PROFILE OF INTERNAL DISPLACEMENT : CROATIA

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PROFILE SUMMARY

Croatia: Remaining 11,500 IDPs put off from returning by poor economic conditions

The official number of internally displaced people (IDPs) in Croatia has fallen significantly since the armed hostilities between the Croat majority and the Serb minority ended in 1995. In April 2004, the government reported that 11,493 people remained in a situation of internal displacement, including 9,791 ethnic Croats and 1,702 ethnic Serbs. These figures disguise a huge disparity in return patterns between ethnic Serbs and Croats. While most of the 220,000 ethnic Croats displaced by the conflict have returned, only one third of the over 300,000 ethnic Serb IDPs and refugees have been able to do so. Moreover, at least about one third of these returns may not be sustainable, according to spot-checks and estimates by international organisations and NGOs. More than 200,000 Croatian Serbs still reside outside the country as refugees, mainly in Serbia and Bosnia and Herzegovina. This explains the relatively low number of ethnic Serb IDPs registered in Croatia. However, there are concerns that the official figures may not fully reflect the extent of displacement among this ethnic group, as a significant number of internally displaced Serbs reportedly lost their IDP status as a result of flawed registration processes conducted by the Croatian authorities in 1997-1999 and 2003. For Croatian Serb IDPs, the main barriers to return and reintegration are property and housing issues and lack of employment opportunities, as well as psychological obstacles. Most of the remaining ethnic Croat IDPs are unable or unwilling to return because of poor economic conditions and lack of employment opportunities in return areas.

Background and main causes of displacement

Croatia's independence from the former Socialist Republic of Yugoslavia in June 1991 was followed by armed conflict, which lasted until 1995 and resulted in hundreds of thousands of people being displaced from and within Croatia. During the same period, Croatia was faced with an influx of Croat refugees fleeing ethnic cleansing, mainly from Bosnia and Herzegovina. The Serb secession in eastern and western Slavonia, Banovina, Kordun, Lika and in the south-eastern Knin region (the “Republika Srpska Krajina”) resulted in the internal displacement of over 220,000 ethnic Croats. The recapture of most of the territories, which were temporarily Serb controlled, by Croatia's armed forces during the “Flash” and “Storm” military operations in 1995 forced up to 300,000 ethnic Serbs to flee – primarily to eastern Slavonia (the Danube region), which was still under Serb control, and to Serbia and Montenegro and Bosnia and Herzegovina (UNHCR, 1995). The November 1995 Erdut Agreement provided for an interim transitional administration by the United Nations followed by the handover of Eastern Slavonia to Croatia in January 1998. The first agreement to address the return of IDPs and refugees was the Agreement on the Operational Procedures of Return signed in 1997 between the UN administration, UNHCR and the Croatian government, which confirmed the right of the displaced to return to and from the Croatian Danube region (OSCE, 2003).

There are still 11,493 internally displaced people in Croatia, according to official figures. 9,791 are ethnic Croats, mostly from the Danube region and the town of Vukovar. The remaining 1,702 are ethnic Serbs, mostly in the Danube region (UNHCR, 31 March 2004; MMATTD, 5 April 2004). Additionally, over 200,000 Croatian Serbs, uprooted by the conflict, are currently living in Bosnia and Herzegovina and Serbia and Montenegro (UNHCR, 1 May 2004).
Large-scale return of ethnic Croat population

Since the end of the conflict, the number of displaced ethnic Croats has significantly fallen, mainly as a result of return movements to the Danube region. Out of 220,000 displaced Croats, 211,510 had returned as of April 2004 (MMATTD, 5 April 2004). The return rate has been much lower among the displaced Serb population. In fact, out of a total of more than 300,000 ethnic Serb refugees and IDPs uprooted since 1995, only 108,986 returns had been recorded as of April 2004 (UNHCR, 31 March 2004; MMATTD, 5 April 2004). While a 1991 population census indicated that ethnic Serbs constituted 12.1 per cent of the population, a 2001 census shows a fall in their numbers to only 4.5 per cent (OSCE, 18 June 2002, MPWRC April 2002).

Today, there are more internally displaced Croats than ethnic Serbs because most ethnic Serbs from Croatia uprooted by the conflict remain outside the country. Property and other housing issues, as well as legal, administrative and psychological obstacles, constitute the main hindrances to the return and reintegration of Croatian Serb IDPs and refugees. The remaining ethnic Croat IDPs have largely been unable or unwilling to return to their former homes due to the state of the economy and the lack of employment possibilities in return areas (OSCE, 3 July 2003, p.3; OSCE, 12 May 2004).

There are concerns that a significant number of internally displaced Serbs, primarily in eastern Croatia, lost their IDP status as a result of the re-registration processes conducted by the Croatian authorities in 1997-1999 and 2003. According to a local NGO, IDPs were not adequately informed about re-registration procedures and the registration itself. Those IDPs who were not present at their place of temporary residence at the time of the registration were reportedly deregistered without further notice or opportunity of appeal (Center for Peace Vukovar, 20 May 2004).

Property and housing issues

Up to 2000, the national framework and policy for return and property repossession under President Franjo Tudjman favoured the return and resettlement almost exclusively of majority ethnic Croats rather than minority ethnic Serbs (UN CERD, 21 May 2002). Croat refugees were provided with easy access to citizenship and encouraged to occupy properties left behind by the displaced Serb population. The election of a new government in 2000 marked a change in the attitude of the authorities towards the Serb minority. Several discriminatory legislative provisions were amended or cancelled, including the Law on the Status of Displaced Persons and Refugees, the Return Programme and the Law on Reconstruction. However, in practice the discriminatory and obstructionist policy of the Tudjman era persisted (NRC, 7 June 2001, US DOS, 4 March 2002).

A series of property-related laws have had a disproportionate impact on the return of the ethnic Serb minority (OSCE, 2003). An estimated 30,000-35,000 Croatian ethnic Serb households lost occupancy/tenancy rights to formerly socially owned apartments during and after the war, and thus were prevented from reoccupying their flats or receiving substitute accommodation (OSCE, 2003). While ethnic Croat occupancy rights holders were able to repossess and purchase their apartments, ethnic Serbs have been largely unable to repossess their formerly socially owned apartments and have been provided with no possibility of legal redress or compensation. The government has not resolved the issue of terminated occupancy/tenancy rights of socially-owned apartments, failing to provide reparation to those affected, mainly ethnic Serbs (HRW, January 2004). The issue has resulted in numerous domestic proceedings, and applications to the European Court of Human Rights (EC, 20 April 2004, p.29).
With regard to private property, legislation that subordinates the rights of property owners to those of temporary occupants by making property repossession conditional on provision of alternative accommodation to the temporary occupant continues to slow the property repossession process (US DOS, 25 February 2004; OSCE 2003). This was partly addressed by amendments to the Law on Areas of Special State Concern (ASSC), adopted in July 2000 and July 2002 (OSCE, 16 July 2002). The 2002 amendments included a provision for housing assistance for former tenancy/occupancy rights holders in the areas of special state concern (ASSC), the areas that were under the control of Serb rebel forces during the war (OSCE, 2003). In 2003 and early 2004, the government continued to adopt administrative measures intended to speed up property repossession. The government adopted a decree in June 2003 that enables former occupancy/tenancy holders outside the ASSC to apply for rent or purchase government-built apartments at low rates. There is concern, however, that the purchase rates fixed by the June 2003 decree are beyond the financial means of most potential returnees (HRW, January 2004). While the national legislative and administrative framework for providing housing solutions for IDPs and refugees has significantly improved, property repossession continues to be hampered by slow implementation. Both programmes for state housing of former holders of occupancy/tenancy rights inside and outside the war-affected area remained unimplemented as of May 2004 (OSCE 17 May 2004). The judiciary has been largely inefficient and local courts reluctant to order the eviction of temporary occupants and to enforce decisions for the evictions of illegal occupants (OSCE, 18 December 2003, EC, 20 April 2004, p.29). Approximately 15 per cent of houses taken over during and after the war under a 1995 Law are still occupied (OSCE, 17 May 2004).

Up to 2002, ethnic Serb returnees received virtually no government reconstruction assistance. These schemes almost exclusively benefited Croat-owned properties (OSCE, 18 December 2003).

Poor socio-economic conditions in return areas

Although the return of Croat IDPs has been supported by national authorities, several thousand remain in a situation of displacement because they are unable or reluctant to return due to poor socio-economic conditions in war-torn areas (OSCE, 3 July 2003, 12 May 2004). In return areas, unemployment can be as high as 90 per cent, a factor resulting to a large degree in only the elderly returning, particularly in areas such as the Knin region (EC, 26 March 2004, pp.11; UNHCR, 1 September 2003). Along with poor economic conditions, return and reintegration for Serb and Croat IDPs and returnees is aggravated by the inability to access social benefits and public services (NRC, 12 May 2004). In fact, the majority of complaints made to the Ombudsman in 2003 pertained to violations of social rights, including access to pensions, disability, health insurance, and labour entitlements (OSCE, 13 April 2004). A 1997 Convalidation law still remains in effect that has prevented many returnees, IDPs and refugees from validating documents necessary to access their pension and related rights (HRW, 13 May 2004, p. 13; UNHCR/Stability Pact, June 2002, p.3). Ethnic Serb IDPs and returnees have also faced discrimination in employment, justice and war crimes trials, and various forms of harassment and occasional violence in return areas (HRW, 13 May 2004; US DOS, 25 February 2004; OSCE, 1 March 2004).

The numbers of returns may in fact be lower than official figures as many returns appear not to be sustainable (HRW, 13 May 2004). Indeed, a UNHCR survey of 43 return villages in southern Croatia, undertaken in January 2003, found that only 60 per cent of returnees remained in the place of return, while 27 per cent were classified as “commuters” travelling regularly between their place of exile and area of origin (OSCE, 3 July 2003, p. 24). Field surveys undertaken by
other international organisations also indicate relatively few ethnic Serb refugees wish to return to Croatia (HRW, 13 May 2004, p.3; EC, 20 April 2004, p. 27-28).

**National response**

Though consecutive governments have enacted a number of return and property initiatives under pressure from the international community, national and local authorities have long failed to effectively support the return and reintegration of the displaced ethnic Serb population (OSCE, 18 December 2003, p.1; HRW 13 May 2004). UN human rights mechanisms have expressed concern that the government has failed to ensure the right of IDPs and refugees to return, in accordance with international standards (UN CERD, 21 May 2002; UN Special Rapporteur on ESCR, 16 June 2003).

The new government, in office since December 2003 has explicitly expressed support for minority returns. In a positive step, it signed a cooperation agreement with the Serbian Independent Democratic Party. The agreement includes the appointment of a commission to oversee the implementation of the return process, as well as addresses numerous obstacles to minority return including restitution of occupied property and applications for state reconstruction assistance. The agreement also addresses the issue of validation of pension-related documents and measures to ensure housing for former occupancy/tenancy rights holders wishing to return (OSCE, 30 March 2004).

**International response**

The return of IDPs and refugees to Croatia has been carefully monitored by the international community. The office of the United Nations High Commissioner for Refugees (UNHCR) has been the key humanitarian agency in the country since 1991, providing assistance to thousands of IDPs and refugees. UNHCR closed its remaining three field offices at the end of 2003, although it will continue to ensure that the protection needs of IDPs and refugees are met throughout 2004 (UNHCR, 7 January 2004). Since 1997, the Return and Integration Unit of the Organisation for Security and Cooperation in Europe (OSCE) Mission to Croatia has been mandated to ensure the protection of IDP and refugee rights, as well as to extensively monitor the return and reintegration process of IDP/refugee populations. The OSCE Mission is the lead agency in Croatia for monitoring and in the provision of advice to the government on property repossession. Since 1996, the European Union (EU) has provided assistance to reconstruction and socio-economic development, supporting the process of sustainable return and reintegration of refugees and IDPs. Within the framework of Croatia’s application for EU membership, the EU’s support to Croatia has shifted from humanitarian aid to regional development, including support for sustainable development of war-affected areas (EC, 6 May 2004). The EU has emphasised the return of Serb minorities as a precondition for entry into the EU (EC, 26 March 2004).

(updated 27 May 2004)
CAUSES AND BACKGROUND

General


- Croatia's declaration of independence in June 1991 saw the beginning of a major military offensive by rebel Serb forces, with the support of the JNA.
- End of 1991, Serbs declared the unified territory to be a single state, the "Republika Srpska Krajina", which includes the autonomous region of Krajina, Eastern and Western Slavonia.
- Heavy fighting in Eastern Slavonia in the last quarter of 1991 reduced Vukovar to rubble and led to the expulsion of over 80,000 ethnic Croats from the region.
- Following a peace plan signed in 1992, UN peacekeepers (UNPROFOR) deployed in the areas under Serb control were charged with the protection of Serb civilians and with facilitating the return of displaced Croats.
- In mid-1995 Croatia took back most of this territory in two large-scale military operations ("Flash" and "Storm"), leaving only Eastern Slavonia in the hands of the Republika Srpska Krajina.
- The two operations led to the flight of more than 200,000 Serbs into Eastern Slavonia, Bosnia, and Croatia, the killings of Serb civilians and widespread arson and dynamiting of Serb housing.
- The Basic Agreement on the Region of Eastern Slavonia, Baranja, and Sirmium (November 1995) between the Croatian government and the Serb leadership placed the region under the mandate of the UN Transitional Authority for Eastern Slavonia (UNTAES).
- An additional accord, the Operational Agreement on Return (generally referred to as the "Joint Working Group Agreement"), designed to facilitate the return of displaced Serbs in the region to their former homes elsewhere in Croatia, was concluded in April 1997.
- After the expiration of the UNTAES mandate in January 1998, all Croatian territory was brought under government control.
- A small UN police monitoring mission remained in Eastern Slavonia until October 1998, when it was replaced by police monitors from the OSCE mission.

"As elsewhere in the territory of the Socialist Federal Republic of Yugoslavia (SFRJ), Croatia's transition to democracy and independence at the turn of the decade was fomented by nationalism. The country's majority population overwhelmingly voted in the first openly contested elections for the nationalist Croatian Democratic Union (HDZ) and its leader, Franjo Tudjman, for president. Many saw the collapse of the SFRJ as an opportunity to attain autonomy from Belgrade and what they viewed as Serb hegemony. Serbs occupied a disproportionate number of state posts throughout the SFRJ, including in Croatia, and dominated the Yugoslav People's Army (JNA). By contrast, Croatia's Serb minority viewed the nationalism that accompanied the Croatian independence movement with alarm, recalling Croatia's prior incarnation as a fascist puppet state during the second world war, and the thousands of Serbs, Jews, and Roma who had died in the Jasenovac concentration camp.

Croatian Serbs began to assert the desire for autonomy within a still-Yugoslav Croatia in 1990. In September 1990, Croatian Serbs proclaimed the Serbian Autonomous Region of Krajina (Srpska Autonoma Oblast Krajina). In March 1991, the region's National Council declared Krajina's independence from Croatia. The assertion of Croatian Serb autonomy grew during the spring, as Serbs in Western Slavonia declared loyalty to the Serbian Autonomous Region of Krajina. Provocations by Croat nationalists in the
area of Eastern Slavonia, Baranja and Western Sirmium (hereafter Eastern Slavonia) led to clashes between Serb rebels and Croatian police, including a Serb ambush that left a dozen police dead, shifting Croatian public opinion strongly against the Serbs.

Croatia's declaration of independence in June 1991 saw the beginning of a major military offensive by rebel Serb forces; with the support of the JNA, they gained control over parts of Western Slavonia and Eastern Slavonia and eventually declared the unified territory to be a single state, the 'Republika Srpska Krajina.' Heavy fighting in Eastern Slavonia in the last quarter of 1991 reduced Vukovar to rubble and led to the expulsion of over 80,000 ethnic Croats from the region. Vukovar was also the scene of grave violations of humanitarian law against Croat civilians, including the removal and murder of more than 200 patients from the town's hospital. By 1992, a peace plan had been agreed upon under the auspices of the United Nations, the JNA had withdrawn, and U.N. peacekeepers deployed in the areas under Serb control (the U.N. Protection Force or UNPROFOR) were charged both with the protection of Serb civilians and with facilitating the return of displaced Croats. The areas under U.N. protection were divided into four sectors, East (Eastern Slavonia), West (parts of Western Slavonia around the town of Pakrac), and sectors North and South, a contiguous area encompassing parts of the Banija-Kordun and Krajina regions, including Knin.” (HRW March 1999, "Background")

"According to the Croatian government, the number of IDPs in Croatia reached its peak on 22 November 1991, at 536,000. However, this figure seems excessively high and may include many who were counted twice or returned fairly quickly. UNHCR figures suggest that by late 1992, Croatia had 265,000 IDPs, which, together with 350,000 refugees from the fighting in Bosnia-Hercegovina, meant that more than 15 per cent of the population consisted of forced migrants." (Stubbs 1998, p. 195)

"In early 1995, the Croatian government indicated that it was unwilling to permit further extensions to UNPROFOR's mandate in Croatia. A compromise mission with a more limited mandate and reduced troop strength was authorized in February by the Security Council and accepted by Croatia. Its deployment was effectively ended in May when the Croatian army launched an offensive against Serb-held territory in Western Slavonia ('Operation Flash') recapturing the territory. A similar action in sectors North and South ('Operation Storm') in August recaptured the remaining areas outside Eastern Slavonia. The two operations led to the flight of more than 200,000 Serbs into Eastern Slavonia, Bosnia, and Croatia, the single largest population displacement during the conflict in the former Yugoslavia. In the case of Operation Storm, the exodus was accompanied by the killings of Serb civilians and widespread arson and dynamiting of Serb housing.

The threat of further conflict in Eastern Slavonia was averted by an agreement between the Croatian government and the Serb leadership in the region, brokered by the U.N. and the U.S. Under the November 1995 Basic Agreement on the Region of Eastern Slavonia, Baranja, and Sirmium (known as the Erdut agreement after the border town in which it was signed), the region would be demilitarized and placed under United Nations temporary administration pending its return to Croatian government control by January 1997, with the possibility of an extension for one year should either party demand it. The agreement allowed for the return of displaced persons, the right of the displaced to remain, respect for human rights, the creation of a transitional police force, and the holding of elections under the United Nations Transitional Authority for Eastern Slavonia (UNTAES). The mandate was later renewed until January 1998 at the request of the Serb leadership in the region. In June 1997, the Organization for Security and Cooperation in Europe (OSCE) decided to extend the mandate of its Croatia mission (deployed since mid-1996) to include facilitating the return of refugees and displaced persons, and minority rights protection, and to deploy a substantial field presence throughout the former U.N. sectors. An additional accord, the Operational Agreement on Return (generally referred to as the 'Joint Working Group Agreement'), designed to facilitate the return of displaced Serbs in the region to their former homes elsewhere in Croatia, was concluded in April 1997. After the expiration of the UNTAES mandate in January 1998, all Croatian territory was brought under government control. A small U.N. police monitoring mission remained in Eastern Slavonia until October 1998, when it was replaced by police monitors from
the OSCE mission, which retains a substantial presence in the country." (HRW March 1999, "Background")

See 1995 Erdut Agreement (full text) [Internet]


- 26 000 ethnic Serbs displaced in the Danube region had returned to their home in other areas of Croatia as of March 1999, according to the government, but OSCE doubts that the figure is so high
- Of the pre-war Serb population of the Danube region, according to UNHCR estimates, some 16,000 left, mainly for the FRY, between August 1996 and July 1998
- Between May and September 1998 these departures continued at an average rate of six families a day but the rate of departure declined in the course of 1999
- The ethnic Serb population in the region fell from a prewar number of 70,000 to about 50,000 at end of 1999

"On 15 January 1998 Croatia recovered full control over this region, after a two year process of reintegration under the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES). The total population of the region according to the 1991 Yugoslav census was 201 400, of whom 86 700 Croats (43 %), 73 200 Serbs (36 %), 13 000 Hungarians (6.5 %) and 28 500 others (14 %).

In October 1996 a United Nations Military Observer survey showed that out of a total of 144 600 inhabitants of the region, the Croat population had fallen to 8 800 (6 %), the Hungarian to 6 700 (4.6 %) and 'others' to 8 500 (5.9 %), while the Serbs numbered 73 000 (50.5 %). The balance was accounted for by 47 600 (33 %) displaced persons (mainly Croatian Serbs who arrived following the Croatian army offensives in 1995).

In October 1998, UNHCR estimates gave a total population of 105 000, composed of 30 000 Croats (28.6 %), 55 000 Serbs (52 %), 7 000 Hungarians (6.7 %), 6 000 'others' (5.7 %) and between 6 000 and 8 000 displaced persons, depending on the source. Therefore, between October 1996 and October 1998 some 21 200 Croats must have returned, an approximate figure confirmed by ODPR (21 349 on 23.9.98 and 22 396 on 28.10.98). On 5 March 1999 ODPR gave the total number of Croatian displaced persons having returned to the Danube Region as 32 688. Nevertheless, OSCE estimated in its report of 8 September 1998 that only 10 000 Croat returnees reside in the region full time.

As for the ethnic Serbs in the Danube region displaced from other areas of Croatia, 26 039 had returned to such areas as of 5 March 1999, according to ODPR, but again OSCE doubts that the figure is so high, putting it at somewhere between 10 000 and 15 000.

However, UNHCR and OSCE estimate that in the two years since September 1996 some 28 000 displaced Serbs left the Danube region for the Federal Republic of Yugoslavia, mostly during the UNTAES mandate. Between May and September 1998 these departures continued at an average rate of six families a day. According to ODPR, indeed, only some 4 000 Serb displaced persons still live in the region, of whom 1 000 were originally domiciled there.

Of the pre-war Serb population of the Danube region, according to UNHCR estimates cited by OSCE, some 16 000 left, mainly for the FRY, between August 1996 and July 1998. According to the Serbian Commission for Refugees and the Joint Council of Municipalities (an institution set up under the UNTAES
mandate to coordinate the interests of the Serb community in the Danube region), cited by UNHCR, some 47,000 Serbs have left the region since early 1996, of whom 18,000 were part of the domiciled population and 29,000 were displaced persons." (COE 9 April 1999, paras. 36-41)

"International monitors and NGO's assess that the rate of ethnic Serb departures from the Danubian region [during 1999] was somewhat less than in past years. However, monitors had difficulty tracking the departures because in January the Government stopped sharing relevant data. The ethnic Serb population in the region fell from a prewar number of 70,000 to about 50,000 at year's end. Approximately 60,000 persons displaced by the conflict fled to the Danubian region from other areas of the country, but most of these have since returned home or moved to the FRY. About 3,000 displaced persons remain in the region. An estimated 40,000 persons in the region have emigrated because of the poor economic conditions combined with discrimination directed at ethnic Serbs." (U.S. DOS 25 Feb 2000, sect. 2d)

See also Human Rights Watch report Croatia Second Class Citizens: The Serbs of Croatia, March 1999, chapter "The Return of refugees" [Internet]

UNTAES Agreements for the Danube Region provide protection of the Serb minority (2000)

- The Government concluded 32 agreements with the UN Transitional Administration in Eastern Slavonia (UNTAES)
- The 1995 Basic Agreement (Erdut Agreement) affirmed principles of peaceful reintegration, including the right for displaced persons (DPs) to remain in the region and the right to return
- Other agreements provide for the protection of the public-sector employees, the representation of the Serb minority in key public institutions such as the police forces, education and cultural rights, political participation
- The Government agreed to the creation of the Joint Council of Municipalities (JCM) which functions as an umbrella organisation for elected Serb municipal representatives from the Danube Region and has a right to propose Serb candidates for some senior government positions

"In 1992, the United Nations (UN) established a peacekeeping mission in Croatia, with four regions in Croatia being declared UN Protected Areas (UNPAs), among them the Danube Region which was referred to as Sector East. Following the conclusion of the Basic Agreement in November 1995, the United Nations Transitional Administration in Eastern Slavonia (UNTAES) was established. It assumed full executive authority in the Danube Region until 15 January 1998. The Government of Croatia concluded 32 agreements with the UNTAES during the reintegration period in the Danube Region, providing a broad framework for equality and full participation of the Serb minority focusing on public institutions. Many of the principles embodied have not expired and crystallise international human rights law. UNTAES agreements generally have the status of important political commitments, while domestic law and international norms and standards remain applicable. Four groups of UNTAES agreements can be distinguished:

The Basic Agreement (Erdut Agreement) of 12 November 1995 separated warring factions and established UNTAES along with principles of peaceful reintegration, including the right for displaced persons (DPs) to remain in the Region and the right to return. Under Article 11 of this agreement, an international commission was formed for interested countries and agencies ('Article 11 Commission'). The Commission is authorised to monitor the implementation of this agreement and investigate possible violations. As a member of the Commission, the OSCE Mission to the Republic of Croatia actively participates in regular meetings and field visits.
The Agreements on Continued Employment were signed for public-sector employees in most administrative bodies and those in core public enterprises and institutions (the "Affidavit" of 1996 and the 1997 Annex). State-firm employees received less specific guarantees but remained protected under Croatia's commitments to the ILO standards. Select institutions under UNTAES supervision regulated integration through self-executing agreements (e.g. for Croatian Railways, Postal Service/Telecom).

The Agreements on Proportional Ethnic Representation were concluded for key public institutions to secure Serb employment beyond the immediate transition period. For instance, the Transitional Police Agreement of 1997 regulated the ethnic police force composition (50% Croats, 40% Serbs, 10% other ethnic groups), and alternating commander positions (heads and deputies). Similar agreements were concluded for the health care sector, schools and the judiciary.

The Special Additional Agreements are in force for the education sector. A group of amendments under the so-called Letter of Agreement dated 1997 ensure equitable and fair distribution of principals positions, as well as the right for minorities to be educated in their own language and script. A 5-year moratorium for Serb-language school units in the Danube Region is in place on the teaching of current history between the period of 1989-1997. Based on the Erdut Agreement (Art. 12) and a 1997 Protocol, the Government of Croatia is obliged to establish and co-finance the Joint Council of Municipalities (JCM), located in Vukovar. This is a sui-generis advisory and monitoring body with NGO status. It functions as an umbrella organisation for elected Serb municipal representatives from the Danube Region, and has a right to propose Serb candidates for some senior government positions. Serb municipal representation in the Region as well as at county and national levels is reaffirmed in the Government's Letter of Intent (13 January 1997), which also guarantees full participation in the electoral process, and draft deferment for Serbs from the Danube Region. Even after expiration of the deferment deadline on 15 January 2000, a follow-up transition period of one year was agreed between the Ministry of Defence and Serb representatives. The new Croatian authorities have shown more understanding for realising political minority rights." (OSCE Mission to Croatia September 2000, "UNTAES Agreements")


- Election of a new government and president early 2000 end 10 year- long rule of the Croatian Democratic Union (HDZ) and the late president Tudjman
- Government's legislative programme includes democratic and human rights reforms, including measures to facilitate the return of the ethnic Serb populations
- Progress was registered in the cooperation with the International Criminal Tribunal for the former Yugoslavia

"The election of a new government and president in Croatia at the start of 2000, following the death of President Franjo Tudjman, marked a turning point in Croatia's post-independence respect for human rights. Attempts in late 1999 by the then-ruling Croatian Democratic Union (Hrvatska Demokratska Zajednica, HDZ) to affect the outcome of the vote through control of electronic media, redistricting, and curbs on freedom of assembly led many observers to fear that President Tudjman was unwilling to relinquish power to the opposition. With the death of Tudjman on December 11, 1999, two weeks prior to the parliamentary elections, those fears remained untested, and the opposition coalition captured a large parliamentary majority in the January 3 vote. The resultant change in political culture was so swift that both candidates in the second round of voting for president on February 7 were from opposition parties.

