

NEW SLAP IN THE FACE OF THE CROATIAN COURTS

OSCE remains in Croatia

The Hague will transfer trial against Generals Norac and Ademi to Croatia only under condition that the OSCE monitors it

PETER SEMNEBY, Head of the OSCE Mission to Croatia, whose three-year mandate is about to expire these days, reveals in an interview for *Globus* under which conditions would the Hague Tribunal allow the domestic judiciary to try generals indicted for war crimes

By Slavica Lukic

Peter Semneby, Head of the OSCE Mission to Croatia, is counting down the last days of his three-year mandate this week. This Swedish diplomat, born in the town of Arkvik in the western part of Sweden, says that the job in Croatia was his most challenging task in his hitherto diplomatic career and that, after 1 May, when his mandate expires, he will take a break and decide what to do next: return to Swedish diplomatic service or assume one of the positions with international organizations, similar to the one he performed in Croatia. The OSCE sent its Mission to Croatia in 1996 with the task of monitoring and providing suggestions pertaining to the process of refugee return and normalization of inter-ethnic relations, the issues of media freedoms and legislation, situation in judiciary and other problems of importance for the democratization of the Croatian society and state. On the eve of his departure from Croatia, we asked Semneby to summarize the situation he is leaving behind in Croatia.

Biggest problems

Can you state three biggest problems of Croatia that you are leaving behind upon the expiry of your mandate?

A lot of efforts and energy will still have to be invested in the reconciliation process in Croatia, although a lot has been done in the last several years in terms of creating a more positive atmosphere for refugee return. However, it is still necessary to invest efforts into restoration of trust among various ethnic groups in the society, whereby I am primarily referring to trust between Croats and Serbs who are returning to Croatia. Likewise, I think there is a need in Croatia to raise awareness of what European integration is. What needs to be done is understand that the issue of accession to the EU is not solely a technical issue, where things are automatically resolved one after another, but it is one of the most important commitments related to the transformation of society, acceptance of a new way of thinking, division of sovereignty, and management of an entire series of issues which are on the EU agenda. The third thing is undertaking of necessary steps for Croatian democracy to mature.

What do you exactly mean under maturing of Croatian democracy?

Croatia, as a young country with a young democracy, underwent many more challenges during its transition than the majority of other countries in South East Europe. It is encouraging that the governments changed on several occasions and that all those changes took place in a peaceful manner, after democratically conducted elections, while the role of the opposition in the political process has strengthened, as well. However, there is still a relatively low level of feeling for political games in Croatian politics. In developed democracies there is a consensus among political parties about the rules of the game and, by respecting those rules, the stability of the political system is ensured. However, there is still a lot of manoeuvring in Croatian politics. Another important thing for Croatia is definitely the raising of awareness about the important role that civil society organizations are playing in a mature democratic system.

Agreement with SDSS

Sanader's Government and the Independent Democratic Serb Party (SDSS) concluded an agreement at the end of 2003 which precisely regulates deadlines for repossession of houses belonging to Serb refugees. About 1,300 Serb houses are still not returned to their owners although the Government committed itself to do that by the end of 2006. What do you think? Is there a point in having an Agreement on co-operation between the Government and the SDSS if that co-operation is unsuccessful?

It is up to Serb representatives in the Parliament to decide if there is a point in supporting the Government. But, in order to heal war wounds and bridge the gap and lack of trust, it is necessary to talk, to sit down and formulate joint objectives. Therefore, I am of the opinion that the Agreement on co-operation between the HDZ and the SDSS was an important and huge step.

Although we were, just like Serb representatives in Croatia, on numerous occasions disappointed that the Government has failed to respect the deadlines for the implementation of that Agreement, I nevertheless think that important steps forward have been achieved in its implementation. Problems exist at the local level and I think it is important that the Government continues to send strong messages to local authorities that the implementation of the Agreement is one of the central parts of its programme.

This spring, the governments of three countries in the region - Croatia, Bosnia and Herzegovina, and Serbia and Montenegro, signed the Sarajevo Agreement which defines the deadline within which displaced persons must make a final decision whether they will return to their pre-war homes. Can you explain that Agreement?

The return task will be completed once it has been determined that all displaced persons and refugees are provided with a possibility to make an informed choice between the alternatives offered: return to their pre-war home or stay in the new environment.

Occupancy/tenancy rights

How are refugees, former holders of occupancy/tenancy rights in Croatia who wish to return to Croatia, treated within that plan?

