



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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ICTY convicts Milan Martić of war crimes in Croatia

On 12 June, the ICTY Trial Chamber sentenced Milan Martić, a former political leader of Croatian Serbs, to 35 years imprisonment for crimes committed during the early nineties against Croats and other non-Serbs in Croatia. After being on the run for seven years, Mr. Martić surrendered to the Tribunal in May 2002. The trial started in December 2005 and concluded in January 2007.

Mr. Martić was convicted on 16 counts, including persecutions, murder, torture, deportation, attacks on civilians and other crimes against humanity and violations of the laws and customs of war. He was acquitted on one count charging him with extermination. In addition, Mr. Martić was convicted of ordering rocket attacks on Zagreb in May 1995 in which seven people died and more than 200 were wounded.

The Trial Chamber found that between 1991 and 1995, Mr. Martić exercised absolute authority over the Interior Ministry of the so-called ‘Republic of Serbian Krajina’ and, as its President, controlled its armed forces. Further, he was found to have participated during this period in a ‘joint criminal enterprise’ with Slobodan Milošević and others, with the aim of creating a unified Serbian state through a widespread and systematic campaign of fear and crimes against non-Serbs inhabiting areas in Croatia and Bosnia and Herzegovina. Other members of the joint criminal enterprise include several ICTY indictees whose trials have not yet started as well as several persons who are the subject of proceedings in Croatia, including Dragan Vasiljković, whose extradition is pending from Australia and Veljko Kadijević, against whom several indictments have been grouped by the Osijek County Court. An investigation was recently initiated in the Sisak County Court based on ‘Category 2’ investigate materials provided by the ICTY related to killings cited in the Trial Chamber’s decision.

In setting the sentence, the Trial Chamber considered as aggravating circumstances the fact that most of the crimes for which Mr. Martić was convicted were committed against vulnerable people, such as the elderly, detainees, and civilians, noting that virtually the entire Croat and other non-Serb population was expelled from the area under Mr. Martić's control. In particular the Trial Chamber recalled the serious suffering inflicted on civilians as a consequence of the indiscriminate attacks on Zagreb. Finally, the Trial Chamber noted that Mr. Martić evaded justice for seven years after an indictment had been issued against him, giving only minimal weight to his voluntary surrender in 2002.

According to media reports, the ‘joint criminal enterprise’ theory relied upon by the Trial Chamber has recently been the subject of considerable criticism by the President of the Croatian Academy of Legal Sciences who has represented the Government in several capacities in its relations with the ICTY, including in the proceedings for the referral under Rule 11 *bis* of the Ademi-Norac indictment.

New SDP leader elected

At an extraordinary election convention held in Zagreb on 2 June, members of the strongest opposition party, the Social Democratic Party (SDP), elected 41 year-old lawyer, Zoran Milanović, as party President by a clear majority. He defeated SDP Deputy President, Željka Antunović, Zagreb Mayor, Milan Bandić and former Foreign Minister, Tonino Picula, currently the Head of the Croatian Parliamentary Delegation to the OSCE Parliamentary Assembly.

Mr. Milanović succeeds former SDP President Ivica Račan, who died on April 29 [see Fortnightly Report No.9/2007]. Mr. Milanović has announced that Željka Antunović will remain Deputy President and that Dr. Ljubo Jurčić, an independent parliamentarian and economist who recently joined the SDP, would be the SDP’s candidate for Prime Minister in the upcoming parliamentary elections scheduled for November this year. In his first address to the SDP’s Main Committee he said that “an election victory is the SDP’s only Mission” and that the party would focus on its best people and programmes to secure victory. In interviews following his election, Mr. Milanović has stated that if the SDP win the next parliamentary elections, he will call for the Croat community in Bosnia and Herzegovina to be stripped of the right to vote in Croatia, explaining that technically they should not be considered part of the Croatian Diaspora.

