

European Council grants Croatia EU candidate status

On Friday 18 June, the European Council welcomed the European Commission's Opinion (*avis*) on Croatia's application for EU membership and granted the country official candidate status, scheduling accession talks for the beginning of 2005. In its conclusions, the Council noted that Croatia met the political criteria for membership and confirmed that the pace of negotiations would be determined solely by the country's progress in meeting membership requirements.

The decision highlighted several remaining political tasks, most of which fall within the OSCE's mandate. The Council stressed the importance of maintaining full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), and made explicit reference to the location and transfer to The Hague of "the remaining indictee" [former General Ante Gotovina, who remains at large since being indicted by the ICTY nearly three years ago]. It also emphasized that Croatia needed to make "additional efforts" in the areas of minority rights, refugee returns, reform of the judiciary, regional co-operation and the fight against corruption. The Council particularly noted the encouragement likely to arise from the decision for other regional countries to pursue European integration.

Early indications of the possible effect of the decision on regional co-operation were positive. Slovenian Prime Minister, Anton Rop, stated that Croatia's accession to the European Union (EU) would lessen problems in bilateral relations and facilitate their resolution. The President of Serbia and Montenegro, Svetozar Marovic, expressed hope that relations between the two countries would take on a new dimension as a result, while both he and the Montenegrin President, Filip Vujanovic, expressed the desire to pursue European integration on behalf of their citizens.

The Head of the OSCE Mission to Croatia welcomed the decision, which he said was recognition of the great progress made by Croatia. He stated that Croatia had accepted the responsibilities inherent in EU candidate status, and that future challenges would need to be met to achieve full membership. The OSCE would be a reliable partner on issues within the Mission's mandate, such as refugee return, strengthening regional co-operation, reform of the judiciary, and protection of human and minority rights.

The decision was welcomed by the Croatian Government, the Prime Minister and the President. Prime Minister Ivo Sanader expressed optimism that negotiations could be completed by 2007 and acknowledged the efforts of the previous Government and cross-party consensus in achieving candidate status. Other members of the Government equated the success in achieving candidate status with the international recognition of Croatia's independence in 1992. President Stjepan Mesic described EU membership as "the most important strategic goal" for Croatia and its citizens. He warned however that this was not a time for complacency or euphoria and that candidate status conferred a "great obligation" on the nation, in particular to strengthen democracy and the rule of law and to promote the individual rights of citizens.

Meanwhile, public support for EU accession appears to have fallen according to a series of polls on the subject conducted by independent agencies and the Croatian Ministry for European Integration. Support has reportedly declined from approximately 79 per cent in 2002 to between 53 and 58 per cent in 2004, with many participants stating they did not expect positive changes as a result of implementing EU standards.

OSCE Head of Mission presents war crimes trial monitoring reports together with Minister of Justice

At a press conference with the Minister of Justice on 22 June, the OSCE Head of Mission presented two reports based on the Mission's country-wide monitoring of war crimes proceedings, which provide an analysis based on statistical information as well as individual cases. The Mission's conclusions are based on observations of proceedings against approximately 500 individuals processed for war crimes before 12 county courts from 2002 to mid-2004.

The reports acknowledge recent improvements in the handling of war crimes by the Croatian judiciary but conclude that additional reform is needed to provide for impartial domestic adjudication of war crimes in all Croatian courts, and to achieve the Government's stated objective of a uniform standard of criminal responsibility regardless of national origin, as well as a single standard of justice for victims.

The Head of Mission cited recent positive developments, such as an increasing public acceptance of the need for even-handed prosecution of war crimes, and took note of measures to create better conditions for the handling of war crimes in the domestic judiciary, including the establishment of new extra-territorial war crimes departments in four regional courts and training offered to judges and prosecutors associated with those courts. He noted that the training and other reform initiatives provided for the four special courts should be extended to all judges, prosecutors and defence lawyers responsible for such cases, to prevent the development of a two-tier system of justice for war crimes in Croatia.

