



**Organization for Security and Co-operation in Europe
OSCE Mission to Croatia**

News in brief

7 – 18 September 2007

Ademi-Norac war crimes trial continues

The trial of Rahim Ademi and Mirko Norac on allegations of war crimes against Serb civilians committed during the September 1993 'Medak Pocket' Operation (Operation) continued in September before the Zagreb County Court following the summer break. As of mid-September, fifteen hearings have been conducted during which seventeen prosecution witnesses have testified and several hundred documents proposed by the prosecution have been summarized for the record by the Presiding Judge.

To date, all witnesses have been former high-ranking Croatian officials including Ivan Jarnjak, the war-time Minister of Interior and current Secretary of the ruling Croatian Democratic Union (HDZ), Mladen Markac, war-time commander of the Special Police and ICTY indictee, Petar Stipetic, former Commander of the Zagreb Military District and Davor Domazet-Lošo, former Head of Intelligence of the Army Main Staff. With limited exceptions, the Presiding Judge admitted all documents transferred to Croatia from the ICTY Office of the Prosecutor (OTP).

To date, witnesses have testified primarily in relation to the chain of command during the Operation, as well as on reporting practices, the origin of the plan for the Operation and the different types of units from the Croatian forces involved in the Operation. Testimonies also addressed the negotiated withdrawal of Croatian forces from and assumption of peacekeeping duties by United Nations forces in the Medak Pocket as well as the negative reaction to the withdrawal order on the part of Croatian forces. While all witnesses who testified so far were proposed by the prosecution, the testimony of numerous witnesses has directly contradicted that of others, particularly in relation to the chain of command and the command responsibilities of each of the accused. There has been disputed testimony about a 'dual chain of command' as well as a rift between former Yugoslav People's Army (JNA) officers and newly commissioned officers. In several instances the witnesses' in-court testimony contradicted their previous written statements to OTP. Others testified that they no longer remembered facts included in their statements to the OTP.

Witnesses have made only limited reference to the crimes alleged in the indictment. Testimony on this point has included statements that no war crimes were committed by Croatian forces, others had no knowledge of crimes, still others testified that the presence of UN peacekeepers prevented a Croatian investigation of alleged crimes. Some witnesses noted that alleged crimes were brought to the Croatian authorities' attention by UN peacekeeping forces, others indicated indirect knowledge of crimes, while one witness suggested that the UN peacekeepers could be responsible for the deaths of Serb civilians.

As provided by Croatian procedure, each witness began their testimony with a narrative statement, some of which lasted up to two hours and included commentary on the heroism and patriotism of the accused as well as suggestions that the accused were scapegoats for the political and military leadership. Only after the narrative statements are concluded, does the Court, the prosecution, the defense, the accused, and the victims' attorneys have the opportunity to ask questions. Both Ademi and Norac regularly exercise their right to question witnesses as well as comment on their testimony. This has led to several instances in which Ademi accused a witness of lying. Both accused have contradicted the testimony of several witnesses. Multiple witnesses have testified without a break for in excess of four to five hours.

The Presiding Judge issued a tightly-packed trial schedule, contemplating forty-five prosecution witnesses between early September and mid-October. However, as the trial progresses, it appears the schedule may have to be modified. During the week of 10 September, only four out of eight scheduled witnesses were heard given the cancellation of one hearing due to illness and lengthy testimony of other witnesses. On 19 September, the Presiding Judge decided to call nearly thirty ICTY protected witnesses, categorized as 'endangered' witnesses in Croatia. The Court has yet to issue a decision as to whether some or all of the foreign witnesses such as UN peacekeepers and ICTY personnel proposed by the prosecution will be called to testify.

Parliament resumes process for nominating Constitutional Court Judges

On 18 September, Parliament resumed the process of filling anticipated vacancies in the Constitutional Court (Court), specifically five remaining seats for which the mandate expires on 1 December. Of the nine vacancies on the thirteen-member Court to be filled in 2007, one was filled in June while three were filled in July. The relevant Parliament Committee which interviewed the seventeen candidates had a minimum quorum and was composed primarily of members of the opposition due to the absence of most members from the ruling Croatian Democratic Union (HDZ) who were attending a party function. At most, two of the nine judges appointed in 2007 will have served previously on the Court, meaning that the bulk of the Court membership after 1 December will be new.