The new government headed by Prime Minister Ivica Racan, and the incoming president Stipe Mesic, moved quickly to demonstrate their commitment to human rights and respect for Croatia's international obligations. On January 28, Foreign Minister Tonino Picula acknowledged that the International Criminal
Tribunal for the former Yugoslavia (ICTY) had jurisdiction over Operation Storm, the controversial 1995 action against rebel Serbs that left several hundred thousand Croatian Serbs as refugees. On February 8, the government unveiled its legislative program, committing itself to reform state television, to uphold minority rights, and to carry out the legislative and administrative changes necessary to facilitate the return of Serb refugees. In a newspaper interview two days later, President Mesic invited all Serb refugees to return to Croatia. The new government submitted a U.S.$55 million proposal on February 21 to facilitate the return of 16,500 Croatian Serb refugees.

The government's human rights rhetoric was soon followed by concrete actions, notably in the area of cooperation with the ICTY, previously among the thorniest issues in Croatia's relations with the international community. On March 2, the ICTY deputy prosecutor announced that Croatia had acceded to its request to provide documentation related to Operation Storm and Operation Flash (another 1995 offensive against rebel Serbs). The transfer of Bosnian Croat war crimes suspect Mladen Naletilic, alias 'Tuta,' followed on March 21. In April, the government permitted ICTY investigators to examine the site of an alleged 1991 massacre of Serb civilians in the town of Gospic. By June, the ICTY prosecutor indicated that the organization had "full access" in Croatia. Further moves followed the August murder of Milan Levar, a Croatian veteran from Gospic present during the 1991 killings who had assisted the ICTY investigation. In early September, Croatian police arrested two Croatian army generals and ten others in connection with war crimes committed in Croatia and Bosnia. Ten suspects in Levar's murder were also arrested.

Considerable progress was made in legislative reform during the first session of the parliament. Key reforms included the April annulment of article 18 of the law on internal affairs, which gave the police wide powers of surveillance over citizens, new laws on minority languages and education on April 27, and the mostly positive changes to the constitutional law on human rights and the protection of minorities on May 11. The long-awaited amendments to the reconstruction law on June 1 and to the law on areas of special state concern on June 14, for the first time offered the prospect of equal treatment for displaced and refugee Serbs seeking to return to their homes in Croatia. At the time of writing, necessary amendments to reform the telecommunications law and a new bill to reform the state broadcaster were pending before the parliament.' (HRW December 2000, p. 288)

**International community acknowledges Croatia's more constructive role in the region (2000-2002)**

- Efforts have also been made to establish normal relations with the Federal Republic of Yugoslavia, following the defeat of Milosevic
- International community has rewarded new Croatian authorities with closer political and economic ties (NATO, EU)
- Human rights international mechanisms ended or loosened their monitoring regime on Croatia (Council of Europe, UN Human Rights Commission, OSCE)
- Donor countries have become more responsive to Croatia's funding requirements to support refugee return

"As regards regional security, the new government has played a significantly more constructive role in the region than its predecessor. Croatian state transfers to the Bosnian Croats have been transparent and above board and relations with Bosnia set on a correct state-to-state footing. The previous government's practice of supporting, if not instigating, the anti-Dayton activities of the Bosnian HDZ has ended. The governing coalition also appears ready to abolish or drastically curtail the controversial 'diaspora' voting rights and members of parliament, which have been a cause of aggravation between Zagreb and Sarajevo."
The Croatian authorities took early steps to explore ways of setting relations with the Federal Republic of Yugoslavia (FRY) on a normal footing following the defeat of Milosevic. As Croatia's participation in the Stability Pact has shown, it is ready to play a constructive role in international efforts to bring stability to the region. Croatia's active support for arms-control and demining projects within the Stability Pact is particularly commendable, and deserves international support." (ICG 26 April 2001, p. 169)

"The Role of the International Community

After years of conditioning improved relations on progress in Croatia's human rights record, the international community moved quickly to reward the new authorities in Zagreb for their reform agenda with closer political and economic ties. Croatia was granted admission to the North Atlantic Treaty Organization's Partnership for Peace on May 25 and to the World Trade Organization on July 18, and its U.S. $55 million refugee return proposal was fully funded through the Stability Pact in March [2000]." (HRW December 2000, p. 290)

United Nations

"The U.N. Commission on Human Rights decided in April 2001 to exclude Croatia from the mandate of its special representative on the former Yugoslavia. The Office of the High Commissioner for Human Rights maintained a field presence in Croatia, however, focusing primarily on technical assistance to the authorities. In March, the Human Rights Committee considered Croatia's initial report on implementation of the International Covenant on Civil and Political Rights. While commending Croatia on constitutional reforms, the committee criticized the continued impunity for killings and torture committed during the armed conflict. The U.N. observer mission in Prevlaka was extended until January 2002. In May, Croatia ratified the Statute of the International Criminal Court." (HRW 2002, p. 308)

"Organization for Security and Cooperation in Europe (OSCE)

Croatia's greatly improved relations with the OSCE were evidenced by the request of its foreign minister on March 23 that the mandate of the OSCE mission to Croatia be extended until the end of 2000, and by the positive tone of the mission's July 3 progress report, as well as the upbeat assessment of the OSCE high commissioner on national minorities during his May 25 visit. At time of this writing, the OSCE police monitoring group in the Danube region in Croatia was to cease operations on October 31.

Council of Europe

During a June 21 visit to Zagreb, Lord Russell-Johnston, president of the Parliamentary Assembly of the Council of Europe (PACE) indicated that Croatia had now met most of its outstanding membership requirements. On September 26, PACE voted to terminate the monitoring procedure for Croatia." (HRW December 2000, p. 290)

European Union

"The European Union signaled its major support for the Croatian government's efforts in March [2000] by upgrading its office in Zagreb into a permanent delegation. Even more significant was its decision in June opening the way for negotiations on a stabilization and association agreement with Croatia in October [2000], with a view to eventual integration into the E.U. Croatia also received 23 million euro (approximately U.S.$23.2 million) in E.U. financial assistance, including 13.5 million euro (U.S.$16.6 million) to support refugee return." (HRW December 2000, p. 290)

The Stabilisation and Association Agreement (SAA) between the EU and Croatia was signed in October 2001. In addition to the promotion of economic and trade cooperation, the agreement provides a framework for political dialogue, including human right, protection of minorities, refugees and displaced persons.
"Work on key parts of the [mandate of the OSCE Mission in Croatia] received an additional impetus as a result of the signing of a Stabilisation and Association Agreement (SAA) between Croatia and the European Union (EU) in October 2001. Many of the Mission's priorities, in particular those related to the judicial system and the return of refugees and displaced persons, have been identified in the SAA and the European Commission's (EC) first Progress Report on Croatia as preconditions for Croatia's progress towards negotiations on EU membership." (OSCE 21 May 2001, p. 2)

See "Croatia – Stabilisation and Association Report", 4 April 2002 [Internet]

See also:

"Presidents of Croatia and Yugoslavia issue joint statement on normalization of relations", OSCE, 4 June 2002 [Internet]

"Balkan presidents hold landmark Sarajevo summit", Reuters, 15 July 2002 [Internet]

New HDZ-led government declares support for return and ethnic reconciliation (2004)

- The new HDZ government, inaugurated in December 2003 is represented by Prime Minister Ivo Sander
- The Prime Minister has secured cooperation with ethnic minority representatives in Parliament
- The government policy emphasizes speeding up the return process, implementation of the Constitutional law on the rights of minorities and repossession of Serb property
- The new government also expressed a will to establish improved relations with neighboring countries and better cooperation with regard to international war crimes tribunals

"On 23 December 2003 Parliament approved (88 out of 152 voted in favour) the composition of the new Government as presented to it by HDZ leader Ivo Sanader. The new Prime Minister has agreed a formal coalition with the Democratic Centre (DC) and the Social Liberal Party (HSLS), both parties represented in the Government at cabinet minister level, while a number of other parties and representatives in Parliament have committed themselves, though at various degrees, to support the Government.

Most significant in this regard is the co-operation, which the Prime Minister has secured with the minority representatives in Parliament. Following intensive negotiations, HDZ concluded cooperation agreements with the three MPs of the Independent Democratic Serb Party (SDSS) and the MP of the Italian minority before the first session of the new Parliament on 22 December 2003. The remaining four ethnic minority MPs also demonstrated support of the Government by voting in favour of it when it was presented in Parliament by Sanader.

Initiatives

The Government has been in office just four weeks, but still a number of important initiatives have been taken. They are aimed at demonstrating the HDZ-led Government's preparedness to depart from the policies of the party in the previous decade. Notably, the Prime Minister has involved himself personally in most, if not all, the initiatives.

The cooperation agreements signed with the SDSS MPs and the Italian minority MP contain a number of points essential to each of these ethnic groups, reflecting the different concerns that they have. In both agreements Croatia’s accession to the EU is highlighted as a common goal.
The SDSS agreement, which is the most comprehensive of the two, lists many essential points and deadlines which have been agreed on the issues of concern to the Serb minority. This includes return of refugees, implementation of the Constitutional Law on the Rights of National Minorities, repossession of Serb property, development of the Areas of Special State Concern, reform of the judiciary, and cooperation with neighbouring states.

The agreement with SDSS followed the call by Sanader during the election campaign on nonreturned Serbs to return to Croatia and was followed by the Prime Minister’s surprise visit to the Serbian Orthodox Christmas reception in January 2004 where he even greeted the hosts in the traditional orthodox manner. The Speaker of Parliament, Vladimir Seks, who was also a prominent HDZ figure during the Tudjman era, continued with words of tolerance and respect for human and minority rights.

The Prime Minister also visited the Italian minority in Istria around New Year and earned a similar respect on this occasion, both for showing up, for speaking Italian and for demonstrating a convincing attitude.

In line with the good and seemingly constructive relations, which the Government - and the Prime Minister personally - have established with the ethnic minorities, a will to establish improved relations with neighbouring countries, notably Serbia-Montenegro, has been expressed. The Prime Minister and the Foreign Minister both emphasize the aim of obtaining a normalization of bilateral relations and stress that all authorities in Belgrade, irrespective of their political views, will find openness in Zagreb when it comes to the resolution of all remaining issues. At present, the formation of a new government in Belgrade is awaited before concrete steps can be taken in this regard.

On the ICTY issue, another key point in relations with the EU, Sanader has moved to streamline cooperation by transferring the field of competence to the Ministry of Justice. In the Prime Minister’s words, the issue is a legal, not a political one and should be treated accordingly.

At a meeting last week between the Prime Minister and HoM the intention of Sanader to pursue a policy of reconciliation between the ethnic groupings in the country was confirmed. A number of joint initiatives to this effect between the Government and the OSCE Mission were discussed at this meeting.

Reactions

Reactions to Prime Minister Sanader’s conciliatory tone, gestures and the cooperative mode vis-à-vis the ethnic minorities reflect that the HDZ leader has exceeded the expectations of many in this field.

Commentators known for their skepticism or even criticism with regard to HDZ have published columns in which they express their acknowledgement of the scene set by the Prime Minister. Like many observers, they now await the crucial stage of implementation to take shape before a more consolidated opinion on the Government’s policies can be elaborated.” (OSCE 20 January 2004)

See also “Croatia: New Government Must Address Refugee Return and War Crimes”, HRW, 9 January 2004 [Internet]

European Commission recommends EU accession negotiations begin (2004)

- The European Commission adopted its Opinion on Croatia’s Application for EU Membership in April 2004
- The Opinion stresses that Croatia needs additional efforts in the field of minority rights, refugee return, judiciary reform, regional co-operation and the fight against corruption
- The European Council is expected to decide in mid-June whether Croatia will receive the status of an EU accession country and when negotiations should begin

Initial efforts required for the EC Opinion were undertaken during the term of the previous Government, under the Social Democratic Party (SDP).

In November 2003, the SDP-led coalition was replaced after four years in government by the Croatian Democratic Union (HDZ) following its victory at national elections.

The HDZ pledged to continue the previous Government’s work and realize the country’s strategic goals of EU and NATO membership, marking a positive shift in policy.

“The European Commission today adopted its Opinion on Croatia’s Application for EU Membership, recommending that the Council open membership negotiations with Croatia. On the basis of the Commission’s analysis, the European Council will have to decide whether and when to open negotiations.

The Commission also approved the proposal for a decision of the Council on the European Partnership with Croatia, which is inspired by the Accession Partnerships that have helped prepare countries for eventual EU membership in the past. The Partnership is based on the analysis in the Opinion.

[...]

Croatia presented its application for membership of the European Union on 21 February 2003 and the Council of Ministers asked the Commission in April 2003 to present its Opinion.

In its Opinion, the Commission analyses the Croatian application on the basis of Croatia’s capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the Stabilisation and Association process, notably the conditions defined by the Council in its Conclusions of 29 April 1997 which included co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Regional co-operation.

[...]

On the political criteria, the Opinion concludes that Croatia is a functioning democracy, with stable institutions guaranteeing the rule of law. There are no major problems regarding the respect of fundamental rights. In April 2004, the ICTY Chief Prosecutor, Carla Del Ponte stated that Croatia is now cooperating fully with the ICTY. Croatia needs to maintain full cooperation and take all necessary steps to ensure that the remaining indictee is located and transferred to the ICTY. Croatia needs additional efforts in the field of minority rights, refugee return, judiciary reform, regional co-operation and fight against corruption.

The Commission confirms that Croatia meets the political criteria set by the Copenhagen European Council in 1993 as well as the conditionalities of the Stabilisation and Association Process established by the Council in 1997.” (EC 20 April 2004)

“The European Council is expected to decide in mid-June whether Croatia will receive the status of an EU accession country and when negotiations should begin.

Background to Croatia’s EU membership application

Croatia signed a Stabilization and Association Agreement (SAA) with the EU on 29 October 2001 […]. The Government of Croatia submitted Croatia’s application for EU membership on 21 February 2003 […].

On 10 July 2003, the EC delivered its questionnaire to the Government in order to allow it to produce its Opinion […]. The Government provided its answers to the questionnaire on 9 October […]. Some additional follow-up questions and requests for clarifications were posed by the EC until before the Opinion was given.

The initial efforts required for the EC to give its Opinion were undertaken during the term of the previous Government, led by the former Prime Minister from the Social Democratic Party (SDP), Ivica Racan. In November 2003, the SDP-led coalition was replaced after four years in government by the Croatian Democratic Union (HDZ) following its victory at national elections. The HDZ President, Dr. Ivo Sanader,
was appointed the new Prime Minister on 22 December with the support of a narrow parliamentary majority […]

Immediately upon taking office, and following its pre-election programme, the HDZ pledged to continue the previous Government’s work and realize the country’s strategic goals of EU and NATO membership. This undertaking marked a fundamental and positive shift in policy for the HDZ as a mainstream party. At the end of 2001, the entire HDZ parliamentary group had walked out during the vote on the SAA. The Government’s pro-EU credentials were strengthened through a number of policy statements immediately after taking office. The new Prime Minister and other new Government officials announced a number of reconciliatory initiatives towards Croatia’s national minorities, in particular the Serb minority with which it eventually signed an agreement of co-operation in areas such as housing reconstruction and property repossession […]. Further, the new Government announced initiatives designed to reach out to its neighbours, thereby fulfilling expectations from its potential EU and NATO partners.” (OSCE 27 April 2004)

*The Opinion on Croatia can be found on the website of the EC [Internet]*
Global figures

Number of internally displaced persons still seeking solutions: 11,493 persons (as of 5 April 2004)

- The majority of IDPs are from the Danube region and the town of Vukovar (Croats)
- 1,702 of the remaining registered IDP population is ethnic Serb, mainly in the Danube region
- The majority of IDPs are female
- Most of the displaced population is being housed in private accommodation

Official Figures (as of 5 April 2004)
“...the remainder of internally displaced persons and refugees awaiting a final solution is a total of 45,085 internally displaced persons and refugees to return or to be locally integrated:
9,791 displaced persons residing in Croatia, the majority from Danube Region and town of Vukovar;
4,125 refugees from Bosnia and Herzegovina and Kosovo still under refugee protection in Croatia;
1,702 internally displaced persons in Danube Region;
some 5,465 returnees under ODPR welfare;
at least 12,845 refugees still residing in S-M and B-H with submitted claims for return to Croatia – majority of them are Croatian citizens of Serb ethnicity;
11,157 temporary occupants of private property they must abandon due to the repossession of property by owners – majority of them are refugees from Bosnia and Herzegovina, Croatia and in need of housing solution.” (Ministry of Maritime Affairs, Tourism, Transportation and Development 5 April 2004)

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<th>Category</th>
<th>Male</th>
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<td>2. Refugees in Private Accomodation</td>
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Sources: GOC Office for Displaced Persons and Refugees (ODPR) and UNHCR (UNHCR 31 March 2004)

For most recent statistics from UNHCR, see "Estimate of Refugees and Displaced Persons still seeking solutions in South-Eastern Europe", UNHCR, 1 May 2004 [Internal link]

Ethnic Serb internally displaced population may be higher than official figures indicate: IDP re-registration and status recognition procedures are problematic (2003-2004)
• There is concern that the numbers and status recognition for internally displaced people was manipulated by the responsible state institutions
• Almost 28,000 of 31,000 IDPs registered during the period 1997-1998 lost their status through re-registration undertaken by the Office for Displaced Persons and Refugees (ODPR)
• Many IDPs who lost their status were never informed of the fact and did not receive an official decision; preventing them from participating in the 2001 local election and from accessing other rights
• The most recent official re-registration process was undertaken during the first half of 2003 and was deemed fairly conducted by the international community
• The Center for Peace in Vukovar has received a number of complaints from IDPs in the Vukovar region
• The Center for Peace in Vukovar has expressed the concern that previously de-registered and non-registered ethnic Serb IDPs were effectively excluded from the 2003 re-registration process despite the fact that they continue to live in a situation of displacement

“The citizens of the Republic of Croatia, expelled from different parts of the country that were administered by regular Croatian authorities during the 1991-1995 conflict and those internally displaced for the destruction of their homes within former UNTAES region, fall under the category of Internally Displaced Persons.

Internally Displaced Persons live in the areas of Vukovar-Sirmium and Osijek-Baranja counties and represent the category of citizens specific for the eastern part of the Republic of Croatia. The Center for Peace – Vukovar followed on the problems of Internally Displaced Persons ever since it was established in August 1996. On many occasions, the Center assisted, and it still does, to Internally Displaced Persons through counseling and accomplishing wide spectrum of different rights, provided technical assistance in relation with the return to prewar residence places and dealing with the issues of permanent solving of problems in places where they currently live.

Internally Displaced Persons present one of the most vulnerable categories of citizens in the eastern part of the Republic of Croatia. 30% of the total number of the Center’s clients in 2002 were Internally Displaced Persons. The number itself, of those with the officially recognized status of internally displaced persons, is also questionable. Namely, the Center has noticed and, on many occasions, informed relevant state institutions, the OSCE, The UNHCR, etc. on different irregularities and manipulations in numbers and status recognition for internally displaced persons.

The number of displaced persons in period 1997 – 2003, according to the statistical data by the Administration and Regional Offices for expellees, returnees and refuges, was as follows:

1997 – 31,000 (first registration)
1998 – 11,000 (first re-registration)
1999 – 3,500 (second re-registration)
2003 - 1,600* unofficially, (third re-registration) approx. 714 persons in Osijek-Baranja and 915 persons in Vukovar-Sirmium county

Almost 28,000 of 31,000 Displaced Persons registered during the period 1997-1998 lost their status through re-registration done by ODPR and never have been informed on that or received official decisions. These decisions even not exist. Most of them couldn’t vote on the past local elections held in 2001 and were prevented in achieving various rights due to re-registration.

The last re-registration of displaced persons was conducted during first half of 2003. The procedure was non-transparently conducted and there were a certain number of complaints against the way it was
implemented. Certain number of people lost their status despite they still live in former UNTAES region and permanent solutions for them are still not found. The Center has registered great number of complaints from displaced persons on the work of the Regional ODPR in Vukovar for not providing them with the relevant information, rejecting clients and indecent behavior of its staff.” (Center for Peace, Legal Advice and Psycho-social Assistance, 20 May 2004)

**Number of internally displaced persons still seeking solutions: 16,000 persons (as of 1 April 2003)**

- 3,400 persons, mostly Serb, remain displaced in eastern Slavonia (2002)
- A third of the internally displaced population live in and around the capital Zagreb

IDPs still in need of durable solution in Croatia (as of 1 April 2003): 16,237 persons (UNHCR 1 April 2003)

"Displaced persons still awaiting final solution
18,567 displaced persons on MPWRC/ODPR welfare still residing temporary in other areas of Croatia out of their homes (14,028 IDP Croats from Danube Region and 4,539 from other parts of Croatia).
3,396 internally displaced persons in Danube Region, mostly of Serb ethnicity, awaiting return to their homes in other part of Croatia."
(Ministry for Reconstruction April 2002)

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<thead>
<tr>
<th>A. Internally Displaced Persons (IDPs)</th>
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<td>3. IDPs in CDR (ex-UNTAES)</td>
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<tr>
<td>from FRY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>18,184</td>
<td>1,386</td>
<td>19,570</td>
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<table>
<thead>
<tr>
<th>B. Refugees</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Refugees in Collective Centres</td>
<td>2,380</td>
<td>400</td>
<td>2,780</td>
</tr>
<tr>
<td>2. Refugees in Private Accommodation</td>
<td>15,804</td>
<td>986</td>
<td>16,790</td>
</tr>
</tbody>
</table>

**SOURCES:** GOC Office for Displaced Persons and Refugees (ODPR) and UNHCR databases
(UNHCR 31 March 2002)

"An estimated three-quarters of Croatia's 23,400 internally displaced persons orginated from eastern Slavonia. At year's end [2001], about one third of the total were displaced within eastern Slavonia, one-third in and around the capital, Zagreb, and one-third scattered around the remainder of the country."
(USCR 2002, p. 204)

**Number of internally displaced persons still seeking solutions: 31,358 persons (as of May 2001)**

- The total IDP caseload has decreased by 36 percent between January 2000 and May 2001
- 53 percent of the internally displaced persons are women, while 23 percent are under 16

Government figures (as of 1 May 2001): 31,358 persons
- 27,893 displaced persons temporary residing in other areas of Croatia out of their homes (20,743 displaced Croats from Danube Region and 7,150 from areas liberated in "Flash" & "Storm" operations)
Total of IDPs in Danube Region, mostly of Serb ethnicity, awaiting return to their homes in other parts of Croatia: 3,465 internally displaced persons
(MPWRC/Office for Displaced Persons, Returnees and Refugees, 8 May 2001)

UNHCR figures (As of 31 December 2000): 34,100 persons
53% of the internally displaced persons are women
23% of the internally displaced persons are under 18
(UNHCR June 2001, p. 394)

"In 2000, there were still over 49,000 IDPs in Croatia; most of them were located in eastern Slavonia and included 4,012 ethnic Serbs. UNHCR actively sought solutions for this group. Some 1,600 of them received legal assistance, mainly in relation to property issues. In addition, 5,000 vulnerable IDPs received basic relief items and social support. By the end of the year, the overall number of IDPs had decreased by 21 percent." (UNHCR June 2001, p. 395)

Official population census shows a significant decrease of the Serb minority in Croatia since 1991 (2001)

- The Serb minority only represents 4.5 percent of the population, a two-thirds decline since 1991
- The census results were contested by representatives of the Serb community
- The draft of the minority law and the implementation of other pieces of legislation will be affected

"On 17 June the Bureau for Statistics presented the official results of the 2001 census. Croatia now has a total population of 4,437,460, representing a six per cent decrease of the total population since 1991. Ethnic Croats represent approximately 90 percent of the total population in comparison to 72 per cent ten years ago. The total number of persons belonging to national minorities was announced at 7.47 per cent, half of the 1991 total. The most drastic reduction in this regard was seen within the Serb minority, which now only represents 4.54 per cent of the total population, a two-thirds decline since 1991.

Representatives of national minorities and various human rights organizations commented on the census results. The Serb People’s Council (SNV), Milorad Pupovac, publicly refused to accept the census results. The President of the SNV demanded a review of the census to include all Croatian Serb refugees who registered for the census in Yugoslavia and Bosnia and Herzegovina, as well as those who returned following completion of the census on 31 March 2001. According to the SNV, an additional 68,000 Croatian Serbs should be considered in this regard. The Chair of the Parliamentary Committee for Human Rights and the Rights of National Minorities, Furio Radin, demanded further explanation of the census results and the reasons for the reductions and advocated a new program for the development and protection of minority rights. The President of the Croatian Helsinki Committee, Zarko Puhovski, stated that the census results confirmed the need to prevent the assimilation and emigration of Croatia’s national minorities.

