



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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UK denies Croatia's request to extradite Serb convicted *in absentia* of war crimes

In late March, a British first instance court refused Croatia's request to extradite Milan Španović, who in 1993 together with 18 other Serbs, was convicted *in absentia* for war crimes by Sisak County Court in central Croatia. During the 1993 trial, Mr. Španović and his 18 co-defendants were represented by one court-appointed attorney and the five page verdict failed to specify the individual contribution of each defendant to the crimes for which they were convicted, although required by Croatian law. Mr. Španović and the others were given twenty-year sentences for looting, assault and harassment of civilians in occupied villages in central Croatia in August 1991.

Ruling in the recent UK extradition proceeding, the judge found that although Mr. Španović was legally entitled to a re-trial if extradited, serious impediments existed to the fair conduct of such a re-trial. Noting the lengthy passage of time since the crimes took place, the judge concluded that it would be difficult to find reliable evidence, including witness testimonies. The judge further found that Mr. Španović had cause to reasonably expect he would stay in the UK when granted leave to remain in 2000. At the time the British immigration authorities had been aware of Mr. Španović's *in absentia* conviction. On this basis, the court concluded that it would be unjust to extradite Mr. Španović. The prosecution has appealed.

According to Croatian Government statistics, Croatia has issued approximately 400 international arrest warrants for persons convicted of war crimes *in absentia*. Based on Mission monitoring of re-trials of persons apprehended following *in absentia* convictions, some persons have had their convictions confirmed, some have been acquitted, while charges against others have been dropped or re-qualified to armed rebellion, allowing amnesty to be applied.

In absentia convictions are among the topics discussed during the Mission's regular plenary meetings with the Ministry of Justice, Chief State Attorney, and representatives of the Supreme Court, together with the Delegation of the European Commission to Croatia and the ICTY. At present, there is no mechanism for review of final *in absentia* convictions other than arrest, detention and re-trial of the accused. Given the demonstrated weaknesses of at least some of these convictions, the Mission, the EC Delegation and the ICTY have proposed to the Ministry of Justice that an alternative review mechanism is explored that will eliminate any unsubstantiated cases.

Although reduced in number from past years, Croatia continues to try *in absentia* a significant number of war crimes suspects who are unavailable to the Croatian judiciary. For example, according to Mission information in 2006, two trials were conducted fully *in absentia* and five trials were conducted partially *in absentia*. More than half of all defendants and nearly 60 per cent of Serb defendants were tried *in absentia* in 2006. Enhanced inter-state judicial co-operation is key to ending impunity for war crimes suspects outside Croatia's borders as well as avoiding *in absentia* proceedings.

HRT Council fails to elect permanent HRT Director General

On 26 March, the Croatian Radio and Television (HRT) Programme Council failed to elect a new Director General for the national broadcaster, lacking the required two-thirds majority vote for any of the candidates. The strongest candidate, current Assistant Director General for HRT, Vanja Sutlić, received one vote short of the required two-thirds majority in the fourth round of voting.

Due to extremely high tensions surrounding this issue - with Council members accusing each other of lobbying for political options and interest groups culminating in a physical clash and police intervention - a security guard was hired to attend a subsequent vote for Acting Director General. A day prior to the vote, the Ministry of Culture, reversing an earlier position, stated that the Law on HRT does not explicitly specify a two-thirds majority for the election of an Acting Director General and as such, a simple majority would suffice. This prompted two Council members to walk out of the session in protest. Two more Council members left due to verbal altercations during the session. Finally, Mr. Sutlić was elected Acting Director General of HRT for a maximum of six months or until the election of a new Director General. The Programme Council has issued a new tender for the post of Director General.

The Croatian Journalists' Association and the Media Council of the Croatian Helsinki Committee (HHO) have called upon members of the Programme Council to assume an appropriate level of responsibility and decorum, stressing that the proper functioning of HRT as an independent, public media service should be the Council's priority.

In light of varying interpretations of provisions in the current Law on HRT and in line with earlier recommendations, the Mission anticipates future amendments to the Law on HRT, which the Government has promised to introduce following the next parliamentary elections scheduled for November. In the meantime, the Mission urges that, in the run-up to these elections, the public broadcaster avoids the kind of political pressure it has been subject to in the past.

Third war crimes acquittal of Croatian police officer

In late March, the County Court in Karlovac, central Croatia, following a third retrial, acquitted Mihajlo Hrastov, a member of the Croatian police force, of killing 13 Yugoslav Army (JNA) soldiers in 1991. The war crimes proceeding against Mr. Hrastov has been ongoing for nearly 15 years, starting with his indictment and acquittal in 1992, which was reversed by the Supreme Court in 1994. After a six-year gap, Karlovac County Court

initiated a second trial in 2000, acquitting Mr. Hrastov in 2002, a decision which was again reversed by the Supreme Court in 2004. In both reversals, the Supreme Court found that Karlovac County Court failed to properly establish the facts, notably in terms of crediting testimony and performing expert examinations. The latest trial lasted more than two years. The prosecution has indicated it will appeal.

