



## **Organization for Security and Co-operation in Europe**

### **Mission to Croatia**

#### **Headquarters**

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### **Spot Report**

## **Reaction in Croatia to the arrest of Ante Gotovina**

### **Summary**

On the evening of 7 December, retired Croatian Army General and ICTY fugitive, Ante Gotovina, was arrested in the Canary Islands of Spain. Following an announcement in Belgrade on 8 December, by the ICTY Chief Prosecutor, Carla Del Ponte, Croatian Prime Minister, Ivo Sanader, publicly confirmed the arrest. Among the political establishment there seemed to be an overall sense of relief that the largest potential obstacle to Croatia's joining the EU and NATO had finally been resolved. Official statements issued by most parliamentary parties and some War Veterans associations were relatively measured in tone, appealing for a calm response to the news. Public reaction to the arrest was one of national dejection tempered by a realisation that the fate of Gotovina is now a legal matter. Incidents of civil unrest immediately following the news, mainly in the Zadar region, were limited in number and scope. Large rallies in Split and Zagreb over the weekend were peaceful, of short duration and passed without incident. Gotovina was transferred from Spain to the Hague Tribunal on 10 December, where he entered pleas of "not guilty" to all the charges against him at the arraignment on 12 December. He remains in ICTY detention.

### **Background**

Ante Gotovina has been a fugitive since July 2001 when he was alerted to a sealed ICTY indictment against him that, together with an indictment against Rahim Ademi, was delivered to the Croatian authorities in June 2001. The indictment – amended in 2004 – charges Gotovina with seven counts of crimes against humanity and violations of the laws and customs of war committed against Serb civilians and their property during and after the 1995 Croatian military operation 'Storm.' Operation Storm returned occupied territory in southern Croatia to Government control. The crimes specified in the indictment include the murder of at least 150 Serbs, the systematic plunder of Serb property, the systematic destruction of thousands of dwellings, and the deportation or displacement of tens of thousands of Serbs to Bosnia and Herzegovina or Serbia and Montenegro. Gotovina is charged with responsibility for committing crimes personally as well as for crimes committed by forces under his command, about which he knew or should have known and failed to prevent or punish.

The indictment against Gotovina is related to that against two other former Croatian military commanders, Ivan Cermak and Mladen Markac, indicted by the ICTY in 2004, who together with former President Franjo Tudjman are accused of being participants in a "joint criminal enterprise." According to the indictment, the common purpose of the joint criminal enterprise "was the forcible and permanent removal of the Serb population from the Krajina region, including by plunder, damage or outright destruction of the property of the Serb population,

so as to discourage or prevent members of that population from returning to their homes and resuming habitation.” With Gotovina’s transfer to ICTY custody, it is likely the ICTY Prosecutor will seek to join the indictments against these three defendants for purposes of conducting a single trial.

After being arrested in Tenerife, Gotovina was transferred to Madrid by military plane where he was surrendered to the Spanish Supreme Court. There he was read the ICTY indictment against him and detained pending direct transfer to The Hague in accordance with a 1994 Spanish law on co-operation with the ICTY. On 10 December, he was transferred to the Scheveningen Detention Center in The Hague and on 12 December entered pleas of “not guilty” to all seven counts of the indictment before the Tribunal.

The Croatian Government’s failure to convince ICTY Chief Prosecutor Carla Del Ponte of its commitment to apprehend and arrest Gotovina remained until recently, the main obstacle to the opening of negotiations with the EU. However, on 3 October Del Ponte announced that the Croatian authorities were “co-operating fully” with the ICTY, thus clearing the way for the start of entry negotiations with the EU. Criticised at the time for succumbing to political pressure, the ICTY has subsequently revealed that, with the help of Spanish and Croatian authorities, Gotovina’s location had already been determined in September.

### **Initial Political Reactions**

Addressing a special Government session and later Parliament on the day Gotovina’s arrest was announced, PM Sanader said that the credibility of Croatian claims that Gotovina was not within reach of the Croatian authorities or on Croatian territory had finally been confirmed. This sentiment was later echoed in press statements by President Stipe Mesic and Foreign Minister, Kolinda Grabar-Kitarovic. The PM went on to reiterate Croatia’s constitutional and international obligations to co-operate with the ICTY, stating that anyone indicted must face the allegations against them before a court of law. “It is in Croatia’s interest to establish the full truth in the case of General Gotovina, as well as in the cases of Generals Mladen Markac, Ivan Cermak, Rahim Ademi and six Bosnian Croats indicted by the Tribunal.”

Underlining the Government’s continued co-operation with the ICTY, the PM pledged full State support in helping to establish “the truth” in relation to Gotovina and all other Croatian ICTY defendants, including the Government acting as *amici curiae* at the ICTY. He stressed that the presumption of innocence applied in every case. In all his addresses the PM was careful to state that the Homeland War was a “defensive, just, legitimate and liberating war.”