Mr. Milanović has agreed to chair the National Committee for European Union Membership Talks, a post previously held by Ivica Račan.

Minority representatives complain of illegal pre-election procedures

In an interpretation of the law criticized by several minority groups and representatives across the country, a recent Government decision has reduced by nearly a third the number of locales in which elections for local minority councils will take place on 17 June. First elected in 2003/4, the 2002 Constitutional Law on the Rights of National Minorities (CLNM) envisages councils for national minorities (CNMs) and individual minority representatives (IMRs) as advisory bodies to local government in areas where minorities exceed certain population thresholds. An earlier Government decision, to call minority elections for 17 June, also drew heavy criticism from many minority representatives who cited clear legal requirements that elections be held on ‘the third Sunday in May every fourth year’ [see Fortnightly Reports No. 9 and 10/2007].

In a written reply to the Mission regarding the criteria and methodology used to decide where elections should be called in 2007, the Central State Office for Administration (CSAO) has explained that CNM/IMR elections were not called in local self-government units with less than 100 minority members. Choosing to recognize absolute numbers

stipulated in the CLNM over the 1.5 percentage threshold also stipulated in the CLNM, the Government has reduced the number of potential CNMs from 471 in 2003/4 to 308 in 2007. The number of IMRs has increased from 141 to 228 at the expense of former councils.

According to the CSAO this cut reflects the large number of local self-government units where elections were not held in 2003/4 due to the non-submission of candidate lists. Data from the State Election Commission (SEC) indicated that this occurred in the smaller self-government units where minority numbers are low. At the time of the 2003/4 CNM/IMR elections commentators, including the Mission, noted short deadlines and the lack of a pre-election campaign as major factors in the low submission of candidate lists rather than low numbers of minorities in certain self-government units *per se*. Despite the Government call for the 2007 minority elections being issued only 30 days in advance, many minority communities were better prepared to nominate lists this time, only to discover they were no longer eligible for representation.

Although receiving complaints from several CNMs and CNM co-ordinations across the county, the SEC defers jurisdiction on matters of legal interpretation to the CSAO. Once rejected by the SEC, plaintiffs have 48 hours in which to forward their complaint to the Constitutional Court (CC). The CSAO has noted that no objections to a proposal of the decision were raised in a closed meeting of minority parliamentarians and the President of the National Council for National Minorities in April. However, parliamentarians representing the Italian, Czech and Slovak minorities, who claim not to have endorsed the decision, have threatened to file a constitutional complaint and boycott the elections if by-elections are not called in those areas where representation has been unduly cut. Unaware of any court case filed with the CC to date, the Mission regrets the lack of binding clarification on this issue from an institution empowered to interpret the law.

In answer to additional Mission queries regarding the basis for determining minority quotas, the Government has confirmed that it continues to base minority representation in local self-government units solely on the 2001 Census, as opposed to updating figures using the latest confirmed voters' register. This is in direct contravention of the CLNM and results in inaccurate levels of elected representation in a number of local self-government units, particularly in areas of significant return. Croatia's leading electoral NGO, GONG, filed a complaint with the CC in October 2005, which currently awaits review and adjudication. The Government has committed publicly to accepting the court ruling in this matter.

ICTY names further seven as part of indictment for 'joint criminal enterprise'

On 31 May, the ICTY Trial Chamber made public a document that names seven former Croatian military and political officials alleged by the ICTY Prosecutor (OTP) to have been part of the 'joint criminal enterprise' (JCE) that committed crimes during and after 'Operation Storm' for which Ante Gotovina, Ivan Čermak, and Mladen Markač are indicted. The document was originally filed on a confidential basis by the OTP in response to an order by the Trial Chamber requiring clarification of those alleged in the indictment to have participated in the JCE. Following requests by Mr. Gotovina and Mr. Markač, the Trial Chamber determined that their right to a fair and public trial warranted making the document public.

