



Organization for Security and Co-operation in Europe

Mission to Croatia

H e a d q u a r t e r s

News in Brief

28 July – 14 September

Croatian Government removes monuments commemorating *Ustasha* leaders

On 26 August, the Government decided to remove two monuments honoring prominent *Ustasha* officials in the villages of Sveti Rok and Slunj in Central Croatia. The Croatian Police removed the monuments on 27 August. Croat expatriates living in Canada and Australia had financed a memorial plaque to Mile Budak, Minister of Culture in the government of the Independent State of Croatia (1941-1945), and had allegedly secretly erected the plaque on the night of 22 August. The Government of Serbia and Montenegro protested to Croatia's Ambassador in Belgrade, asking for an explanation.

The Government stated that the monuments were contrary to the Constitution and damaged Croatia's reputation and interests. Additionally, the Government tasked the Ministry of Justice to submit draft amendments to the Criminal Code designed to prevent the glorification and promotion of totalitarian regimes. Independent Democratic Serb Party (SDSS) Vice-President Milorad Pupovac commented that in making the decision, "the Government wanted to clearly distance itself from the *Ustasha* movement, thus creating room for even better co-operation with the SDSS".

Croatia open to chairing the OSCE

On 7 September, local media reported that Croatia had expressed an interest in chairing the OSCE in 2007. "We are ready to take over this assignment, however we do not want to push things", Foreign Minister Miomir Žužul said after a two-day informal meeting of the European Union's 25 Foreign Ministers in the Netherlands, held in early September. He added that "before the decision to submit our candidacy for the OSCE Chairmanship, Croatia wishes to consult with EU members, the US and other important partners...The OSCE Chairmanship is an issue of prestige for any country, but for us it is especially important that if we accept such a significant task, we are able to fulfill it in a qualitative way" he stressed.

ICTY Chief Prosecutor requests referral of indictment against Generals Norac and Ademi to Croatia

On 2 September, the International Criminal Tribunal for the former Yugoslavia (ICTY) Chief Prosecutor filed a motion to the ICTY Trial Chamber requesting the transfer of the indictments against retired Croatian Army General Mirko Norac and General Rahim Ademi to Croatia, for the purposes of conducting the trial in the Zagreb County Court. On 7 September, the ICTY President appointed a Trial Chamber to decide upon the transfer request. While a similar motion was filed on the same date by the Prosecutor seeking the transfer of a case to Bosnia and Herzegovina, it appears that the Norac and Ademi case will be considered first.

Norac and Ademi are indicted for multiple counts of crimes against humanity and violations of the laws or customs of war. The crimes were allegedly committed in September 1993 against Serb civilians and prisoners of war, before and during the so-called “*Medak Pocket operation*”. Norac and Ademi are alleged to be responsible for planning, ordering and executing this Croatian military operation. Ademi voluntarily surrendered to the Tribunal in July 2001 and was granted provisional release in February 2002. Norac, who is currently serving a non-related war crime sentence in Croatia, was surrendered by the Government to the Tribunal in July for his initial appearance, and then returned to Croatia.

The Prosecutor’s request to transfer the indictment to Croatia was submitted under a rule which allows for the transfer of an ICTY case to any domestic jurisdiction in which a fair trial can be conducted and where either the crime was committed or the accused arrested, or to any other jurisdiction willing and prepared to accept the case. Such transfers to domestic jurisdictions constitute a key component of the ICTY’s “Completion Strategy.”

The Prosecutor relied on the OSCE Mission’s War Crime report issued in June 2004 to support her position that “a limited number of cases from the Tribunal could apparently be processed in an effective and fair manner despite the fact that overall problems still exist in the Croatian judicial system in the processing of war crime cases (especially . . . before the lower level courts in terms of ethnic bias).” The Prosecutor stated that she had received repeated assurances from high-ranking government and judicial officials, including the Prime Minister, the Foreign Minister, the Minister of Justice, the Chief State Prosecutor, and the President and judges of the Zagreb County Court, that Croatian authorities were ready and willing to try the case.

