



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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President of the European Commission confirms Croatia's progress towards EU membership

The President of the European Commission, José Manuel Barroso, paid an official visit to Zagreb on 15 and 16 February, together with EC Enlargement Commissioner Olli Rehn and the Head of the EC Directorate-General for Enlargement, Michael Leigh.

After receiving Mr. Barroso on 15 February, Prime Minister Ivo Sanader said that his visit so soon after the start of negotiations was a good indication that Croatia was on the right track. He underlined Croatia's role in stabilizing the region in co-operation with the international community. In response, Mr. Barroso reiterated his conviction that Croatia would soon be a full EU member.

Addressing the Parliament on 16 February, in the presence of senior Croatian government officials and foreign diplomats, Mr. Barroso emphasized the crucial role Parliament would play throughout the accession process, stressing the importance of a national consensus on integration issues. While praising Croatia for progress already made, the European Commission President also noted that "difficult challenges and a lot of hard work still lie ahead." He cautioned against neglect of the 'Copenhagen' political criteria as the focus turns increasingly towards adoption of the *acquis communautaire*. The rights of minorities, refugee return, impartial prosecution in war crimes trials, media freedom and other cross-cutting issues such as judicial and public administration reform were underscored. The need to create a non-discriminatory climate in Croatia, more accepting of minorities, was given special emphasis. "The progress you make in these areas will make Croatia a leading example for the whole region," Barroso said.

Following his meeting with the European Commission President, Croatian President Stjepan Mesić insisted that reforms should be carried out for Croatia's sake, not for the sake of the EU, stressing the need to intensify communication with Croatian citizens. President Mesić added that Croatia was not trying to "escape from the region" but to serve as "a European gateway for the region."

Constitutional Court confirms spouse's OTR termination based on husband's *in absentia* war crimes conviction

In a divided vote in late January, the Constitutional Court (CC) upheld the termination of a wife's occupancy/tenancy rights (OTR), on the grounds that her husband, Vlado Trifunović, had been convicted *in absentia* for war crimes committed in September 1991 when he was

the commander of the Yugoslav People's Army Varaždin Corps. The termination was sought by the Ministry of Defense pursuant to legal provisions adopted in 1992 permitting termination of OTR for those who had participated in enemy activities against Croatia.

The CC majority found that the applicant had no independent OTR claim to the flat in Zagreb where she lives with her daughter. Instead, her rights were seen as deriving from her husband and thus, "she follows his legal fate." Four dissenting CC judges contended that the Court majority erred, first, by judging that a wife had no independent right and second, by allowing OTR termination against a person with no criminal conviction. As observed by the dissenting judges, the CC has held in a series of decisions that the presumption of innocence prohibits termination of OTR for participation in enemy activity as applied to persons against whom there is no valid conviction. Nevertheless, as demonstrated by the Miljenović case ongoing before Karlovac County Court, lower courts continue to terminate OTR, even where the OTR holder has not been convicted of any crime.

In addition, the validity of *in absentia* convictions has come into question given the exoneration of a number of persons after a new trial was conducted in their presence. Both the Supreme Court and the Chief State Prosecutor have in recent years largely rejected the contemporary use of *in absentia* proceedings.

The cases discussed above indicate that regardless of the European Court of Human Right's decision in the *Blečić vs Croatia*, expected in early March, the various issues surrounding the termination of OTR will be subject to judicial dispute for some time to come.

Special war crimes court rejects use of video-link testimony

In late January, Split County Court rejected the prosecution's request in the 'Lora Prison' war crimes trial, that testimony be received by video-link from a witness in Australia. With the physical absence of the witness from the courtroom and the required participation of an Australian judge in the procedure, the court determined that under applicable Croatian law this would constitute an "indirect" testimony. The court could only permit the testimony by video-link if the defense agreed, which they did not. The witness' testimony was thus read into the record before the investigating judge.

As one of the four county courts designated as a specialized war crimes court, Split County Court was provided with the latest video-link equipment by the United States Government in 2005. This equipment was intended to help obtain testimonies from witnesses residing outside Croatia, particularly in those cases transferred by the ICTY to domestic jurisdictions pursuant to its Completion Strategy.

The need to utilize video-link testimonies was identified during the OSCE-facilitated meeting on inter-state judicial co-operation held in Mostar, Bosnia and Herzegovina, in October 2005. The ICTY, which routinely accepts testimony by video-link in proceedings at The Hague, underlined the importance of solving this issue to judges and prosecutors from Croatia, Bosnia and Herzegovina, and Serbia and Montenegro.