There are a little more than 23,000 court verdicts in Croatia which deny the return of occupancy/tenancy rights to people who had lost those rights and who once lived in the areas which were spared from direct war activities. Multiply that by the number of people who once lived in those apartments and you reach a large number of people. A significant number of refugees fall precisely into this category and their problem is yet to be resolved. There is a programme for its resolution which the Parliament adopted two years ago and that is the housing care programme for those who wish to return to areas which were spared from direct war activities. However, the implementation of that programme in Croatia is exceptionally slow. When the first deadline within which former occupancy/tenancy rights holders had to submit a request for housing care expired, and that was 31 December 2004, the Croatian Government intensified its information campaign about possibilities of providing housing care through this return programme. However, up until today, we have not seen a single case of a refugee who has returned and received the key of an apartment from the housing care programme outside the Areas of Special State Concern. Thus, there is justified mistrust in the housing care programme among Serb refugees who would like to return to Croatia and precisely due to that mistrust, many of them did not even submit an application.

Can the reluctance related to housing care for that category of refugees slow down Croatia's accession to the EU?

The EU and the European Commission will continue to closely monitor the processes pertaining to the fulfilment of political criteria for accession to the EU. The European Commission prepares the next progress report for the fall of this year and the report will state the progress Croatia has achieved in that field, as well as in other fields which are taken into account when assessing whether the criteria have been met.

Court proceedings

The OSCE Mission which you are heading analysed court proceedings for war crimes conducted before Croatian courts in 2003 and concluded that Croatian courts were ethnically biased in those proceedings. Do you think that the Croatian judiciary is today ready to accept war crimes cases transferred from the Hague Tribunal?

It is our assessment that the Croatian judiciary would be ready to accept and process a limited number of Hague cases under certain conditions. Monitoring court proceedings shows that the problem exists at lower levels, particularly in some courts. The Croatian judiciary has positive examples when the proceedings were conducted very well, such as the Gospic Group trial before the County Court in Rijeka. Unfortunately, the Lora case is

an opposite example illustrating the majority of problems present in the Croatian judiciary related to war crimes procedures. Those are, first and foremost, a highly politicized situation, both outside the courtroom and in the courtroom during the process. Another large problem is the lack of inter-state co-operation, particularly when it comes to summoning of witnesses from another state and their arrival.

Is it true that the OSCE Mission to Croatia would like to monitor court proceedings which will be transferred from the Hague Tribunal to the Croatian national judiciary?

Yes, it is very important that those court proceedings are monitored. We are having talks with the Hague Tribunal Secretariat about the role of the OSCE in those proceedings. The Chief Hague Prosecutor also requested from the OSCE Mission to Croatia to monitor those trials, and to share its observations with the Hague Tribunal so that it would be possible to determine whether those proceedings would be conducted in compliance with international standards. I hope that we will reach such an agreement very soon because monitoring is one of the conditions to start the trial against Generals Norac and Ademi.

MISSION WITHOUT AN END

OSCE remains to assist the Government

You are probably familiar with the wish of the Croatian Government for the OSCE Mission to Croatia to close as soon as possible because its presence is always interpreted as a sign of democratic immaturity of a particular country. There are also opinions expressed that the OSCE wants to use monitoring over court proceedings as a pretext for its continuous stay in Croatia. Can you comment on such standpoints?

First of all, I would like to say that we are here to provide assistance to the Republic of Croatia. We support the stated political goals of the Croatian Government *inter alia*, promotion of minority rights, reconciliation, refugee return, and judicial reform. If the Croatian Government is capable and willing to accept the advantages of each form of assistance offered for the purpose of resolution of these problems, including the OSCE services, it is a sign of maturity, not the other way round. Naturally, I believe that the scope and nature of OSCE presence will require certain adjustments as Croatia progresses in the successful resolution of those tasks. But, it is important to bear in mind that all those issues require the investment of additional efforts throughout a longer period of time. As the last remark, I would like to say that the main challenge is not only to achieve a certain level, but to be able to maintain that level once certain standards have been achieved.

MEMORIES FROM CROATIA

I am going to miss your beautiful sea

Will you bring to your homeland of Sweden some nice memories of your stay in Croatia?

While performing my job here, I mostly dealt with problems, some of the biggest problems this country is facing. What I am fascinated by in your country are the so-called "small heroes", ordinary people whose achievements are mostly not covered by the media and I admire their actions. I am particularly fascinated by the pioneers of return to Croatia. One amongst them is a lady who was visited last spring in the Zadar hinterland by Prime Minister Sanader, in our presence, who returned to one of the most difficult areas for return, to which no one before her dared to return. She dared, did not give up and today she is there, meaning she succeeded. She lives in her own house. There are many such examples, both among Serbs and Croats, as well. What I also appreciate about Croatia is the fact that I was able to shortly run away from all the problems to your coast, which is truly one of the most beautiful ones in Europe. I also enjoyed the variety of your food, whether it is Slavonian kulen, Dalmatian fish or Istrian truffles.