



The

COURIER

Newsletter of the OSCE Office in Zagreb

March/April 2009



Mirjan Darnaska

Lica pravosuđa
i državna vlast

aktualna pitanja
ostvarivanja
i zaštite prava
radnih odnosa
2006. godina

Zbornik sadrži:

B. Bačić - M. Bitanga - S. Frković - O. Jelčić - J. Jug
Kundih - O. Livada - N. Perko - M. Stojanović - I. Suman Podgajski

PRAVO

Redaktor Nikola Gavella

Mira Aljčić
Dubravka...
Dijana Jakovac...
...dr. Obrad...

OBITELJSKO
PRAVO



I. Crnić, ...
D. Marinković Drača, S. Nikšić, Z. Potočnjak

ODGOVORNOST
ZA NEIMOVINSKU

Travelling

OSCE CiO and Secretariat
annual meeting with
Heads of Field Operations
and Institutions - Part II

HoO visits returnees in
Šibenik, Knin, Karlovac,
Vukovar and Osijek

War Crimes Trial
Monitoring in Šibenik,
Karlovac and Vukovar

RETNINE U VLA
EPUBLIKE HRV
I OPĆA DOB

Akademik
Jakša Barbić
mr. sc.
Gabrijela Mihelčić
Ana-Marija Končić
Desa Sarvan, dipl. iur.

Nekretnine
i
zemljišne
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The OSCE Office in
Zagreb from time to time
donates legal literature to
Croatian courts



In the past months I have been doing a new tour of the country, the latest of many I have undertaken in my four years in Croatia. The objective this time was very precise: it was about maintaining contacts with all the presidents of the courts of justice, as well as the presiding judges of the war crime trials that were taking place in the country. At the same time I wanted to see the way in which the Government is implementing the Housing Care Programme, by visiting several returnee families in different parts of Croatia.

Sisak, Požega, Rijeka, Šibenik, Vukovar and Karlovac were the places chosen. I also went to Osijek, Knin and to smaller localities of those areas. Being close to the end of my appointment in Croatia, I took an opportunity to say goodbye to some of my best friends in the country such as the Mayors of Knin and Vukovar, the Vukovar-Sirmium County Prefect and the authorities in Zadar.

The situations extracted from my trips are the following:

The trials are conducted correctly, at least formally. The presiding judges, as well as the prosecutors and the defence lawyers are doing their job in a correct manner.

The witnesses regularly participated in

almost all of the cases that I monitored. They were interrogated extensively by the judge, the public prosecutor and the defence lawyers.

With the exception of the *Glavaš trial*, in which there have been repeated delays due to the bad health of the defendants, the defendants behaved in a regular and dignified manner.

The audience behaved regularly as well, without any perceptible intention of pressuring the protagonists of the trials in their tasks.

In other words, the courts basically function normally and correctly. It has probably not always been the case, but the continuing meetings with the Minister of Justice, with the President of the Supreme Court, with the Chief State Prosecutor and with the executive officials of the Judicial Academy have kept on improving court practices which in the past suffered from social and political pressures that influenced the sentences.

In my conversations with the presidents of the courts and with the judges, I reiterated the conclusions reached in the Plenary Meetings of the Ministry of Justice: the necessary search for objectivity in the trials, the protection of witnesses, regional

co-operation, the provision of the courts with necessary material equipment, the indispensable equilibrium in the trials with regard to defendants' nationality, the adequate preparation of the judges, lawyers, prosecutors etc.

Towards the future, it will be necessary to utilize with higher frequency the four special courts that contribute the necessary additional objectivity, in order to avoid the social pressure when trials are held too close to the places where the crimes were committed.

With regard to the Housing Care chapter, most of the apartments visited are in perfect condition of habitability. The scarce exceptions have been communicated to the appropriate Departments that have proceeded with the fast correction of the problems. In this sense, the major problem will be to reach the sufficient number of apartments required by the returnees by the end of 2009 and, in order that it would be so, the Government should undertake extensive efforts in the next months.