As with the prior nomination process, candidates were asked numerous questions related to their views on fundamental rights. As a result of such questioning, new appointees could be challenged as having pre-judged questions that may come before the Court. Candidates were also asked their opinions on several current events, including an initiative presented by national television broadcasters to change the rules on election reporting, which oblige them to provide equal time to all candidates. A Serb candidate was asked whether in her view the termination of occupancy/tenancy rights in the 1990s, which primarily affected Serb residents, could be regarded as ethnic cleansing, while another candidate was asked to explain why the HDZ did not support his candidacy, in spite of his professional credentials.

As the next step in the nomination process, in late September, the Committee will compile a 'short-list' of at least six candidates for vote by the entire Parliament during its three-week autumn session scheduled to begin on 26 September, after which Parliament will be dissolved in advance of the Parliamentary elections.

MISSION ACTIVITIES

OSCE Parliamentary Assembly President visits Croatia

On 10 September, the Chairman of the OSCE Parliamentary Assembly, Göran Lennmarker, paid a visit to Croatia as part of a wider tour of South East Europe. Mr. Lennmarker met with the Parliamentary Speaker, Vladimir Šeks, and with Minister for Foreign Affairs and European Integration, Kolinda Grabar-Kitarovic.

In both meetings, Mr. Lennmarker expressed his support towards Croatia joining the European Union as soon as possible and commended the Government on its rapid progress in implementing the reforms necessary.

The Parliamentary Speaker in turn commended the excellent relations between the OSCE and the Government which had greatly assisted Croatia in the process of Euro-Atlantic integration. He said that Croatia now had a new perspective as regional leader and exporter of peace and security. Mr. Šeks expressed confidence that the Mission's mandate would be completed by the end of the year and that the continued monitoring of war crimes trials would be accommodated. Both the Parliamentary Speaker and Mr. Lennmarker agreed on the need to promote regional co-operation between judicial authorities in the Western Balkans.

In a later meeting, Minister Grabar-Kitarovic said that the assistance and support provided by the Mission during Croatia's process of democratisation, the establishment of the rule of law and the return of refugees was greatly appreciated by the Government. She underlined the central role of the 'Platform' - monthly meetings at ministerial and working-group level between the Government, the Mission and other international partners – in helping the speedy resolution of mandate-related issues which remain outstanding.

Return of Government-allocated agricultural land remains an open question

Serb owners in the area of Benkovac in the Zadar hinterland continue to encounter obstacles in their efforts to regain possession of their agricultural land allocated for use by others in the aftermath of the 1995 military operation code named 'Storm.' Although the approximately 30 properties were allocated by a Municipal commission back in 1996 whose duties for the return of allocated residential property were later taken over by the Ministry of Maritime Affairs, Tourism, Transport and Development, this Ministry has yet to take action to return agricultural property. As a result, the Mission has designed and funded a legal aid project through a local NGO, providing free legal representation to Serb owners. As of late September, the Mission will have provided funding for approximately ten lawsuits seeking to regain occupied land before the Benkovac Municipal Court. At present, the Mission's legal aid programme remains the only means by which these owners have a realistic opportunity of regaining possession of their land. This issue was raised during the Government-sponsored plenary on mandate-related issues held in Benkovac in mid-May.

Owners who have tried to regain their land through the use of administrative remedies have been unsuccessful. Due to changes in the law since 1996, remedies that were previously available have disappeared, with the result that at present there is no administrative remedy, including from the Ministry. One such example is Gligorije

Radak, whose land was allocated eleven years ago to a Croat settler from Vojvodina for an eight year period. Despite his efforts since late 1995, with appeals to the local administration and court as well as to central Government - most recently the Ministry -, Mr. Radak has not regained possession of his land, although the allocation decision was annulled more than seven years ago. In the spring of 2007, Mr. Radak requested that the Ministry assist in the return of his land. The Ombudsman has also intervened with the Ministry on Mr. Radak's behalf, seeking clarification of what steps the Ministry would undertake to return the land. The Mission will continue to follow this issue.