

### **Deputy Prime Minister endorses agenda for reform of media legislation**

The Head of Mission of the OSCE Mission to Croatia (HoM) and the Head of the Delegation of the EC in Croatia held a joint meeting on 29 March with Deputy Prime Minister (DPM) Jadranka Kosor to discuss the reform of media legislation. The aim of the meeting was to discuss the implementation of recommendations contained in an expert report submitted to the Government on 3 March. The report was commissioned jointly by the OSCE, the Council of Europe (CoE) and the EC.

The DPM gave assurances that the Government was committed to aligning media legislation with European standards. She endorsed the use of the expert report as a guideline for the Government's reform of media legislation. With respect to specific legislation, the DPM pledged to follow the report's recommendation not to put the February 2003 Law on Croatian Radio-Television (HRT) through urgent proceedings as previously announced. The DPM noted that the report prioritized changes to the *Law on Electronic Media*, which is currently not in line with European standards, including the CoE Convention on Transfrontier Television. At a press conference following the meeting, the DPM said *inter alia* that the final version of all draft media legislation will be presented to international partners for expert review before being sent to the parliamentary procedure. The Head of the EC Delegation stated that media legislation is an important element of the political criteria for the EC's *avis*.

The DPM also committed the Government to the decriminalization of libel. It is still not clear, however, to what extent that commitment will be reflected in the proposed changes to the Criminal Code the Government will submit to Parliament. A draft of the Criminal Code submitted to the inter-ministerial consultation process last week by the Ministry of Justice does not include substantial changes to the articles related to insult and defamation, which were identified in the July 2003 OSCE expert analysis as essential requirements for the decriminalization of libel. On 11 March, the Ministry of Culture invited the Mission to attend a meeting of its working group on changes to the Criminal Code. The Chairman of the working group stated that in the explanatory remarks of the law, provision will be made for the future possibility, probably by the end of the year, to begin removing libel provisions from the Criminal Code.

### **HRT Council confirms HRT Director-General**

On 22 March, the HRT Programme Council re-elected Mirko Galic as the HRT Director-General for another four-year term. In the second round of voting Galic received the support of eight out of 11 Council members, which is the minimum required by the law for the appointment. The election of the Director-General is the second formal step taken by the new HRT Council to implement the Law on HRT following the adoption of the HRT Council statute.

The OSCE Mission to Croatia, which is regularly monitoring the work of the Council, notes the swift and non-contentious election of the new Director-General, which has been an issue of much media interest of late. Despite a protracted and politicized procedure to appoint the Council in Parliament last year, the new Council appears to be functioning satisfactorily. The appointment of an HRT Director-General removes a source of major uncertainty and will ensure stable working conditions for the public service broadcaster. This will also contribute to a constructive atmosphere in which to debate further changes to the Law on HRT, in particular the procedures for appointment of the HRT Council.

### **Croatian TV airs Mission-sponsored documentary on refugees**

Croatian Television (HTV) aired a documentary series last week on the return of refugees to the country, financed by the Mission. "Somebody's Land" is a four-part series filmed and produced by the Serb Democratic Forum (SDF), focusing on war-affected areas and the lives of people living there. For the first time it provides the Croatian public with an insight into the life of refugees in collective centres in Serbia. In a public statement, the Head of Mission of the OSCE Mission to Croatia said the Mission decided to fund the documentary series after recognizing that it was not only of interest to the refugee population and Bosnian Croat settlers, but to Croatian society as a whole. There were no substantial reactions in Croatia to the series partly due to the unfavourable time-slot provided by HTV. The Mission in co-operation with the SDF plans to offer the series to television stations in Serbia and Montenegro and Bosnia and Herzegovina where most refugees live.

### **European Parliament Committee adopts resolution on Croatia's EU accession application**

On March 17, the European Parliament's Foreign Affairs Committee adopted a resolution on Croatia's EU membership application. The Committee stated that Croatia has made progress in implementing certain political and economic reforms that will bring it into line with EU standards. It could thus serve as an example and incentive for other countries in the Balkan region. The Committee recognized Croatia's "European vocation" and Prime Minister Ivo Sanader's commitment to Europe, additionally welcoming the Constitutional Law on the Rights of National Minorities (CLNM) and the corresponding increase in the number of minority Members of Parliament (MPs). The Committee also called on the EC to increase financial aid to Croatia in order to support the reform process.

The Committee recognized a number of areas, however, in which Croatia should be encouraged to increase its efforts, in particular co-operation with the ICTY, refugee return and judicial reform. In addition, the Committee stressed the issue of independence of the media, specifically the removal of any possibility of political interference in Croatian Radio-Television (HRT). The Croatian media reported on the more positive elements of the resolution in the main, while acknowledging that there remained areas for concern in the Committee's view. Most of the issues addressed are within the scope of the Mission's mandate.