The Trial Chamber's decision came after the document's contents had already been revealed by the Croatian media, first on Croatian Television's (HTV) prime time news on 28 May, then in most Croatian media outlets. This media coverage prompted Prime Minister Ivo Sanader to hold a press conference during which he explained that given its Completion Strategy, the ICTY would not undertake any new investigations or indictments.

Those named include Mirko Norac and Rahim Ademi, already indicted by the ICTY for unrelated crimes during the 'Medak Pocket' Operation in 1993. This indictment was transferred to Croatia under Rule 11 *bis* and the trial will begin on 18 June. The other five are Ivan Jarnjak, former Minister of Interior and current Secretary of the Croatian Democratic Union (HDZ), Markica Rebić, former Assistant Minister of Defense, Jure Radić, former Minister of Reconstruction and Development, Mate Laušić, former Head of the Military Police Administration and Miljenko Crnjac, former commander of the Karlovac Military District.

A day after making the document public, the Trial Chamber ordered the OTP to investigate how HTV came to broadcast the confidential information. The ICTY has convicted four Croatians, including Markica Rebić named as part of the JCE, of contempt for publishing protected witness information [see Spot Report 'ICTY convicts two Croatians for contempt of the Tribunal,' 18 March 2006 and Fortnightly Reports No. 18, 16/2006 and 03, 06/2007].

The trial against Mr. Gotovina, Mr. Čermak, and Mr. Markač was originally set to start on 7 May, but has been postponed indefinitely due to disqualification of three defense attorneys [see Fortnightly Reports No. 6 and 8/2007].

ECHR rules Croatia failed to effectively investigate ethnically motivated attack

In late May, the European Court of Human Rights (ECHR) determined in *Šečić v. Croatia* that Croatia failed to fulfil its obligation to effectively investigate a physical attack on a Roma man. The assault, which occurred in central Zagreb in 1999, left Šemso Šečić with multiple rib fractures for which he was hospitalized. To date, no one has been prosecuted for the attack. Starting immediately after the attack, Mr. Šečić's attorney repeatedly contacted authorities, suggesting evidence and providing information on possible witnesses and suspects, including suspicions that the perpetrators might belong to a 'skinhead' group. In 2002, the Constitutional Court rejected Mr. Šečić's complaint about ineffective investigation without a formal decision, finding that it lacked jurisdiction to review such complaints. Due to significant shortcomings in the investigation, including delays, failure to question key suspects or follow significant leads, the ECHR found that Croatia did not meet its duty under Article 3 of the Convention to safeguard Mr. Šečić from inhuman and degrading treatment.

Based on the contravention of Article 14 of the Convention taken together with Article 3, the ECHR also found that Croatia discriminated against Mr. Šečić by failing to take all reasonable steps to determine whether the attack was motivated by ethnic hatred or prejudice. The ECHR found that "treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be turning a blind eye to the

specific nature of acts that are particularly destructive of fundamental rights.” Noting police suspicions that the attackers belonged to a skinhead group, the ECHR concluded that it was “unacceptable that being aware that the event at issue was most probably induced by ethnic hatred, the police allowed the investigation to last for more than seven years without undertaking any serious steps with a view to identifying or prosecuting the perpetrators.”

Head of the Government Office for Associations presents priorities for 2007

On 6 June, the recently appointed Head of the Government Office for Associations, Dr. Igor Vidačak, an expert on civil society and EU issues [see Fortnightly Report 3 and 7/2007], presented his priorities for 2007 to the Mission.

Ensuring greater transparency in the allocation of State funds for NGOs has been defined as one of the Office’s top priorities, along with regulating the status of public benefit organizations, advocating for adoption of the Law on Foundations and formalizing the consultation process between the authorities and civil society organizations. Dr. Vidačak also outlined the support his Office is providing the Council for the Development of Civil Society - a platform which gathers elected NGO representatives, independent experts and representatives from different ministries – which is gaining long awaited momentum as a result. The Council has subsequently improved its operations by establishing three special working groups to deal with legal issues, transparent allocation of State funds, and EU accession. Dr. Vidačak also stressed his attempts to encourage public debates on these crucial issues, in an attempt to broaden the scope for citizens to communicate with the authorities and hopefully affect public policy.