Reactions across the political spectrum were generally low-key with broad agreement that the legal state must function and a political crisis benefits no one. However, a sense of discomfort was palpable among many politicians who found this difficult to reconcile with widespread public support for Gotovina.

Ivica Racan, leader of the strongest opposition party, the Social Democratic Party (SDP), was ambiguous in his response, saying that the arrest was a huge step towards solving problems both for Croatia and Gotovina. Vice President of the centrist Croatian Peasants Party (HSS), Ljubica Lalic, echoed the sentiments of many, when she said that along with Gotovina, the entire country had been indicted and the Government had a duty to defend the dignity of both.

As expected, the President of the Croatian Party of Rights (HSP), Anto Djapic, was most vocal in his response to the arrest. Representing the more nationalist elements in the country he said that this “was a difficult day for Croatia, for all Croatian war veterans and all who love and respect General Gotovina,” adding his conviction that Gotovina would prove his innocence before the Hague Tribunal. Like many, Djapic voiced his displeasure at the arrest being announced in Belgrade.

President of the Croatian People’s Party – Liberal Democrats (HNS-LD), Vesna Pusic, reminded the public that the Croatian authorities had prevented Gotovina from speaking to ICTY investigators in 1998 and Gotovina himself had not responded to calls by President Mesic to surrender.

The Vice President of the Independent Democratic Serb Party (SDSS), Milorad Pupovac, said that Gotovina’s apprehension was significant news for Croatia and the entire region of the former Yugoslavia, paving the way for the completion of operations aimed at arresting other indictees wanted by The Hague Tribunal.

From some quarters reactions to the arrest were notably moderate. The President of the Association of Disabled Veteran’s from the Patriotic War (HVIDRA) cautioned against public protests saying they were of little use in what was now a “legal battle.” While the Catholic Church in Croatia maintained a discreet distance, one senior Bishop appealed to citizens over the weekend to remain calm and support Government efforts to fight the indictment in The Hague rather than stage public demonstrations.

### **Public Rallies**

Shortly after news of Gotovina’s arrest became public, demonstrations broke out in some parts of the country. The largest of these initial gatherings was in Zagreb on the evening the arrest was announced. Reportedly 700 people congregated in St. Mark’s Square and pelted the Government building with stones and bottles breaking a number of windows, resulting in some arrests. Incidents of civil unrest were most pronounced in the Zadar area where reports of road blocks, vandalism and arson were numerous, particularly on the main road close to Gotovina’s home village of Pakostane. Otherwise, gatherings of pro-Gotovina demonstrators in Croatia’s main cities and towns prior to the weekend did not attract more than a few hundred people each, passing without incident.

Both PM Sanader and the Speaker of Parliament, Vladimir Seks, appealed for restraint in public reactions to Gotovina’s arrest. Seks cautioned that the “radicalization of the situation would not be in the interests of justice, Croatia or Gotovina,” while the PM asked citizens to keep their presence of mind and have confidence in the Government and State institutions, “who know best how to defend the truth about the Homeland War.”

Over the weekend, several major rallies were organised in support of Gotovina by War Veteran’s Associations and other patriotic ‘defenders.’ Police reported that all the rallies passed peacefully. The rally held in Split on 11 December drew the largest crowd – estimated to be around 50,000 – followed by Zadar and Zagreb, with around 2000 and 1000 participants respectively. Although presented as apolitical rallies in support of General Gotovina and other Croatian Generals indicted by the ICTY, speeches and sentiments expressed were anti-

establishment in tone, accusing the Government, PM Sanader, President Mesic, Speaker of Parliament Seks and even the Catholic Church of betraying Croatia.

In the latest polls commissioned by the leading dailies *Jutarnji List* and *Vecernji List*, over 53 per cent of respondents see Gotovina's arrest as bad for Croatia and only 23 per cent assess it as good for the country. Almost 64 per cent think that Gotovina is not guilty of the crimes he is charged with while 41 per cent are convinced that the ICTY will not try Gotovina fairly.

### **Relation to ICTY Transfer of Cases and Domestic War Crime Prosecutions**

As indicated by the depth and breadth of official and public reaction to Gotovina's arrest, the prosecution of war crimes committed by members of the Croatian armed forces remains an issue of significant interest in Croatia. This is of particular note given that the ICTY recently transferred the indictment against Rahim Ademi and Mirko Norac to the Croatian judiciary for trial. The public discussion related to the Gotovina arrest indicates that particular attention is required to ensure impartial adjudications in domestic proceedings, both against former Croatian military personnel and members of the JNA or RSK forces. The PM's specific mention of Ademi as one of the Croatian military officers the Government would take particular interest in, regarding establishing the truth places this issue in particular relief.