The official 2001 census results directly impact the new draft Constitutional Law on the Rights of National Minorities as well as the implementation of several other pieces of legislation, including the Law on the Official Use of Minority Languages and Scripts and the Law on Local Elections." (OSCE 18 June 2002)

The Government estimates that around 300,000 Croatian Serbs were displaced internally or became refugees between 1991 and 1995. A part of these individuals fled to Eastern Slavonia, while others left the country, mainly to the Federal Republic of Yugoslavia (FRY) and the Republika Srpska (RS) entity of Bosnia and Herzegovina (BiH). Since late 1995, according to Government figures, over 80,000 Croatian Serbs have returned to their pre-war places of residence. About 58,000 were cross-border returns (about
54,000 from FRY and about 4,000 from BiH) and the remaining approximately 22,500 returned from the Danube Region to other parts of Croatia. However, the FRY office of the United Nations High Commissioner for Refugees (UNHCR) reports that some tens of thousands Croatian Serbs have arrived from Croatia since late 1995, mostly from the Danube Region." (OSCE 2002)

**Constant reduction of the internally displaced population: 50,000 IDPs registered in 1999 (1996-1999)**

- 191,000 internally displaced Croatians in areas controlled by the government end 1995
- Reduction of the internally displaced population partly due to the de-registration of internally displaced persons by the authorities and the departure of displaced ethnic Serbs to third countries (mainly Yugoslavia)

**Total IDP (end of 1999): 50,000 persons**

"[As of December 1999,] Croatia was also home to 50,000 IDPs including 38,000 ethnic Croats originally from eastern Slavonia, and 3,000 ethnic Serbs currently in eastern Slavonia and the Dalmatian Coast." (USCR 2000, pp. 224-225)

"In 1999, the Croatian government's Office for Displaced Persons and Refugees counted 43 percent fewer refugees and internally displaced persons than 1998. This reflected mainly the return of internally displaced ethnic Croats (particularly back to eastern and western Slavonia), the de-registration of many internally displaced ethnic Croats who decided not to move back to their repaired homes and the local integration of ethnic Croats refugees (primarily in the Krajina area)." (USCR 2000, p. 225)

"Some 3,000 ethnic Serbs displaced from other areas of Croatia remained in eastern Slavonia at year's end, about 1,000 fewer than one year earlier. In all, about 51,000 ethnic Serbs lived in the region, down from about 60,000 at the end of 1998. The pre-war Serb population had been 70,000, before peaking at 127,000 after the massive displacement of Serbs in 1995 from the Krajina region." (USCR 2000, p. 226)

**Total IDP (end 1998): almost 61,000 persons**

"The Croatian government's Office for Displaced Persons and Refugees (ODPR) continued to deregister refugees and internally displaced persons in 1998. […] The number of registered internally displaced ethnic Croats decreased 27 percent [from end of 1997 to the end of 1998]. ODPR's registration did not include an estimated 4,000 internally displaced Croatian Serbs living in eastern Slavonia whose numbers also decreased significantly. […] By year's end [1998], about 50,000 ethnic Serbs had left eastern Slavonia, mostly to join the refugee ranks in Yugoslavia. Of that number, more than 6,000 were indigenous to eastern Slavonia, and about 40,000 to 45,000 were ethnic Serbs who had previously been displaced into eastern Slavonia from other parts of the Croatia. Only 4,000 internally displaced persons were still living in eastern Slavonia at year's end, and the total number of ethnic Serbs still living there was less than 60,000. The pre-war indigenous ethnic Serb population of eastern Slavonia was about 127,000, which swelled by more than 50,000 during the war because of internal displacement." (USCR 1999, pp. 185-186)

**Total IDP (end 1997): more than 100,000 persons (up to 110,000 persons)**

"The Croatian government's Office for Displaced Persons and Refugees (ODPR) rapidly deregistered refugees and internally displaced persons as 1997 ended, making final count difficult. At year's end, ODPR still registered about 78,500 persons as internally displaced, a 31 percent decrease from the 114,000 at the end of 1996. ODPR registration did not include an estimated 32,700 internally displaced Croatian Serbs living in eastern Slavonia. […]"
Although 32,698 ethnic Serbs in eastern Slavonia were registered as internally displaced at the end of 1997, estimates of the number of displaced Serbs in the regions ranged up to 60,000 during the year." (USCR 1998, p. 170)

**Total IDP (end 1996): 185,000 persons**

"ODPR estimated that about 114,000 persons remained internally displaced in government-controlled portions of Croatia at the end of 1996. Most were ethnic Croats who fled their homes in the Krajina and eastern and western Slavonia when ethnic Serb rebels wrested control of these regions from Croatia in 1991. [...] Not figured in to ODPS registered's tally of internally displaced persons are an estimated 60,000 to 80,000 Serbs who were displaced from other areas of Croatia and currently reside in eastern Slavonia." (USCR 1997, p. 176)

At the end of 1995: 191,000 internally displaced Croatians in areas controlled by the government (USCR 1995)

"ODPR said that Croatia was caring for 180,000 internally displaced persons at the end of 1995. During 1995, ODPR recorded 6,466 newly displaced persons. This included about 1,000 ethnic Croats who were expelled from the Serb-controlled UN Protected Areas (UNPAs) mostly from eastern Slavonia, during the first six months of the year. The remainder of newly displaced persons were Croats who had returned from Germany and other third countries during the year, but who could not return to their original homes." (USCR 1996, p. 135)

### Disaggregated data

**The majority of the displaced population live in private accommodation (2004)**

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internally Displaced Persons (IDPs)</td>
<td>5,378</td>
<td>6,115</td>
<td>11,493</td>
</tr>
<tr>
<td>1. IDPs in Collective Centres</td>
<td>1,523</td>
<td>1,709</td>
<td>3,232</td>
</tr>
<tr>
<td>2. IDPs in Private Accommodation</td>
<td>3,041</td>
<td>3,518</td>
<td>6,559</td>
</tr>
<tr>
<td>3. IDPs in CDR (ex-UNTAES)</td>
<td>814</td>
<td>888</td>
<td>1,702</td>
</tr>
</tbody>
</table>

**SOURCES:** GOC Office for Displaced Persons and Refugees (ODPR) and UNHCR (UNHCR 31 March 2004)

**Official statistics on women IDPs and refugees submitted to the UN Committee on the Elimination of Discrimination against Women (2003)**

- Of 65,872 IDPs and refugees in the year 2000, an estimated 52% of IDPs were women and an estimated 56%-63% of refugees were women
- According to data from July 2003, of 353, 137 persons with the status of a refugee, displaced person or a returnee, 189, 240 of them were women
- 14,188 IDP, refugee and returnee women continued to be housed in state-provided accommodation (as of July 2003)
- The National Policy, the Ministry of Public Works, Reconstruction and Construction is in charge of ensuring adequate help for displaced women, women returnees
The Ministry is also in charge of facilitating their return and reintegration, and resolving housing problems of particularly vulnerable women (including single mothers, women with disabilities).

“The greatest number of displaced persons in the Republic of Croatia, 550,000 persons, was recorded in 1991, and the greatest number of refugees, 402,768 persons, in 1992. From 1993 to 2000 their number has been decreasing gradually, so that in 2000 total number was 65,872. 52% of displaced persons were women, while the data about refugees differ from source to source, so that the number of refugee women is between 56% and 63%.

At the beginning of the 1990s women refugees and women victims of war were in the centre of attention of governmental institutions, as well as non-governmental organizations dealing with women’s human rights. Different forms of help were then provided for those women, from accommodation to medical and psychological help, depending on the range of suffering they were exposed to. The Republic of Croatia informed the Committee (CEDAW) in detail about women victims of war, including refugee women, in its special report dedicated to that very topic.

According to the data from 4 July 2003, 353,137 persons in the Republic of Croatia now have the status of a refugee, displaced person or a returnee. 189,240 of them are women. Only 14,188 of them still live in state-provided accommodation.

Due to the normalization of the situation, either through return or integration, issue of refugee women is no longer crucial in the Republic of Croatia. However, a line of measures is anticipated in the National Policy for the Promotion of Gender Equality that try to facilitate integration of displaced women and women refugees in everyday life, until the final resolution of the issue.

In accordance with the programme tasks of the National Policy, the Ministry of Public Works, Reconstruction and Construction is in charge of ensuring adequate help for displaced women, women returnees and women participants and victims of the Patriotic Defence War and facilitating their return and reintegration in the society, as well as consideration of possibility of introducing benefits in resolving housing problems of particularly vulnerable groups of women (single mothers, women with disabilities).

It must be pointed out that active policy of the Government of the Republic of Croatia regarding the return process and its significant financial investments in carrying out of the return process in last two years resulted in great improvement in the return of displaced persons and refugees.” (Republic of Croatia, Report submitted to UN CEDAW 27 October 2003)

Croatian law distinguishes two categories of internally displaced: the "expellees" and the "displaced" (2000)

- "Expelled" persons are mainly ethnic Croats of all age groups currently displaced outside the Croatian Danubian Region (47,000 persons as of February 2000)
- "Displaced" persons are mainly of Serb ethnic origin, mostly elderly and socially vulnerable Serbs currently displaced in the Croatian Danubian Region but originating from other parts of Croatia (3,000 persons as of February 2000)
- This distinction is not supported by international law

"As a result of the conflicts in Croatia, a large number of persons were displaced. Croatian legislation distinguishes between 'expelled' persons and 'displaced persons' forced from their homes at different periods of the conflict, a distinction not supported by international law. Approximately 16,000 'expelled' persons and 'displaced persons' were registered to vote at special polling stations (approximately 14,500
'expellees' and 1,400 'displaced persons'). Following the adoption of Mandatory Instruction X, the SEC established 299 polling stations for 'expellees' from Vukovar-Srijem County (part of Constituency V) and 10 polling stations for 'expellees' from Osijek-Baranja (part of Constituency IV). These voters are overwhelmingly ethnic-Croats. Although not specifically mentioned in Mandatory Instructions X, the SEC established only two polling stations for 'displaced persons' (overwhelmingly ethnic-Serbs)." (OSCE ODHIR 25 April 2000, sect. IV-b-2)

"Internally Displaced Persons (IDPs) in Croatia may be divided into two main groups:

a) **IDPs outside Croatian Danubian Region (CDR).** Majority are of Croat ethnicity and according to Office for Displaced Persons and Refugees (ODPR), the total number by the February 2000 was some 47,000 persons. They are mostly residing in private accommodation. Relatively high number of persons who are internally displaced is due to the unfavourable economic situation in Croatia and insufficient funds allocated for the economic revitalisation in areas of return. Nevertheless, it is expected that the return will continue thus estimating that the number of IDPs outside of CDR will drop to roughly 15,000 throughout the year 2000.

b) **IDPs in Croatian Danubian Region (CDR).** Majority of them are of Serb ethnic minority, their total number according to ODPR at the end of 1999 being 4,500 persons. Although a small number, this caseload might find their durable solutions as difficult one, since return to their places of origin is still linked to reconstruction efforts by the Government. A number of persons will locally integrate and will hopefully avail themselves of the reconstruction assistance in light of recent positive political changes and rescission of the discriminatory reconstruction related legislation. It is estimated that some 3,000 IDPs originally from other parts of Croatia will remain in the CDR." (UNHCR May 2000)

"The current overall figure [for the internally displaced population] is 43,000 persons. This includes some 5,500 elderly and socially vulnerable Serbs in the Danube Region, who fled military operations in 1995 and are unable to return to their homes which have been occupied, damaged/destroyed or privatized. (Another 40,000 of this group became refugees in the Federal Republic of Yugoslavia in 1998 at the end of the UNTAES mandate). In addition, there are also some 38,000 ethnic Croats, of all age groups, displaced from the Danube region in other parts of Croatia, and who are unwilling to return home for lack of employment opportunities." (UNHCR 20 June 2000)

*For recent changes to the Law on Status of Displaced Persons and Refugees, see "The Law on the Status of Displaced Persons and Refugees: discriminatory distinction displaced Croats and Serbs remains in effect (2001)" [Internal link]*
PHYSICAL SECURITY & FREEDOM OF MOVEMENT

General

Freedom of movement continued to be constrained for IDPs, particularly in Eastern Slavonia (2003-2004)

- Freedom of movement continued to be limited for IDPs and refugees, particularly in Eastern Slavonia, due to lost tenancy rights
- IDPs who lost tenancy rights experienced difficulties in regulating their legal status as they have no permanent residence which is required in order to acquire civilian identification

“The Constitution provides for these rights, and the Government generally respected them in practice. All persons must register their residence with the local authorities and, under exceptional circumstances, the Government legally may restrict the right to enter or leave the country if necessary to protect the ‘legal order, health, rights, or freedoms of others.’ Freedom of movement continued to be constrained for returning refugees and internally displaced persons (IDPs), particularly in Eastern Slavonia, where those who lost tenancy rights experienced difficulties in regularizing their status because they had no permanent residence (domicile), which is a precondition for acquisition of a civilian ID.” (U.S. DOS 25 February 2004, Sect.d)

See also:
“Citizenship law impedes the integration of non-Croat long-term residents (1992-2003)” [Internal link]

“New ‘Law on Foreigners’ should enable regularisation of citizenship status to pre-war residents (2004)” [Internal link]

Uneven progress reported in the implementation of the 1996 Amnesty Law (2004)

- The 1996 Amnesty Law amnestied acts of rebellion by ethnic Serbs
- Activities that should have qualified under the law were classified mistakenly and prosecuted as common crimes or war crimes
- Some courts continued the practice of convicting persons in mass and in absentia trials
- The chief state prosecutor initiated case-by-case reviews of war crimes cases
- At year's end, approximately 21 individuals remained incarcerated on war crimes or related charges based on politicized or nontransparent trials held under the previous regime

“Activities that should have qualified for amnesty under the 1996 Law on General Amnesty were classified mistakenly and prosecuted as common crimes or war crimes, although this practice declined and was under review by the Public Prosecutor.

Some courts continued the practice of convicting persons in mass and in absentia trials; however, in July 2002, the chief State Prosecutor initiated a case-by-case review of war crimes cases and sought to limit the use of in absentia proceedings. While 293 cases were dropped as a result of this review by the end of August, local prosecutors and courts continued to conduct in absentia proceedings, which were used almost
exclusively against ethnic Serb defendants. In cases monitored by the OSCE during the year, 85 percent of all ethnic Serbs convicted for war crimes were convicted in absentia proceedings. No ethnic Croat has been a part of a group in absentia proceeding, nor has any ethnic Croat been convicted in such a proceeding. The practice of in absentia proceedings placed an added burden on the courts, since defendants convicted in absentia regularly made use of their guaranteed right for a re-trial.

In February, an in absentia trial held at the Zadar County Court, 2 Serbs were sentenced to 9 and 10 years in prison respectively for the 1991 shooting of an ethnic Serb in Perusnic, whom they suspected of collaborating with Croatian authorities. In August, the Osijek County Court convicted eight Serbs in absentia for crimes against civilians in the village of Luc in Eastern Slavonia in 1990. In September, the Vukovar County Court began trial proceedings against 18 former members of a Serb paramilitary unit who were charged with genocide and war crimes in the 1991 attack and subsequent occupation of the town of Lovas in Eastern Slavonia. Only one of the accused was present during the trial.

At year's end, approximately 21 individuals remained incarcerated on war crimes or related charges based on politicized or nontransparent trials held under the previous regime. For those who had exhausted their appeal procedures, there was no mechanism to review their cases other than seeking pardons.” (US DOS 25 March 2004, Sect.1d)

See also "OSCE report: discrimination against ethnic Serbs in war crimes proceedings (2002-2004)"

Justice and police: reforms still needed to end discrimination against minorities (2002)

- There is a lack of experienced judicial officials in conflict-affected areas
- Enforcement of court decisions remain problematic, especially in the case of Serb owners of occupied properties
- Trust by minority communities in police performance continues to improve
- Some incidents are still not reported by victims of ethnically-related incidents
- The appointment of Serb police officers in the Danube region has not been accomplished

"The problems faced by the judiciary, in particular judicial vacancies and the lack of experienced judicial officials, remain particularly acute in areas most directly affected by the conflict. A suggestion by the President of the Supreme Court to re-employ – albeit temporarily – judges who were summarily dismissed or retired in prior years has not yet been endorsed by the Government. Permanent re-employment of judges dismissed without explanation during the conflict, particularly those whose challenges were accepted by the Constitutional Court, would address both vacancy and capacity problems, and would correct inappropriate dismissals of the past.

A serious problem in the administration of justice continues to be the lack of enforcement of court decisions at all levels. On the local level, the lack of enforcement is frequently observed in the context of Serb owners of occupied property who encounter obstacles in their efforts to obtain and execute eviction orders." (OSCE 21 May 2002, p. 5)

"A more stable security environment prevailed in most areas, allowing the [OSCE] Mission to reduce simple police monitoring during this reporting period [November 2001 – May 2002]. Local police continue to deal effectively with most ethnically-related incidents. Although trust by minority communities in police performance continues to improve, some incidents are still not reported by victims of ethnically-related
incidents because of concerns about safety after reporting such incidents to the police. It is essential to increase awareness among some police officials of how a small number of ethnically-related incidents can disproportionately affect the perception of security and conditions for return. The police also have had to deal more with tendentious reporting by media outlets about incidents in ethnically-tense areas." (OSCE 21 May 2002, p. 15)

"A formal decision by the Ministry of the Interior to reshape its recruitment and personnel management policies in order to achieve a demographic profile of the police that corresponds to that of the population has yet to be adopted. Both the Ministry of the Interior and the Ministry of Foreign Affairs have reconfirmed their commitment to the 1995 Erdut Agreement and the 1997 Letter of Intent, which provide minimum standards for minority representation in the Danube region. The appointment of Serb police officers and supervisors necessary for compliance with these agreements is continuing, but has not yet been accomplished." (OSCE 21 May 2002, p. 15)

"NGO and international observers in the Danubian region noted that police occasionally called ethnic Serbs to police stations for 'voluntary informative talks,' which amounted to brief warrantless detentions intended to harass Serb citizens." (U.S. DOS 4 March 2002, sect. 1d)
SUBSISTENCE NEEDS (HEALTH NUTRITION AND SHELTER)

Shelter

Despite progress in reconstruction, Serbs face obstacles to be eligible for reconstruction assistance (2003-2004)

- Reconstruction assistance to returning Serbs began only at the end of 2002
- The government has reconstructed a total of 8,000 housing units as of early 2004, 70 per cent of which belong to Serbs
- Government efforts to speed up reconstruction have been commended by international organisations
- Serb owners continue to face obstacles in being eligible for reconstruction assistance due to lost tenancy rights

“While the government has done impressive work in reconstructing damaged or destroyed ethnic Croat houses, reconstruction assistance to returning Serbs began only at the end of 2002. According to the government, a total of 8,000 housing units had been reconstructed as of early 2004, of which 70 percent belonged to Serbs. The government says that another 9,500 housing units are envisaged for reconstruction before the end of 2004.[…]

Current information from the field seems to support the government’s claims that a large number of Serb houses are currently under reconstruction.[1] While belated, the current efforts of the government in reconstructing Serb houses are to be commended.[2] These efforts clearly benefit return, as manifested by the numbers of returns in Western Slavonia, which had suffered major destruction of properties: mainly due to reconstruction efforts, the number of returnees (around 1,000) in Western Slavonia in 2003 remained at the level of the previous year.[3]

Despite the progress in reconstruction, Serb families continue to face serious obstacles in accessing reconstruction assistance. A number of owners of destroyed or damaged properties are ineligible for reconstruction assistance under the law because their pre-war registered residence does not match the property they now seek to repair. Prior to the war, many Croatian residents had tenancy rights to an apartment as well as a private house, and were usually registered as residing in the apartment. [4] Having lost the tenancy rights through the blatant violation of pre-1991 laws and the imposition of discriminatory legislation in 1995,[…] these individuals have been unable to repossess the apartments or receive substitute housing; at the same time, they are barred from receiving reconstruction assistance from the government.[5]” (HRW 13 May 2004, 9-10)

[Footnote 1] For example, in the municipality of Okucani (in Western Slavonia), where numerous Serb houses were destroyed during the war, the government has recently reconstructed a number of houses. Human Rights Watch interview with OSCE officials in Pakrac, February 17, 2004. Reconstruction is also proceeding “remarkably well” in the area of Benkovac. Human Rights Watch interview with a representative of the Serbian Democratic Forum office in Benkovac, Knin, February 23, 2004.

[Footnote 2] On March 26, 2004, the Government also granted an additional six-month window to allow for further applications for state-funded reconstruction. See: Decision on Final Deadline For Submitting Reconstruction Applications, Narodne novine (official gazette of the Republic of Croatia), no. 41/2004., March 31, 2004. The extension is of limited importance, however, because the vast majority of owners of
destroyed properties had already filed the applications in December 31, 2001, when the previous deadline expired.


[Footnote 5] Human Rights Watch interviewed one such family in February 2004, Stana and Radomir Radulovic, a married couple. The couple had fled to Serbia in August 1995, in the wake of Operation Storm in which the Croatian Army regained control over the Knin area. In September 1995, Croatia enacted a law stipulating that tenancy rights in the areas previously held by Serb rebels would be terminated if the tenants did not return to the apartment within ninety days after the law became effective. The Radulovics were afraid to return to Knin, where many elderly Serbs who had stayed were killed. Upon arriving to Belgrade, Mr. and Mrs. Radulovic notified the Croatian Office in Belgrade, as well as the Croatian embassy in the neighboring Hungary, that they had not abandoned their apartment in Knin. The notification was not legally relevant, however, and the couple lost the tenancy right upon expiration of the three-month period stipulated by the law. They returned to Knin area in February 1999. In March 1999, they applied for reconstruction of their summerhouse five kilometers south-east of Knin. On July 14, 2003, the county reconstruction office issued a negative decision, based on the fact that the applicants had not permanently resided in that house. Human Rights Watch interview, Polaca (near Knin), February 23, 2004.

“[T]o date, the Government has reconstructed approximately 130,000 out of the 200,000 destroyed houses and apartments. Seven percent (7%) of this programme has been funded by the International Community. There appear to be no major delays in the implementation of the reconstruction programme of the estimated 16,000 remaining houses and it is expected to be completed by the end of 2005. This would facilitate the return of approximately 48,000 individuals. With the amendments of 2000 to the Law on Reconstruction, the last discriminatory legal provisions were removed. The deadline for request for reconstruction was the end of 2001. In March 2004, in accordance with the agreement signed with Serb representatives the Government re-opened the deadline for submission of new requests for reconstruction from 1 April to 30 September 2004. This will probably mean that reconstruction programme will have to continue until 2006.” (EC 20 April 2004)

Housing reconstruction: governmental assistance targets primarily Croatian properties (2002)

- The vast majority of reconstructed houses so far belong to ethnic Croats
- End of 2001, the Government, supported by the UNHCR, encouraged Serb refugees in the place of asylum to file reconstruction applications
- The Government instructed local authorities to provide reconstruction assistance regardless of the cause of damage and without territorial limitations
- However, negative decisions for properties damaged by "terrorist acts" were still issued in 2002

"Of approximately 195,000 residential properties that were damaged or destroyed during the conflict, more than 111,000 have been reconstructed. The vast majority of reconstructed houses belong to ethnic Croats. Over 90 per cent of this reconstruction has been implemented through the Government reconstruction programme and the Government has recently taken a HRK one billion loan from the Croatian Bank for Reconstruction and Development for this purpose. According to the Government, the total number of reconstructed houses will be 118,000 at the end of 2002. In the past year, the Government signed partnership agreements with major international donor organizations active in this field.
In the latter months of 2001, the Government, supported by the UNHCR, for the first time encouraged and promoted the conditions for filing reconstruction applications to Serb refugees in their place of asylum. This was accompanied by a public information campaign in the Federal Republic of Yugoslavia and Bosnia and Herzegovina. By the Government deadline of 31 December 2001, these efforts resulted in approximately 19,000 new applications from Serb refugees currently residing in these countries.

The processing of the approximately 42,000 pending applications for reconstruction has continued over the past half year, although at a slow pace. The Law on Reconstruction was amended in June 2000 to provide for the reconstruction of properties regardless of the cause of damage and without territorial limitations, thus including houses damaged or destroyed by 'terrorist acts' in areas of Government control. This was followed by ministerial instructions of 23 May and 17 December 2001, reminding offices competent for reconstruction of the June 2000 amendments and legal changes allowing the reconstruction of properties damaged by such acts. However, a number of such offices throughout Croatia, and in a few cases the Ministry for Public Works, Reconstruction and Construction itself, have continued until February/March 2002 to issue negative decisions for properties damaged in this manner. The Government has made a strong commitment to correct these practices. The Mission also encourages the Government to revise applications previously rejected." (OSCE 21 May 2002, p. 13)

See also "Housing Programme Development Study – Bosnia Herzegovina, Croatia, Federal Republic of Yugoslavia, Stage 1 Report", Stability Pact for South-eastern Europe, December 2001 [Internal link]

Access to reconstruction assistance is discriminatory against ethnic Serbs (2000-2001)

- Overwhelming majority of government-reconstructed properties are owned by ethnic Croats, while most of destroyed Serb housing remains to be repaired
- In June 2000, the Parliament removed discriminatory provisions from the 1996 Law on Reconstruction
- Implementing regulations of the amended Law (the "Rulebook") partially reintroduced discriminatory prioritization of reconstruction assistance in favour of "Croatian Defenders"
- In March 2001, the government announced that measures would be taken to ensure more global coverage of the reconstruction programme

"Between 1991-1998 about 195,000 residences were destroyed. It is estimated that more than 110,000 have been reconstructed: about 105,000 by the Government and another 4,500 by the international community. The overwhelming majority of these Government-reconstructed properties are owned by ethnic Croats. Most of destroyed Serb housing remains to be repaired or reconstructed. In 1996, Parliament adopted the Law on Reconstruction, which sets the criteria and guidelines for the provision of Government funding for reconstruction. The Law contained a number of provisions, including priorities and eligibility criteria, which effectively discriminated against Serb applicants. In June 2000, the Parliament amended the Law to remove most of the shortcomings. However, implementing regulations in the 'Rulebook' of July 2000 partially reintroduced discriminatory prioritization. The authorities have continued to deny reconstruction assistance to individuals whose property was damaged or destroyed by so-called 'terrorist acts' or by the Croatian armed forces. This adversely affects primarily Serb property owners. In March 2001, the Ministry for Public Works, Reconstruction and Construction stated that it would initiate 'harmonization of legal regulations in place, so that all objects damaged or destroyed in terrorist actions could be included in the programme of reconstruction.' Action in this regard remains pending. The final deadline for applying for reconstruction assistance has been set for December 31, 2001." (OSCE 2001, "Government Action on Return")
See the Instruction of the Ministry of Reconstruction on "procedures in relation to damages caused as a result of 'terrorist' activities, and in relation with exercise of the right to reconstruction", 23 May 2001

The June 2000 amendment to the Reconstruction Law
"Amendments to the 1996 Reconstruction Law were adopted by Parliament on 1st June 2000. The amended law prolongs the deadline for applying for reconstruction assistance and makes eligible for such assistance all Croatian citizens and persons who lived in Croatia before the war and whose houses are damaged regardless of the way and time of return. In this respect, the bill originally introduced by government contained no discriminatory provisions. Regrettably, following criticism expressed by the parliament, the government amended its original draft to include a provision delegating power to the executive to issue regulations defining priorities of eligibility for reconstruction assistance in accordance both the new law and with the Law on the Rights of Croatian Homeland War Defenders and Members of their Families. A so-called 'Rulebook' was published on 14 July 2000 by the Ministry of Public Works, Reconstruction and Construction defining four main priority categories of beneficiaries. But contrary to the advise of representatives of the international community, the Rulebook gave top priority in all four categories to Croatian Defenders. As such are defined all those who spent at lest three months in military service during the conflict, and thus, on this basis, thousands of persons can take precedence over any other applicants for reconstruction assistance. [Note 8: It should be noted though that since Croatian Defenders have already been given top priori ty for reconstruction assistance or were the exclusive beneficiaries under the two laws of 1996, in practice the number of Croatian Defenders who will benefit from the priority established by the newly issued Rulebook may not be that high."

