



Organization for Security and Co-operation in Europe

OSCE Mission to Croatia

News in brief

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ICTY withdraws contempt indictments against three Croatian journalists

In mid-June 2006 the ICTY Prosecutor withdrew three of four pending contempt indictments against Croatian journalists related to the disclosure of the identity and testimony of a previously protected witness, President Stjepan Mesić.

Stjepan Šešelj, Domagoj Margetić and Marijan Križić, the publisher and two former editors-in-chief of the right-wing weekly *Hrvatsko Slovo*, had been indicted for revealing the identity of President Mesić in a 1998 closed hearing in the trial against former Bosnian Croat Commander Tihomir Blaškić. The Office of the Prosecutor withdrew the indictments after the Trial Chamber rejected its request to join the indictments against these three journalists with that of a fourth, Josip Jović, whose trial is expected to proceed later this year. Former editor-in-chief of the daily *Slobodna Dalmacija*, Jović was charged in 2000 with similarly revealing that President Mesić testified as a protected witness in the Blaškić trial. The Chief Prosecutor decided to withdraw the indictments so as to reduce the number of indictments and improve the Tribunal's efficiency, particularly in light of the Completion Strategy.

In March 2006, the ICTY convicted Ivica Marijačić, editor-in-chief of the weekly *Hrvatski List*, and Markica Rebić, former head of the Croatian Intelligence Service, with contempt of the Tribunal for revealing the identity and testimony of another protected witness. In contrast to the case against Marijačić and Rebić, Jović is indicted for publishing the identity and testimony of President Mesić in violation of an explicit ICTY order to cease and desist from doing so.

ECHR rejects challenge by Serb Orthodox Church to terminate “protected” lease in private property

In a decision published in mid June, the European Court of Human Rights (ECHR) rejected a complaint by the Serbian Orthodox Church in Rijeka which claimed Croatia violated the Church's right to property by forbidding the termination of a “protected” lease contract in Church-owned property. The Church wished to reclaim this property for its own use.

Provisions of the 1996 Flat Lease Act and related court decisions recognize a special category of tenants, namely those who during socialist times were holders of occupancy-tenancy rights (OTR) to private property. The law obligates owners to indefinitely lease flats to the OTR holder, subject to the payment of a so-called “protected” rent prescribed by the Government, and provides limited reasons for termination of the lease. For the termination of specially protected tenancies, the law distinguishes between owners who are natural persons and those that are legal entities. Crucial for the Church's complaint, a legal entity cannot terminate the

protected lease contract as long as a protected tenant does not violate the conditions of the tenancy as prescribed by law.

The ECHR concluded that Croatia's refusal to terminate the lease contract was in accordance with the law and pursued a legitimate aim, which it described as "the social protection of tenants." As stated by the ECHR, the Government contended that "[i]n order to minimize the negative consequences of abandoning the socialist regime, it was necessary to provide the former holders of specially protected tenancies on privately-owned flats with a possibility to continue living in those flats."

According to a survey conducted by the Ministry for Environmental Protection, Zoning and Construction, 3,500 households continue to reside in protected tenancy flats located in private property, while various tenancy organisations estimate the total number to be around 10,000. The issue addressed by the ECHR in this case contrasts with the issue of OTR in socially owned property, most recently raised at the ECHR in *Blečić v. Croatia*.

Special Police intervention required in eviction of illegal occupants

After a five year legal battle and two previous eviction attempts, illegal occupants of a privately owned flat in Topusko, Central Croatia, were finally evicted on 8 June following the intervention of Special Police. In 1999, Gvozd Municipal Court had ordered that the flat be returned to the Serb owner, Nikola Kljajić.

Two previous attempts to evict the illegal occupants, a husband and wife, in November 2005 and April 2006, failed due to the couple's refusal to vacate the property and the failure of the Municipal Court in Gvozd to adequately enforce and ensure conditions for their eviction. However, despite considerable resistance from the illegal occupants, the third eviction attempt was successful due to a concerted effort on the part of Gvozd Municipal Court in co-operation with the police.

