

## **News in brief**

**31 May - 13 June 2006**

### **Constitutional Court highlights unconstitutionality of legislative drafting practices**

In a report issued in early June, the Constitutional Court (Court) advised that when drafting legislation, certain practices by Parliament raise constitutional problems. Subsequently the Court has urged Parliament to harmonize its legislative drafting with constitutional requirements in order to provide Croatia's body of law with legal certainty.

Summarizing its review of challenges to a number of laws, the Court observed that Parliament frequently distinguishes between the date on which a law comes into effect and the date on which it will be implemented. This practice is at least confusing, and at worst unconstitutional. The Constitution provides that in general a law enters into force eight days after it has been published in the Official Gazette, although Parliament can specify reasons why a law should come into effect at another time, either sooner or later. The Court noted that the Constitution does not contemplate delayed implementation of laws and confirmed that once a law or certain provisions come into force, it must be implemented from that date forward.

The Court also observed that Parliament has the practice of amending 'consolidated texts', instead of amending the original law and/or amendments of those laws. This confusing practice is contrary to the Constitution. In particular, the Court noted that the difference in the numbering of legal provisions in the original law and the 'consolidated text' version violates the constitutional principle of legal certainty. The Court noted, however, that since 'consolidated texts' are not 'laws' in the legal sense, it lacked jurisdiction to review this practice in a concrete case brought to it for adjudication.

### **Prime Minister dismisses opposition requests to strip Parliament Speaker of immunity**

On 6 June, Prime Minister Ivo Sanader rejected demands by President of the Peasant's Party (HSS) Josip Friščić, cautiously supported by President of the Social Democratic Party (SDP) Ivica Račan, that Parliamentary Speaker Vladimir Šeks be stripped of immunity until his role during the war in Slavonia is clarified. Underscoring his trust in the Parliamentary Speaker, the Prime Minister praised the "exceptional role" played by Šeks during the "Homeland War", particularly in efforts to establish the defensive capacity of the Republic of Croatia in Slavonia.

Since the start of judicial investigations into war crimes committed in 1991 against Serb civilians in Osijek, former regional strongman and main suspect, Branimir Glavaš, has claimed that responsibility lies with his superior officer at the time, Vladimir Šeks. The

current Speaker of Parliament was Commander of the Osijek Crisis Committee in 1991, tasked by late President Franjo Tuđman with coordinating the city's defenses.

### **2005 Ombudsman Report recommends measures to address administrative and judicial deficiencies**

In early June, the Parliament adopted the 2005 Annual Report of the Human Rights Ombudsman. During 2005, the Ombudsman received over 1,650 individual complaints. The reduced caseload as compared to 2004 has been attributed to budgetary constraints limiting the Ombudsman's ability to travel throughout Croatia in order to receive complaints directly in local communities, particularly in war-affected areas. Complaints by persons deprived of their liberty increased significantly, largely due to a series of visits by the Ombudsman to detention facilities.

Most complaints relate to significant delays in administrative proceedings. Complaints related to refugee return involved pension issues, reconstruction, and property repossession, including the problem of unsolicited investments in occupied private property. The Report also noted complaints related to the housing care programme for former holders of occupancy/tenancy rights, which are likely to increase as implementation has just begun.

While noting that the central State administration has been more responsive to points raised by his office, the Ombudsman recommended that further efforts be taken by the central authorities to address administrative delays, including the frequent failure to meet legal deadlines, as well as the negative attitude of some civil servants toward the public. He singled out the inappropriate conduct of some local officials toward Serb returnees.

Although having no jurisdiction over the judiciary, the Ombudsman continued to receive a significant number of complaints related to judicial proceedings, primarily related to delays. He expressed his view that additional measures were needed to address both the quality of judges' work as well as threats to their impartiality and independence posed by political interference and corruption. Based on complaints received from persons unable to afford an attorney, the Ombudsman pointed to the need for a free legal aid system for the socially vulnerable, an issue to be addressed in the Free Legal Aid Law, currently being assessed by the Council of Europe.

During its consideration of the Report, the Parliamentary Committee for Human Rights and the Rights of National Minorities noted that Parliament's recommendations to increase the Ombudsman's budget last year had not been implemented and urged that action be taken this year. With the assistance of Norway, the Mission continues to financially support the Ombudsman's ability to travel throughout Croatia so as to meet directly with individuals as well as local government authorities. Renewing its assistance for the fourth year, Norway is providing €90,000 for this project for 2006 and 2007.

### **Association of former Borovo workers stage protest in Vukovar**

On 8 June around 250 former workers from the Borovo footwear factory staged a protest rally in front of the company's offices in Vukovar. Predominantly Croatian Serbs from the Association of Borovo Employees (Association), the protestors reiterated a long standing demand that their working years and employment rights acquired during the administration of the so-called 'Republic of Serb Krajina', be recognized in line with the rights of former ethnic Croat employees. In 1992, the Borovo management retroactively terminated the

contracts of all workers who were unable to register with the relocated company headquarters in Zagreb, effectively sacking employees who had remained in Vukovar after it became part of the so-called ‘Republic of Serb Krajina.’ The Government reached an out-of-court settlement with 1,700 ethnic Croat workers in April 2003, but is still to satisfy the repeated demands of the Association, which claims to represent 4,200 former employees.