Regional forum on community policing held in Istria

Between 4 and 6 June, the Ministry of Interior hosted the second Regional Forum on Community Policing (CP) organised by the Southeast Europe Police Chiefs Association (SEPCA), in Valbandon near Pula. The project was additionally supported by the Swiss Agency for Development and Co-operation and the European Commission. The first SEPCA Forum on CP took place in Bucharest last year.

Participants at the Forum included police and Ministry of Interior representatives from SEPCA member countries - Albania, Bosnia and Herzegovina, Bulgaria, Croatia, former Yugoslav Republic of Macedonia, Serbia, Montenegro and Romania - and the current Serbian chairmanship. Together with experts from Romania, Sweden, France, Belgium, Germany and Switzerland, participants used various workshops to explore ways to develop the CP concept in South Eastern Europe. The extent to which CP can transform police forces by making them more adaptable to a changing society that includes ethnic minorities was also discussed. Speaking to participants at the three-day Forum, the Director General of the Croatian Police said that the development of CP in Croatia has helped increase the level of trust between citizens and the police. He noted, however that the main precondition for the successful implementation of CP was internal reform and democratization of police forces.

Participants at the Forum recognized the Croatian model of CP as a leading model in the region.

Second Government/Mission mandate-related plenary in war-affected area

On 4 June, in Vukovar, Eastern Slavonia, the Government organised the second in a series of local, mandate-related plenary sessions. These plenaries have been designed as a means of disseminating locally, national policies agreed upon by the Government in consultation with the Mission. The first meeting took place on 18 May, in Benkovac, northern Dalmatia [see Fortnightly Report No. 11/2007].

The meeting was chaired by the Minister of Foreign Affairs and European Integration, Kolinda Grabar-Kitarović, and gathered around 100 representatives of local authorities, national minorities, NGOs and the media from both Vukovar-Sirmium County (VSC) and Osijek-Baranja County (OBC). Also attending the meeting were senior officials from the Ministries of Justice and Foreign Affairs, State Secretary of the Central State Administration Office (CSAO), Antun Palarić, Serb parliamentarian, Vojislav Stanimirović, the VSC County Prefect and the Mayor of Vukovar. Accompanying the Head of Mission were the Ambassadors of Spain and Portugal to Croatia - representing the OSCE Chairman-in-Office and the incoming EU Presidency respectively - the Ambassador of the USA to Croatia, the Head of UNHCR and Deputy Head of the Delegation of the European Commission to Croatia.

Opening the discussion, the Foreign Minister provided an overview of Government efforts to create a framework for sustainable return so that all who wish to return can. Presenting Eastern Slavonia as a model of successful re-integration, the Minister highlighted the important role played by the Mission and the former United Nations Transitional Authority in Eastern Slavonia, “Twelve years after the war and ten years after the peaceful reintegration of this region, return is almost complete and we will all work together on the creation of a good atmosphere.”

Presentations on the implementation of the housing programmes for refugees and displaced persons and the requirements for proportional representation of national minorities in State administration and the judiciary were given by the respective State Secretary and Assistant Ministers, with a particular emphasis on VSC and OBC.

In his address, the HoM emphasized the need for local authorities to create an appropriate political climate for the fair conduct of local war crimes trials regardless of national origin.

Comments and questions after the presentations addressed specific problems related to implementation of the housing care programmes for former occupancy tenancy rights holders from the Danube Region, the under employment of minorities and minority education. Highlighting weaknesses in many of these areas, Mr. Stanimirović noted that Mission support for the implementation of mandate-related Government programmes and commitments was still necessary.

Similar meetings are scheduled in June for Sisak, Gospić and Knin.