



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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European Court of Human Rights declares *Blečić* case inadmissible

On 8 March, with a majority of 11 votes to six, the Grand Chamber of the European Court of Human Rights (ECHR) determined that it could not review Croatia's termination of Krstina Blečić's occupancy/tenancy rights (OTR) because the case lies outside its temporal jurisdiction.

Croatia became subject to ECHR jurisdiction as of November 1997, after signing the European Convention on Human Rights. The issue on which the ECHR majority and dissent disagreed was determining the final date of Blečić's OTR termination. The ECHR majority determined that the OTR termination was final as of February 1996, when the Croatian Supreme Court issued its decision in the case. Since this date preceded, by more than one year, the date on which complaints from Croatia became subject to ECHR jurisdiction, the majority found that it must be rejected as inadmissible. In contrast, the six dissenters found that the 1999 Constitutional Court's decision should be the basis on which to establish jurisdiction.

The Grand Chamber decision is the final chapter in a 14-year legal dispute between Croatia and Ms Blečić, who is now nearly 80 years old. In July 2004, the ECHR reviewing the case on the merits held that the termination of Blečić's OTR due to her "unjustified absence" from Zadar for six months during the armed conflict in 1991-1992, did not violate the Convention-guaranteed rights to respect for home and enjoyment of possessions. The Mission will report more fully on the decision and its implications in an upcoming Spot Report.

Eight former military police convicted of war crimes against Serb civilians

On 2 March, in a re-trial, Split County Court convicted eight former military police officers of war crimes for the 1992 murder, beating and torture of Serb civilians in the Lora military prison in Split. The re-trial was a result of the Supreme Court's decision in August 2004 to reverse the first trial verdict, which had acquitted all eight. In response to the guilty verdict, the defence immediately announced its intention to appeal. Some members of the public reacted angrily, hurling insults at the judges and leaving the courtroom in protest.

The re-trial was conducted partially *in absentia* as four of the accused had fled the jurisdiction of the court; one prior to the original trial and three after the Supreme Court ordered a second trial. In late 2004 the Supreme Court ordered all the defendants into detention, criticizing the trial court for overlooking significant indicators that the accused might flee. International arrest warrants should now be issued for the four convicted *in absentia*. Upon apprehension, these individuals are entitled to a new trial.

A significant indicator of improved conditions at the second trial was the in-court testimony provided by numerous prosecution witnesses from Serbia and Montenegro and Bosnia and Herzegovina. Their participation was largely a result of enhanced co-operation between the judiciary, prosecutors and police from all three countries. In its reversal of the initial acquittal, the Supreme Court specifically pointed to the trial court's failure to take reasonable steps to obtain testimony from witnesses residing abroad.

Although some of these witnesses were subject to insults by defendants and the defence counsel during their testimony, in general they described their testimony as a positive experience. However, no trial testimony was taken from a witness residing in Australia after the court determined in late January, that under applicable procedural law, testimony by video-link was permissible only if all parties agreed.

The eight accused were sentenced to prison terms ranging from six to eight years. In setting the prison sentences, the court cited the role of the accused in defending Croatia against armed aggression as a mitigating factor. This type of mitigating factor is not applied by the ICTY. Not only does this politicize the verdict but it introduces a discrepancy into war crime sentencing largely correlated to national origin. Thus, the same crime committed by members of the Croatian armed forces is subject to lesser punishment than when committed by members of the former 'Krajina' or Yugoslav forces. The prosecution has indicated that it may appeal against the sentencing.

Croatian-Serbian bilateral committee on protection of minorities meets in Zagreb

The Croatian–Serbian intergovernmental Committee in charge of supervising the implementation of the *Agreement on the Protection of the Croatian Minority in Serbia and Montenegro and the Serbian and Montenegrin Minorities in Croatia* held its second session in Zagreb on 22 February. The *Agreement*, signed on the historic occasion of Prime Minister Ivo Sanader's first visit to Belgrade in November 2004, envisages the mutual protection of Serb and Croat minority rights in each country. The Committee consists of an equal number of members appointed by each Government, including minority representatives.

The Zagreb meeting, which followed the founding session held in Belgrade three months ago, focused on the provision of education and information to minorities in their own language and script, minority participation in local assemblies, parliaments and other institutions and the financing of minority umbrella organisations.

Croatia's Assistant Foreign Minister for Croatian minorities abroad, Slavko Leban, said in a news conference that "the tone of the discussion and recommendations give us reason to be optimistic." Serbia and Montenegro's Assistant Minister for Human and Minority Rights, Jelena Marković, said that the committee wanted to solve a large number of problems as quickly and efficiently as possible.

In discussion with the Mission, Mr. Leban suggested that this bilateral mechanism might be very useful in resolving various outstanding issues between the two countries. He emphasised that both sides now recognized the importance of having TV broadcasts for minorities in their own language. He also confirmed that minority under-representation in the local judiciary and police is acknowledged by both countries, who agree it needs to be increased. However, he noted that the pace of progress would probably be different in the two countries, due to their specific political and constitutional conditions.