(OSCE 13 September 2000, para. 86)

Many Croat returnees to Eastern Slavonia pressure Serb temporary occupants to leave (1999)

- Harassment and intimidation of secondary occupants is a contravention of Croatian law and the 1997 Operational Agreement on Return
- Police in Eastern Slavonia frequently fail to protect such displaced Serb occupants and their housing rights as secondary occupants

"According to the 1997 Operational Agreement on Return, displaced Serbs occupying Croat property in Eastern Slavonia can only be removed from it once alternative accommodation is found for them. Many Croat returnee owners, reluctant to wait for such a procedure or to take the matter to court, have resorted to pressuring the current occupants into departing. While the repossession of property by owners is not itself illegal, harassment and intimidation of occupants is both a contravention of Croatian law and the legal guarantees under the Operational Agreement on Return. Yet available evidence suggests that police in Eastern Slavonia frequently fail to protect such displaced Serb occupants while they are still resident. The case of a Serb man displaced from Osijek who was forced out of his residence in Beli Manastir by the owner is illustrative. The man, who is unable to return to his home in Osijek because a displaced Croat is living in it, was first visited on January 8, 1998, by the owner of his current residence, accompanied by police and representatives from the municipal authorities, and told that he had fifteen days to leave the house, despite the fact that no eviction order had been issued by the court." (HRW March 1999, "Security")
ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

Self-reliance

Ethnic discrimination on the labour market (2003-2004)

- Despite the enactment of the Constitutional Law on the Rights of Minorities in 2002, there has been little progress in employment discrimination against Serb returnees.
- The European Commission has called on the Croatian government to improve social and economic conditions in return areas (2003 Stabilisation and Association Report).
- Ethnic affiliation has been a key factor in employment practices, reflected in the degree to which state, municipal, or town-run services and institutions employ Serb returnees.
- A number of returnees told Human Rights Watch, that they were explicitly told that they could not get a job because of their ethnicity.
- In most areas of return, virtually no Serbs are employed in health and child-care centers, schools, post offices, courts, police, power-supply companies, customs services, or the local administration.
- A bleak economic situation and high unemployment in the post-war period has undermined the sustainability of return and provided little incentive for return, particularly of young people.
- In Knin, out of 30,000 current inhabitants only 3,000 held paid positions in 2001.

“The European Commission’s Stabilisation and Association Report of 2003 stressed the need for the Croatian government to create social and economic conditions aimed at improving the climate for returns and the acceptance of returnees by receiving communities.[1] There has been little or no progress in tackling the persistent employment discrimination documented by Human Rights Watch in its September 2003 report.[2] In most areas of return, virtually no Serb returnees are employed in state, municipal, or town-run services and institutions, such as health centers, schools, childcare centers, post offices, or power-supply companies.

The situation is identical in the judiciary, the police, and the state administration, despite the enactment of the Constitutional Law on the Rights of National Minorities in December 2002, which mandates proportional representation of minorities in these areas. [3] Those few Serbs who do manage to get employment in state or municipal institutions are usually teachers, nurses, or policemen who were displaced within Croatia (in the area of Eastern Slavonia, which remained under Serb control throughout the war), and were already employed there.[4] For the refugees, returning from Serbia and Montenegro and elsewhere, finding employment in public institutions or the judiciary remains all but impossible.

Serb returnees have been able to find some work in private businesses owned by Croat entrepreneurs, such as a sawmill and a brickyard in Gvozd,[5] a supermarket and a restaurant in Korenica,[6] a screw factory in Knin,[7] a fish processing factory in Gracac,[8] and the factory producing sparkling-water in Lipik.[9] Even in those businesses, the number of employed returnees is in the dozens rather than hundreds. Many among them are employed as seasonal workers only.” (HRW 13 May 2004, pp. 12-13)

[Footnote 3] The absence of Serb policemen in areas in which Serbs make half the population or more is particularly striking. Examples include Vojnic, Korenica, and Donji Lapac. Human Rights Watch interview with a representative of the Norwegian Helsinki Committee, Sisak, February 19, 2004 (Vojnic); Human
Rights Watch interview with representatives of the Serbian Democratic Forum office in Korenica, February 19, 2004 (Korenica); Human Rights Watch telephone interview with an OSCE official in Korenica, February 20, 2004 (Donji Lapac). The situation is identical in areas such as Knin and Pakrac, where Serbs now make up less than half the population, but have returned in their thousands. Human Rights Watch interview with representatives of the Serbian Democratic Forum office in Pakrac, February 17, 2004; Human Rights Watch interview with representatives of the Serbian Democratic Forum office in Knin, February 23, 2004.

[Footnote 4] At the end of 2003, two Serb policemen from Vukovar transferred to Gvozd. Human Rights Watch interview with a lawyer from the office of the Serbian Democratic Forum in Gvozd, February 19, 2004. Similarly, a Serb judge from Vukovar recently applied for the vacated post of a judge in her hometown of Korenica; the process of selecting the judge is still ongoing, but the Serb candidate received a positive opinion from the competent judicial council in the Licko-Senjska county to which Korenica belongs. Human Rights Watch telephone interview with an OSCE official in Korenica, March 24, 2004.


“One of the principal impediments to return lies is the bleak economic situation in the country. The unemployment rate is around 20 percent. A war-ravaged economy and post-war crony capitalism have made Croatia a country in which ‘preconditions for transformation of the economy into a viable one were better in 1990 than in 2000.’” [1]

Further complicating the sustainability of return is the fact that many Serbs lived in economically disadvantaged areas before the war, or in remote areas in which former communist governments built factories based on political, rather than economic, considerations. [2] Even where pre-war employment was high and the economy was functioning, unemployment has been skyrocketing in the post-war period. In Knin for example, out of 30,000 current inhabitants only 3,000 held paid positions in 2001. [3] In nearby Kistanje, where about 700 people worked before the war, in 2001 there were about forty employed individuals, mostly administrative staff at the municipality. [4] In Gracac, 90 percent of able-bodied persons were registered as unemployed at the beginning of 2001. [5] Immediate economic recovery in such areas is unlikely, and employment opportunities for potential young returnees are scant, unless the person is willing to engage in agriculture or cattle raising, or if he speaks a foreign language and finds employment with an international organization working on returns in the area.

Bosko Raskovic, a man in his mid-thirties whose family returned to the village of Raskovici, near Knin, in August 2001, told Human Rights Watch at the time that bleak employment prospects were his main concern. He had to support the family and fund the education of his two daughters, but he had spent his last pennies on obtaining various types of Croatian identity documents. [6] When Human Rights Watch again visited the village in June 2002, Bosko Raskovic and his family had returned to Serbia.

Employment discrimination on ethnic grounds is difficult to prove since unemployment among Croats is also high. A number of returnees told Human Rights Watch, however, that they were explicitly told that they could not get a job because of their ethnicity.

Boja Gajica (53), a Serb returnee to Knin, applied eight times between 1996 and 2000 for the position of nursing attendant, for which she has an associate degree. [7] Each time a Croat candidate, with lower or different qualifications, was selected. [8] On one occasion, the manager of a child-care center allegedly told Ms. Gajica that she would be afraid of the local soldiers and policemen if she employed a Serb. [9]
Ljupce Mandic (55), from Kistanje near Knin, holds an M.S. in electrical engineering and worked in the Knin power supply company before the war. When he made inquiries about reinstatement to his previous job, he was told that ‘your side lost the war and you can’t come back.’ Mandic continues to work in Serbia, while his wife splits her time between Kistanje and Belgrade. [10]

In some instances it is clear that ethnic affiliation is the determining factor in employment practices. In Sibenik county, to which Knin belongs, the county prefect for educational issues has allegedly made public statements that Serb teachers would not get jobs (allocated by the county council). [11] An unemployed Serb graduate in economics, who applied for fifteen vacancies in Western Slavonia 1995-97, told Human Rights Watch that at the job interviews he was often asked whether he took part in the Homeland War as a defender. [12] As it was overwhelmingly the Croats, and not the Serbs, who fought in the Croatian army against Serb rebels, giving priority to defenders clearly discriminates against Serb applicants.

Human Rights Watch also interviewed returnees who unsuccessfully applied for jobs even though they were the most qualified or the only qualified candidates, as measured by the requirements from the job announcements. The employers in these cases decided to annul the announcements rather than hire the competent Serb applicants. In January 2003, Dusan Karanovic, an occupational safety engineer with fifteen years work experience, applied for a position as chief of the town’s fire brigade in nearby Knin. According to Karanovic, the staff of the Knin employment agency informed him that he was the only candidate who had passed the state exam, which was required by the job announcement. In March, however, the Knin town hall notified Karanovic that the job announcement had been cancelled. [13] Seka Tica, an economist with a university degree, applied in June 2002 for a post at the Korenica branch of the Karlovacka Bank. The job announcement specified that the candidate had to have a degree in economics. In July the Bank notified Tica that it had selected another candidate. According to Tica, the other woman, of Croat ethnicity, had told her that she had only a high school degree. In August 2002, the Karlovacka Bank responded to Tica’s formal complaint and notified her that the Bank annulled the job announcement, with a vague explanation that the job ad had been ‘incomplete.’ [14] In April 2003, according to Tica, during a trial of a case initiated by her against the Karlovacka Bank, the Bank produced a document announcing a vacancy for the same post. This time, however, the announcement stated that the Bank would accept applicants with less than a university degree. [15]

According to the OSCE, in some localities in Croatia—including in Dvor, Grozd, Vojnic, and Hrvatska Kostajnica—Serbs have been the only candidates since November 2002 for judicial vacancies, but the vacancies have remained unfilled. [16] The persistence of vacancies may constitute further evidence of discrimination.

One measure of discrimination is the degree to which state, municipal, or town-run services and institutions employ Serb returnees. In most areas of return, virtually no Serbs are employed in health centers, schools, child-care centers, post offices, courts, police, power-supply companies, customs services, or the local administration. Such is the case of Korenica, for example, including in the nearby national park Plitvice Lakes, which receives thousands of foreign tourists and employs hundreds of people. [17] Around 2,000 Serbs have returned to the area, and few of them have jobs. [18] In Gracac, where 1,500-2,000 Serbs had returned as of August 2001, only one returnee was employed in municipal institutions or enterprises. [19] As of June 2003, there were no Serbs employed in the police and the court in Vojnic, although Serb returnees outnumbered local Croats and Croat settlers by 3,500 to 2,500. [20] In the sixteen municipalities in Western Slavonia, as of August 2001 there was only one person—a nurse in the hospital in Pakrac—working in a state-run institution. [21]

Under the Constitutional Law on the Rights of National Minorities, enacted in December 2002, the State has to ensure proportional representation of minorities in the administration and the judiciary at state, county and municipal level. [22] The obligation to ensure proportional representation does not extend to public institutions, such as schools, universities, and hospitals, or to the police. The lack of legal obligation
to pursue adequate minority representation in public institutions and enterprises does not augur well for a
marked increase in the employment of Serbs returnees.” (HRW September 2003, pp.53-55)

[Footnote 1] Human Rights Watch interview with Robert Becker, deputy head of OSCE mission in Croatia,
[Footnote 3] Human Rights Watch interview with Andrej Mahecic, then-assistant public information
[Footnote 4] Human Rights Watch interview with Marko Kadrum, head of the Kistanje municipality,
[Footnote 5] A paper by the OSCE field office mentions this assessment by the employment offices from
[Footnote 6] Human Rights Watch interview with Bosko Raskovic, Raskovici (near Knin), August 25,
[Footnote 7] Boja Gajica had received a diploma for preschool education at a teacher training college in
Boja Gajica was confirmed by Olga Simic, then-head of the Knin office of the Croatian Helsinki
[Footnote 10] Human Rights Watch interview with Ljupce Mandic, Kistanje, August 24, 2001; Human
[Footnote 11] Human Rights Watch interview with Iris Vasiljevic, then-lawyer at the Knin branch of the
Croatian Helsinki Committee, Knin, August 24, 2001. Ms. Vasiljevic’s husband, a gym teacher, has been
unable to get a job since 1996.
returned to Croatia in 1996 and, in spite of his university degree, he has only been able to get a seasonal job
as guard at a garbage heap, for two months in 2002. In contrast, when Karanovic resided as a refugee in
Serbia, in 1995, he was immediately able to get an executive position in a state-owned company. Ibid.
Watch examined and confirmed the contents of the documents referred to in the description of the case.
12, July 3, 2003, p. 11.
[Footnote 17] Human Rights Watch interview with Nena Zigic, head of the Korenica office of the human
rights organization “Homo,” Korenica, August 27, 2001; Human Rights Watch interview with Nikola
Lalic, member of the Korenica housing commission and president of the local branch of the Serbian
[Footnote 18] Human Rights Watch interview with Nikola Lalic, president of the local branch of the
Committee of Solidarity, August 28, 2001. The one person employed was Nedeljko Vojvodic, a forestry
engineer in the Public Utilities Service, Gracac.
[Footnote 20] Human Rights Watch interview with Mile Djuric, secretary general at the office of the
[Footnote 21] Human Rights Watch interview with Obrad Ivanovic, head of the office of the Serbian
on the Rights of National Minorities (CLNM) and Related Legislation,” May 12, 2003, p. 9-11.

See also: "Croatia - Economic Vulnerability and Welfare Study" World Bank, 18 April 2001 [Internet]
Participation

Changes to election law should provide minorities with fairer representation (April 2003)

- On the 2nd of April 2003, the National Parliament adopted changes to Croatia’s election law, Law on Election of Representatives in the National Parliament
- Along with changes to the election law, five members were appointed to the new national-level Council of Minorities
- The adopted changes are positive steps in the application of the Constitutional Law on National Minorities (adopted 2002)
- OSCE representatives urged the country's authorities to promptly apply the law, to ensure that minorities were not deprived of proper representation

“Ambassador Peter Semneby, Head of the OSCE Mission to Croatia, has welcomed yesterday's adoption of changes to Croatia's election law by Parliament, providing national minorities in the country with fairer representation.

At the same time, he called for the prompt application of other parts of the country's minority law.

‘The adoption of changes to the Law on Election of Representatives in the National Parliament and the appointment of five members to the new national-level Council of National Minorities are positive steps in the application of the Constitutional Law on National Minorities,’ Ambassador Semneby said.

The new law provides for increased representation of Serb and other minorities which previously were not represented in Parliament, including the Albanian and the Roma minority.

Ambassador Semneby also urged the Croatian authorities to take more determined action to apply other parts of its new minority law.

Additional minority representatives should have been seated in five counties, and 83 towns and cities by 23 March.

‘The adoption of the Constitutional Law on National Minorities last December was an important move ahead,’ he said. ‘Its timely application is essential to secure minority rights in Croatia.’

The Government now needed to develop plans to ensure minority representation in the state administration and judiciary, he added.

The Head of Mission urged the country's authorities to promptly apply the law, to ensure that minorities were not deprived of proper representation.” (OSCE, 3 April 2003)


OSCE expresses concern over low voter turnout at minority elections (May 2003)

- The OSCE Mission urged the government to organise additional elections in areas where they were not held, as well as support minority associations’ information and campaign efforts
• Although the elections were conducted in an open and well-organised manner, the OSCE expressed concern that the low voter turnout could negatively impact the legitimacy of the elections
• Elections were held for less than half of the 470 councils and 140 representatives to which minority groups were entitled
• The elections are a key step in the implementation of the Constitutional Law on the Rights of National Minorities, to ensure representation for minorities in local and regional government

“The OSCE Mission to Croatia has expressed concern today about the low turnout at elections for minority councils held in Croatia on Sunday and urged the Government to organize additional elections in areas where they were not held.

The Head of the OSCE Mission to Croatia, Ambassador Peter Semneby, says the elections were conducted in an open and well-organized fashion, however the low voter turnout could negatively impact their legitimacy.

‘We urge the Government to organize additional elections in areas were elections were not held and assist minority associations in ensuring a higher turnout next time’ Ambassador Semneby said. ‘This would be facilitated by giving a longer lead time in which the elections could be prepared and by supporting the information and campaign efforts by minority associations.’

Elections were held for fewer than half of the 470 councils and 140 representatives to which minority groups were entitled (respectively 221 councils and 42 representatives).

Reports by GONG, the non-governmental organization (NGO) supported by the OSCE to promote and observe the elections, confirm the Mission's observations.

The elections are a key step in the implementation of the Constitutional Law on the Rights of National Minorities, which was adopted last December and welcomed by the OSCE, the EU and other international organizations.

‘The Government should also take immediate steps to implement overdue local and regional elections - originally scheduled to take place by 23 March 2003 - to ensure adequate representation for minorities in local and regional government, as provided by the Constitutional Law on the Rights of National Minorities,’ Ambassador Semneby said.” (OSCE 19 May 2003)

See also, “Missed Deadline for By-elections of Minority Representatives” OSCE (Vjesnak), 19 September 2002 [Internet]

OSCE reports discrimination against the displaced ethnic Serbs during the elections in January and February 2000 (2000)

• Discriminatory treatment of the ethnic Serbs during the Parliamentary and presidential elections in January/February 2000 partly based on the legal distinction between the expellees, mostly Croats, and the "displaced persons", mostly Serbs
• Insufficient number of polling stations for the "displaced persons" forced the voters in question to travel long distances and endure long delays in order to vote
• There were a number of cases in which members of polling station committees were hostile towards displaced ethnic Serbs and in some instances even denied them their right to vote
Voter lists prepared by the Office for Displaced Persons and Refugees were often inaccurate and many displaced ethnic Serbs were required to follow a burdensome administrative procedure to receive certificates to vote

"Problems were [...] experienced by displaced Croatian Serbs during the parliamentary elections held in January 2000. The elections were conducted pursuant to a new election law of November 1999 which gives overall responsibility for the administration of elections to the State Election Commission (SEC). To fulfil its responsibilities, the SEC is empowered to issue "Mandatory Instructions". Pursuant to Mandatory Instruction X, the SEC established 200 polling stations for "expellees" from Vukovar-Srijem County and 10 polling stations for 'expellees' from Osijek-Baranja. Two polling stations were established for 'displaced persons' [1]. The distinction between the two groups of displaced persons is found in national legislation and reflects the date around which the displacement occurred but really reflects ethnic identity [2]. There are approximately 14,500 'expellees' who are overwhelmingly ethnic Croats, and some 1,400 'displaced persons' who are overwhelmingly ethnic Serbs. As there were only two polling stations for 'displaced persons', the voters in question sometimes had to travel long distances and endure long delays in order to vote. The distinction between the two is clearly discriminatory in nature.

According to ODIHR, during the elections there were a number of cases in which members of polling station committees were hostile towards 'displaced persons' and ethnic Serbs and in some instances even denied them their right to vote. Problems were also noted with regard to inaccurate voter lists as prepared by the Office for Displaced Persons and Refugees and many 'displaced persons' were required to follow a burdensome administrative procedure to receive certificates to vote. Many of those not on the list were told by voting committees that they were not entitled to vote [3].

Although ODIHR recommended that the distinction between 'displaced persons' and 'expellees' be removed in order to ensure equal treatment for all internally displaced persons, it remained in force for the two rounds of the presidential elections held in January and February 2000. Again voter lists for 'displaced persons' at their two assigned polling stations were inaccurate and some of the displaced were required to follow the same burdensome procedures as in the parliamentary elections in order to vote. The problem was also reported in the second round of the presidential elections in February, that is to say during the third election in a five week period. ODIHR noted that turnout among 'displaced persons' was also much lower than during the parliamentary election, a possible indication that 'problems experienced by voters on 3 January acted as a disincentive to participate'. Again, ODIHR recommended that the distinction between 'displaced persons' and 'expellees' be removed [4].

[3] Ibid.
(Bagshaw September 2000, pp. 14-17)
DOCUMENTATION NEEDS AND CITIZENSHIP

Documentation

IDPs, refugees and returnees are unable to obtain documentation to access employment and other social rights (2002-2004)

- The continued uneven implementation of the 1997 ‘convalidation’ law has resulted in many displaced people and returnees being unable to have their pension rights recognized
- The 1997 law on Convalidation provides for the validation of employment and other social rights related documents issued between 1991-1995 during the conflict
- A restrictive deadline for applying and residency requirements under the law have prevented IDPs, returnees and refugees from having pension, employment and other rights recognised

“One of the major issues of concern to DPs and returnees in Croatia, is the recognition and realization of the pension rights of those who had been employed during the period 1991-1995 on territories of Croatia which were not under the Croatian Government’s control during the conflict (i.e. Eastern Slavonia and other war-affected areas near the borders). Whereas the 1997 Law on Convalidation gave the possibility to validate (or ‘convalidate’) documents issued in these areas which proved such employment and related rights, the restrictive deadline for applying as well as certain residency requirements under this Law has resulted in the exclusion of several returnees and DPs, as well as refugees still abroad, from convalidating documents which would be necessary for the recognition and realization of their pension rights.” (UNHCR/ Stability Pact June 2002, p.3)

“Continuing uneven implementation of the 1997 ‘convalidation’ law deterred many elderly and disabled Serbs from returning. The law had sought to recognize acts and decisions of the Krajina Serb authorities, including documents issued by them during the region’s brief secession from Croatia, and thereby allow holders of the documents to apply for public assistance and other state benefits. Convalidation of documents also established work experience. However, most Serb refugees in Yugoslavia and Bosnia were not able to apply for welfare benefits within the limited period provided under the law since they were not in Croatia. Consequently, they risked losing their pensions or disability insurance proceeds—a major disincentive to return, given the bleak employment prospects for elderly ethnic Serbs.” (USCR 2003, p.188)

See also:
The section on pensions, pp. 13-14 in "Croatia Returns Update", 13 May 2004 [Internet link]

“Failure to obtain validation of their documents required to access social benefits discourages return of minorities (2003-2004)” [Internal link]

Legal status of minorities

Progress in the implementation of the 2002 constitutional law on the rights of national minorities although a number of provisions remain to be addressed (May 2003)
• The Constitutional Law on the Rights of National Minorities (CLNM) was adopted in December 2002 and published in the Official Gazette on the 23 of December 2002
• Implementation includes steps to remedy minority under-representation at county, municipality and town levels and the appointment of the Council for National Minorities at the national level
• Full implementation also requires harmonization of related legislation, such as laws relevant to parliamentary, regional and local elections, and laws relating to the judiciary and state administration
• One of the first steps in implementation taken by Parliament was to adopt on 11 March 2003 amendments to the law regulating election of local and regional representative bodies relevant to minority representation, as well as local and regional advisory minority councils
• Amendments to the law regulating parliamentary elections relevant to minority representation were adopted on 2 April 2003
• The OSCE Mission to Croatia has expressed concern about remaining ambiguities in the application of the adopted amendments which would delay implementation.
• The Council of Europe’s Venice Commission welcomed the adoption of the CLNM
• However, the Commission noted that a number of issues require further clarification, particularly special laws whose adoption are still required for full implementation of the guarantees in the CLNM
• Several provisions in the CLNM on education and other rights remain to be fully addressed by relevant authorities

“The Constitutional Law on the Rights of National Minorities (CLNM) was adopted by the Croatian Parliament on 13 December 2002. As required by Article 82(1) of the Croatian Constitution, the CLNM was adopted by more than the required two-thirds majority (101) of all representatives (115 for, 4 against, 2 abstentions).

The CLNM was published on 23 December in the Official Gazette (NN 155/02). On the date of publication, the CLNM came into immediate effect (Article 45) and the prior CLNM was repealed (Article 44). Publication triggered two 90-day deadlines that expired on 23 March 2003; the first, remedying minority under-representation in 5 county and 83 municipality and town self-governments that resulted from the May 2001 elections; the second, Government appointment of the Council for National Minorities at the national level. The first deadline expired without substantial implementation at the local and regional level. The Government issued relevant decisions within a relatively short period after the expiration of the second deadline.

Full implementation of the CLNM will require harmonization of related legislation, e.g., laws pertaining to parliamentary, regional and local elections as well as laws relating to the judiciary and state administration. As one of the first steps toward implementation, the Parliament adopted on 11 March 2003 amendments to the law regulating the election of local and regional representative bodies relevant to minority representation, as well as local and regional advisory minority councils. In late January and early February minority representatives spoke publicly about the need for the Parliament to act quickly so as to meet the 90-day deadline. Although the amendments have now been adopted, there are remaining ambiguities about the meaning and manner of their application that seem likely to delay implementation. Amendments to the law regulating parliamentary elections relevant to minority representation were adopted and published on 2 April in the Official Gazette (NN 53/03).

In its opinion of 25 March 2003, the Council of Europe’s Venice Commission welcomed the adoption of the CLNM stating that it represents ‘… in many ways, a significant improvement as compared to earlier drafts commented upon by the Venice Commission’. However, the opinion went on to state that ‘… a certain number of issues still require further clarification’, particularly special laws whose adoption are still required for full implementation of the guarantees in the CLNM’[1].
Implementation of the CLNM will also require clarification by relevant Government bodies of the manner in which particular guarantees are to be implemented, such as minority representation in the state administration and judiciary. To date, the Mission has observed few significant steps in that direction. Thus, four months after the adoption of the CLNM, a substantial number of open questions remain.”

(OSCE Mission to Croatia 12 May 2003)

[Footnote 1] Opinion on the Constitutional Law on the Rights of National Minorities of Croatia, adopted by the Venice Commission at its 54th Plenary Session (Venice 14-15 March 2003), Opinion No. 216/2002, CDL-AD (2003) 9, 25 March 2003, paragraph 7 (hereinafter ‘Venice Commission Opinion’). ‘The Commission noted, among other, that full implementation of the guarantees provided by the Constitutional Law to ensure the effective protection of the rights of national minorities require the adoption of special laws and regulations … . The Commission therefore reiterated its readiness to co-operate with the Croatian Government in the preparation of these laws …. However, the Croatian Government had not forwarded the draft amendments to the Law on the Local Elections to the Venice Commission and has not requested its co-operation in the revision of this law.’ Id. At paragraphs 3, 5.

“Since the entry into force of the CLNM on 23 December 2002, some central developments have taken place with regard to amending related election legislation. On 11 March 2003 amendments to the Local Election Law were adopted in order to conform to Article 20 of the CLNM regarding minority representation in self-government units. The MP Election Law was likewise amended on 2 April in order to correspond inter alia with Article 19 of the CLNM with regard to adequate minority representation in the Parliament. Serbs, Croatia’s largest minority, were granted the maximum number of parliamentary seats (3) allowed under the CLNM. Further, with regard to the creation of new representative and advisory mechanisms for national minorities set out in the CLNM, the Government appointed five members to the national-level Council of National Minorities shortly after the official deadline of 23 March.