### **Croatian Parliament ratifies Succession Agreement**

On 3 March, the Croatian Parliament passed the Law on Ratification of the Agreement on Succession Issues. The Agreement on Succession Issues was signed on 29 June 2001 by the Ministers of Foreign Affairs of the five successor states of the Socialist Federal Republic of Yugoslavia (SFRY). The Agreement thus came into force on 24 March 2004 with Croatia's adoption of the law, Croatia being the last such state to ratify the Agreement.

State succession with respect to the assets and liabilities of the SFRY was of particular interest to the states involved, and negotiations in this regard began in 1992 within a working group established by the International Conference on the Former Yugoslavia. Negotiations were continued under the auspices of the High Representative in Bosnia and Herzegovina, but for some years the FRY saw itself as the sole legal and political continuation of the SFRY. The FRY revised this position in 2000, and the Agreement on Succession Issues was subsequently signed in 2001. In the meantime the International Monetary Fund (IMF) had created a system to divide assets and liabilities according to an allocation 'key' involving a percentage apportionment of assets and liabilities (Croatia, 28.49 per cent). This 'key' later served as the basis for the distribution of other outstanding assets and liabilities under the terms of the Agreement.

Issues in the Agreement of interest to the OSCE Mission to Croatia relate to private property and acquired rights. The relevant annex imposes an obligation on the successor states to recognize, protect and restore acquired rights existing on 31 December 1990, “irrespective of...nationality, citizenship, residence or domicile”, and to enter into the necessary agreements with the states involved. It explicitly refers to the states’ obligations under international law, and provides for an entitlement to compensation according to international legal norms. Of these international legal obligations, the principle of non-discrimination is specifically stressed, in particular regarding the equal application of successor states’ domestic legislation on dwelling rights to former citizens of the SFRY States are furthermore obliged to ensure the protection of these rights through an equal right of access to the courts in all successor states. The annex also declares null and void the acquisition of property gained under duress during hostilities.

It remains to be seen how the Agreement will be implemented and enforced by the five successor states. It also remains to be seen what effect it will have on relevant domestic legislation or bilateral agreements already concluded between Croatia and other successor states. The media debate in Croatia following ratification concentrated on the rights of tenants in housing previously owned by the state and by former public companies. It discussed the position of refugees, who unlike other Croatian citizens, did not have the opportunity during the armed conflict to purchase the houses they had inhabited and whose tenancy rights were considered forsaken. Commentators agreed that such rights could not be restored, but commented on the ‘unclear’ provisions of the Agreement in this respect.

### **UN Security Council calls for renewed efforts to ensure timely implementation of ICTY Completion Strategy**

On 26 March, the UN Security Council adopted UN Security Council Resolution (UNSCR) 1534 emphasizing the importance of full and timely implementation of the completion strategy set out in a similar resolution from August 2003, UNSCR 1503.

Resolution 1534 re-iterates the timetable, indicating that the ICTY should “take all possible measures” to complete investigations by the end of 2004, to complete all trial activities by the end of 2008, and to complete all Tribunal work by 2010. To assess progress towards implementation of the strategy, the Council requested that the Tribunal provide a report no later than 31 May 2004 and every six months afterward. The report should explain what measures have and will be taken, including the transfer of cases involving intermediate and lower rank accused to national jurisdictions. The resolution remains unclear regarding the extent to which the progress report will also involve reporting on co-operation with the ICTY by national jurisdictions, which will be critical in meeting the timetable.

The Council re-iterated its earlier position that “strengthening of competent national judicial systems is crucially important to the rule of law in general and to the implementation of the ICTY...completion strategy in particular.” In order to fulfil the completion strategy within the planned timeframe, the Security Council called on the ICTY Chief Prosecutor to review her caseload to determine which cases should continue at the ICTY and which should be transferred to the competent national jurisdictions. The resolution specifies that in its review and confirmation of new indictments, the Tribunal should ensure that such indictments “concentrate on the most senior leaders suspected of being most responsible for crimes” within the ICTY’s jurisdiction. In terms similar to UNSCR 1503, Resolution 1534 repeats the Council’s call to relevant states and entities, including Croatia, “to intensify co-operation

with and render all necessary assistance to the ICTY, particularly to bring Radovan Karadzic and Ratko Mladic, as well as Ante Gotovina and all other indictees to the ICTY.”

