government for comment, and as before, we have received substantial input from various ministries and offices, which has been taken into consideration, wherever possible. Since the full report has just been circulated, I will concentrate today on highlighting the key outstanding issues. I will also focus on ongoing Mission activities in the light of the 2004 Programme Outline.

The reporting period has been dominated by Croatia's *European and Euro-Atlantic integration efforts*. The *Stabilisation and Association Agreement (SAA)* with the EU, together with the Government's EU membership application, filed in February 2003, continues to have a profound impact on the Mission's work and its relationship with the Government. To a lesser extent, this is also true for the *Membership Action Plan* with NATO. Given the similarities between the Mission's mandate and the EU agenda *vis-à-vis* Croatia, it is obvious that there are important synergies that can be used for the benefit of OSCE mandate fulfilment and in order to assist Croatia's integration efforts. Three key issues in the Mission's mandate – refugee return; human and minority rights; and the application of the rule of law – are part of the political criteria for accession to the EU. Today in Zagreb, European Commission President Romano Prodi is handing over the Commission's questionnaire to the Government.

On the practical level, we have continued to use the synergies between the OSCE and the European Commission by engaging (often with other key international community partners) in joint approaches to the Government and formulating common positions on key issues, most recently on advice on the Government's plan for housing care for returnees who used to live in apartments with occupancy/tenancy rights.

Mission Activities

In order to focus its activities and to increase transparency *vis-à-vis* the Croatian Government, the Mission developed a *Mission Activity Plan* in mid-2002. The Plan has proved to be an extremely useful tool for all Mission staff in providing guidance and in identifying and developing goals and objectives. As it was intended at the outset to be a living document, managers from throughout the Mission met earlier in the year to review the Plan. We addressed the Mission's key objectives, and found that they essentially remain the same with some modification. They are as follows:

- Support and monitor return of refugees and internally displaced persons and ensure the removal of legal, administrative and practical impediments, with special emphasis on

property restitution and beginning of the implementation of a housing solution for former occupancy/tenancy rights holders;

- Promote trust-building and reconciliation through civil society development, promotion of cross-border and regional initiatives and the creation of an atmosphere conducive to minority return;
- Support and implementation of minority rights, particularly associated with the Constitutional Law on National Minorities (CLNM).
- Support and monitor the reform of the judicial system, the police and the media, and support Government's efforts in these areas through joint projects; and
- Develop synergies with Croatia's Euro-Atlantic integration efforts together with the Government, NGOs and major international actors.

Substantive Issues

The Mission is making efforts to **highlight key issues within its mandate** to a wider audience by a series of conferences and other events. One such effort was the holding of a successful high-level international minority integration conference last week in Zagreb organised by the Mission together with the Croatian Institute of International Affairs and largely funded by the Swedish Government. The conference was inaugurated by the President of Croatia. It is our intention to follow it up by a conference on the relationship and interaction between the OSCE and the EU Stabilisation and Association process in the late autumn.

As a general comment on the substantive issues within the Mission's mandate, it is apparent that the overall trend is positive, but implementation is slow, however, recently, a number of initiatives have been taken by the Government.

On **refugee return**, we have seen progress on the legislative and administrative framework for return, but practical implementation still remains slow. Regarding property possession, we have not seen an increase in the pace of return of occupied housing, due in significant part to the policy choices reflected in the applicable legislation. Conversely, Government efforts on property reconstruction have been advancing well, with the number of Serb beneficiaries receiving reconstruction assistance being substantially increased. It is significant in itself that the authorities have recognised that the issue of housing for former occupancy/tenancy rights must be addressed. The programme must, however be judged on the basis of implementation. The Mission has worked with the UNHCR and the European Commission on giving advice on the operative part of the housing care programme and with the Council of Europe on legal aspects.

The three OSCE Missions in Bosnia and Herzegovina, Croatia, and Serbia and Montenegro have completed a **Joint Action Plan** on regional return issues. The Plan is an OSCE inter-Mission tool designed to focus activities in support of the seven *Common Principles on Return*, presented to the Governments and the OSCE Permanent Council in late 2001. It has been drafted with the support of the three UNHCR Missions to ensure, *inter alia*, that the right to return, the right to property and the protection of ownership rights are upheld and that measures taken in the three countries are mutually consistent.

Here, I would also like to mention the forthcoming **Public Awareness Campaign**, which the Mission is planning. This campaign will be directed at the displaced and refugee populations within and outside Croatia as well as the receiving communities inside the country. Most importantly, the campaign will be designed to contribute to an atmosphere conducive to the return and reintegration of the Serb refugee population. The involvement of the Croatian

authorities is crucial, since any message calling for return to Croatia must come from the Government. Some high-level officials including President Mesic have agreed to support the campaign, and have made public statements welcoming the return of Croatia's Serb refugees. I would also like to repeat the positive response that the Mission gave to the Prime Minister's public call last month for refugees to return to Croatia. At a recent pledging meeting together with Croatian Government representatives, international donors committed over 300,000 Euro to the campaign, and others are awaiting confirmation from their governments.

Minority rights are closely related to refugee return. The adoption in December 2002 of a Constitutional Law on the Rights of National Minorities (CLNM) strengthened the minority rights regime in Croatia. The Law also provides reassurance to those refugees who consider returning. The Mission worked closely with the High Commissioner on National Minorities and the Venice Commission of the Council of Europe in providing expert advice to the Government prior to the adoption of the Law. There has been partial implementation of the requirement to seat additional minority representatives in elected local and regional councils and to hold elections for new national minority councils. Other important parts have not yet been implemented.

