

Glas, 2 August 2002, pp. 5-7

INTERVIEW: PETER SEMNEBY, HEAD OF THE OSCE MISSION TO CROATIA

THE NUMBER MUST NOT BE THE CRITERION FOR THE RIGHTS

Interviewers:

Nada Starijas

Marko Roknic

This is an important opportunity for the political forces in Croatia to show maturity, both of the social and the political systems, with regard to these issues. The adoption of the Constitutional Law on Minorities is one of Croatia's obligations towards the international community and it will be an important step in Croatia's way towards Europe and its integration. What we consider important is that the level of representation of minorities in the Croatian state and local representative bodies does not become frozen at the level which would be dictated by the results of the mentioned census, in other words, that the census does not dictate the level of representation of minorities in the next then years. Provisions of the Constitutional Law have to take that fact into account as well as those who will be returning in the coming years. The consequences of the dramatic dislocation of the population in these areas have to be taken into account.

*** We talked with the Head of the OSCE Mission to Croatia, Peter Semneby, a few days before the Constitutional Law on Minorities came to the parliamentary agenda. That is why our first question referred to the content of that law.**

- The Draft Law, as it was presented to us, is quite a good basis for the Constitutional Law on the Rights of Minorities, and I am also encouraged by the fairly constructive debate on the Constitutional Law. Since this is a constitutional law, it has to reflect a certain degree of consensus with regard to how the country has to be governed and, accordingly, it is important to achieve consensus with the opposition parties, but most importantly to ensure that the national minorities themselves see the Law as useful and legitimate.

*** National minorities object to the new Law mostly because it does not foresee the so-called positive discrimination, i.e. the double voting right for the members of minorities?**

- I am of the opinion that it is reasonable, within the Croatian context, to provide some kind of positive discrimination for national minorities in the electoral legislation. I would like to add that positive discrimination in that sense does not exist everywhere in Europe, that is, there are different ways of providing positive discrimination.

CONSEQUENCES OF THE POPULATION DISLOCATION

*** Can you state some examples of positive discrimination in Europe, which do not pertain only to double voting right?**

- Other possibilities for positive discrimination would be for example to elect minority representatives but not require them to be elected by the same number of voters as Members of the Parliament in the main body of the Parliament. I would also note that solely the fact that there are seats in the Parliament which are determined for national minorities is also a form of positive discrimination, although not a very strong one. With regard to the historical circumstances of Croatia and the very tragic recent happenings, when a great dislocation of Serb people within Croatia occurred, I would say that there is a greater need for positive discrimination in Croatia than in the majority of European countries.

*** But such a form of positive discrimination probably would not receive support in the Croatian Parliament?**

- It is essential that minorities consider the end result acceptable. That is the most important. Likewise, I would like to say that this is an important opportunity for the political forces in Croatia to show maturity, both of the social and the political systems, with regard to these issues. The adoption of the Constitutional Law on Minorities is one of Croatia's obligations towards the international community and it will be an important step in Croatia's way towards European integration.

*** Some representatives of Serbs in Croatia, but also the official Belgrade, request that those Serb refugees who are situated outside Croatia, and who were not listed in the last year's census, are also put on the voters' lists?**

- What we consider important is that the level of representation of minorities in the Croatian state and local representative bodies does not become frozen at the level which would be dictated by the results of the mentioned census, in other words, that the census does not dictate the level of representation of minorities in the next then years. The Constitutional Law has to take into account the correction of the dramatic dislocation of population that took place, for example, by accounting for those who will return in the next years.

*** On the Serb side, one can also hear requests for the correction of census results, so that those Serb refugees who have still not returned to Croatia are also added to the population?**

- In my opinion, the Croatian authorities should be aware of the limitations of the existing figures and not use those figures for wrong purposes. It is essential to understand that numerous Croatian citizens of Serb nationality live as refugees outside Croatia and that they need to be provided with a possibility to return and with minority rights upon the return, regardless of whether they were included in the census 2001.

REPOSSESSION OF PROPERTY TO BE SPEEDED UP

*** We would ask you to comment on the very slow return of Serb refugees and their property, that is, we are interested whether the OSCE monitors that situation closely and how are you satisfied with the pace at which it is being realised?**

- With regard to the return itself, the objective is to create the conditions for all those who want to return to be able to do so. That is a very complicated process and it includes the changes of legal regulations, administrative procedures and similar, in order to provide security for refugees upon return, and, likewise, enable them to repossess property. This also includes factors which are more difficult to pinpoint, such as, for example, the atmosphere that exists in the society towards the return of refugees, especially in individual communities that receive the returnees. After I have visited several areas of Croatia in which return is taking place, I can say with satisfaction that the physical insecurity of returnees is not as pronounced as it was several years ago, or even a year ago. And when you talk to returnees, they point out that they are more concerned about economic and financial problems than about their physical security. As far as the repossession of property is concerned, it is absolutely correct that a more determined effort on the part of the authorities is necessary. There have in fact been several positive developments recently, such as the adoption of the Action Plan for Property Repossession and the Amendments to the Law on the Areas of Special State Concern.

It is important that the Government will take over responsibility from the Housing Commissions, and also that the Government has set itself clear deadlines for the repossession of housing property. Naturally, we hope that those deadlines will then also be respected, although they seem to be set quite ambitiously, considering the relatively slow pace at which the repossession of property is going on. However, it is a fact that there are also some types of properties which are still not covered by the programme of return or the amendments to the law.