Minority representatives reject new memorial for Jasenovac concentration camp

On 22 February, several prominent representatives of the Serb, Jewish and Roma communities walked out of a meeting where the concept for a new permanent exhibit at the Jasenovac Memorial Center was presented. As representatives of the main victims of massacres conducted at a complex of concentration camps in Jasenovac (Central Croatia) during World War II, they were protesting over the content of the exhibit.

Dr. Milorad Pupovac, vice-president of the Independent Democratic Serb Party (SDSS), and Dr. Slavko Goldstein, a prominent representative of the Jewish community, claim that the concept being proposed blurs the issue of ethnic affiliation - presenting victims by name alone - and underplays the direct responsibility of the Ustasha regime for the atrocities committed. According to both the new exhibit, prepared under the auspices of the Ministry of Culture, links events at Jasenovac to the wider issue of the Holocaust, thus masking the fact that the majority of victims were Serbs killed by the Ustasha. Dr. Pupovac and Dr. Goldstein were also critical of the unrepresentative collection of photographs planned for display and the fact that artefacts portraying the nature of the massacres - hammers, knives and pictures of bodies - were removed from the permanent exhibit without consultation.

This dispute was preceded by earlier controversy in December 2005, following the expiration of Slavko Goldstein's four-year term as President of the Council of the Jasenovac Camp Memorial (JUSP). Despite expectations that a Serb representative would take over the presidency, a Croatian Democratic Union (HDZ) official from the municipality of Jasenovac received the majority of votes from a committee made up of parliamentarians, the Ministry of Culture, the municipality of Jasenovac, the Union of Anti-Nazi Fighters and representatives of the Serb, Jewish, and Roma minority. However, representatives of the victims expressed their dissatisfaction in a meeting with Prime Minister Ivo Sanader, following which a Serb candidate was eventually appointed.

Debates in the media regarding the Jasenovac exhibit have underscored the sensitive place Jasenovac still holds in Croatia's collective memory. The overall number of victims, in particular the percentage of Serb victims, has been manipulated by Croatian and Serbian nationalists over the years. According to the most recent historiography, the total number of victims killed in the Jasenovac camps ranges from between 70,000 to 100,000, with more than half being Serbs. Some commentators maintain that Croatian institutions are still reluctant to recognize and accept the true nature of the crimes committed at Jasenovac. Dr. Pupovac asserts that full recognition by the Croatian authorities would be a key step forward in the nascent process of reconciliation in the region.

Mission begins implementing projects for 2006

The first wave of projects supported by the Mission commenced implementation at the beginning of March. The projects fall within the mandate-related fields of refugee return, rule of law, good governance and human rights.

Two projects offer free legal aid in cases related to the protection of human rights, particularly property rights, thus creating more favourable conditions for the return of refugees. One project will provide in-court representation for vulnerable citizens, since *pro bono* legal assistance is offered on a very limited basis by the Croatian Bar Association and rarely reaches those most in need. One project will provide training to professors and students

at the Teachers Academy in Central Croatia with a view to introducing human rights education into primary schools.

Four projects will promote good governance by enhancing the capacity of local authorities to engage citizens and civil society actors in the decision-making process. In some war-affected areas where local self-government units are facing particular difficulties, Mission staff will provide targeted training for municipal councillors.

While the majority of projects are being implemented in war-affected areas, some projects are Zagreb-based. One project aims to increase the administrative and service capacity of the City of Zagreb so that it is better able to conform to EU standards. The Mission continues to support the Government Office for National Minorities in its efforts to bolster the effectiveness of local minority councils, this time in a series of 'best practice' seminars to be held in Zagreb in mid-March. Finally, a project presenting annual awards for gender sensitive journalism, attended by the Head of Mission and the Deputy Prime Minister, Jadranka Kosor, helped raise the profile of gender equality in Croatia.

Mission and Government to co-operate on a 'good governance' project

The Central State Office for Administration (CSAO) has expressed interest in utilizing Mission and NGO expertise in a 'good governance' project designed to increase the Office's training capacity.

The CSOA, with the support of the Croatian Union of Associations of Cities and Municipalities, is in the process of establishing an Academy for Local Democracy that will provide education and training to local government officials and employees. Croatia has more than 570 cities and municipalities and a significant number are staffed by officials unable to adequately perform the tasks assigned to them.

Draft agreements relating to the establishment of the Academy are currently being reviewed by the Government, while premises have already been allocated. However, little has been done regarding the Academy's educational programme. The CSAO thus welcomes the Mission's offer to facilitate in the design of a curriculum for the Academy. The Mission has proposed an NGO-run project, which will gather a working group of around 20 members - to include professors, educational institutions, the CSAO, distinguished representatives from local authorities across the country, as well as NGO experts. Future co-operation, more specifically a proposal to involve the CSAO in Mission-supported 'good governance' co-ordination meetings, has also been welcomed.

The Mission finds it encouraging that the CSAO is actively pursuing co-operation with the civil society sector, finally recognizing the significant contribution NGO experts can make to the reform of local self-government.