During the eviction attempt, the illegal occupants refused to voluntarily vacate the property, threatening to harm themselves and others by setting fire to the flat with petrol bombs and firing a pistol from the flat. Professional police negotiators and Special Police were called to react. After several hours of negotiation, Special Police forcibly entered the flat and arrested the occupants. A police search of the premises revealed a cache of illegally held fire arms and ammunition. Criminal charges have been brought against the couple.

While representing a diminishing trend, this case demonstrates the kind of strong resistance Court authorities and the police still face when attempting to enforce legal eviction notices. The resolve of the courts and the police in this instance represents a step forward in enforcing the rule of law and sets an example to refer to in future unresolved cases.

Catholic and Serb Orthodox dignitaries meet under auspices of the Mission

On 26 June, a meeting was held in Zadar at the initiative of the Mission, gathering the Catholic Archbishop of Zadar, Msgr. Ivan Prendja, the Orthodox Bishop of Dalmatia, Vladika Fotije Sladojević, parliamentarians from the Independent Democratic Serb Party (SDSS), Milorad Pupovac and Ratko Gajica, and the HoM. The aim of the meeting was to discuss the relationship between the two religious communities at the local level and to add impetus to the reconciliation process in a region still struggling with the consequences of the 1991-1995 war. Among the topics discussed were the organization of joint seminars for

Catholic and Orthodox priests, the facilitation of direct contacts between priests of both religions in local communities and the reconstruction of churches and accommodation facilities for the clergy.

Addressing reporters after the two-hour meeting, all participants expressed satisfaction with the talks. Archbishop Prendja, who hosted the meeting, said that he was willing to contribute to the peaceful coexistence of different religious communities, concluding that the Catholic Church in Zadar “want[s] people to live in the freedom of their beliefs and identities”. The Serb Orthodox Bishop Fotije acknowledged the war as a “tragedy” for the area but said that the church had an important role in healing “spiritual and physical wounds, particularly the spiritual ones”. He added that “if we are Christians, we should live by Christian law, a law of love and forgiveness”. The HoM thanked the two church dignitaries for their intellectual and moral pledges, concluding that such inter-religious dialogue and discussion on future activities would accelerate the process of refugee return and reconciliation in the region.

Describing the meeting as promising, MP Milorad Pupovac stressed that the Zadar area had suffered great damage in the war and that wounds were still fresh. "It is our duty to help the city overcome the horrors of war and achieve prosperity," Pupovac said, calling for an atmosphere of understanding and tolerance that would decrease ethnically-related incidents. He also urged for the settlement of issues related to disputed Church property.

Mission and Croatian water authorities begin co-operation in returnee areas

In early June, following on from an extensive Mission survey on water supply to minority return areas, the Mission established working contacts with the State-run water authorities, Croatian Water, with a view to improving water infrastructure in these areas.

During the initial meeting on 5 June, it became apparent that Mission co-operation will be necessary at both the central level and with local authorities. While Croatian Water is responsible for bringing water supply to a municipality/town, local authorities take care of individual connections, system maintenance and user fees.

Croatian Water claims to pay special attention to the former war-affected areas, where they finance 80 per cent of project costs compared to 40 per cent in non-war affected areas. Croatian Water is currently working on two large water supply projects in returnee areas in Zadar County, Dalmatia, and one connecting areas around Vukovar and Slavonski Brod in Slavonia. Additional projects are currently being financed by European Investment Bank programmes. As part of the EU accession process, Croatia has committed itself to connect 90 per cent of its population to the water supply system by 2015, up from the current rate of 75 per cent. This will require an investment of some ten billion HKN (approximately €1.5 billion).

Croatian Water is currently preparing its implementation plan for 2007 in consultation with local authorities. Based on its field survey, the Mission will propose returnee areas it considers a priority for investment. Mission efforts to help connect war affected areas to the water supply system are at an early stage in comparison to efforts in relation to re-electrification. However, the Mission hopes to replicate its success in the area of re-electrification by adopting a similar approach to water supply issues. In order to raise the political profile of this initiative, the Mission plans to include parliamentarians from the Independent Democratic Serb Party (SDSS) in negotiations with Croatian Water.