The outcome in the case of Split County Court demonstrates a gap in domestic law. This gap would be best addressed by amending the criminal procedure law and ratifying the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal

Matters - signed by Croatia in 2004 - which provides guidelines for the use of video-link testimony.

Head of Mission meets Croatian Delegation to the OSCE Parliamentary Assembly

Visiting the Croatian Parliament on 16 February, the HoM held talks with the Croatian Delegation to the OSCE Parliamentary Assembly in Copenhagen. The Head of the Delegation, Tonino Picula, former Minister of Foreign Affairs between 2000 and 2003, expressed satisfaction at the current level of “intense” co-operation between the Mission and Croatian authorities, stating that a true partnership had been established.

The HoM informed the Delegation about his recent meeting with Prime Minister Ivo Sanader and highlighted the importance of the June 2006 Mid-Term Review, which would chart Croatia’s progress towards fulfillment of the Mission’s mandate. Although clearly stating that some issues remain outstanding, he concluded that the country was on course to accomplish what the OSCE Mission had been advocating during the past ten years.

Mission helps develop the re-electrification process in return areas

Since mid-2004, with the help of data provided by the Serb Democratic Forum, a legal-aid NGO, the Mission has identified more than 300 Serb returnee villages without access to the electricity network more than a decade after the war.

Through a series of analytical reports and field surveys, the Mission has increasingly advocated for the re-electrification of remote returnee villages, with both the Croatian Electric Company (HEP) and the Ministry for Maritime Affairs Tourism Transport and Development (MMATTD). Subsequently, at monthly meetings held between International Community principals and the Ministry, the Board Director of HEP reports on progress achieved in the villages identified by the Mission.

For over a year HEP has included returnee villages in their re-electrification plans when the investment is proportional to the number of existing or expected households. On 13 and 14 February the Mission accompanied HEP officials on several field trips in Central Croatia as part of an effort to identify isolated villages and hamlets where the cost of reconnection would be disproportional to requirements. In such cases, alternative solutions are being sought, such as the provision of generators and solar panels. In some cases households are being relocated to less isolated areas.

Since 2004, between 20 and 30 per cent of the 300 or so, villages identified have been reconnected with an additional 10 per cent foreseen in 2006. However, the process remains hampered by differing levels of obstruction still present in certain municipalities run by mayors opposed to the return process, and by structural and financial constraints facing the MMAATD and HEP at the central level. These factors could delay completion of the re-electrification process for another three to four years.

Mission organizes civil society and good governance co-ordination meetings

On 13 February the HoM conveyed a message of support to 15 of the most active NGOs in the field of good governance at an OSCE-organized, national co-ordination meeting in Sisak, Central Croatia.

NGO experts outlined various problems that continue to hinder the development of democratic governance at the local and regional level, where partisan rivalries are often stronger than a sense of civic duty. Problems included a lack of competent leaders and strategic managers, poor communication and negotiation skills and insufficient citizen participation in the decision-making process. The continued perception by some local authorities that NGOs are trouble-makers was also identified as a stumbling block, retarding the development of projects in regions where they are desperately needed. In conclusion, NGOs expressed a general consensus that the Mission plays a crucial role in promoting best practices and European standards of good governance at all levels.

In parallel, on 14 February, the Mission provided further support to basic civil society co-ordination by organising its fourth NGO co-ordination meeting in Lika-Senj County. The meeting was attended by some 25 NGO representatives, as well as the UNDP, a regional co-ordinator from the National Foundation for Civil Society Development and media representatives. In an encouraging development, the Lika-Senj County Prefect opened the meeting and urged NGOs to be more active in applying for available domestic and EU funds and to upgrade their capacity to produce qualitative project proposals.

Mission funds first NGO-produced documentary on Croatian civil society

On 15 February 2006 the HoM opened the initial Zagreb screening of an OSCE-funded NGO documentary entitled, '*Look at Me.*' The documentary formed part of a civil society development project called, *Active, Visible and Empowered*, being implemented by the Zagreb-based NGO, Centre for Education, Counselling and Research. Featuring eight stories about NGO work in the fields of gender, environment, family, humanitarian assistance, asylum and refugees, reconciliation and war veterans, the documentary hopes to promote a diversity of values and raise awareness about civil society. The documentary will be aired on Croatian television in the near future.