Speaking at the demonstration, the President of the Association, Mirko Grahorac, announced that the Association intends to file a case before the European Court of Human Rights in Strasbourg. He revoked his earlier statement that the protestors would insist on their demands even at the price of a new “log revolution” - alluding to the setting up of road blocks by rebel Serbs at the beginning of the 1991-1995 conflict. Threats of such radical measures outraged several war veteran associations from Vukovar.

Association representatives also accused the Independent Democratic Serb Party (SDSS), in particular SDSS parliamentarian Dr. Milorad Pupovac, of failing to arrange a meeting between themselves and Prime Minister Ivo Sanader and of generally failing to represent the interests of Croatian Serbs. Responding to these criticisms in a statement, the SDSS said that the party supported equal employment rights for all former Borovo employees but wished to distance itself from references to a new ‘log revolution’ and other radical rhetoric.

The Association has sent letters to Prime Minister Sanader and to President of the European Commission Manuel Barroso, urging a final and peaceful resolution to this ongoing dispute.

### **HRT Journalist makes corruption allegations against HRT management**

In a recent interview for the daily newspaper *Slobodna Dalmacija*, Denis Latin, a Croatian Radio and Television (HRT) journalist and host of the popular current affairs programme *Latinica*, made allegations of corruption and conflict of interest against senior members of HRT’s management. In the interview Mr. Latin voiced his concern that such corruption within the public broadcaster was obstructing the establishment of a healthy democratic society in Croatia.

On 31 May, Mr. Latin supported these accusations in a statement to the Parliamentary Committee on the Media and a week later presented his allegations to the HRT’s regulatory body, the HRT Programme Council. On both occasions, Mr. Latin stated that the editorial policy of HRT was subject to political influence and that several members of the Programme Council were subject to conflict-of-interest.

The Parliamentary Committee on Media concluded that information on the possible abuse of office should be sent to the relevant HRT bodies and to the Office of the Chief State Prosecutor. The HRT Programme Council found no proof of irregularities or corruption at HRT and requested the State Prosecutor’s Office to investigate Mr. Latin’s allegations.

The Mission reiterates its position that the Law on HRT needs to be revised in line with proposals made by the Mission, the Council of Europe and the Delegation of the European Commission to Croatia. The proposals call for improved mechanisms to prevent political interference in the work of the public broadcaster, particularly so that members of HRT’s Programme Council are elected and function without political interference. In addition, the Mission believes there is a need for HRT to review its management of human and financial resources with a view to enhancing transparency.

## **Signs of improving relations between local government and national minorities in Dalmatia**

Inspired by the example of some political leaders at the national level, and stimulated by the engagement of staff in the Mission's Field Offices, local and regional authorities in Dalmatia are slowly beginning to acknowledge representatives of national minorities as institutional partners. On 21 April, the Prefect of Split-Dalmatia County convened his first ever meeting with Presidents of the County's three Councils of National Minorities (CNMs), the advisory bodies created by the Constitutional Law on the rights of National Minorities. The Prefect offered his support to the idea of forming a joint committee to deal with minority-related issues made up of County councillors and CNM members. Field Office Split has suggested that the Mayor of Split replicate this positive initiative by answering repeated requests for dialogue from Presidents of the city's CNMs. In May this year, the Prefect of the Zadar County publicly welcomed the first edition of a minority magazine entitled 'Zadar Bridge of Friendship' prepared by minority representatives from Zadar County. In the presence of local media the Prefect stated that cultural diversity in a community should be considered a treasure, not an impediment.

CNMs are also demonstrating a more advanced level of organisation with the establishment of county-level coordinations, first in Zadar County last year, then in Šibenik-Knin County in April this year. The Serb coordination of CNMs in Šibenik-Knin County stated that their priorities included the establishment of a minority programme on Radio Knin, the introduction of adequate minority education in primary schools and the employment of minorities pursuant to relevant provisions of the Constitutional Law on the rights of National Minorities. On 21 May, a minority working group made up of Albanian, Bošniak, Hungarian, Italian, Serb Slovenian and Macedonian minority representatives organized the first International Day of Cultural Diversity in the city of Zadar. The celebration gathered all minorities present in the area, local authorities and representatives of the Zagreb diplomatic corps, media and wider public.

## **Local community crime prevention promoted in Mission-sponsored workshop**

As part of police reform efforts, the Ministry of Interior is currently implementing a programme entitled 'Action Strategy for Community Policing' which focuses on the organization of crime prevention measures within local communities. On 5 and 6 June, the Mission organized a two-day workshop on local crime prevention councils in Šibenik, on the Dalmatian coast. Swedish police experts invited by the Mission and representatives from local self-government units where crime prevention councils have already been established exchanged experiences and 'best practice' examples with participants.

On 6 June, the newly established crime prevention council in Knin held its first session. Knin is an important area of return where inter-ethnic relations remain fragile. The council in Knin is the third of five crime prevention councils set up in Šibenik-Knin County. However, with councils still unsure of their exact role and scope of responsibility, the Mission-sponsored workshops aim to encourage community representatives to be more proactive and engage with the police when dealing with security issues. The Šibenik workshop confirmed the need for continued Mission assistance to the Ministry of Interior in regard to establishing and developing local crime prevention councils.