However, many issues related to the implementation of election rights in the CLNM remain open. Although originally scheduled for 15 September 2002 under previous legal provisions, and then again for 23 March 2003 under the new CLNM, neither the appointment of minority representatives nor alternatively the holding of by-elections has taken place in a significant number of the 5 counties and 83 municipalities and towns in order to correct the underrepresentation of national minorities in these areas.

Further, it has not yet been announced how minority representation in state administration and judicial bodies as well as executive bodies will be secured in line with Article 22 of the CLNM. Laws regulating the judiciary must still be amended in order to come into compliance with the CLNM.

The Government published on 16 April the call for the first-time election of minority councils at the local and regional level to be conducted on 18 May 2003. Minorities nominated less than half the number of candidates to which they were entitled under the CLNM by the 28 April nomination deadline. It appears that at least a significant part of the under-nomination of minority candidates results from a lack of minorities being able to organize within the time allowed. Though the Government has fulfilled its obligation to appoint five members in the National Council, this Council will initially only comprise the Government’s appointees and the minority Members of Parliament since the seven additional members have to be nominated by the still non-operational local and regional minority councils.

Finally, several provisions in the CLNM on education and other rights remain to be fully addressed by relevant authorities. Some of these rights have, however, already been implemented before the entry into force of the CLNM. The Mission will continue to monitor and report on these and other issues relevant to ensuring the full and timely implementation of the CLNM.” (OSCE 12 May 2003, pp. 18-19)

See also, “OSCE Status Report No.13”, OSCE, paras. 1-7 on the “Rights of National Minorities and non-discrimination”, December 2003 [Internet]
New constitutional law on the rights of national minorities adopted with broad political support (13 December 2002)

- Parliament adopted the Constitutional Law on National Minorities in 2002 following extensive discussion with minority groups and political parties
- The law guarantees minority representation in local government bodies and creates minority councils to advise elected officials on minority rights
- The law also promotes the use of minority languages and symbols and provides for the election of up to eight minority representatives to parliament
- Implementation of the law has been slow and in some areas non-existent
- Elections were held for the new local minority councils in May 2003, but turnout was so low the elections were overwhelmingly judged to be a total failure
- It is presumed the less than 10 percent turnout was due to various factors, including short deadlines, an insufficient number of polling stations, and inadequate voter education

“In 2002, after extensive discussion with minority groups and political parties, Parliament passed a Constitutional Law on National Minorities with broad political support. However, implementation has been slow and in some aspects non-existent. The law assures minority representation in local government bodies, creates minority councils to advise elected officials on minority rights, promotes use of minority languages and symbols, and provides for the election of up to eight minority representatives in the parliament. Ethnic minority groups welcomed most of the law’s provisions, but objected to the loss of generous affirmative action rights to elect representatives to parliament. In May, elections were held for the new local minority councils, but turnout was so low the elections were broadly judged to be a total failure. Reasons cited for the less than 10 percent turnout included short deadlines, an insufficient number of polling stations, and inadequate voter education.” (US DOS 25 February 2004, Sect.3)


Footnote [2] Adoption of a revised Constitutional Law on National Minorities is also a condition for Croatia’s accession to NATO as re-iterated by the NATO Secretary General in August 2002.

For more information see “Background Report: Constitutional Law on National Minorities” OSCE Mission to Croatia, 20 August 2002 [Internet]
Political and legal context becomes more favourable to the protection of minority groups (2000)

- Newly elected national authorities emphasised the equal rights of all Croatian citizens regardless of their ethnicity
- Amendments to laws and constitutional provisions pertaining to minority rights were adopted in 2000

"The [January 2000 Presidential Elections] brought relief to members of minority groups: the atmosphere among the public and in the media grew more tolerant toward them. The authorities in all their public appearances emphasised the equal rights of all Croatian citizens regardless of their ethnicity and the respect for their rights. The Parliament amended the Law on the Use of Language and the Letters of Ethnic Minorities and the Law on Education and Upbringing. Changes to the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities were adopted on condition that the authorities in the period of six months create a special model of autonomy acceptable for the most numerous ethnic minorities in Croatia. The [constitutional changes that were passed by the Parliament on 10 November 2000] introduced positive discrimination against the minorities regarding the voting rights: the minority members shall be given one more ballot to vote for both a candidate in general voting lists and another on the lists of the ethnic minorities." (IHF 2001, p. 104)

Nine new recognized minorities have been added to the existing of seven in the Constitution, including Muslims, Albanians, and Slovenes. (U.S. DOS February 2001, sect. 5)

Citizenship

New “Law on Foreigners” should enable regularisation of citizenship status to pre-war residents (2004)

“The new Law on Foreigners was scheduled to enter into force on January 1, 2004. The Law's transitional provisions are designed to enable former habitual residents to return and regularize their status. The law states that if they return within 12 months, they would be reinstated into their pre-war status of former habitual residents without any further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship.” (US DOS 25 February 2004, Sect.2d)

See: “The Law on Foreigners”, 3 July 2003 in English translation [Internet]


- The citizenship law distinguishes between people of Croatian ethnicity and those who are not
- Even those previously lawful residents of the former Socialist Republic of Croatia were compelled to provide proof of previous residence and citizenship not demanded of ethnic Croats
- Obstacles to ethnic Serbs' documenting their citizenship has led to discrimination in other areas, including the right to vote
• While a citizenship application is pending, the applicant is denied social benefits including medical care, pensions, free education, and employment in the civil service
• Denials of social benefits frequently were based on Article 26 of the law that stipulates that citizenship can be denied to persons otherwise qualified for reasons of national interest
• There is a need to facilitate the naturalization of non-ethnic Croats who were permanent residents until the conflict

“The Citizenship Law distinguishes between those who have a claim to Croatian ethnicity and those who do not. Ethnic Croats are eligible to become citizens, even if they were not citizens of the former Socialist Republic of Croatia, so long as they submit a written statement that they consider themselves Croatian citizens. Non-Croats must satisfy more stringent requirements to obtain citizenship through naturalization after 5 years of registered residence. Even those who previously were lawful residents of the former Socialist Republic of Croatia were compelled to provide proof of previous residence and citizenship not demanded of ethnic Croats. Obstacles to ethnic Serbs' documenting their citizenship led to discrimination in other areas, including the right to vote [...]. While a citizenship application is pending, the applicant is denied social benefits including medical care, pensions, free education, and employment in the civil service. Denials frequently were based on Article 26 of the Citizenship Law (which stipulates that citizenship can be denied to persons otherwise qualified for reasons of national interest) and on Article 8 (which requires that a person's actions demonstrate that they are ‘attached to the legal system and customs of Croatia’ and that they have maintained a registered residence on the territory of Croatia for the 5 years preceding the application for citizenship). The Interior Ministry recognizes the period that mostly ethnic Serbs spent outside the country as refugees as applicable to the 5-year residency requirement.” (US DOS 25 February 2004, Sect.5)

"Croatian citizenship legislation contains provisions that discriminate on the basis of national origin. These provisions impede the sustainable return of refugees and the integration of non-Croat long-term residents who remained in the country following Croatia's independence.

For example, the 1991 Law on Croatian Citizenship provides for citizenship by naturalization to non-resident Croats under more lenient standards than to individuals of other ethnic groups who were permanent residents until the conflict. For this reason, the Council of Europe's Venice Commission recommended in March 2002 that the Law on Croatian Citizenship be revised. In addition, the Ministry of the Interior's insistence upon formal renunciation of another citizenship by non-Croat permanent residents, even in cases where such renunciation is not reasonably possible, effectively leaves such individuals unable to obtain Croatian citizenship.

Further, the Law on the Movement and Stay of Foreigners, which is closely linked to the acquisition of citizenship by naturalization of non-Croats, subjects non-Croat pre-conflict residents, whose permanent residence has been terminated by the Ministry of the Interior, to the same legal requirements as new immigrants. The draft proposal for a new Law on Foreigners should properly take into consideration the distinction between pre-conflict residents who became foreigners upon independence through operation of law on the one hand, and newly-arrived foreigners on the other hand." (OSCE 21 May 2002, p. 7)
ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

General

At least 1,842 persons remain missing from the conflict (2003-2004)

- The search for missing persons through exhumations is now adequately managed by the Croatian government
- Official figures through June showed that 1,235 ethnic Croats and 607 ethnic Serbs remained missing in unresolved cases from the 1991-95 military conflict

"The Mission has concluded that the search for missing persons through exhumations is now adequately managed by the Government Office for Missing and Detained Persons, and that the exchange of information and mortal remains with the Office's counterparts in the Federal Republic of Yugoslavia and Bosnia and Herzegovina has improved. The Mission can therefore limit monitoring of exhumations to particularly sensitive cases." (OSCE 21 May 2002, p. 8)

“Government figures through June showed that 1,235 ethnic Croats and 607 ethnic Serbs remained missing in unresolved cases from the 1991-95 military conflict. The Government's Office of Missing Persons had information on 500 sites where missing Croatian Serbs might be located. Of the 3,924 victims that have been exhumed from mass and individual graves since the war 3,054 have been positively identified.

During the year, the bodies of 55 victims missing from the 1991-95 war were exhumed from mass and individual graves; the Government explained the relatively low number of exhumations by the fact that frequently partial remains were unearthed at one site only to discover that the actual bodies were moved to another yet undiscovered site. With the ICTY and international experts serving primarily as monitors, the Government handled all exhumations and identifications itself.

The International Commission on Missing Persons worked in the country on recovery, identification of remains, and assisting the families of missing persons. The Government Office for Missing initiated cooperation with counterpart agencies in Bosnia and Herzegovina (BiH) and Serbia and Montenegro, in collaboration with the International Red Cross and local Red Cross offices, for the purpose of data collection and information sharing designed to establish more precise figures on the missing.” (U.S. DOS 25 February 2004, Sect. 1b)

For more information, see also the section titled “Unresolved disappearance” in “Concerns in Europe and Central Asia January to June 2003” Amnesty International, October 2003 [Internet]
PROPERTY ISSUES

General

Tenancy rights issue has not yet been resolved (2004)

- Lack of resolution regarding tenancy rights is a key obstacle to the return of Serbs to urban areas where most housing was under the regime of tenancy rights
- The current government has undertaken to provide accommodation to all tenancy rights holders by the end of 2006, though in practice little progress has been made
- A number of apartments remain empty because the issue of ownership rights remains unresolved
- Even if the June 2003 government-subsidised programme begins, there is concern that it may be inaccessible to most returnees
- In June 2003, the Government adopted legislation that will provide housing to former occupancy/tenancy rights holders outside the Areas of Special State Concern
- The underlying issue of whether terminations of occupancy/tenancy rights of refugees and IDPs was legally justified however remains to be addressed

“The outlook for displaced former occupancy/tenancy rights holders was improved through the Government’s decision in June 2003 to secure housing for such persons outside the Areas of Special State Concern (ASSC). This decision complemented the existing similar decision for the ASSC. Implementation has not yet started. Although conditions for leasing or buying the apartments are favourable compared to the market value, it remains to be seen how many potential beneficiaries have the means to make use of the programme. The programme does not address the larger issues of whether the terminations of occupancy/tenancy rights of refugees and displaced persons were legally justified.” (OSCE 18 December 2003, p.2)

"It is significant that the authorities have recognized that the issue of housing for former occupancy/tenancy rights must be addressed. The programme must, however be judged on the basis of implementation.” (OSCE 8 July 2003)

“Since 2000, the Croatian government has gradually introduced legislation to provide former tenancy rights holders with government housing assistance. The new government has also undertaken to provide accommodation for all tenancy right holders by the end of 2006. In practice, little progress has been made. Lack of resolution regarding tenancy rights is a key obstacle to the return of Serbs to urban areas, where most of the housing stock was under the regime of tenancy rights.[1] Thousands of families lost tenancy rights in so-called areas of ‘special state interest’ (those occupied by rebel Serbs during the war). [2] The Law on Areas of Special State Concern, as amended in July 2002, provides for housing care for those former tenancy rights holders who do not own property in other parts of Croatia and former Yugoslavia, and who wish to return to Croatia. In practice, however, implementation of this aspect of the law has not even started. The government is still merely collecting applications for housing care from former tenancy right holders.[…]

Some of the obstacles to implementation would be simple to overcome. A number of apartments in towns like Udbina, Licki Osik, Gracac, or Knin, are still empty. With fairly modest investments the government could repair and allocate them to former tenancy rights holders.[…] It appears that the apartments have not
been used for these purposes because the dissolution of socialist enterprises, which owned the apartments before the war, has left the issue of ownership over the apartments unresolved.[…] The government, however, should speed up the process of revision of the ownership status and set out a deadline for its completion.

Elsewhere in Croatia, the implementation of the June 2003 government-subsidized housing program in those areas has yet to begin. More than 23,000 Serb families lost tenancy rights in those areas, which remained under Croatian government control during the war. During 2004, the government will be mainly receiving applications from former tenancy rights holders.[…] Even when the implementation of the program begins, however, there are concerns that it may be inaccessible to its purported beneficiaries. The purchase price of the apartments available to former tenancy rights holders is not significantly below the market price. In contrast, those former tenancy right holders whom the government had not divested of tenancy right were able to purchase their apartments for a much lower price.[…]

The program’s value will be tested during 2004, when government-subsidized housing will be offered for the first time to returnees, according to the Croatian official in charge of returns policies. The official told Human Rights Watch in February 2004 that an unspecified number of newly built state-owned apartments are available in Sisak and Slavonski Brod. During 2004, former tenancy rights holders outside the areas of the special state concern will be given an opportunity to lease or purchase these apartments.[…]” (HRW 13 May 2004, pp.8-9)

[Footnote 1] It is estimated that of all residential properties in urban areas in the former Yugoslavia, 70-80 percent were under the tenancy rights regime. OSCE Mission to Croatia, ‘Prethodne informacije po pitanju izgubljenih stanarskih prava u Hrvatskoj’ (Background Information Concerning Lost Tenancy Rights in Croatia), November 26, 2001 (version in Croatian), p. 2.

[Footnote 2] There are no government statistics or reliable estimates of the number of tenancy rights in the areas controlled by Serbs during the war. More than 23,000 Serb families lost tenancy rights in the areas controlled by the government.

See also:
“OSCE statement on tenancy/occupancy rights in Croatia”, OSCE, 2003 [Internet]

"OSCE amicus curiae brief to the European Court of Human Rights in Blecic v. Croatia”, OSCE, 2003 [Internet]

“OSCE about Occupancy/Tenancy Rights”, OSCE, 10 October 2002 [Internet]

“Broken Promises: Impediments to Refugee Return to Croatia, Vol. 15, No. 6(D)”, HRW, September 2003 [Internet].

Progress in legislative and administrative framework, yet repossession of private property remains slow (2003-2004)

• Private property repossession has not accelerated despite progress in the legal and administrative framework for return
• 3,300 houses remained occupied as of late 2003
• State attorneys are not using expedited court procedures to resolve property repossession
• Repossession in some parts of Croatia has improved, including in Ogulin, Pakrac, and Korenica
• Property repossession in the key return area of Knin has been almost stagnant (as of early March 2004)
There has been little or no progress in the eviction of temporary occupants who own habitable and vacant property in Bosnia and Herzegovina.

In contrast, government efforts on property reconstruction are advancing well.

“We have seen progress on the legislative and administrative framework for return, but practical implementation still remains slow. Regarding property possession, we have not seen an increase in the pace of return of occupied housing, due in significant part to the policy choices reflected in the applicable legislation. Conversely, Government efforts on property reconstruction have been advancing well, with the number of Serb beneficiaries receiving reconstruction assistance being substantially increased.” (OSCE 8 July 2003)

“While Croatia is making some progress in the implementation of the legislation on repossession of property, movement continues to be unjustifiably slow. After the end of the war in 1995, the Tudjman government issued some 19,300 decisions authorizing use of abandoned Serb houses by temporary occupants. As of late 2003, more than 3,300 of these houses were still occupied, effectively blocking the return of their rightful owners.[…]

State attorneys are still not using expedited court procedures for resolving repossession cases, and verdicts are not executed promptly. The OSCE Mission to Croatia has found that, in 2002 and 2003, state attorneys took six months on average to initiate lawsuits at municipal courts after receiving cases from the Directorate for Expellees, Returnees, and Refugees (ODPR). Delays were often due to the incomplete documentation provided by ODPR. It took a further four more months, on average, before the first hearing in the case was scheduled. As of February 2004, only 3 to 3.5 percent of all repossession cases transferred to state attorneys, pursuant to the relevant legislation from July 2002, have been concluded.[…]

The actual repossession rate since July 2002 has been higher than 3 percent, because temporary occupants often leave the property before the court proceedings have been completed.[1] However, the deadlock that results when temporary occupants refuse to vacate remains a problem. During follow-up research in February 2004, Human Rights Watch checked the current status of three repossession cases described in its September 2003 report. All three owners—Dusan Vilenica (from Karlovac),[…], Danilo Stanic (from Gracac),[…], and Petar Djuric (from Knin)[…]—have been trying to repossess their homes for six years. As of February 2004, their cases were still pending.[…]

Since the publication of the report Broken Promises in September 2003, OSCE representatives monitoring the return process in the field have told Human Rights Watch that housing authorities and state attorneys in some parts of Croatia, including in Ogulin,[…], Pakrac,[…], and Korenica,[…] are making efforts to speed up the process of repossession. In the key return area of Knin, however, property repossession remained “virtually stalled” as of early March 2004. […] Lack of movement on repossessions, coupled with the ongoing failure to resolve lost tenancy rights (see below), has hampered returns to Knin. The Serbian Democratic Forum registered 950 returns to Knin during 2003, contrasted with 1,260 in 2002.[…]

In November 2003, the authorities resolved one of the most prominent cases of use of a Serb-owned house for business purposes.[…] The house, in the town of Knjač, belongs to returnee Petar Kunic. The temporary occupant, Vinko Petrovic, used the house as a restaurant.[…] The illegal use of Serb houses for business purposes is particularly striking along the road connecting the capital Zagreb with the Dalmatian coast, where Kunic’s house is also located. The new government should promptly resolve other similar cases.

Overall, the pace of repossession remains slow, because authorities have yet to use the full complement of measures available to vacate Serb houses. Most repossession currently takes place only when Croat occupants of Serb properties are allocated a plot and materials by the authorities to construct a house. By contrast, there has been little or no progress toward the eviction of temporary occupants who own vacated and inhabitable property in Bosnia and Herzegovina. Such occupants are ineligible for alternative
accommodation and should be promptly evicted.[…] State attorneys have initiated eviction procedures in some areas.[…] However, the procedures through which courts verify the status of the properties in Bosnia are inefficient. As a result, NGOs and OSCE officials monitoring return on the ground are either unaware of any case of eviction on this basis in the areas they monitor,[…] or have registered only a handful of cases.[…]

There has been no progress since September 2003 toward amending legislation which blocks repossession within a reasonable timeframe.[…] Croatian law still protects family members who lived in the same household before the war and now occupy two or more Serb houses; under the law these occupants are entitled to government-provided alternative accommodation before they can be evicted.[…] In a similar vein, temporary occupants who are financially or otherwise able to make other housing arrangements are nonetheless entitled to alternative accommodation prior to eviction.[2]” (HRW 13 May 2004, pp.7-9)

[Footnote 1] According to the government, 3,873 properties were returned to their owners during 2003, leaving 3,376 cases still to be resolved. Return of Refugees and Displaced Persons in Croatia, ibid. The figures would indicate that more than half of the occupied properties were vacated during the year. The figure is misleading, however, because many official “reposessions” pertained to abandoned properties that were unoccupied. Human Rights Watch interview with international officials in Korenica and Knin, February 2004. Nevertheless, a number of houses—clearly exceeding 3 percent of all occupied properties—were returned to the owners during 2003.

[Footnote 2] On February 20, 2004, the Croatian government adopted a Conclusion entitling the authorities to accommodate the owner within the excess living space of his house prior to the occupant receiving alternative housing. See: Organization for Security and Cooperation in Europe & United Nations High Commissioner for Refugees, 5th Report on Issues of Property Repossession under the July 2002 Amendments to the Law on Areas of Special State Concern (LASSC) (November 2003- March 2004), Zagreb, April 19, 2004, p. 3. The measure is likely to have a negligible impact on repossessions.

See also, “OSCE sees progress on Croatia key laws, urges faster return”, OSCE, 8 July 2003 [Internet]

Looting and destruction of properties occurs regularly (2003-2004)

- Looting by occupants of both fixtures and moveable property prior to vacating government allocated property continues to occur on a routine basis
- Looting remains common in the municipalities of Glina, Petrinja, Vojnic, Gvozd, Plaski, Karlovac, Hrv. Kostajnica and D. Kukuruza
- There has been limited compensation to owners for damage done by looting
- The OSCE has undertaken a number of activities to prevent looting and intentional damage to properties, including sensitisation of local police
- Although local authorities issue oral and written warnings, in most return areas these warnings have been ineffective
- State prosecutors are mandated to sue temporary occupants who intentionally damage or loot property yet no such prosecutions have taken place
- Serb returnees have been reluctant to bring court action themselves, because many temporary occupants continue to reside in the same area

“Another lingering problem related to repossession of properties is that temporary occupants often loot and seriously damage Serb-owned houses before vacating them.
The latest information suggests that ODPR officials throughout the country issue oral or written warnings to temporary occupants, to advise them that looting and property destruction are illegal and may lead to a loss of entitlement to housing care. [...] In most returnee areas, however, these warnings have failed to prevent the destruction of premises and the looting of furniture.

State prosecutors are mandated under the law to sue temporary occupants who intentionally damage or loot property that has been allocated to them, but organizations monitoring returns have no knowledge of any such prosecutions taking place. [...] Serb returnees are unlikely to bring court action themselves: the temporary occupants usually continue to live in the same area, making returnees reluctant to sue. Moreover, court proceedings are expensive, and returnees remain skeptical about their ability to obtain justice before the courts.[...]

“...A negative aspect of some progress in the repossession of property by owners is that looting by the occupant of both fixtures and moveable property prior to vacating Government allocated property continues to occur on a routine basis. The [OSCE] Mission’s field office in Hrvatska Kostajnica reported several cases in the Sunja municipality in which users destroyed or severely damaged before vacating the premises they had occupied. Similarly, the field office in Petrinja reported seven cases in which when the owner repossessed the property it had been significantly damaged and looted.

To date, State Attorneys have not initiated any actions against occupants seeking compensation for damage, although so authorized by the LASSC. For their part, owners have been reluctant to approach State Attorneys for purposes of initiating such claims, expressing skepticism about the possibility of succeeding in obtaining compensation through civil lawsuits against the occupants. However, the Mission has advised owners to pursue this remedy provided by law.

[...] Given its perspective that the prevention of looting and intentional damage is preferable to after-the-fact attempts to obtain compensation for damage incurred, the Mission has undertaken a number of activities with RODPR and police to sensitize them to this issue as well as to engage them in preventive efforts. In mid-September, field staff arranged a multi-agency meeting in Benkovac to discuss looting with representatives of local police and ODPR. The Mission’s Police Adviser has also initiated discussions with the Ministry of Interior in Zagreb concerning the possible issuance of instructions to local police concerning operational procedures on looting. The Ministry has expressed a willingness to address this issue, acknowledging police under-performance in this area.” (OSCE/UNHCR 28 October 2003, pp.19-20)

“Given the limited field monitoring capacity of UNHCR Field Offices, looting cases submitted with the last report have not been followed up further physically by UNHCR for this report. All new cases are exclusively based on partner NGO reports (SDF Vojnic and Pakrac, CHR, IPC) and could not be physically verified by UNHCR staff. However, UNHCR partner agencies are continuously reporting incidences of looting, a lack of will on the side of most RODPRs to prevent this and a deficient legal framework, leaving owners unprotected and vulnerable.


For more detailed information regarding response by national authorities toward looting, see the full report of the OSCE/UNHCR “4th Report on Issues of Property Repossession under the July 2002 Amendments to the Law on Areas of Special State Concern (June 2003-September 2003)," 28 October 2003 [Internet]

See also, p. 30 of “Broken Promises: Impediments to Refugee Return to Croatia, Vol. 15, No. 6(D)”, HRW, September 2003 [Internet]
Government adopts exceptional measures to speed up property repossession but rate of property repossession continues to be low particularly in southern Croatia (2003)

- Delay in the repossession process is due to a number of factors including a high number of temporary occupants who are still eligible for state housing prior to moving out
- The repossession process has also been delayed due to slow legal proceedings in the courts and to delayed or thwarted court-ordered evictions
- Illegal occupants are not actually being evicted and efforts on behalf of the government to address the issue of illegal occupancy have been meager
- In October 2003, the Government adopted exceptional measures to speed up property repossession and to return by end 2003 all remaining residential properties allocated to temporary users under a 1995 law
- Measures included the purchasing of vacant houses and apartments, expediting court proceedings to evict temporary occupants and faster delivery of construction material and electrification of alternative housing
- The rate of repossession of occupied property improved in central Croatia (particularly Petrinja, Glina) because physical allocation of housing to temporary occupants has been accelerated
- A very low repossession rate persists in other areas, particularly in the Knin area

“The repossession of housing[1] has not improved significantly during the reporting period. Most of the concerns raised by the Mission remain, in particular the precedence given to the interests of temporary users above the rights of owners. There are several reasons for the delay of the repossession process. First, a high number of temporary occupants (3,700) are still eligible for state-provided housing (housing care/temporary accommodation) to be provided prior to their moving out. Second, legal proceedings in courts are generally slow. Third, legal proceedings are often held on cases already decided by administrative authorities. Finally, court-ordered evictions are regularly delayed or thwarted. Efforts of the Government including the State Attorney’s office as well as the courts to address cases identified as illegal occupancy remained far from satisfactory. As a result, illegal occupants are actually not evicted. They vacate occupied properties only when they decide that they no longer need the house and voluntarily move out.

On 16 October 2003, the Government adopted exceptional measures in order to speed up property repossession and to return by the end of 2003 all remaining 2,700 residential properties that were allocated to temporary users under a 1995 law. The measures foresee the purchasing of vacant houses and apartments, expediting court proceedings to evict temporary occupants (although the authority to do so lies with the judiciary), and ensuring a faster delivery of construction material and electrification of alternative housing. The competent Ministry was instructed to rent a number of housing units as a temporary solution for occupants. The Ministry was also requested to appoint representatives for those owners with whom contact has not been established in order to repossess over 1,500 houses in the name of the owners. Still, the return of all claimed housing properties by the mentioned deadline remains unlikely.

The deadline for repossession of housing properties - originally set for the end of 2002 through legislation adopted in 2002 - has been extended, but the Minister for Public Works, Reconstruction and Construction acknowledged in October 2003 that the new deadline (end of 2003) would not be met.

