

### **Hague indicts former Croatian General Mirko Norac**

On 20 May the International Criminal Tribunal for the former Yugoslavia (ICTY) issued an indictment against retired Croatian Army General Mirko Norac 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 a Croatian military operation to re-establish Government control over the so-called "Medak Pocket" in south-central Croatia that was then part of the self-proclaimed "*Republika Srpska Krajina*". Norac is currently serving a 12-year prison sentence in Croatia following his conviction together with two others by the Rijeka County Court in March 2003 of committing war crimes against civilians in the Gospic area in south-central Croatia in 1991.

The ICTY indictment, which is the fifth of its kind in Croatia for members of the Croatian Armed Forces, was made public on 25 May. The ICTY announced that it did not issue an arrest warrant and that it would not seek the transfer of Norac to The Hague. The ICTY indicated that the indictment completed its investigation of the crimes in the "Medak Pocket" which had focused on three persons - Norac, Janko Bobetko and Rahem Ademi

In light of the ICTY's "Completion Strategy", the Chief Prosecutor intends to ask the ICTY Trial Chamber to join the Ademi and Norac indictments and to request transfer of the case from the ICTY to the Croatian judiciary pursuant. In the event the Trial Chamber decides to transfer the case to Croatia, it would set a precedent as the first ICTY indictment referred to any national jurisdiction. This raises to the fore the compatibility of legal provisions that would be applied in any proceeding before a Croatian court with the ICTY Statute and jurisprudence, and how the indictment can be translated into domestic law. As a result of the Constitutional Court's decision in November 2003 to revoke amendments to the Croatian Criminal Code because they were not adopted with the constitutionally required number of votes, the offence of crimes against humanity is still not contained in the Code. Criminal liability is also not *expressis verbis* prescribed for command responsibility, namely the responsibility of superiors to punish subordinates for having committed war crimes.

### **President of Serbia and Montenegro visits Croatia for first time since the armed conflict**

The President of Serbia and Montenegro, Mr. Svetozar Marovic, paid an official visit to Croatia on 24 May. The visit was the first of its kind since the armed conflict in the region. The President was received by his Croatian counterpart, President Stjepan Mesic, as well as Prime Minister Ivo Sanader and the Speaker of the Croatian Parliament.

According to media reports, the main topics of the bilateral meetings included EU integration, refugee return and property repossession, minority rights, missing persons, prisoner exchanges, cross-border economic and trade issues and the non-visa travel regime for citizens of both countries. At his meeting with Prime Minister Sanader, President Marovic congratulated Croatia on the European Commission's (EC) positive *Opinion* of the country's EU membership bid. At the same time, Prime Minister Sanader stated that Croatia remained committed to supporting normalization and stabilization in region, stating that Croatia "... wants to become even more involved in the processes promoting [regional] stabilization". The Prime Minister confirmed an extension of the non-visa travel regime to Croatia for citizens of Serbia and Montenegro until the end of 2004. Croatia expected Serbia and Montenegro to respond in turn to its requests on outstanding border issues, including the removal of army personnel along common borders.

The two countries' relevant cabinet Ministers also signed a joint protocol on co-operation in European integration. The protocol will be used by both countries to support each others' Euro-Atlantic integration efforts. Other important bilateral government meetings are also scheduled to take place between the two countries. The Croatian Minister of Foreign Affairs travelled to Belgrade to meet his counterpart on 28 May, while a visit to Belgrade by Prime Minister Sanader is expected before the end of 2004.

### **Croatia among first States to sign protocol reforming European Court of Human Rights**

Croatia was among the first seventeen Member States of the Council of Europe (CoE) to sign Protocol No. 14 to the European Convention on Human Rights and Fundamental Freedoms when it was opened for signing on 14 May. The new Protocol amends the European Convention in order to maintain and reinforce the effectiveness of the European Court of Human Rights (ECHR), which is faced with an ever-increasing number of applications that is threatening to overwhelm the Court and thereby jeopardize its effectiveness.