Ambassador Jorge Fuentes
Head of Office

Calendar:

12-02-09 "Fun Fare" at the Office's HQ in Zagreb



20-02-09 Meeting with Mrs. Dubravka Šimonović, MFAEI, Head of Department for International Organizations and Human Rights

25-02-09 Ambassador Fuentes and Ambassador of Bulgaria, Ivan Sirakov, field trip to Karlovac County Court and Housing Care Recipients in Karlovac County

26-02-09 American Chamber of Commerce in Croatia invitation for HoO to attend a luncheon with speaker Ambassador Robert Bradtke "New Directions in the Obama administration"

27-02-09 Farewell lunch given by HoO for Amb. of B&H Aleksandar Dragičević; attending Amb. of Serbia Radojov Cvetičanin; Amb. Daria Krstičević; Amb. of Albania, Pëlumb Qazimi, Amb. of Turkey, Umur Apaydın; Amb. of Greece, Ourania Arvaniti; Amb. of FYRM Dančo Markovski.

02-03-09 Trip to Vukovar and Osijek. Visit to Vukovar County Court and HC Recipients in Vukovar, Osijek and Beli Manastir. HoO was accompanied by Ambassador of Greece, Ourania Arvaniti.

12-03-09 Meeting with the Parliament Speaker, Luka Bebić regarding the upcoming OSCE PA Assembly to be held in Croatia in 2011.

OSCE: OSCE CiO and Secretariat annual meeting with Heads of Field Operations and Institutions - Part II



Concerning the security dimension, during the turn for replies, some Mediterranean Partners for Co-operation demanded the OSCE involvement in the Gaza situation. The Minister's analysis of OSCE's second dimension focused on climate change and highlighted the threats ahead, such as desertification, water scarcity, soil contamination and environmental degradation. In this context, she also mentioned the energy crisis and the necessity to secure supplies. She concluded her remarks about the basket reminding of the need to ensure that the ramifications of the current global financial crisis would not trigger a spillover effect onto security. She announced that Migration, which she confirmed to be a comprehensive security issue, would continue to be analysed at the second part of the Economic and Environmental Forum in Athens on 18-20 May 2009. Finally, the Minister explained the concrete measures for continued activities by the Greek chairmanship in reference to the on-going important issues at the third dimension: gender equality, election observation by both, ODIHR and the PA, the strengthening of the rule of law and its cross-dimensional character, violence against women, hate crime, promotion of tolerance, combat against racism, xenophobia and trafficking in human beings, the right to education, with special emphasis on Roma and Sinti communities, freedom of religion or belief, and freedom of the media.

The programme of the Greek Chairmanship as presented by Minister Bakoyannis during her address received the support of the OSCE Permanent Council and spurred an extraordinary number of constructive reactions and interventions by the Ambassadors of the 56 Participating States, as well as the Mediterranean and Asian OSCE Partners for Co-operation.

The 19 Heads of Field Operations were then given the opportunity to communicate and convey possible concerns directly to

Minister Bakoyannis during a two hour discussion with her. This get-together with the CiO was followed by another confidential session with the Secretary General, Marc Perrin de Brichambaut.

By then, it was time for the Ambassadors to attend the splendid cultural event and reception hosted by the Minister. Both events took place at the spectacular Liechtenstein Palace, the most beautiful baroque building in Vienna. The Greek singer and UN Goodwill Ambassador, George Dalaras, gave a colourful concert at the Hercules Hall combining the Spanish sounds of Argentinean Misa Criolla and the Greek sounds of bouzouki and accordion. A distinguished reception, offered by Greece, followed in a pleasant atmosphere enriched by the sculptural decoration, the marbles and the impressive frescoes of the Palace.