The rate of repossession of occupied property has improved in a number of municipalities in central Croatia (Petrinja, Glina), because physical allocation of housing to temporary occupants has been accelerated,
while the very low repossession rate persists in other areas, particularly in the Knin area in southern Croatia.[2]

Towards the end of 2003, some progress was observed regarding the work of the county and municipal state attorneys and the courts in property repossession cases. Impediments at all stages of the proceedings are, however, still the rule.[3] Although the Ministry has substantially increased the number of administrative eviction orders, particularly in cases where the occupant has access to other housing or occupies several properties, this has had only a limited effect on the number of repossessions. The Administrative Court has annulled 11 such eviction orders, contesting the ground for the decisions taken.[4] Of more than 1,150 administrative eviction orders in 2003, approximately 720 have been referred by the Ministry to the State Attorney for initiation of eviction/repossession proceedings in court.[5] In approximately 40 per cent of the transferred cases, state attorneys have initiated proceedings in the municipal courts, with the largest numbers of cases pending in Benkovac, Karlovac, Obrovac, and Sisak. However, to date courts have issued few verdicts on eviction and even fewer verdicts have been executed. Thus, there has been no significant increase to date in the number of homes repossessed by owners through the court procedures established by the Law on Areas of Special State Concern (ASSC).

Field reports show that Ministry representatives in some locations have begun discouraging occupants from looting occupied properties upon vacating them by warning that they will be held responsible for any looting.[6]” (OSCE 18 December 2003, pp.4-5)

[Footnote 1] Based on the Law on Amendments to the 1996 Law on Areas of Special State Concern (LASSC), Official Gazette, 88/02.

[Footnote 2] The number of occupied properties whose occupants have been held eligible for alternative housing is more or less equivalent in FC Sisak (1,966) and FC Knin (1,864) AoR. Nevertheless, the Ministry has in October approved housing care options for 37 per cent of the eligible occupants in the FC Sisak AoR and only 18 per cent in the FC Knin AoR.

[Footnote 3] Despite a significant increase in the number of cases transferred to state attorneys, deficiencies remain in the co-operation between the MPWRC and the state attorneys who function as the state administrator of occupied property in court proceedings under the LASSC. Delays arise because of incomplete documentation in a significant number of transferred files, for example in Sibenik three quarters of the files are incomplete.

[Footnote 4] The Administrative Court ruled that the administrative eviction orders issued by the Ministry lacked legal ground since they failed to adequately prove that the occupants had access to their original properties in Bosnia-Herzegovina.

[Footnote 5] During autumn 2003, there has been a significant increase (more than 50 per cent) in the number of cases transferred from the MPWRC to state attorneys. Users, particularly in the Sisak and Knin areas, are increasingly likely to vacate after the involvement of the state attorney. In the cases where state attorneys have initiated court action they have adhered to legal deadlines. Their efforts are, however, often thwarted by municipal courts, where proceedings suffer chronic delays.

[Footnote 6] In the Sisak area, Ministry representatives have cancelled previous eligibility decisions for State provided housing care to few occupants because they removed integral parts of the building including doors and windows before their departure.

See also, "4th Report on Issues of Property Repossession under the July 2002 Amendments to the Law on Areas of Special State Concern (June 2003-September 2003)", OSCE/UNHCR, 28 October 2003 [Internet]
Property repossession: housing care programme for former occupancy/tenancy rights holders outside the areas of special state concern (June 2003)

- Under pressure from the international community, the government enacted provisions for housing assistance to former OTR holders who wish to return to areas outside the Areas of Special State Concern in June 2003
- Provisions for beneficiaries inside the ASSC were enacted in July 2000/July 2002 amendments to the 1996 Law on the ASSC
- Beneficiaries will be able to apply for lease of apartments or purchase them, although the envisaged purchase price is likely to be beyond the means of most beneficiaries
- An amended version of the July 2003 Implementation Plan for the program outside the ASSC was signed by the Minister in October 2003
- The October 2003 amendments incorporate suggestions made by the OSCE/UNHCR/EC, including eligibility criteria which initially addressed only refugees and not IDPs
- The housing care programme for former OTR holders inside the ASSC is still not operational after more than three years
- The government has not yet addressed the underlying legal and human rights aspects of the termination of occupancy/tenancy rights

“The lack of redress for terminated occupancy/tenancy rights of Serb refugees and displaced persons who previously lived in socially owned apartments in Croatia has for some time been one of the central unresolved issues that impeded return. The issue of terminated occupancy/tenancy rights is particularly relevant in urban centres outside the Areas of Special State Concern, which remained under government control during the armed conflict. According to data received from the Ministry of Justice, 23,700 families lost their occupancy/tenancy rights during and after the armed conflict through court rulings in areas that were under government control.” (OSCE July 2003, p.6)

"Although the Government continues to avoid a discussion on the underlying legal and human rights aspects of the termination of OTR, it has, after intervention by the Mission and its partners, enacted provisions for housing assistance to former OTR holders who wish to return and stay in Croatia. This has been done through two different programs, none of which are yet operational. Provisions for beneficiaries inside the ASSC are contained in the July 2000 and July 2002 amendments to the 1996 Law on the ASSC. In June 2003, the Government enacted provisions applying outside the ASSC. The geographical area covered by the latter programme includes most of Croatia’s large cities.

The Mission and its partners have recommended to the Government to make the two programs user friendly, which includes standardization of procedures for applications, eligibility criteria, decisions and provision of housing care inside and outside the ASSC. The Mission is concerned that the Government’s June 2003 Conclusion and the Implementation Plan for the programme outside the ASSC allow for arbitrary delays by leaving a large degree of discretion to low-ranking officials in determining eligibility.

The programme for the areas outside the ASSC applies to former residents from these areas who want to return and stay in Croatia, including those who never left the country after being displaced from their apartments. Beneficiaries will be able to apply for lease of apartments or purchase them under favourable conditions.[1] The envisaged purchase price of about 80 per cent of the market value is, however, likely to be beyond the means of most beneficiaries.

An amended version of the July 2003 Implementation Plan for the program outside the ASSC was signed by the Minister in October 2003. The plan incorporates several suggestions [2] made by the Mission, UNHCR and the EC. Nevertheless, it still places an arbitrary burden on the potential applicants for housing care in the process of submitting proof for their eligibility to the programme. With the assistance of
UNHCR, the Ministry will conduct a publicity campaign on the program in Croatia, S-M and B-H. The application deadline is 31 December 2004, although an extension might be contemplated in view of the delays already experienced in the process of launching the programme.

The housing care programme for former OTR holders inside the ASSC is still not operational after more than three years. The Mission and its partners have voiced concern over the delay as well as over problematic legal provisions that assign a low priority to former OTR holders in the distribution of housing care benefits. The Minister for Public Works, Reconstruction and Construction has asserted that former OTR holders will still enjoy priority. He has also indicated that a special budget item would be dedicated to housing for returning former OTR holders inside the ASSC, starting in September 2003, but this has not yet materialized.

[...] The legal and human rights aspects of OTR terminations in Croatia are expected to be addressed by the European Court of Human Rights (ECHR) in the case of Blecic v. Croatia.” (OSCE 18 December 2003, pp.6-7)

[Footnote 1] The purchase conditions of the apartments are regulated by the Law on Social Subsidized Housing, while for the lease option the legislative framework is provided by the Law on Lease of Apartments and the LASSC in the regard to the amount of rent.

[Footnote 2] The recommendations of the Mission and its IC partners revolved around the eligibility criteria for the Programme which addressed initially only refugees and not displaced persons or remainees, the deadline for applications and the procedure of appeal during the administrative processing of the applications.

Note: The housing care programme for beneficiaries outside the ASSC is still not operational, as of May 2004 (OSCE 14 May 2004)

Property repossession: housing care programme for former tenancy/occupancy holders inside the areas of special state concern (July 2000/2002 amendments)

- The Ministry of Public Works, Reconstruction and Construction’s “Rulebook on housing care in the areas of special state concern” came into force on 11 October 2002
- The law will ensure that housing care is provided for former tenancy/occupancy rights holders, who lost their rights pursuant to the 1995 Law on the Allocation of Flats
- The Rulebook however does not envisage care for the citizens who were tenancy right holders in other regions outside the Areas of Special State Concern (ASSC) which includes mostly big cities, such as Zagreb and Osijek
- The housing care programme has not yet been implemented (May 2004)

“As of today, the Ministry of Public Works, Reconstruction and Construction’s Rulebook on housing care in the areas of special state concern comes into force. This Rulebook will ultimately start to resolve the issue of housing care for former tenancy/occupancy right holders. They are mostly citizens of Serb ethnicity that fled from Croatia, and whose rights ceased pursuant to the Law on the Allocation of Flats for Lease in the Liberated Territory in 1995. The Rulebook however does not envisage care for the citizens who were tenancy right holders in other regions, mostly in big cities such are Zagreb or Osijek.

In the Government’s Office for Displaced Persons and Refugees do not know how many citizens would apply with a request, i.e. how many of them were tenancy/occupancy right holders, but they assume that there are several thousands of them. However, none of them will automatically obtain the right over the flat in which he previously resided but the state will allocate a house or flat in its possession within the state’s
financial possibilities. The other solution is the allocation of a building site along with construction materials, and the returnee will be able to build his house. However, the right to the state assistance will have only those former tenancy right holders who do not (co-) own any property within the territory of the former SFRY as well as those who did not sell or gave away their houses or flats following Croatia’s declaration on independence in 1991.

The OSCE Mission [to Croatia] has welcomed the adoption of the Rulebook as the issue of lost tenancy rights is finally raised in an official document. However, [the Mission] reproaches Croatia for not providing housing for the former tenancy right holders in the areas which are not under the special state concern, mostly in big cities.

Milorad Pupovac, Head of the Serb National Council (SNV) also agreed that it is an unacceptable regulation, adding that the Rulebook is just one in a series of documents that will have to be revised as it does not guarantee rights that certain citizens deserve.

‘Non-providing housing in big cities for former tenancy right holders is contrary to the agreement reached between the Government’s Office for Displaced Persons and Refugees and the FRY Commissariat for Refugees. The Rulebook places refugees together with those who have not had any tenancy rights. We fear that due to different criteria the Serb refugees will hardly exercise their rights,’ told Pupovac Glas Slavonije concluding that the Rulebook is favourable towards those who have never been tenancy right holders.

Namely, before former tenancy right holders, the state have to provide housing for some 6,000 people from the priority list, people who occupy somebody’s private property and are to return to their former places of residence or want to settle in the areas of special state concern. People accommodated in expellees’ settlements or in collective centres are also on this list.

Only after them, confirms the Office for Refugees and Expellees, there come former tenancy right holders within the areas of special state concern. The implementation of this program will begin in the end of next year, announced Lovre Pejkovic, Assistant Minister in the office for refugees and expellees.” (OSCE 11 October 2002)

Note: The Housing Care Programme was not yet implemented as of May 2004 (OSCE 14 May 2004). In 2003, the government adopted legislation addressing housing care to tenancy rights holders outside the areas of special state concern, which has also not been implemented as of May 2004 (OSCE 14 May 2004). See “Housing Care Programme for occupancy/tenancy rights holders outside the Areas of Special State Concern (2003)” [Internal link].

See also:
“OSCE statement on tenancy/occupancy rights in Croatia”, OSCE, 2003 [Internet]

“OSCE about Occupancy/Tenancy Rights”, OSCE, 10 October 2002 [Internet]

“The State will provide care for former occupancy/tenancy rights holders”, OSCE, 9 October 2002 [Internet]

Repossession of other types of property, including agricultural land and business premises remains unaddressed (2003)

“Repossession of other types of property remains unaddressed. This includes business premises and agricultural land as well as a number of residential properties which were taken over by occupants by other means than by law in 1995. In addition, long-standing property restitution and compensation issues remain
unresolved for minority religious communities while property restitution for the Catholic Church is being addressed more comprehensively.” (OSCE 18 December 2003, p.6)

**New procedures for property repossession adopted in July 2002**

- Responsibility has been transferred from municipal housing commissions to the Ministry for Reconstruction
- A new category of temporary accommodation has been created
- The interest of temporary users continues to prevail over the owners' rights

"New procedures will speed up property repossession, but fall short of providing full guarantees for ownership"

On 12 July Parliament adopted the Law on Amendments to the 1996 Law on Areas of Special State Concern. The 1996 Law established incentives for municipalities, companies, and persons in the areas most directly affected by the armed conflict in order to re-vitalize and re-populate these areas. The amendments expand the purpose of the 1996 Law beyond conflict-related rehabilitation by including a new category of localities based on non-conflict-related criteria relating to under-development. The amendments also expand the geographic scope of the 1996 Law beyond the Areas of Special State Concern by establishing new procedures for the repossession of occupied Serb-owned residential property in all parts of Croatia.

The amendments suspend the property repossession scheme contained in the 1998 Return Programme and transfer this responsibility from municipal housing commissions to the Ministry for Public Works, Reconstruction and Construction. A 31 December 2002 deadline for final administrative decision-making in individual cases of property repossession is also introduced. The amendments also introduce the category of ‘temporary accommodation’ which will be granted until (permanent) alternative accommodation is made available. Finally, provisions are contained in the amendments that render occupants who own and possess habitable property in other parts of the former Yugoslavia ineligible under certain conditions for alternative accommodation in Croatia.

The amendments, if properly implemented, may accelerate the pace of property repossession. Nevertheless, they are questionable from a constitutional and human rights perspective, in particular the fact that the interests of temporary users of property belonging to others still prevail over the rights of the owners. In 1997, the Constitutional Court invalidated a similar 'alternative accommodation requirement' for occupants as a precondition for property repossession by owners. Consequently, the amendments are likely to face swift legal challenges. The amendments also fail to address other types of property that had also been declared as ‘abandoned’ and taken-over and administered by the State, including business premises, agricultural land, forests and moveable property and agricultural equipment." (OSCE 16 July 2002)

**Action Plan for Implementation of Repossession of Property by the End of 2002 (December 2001)**

- The Plan envisions the return of all properties that were assigned to temporary users in 1995
- Since the Plan's adoption, the repossession of property has remained slow
- The provision of alternative accommodation to temporary users has significant financial implications
- The Plan also omits many types of occupied properties
- Proposed amendments to facilitate repossession continue to give priority to user's privileges over owner's rights
"Property repossession remains at the core of the return process. It is estimated that more than 10,000 housing units owned by minority refugees or displaced persons are still occupied by temporary users.

In December 2001, the Government presented an ambitious 'Action Plan for Implementation of Repossession of Property by the End of 2002'. The Action Plan envisions the return of all homes that were assigned to temporary users on the basis of the 1995 Law on Temporary Take-Over and Administration of Specified Property, which was repealed in 1998.

The Law provided the basis for assigning almost 19,000 residential properties to temporary users. The repossession of property has remained slow since the Action Plan was presented, not least because the Action Plan confirms that the provision of permanent alternative accommodation or temporary accommodation for up to 7,000 households is a precondition for repossession by owners. During the reporting period, 919 homes were repossessed.

Overall, 10,557 of the almost 19,000 residential properties have been returned to their owners as of 17 May 2002 (5,158 were registered as vacant, while 5,339 were repossessed by their owners); 8,308 remained occupied and must still be returned to their owners.

It therefore appears unlikely that the Government will meet its stated objectives in the Action Plan. Government officials now state that the main goal for this year is to facilitate repossession for the more than 4,000 owners who have applied for repossession by identifying alternative accommodation for as many occupants of these properties as possible.

In 2000 Croatia was granted a loan of [Euro]30 million by the Council of Europe Development Bank (CEB) in order to provide alternative accommodation and increased reconstruction, to be matched by an equal State contribution, but the full amount has not yet been disbursed. According to the Government, the provision of temporary or permanent alternative accommodation according to the Action Plan will require at least an additional [Euro]80 million, to be financed from the State budget and loans from international and European financial institutions.

The Action Plan only refers to residential properties temporarily allocated under the 1995 Law on the Temporary Take-Over and Administration of Specified Property, and omits many types of occupied property such as:

- A significant number of homes assigned under the 1995 Law which were not registered by the Government and are therefore not included;

- Other types of occupied property that were also considered as state-administered under the 1995 Law, including business premises, agricultural land, forests and moveable property including agricultural equipment;

- Properties allocated by authorities through other means than those foreseen by the 1995 Law or occupied without any authorization.

In order to meet its commitment, the Government has proposed draft amendments to the 1996 Law on Areas of Special State Concern, which were intended to expedite the repossession of private property assigned for use under the 1995 Law. The proposal was adopted in a first reading in Parliament in January 2002 but the changes and particularly the provisions on temporary accommodation encountered significant opposition, also within the Government coalition, and remain pending.

The changes would facilitate repossession by transferring responsibility from the municipal housing commissions to the Government and by introducing the possibility of temporary accommodation, including
collective centres, until permanent alternative accommodation could be found for occupants. While the Government accepted advice by the Mission and other international partners in the joint Working Group on Legislation, and although the draft amendments represent an improvement, the proposed changes fell short of acknowledging the principle that owner's rights must prevail over user's privileges.

The joint Working Group for Legislation has agreed to initiate discussions on a comprehensive legal regime on property repossession in order to address remaining repossession issues." (OSCE 21 May 2002, pp. 9-11)

See also:

"Implementation of the Repossession of Property Until 1 April 2002 According to the Action Plan for Repossession of Property by the end of 2002", Ministry for Reconstruction, 30 April 2002 [Internet]

The Law on the Status of Displaced Persons and Refugees: discriminatory distinction between displaced Croats and Serbs remains in effect (2001)

- Discrimination between "expellees" (mostly Croats) and other displaced (mostly Serbs) was abolished in November 1999 but remains practically in effect
- In May 2000 the Constitutional Court struck down provisions of the Law that prohibited evictions unless alternative accommodation was provided for the evictee

"[Another] law identified in 1998 as discriminatory, the Law on the Status of Expelled Persons and Refugees, was amended by the previous government in November 1999, the amendments eliminated discrimination in favour of one category of displaced persons, 'expellees' ('prognanici', almost always Croats), at the expense of other displaced persons ('raseljene osobe', almost always Serbs). However, the practical discriminatory effects of the law remained, as people retained the status and benefits that they had received under the original law, to the advantage of some (mostly Croats) and the disadvantage of others (mostly Serbs)." (ICG 26 April 2001, p. 176)

"In May [2000] the Constitutional Court struck down provisions of the Law on the Status of Displaced Persons and Refugees that prohibited evictions unless alternative accommodation was provided for the evictee. Despite this decision, courts and local housing commissions continued to rely on the quasi-legal 1998 Program on Return for guidance on eviction decisions. As a result, this had the effect of reinforcing the legal precedence of temporary occupants over that of property owners, and it provided an easy means for hard-line officials to obstruct the process of minority returns. The law continued to contain other discriminatory language, notably the failure of positive amendments enacted in November 1999 to be applied retroactively, and that therefore allowed existing discriminatory definitions of 'displaced person' and 'refugee' to remain in effect." (U.S. DOS March 2002, sect. 2d)

Restitution

Only a small number of property owners have benefited from compensation payments (2003)

- Owners of houses occupied under the 1995 law are entitled to compensation payments until they repossess their homes, compensation payments were to begin from 1 November 2002
• The Ministry began paying such compensation in the summer of 2003
• Only a small number of owners have received compensation payments and many owners have questioned the refusal of national authorities to pay interest for delayed payments

“Owners of houses occupied under a 1995 Law are entitled to compensation payments until they repossess their houses, but only a small number of owners have so far been able to benefit from such payments. This special compensation payment was to start from 1 November 2002.[1] This summer, the Ministry started paying such compensation to about 450 owners of occupied housing. Compensation settlement forms[2] have been sent for signing to more than 1,200 of more than 3,900 owners of claimed properties.[3] At least 400 owners have questioned the content of the compensation settlement sent to them. In particular, owners disagree with the Ministry’s refusal to pay interest for the delayed payment after 31 October 2002. The Ministry maintains that owners who have not participated in a survey conducted in 2002 will have to apply for settlement forms. This is contrary to the Minister’s statement to the Mission, the EC and UNHCR in January 2003.” (OSCE 18 December 2003, p.5)

[Footnote 1] Although it is positive that timely limited compensation payments finally are being considered, it has to be noted that a constitutional obligation for the State to compensate every use of private property remains unaddressed. Art. 12 par. 7 of the Law on the Areas of Special State Concern sanctions the occupants in light of their responsibility for the damage incurred in the occupied object during the period of allocation.

[Footnote 2] The settlement (nagodba) form contains the square-meters of living space of the house in question and contains a provision according to which the owner renounces his right for payment of interests for delayed payment by the State (such interests payments are foreseen by the Law on Obligations).

[Footnote 3] 3,900 is the number of claimed occupied properties on 30 October 2002, which is the first statutory deadline after which the Ministry is obliged to pay compensation to the owners who were unable to repossess their property within that date.

See also “OSCE welcomes Croatia’s refugee project, recalls compensation deadline for non-returned properties”, OSCE, 31 October 2002 [Internet]
PATTERNS OF RETURN AND RESETTLEMENT

General

A vast majority of returnees are elderly due to lacking economic opportunities (2000-2004)

- Lacking economic opportunities have resulted to a large extent in only the elderly returning, particularly in certain areas such as the Knin region

“The lack of economic opportunities is a further important factor discouraging return. As a consequence, to a large extent only the elderly return, notably in some of the return areas which were already experiencing economic difficulties (such as the Knin region). The Government attempts to address these problems through support for the Areas of Special State Concern. In addition, tensions in local communities towards returnees is not always conducive to return.” (EC 26 March 2004, p.11)

"The vast majority of returnees [refugees and internally displaced persons] are elderly - over 50% of the total are aged over 60 years, and the average age of returnees in the past six years is 57. Returnees of school age represent only 4% of the total. (ECRE January 2001, para. 3.2.6)"

"The Government estimates that 108,000 refugees have returned from abroad, more families with young children have finally begun to return. Within Croatia, it is estimated that 89,400 IDPs returned to their homes or home areas in 2000; of these, 66,700 went to the Croatian Danube region and 22,700 from this region to other parts of the country." (UNHCR December 2000, pp. 195-196)

From the 15,500 internally displaced persons who returned during 2000, 53 percent were women and 23 percent are under 18. (UNHCR June 2001, p. 394)

UNHCR releases field survey on minority returnees (January 2001)

- Main problems confronting returning Serb refugees include property and lack of jobs
- 75% of minority returnees live on the pre-war address, while almost 20% live at their family's, friends' or hosts' place
- Only a small number of the returning Serb refugees interviewed had felt threatened or endangered since their return, confirming a major improvement in security for minorities
- Comparison with former Croat displaced persons shows that they received more support for the reconstruction of their homes than minority returnees

"In January [2001], the findings of a study commissioned by UNHCR into the profile and needs of returning refugees and displaced people to Croatia revealed that ethnic Serbs continue to face a variety of obstacles to their return and reintegration in Croatia. The main problem confronting Serb refugees who have already returned, or who are still waiting to return from Serbia, is property. Many Serb houses have either been damaged, destroyed or occupied. Another key problem facing returnees is the lack of economic prospects, especially jobs."
The study examined the situation of some 1000 minority ethnic Serbs who have returned to Croatia in areas such as Knin, Zadar, Karlovac, Sisak, and Western Slavonia. The homes of almost two thirds of the minority returnees surveyed had been damaged or destroyed during the war. While the government has made efforts during 2000 to alter the laws governing reconstruction assistance and restitution of occupied property to rectify problems faced by minority returnees, it is taking some time for the changes to be implemented at the municipal level throughout Croatia.

Economic decline and unemployment in many of the areas of return present a major problem for many returnees. More than 30% have no regular income. The lack of job opportunities continues to discourage many younger refugees from returning, with the average age of returnees being 60 years old.

Despite the ongoing difficulties for minorities who have returned, almost all of those surveyed said that they would remain in the place to which they had returned and that they would recommend that other refugees also come home. On another positive note, only a small number had felt threatened or endangered since their return, confirming a major improvement in security over the past two years for minorities in Croatia. (UNHCR January 2001, p. 4)

The main purpose of the survey was to gather information on returned refugees (ethnic Serbs), returned IDPs (ethnic Croats) were interviewed only as a control group with a view to compare their answers to those of ex-refugees.

"75% of minority returnees live on the pre-war address, while almost 20% live at their family's, friends' or hosts' place

[...]

It is also significant that more than 90% of the returnees, before fleeing, lived in the house/flat which was their family's private property. Currently, almost two thirds of the respondents have their house/flat damaged or destroyed, and 64% of those haven't had the category of damage officially estimated. It is also important to notice that 73.6% of former DPs' houses have been restored while only 10.8% of the minority returnees' damaged/destroyed houses have been restored. " (Puls January 2001, p. 24)

As their greatest problems, minority returnees see problems with property, such as destroyed/damaged or occupied house (28%), no income (23.4%) and also no job (14.3%) while for the former IDPs the greatest problem would be that there is no job (23%) and then no income (15.2%). Problems with property don’t seem to be that significant for former IDPs as for the minority returnees. (Puls January 2001, p. 33)

Regional dimension of the return problem: from "two-way return" to "all-way return" (2000)

- Any solution to the problem of internal displacement in Croatia must be based on a regional approach given the complex pattern of displacement throughout the former Yugoslavia
- The "two-way return" approach adopted for the return of the internally displaced within Croatia in 1997 was followed by the "all-way return" approach between Croatia, the Federal Republic of Yugoslavia and Bosnia and Herzegovina
- In June 1998, Republika Srpska signed an agreement with Croatia allowing ethnic Croat refugees from Republika Srpska and ethnic Serb refugees from Croatia to exchange homes and seek compensation for their losses
- A Return Facilitation Group was established in September 1998, comprising representatives of international organisations and other institutions to facilitate the implementation of the return program by the government of Croatia
"It must be emphasised at the outset that any durable solution to the problem of the return of those who were forced to flee their homes in Croatia must be based on a regional approach, given the very complex pattern of displacement throughout the former Yugoslavia and the fact that return to one location will often have a 'knock-on' effect, causing renewed displacement from that location and further along the line." (COE 9 April 1999, para. 3)

"The main return area from FRY to Croatia is in the region of Banovina and Kordun and region of Lika and Northern Dalmatia. The main return area from BiH and particularly from RS is in Western Slavonia. This movement started in 1998 and the term 'two-way-return' between Danube Region and Western Slavonia evolved into 'all-way-return'. The [EU Reconstruction for Return Programme, EUPOP] started in 1996 within Eastern Slavonia. This programme was extended into Western Slavonia in 1997 and to Banovina/Kordun and Lika/Northern Dalmatia regions in 1999.