In tandem with the signing, the CoE Committee of Ministers issued a series of recommendations for reforms needed at the national level to more thoroughly address human rights violations, thereby ensuring the effectiveness of the reforms contemplated by Protocol 14. The measures recommended to CoE Member States include: systematic review of draft laws, existing laws and administrative practice with the standards laid down in the European Convention; introduction of appropriate university education and professional training in order to ensure that the European Convention is effectively applied; and improvement of domestic remedies for all arguable claims. The recommendations emphasize that CoE Member States bear primary responsibility for the protection of human rights at the national level. The common purpose of the measures is to significantly reduce the number of applications before the ECHR.

### **NGOs protest Government decision to tax foreign donations to non-profit organizations**

Effective 8 May 2004, the Government decided to revoke the 22 per cent value-added tax exemption on foreign donations to a large number of domestic non-profit civil society actors. The decision was immediately criticized by NGOs, some of which characterized the tax as a threat to the development of the Croatian civil society sector.

The 1997 Law on Value-Added Tax granted exemption only to certain types of NGOs such humanitarian, religious, educational, and sports organizations. The exemption was later extended in 2001 by ministerial decree to other non-profit civil society actors working on human rights, minority rights, women's rights, democratization and other such issues. That ministerial decree has now been revoked. The exemption allowed these actors to avoid paying tax on certain imported goods or humanitarian assistance and when delivering goods and services in Croatia paid through foreign donations.

As a result of the decision, many of the planned 2004 programmes and projects of NGOs will have to be restructured to incorporate the additional tax costs or be terminated. A long-term effect of the decision is that the tax may act as a deterrence to the limited number of foreign actors who offer services and financial support to Croatian NGOs.

At a meeting with Minister of Finance on 13 May, a group of leading NGO representatives proposed a working group with the Government to resolve the issue. The first meeting of the working group, which is to include representatives from the Ministry of Finance, the Government's Taxation Office, NGOs, donors, civil society and unions, was to take place on

the 27 May. Leading representatives of the Croatian civil society sector are currently preparing a signature petition to be submitted to the Government requesting that the recent decision be revoked. To date, over 125 individual organizations have signed the petition.

#### **OSCE Head of Mission addresses opening of war-crime training seminar**

In co-operation with the ICTY, the Ministry of Justice recently sponsored the first in a series of training seminars on legal issues related to the adjudication of war crimes. The training was provided for approximately 30 Croatian judges and prosecutors from four special courts (Rijeka, Split, Zagreb, and Osijek) that were established by legislation adopted in fall 2003, largely for the purpose of handling cases or investigations that might be transferred to Croatia from the ICTY. The primary focus of the training was a comparative analysis between ICTY and Croatian law and practice. During the discussion, several questions were identified concerning the impact of differences in law and practice on the possibility of pursuing ICTY cases before the Croatian courts.

The seminar was opened by the Minister of Justice, Ms. Vesna Skare Ozbolt, and the Registrar of the ICTY, Mr. Hans Holthius, as well as the Chief Justice of the Supreme Court of Croatia, the Croatian Chief State Prosecutor and the Head of the OSCE Mission to Croatia. Both the ICTY Registrar and the Croatian Chief Justice emphasized the key importance of judges serving as impartial adjudicators and basing their decisions on evidence and the law. The Registrar reminded the assembly of the ethical obligation of a judge to recuse him/herself if unable to approach a particular case with the requisite impartiality.

#### **Mission organizes 'Road Map' workshop on modern policing in Croatia**

Together with the Ministry of the Interior, the Mission organized a five-day workshop from 10 to 14 May in support of the development of a modern police service in Croatia in line with European best practices. The objective of the workshop was to develop and present a draft 'Road Map' to complement current police reform initiatives in Croatia and allow these developments to be placed within a broader interagency context. Workshop participants were selected from relevant ministries, Government and State bodies, the judiciary and civil society. Closing speeches were given by the Assistant Minister of Interior and the HoM in the presence of representatives of the diplomatic corps.

The Croatian Ministry of the Interior and the Police Directorate will be responsible for finalizing the Road Map and the detailed planning of an Activity Plan for its implementation. The establishment of a 'Co-ordination Group' is also planned, comprising representatives from the Ministry of the Interior, the Croatian Police and the Mission. The Mission and other international donors will use the Road Map as a core basis for discussion of further international police assistance and co-operation.