### **Supreme Court orders third trial for Croatian police officer acquitted of war crimes**

On 9 March the Supreme Court granted the prosecutor’s appeal against the 2002 acquittal of Mihajlo Hrastov by the Karlovac County Court and remanded the case for a third trial. The trials in this high-profile case have now been ongoing for a period of 12 years. Hrastov, a police officer from Karlovac, was indicted in 1992 for killing 13 prisoners of war and wounding two (reservists in the Yugoslav People’s Army) in September 1991.

The first trial resulted in an acquittal by the Karlovac County Court in September 1992, on the grounds that although Hrastov had killed the prisoners, he had acted in self-defence. The Supreme Court reversed the verdict in April 1993, finding that the trial court had failed to establish the facts correctly. The Supreme Court ordered a new trial, instructing the trial court to clarify the circumstances that supported its conclusion that Hrastov was excused from criminal responsibility for the killing because he had acted in self-defence. The second trial ordered by the Supreme Court commenced in May 2000, following a delay of seven years. In September 2002, the court confirmed its prior verdict that Hrastov had killed the unarmed soldiers in self-defence.

In response to the prosecution’s appeal in late 2002, the Supreme Court again overruled the trial court verdict and ordered a new trial in March 2004. The Supreme Court determined that the Karlovac County Court had again failed to establish the facts correctly, in particular stressing the repeated failure of the trial court to establish the facts and circumstances leading to the conclusion that Hrastov had acted in self-defence.

The case illustrates two of the Mission’s concerns pertaining to domestic war crime procedures. Firstly, the decision of the Supreme Court is consistent with Mission observations over the last two years relating to high reversal rates in war crimes trials. The reasons for the reversals were almost exclusively that the trial courts had failed to establish the facts correctly. Secondly, the case illustrates the substantial delays which occur in war crimes procedures. Although Hrastov has not been in detention since 1993, the overall length of the proceedings (12 years) and in particular the seven years of inaction before the Karlovac County Court commenced the second trial after the Supreme Court reversal of 1993, raise fair trial concerns under both the Croatian Constitution and the European Convention on Human Rights.

### **Government appoints commission for supervision of return-related issues**

At a special session held in Osijek on 12 March the Government appointed a commission with the aim of supervising the implementation of return-related aspects of the *Agreement on Co-operation between the future Government of the Republic of Croatia and the Representatives of the Serbian Independent Democratic Party in the Croatian Parliament*, which was concluded in December 2003. The Agreement is considered an integral part of the Government’s programme with respect to ethnic reconciliation.

The Agreement foresees specific deadlines for the restitution of occupied private property, the processing of pending applications for state-provided reconstruction assistance for war-damaged private residential properties and the validation of documents issued in the former Serb controlled areas (particularly important for the enjoyment of pension rights), as well as measures to be adopted in order to ensure alternative housing for former occupancy/tenancy right holders in socially owned apartments who wish to return.

The 14-member Commission is chaired by the former Croatian Democratic Union (HDZ) MP Ms. Gordana Turic. The Commission is comprised of State Secretaries and Assistant Ministers of relevant ministries, such as the Ministry of Justice and the Ministry for Development; the Deputy Chief State Prosecutor; the Director of the State Agency for Real Estate Transactions (APN); the Mayor of Vukovar; and two MPs.

The Commission will supervise and co-ordinate the work of the State administration and judiciary with regard to refugee return, one of the key political conditions for Croatia's EU accession. As the tasks of the Commission are at the core of the Mission's mandate, the Mission anticipates that the Commission will be one of its main interlocutors.

### **Cross-border meeting of senior police and customs authorities from Croatia and Bosnia and Herzegovina agrees on new initiatives**

On 23 March, representatives of the OSCE Mission to Croatia attended the first cross-border co-operation meeting of senior police and customs authorities from Croatia and Bosnia and Herzegovina. The meeting was facilitated and supported by the Mission and was dedicated to improving mutual relations and co-operation between the border police services. The meeting was attended by a representative from the Ministry of the Interior (MoI), the Heads and Deputies of the County Police Administrations and Customs from southern Croatia and representatives from the State Border Service, in addition to their counterparts from Bosnia and Herzegovina.

The participants in the meeting agreed to develop co-operation by the border police services in three main areas: elaborating new working methods as countermeasures to criminality, given the increasing crime rate and the activities of trans-national criminal groups and organizations; intensifying co-operation at ground level by introducing operational guidelines for border police shifts; and strengthening national legislation to prevent free access of criminals to both countries. The importance of continued and sustained co-operation was emphasized in relation to border control of traffic, exchange of information, extradition of illegal immigrants and standardized methods of policing. As a result of the meeting, both parties agreed to the production of draft operational guidelines by the Croatian MoI, to be approved and signed by the Directors of the Border Police Services, for the further implementation of joint border protection operations.