*** It seems that those deadlines have already been extended to the middle of next year, although the Government initially promised that the property would be returned by the end of the year. With you, therefore, encourage the Croatian Government to adhere to that first deadline?**

- We will continue to encourage the Government to complete all repossession of property as soon as possible. So far, there are still about 8,000 properties that have to be returned to their owners, and the Government expects to complete the legal steps and administrative procedure necessary for that by the end of this year. But, with regard to the actual repossession of property, it will in many cases require more time, as far as we understand the statements from the Government. In some cases, both administrative and judicial bodies will have to be involved, for example to enforce eviction orders.

*** The right of an owner in the BiH precedes the rights of a temporary user, while, in Croatia, it is the opposite case. Are those double criteria on the part of the international community?**

- The right of a property owner should have the precedence over the interests of a temporary user. That has been one of the major objections to the Croatian legislation so far, as well as with regard to the Amendments to the Law on the Areas of Special State Concern. The Croatian authorities have undertaken a very ambitious task to provide alternative accommodation for those who will be evicted. If the Croatian authorities had the funds and facilities to actually realise something like that, we would welcome it. We would not like anybody to end up in the street, although we have recommended, at the same time, that alternative accommodation is provided only to those who cannot obtain it for themselves in another manner. The amendments to the Law provide for more flexible standards for alternative accommodation to temporary users, and it can actually be taken as a step forward, because the Law foresees that in some cases alternative accommodation does not have to be permanent, but temporary. This will speed up repossession.

With regard to the actual differences between Croatian and BiH, it is a fact that the general situation in the two countries is very different, because the international community in BiH is in the position to impose solutions, while in Croatia, we work through the political system and recommend solutions which have to be adopted through the domestic political institutions. That is why those solutions are sometimes not as perfect as we would like them to be, but the strength is that they reflect a degree of consensus in the society, which also brings better long-term results, in the sense of the sustainability of any model we have chosen. At the same time, we insist on the adoption of acceptable and sustainable solutions as soon as possible.

*** To what extent is the return of refugees and property really one of the most important conditions for the Croatian approach to the Euro-Atlantic integration?**

- The creation of conditions for the return of refugees is crucial for the development of a cohesive society in Croatia, and for Croatia to proceed towards membership both in the European Union and in the NATO. That is why it is important for Croatia to demonstrate that there are no divisions within the society and no splits, and that the problems resulting from the war have been overcome.

CONDITIONS FOR RETURN TO BE CREATED

*** The international community, allegedly, will no longer encourage or assist the return of refugees in this region, but only assist those who have already returned?**

- No, because the standpoint of the international community is still that the conditions for the return of all those who want to return have to be created. Likewise, all those who have returned have to be provided with appropriate assistance. According to the polls taken among Serb refugees in the FRY, the number of those who want to return is approximately one third, however, I personally do not expect that even so many will return, but in any case, the conditions for return have to be created. I have already mentioned some of those conditions, such as the repossession of property, but it is also necessary to find the housing for those who used to be the holders of occupancy/tenancy rights.

*** Does your Mission to Croatia continue to insist on the return of occupancy/tenancy rights or at least on their compensation and within what deadline?**

- That is one of the most difficult issues that we are dealing with continuously. Our position is that those refugees whose occupancy/tenancy rights were cancelled should receive appropriate redress for their loss. In the majority of cases, however, this will not include the return of apartments, but appropriate compensation will have to be provided, regardless of the area of Croatia in which the former occupancy/tenancy right holders lived. Since this is a fairly big problem, a need to set priorities arises, and the obvious priority category would be the people who really intend to return.

***However, it is a fact that there are empty apartments in the areas of special state concern, but the occupancy rights holders cannot obtain them, although they have returned?**

- That is an obvious area in which the Croatian authorities will have to become more engaged and put in larger efforts.

***It has been announced recently that Croatia will recognise the years of service to the employees of the former Krajina. Will the OSCE encourage the Croatian Government to consistently implement that decision?**

- That has been one of our long-term demands addressed to the Croatian authorities, so it is encouraging that some flexibility on the part of the authorities is beginning to emerge. Our position is that convalidation has to continue, but that it is not limited by deadlines, i.e., that all those who have not yet applied for the recognition of years of service or those who have been refused can continue to submit such requests.

It is important to stress with regard to all of what we have talked about, that conditions for an integrated society have to be created in Croatia, and that is our goal. However, efforts are necessary on both sides, both on the side of the Croatian majority and on the side of the minorities. Minority members should not see themselves as an isolated island

in this country, but they should consider themselves citizens of this country in which they live and work.

An instructive example in that regard may be the one of the Swedish minority in Finland. As you know, I am Swedish. Although the Swedes in Finland have largely the same traditions as me, they are still different because they identify themselves as the citizens of Finland. It should be added also that there is no forced assimilation going on there; they enjoy quite substantial minority rights in Finland.

***How do you comment on the Government's decision to give up its intention to insist on an urgent adoption of the Constitutional Law on National Minorities and to send it in a regular procedure, i.e. in two readings in the Parliament?**

- The draft Law that was presented by the Government is generally a good one and we are satisfied that the Parliament is discussing it now. The decision to adopt the Law in two readings will provide an opportunity to make it even better and to give minority representatives time to reflect on the contents of the Law. Since the draft is a good one and since the minority representatives have been largely welcoming its contents, I am confident that a good Law will be adopted when the Parliament returns to the issue in autumn.