The next day, 16 January, four separate regional working groups took place. The working group on South Eastern Europe that our HoO attended, was chaired by the Director of the CPC, Ambassador Salber. Among many issues and following an introduction by a designated Ambassador, the seven SEE HoMs discussed the challenges in their relationships with the host countries, the Sarajevo and Palic processes, and the continuation and re-prioritising of OSCE involvement in the SEE area. This last item was introduced by our HoO. A clear consensus emerged on the need to increase inter-Mission cooperation.

Finally, that afternoon, the heads of field operations and institutions, attended a panel discussion chaired by Ambassador Salber with the Directors of Management and Finance, Human Resources and Internal Oversight, the Senior Legal Adviser, the Heads of Press and Public Information and the Programming and Evaluation Support Unit.

Enrique Horcajada
Head of the Executive Office



Everyday issues and challenges that returnee families face were of interest of Mrs Fuentes, who accompanied the HoO on several occasions such as this in Knin, visiting the Sirko family.

In February and March, Ambassador Jorge Fuentes, the Head of the OSCE Office in Zagreb, accompanied by his associates, visited the cities of Šibenik, Knin, Karlovac, Vukovar and Osijek. These visits are part of the HoO's nation wide inspection tour of former Occupancy/Tenancy Rights (OTR) holders who have been provided with housing through the Government's Housing Care Programmes, inside and outside the Areas of Special State Concern.

On 10-11 February 2009, Ambassador Jorge Fuentes, Head of the OSCE Office in Zagreb visited Šibenik-Knin County. In Šibenik, the administrative centre of the county, Ambassador met with a young

three-member returnee family. Mr. and Mrs. Đanković and their son left a flat in Šibenik in 1991. After spending 13 years in Serbia, they returned in 2004, and applied for housing care. Finally, on 23 June 2005 they received a nice 60 square meters flat in a brand new building situated in an attractive location. Mr. Đanković is employed, and this family is a very positive example of return.

Apart from the Đanković family, another 11 additional returnee families received HC in the same block.

<http://www.maplandia.com/croatia/sibenik/sibenik/>

A day later, the Head of Office met with two minority returnee families in Knin. Four-member Vučenić family is enjoying their new flat in Knin and awaiting for possibility to buy it of the state.

<http://www.maplandia.com/croatia/zadar-knin/knin/>

In the Knin's northern suburbs, a young four-member family received a state owned house which requires certain repairs. However, they have already moved in since there was no other place where they could live. Mr. Sirko himself has performed the necessary works but exhausted his funds and also lacks certain building skills in order to continue with the repairs. This couple with two little sons returned from Serbia and received housing care in May 2008.

Only a few days after the visit and Ambassador Fuentes' intervention with the Knin authorities, the Sirko family were visited by a construction engineer.

We expect the building material to be delivered soon, while the Knin Deputy Mayor promised that the works will be paid of from the town budget funds.

The Head of Office used the occasion to meet with the Knin Mayor, Josipa Rimac and her two deputies, Dragan Jerković and Tomislav Vrdoljak.

Momir Vukmirović
National Programme Officer





Responding to Ambassador Fuentes's invitation extended to Ambassadors in Croatia to join him in his field visits to housing care recipients, the Ambassador of Bulgaria to Croatia, HE Ivan Sirakov, joined the OSCE team in their visit to Karlovac County.

<http://www.maplandia.com/croatia/karlovac/>

The delegation was accompanied by Marica Barbaric, the Head of Karlovac Regional Office of the Directorate for Areas of Special State Concern, who showed them an apartment building with five new flats waiting to accommodate former occupancy/tenancy right (OTR) holders. The building is located in Cerovac, on the outskirts of Karlovac. Despite the fact the flats are new, no families are willing to move in. This building shows the other side of the HC Programmes coin... the flats are new... the keys are ready to be handed over... but the recipients are not willing to accept them.

