



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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Croatia asks ICTY to reconsider denial of *amicus curiae* requests in Gotovina, Čermak, Markač and Prlić trials

On October 25, Croatia requested that the ICTY reconsider its requests to participate as “friend of the court” or *amicus curiae* in the trials against former Croatian Generals Ante Gotovina, Ivan Čermak, and Mladen Markač as well as that against Jadranko Prlić and five others. In mid-October, the ICTY had rejected Croatia’s *amicus curiae* requests in both cases, finding that the State’s participation would not assist the Tribunal. Also, in early November, the ICTY Prosecutor opposed Croatia’s requests, arguing that the denial of *amicus curiae* status cannot be appealed.

In both requests for review, Croatia argues that the Trial Chamber failed to adequately consider arguments in favour of its participation as *amicus curiae*, accepting only the Prosecutor’s arguments against. In the State’s view, the Trial Chamber did not properly evaluate its contention that since former President Franjo Tudjman and other deceased officials mentioned as part of the “joint criminal enterprise” cannot defend themselves “from this extraordinarily serious discreditation,” the State must be allowed to do so as *amicus curiae*. It contends that if any defendant were convicted without allowing Croatia to challenge the “stigmatizing implications” of the definition of “joint criminal enterprise,” such a verdict would violate “minimum procedural fairness.” Croatia further contends that its impartiality has been demonstrated by its past and current co-operation with the ICTY.

In conclusion, Croatia intimates that if it is not allowed to participate as *amicus curiae* the moral authority of the Tribunal will be diminished “in the perception of its constituency.”

ECHR rejects claims of three Croatian bank account holders against Slovenia

On 6 November, the European Court of Human Rights (ECHR) threw out the applications of three Croatian citizens against Slovenia related to savings accounts held in Croatian branches of the Ljubljanska Banka prior to the dissolution of the former Yugoslavia. The decision in *Kovačić and others v. Slovenia* came more than two years after the ECHR agreed to determine whether the applicants’ inability to access their savings since the early 1990s interfered with their property rights and was a result of discrimination on the basis of citizenship. Notably, two of the three original applicants died while the case was pending at the ECHR and were represented in the later stages by their heirs.

As permitted by the European Convention on Human Rights (Convention), Croatia exercised its right to intervene in the case involving its citizens. The case also indirectly affects numerous Croatian citizens who, like the applicants, remain unable to access savings

deposited in Ljubljanska Banka branches throughout the former Socialist Republic of Croatia. The Government and the applicants have announced their intention to seek review by requesting an ECHR Grand Chamber to convene.

This case has its origins in Slovenian legislation which altered the structure of Ljubljanska Banka following the break up of the Yugoslav federal banking system. Starting in the early 1990s, Ljubljanska Banka prohibited its customers who held foreign-currency accounts in its Croatian branches to withdraw their savings. Depositors in Slovenian branches were, however, allowed to withdraw their savings. Slovenia's position was that each former republic was responsible for any bank accounts in branches on its territory.

The ECHR dismissed two of the applications on the grounds that in July 2005 the applicants received full compensation for their savings through Croatian court proceedings that culminated in the sale of real estate owned by Ljubljanska Banka in Croatia. The ECHR dismissed the third application on the grounds that the applicant failed to attempt any domestic remedies, although such remedies would likely have been successful. The applicants failed to substantiate, even after an explicit request from the ECHR, what human rights violations remained despite their eventual reimbursement, suggesting a lack of familiarity by their counsel with relevant standards.

The ECHR's decision leaves open the question of what remedy would be available for the large number of other depositors resident in Croatia. Ljubljanska Banka has limited assets remaining in Croatia, insufficient to cover all of the outstanding claims. More than 700 Croatians are currently pursuing similar claims against Ljubljanska Banka in the Italian courts given the size of the bank assets in that country.

For some years, the unresolved issue of foreign currency savings in Ljubljanska Banka has burdened the relations between Slovenia and Croatia, which disagree about the extent to which this issue is a matter for resolution under the Agreement on Succession Issues between all successor states of the former Yugoslavia that came into force in 2004.

Mission hands over good governance coordination to Local Democracy Academy

On 7 November, the Mission facilitated the final in a series of quarterly coordination meetings, attended by leading local and international organizations implementing good governance projects. Responsibility for the coordination meetings, which have created a unique platform for donors and practitioners to discuss good governance issues, was handed over to the recently established Local Democracy Academy (LDA). The LDA is a new central institution responsible for the education and training of local officials and employees with the aim of increasing levels of professionalism.

The meeting was attended by leading Croatian NGOs, the LDA Director and UNHCR representatives. It featured the presentation of two CARDS projects, 'Capacity Strengthening for Administrative Decentralisation' and 'Capacity Building and Financial Support to NGOs Providing Services in the Social Sector'. The twenty participants agreed that the past success of these meetings in facilitating co-ordination on current and future projects meant they should continue. Since the LDA's initial capacity will be somewhat limited, the Academy's director announced that the Agency is open to co-operation with all civil society organisations in Croatia, particularly NGOs active in training local government officials and employees.

This initiative, supported by the Central State Office for Administration, is a particularly encouraging development in the democratic life of Croatia, demonstrating the Government's political will to enhance the standards of local governance and co-operate with civil society organizations.