The Government's *judicial reform* plan adopted in November 2002 focuses on increasing the judiciary's personnel and materials assets as well as legislative reform intended to enhance its efficiency. Partial implementation of this plan has been seen in the hiring of additional judges. Nevertheless, significant effects of these reform measures are not yet visible, and judicial proceedings continue to be characterised by widespread and excessive delays and lack of execution of final verdicts. There has been little legislative action to follow up the reform plan, although several draft laws related to judicial reform have been prepared by the Government. The Mission is focusing its support in the judicial field on the domestic human rights watchdog institutions – the Constitutional Court and the Ombudsman. An expert report on the Ombudsman institution, sponsored by the Mission and ODIHR, was recently completed, and will be followed up by a conference in the autumn.

The judicial handling of *war crimes* remains difficult, but important efforts are being made to review questionable charges and to enable the domestic judiciary to process war crimes charges in a fair way. Full co-operation with the ICTY remains a key condition for Croatia in its Euro-Atlantic integration efforts. The technical co-operation with the Hague Tribunal has improved, though the failure to arrest General Gotovina continues to be a source of concern to the Chief Prosecutor. Another ICTY indictee, Ivica Rajic was arrested and transferred to The Hague in June.

Substantial efforts have been made to modernise *media legislation*. In close co-operation with the OSCE Representative on the Freedom of the Media, the Council of Europe and the European Commission, the Mission has engaged the expert services of leading international media consultants to work together with the relevant ministries in order to ensure that media legislation is consistent with international norms and standards. The Mission has also taken a leading role in monitoring reform of media legislation in Croatia. The Mission's assessments of new and draft media legislation have been used by international partners as a primary source for their evaluations.

Within the field of *police reform and training*, we have witnessed progress with the launching of a comprehensive community policing programme. However, structural and administrative reforms to provide safeguards against political interference have slowed. The

engagement of minorities in the police force remains to be brought in line with the Constitutional Law on National Minorities.

Regarding *civil society development*, the Government initiated a support framework for NGOs to assist them in realising more targeted projects to be implemented throughout Croatia. The Government is also planning to address the lack of understanding amongst local authorities regarding the work of NGOs.

Looking Ahead

Based on the analysis in the Mission's Status Report, I believe that it would be possible for the Government to make efforts on the following issues in the coming months:

First, on refugee return, the pace of repossession of occupied properties should be increased; reconstruction applications pending should be processed; and the Government's programmes which offers housing to former holders of occupancy/tenancy rights should be promptly implemented throughout the country in an effective, fair and transparent way. The programme for former holders of occupancy/tenancy rights should be supported by simple and transparent procedures for application and a targeted public information campaign. This also pertains to the programme already existing for the Areas of Special State Concern. Any decision by the European Court of Human Rights on this issue should be respected.

Second, on minority rights, the Government should reinvigorate its efforts regarding the implementation of the Constitutional Law on National Minorities. By-elections and additional elections required by the Law should also be held and plans for ensuring appropriate levels of minority representation in the judiciary and state administration should be developed. Within this context, adequate information should also be provided to the minority population and support should be provided to minority associations.

Third, further efforts should be made on ***reform of the judiciary***. This involves not only the reform of laws and hiring of new personnel as set forth in the Government's plan, but also new educational programmes for young professionals. It is essential to ensure that there is a fundamental change in the mindset of both judicial personnel and those who seek justice through the judiciary, as well as a widescale embracing of the culture of the rule of law by all branches of Government, including enhanced adherence to the judgements of the Constitutional Court. Such measures are essential for re-establishing public confidence in the judiciary. Increased efforts should also be undertaken to ensure impartial treatment of war crimes defendants prosecuted by domestic courts.

Fourth, a variety of measures should be taken to strengthen the ***Ombudsman*** institution, as suggested in the recent OSCE expert report on that institution. This also involves Government measures to follow up recommendations by the Ombudsman. As highlighted in the recent report of the Ombudsman, ***reform of state administration*** is essential to restore public confidence and to ensure the transparency and responsiveness of administrative bodies, including those responsible for the variety of refugee return issues.

Fifth, a number of ***media laws*** remain outstanding. The non-politicised implementation of the Law on Croatian Radio and Television should be ensured. As highlighted recently by the OSCE Representative of the Freedom of the Media, libel should be excluded from criminal legislation. Additionally, a Law on Access to Information needs to be adopted.

Sixth, in the field of *police reform*, structural administrative reforms need to be implemented, pursuant to international assistance programs, such as EC CARDS. As prescribed by the Constitutional Law on National Minorities, appropriate minority representation should be ensured in the police.

Seventh, measures announced by the Government designed to support *civil society development* should be enhanced.

2004 Programme Outline

A number of Croatian policy initiatives since my last PC presentation have resulted in a marked increase in operative work for the Mission. We are increasingly collaborating with the European Commission, given the similarities of our agendas. The time until the Commission presents its *avis* next year regarding Croatia's membership application will continue to be very busy for the Mission. In order for the Mission to continue to be a credible partner for the Government in this period, we will need to retain the current level of resources. I have made this proposal in the Mission's 2004 Programme Outline.

Following the Commission's *avis* – and I have said this on several occasions in discussions with Croatian officials in Zagreb – we will take a close look at the Mission's future tasks. This will also have an impact on the structure of the Mission. We will elaborate further on this issue at the Programme Outline discussion later today.