On 2-3 March 2009, the OSCE Office Head, accompanied by the Ambassador of Greece to Croatia, HE Ourania Arvaniti visited Vukovar - Sirmium County. In Vukovar they met a six-member family, the three generations of Milutin Okresa. Mr. Okresa is a former holder of OTR over a flat in Osijek. When the war broke out in 1991 the family moved to Dalj, a Slavonian town which was not under the administrative control of the Croatian authorities during the war. They have been provided a temporary

accommodation there. After the peaceful re-integration of the Croatian Danube Region in 1998 they had to vacate the house since the legal-owner expressed his intention to return from exile. Once again the family was provided temporary accommodation, this time in Vukovar. After many years of living in someone else's house, the family moved into their current accommodation in August 2007 where they are quite happy. Despite the fact that the house is in bad condition (humid, leaking roof, bad isolation...) the family would like to buy it off. Ambassador Fuentes promised not only that he would insist with the relevant authorities to speed up the purchase process but he would also insist that the family is provided with all the necessary construction material required to adjust the house into habitable conditions.

<http://www.maplandia.com/croatia/vukovar-srijem/vukovar/>

The following day, Ambassador Fuentes and the Housing care team members Renata Cete and Momir Vukmirović, visited Mr. Sapanjas, an elderly gentleman in Osijek. Mr. Sapanjas is a former OTR holder who prior to the recent war in Croatia had tenancy right over a flat in Osijek, which he left in 1991 along with his spouse, and consequently, lost his tenancy rights. After spending a short period in Bosnia and Serbia, Mr. and Mrs. Sapanjas settled in Erdut, a beautiful town located on a hill with a beautiful view on the Danube River. He and his, now late wife, invested a lot of money in the house where they lived, hoping that one day they would be able to buy it off. However, as

he has applied for housing care outside the areas of special state concern, two months ago he was allocated a nice flat in a brand new building in Osijek.

Even though he is satisfied with the allocated flat and its location, Mr. Sapanjas longs for the Danube and everyday fishing.

<http://www.maplandia.com/croatia/osijek-baranja/>

Renata Cete
Programme Assistant





On 10 January, Ambassador Jorge Fuentes and trial monitors, Nenad Marić and Nebojša Paunović (both originating from Dalmatia), visited the Šibenik County Court and met its President, Sanjbor Vuletin and Judge Branko Ivić from the Criminal Department.

The Head of Office thanked Mr. Vuletin for facilitating the OSCE staff in monitoring ongoing war crime trials and, as a part of an Office project, handed over legal literature for the Court's library. The Court President brought to the Head of Office's attention that the Court did not dispose of video link equipment or of a witness support service.

On the other hand, he pointed out how well his court was cooperating with other courts in the region and that his judges would undergo regular training.

Following the meeting, the Head of Office attended a part of the last hearing in a reopened war crime trial of a Serb defendant extradited from Italy in August 2008. In 1993, this defendant had been convicted *in absentia* together with 21 others for war crimes against civilians in the Knin area and was sentenced to 15 years of imprisonment. In the repeated proceedings, after failing to prove that the defendant committed the alleged crimes, the State Attorney choose to trigger an amnesty for the accused and

the defendant was ultimately released after being detained for almost a year.

On 25 February, Ambassador Fuentes and trial monitors Jelena Borić and Nebojša Paunović (both Croatian) visited the Karlovac County Court to attend a hearing in a war crimes trial and meet with the Court President Ivan Perković. Upon the Head of Office's invitation the Bulgarian Ambassador to the Republic of Croatia, Ivan Sirakov joined in the visit.

During his discussion with the Court President, the Head of Office explained that the observation of OSCE trial monitors provided the basis for the Office's discussion with Croatian authorities for reforms of the war crimes prosecution system. The Court President expressed the view that even though his court was not one of the four designated War Crimes Courts it was well equipped to try complex war crimes cases, because the judges were undergoing regular trainings.