In line with UN Security Council resolutions indicating that medium- and lower-level accused should be tried by domestic courts as part of the ICTY’s “Completion Strategy”, the Prosecutor concluded that the case could be properly transferred to Croatia.

Supreme Court reverses acquittal of eight Croats in “Lora” war crime case and remands them for retrial

On 19 August, the Supreme Court reversed the acquittal by the Split County Court of 8 Croats accused of killing two Serb detainees and of maltreating several other detainees in the “Lora” military prison in Split in 1992. The Supreme Court ordered that the re-trial be conducted before a different judicial panel, excluding the original presiding judge. On 8 September, the Split County Court rejected the prosecutor’s request that the eight defendants be placed in detention pending the new trial.

The Supreme Court held that the trial court failed to sufficiently establish the facts as it did not consider all the evidence proposed by the Prosecution. Finding that the indictment insufficiently described the facts and circumstances in which the alleged acts were committed, the Supreme Court recommended that the indictment be amended during the new trial. The Supreme Court stressed that the trial court failed to provide sufficient time for proposed witnesses residing in Serbia and Montenegro to appear for testimony. The OSCE Mission observed a number of irregularities during the trial, including problems associated with procuring testimony from witnesses living in Bosnia and Herzegovina and Serbia and Montenegro. Furthermore, several witnesses changed their trial testimony from that given during the investigation, explaining that they had received threats during the procedure or that their initial testimony was given under police coercion.

The Supreme Court's verdict is a further indication that additional measures are required to ensure that all parts of the Croatian judiciary are sufficiently prepared to adjudicate war crimes in a professional manner. Preliminary training efforts have been undertaken by the Ministry of Justice together with the ICTY. Split County Court judges and prosecutors will participate in such a training in late September and October. Between January 2002 and August 2004 the Supreme Court reversed 47 of 70 trial court verdicts in war crime trials, mainly due to failure of the lower courts to establish the facts sufficiently and correctly.

ICTY grants provisional release to six former Croatian Army and Bosnian Croat officials, and denies provisional release to former Croatian Army Generals, Ivan Čermak and Mladen Markač

On 9 September, the ICTY granted provisional release to six Bosnian Croats, who voluntarily surrendered to the Tribunal in April 2004 after the issuance of an indictment by the ICTY Chief Prosecutor in March. The defendants stand indicted for *crimes against humanity* and *violations of the laws or customs of war* as part of a "joint criminal enterprise" committed during the alleged ethnic cleansing against Muslims in eight municipalities in Bosnia and Herzegovina, including Mostar, between November 1991 and April 1994. The ICTY Appeal Chamber rejected the Prosecutors' appeal against the decision of the Trial Chamber from 9 August granting the defendant motion for provisional release. The Trial Chamber had granted the request as it was satisfied that the accused would appear for trial, and if released, would not pose a danger to any victims, witnesses or other persons. The Governments of Croatia and the Federation of Bosnia and Herzegovina gave guarantees that the defendants would appear for trial and in particular that the defendants would comply with orders by the tribunal requesting them to report to the local police, seek permission to travel, not make any public statements and not to tamper with evidence.

By contrast, the ICTY Trial Chamber denied for the second time on 14 September the provisional release of former Croatian Army Generals, Ivan Čermak and Mladen Markač. The defendants are indicted on multiple counts of *crimes against humanity* and *violations of the laws and customs of war* as part of a "joint criminal enterprise" together with fugitive General Ante Gotovina, for their alleged ordering, planning and committing of crimes against Serb civilians during and after the Croatian Army's "Operation Storm" in 1995. The defendants voluntarily surrendered to the tribunal on 11 March. The Trial Chamber explained its decision was due to the gravity of the alleged crimes, and uncertainty as to whether the defendants would appear for trial or whether they would pose a danger or threat to victims and witnesses. The Trial Chamber also stressed that Croatia has not ensured the surrender of fugitive Croatian Army General Ante Gotovina. On 15 September, the media speculated that Čermak's and Markač's release was thus directly related to the Gotovina case.