The Head of Mission commended the ongoing efforts of the Chief State Prosecutor to review questionable war crimes investigations and indictments, primarily against Serbs, and expressed his hope that these efforts would result in a reduction in the number of flawed war crimes trials. However, the reports indicate that the national origin of defendants and victims continues to affect war crimes proceedings. Concerns highlighted in the reports include the high rate of war crimes verdicts overturned by the Supreme Court due to error by the trial courts, and requiring re-trial; discrepancies in the conviction rates between Croats and Serbs standing trial for similar offences; and a large number of *in absentia* trials conducted primarily against Serbs, the vast majority of whom were convicted *in absentia*. The reports also identify the increasing need for inter-state co-operation between judicial authorities in order to address all war crimes cases in Croatia.

Second joint Ministry of Justice/ICTY war crimes training seminar completed

In mid-June the Ministry of Justice, in co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), conducted the second in a series of three seminars for approximately 30 judges and prosecutors, primarily from the Zagreb and Osijek County Courts, on legal issues related to the adjudication of war crimes. Similarly to the first seminar conducted in May, the primary focus was a comparative analysis between ICTY and Croatian law and practice. The seminar focused on legal questions that might arise in the event that cases are transferred from the ICTY to Croatia. Such cases could include those in which the ICTY had already issued an indictment, or cases in which the Croatian authorities would have to investigate further, based on information provided by the ICTY, and determine whether to issue an indictment. The participants discussed charging practices, the drafting of indictments, how the domestic judiciary would address crimes against humanity, command responsibility, the use of ICTY generated evidence, and witness protection.

Recent conviction in trafficking case; further legislation required to comply with main trafficking Convention

The Croatian government has recently proposed several legislative amendments in order to create a more comprehensive framework for combating trafficking in persons.

- Amendments to the Criminal Code containing provisions designating trafficking as a separate criminal act are currently in parliamentary procedure. The amendments are likely to be adopted after the summer recess. The existing Criminal Code does not currently contain provisions explicitly prohibiting trafficking in persons, thus necessitating the reliance on other criminal provisions such as the establishment of slavery. For example, in mid-June the Zagreb County Court sentenced a 61-year-old Croatian man to six years imprisonment for the establishment of slavery, the transport of slaves and the rape of two young Croatian women.
- Further legislative measures have recently been taken, such as the adoption of provisions in the new Law on Foreigners, which permit victims of trafficking to apply for temporary residence status (from 90 days to two years). Such measures are consistent with Croatia's commitments under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (known as the Palermo Convention), which it ratified in January 2003.

In order to fully comply with its treaty obligations Croatia should further amend its legal and administrative systems and develop policies to regulate assistance to and protection of victims of trafficking in persons, and strengthen prevention.

Ministry of Culture responds to OSCE/CoE/EC concerns regarding the new Law on Media

The Ministry of Culture has responded to concerns raised in an expert assessment commissioned by the OSCE, the European Commission (EC) and the Council of Europe (CoE) on the new Law on Media. The concerns relate to the disclosure of journalists' sources under certain conditions (Article 30) and the circulation of newspapers by publishers (Article 11). The expert report also voiced concern that Article 10 of the European Convention on Human Rights (ECHR) was not explicitly included in the new Law on Media.

In a letter to the Mission, the State Secretary of the Ministry of Culture emphasized that Article 30 of the new Law limits the request for disclosure to the State Prosecutor's Office and only in three specific instances: on the grounds of national security, territorial integrity or the protection of health. The Ministry further stressed that the Law does not prescribe any penalties for journalists who do not disclose their sources, even if ordered to do so by the courts.

Regarding Article 11 of the law, the Ministry disagreed with suggestions in the expert report that the effect of Article 11 would be to prohibit foreign publishers to circulate their papers in Croatia as suggested by the expert. The Ministry stated that there were no legal impediments to the distribution of foreign papers in the country.