In addition, the Head of Office attended the trial against a former Serb police officer indicted for abducting, detaining and killing of six Croatian civilians in the Lika-Senj area in October 1991. This case was transferred to Karlovac from the Gospić County Court, because in Gospić all available judges had been previously involved in the case.





On 2 March, Ambassador Fuentes and three members of the trial monitoring unit, Đuro Ivković, Biljana Alavanja (both Croatian) and Romana Schweiger (Austrian) visited the Vukovar County Court to meet and discuss with the Court President Berislav Matanović and his deputy Nikola Bešenski and provide them with legal literature for the Court's library as part of an Office project. Upon the Head of Office's invitation the Ambassador of Greece (currently holding the OSCE Chairmanship) Ourania Arvaniti joined the visit.

During the discussion, the Head of Office, thanked the judges for their good cooperation with the OSCE. He stressed that the Office's comprehensive monitoring activities provided the basis for its impact on discussions regarding the reform of Croatia's system of war crimes prosecutions. The Head of Office asked the judges about their views on central issues of these discussions like in absentia trials, inter-state cooperation, adequate defence and problems encountered in achieving witness testimony. The Head of Office also explored with the judges the challenges of conducting war crimes trials before local courts including issues like

impartiality concerns and problems related to insufficient staff and equipment. The Vukovar Court President pointed out the frequent trainings of judges, the availability of video-link equipment in the court, and his courts' pioneer role in establishing a witness support service. He explained that contrary to some other courts, a separate room for witnesses waiting to be called to testify was available and that staff of the witness support would be with the witness before, during and after the testimony.

Judge Nikola Bešenski, who is currently trying most war crimes cases pending in Vukovar, presented statistical data demonstrating the impressive number of war crimes cases proceeded in Vukovar. Amongst these a considerable number of defendants are tried in their absence. Both judges stressed that they maintained good relations with courts in the region, in particular to Serbian Courts.

In addition, the Head of Office attended parts of a court session and heard the testimony of one witness in a war crimes case against a former Serb paramilitary. After Vukovar fell in November 1991, the defendant allegedly shot at a Croat civilian, while he was forced to lie face-down on the ground and caused injuries to his head.



Ambassador Fuentes, Ambassador of Greece, HE Ourania Arvaniti, the Mayoress of Vukovar, Zdenka Buljan and Vukovar-Sirmium County Prefect, Božo Galić, Vukovar 1 March 2009.

Jelena Borić, Đuro Ivković, Nebojša Paunović
Legal Officers of the Rule of Law Unit

Gallery



The OSCE Office delegation led by the HoO and accompanied by Mrs Fuentes visited the 14 st. Krka Serb Orthodox monastery and was kindly received by Father Dositej, 11 February 2009.



The OSCE Office delegation and Mrs Fuentes after a lunch offered in Knin to the Mayor of Knin, Josipa Rimac and her two deputies, Dragan Jerković and Tomislav Vrdoljak, 11 February 2009.



Ambassadors Dančo Markovski of FYRM, Daria Krstičević from B&H, Radivoj Cvetičanin of Serbia, Jorge Fuentes, head of OSCE Office in Zagreb, Pellum Quazimi of Albania, Ourania Arvaniti of Greece and Umur Apaydin of Turkey and a farewell lunch for the Ambassador of B&H, Aleksandar Dragičević, Zagreb 27 February 2009.



Ambassador Fuentes and Otto Reisinger, a famous Croatian cartoonist and commentator, Zagreb 5 March 2009.



Ambassador Fuentes and Ambassador of Bulgaria, HE Ivan Simov, and OSCE Office unit heads Enrique Homojada and Jan Repa visited the Serb Orthodox Church of St. Nicholas in Karlovac where they were greeted by Father Slavica, 25 February 2009.



The President of the Šibenik-Knin County Court, Sanibor Vuletin greets the HoO at the Šibenik County Court, 10 February 2009.