ICTY Appeals Chamber reduces sentence of General Tihomir Blaškić

On 29 July, the ICTY Appeals Chamber reversed the conviction of former Bosnian Croat General Tihomir Blaškić on 16 of 19 counts and affirmed the conviction on three counts, all related to inhuman treatment of prisoners by the Croatian Defense Council in Central Bosnia and Herzegovina from May 1992 to January 1994. The Appeals Chamber reduced Blaškić's sentence from 45 to 9 years. Blaškić was released almost immediately upon the order of the ICTY President, having served the bulk of his sentence after remaining in custody since his voluntarily surrender in 1997. The Appeals Chamber considered new evidence that was not

available to Blaškić for his defense during the original trial, due to the lack of co-operation by the Croatian authorities at that time and the delay in opening the state archives, which only occurred after President Tuđman's death.

The Appeals Chamber verdict received significant attention in the national media and triggered statements by the political establishment. Former Prime Minister Ivica Račan (Social Democratic Party, SDP) criticized the former Croatian Democratic Union (HDZ) Government for withholding crucial evidence, which his SDP-led Government later submitted. Prime Minister Ivo Sanader voiced his satisfaction with the verdict. President Stjepan Mešić was quoted as stating that the verdict showed that the Hague Tribunal was not a political court. The Chief State Attorney publicly announced his intention to initiate an investigation into the alleged concealment of official documents essential for the defense of Blaškić. After his arrival in Croatia from detention, Blaškić was the subject of substantial and positive press coverage, and was generally depicted as an honorable citizen.

Government renews commitment to the implementation of housing programmes for former OTR holders

The Croatian Ministry of Maritime Affairs, Tourism Transport and Development declared that an information campaign will start in September to mark the beginning of implementation of housing programmes for former holders of so-called occupancy tenancy rights (OTR) who wish to return. The programmes, valid for the so-called Areas of State Concern and the rest of the country, were formally adopted in 2000 and 2003 respectively. These former residents of socially owned housing are the last remaining category of refugees and displaced persons without a housing option. There are 23,700 documented court cases of OTR terminations in Government-controlled areas during the war, including the largest urban areas, because of unjustified absence. The return of the urban population is particularly important for the re-establishment of a viable Serb community in Croatia. The Ministry statement followed the recent European Court of Human Rights ruling on the *Blečić v. Croatia* case on the legality of OTR terminations. The Court found no violation on the part of the State in this individual case, but did not consider the effects of OTR terminations on the refugee issue or whether the State has been discriminatory with respect to ethnicity.

The EC's Opinion on Croatia's application for EU membership, and the European Partnership with Croatia both highlight the resolution of housing problems for former OTR holders as a remaining task and priority for the Government. As of 14 September, the competent Directorate in the Ministry had received 7,397 applications for State housing from former OTR holders, and had positively processed 1,609.

Croatian Government plans the (re)electrification of Serb minority return villages

The Ministry of Maritime Affairs, Tourism, Transport and Development informed the OSCE Mission and the European Commission (EC) Delegation in early September that the Ministry plans to sign an agreement with the State electricity company (HEP) in order to carry out an electrification project targeting minority villages or villages having return potential. The project will be co-financed by the Croatian State Budget and the European Investment Bank (EIB). The Ministry tasked HEP with providing a detailed plan on the technical requirements of the project, and agreed to submit monthly reports to the OSCE Mission and the EC Delegation on the progress of its implementation.

The initiative comes in response to the Mission report, “Lack of electricity supply in minority returnee villages”, which the Mission shared with the relevant Croatian authorities and the State electricity company (HEP) in early August. The Report indicates that 189 villages and hamlets with an overall population of over 5,000 people, primarily in minority villages, still have to be reconnected to the electrical grid, nine years after the end of the armed conflict. It appears that the lack of electrical supply represents a powerful deterrent to return, especially in areas where economically viable agriculture is hampered by a lack of electricity. The State electricity company argues that electrification would have only a small impact on return, and that impediments such as mine-contamination render electrification more difficult than in other areas.