The main return area from Western Slavonia, Danube region and Banovina/Kordun in Croatia is North-west Bosnia. The significant spontaneous movement of Bosnian Croats from Croatia to Posavina indicated a forthcoming season of return. The main return area from Lika and Northern Dalmatia in Croatia is Central Bosnia. The number of spontaneous returnees to the region of Bugojno is increasing every day." (EUPOP 15 June 2000)

"In June 1998, Republika Srpska signed an agreement with Croatia allowing ethnic Croat refugees from Republika Srpska and ethnic Serb refugees from Croatia to exchange homes and seek compensation for their losses. In 1999, only 142 Bosnian Croats repatriated from Croatia to Republika Srpska through this program. However, nearly 3,000 visited Bosnia's Serb controlled entity to assess the potential for return, and UNHCR believed that 14,500 of the 16,000 ethnic Croat refugees from Bosnia wished to return to their places of origin." (USCR 2000, p. 225)

"The regional dimension of return in Croatia was explicitly acknowledged by international participants at the April 1998 regional return conference in Banja Luka. The linkage to resolution of the situation of Bosnia's internally displaced is especially clear, since Croatian Serbs in Republika Srpska often occupy the homes of Bosnian Croats, some of whom are refugees in Croatia. The high degree of international involvement in Bosnia’s administration also creates potential to address jointly the situation in both countries. In recognition of this linkage, and the need for international participation to implement the return program, a Return Facilitation Group was established in September 1998. Members include the OSCE Croatia and Bosnia missions; UNHCR Croatia, UNHCR Bosnia, and UNHCR FRY; the International Office for Migration; the Office of the High Representative (OHR) in Bosnia, the European Union, and its Monitoring Mission; the United States, and the NATO-led Stabilization Force (SFOR). The group 'aims to ensure adequate coordination of activities between its members...to facilitate the implementation of the return program by the government of Croatia.' [Joint UNHCR Croatia/OSCE Mission to Croatia Press Release 'Establishment of Return Facilitation Group of International Representatives,' September 17, 1998] It includes area return facilitation groups in Knin, Sisak, and Osijek. Whether such a body is a necessary addition to the plethora of international coordination bodies in the region — which already includes in Croatia, the Joint Working Group [set up pursuant the Operational Agreement on Return designed to facilitate the return of displaced Serbs concluded in April 1997], the Article 11 Commission [set up pursuant to Article 11 of the Erdut Agreement of November 1995, brings together representatives of interested countries and organisations to monitor implementation of the Agreement, particularly its human rights and civil rights provisions], and the Return Program Coordination Committee [established in June 1998 to oversee the implementation of the Programme for Return and Accommodation of Displaced Persons, Refugees and Resettled Persons] — or a distraction from the actual business of inter-agency coordination remains to be seen." (HRW March 1999, “The role of the international community”)
Total registered returns of displaced persons: 234,684 (as of April 2004)

- Registered IDP returns in 2003: 5,694
- The majority of IDP returnees have been ethnic Croats (approximately 66%)
- The total number of returnees registered between 1995 and April 2004 is 320,496, of which approximately 34% are minority returns of ethnic Serbs (23,808 IDPs from the Danube region)
- Between January and April 2004, there was a total of 1,127 IDP returns

<table>
<thead>
<tr>
<th>Returns of Displaced Persons</th>
<th>as of 31 March 2004</th>
<th>2003 only</th>
<th>(January-March 2004)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Returns</td>
<td>234,684</td>
<td>5,694</td>
<td>1,127</td>
</tr>
<tr>
<td>Returns of the Croatian Danube Region (CDR)</td>
<td>85,409</td>
<td>3,834</td>
<td>1,047</td>
</tr>
<tr>
<td>Returns to Other Parts of Croatia</td>
<td>149,275</td>
<td>1,860</td>
<td>80</td>
</tr>
<tr>
<td>(i) Return from CDR (Croatian Serbs)</td>
<td>23,174</td>
<td>1,039</td>
<td>13</td>
</tr>
<tr>
<td>(ii) Return of Croats and other ethnicities</td>
<td>126,101</td>
<td>821</td>
<td>67</td>
</tr>
</tbody>
</table>

Sources: GOC Office for Displaced Persons and Refugees (ODPR) and UNHCR databases (UNHCR 31 March 2004)

“A total of returnees in Croatia since the beginning of return process in 1995:

320,496 returnees, out of which:
108,986 minority returns of ethnic Serbs (34%) – 77,553 from Serbia and Montenegro, 7,625 from Bosnia and Herzegovina and 23,808 internally displaced persons from Danube region, and
211,510 displaced persons, mostly of Croatian ethnicity (66%).

In the first three months of 2004 a total of 2,247 returnees has been registered:
1,133 of Serb refugees (50%) and 1,114 of Croatian displaced (50%).

A total of returnees in Croatia in 2003:
12,871 returnees, out of which 76% of Serb ethnicity and 24% of displaced persons mostly of Croatian ethnicity” (MMATTD 5 April 2004)

Overview of registered IDP returns between 1995 and October 2003

- Of 315,102 registered returns approximately 66% (209,297) are former displaced persons, mainly ethnic Croats
- Over 80,000 people returned to the Danube region and over 120,000 to other areas of Croatia
- Approximately 34% of the overall registered returnees are minority Serbs

“Since the beginning of the return process in 1995, the number of registered returnees at the end of September 2003 reached 315,102.

- 209,297 returnees – former displaced persons, mostly Croats who resided during their banishment in other areas of Croatia which were not engulfed by the war (approx. 66% of the overall number of returnees):
- 83,142 returnees to the Croatian Danube region and 125,782 returnees to other areas of Croatia
• 105,805 minority returns of ethnic Serbs (approx. 34% of the overall number of returnees):

82,357 cross-border returns (75,295 from Serbia and Montenegro, and 7,062 from B-H) and 23,448 returnees from the Croatian Danube region

Total returnees registered in Croatia until 01 Oct. 2003: **315,102**” (Ministry for Public Works, Reconstruction and Construction October 2003, p. 3)

**Table: Return of displaced persons and refugees to the Republic of Croatia 1995-2003**

<table>
<thead>
<tr>
<th>Return of displaced persons and refugees – Croat returnees</th>
<th>To CDR</th>
<th>To other areas</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec 1995</td>
<td>-</td>
<td>9,488</td>
<td>-</td>
</tr>
<tr>
<td>Dec 1996</td>
<td>-</td>
<td>80,000</td>
<td>80,000</td>
</tr>
<tr>
<td>Dec 1997</td>
<td>8,000</td>
<td>110,000</td>
<td>118,000</td>
</tr>
<tr>
<td>Dec 1998</td>
<td>26,155</td>
<td>115,000</td>
<td>141,155</td>
</tr>
<tr>
<td>Dec 1999</td>
<td>46,453</td>
<td>121,665</td>
<td>168,118</td>
</tr>
<tr>
<td>Dec 2000</td>
<td>69,075</td>
<td>120,842</td>
<td>189,917</td>
</tr>
<tr>
<td>Dec 2001</td>
<td>77,323</td>
<td>123,440</td>
<td>200,763</td>
</tr>
<tr>
<td>Dec 2002</td>
<td>81,952</td>
<td>125,368</td>
<td>207,320</td>
</tr>
<tr>
<td>Sept 2003</td>
<td>83,445</td>
<td>125,852</td>
<td>209,297</td>
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</table>

<table>
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<tr>
<th>Minority return of returnees and resettled persons – Serb returnees</th>
<th>From CDR</th>
<th>From S&amp;MN</th>
<th>From B&amp;H</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec 1995</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Dec 1996</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>13,173</td>
</tr>
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<td>10,691</td>
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<td>-</td>
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<td>30,593</td>
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<td>Dec 2002</td>
<td>22,668</td>
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<td>5,963</td>
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<tr>
<td>Sept 2003</td>
<td>23,448</td>
<td>105,805</td>
<td>7,062</td>
<td>105,805</td>
</tr>
</tbody>
</table>

Number of returnees (ethnic Croat and Serb) at the end of the year/month | Total returnees to Republic of Croatia |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec 1995</td>
<td>-</td>
</tr>
<tr>
<td>Dec 1996</td>
<td>93,173</td>
</tr>
<tr>
<td>Dec 1997</td>
<td>148,019</td>
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<tr>
<td>Dec 1998</td>
<td>196,096</td>
</tr>
<tr>
<td>Dec 1999</td>
<td>235,023</td>
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<tr>
<td>Dec 2000</td>
<td>267,763</td>
</tr>
<tr>
<td>Dec 2001</td>
<td>289,181</td>
</tr>
<tr>
<td>Dec 2002</td>
<td>305,378</td>
</tr>
<tr>
<td>Sept 2003</td>
<td>315,102</td>
</tr>
</tbody>
</table>

(Ministry for Public Works, Reconstruction and Construction October 2003, p.3)

Note:
Among returnees from the Croatian Danube region at the end of 1997, 1998 and 1999 there is a significant number of persons who have returned from S&MN and B-H, not from the Croatian Danube region. This was confirmed when they were registering upon return at the Directorate for Displaced Persons, Returnees and Refugees of the Ministry for Public Works, Reconstruction and Construction – approx. 8,000 persons who stated S&MN and B-H as states of their refuge. These are persons who were primarily registered in
1997 in the Croatian Danube region as resettled persons. In official statistics these persons were deregistered at the beginning of 2000 as returnees from the Croatian Danube region and then re-registered as returnees from S&MN and B-H. Reduction of number of returnees from the Croatian Danube region which came as a result of deregistration, i.e. re-registration is obvious in the table cell on return in December 2000. Since the majority of resettled persons, ethnic Serbs, returned to their homes before 2000, their number has been stable after that with no further significant changes.” (Ministry for Public Works, Reconstruction and Construction October 2003, pp. 3-4)

See also “Return of displaced persons and refugees to the Republic of Croatia from 2000 – 2003 per counties (Appendix 1)”, Ministry for Public Works, Reconstruction and Construction, October 2003 [Internet link]

Minority returns are slow and only 2/3rds of registered returnees move back to Croatia on a permanent basis (2003-2004)

- As of November 2003, up to 210,000 people were outside of the country, around 190,000 in Serbia and Montenegro and 22,000 in Bosnia and Herzegovina
- Spot checks carried out by UNHCR, the OSCE and NGOs at different times suggest that about two thirds of the registered returnees moved to Croatia on a permanent basis
- Whereas in 1998 there were 30,019 recorded minority returns, in the year 2003, there were only 8,826 minority returns (November 2003)

“The displaced population originating from Croatia which remains out of the country amounts to around 210,000 individuals (around 190,000 in Serbia-Montenegro (S-M) and 22,000 in Bosnia-Herzegovina (B-H)). About 107,000 Croatian Serb refugees and IDPs have registered as having returned.[...] Spot checks carried out by UNHCR, the Mission and NGOs at different times suggest that about two thirds of the registered returnees moved to Croatia on a permanent basis. The pace of minority return has decreased since 1998.[1] The number of Croatian Serb refugees in S-M has decreased and is likely to continue to do so in the next months due to the ongoing deregistration of individuals who have acquired S-M citizenship or have registered as returnees in Croatia.” (OSCE 18 December 2003, p.3-4)


Return movements of IDPs: pace slowing down since 1999 (2002)

- Of the 220,000 IDPs of Croatian ethnicity, 202,000 have returned to their home of origin as of April 2002
- More than 22,500 IDPs and 67,500 refugees of Serb ethnicity have returned to their home of origin since 1995
- Around 300,000 Croatian Serbs were displaced internally or became refugees between 1991 and 1995
- Estimated number of returnees in the field is much larger as the ratio between organised and spontaneous return is 1:3

Total return figures as of April 2002

"Total of returns to Croatia (1.04.2002)
202,295 returnees – exIDPs, mostly of Croatian ethnicity, who were residing temporary as displaced persons in other parts of Croatia. 78,314 returnees to Danube Region and 123,981 to other Croatian war-
affected areas (out of total of 220,000 DPs in 1995: 90,000 from Danube Region and 130,000 from other Croatian areas).

90,271 minority returnees of Serb ethnicity: 67,551 cross-border returnees (62,595 from FRY and 4,956 from B-H) and 22,720 returnees from Danube Region.

Total return to Croatia as of 1.04.2002: 292,566 returnees. "(Ministry of Reconstruction April 2002)

Return since the beginning of 2000 (1.01.2000 – 1.04.2002): total of 57,620 returnees
Since the beginning of 2000 the total of 57,620 returnees has been confirmed in Croatia, as it follows:

(i) 27,086 returnees, ex-displaced Croats: 22,217 to Croatian Danube Regiona and 4,869 to other areas of Croatia that were war-affected; and
(ii) 30,534 returnees from FRY, B-H and Danube Region, Croatia citizens of Serb ethnicity: 29,676 returned cross border from FRY (26,907) and B-H (2,769), and 858 returnees from Croatian Danube Region (minority return organized following the Program on Return – GoC/ODPR and UNHCR procedure and 'putni list' procedure as well as registered spontaneous returnees).

In the course of 2001, some 10,572 minority returns from FRY and B-H have been registered and 10,846 returns of displaced persons mostly to Danube Region, the total of 21,418 returnees. (Ministry of Reconstruction April 2002)

Return movements in 2000

"RETURN IN THE YEAR 2000: total of 32,817 returnees

- Return of displaced Croats from 01.01.2000 to 1.01.2001 - total of 14,708 new returnees:
  a) To Croatian Danubian Region: 12,978 returnees (total of 69,000 returnees by now);
  b) To other war-affected areas of Croatia: 1,730 returnees (total of 121,000 returnees).

- Minority return from 01.01.2000 to 1.01.2001 – total of 18,109 new returnees have been confirmed (number of organized returns following the Program on Return - GoC/ODPR and UNHCR procedure and 'putni list' procedure, as well as registered spontaneous returnees):
  a) Cross-border return: 17,323 returnees - from FRY 15,778 and from B-H 1,545
  b) From Croatian Danubian Region: 786 returnees.

Note: It is estimated that the actual number of returnees in the field is much larger as the ratio between organized and spontaneous return is 1:3. The estimated number of unregistered spontaneous returnees is more than 20,000, and some of them has been registered by ODPR in the year 2000.

The number of returnees is smaller then it was case in the previous years for the remainder are the most vulnerable cases: DPs and refugees whose houses are totally destroyed and are still awaiting reconstruction, old and disabled, and families who need housing solution instead of reconstruction." (MPWRC/Office for Displaced Persons, Returnees and Refugees 8 May 2001)
"To date, UNHCR in conjunction with the government’s Office for Displaced Persons and Refugees (ODPR) estimate that some 318,000 people of all ethnicities have returned to their place of domicile in Croatia. This figure includes 109,000 refugee returns and 210,000 IDP returns, of which, nearly 26,000 refugees returned during until end of September 2000 – more than double the 10,500 who returned in 1999. Returns of internally displaced Croatians slowed in 2000, however, with 12,500 people returning compared with some 30,000 in 1999. More than 10,000 people had returned to the Eastern Slavonia region (also known as the Croatian Danube region) to November 2000.

Of these returns, ODPR records 12,500 organised minority ethnic Serb returns during 2000, of which 10,700 are from FRY, 1,300 from BiH and some 500 are from the Eastern Slavonia region. ODPR estimates that an additional 20,000 Serbs refugees returned spontaneously." (ECRE January 2001, paras. 3.2.3-3.2.4)

Policy

Government signs agreement pledging commitment to support return, property restitution and compensation (2003-2004)

- The Agreement was made between the Prime Minister Ivo Sanader and the Independent Serb Democratic Party (SPSS)
- It provides for the full return of refugees, restitution of illegally used Serb property within 6 months and compensation for destroyed property outside areas covered by the existing laws

“In December, the three ethnic Serb members elected to parliament as representatives of the Independent Serb Democratic Party (SDSS) and Prime Minister-designate Ivo Sanader signed an agreement in which the SDSS pledged to support Sanader as Prime Minister in exchange for a commitment from the new Government on the full return of refugees, the restitution of illegally used Serb property within 6 months, and compensation for destroyed property outside of areas covered by the existing Reconstruction Act. The agreement also committed the Government to fulfill, within 3 months, provisions within the Constitutional Law on National Minorities that guarantee minority representation in local and regional government units.” (US DOS 25 March 2004, Sect.3)

Positive shifts in the position of the new Croatian Government towards the return of refugees and displaced persons (2000)

- On 9 March 2000, Croatia and Republika Srpska signed a Joint Declaration on the two way return of 2,000 refugees from each side from Bosnia and Herzegovina and Croatia (the "Banja Luka Declaration"
- A number of legislative and administrative reforms impacting the right of return and treatment of returnees have also taken place
- Despite these positive trends, resistance to return by some authorities at the municipal level still needs to be overcome

"In Croatia the new Government has made fundamental policy changes regarding the return of refugees and displaced persons. The Government has pledged to enable all Croatian Serb refugees to return to their homes and to restore their civil rights, and to respect international commitments and standards on return. Following her meetings with the new President and other Government officials in March 2000, the High
Commissioner described the main shift as a movement from 'acceptance' to 'welcome'. Some 6,000 refugees have officially returned to Croatia this year. More are believed to have returned, but have not yet registered with local authorities. On 9 March 2000, Croatia and Republika Srpska signed a Joint Declaration on the two way return of 2,000 refugees from each side from Bosnia and Herzegovina and Croatia (the 'Banja Luka Declaration'). A number of legislative and administrative reforms impacting the right of return and treatment of returnees have also taken place. Amendments to the Law on Reconstruction were passed by the Parliament in June, while a revision of discriminatory provisions in the Law on Areas of Special State Concern has been initiated. The Government has also agreed to simplify existing and cumbersome administrative procedures on return." (UNHCR EXCOM July 2000, para. 4)

"Despite these positive trends, resistance to return by some authorities at the municipal level still needs to be overcome. Moreover, the streamlined administrative procedures have yet to become fully functional, with undue delays and procedural errors continuing. In addition, an effective legal framework and mechanisms must be established that will allow returnees to recover their property and restore occupancy rights. At least half of the returning population are not able to return to their pre-war homes because they are either illegally occupied or destroyed. Central to this issue is the identification of alternative accommodation or other solutions for Bosnian Croats still occupying properties of returning Serbs." (HIWG 11 September 2000, para. 26)


- An agreement between Croatia and UNHCR was signed in April 1997 to implement return to and from the Danube region
- In 1998, the government issued the Return Programme which states that property repossession by pre-war owners as a key principle
- Once an owner has applied for return of his occupied property, the temporary users of that property are to be offered alternative accommodation
- The government promised to remove discriminatory provisions regulating reconstruction aid (2001)

"Croatia first began to address the return of displaced populations in the context of Eastern Slavonia. The Agreement on the Operational Procedures of Return, signed by the Croatian Government, the United Nations High Commissioner for Refugees (UNHCR) and UNTAES in April 1997, established procedures for return to and from the Danube Region. As part of this agreement, the Government also created the Agency for Legal Transactions and Mediation of Real Estate (known as APN, after its Croatian title) to facilitate displaced persons and refugees in buying, selling or exchanging property.

In April 1998, the Government issued the Procedures for Return of Persons who have left the Republic of Croatia. They followed this with Mandatory Instructions for implementing these procedures. These two documents put into place mechanisms that guaranteed the physical return of refugees from countries of asylum. Once applicants are cleared for return, they can return via UNHCR/ODPR convoy or travel on their own with a one-way travel document.

In June 1998, the GOC issued the Programme for Return and Accommodation of Displaced Persons, Refugees and Resettled Persons (hereafter: the Return Programme), which established procedures for property repossession throughout Croatia. The Return Programme, which became operational in August 1998, 'recognizes the inalienable right to return of all Croatian citizens' and states that 'regardless of the way of return, all returnees will receive equal treatment.' The key principle under the Return Program is property repossession by pre-war owners. However the Return Programme makes repossession by owners
contingent upon the provision of 'alternative accommodation' for the temporary users. Thus the Return Programme contravenes international property standards as well as the Croatian Constitution. Owners of occupied property submit claims for repossession of property to municipal-level Housing Commissions. Once an owner has applied for return of his occupied property, the legal users of that property are to be offered alternative accommodation in a state-owned house or flat.

The lack of 'alternative accommodation' has indefinitely delayed the process of property repossession by the majority of lawful owners. In the Programme, the Government also agreed to change certain existing laws (the Law on the Status of Expellees and Refugees, the Law on Areas of Special State Concern, and the Law on Reconstruction) within 3 months so that all returnees would be equal under the law. The former government did not meet this obligation, amending only one of the laws in the autumn of 1999. However, the new government, following intensive consultations with the OSCE and other international partners in Croatia, amended the other two in June/July 2000.

Between 1991-1998 about 195,000 residences were destroyed. It is estimated that more than 110,000 have been reconstructed: about 105,000 by the Government and another 4,500 by the international community. The overwhelming majority of these Government-reconstructed properties are owned by ethnic Croats. Most of destroyed Serb housing remains to be repaired or reconstructed. In 1996, Parliament adopted the Law on Reconstruction, which sets the criteria and guidelines for the provision of Government funding for reconstruction. The Law contained a number of provisions, including priorities and eligibility criteria, which effectively discriminated against Serb applicants.

In June 2000, the Parliament amended the Law to remove most of the shortcomings. However, implementing regulations in the 'Rulebook' of July 2000 partially reintroduced discriminatory prioritization. The authorities have continued to deny reconstruction assistance to individuals whose property was damaged or destroyed by so-called 'terrorist acts' or by the Croatian armed forces. This adversely affects primarily Serb property owners. In March 2001, the Ministry for Public Works, Reconstruction and Construction stated that it would initiate 'harmonization of legal regulations in place, so that all objects damaged or destroyed in terrorist actions could be included in the programme of reconstruction.' Action in this regard remains pending. The final deadline for applying for reconstruction assistance has been set for December 31, 2001." (OSCE 2002, Government Action on Return)

## Obstacles to return and resettlement

**Surveys by UNHCR and other international organisations indicate that only 60 per cent of returns are sustainable (2003-2004)**

- Field surveys carried out by a number of international and national organisations suggest that in most areas only 60% of returnees stay in their place of origin.
- In some parts of Croatia, including Benkovac and Gracac, the percentage of sustainable returns falls far below 50%.

"According to the Croatian government, approximately 300,000 ethnic Serbs left their homes during the 1991-95 war. Most left for Serbia and acquired refugee status there, but 50,000 Serbs remained at the end of the war in Eastern Slavonia, as internally displaced persons.[…] As of late 2003, according to the government, 108,000 Serbs had registered as returnees. The number of returnees who actually stay in Croatia, however, is far below this number: field surveys conducted by the Organization for Security Cooperation and in Europe (OSCE) Mission to Croatia, and nongovernmental organizations (NGOs) acting as implementing partners for the office of the United Nations High Commissioner for Refugees (UNHCR), suggest that in most areas only about 60 percent of registered returnees are still in place, with the rest
having moved back to Serbia-Montenegro or elsewhere. In some parts of Croatia, the percentage of sustainable returns falls far below 50 percent.[1]” (HRW, 13 May 2004, p.3)


“Out of more than 300,000 Serbs who left their homes in relation to the armed conflict in Croatia between 1991 and 1995, about 100,000 have been registered by the Government as having returned to or within Croatia. Yet in January 2003 the UNHCR conducted a review in 43 return villages in the Knin area of southern Croatia, covering approximately 11 per cent of the returnee population in the Lika-Senj, Zadar and Sibenik-Knin Counties. The results of the survey established that only 62 per cent of the registered returns could be considered as ‘sustainable’, i.e., as having returned to the area for good, while 27 per cent were classified as commuters, travelling between their place of exile and area of origin in Croatia on only a few occasions before leaving for third countries or returning to their place of exile.” (OSCE July 2003, p.24)

"Some 43,000 ethnic Croats had officially returned to their homes in eastern Slavonia by year's end, including 17,000 in 1999 - more than half of the eastern Slavonian population that had been displaced. However, the OSCE noted that not all the returns appeared to be permanent. Another 38,000 displaced ethnic Croats remained outside the region. About half returned to Vukovar-Srijem, and half to Osijek-Baranja. Housing commissions in eastern Slavonia were particularly active and effective in adjudicating claims by returning ethnic Croats." (USCR 2000, p. 226)

**In practice, only limited progress has been achieved in the return process: overview of obstacles to IDP and refugee return (2003-2004)**

- The European Commission notes that in practice limited progress has been achieved in the return process and integration of the Serb minority
- The return process has been slow due to economic reasons, including unemployment and lack of job prospects
- In addition, a number of human rights concerns such as lack of access to housing, and recognition of pension rights present obstacles to return
- Psychological factors, including inter-ethnic tensions in some areas and lack of transparency in the prosecution of war crimes have also deterred returnees

“In practice only limited progress has been achieved for the return process, and de facto integration of the Serb minority.

[...]
Progress has been achieved in the refugee return process and legislative steps to allow the reintegration of the Croatian Serb minority, in particular returnees, and protecting occupancy and tenancy rights, have been taken. However, the progress has mainly concerned the establishment of a legal framework. The main Government priorities must be to ensure that this legislation is quickly implemented and the problem solved without further delay.” (EC 26 March 2004, pp.4,8)

“The laggard return process is conditioned by economic reasons such as high unemployment and lack of job opportunities as well as human rights concerns such as lack of access to housing and the difficulty in having other acquired rights recognized, i.a. pension rights. There are also psychological factors such as remaining inter-ethnic tensions in some areas and apprehension about living as a minority in former Serb-dominated areas. This involves concerns related to bias and lack of transparency in the prosecution of war crimes often triggered by arrests of ethnic Serbs for war crimes which are at times based on weak evidence that has dissuaded some Serb refugees from returning.
The issue of terminated OTR affects more than 23,700 families of Croatian Serbs from the urban parts of Croatia, which remained under the Government’s control during the war. In the Areas of Special State Concern (ASSC) there may be some further 10,000 lost OTR; the Government has not specified the number. Property repossession prevents more than 2,570 families with claimed property from accessing their houses, while the 13,500 unprocessed applications for reconstruction derive largely from Croatian Serb applicants.” (OSCE 18 December 2003, p.4)

“The Government's procedures to verify and document the citizenship of hundreds of thousands of ethnic Serbs who fled the country after the military operations in 1995 improved during the year; however, there were regular reports of obstruction by some local officials. Many cases existed in which Serb returnees experienced difficulties in obtaining identity cards and other forms of documentation that would allow them to verify their citizenship status. The municipal government in Gracac obstructed returns to Donji Srb and other municipalities under its jurisdiction while at the same time providing immediate assistance to ethnic Croat settlers from BiH.” (US DOS 25 February 2004, Sect.2d)

See also:
“OSCE sees progress on Croatia key laws, urges faster return”, OSCE, 8 July 2003 [Internet]

“Croatia fails Serb Refugees: Ethnic discrimination slows return”, HRW, 3 September 2003 [Internet]

IREX and OSCE (Croatia) collaborated to produce a documentary series on IDP/refugee returns covering a wide range of issues including legal, social, economic obstacles to return. For more information, see “IREX/Croatia and OSCE/Croatia Agree on Joint Production of Documentary Series on Refugee Returns”, December 2003 [Internet]

"A Half-hearted Welcome: Refugee Returns to Croatia", ICG, Section III Return Initiatives, 13 December 2002 [Internet].