Consistent with its two prior acquittals, Karlovac County Court found that Mr. Hrastov had killed the JNA soldiers in self-defence. The presiding judge ruled that it could not be established whether the soldiers were prisoners of war under international law, as it remained unclear whether they had unconditionally surrendered and were deemed *hors de combat*.

A large number of Mr. Hrastov's supporters attended the trial, during which the Mayor of Karlovac proclaimed Mr. Hrastov a hero and publicly announced his intention to provide financial support. Media reactions to the verdict were polarised, ranging from condemnation to appeals to conclude the case after three acquittals in order to spare Mr. Hrastov further proceedings.

Like the vast majority of war crimes cases in Croatia, the three proceedings against Mr. Hrastov were all conducted in the community where the killings occurred. The Mission has observed that proceedings conducted in local communities not infrequently raise fair trial concerns related to pressure on local authorities and witnesses, as well as impartiality. An early request to transfer the case to another court was rejected by the Supreme Court in the early 1990s. In relation to the third trial, however, the State Attorney did not exercise the discretion granted by a 2003 law and request the President of the Supreme Court to transfer the case to one of Croatia's four special war crimes courts.

New Head of Government Office for Civil Society Associations appointed

On 16 March, the Government appointed Igor Vidačak as Head of the Government Office for Civil Society Associations. He succeeded Jadranka Cigelj, who was dismissed from this post two months ago. The appointment of Mr. Vidačak, an expert on the third sector, EU enlargement, good governance and institutional reform, has been welcomed by NGOs and civil society organisations across Croatia. As former President of the Council for Civil Society Development in 2006, Mr. Vidačak invested substantial effort in making the work of the Council more transparent and accountable. He was also instrumental in developing the National Strategy for Civil Society Development.

Mission helps identify 2007 priorities for re-electrification in return areas

Since 2004, when the Mission first became involved in the re-electrification of returnee villages, 140 villages and hamlets have been reconnected out of more than 300 originally identified by the Mission and its partners. In terms of individuals, this has resulted in approximately 5,000 Croatian Serb returnees regaining access to the electricity network.

Over the last two years, the joint advocacy efforts of the Mission together with the Independent Serbian Democratic Party (SDSS) and the Croatian Electricity Company

(HEP) have succeeded in doubling the allocation of funds for the re-electrification of returnee villages. In 2006, a Task Force was created with representatives of the Mission , the Ministry for Maritime Affairs, Tourism, Transport and Development, HEP and the Serb National Council, a national umbrella organization of Serb national minority councils. The purpose of the Task Force is to identify re-electrification priorities in accordance with earmarked funds as well as supervising work in the field.

On 29 March, the Task Force endorsed the majority of the Mission's proposals for re-electrification in the first half of 2007. Priorities for the remainder of the year will be discussed during the course of April. This should result in the additional re-electrification of 111 returnee villages and hamlets by the end of 2007. Provided the Government earmarks sufficient funds and work on the ground proceeds at the current pace, the Mission envisages reconnection for virtually all locales identified in 2004 by the end of 2008.

Closure of Field Office Karlovac

A simple ceremony to mark the closure of the Mission's Field Office (FO) in Karlovac took place on 29 March. Following the closure of four thematic units in November 2006 and in line with indicators in the 2006 budget, the closure of FO Karlovac forms part of an overall effort to downsize the Mission and improve cost-effectiveness. The Mission will continue to monitor mandate-related developments in the Karlovac area from the Mission's Headquarters.

Established in 1997, FO Karlovac - approximately 40 km from Zagreb - has been active in the town and county of Karlovac for a decade. Since the beginning of 2006, FO Karlovac has been manned by five staff members. A transition team, including the Slovakian Head of the FO will remain in place until the end of April.

The Head of Mission, together with the Slovakian Ambassador to Zagreb, Jan Banas, presided over the ceremony. Officials from Karlovac town and county and mayors from surrounding municipalities as well as presidents of local Serb national minority councils attended the ceremony as did representatives from local courts, the police, the Croatian Electrical Company, NGOs and local media.

Speaking at the ceremony, the Head of Mission said that "the closure of FO Karlovac has been made possible because of progress achieved in areas of our mandate. It does not mean that the Mission is leaving this area. The HQ in Zagreb will keep a door open for all interested citizens and institutions from the Karlovac area." Head of Field Office Jan Repa paid tribute to the good co-operation between local authorities and the FO, which he said had contributed to speeding up the complex process of refugee return and integration in the county, stressing that "the FO has worked very closely with mayors, county officials, NGOs and minority groups, helping returnees, settlers and displaced persons of all ethnicities in economically deprived areas of the county".