Bleak economic situation remains main obstacle to return of majority of Croat IDP population (2002-2004)

“While Croatian Serb refugees and displaced persons continue to return, the sustainability of minority return remains a concern as a result of legal and administrative obstacles and the current economic situation. In contrast, the return of the majority population, i.e. ethnic Croats, to their pre-conflict domiciles has almost been completed. The remaining Croat internally displaced persons frequently note that it is almost exclusively the bleak economic situation that prevents their return to their places of origin. Return figures for Bosnian Croats to Bosnia and Herzegovina remain low.” (OSCE, 18 November 2002, p.12)

Failure to obtain validation of documents required to access social benefits discourages return of ethnic minority Serbs (2003-2004)

- The return of ethnic Serb refugees is affected by the failure of the government to recognize legal and administrative documents from the period of the 1991-1995 conflict
- The 1997 Convalidation Law that allows for the recognition of documents issued by the rebel Serb para-state has been limited by Government authorities
- While the law does not contain a deadline for filing applications, the previous government had established 1999 as the deadline for filing an application
- Given that over half of the 108,000 Serbs who returned to Croatia returned after 1999, the filing deadline excluded most of those who otherwise would be beneficiaries
• Ethnic Serbs citizens continue to be unable to resolve a wide range of issues, including pensions, disability insurance and employment

“An ongoing impediment to the return and reintegration of ethnic Serb refugees is the failure of the Government to recognize or ‘convalidate’ their legal and administrative documents from the period of the 1991-95 conflict. Implementation of the 1997 convalidation law to allow the recognition of documents issued by the rebel Serb para-state was undermined by Ministry of Labor and Social Welfare instructions that seriously limited eligibility. While the law itself does not include a deadline for filing applications, a decree issued by the previous regime established a 1999 filing deadline. Since more than half of the 108,000 Serbs who have returned to Croatia returned after 1999, the filing deadline effectively excludes most of those who otherwise would be beneficiaries. Even persons who filed before this deadline experienced arbitrary delays and obstructions. Without the recognition conferred by the law, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems including pensions, disability insurance, and ability to establish work experience. Additionally, the state pension fund improperly denied some applications for recognition of working experience from ethnic Serbs.” (U.S. DOS 25 February 2004, Sect.5)

See also:

The Section on Pensions, pp. 13-14 in "Croatia Returns Update", HRW, 13 May 2004 [Internet].

“Pension and Disability Insurance within and between Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia in the Context of the Return of Refugees and Displaced Persons” UNHCR/Stability Pact, June 2002 [Internet]

Lack of socio-economic conditions in return areas is an impediment to the return of all IDPs and refugees (2003-2004)

• Although the economy is in transition with positive growth in macroeconomic data, the level of unemployment remains worrying, particularly in areas of return
• In return areas, the already poor pre-war economic structure has collapsed and unemployment in some areas can be as high as 80-90% with little prospect for rapid economic revitalization
• Aside from returnee benefits allocated by the Government in the first six months after return, there are few national or international programs offering ‘transitional’ assistance to facilitate reintegration
• Ethnic Serb and Croat leaders cite unemployment in the region as significantly contributing to interethnic tensions

“Both ethnic Serb and Croat leaders cite the 50-80 percent unemployment in the region as significantly contributing to interethnic tensions.” (US DOS 25 February 2004, Sect.5)

“Since most returnees are going back to ‘war-affected areas’, they generally face a harsh economic environment. Aside from the returnee benefits allocated by the Government in the first six months after return, there are few national or international programs offering ‘transitional’ assistance to facilitate reintegration. In some return areas the unemployment rate is above 80%, a reality that particularly discourages people of working age from returning. Furthermore, the lack of employment and business opportunities and widespread corruption all contribute negatively to potential return.” (OSCE 2003, “Poor Economic Situation”)

 “[T]he difficult socio-economic situation in the areas of return continue to negatively influence the pace of return and reintegration. In these areas, the already poor pre-war economic structure has collapsed and
unemployment in some areas can be as high as 90% with little prospect for rapid economic revitalisation. The widely accepted concept among the donor community of transition from humanitarian interventions to more development-oriented activities, has resulted in increased investments in economic revitalisation and development projects.” (UNHCR 1 September 2003, p.2)

See also, “Ethnic discrimination on the labour market (2003-2004)” [Internal link]

Lack of legal and practical redress for those who lived in formally socially owned apartments is the most significant housing-related human rights concern and obstacle to return (2002-2004)

- 50,000-60,000 holders of occupancy rights in socially-owned apartments, mostly ethnic Serbs, have been deprived their occupancy rights during and after the war
- The lack of a comprehensive remedy to the widespread termination of occupancy/tenancy rights remains one of the major obstacles to sustainable return

“The most significant housing-related human rights concern and obstacle to refugee return continues to be the lack of legal and practical redress available to families who lived in socially owned apartments and whose OTR were terminated, either by law (in the ASSC) or by court decisions. The total number of affected households remains unknown, since there are no available records of the ex lege terminations, but 23,700 households lost their dwellings by court decisions during and following the war. Termination proceedings continue in the courts today, resulting in some cases in the eviction of families from homes they have never left either during or after the conflict.” (OSCE 18 December 2003, p.6)

“The termination of ‘occupancy/tenancy rights’ in several tens of thousands of cases continues to represent a human rights problem in general and an obstacle for the return of the urban Serb population in particular. In the former Yugoslavia, an individual could acquire the right to occupy a socially-owned apartment (Croatian: 'stanarsko pravo', English: ‘occupancy/tenancy right’). The right had virtually all of the attributes of a possession and a property interest except the right to sell the property. During and after the course of the war, the Croatian Government passed a number of decrees and laws affecting occupancy rights. Holders of occupancy/tenancy rights who fled their homes were deprived of these rights - in most cases this occurred without notice, hearing or right of appeal. Those affected by the termination of such rights were almost exclusively Croatian Serbs. They have had no effective recourse either to reclaim the apartments, to be given substitute accommodation of comparable location, size and value, or to receive compensation.

This issue has for some time been one of the central unresolved issues that impeded the return process. Following intense discussion between the international community and Croatian Government, steps were recently initiated aimed at facilitating the return of former occupancy/tenancy rights holders. Namely, through amendments to existing legislation, the Government decided to permit former occupancy/tenancy rights holders and all those from the Areas of Special State Concern, who have no property, to apply for housing. The Mission and its international partners have recommended to the Government that these returnees be given higher priority. Also, on 12 June 2003, the Government adopted a programme designed to address the housing problems faced by former occupancy/tenancy rights holders who lived outside the Areas of Special State Concern.

The procedures proposed by the Government for the country as a whole set double standards compared to the treatment of ethnic Croats who fled and returned to the Danube Region. They have the possibility of either leasing or subsequently purchasing the same apartment they lived in prior to the war.” (OSCE 2003, “Occupancy/Tenancy Rights Issue Still Unresolved”)
"The lack of a comprehensive remedy to the widespread termination of occupancy/tenancy rights (stanarsko pravo) remains one of the major obstacles to sustainable return. According to Government information as of 1998, approximately 20,000 occupancy/tenancy rights holders who were forced from their residences or who fled during the conflict had their occupancy/tenancy rights terminated through court proceedings in absentia, based on the former Yugoslav legal regime, primarily on the basis of an absence of more than six months. These terminations affected socially-owned apartments located in cities that remained under Government control such as Zagreb, Split, Osijek and Zadar. Additionally, occupancy/tenancy rights held by thousands of almost exclusively Serb households were terminated through provisions of the 1995 Law on Lease of Apartments in the Liberated Areas, which stipulated that occupancy/tenancy rights were cancelled if the occupant was absent more than 90 days from the enactment of the Law. The vast majority of Serb occupancy/tenancy rights holders could not return to their apartments within such a short time after the conclusion of military operations.

Most of the remaining residents of such apartments as well as new residents, predominantly Croats, who were assigned the apartments of ethnic Serbs, were later eligible to privatize them. Those who left were thus disadvantaged further vis-à-vis those who stayed.

A large number of former occupants have initiated court procedures, seeking review of in absentia decisions issued on the basis of 'unjustified' absence during and after the conflict. The vast majority of these requests for review were denied. Those individuals whose rights were terminated under the Law on the Lease of Flats in the Liberated Areas, adopted immediately after the conflict, remain without remedy."

(OSCE 21 May 2002, pp. 12-13)

See also:
"OSCE statement on tenancy/occupancy rights in Croatia" OSCE, 2003 [Internet]

"Broken Promises: Impediments to Refugee Return to Croatia" HRW, September 2003 [Internet]

"Triumph of Form over Substance? Judicial Termination of Occupancy Rights in the Republic of Croatia and Attempted Legal Remedies", a report by the Civil Rights Project of the Norwegian Refugee Council, May 2002 [Internet]

OSCE report: discrimination against ethnic Serbs in war crimes proceedings (2002-2004)

- The report based on monitoring of some 75 war crime trials during 2002 indicates that defendants of Serb ethnicity are disadvantaged at all stages of judicial proceedings compared to Croats
- The monitoring process was also conducted given the impact the proceedings have on perceptions among the Serb community about the feasibility of their return and reintegration
- Half of the Serbs arrested for war crimes in 2002 were recent returnees, a trend which the report suggests appears to continue in 2003
- Head of the OSCE Mission to Croatia Ambassador Semneby noted “the lack of even-handedness in the treatment of war crimes in the courts” continues to be an obstacle to return

“The OSCE Mission to Croatia has prepared a report based on monitoring of some 75 war crime trials during 2002 which shows that defendants of Serb ethnicity are disadvantaged at all stages of judicial proceedings compared to Croats.

The report, to be released today on the OSCE Mission's website, acknowledges some improvements in recent years, but concludes that further reform is necessary in order to achieve the even-handed administration of criminal justice in war crime cases.
‘There must be one standard of criminal responsibility applied equally to all those who face war crimes charges before the Croatian courts, regardless of ethnic or religious affiliation’, said Peter Semneby, Head of the OSCE Mission. The report suggests that further reform is needed in order to meet this goal, which the authorities have pledged to pursue.

The report's analysis and conclusions are based on first-hand court monitoring by Mission staff during 2002 at 12 county courts and the Supreme Court. The proceedings monitored by the Mission account for 80 to 90 per cent of all war crime proceedings reported by the Chief State Prosecutor in his 2002 Annual Report. This is a sufficiently representative sample from which general conclusions can be drawn.

Some of the report's findings are that:

- Serbs are much more likely than Croats to be convicted when put on trial. 83 per cent of all Serbs put on trial for war crimes (47 of 57) were found guilty, while only 18 per cent of Croats (3 of 17) were convicted. According to preliminary findings, the differential appears to have decreased somewhat in 2003.

- While there is no imperative that an equal number of Serbs and Croats should face prosecution, Serbs represented the vast majority of defendants at all stages of judicial proceedings. For example, in 2002 Serbs represented 28 of 35 arrests; 114 of 131 persons under judicial investigation; 19 of 32 persons indicted; 90 of 115 persons on trial; and 47 of 52 persons convicted. From preliminary data, this trend appears to continue in 2003.

- Trials in absentia, used primarily for Serbs, continued. Many of these trials have a large number of defendants, which means that the principle of individual guilt is often not observed. Nearly 60 per cent of all Serb convictions were convictions in absentia. This trend continues, according to preliminary data for 2003, particularly in Zadar.

- Procedural shortcomings in lower courts are proven by the high reversal rate (95 per cent) of Serb convictions which are examined by the Supreme Court. Also, in re-trials, a majority of Serbs previously convicted are exonerated. The Supreme Court's reversal rate in 2003 appears to have decreased, but more than half of all verdicts in war crime cases were sent back for re-trial due to errors by the trial courts.

- Half of the Serbs arrested for war crimes in 2002 were recent returnees. This trend appears to continue in 2003. Ambassador Semneby also pointed out that ‘the lack of even-handedness in the treatment of war crimes in the courts continues to be an obstacle to refugee return.’

The Mission's concerns have been validated by senior Government officials. The Chief State Prosecutor has acknowledged irregularities and has mandated a review of approximately 1,850 pending war crime cases.

A similar report containing the Mission's observations about war crimes trials conducted in 2003 will be forthcoming.” (OSCE 1 March 2004)

Extracts from the report relating to returnees

“The Mission devoted considerable resources to this monitoring not only because of the rule of law questions involved, but also due to the significant impact such proceedings have on the perception among the Serb community, both inside and outside Croatia, regarding the feasibility of their return and re-integration into Croatian society as a national minority.

[…] The distribution of cases among county courts to some extent reflects the geographic location of major war activities. The early tendency was to focus on crimes by Serbs against Croats in the areas where a significantly large Serb population remained after the conflict. The engagement of an increasing number of courts in these procedures reflects an increased number of proceedings against Serbs in return areas as well
as proceedings against Croats for crimes related to Croatian military and police actions against Serbs. At least one court outside the areas of direct conflict, e.g., Rijeka County Court, has become involved as a result of a change of venue sought by the prosecution.

[...]

The Mission monitored war crime proceedings through all procedural stages. The following sections set forth statistical information and findings for each procedural step. Serbs accounted for the vast majority of all persons arrested, while Serb returnees and long-term residents were nearly evenly represented among those arrested. Nearly two-thirds of all those arrested in 2002 were released from detention during the year, some as a result of the prosecution abandoning further proceedings while others continued to face criminal proceedings while at liberty. More than one-third of cases pursued to judicial investigation were dropped in 2002, while indictments, against both individuals and groups, were issued in the remaining two-thirds of cases.

[...]

Both long-term residents and recent returnees were among those arrested. Long-term residents constituted a slight majority of all persons arrested (19 persons – 13 Serbs, 6 Croats). Three active service police officers from the Danube Region were among the Serb long-term residents arrested.

Recent returnees account for more than half of all Serbs (15 of 28) arrested in 2002. In earlier years, a greater percentage of Serb arrests were returnees.” (OSCE, 1 March 2004, “Background Report: Domestic War Crime Trials 2002”)

See also:
War Crimes Trials in "Croatia returns update: Human Rights Watch briefing paper", pp. 10-12, HRW, 13 May 2004 [Internet]

Impunity for War Crimes and Discriminatory Prosecutions in “Legacy of War: Minority Returns in the Balkans”, HRW, 26 January 2004 [Internet]

“Croatia: Benchmarks for meeting E.U. requirements on refugee returns and war crimes accountability”, HRW, 8 January 2004 [Internet]

The Section on Impunity for war-time human rights violations, in “Concerns in Europe and Central Asia, January – June 2003”, Amnesty International, October 2003 [Internet]

“Concluding Observations of the Human Rights Committee: Croatia”, Principal subjects of concern and recommendations, paras. 10-11, UN Human Rights Committee, 30 April 2001 [Internet]

Physical attacks against returnees are isolated, but returnees continue to be concerned about their safety (2003-2004)

“By 2003, physical attacks against returnees in Croatia, already rare in comparison to Kosovo and Bosnia, had all but disappeared. However, in certain areas, including Benkovac, Zadar, Gospic, and Petrinja, Serbs continue to be concerned about their safety, due to general hostility from local populations or authorities.” (HRW 26 January 2004)

“The security issue is generally assessed to be one of perception rather than reality. However, fears about security and unclear application of the amnesty law (with regard to participation in military and paramilitary formations of the 'RSK') are still factors impeding minority return (Croatian Serbs), particularly for young men. Limited incidents that do occur are widely discussed among Croatian Serb refugee populations in Bosnia-Hercegovina and Serbia-Montenegro.” (OSCE 2003, “Security”)

See also, "OSCE Mission to Croatia concerned about attack on house of Serb returnee", OSCE, 20 May 2004 [Internet]
Inter-ethnic discrimination and tensions in return areas (2003-2004)

- Ethnic Serbs face discrimination in numerous areas, including in administration of justice, employment, housing, and freedom of movement
- Harassment, intimidation, and occasional violence against ethnic Serbs has been concentrated in former conflict/return areas, particularly in central Dalmatia
- A number of incidents against returning ethnic Serbs including disputes over property ownership, verbal and legal harassment, forcible evictions and assaults were reported
- Inter-ethnic incidents were also directed against ethnic Croats
- Ethnic Croat returnee associations and local authorities accused some ethnic Serb leaders of encouraging ethnic hatred
- In a majority of the cases, police and prosecutors were reluctant to identify the cases as ethnic discrimination

“Occasional violence toward ethnic minorities, particularly Serbs and Roma, continued; some faced serious discrimination. While some progress was made, ethnic tensions in the war-affected areas remained high, and abuses, including ethnically motivated harassment and assaults, continued to occur.” (US DOS 25 February 2004)

“In several areas, including in administration of justice, employment, housing, and freedom of movement ethnic Serbs were discriminated against. Ethnic Serbs in war-affected regions continued to be subject to harassment, intimidation, and occasional violence. Weapons left over from the war, including firearms and explosives, were readily available and were used in incidents of harassment during the year, particularly in the areas of return in central Dalmatia. Property destruction and other forms of harassment often arose from disputes between home occupiers of one ethnicity and returning homeowners of another. Verbal and legal harassment, forcible evictions, and assaults continued to occur regularly.

In May, an ethnic Serb woman was verbally abused and attacked with a whip by her neighbor in the village of Kljucar in Vojnic municipality. Police took the attacker into custody, and the woman sought medical treatment for head and back injuries. In June, a group of young men smashed the windows of a home owned by a Serbian woman in Daruvar. Police intervened and caught the perpetrators; however, the owner of the home complained that police treated her inappropriately during questioning. In Benkovac, in July, police intervened on behalf of an ethnic Serb returnee whose neighbor has verbally harassed and threatened him since his return in 1999; however, despite the fact of repeated instances of extremely provocative hate speech and an attempt to break into the returnee's home, the police said they would cite the offense only as a public disorder. In August, an ethnic Serb returnee was physically attacked by his neighbor in Pakrac and suffered injuries when he tried to re-connect his house to the local water supply. Although police investigated, the returnee expressed dissatisfaction with the security in the area and stated his intention to leave the country. Also in August, a Bosnian Croat settler who occupies a Serb house in Donji Lapac was alleged to have shouted abuse and attacked an ethnic Serb youth with an axe. The incident was reported to police, but no criminal charges were filed.

In September, the third war documentary in a series—‘Neighbors’—was screened in Western Slavonia. As with the prior installments, the film appears to accurately depict historical events and facts surrounding activities of the Yugoslav People's Army and ethnic Serb paramilitary units during the 1991-95 war; however, the international community remained concerned that the overall promotion of the film by right-wing nationalist politicians and the film's use of derogatory language to describe ethnic Serbs stimulated ethnic tensions and complicated the process of return for ethnic Serb refugees.” (U.S. DOS 24 February 2004, Sect. 5)
“Inter-ethnic incidents were also directed against ethnic Croats. In August, a series of incidents occurred in Eastern Slavonia, Karlovac, and Lika. Ethnic Croat returnee associations and local authorities accused some ethnic Serb leaders of encouraging ethnic hatred, but senior government officials downplayed the incidents. Serb nationalist graffiti appeared on traffic signs in Beli Manastir and in the village of Jagodnjak near Osijek. An investigation by the police led to the arrest of an underage ethnic Serb from Jagodnjak. In October, prosecutors at the Municipal Court in Vukovar issued an indictment against a person who allegedly poured paint over the bust of an ethnic Croat military commander. Police also investigated the desecration of a cross in Vukovar dedicated to ethnic Croat victims of the 1991-95 war in the center of this ethnically divided town. In the village of Donji Srb, a flag with Serb nationalist symbol was placed on the hilltop and Croatian children near by were harassed. In September, ethnic Serb members of the local government in Karlovac and in Vojnic publicly spoke out against Serb nationalist graffiti written on the World War II monument in the Petrova Gora memorial and the toppling of the Croatian flag in the nearby town of Turanj in August. In both cases, there were strong indications that these acts were the work of visiting refugees who are now living in Serbia and Montenegro.” (US DOS 25 February 2004, Sect.5)

“The OSCE reported on several ethnically related incidents where the perpetrators were charged with misdemeanor offenses, such as disturbing public order, rather than criminal offenses; in a majority of the cases, police and prosecutors were reluctant to identify the cases as ethnic discrimination.” (US DOS 25 March 2004, Sect.5)

See also "OSCE Mission to Croatia concerned about attack on house of Serb returnee", OSCE, 20 May 2004 [Internet]

Mines and unexploded ordinances continue to pose security threat mainly in agricultural return areas (2000-2003)

- Land mines and unexploded ordinance continue to pose security threats in many agricultural return areas, particularly those in the former zones of separation
- Over 6,000 square km out of 56,538 square km of Croatia is covered in mines (2002-2003)
- 1,395 landmine incidents have been recorded since 1991 (2003)
- Returnees are among the highest percentage of mine casualties (2001)

"The security situation in the region should continue to improve, and by 2004, the enforcement of the rule of law, in general, will have progressed. However, land mines and unexploded ordinance continue to pose security threats in many agricultural return areas, particularly those in the former zones of separation" (UNHCR September 2003, p.3)

“Mines and unexploded ordinances continue to pose a threat to returnees, with over 6,000 square km out of 56,538 square km of Croatia covered in mines.” (USCR 2003, p.188)

“During the year, six persons were killed in landmine incidents, most caused by landmines laid during the 1991-95 war. The Croatian Mine Action Center reported that from 1991 through the end of the year, 1,395 land mine incidents were recorded in which 429 persons were killed.” (U.S. DOS 31 March 2003, Sect.1)

“A related impediment is the presence of landmines and unexploded ordinance (UXO) in what would otherwise be viable agricultural land. Over 6,000 square km in Croatia are estimated to be mine and UXO-contaminated. Historically, the highest percentage of mine casualties in Croatia is estimated to be returnees.
There is therefore a close relationship between the quality of return and the mine issue.” (OSCE 2003, “Poor Economic Situation”)

"The Croatian Center for Demining reported that from 1991 through the end of the year [2001], 1,350 landmine incidents were recorded in which 418 persons were killed." (U.S. DOS 4 March 2002, sect. 1a)

"In the first ten months of [2001], 21 persons were injured in landmine incidents, most caused by landmines laid by Croatian and Serb forces during the 1991-95 war." (U.S. DOS 4 March 2002, sect. 1c)

"With more than one million landmines and sites of unexploded ordnance contaminating an area of approximately 4,500 square kilometres (out of the country's total area of 56,538 square kilometres), Croatia ranks among the most heavily mined countries in the world. The Croatian Mine Action Centre (HCR) has records indicating the location of some 270,000 mines. The need for de-mining is directly relevant to the return process, since it would help revive arable land and local economies, and clear landmine areas of strategic, economic or cultural importance, such as railway lines, utility substations, pipelines and churches. Returnees are at present among the highest percentage of mine casualties in Croatia. The HCR hopes that Croatia will be cleared of all mines by 2010.” (UNCHR 29 January 2001, para. 63)

Relocation of displaced Croats and refugees in Krajina hampers the return of the ethnic Serbs to their homes of origin (1995-1998)

- In many cases, displaced Croatian Serbs who have returned from the Danube region to their former areas of origin elsewhere in Croatia have not been able to return to their own homes
- Authorities encouraged ethnic Croat refugees from Bosnia and Herzegovina to settle in the Krajina region and in Knin, where they occupy Croatian Serb properties
- Croats sometimes enjoy double or triple occupancy of the homes of departed Croatian Serbs, having applied for such accommodation on behalf of several members of the same family

"[A]lthough according to official statistics 26,039 displaced Croatian Serbs have returned from the Danube Region to their former areas of residence in Croatia, in many cases they have not been able to return to their own homes, where these are occupied by Croat displaced persons or Bosnian Croat refugees (or 'settlers'), or destroyed, or where they have lost tenancy rights." (COE 9 April 1999, para. 48)

"According to representatives of UNHCR and other international organisations and NGOs in Knin, the town has indeed become a focal point for ethnic Croat refugees and displaced persons, encouraged to settle there by the authorities. This means that there is very little alternative accommodation to move them into to allow the Croatian Serbs who left in August 1995 during Operation Storm to reclaim their property. Nevertheless it appears that Bosnian Croats sometimes enjoy double or triple occupancy of the homes of departed Croatian Serbs, having applied for such accommodation on behalf of several members of the same family. This should obviously be remedied. But there appears to be a lack of political will or enthusiasm to address the housing issue, as borne out by the disappointing performance of the Housing Commissions. The members of these commissions were appointed by the mayors and worked on a voluntary basis. However, ownership of property was sometimes difficult to prove or to trace because land registers had not always been properly kept." (COE 9 April 1999, para. 57)

"After Croatia wrested control of UNPA Sector West and the Krajina (UNPA Sectors North and South) from the ethnic Serb rebels, it had a new task of assisting previously displaced Croats to return to areas from which they had previously fled. As new areas became open for Croat settlement, it was not clear that formerly displaced persons were returning to their original homes. In fact, it appeared that some of the persons moving into the Krajina were Bosnian Croat refugees who only recently had been expelled from the Banja Luka areas. ODPR estimated that more than 130,000 people would be able to return to areas from
which they had been displaced, but another 80,000 could not return to eastern Slavonia (Sector East), still under Serb control." (USCR 1996, p. 135)
NATIONAL AND INTERNATIONAL RESPONSES

National response

National authorities set deadlines for resolution of property-related problems impeding return (2004)

“In February 2004, the new government announced deadlines by which it intends definitively to resolve property-related problems impeding return:

- end of June 2004: repossession of private properties illegally held by temporary users;
- end of 2004: return of all privately owned properties, currently used by temporary occupants, to the owners;
- end of 2004: media campaign and the acceptance of applications for a subsidized housing program for former tenancy rights holders in the areas which were under the control of the government during the 1991-95 war;
- end of 2006: provision of permanent alternative accommodation (stambeno zbrinjavanje, which roughly translates as ‘housing care’) for all tenancy rights holders, who meet the requirements set forth by June 2003 government conclusion, in the areas which were under government’s control during the 1991-95 war.[...]

An additional deadline was given to Human Rights Watch at a February 2004 meeting with a senior Croatian government representative:

- end of 2005: provision of housing care for former tenancy rights holders, who meet the legal requirements, in areas controlled by Serb rebels during the 1991-95 war (so-called areas of special state interest, previously referred to as “areas of special state concern”).[...]

The international community and the European Union in particular, should firmly hold Croatia to the new – and long overdue – deadlines. Past experience dictates caution in approaching the government’s pledges, and careful monitoring of its fulfillment. The previous government had committed itself to return of all occupied private properties first by the end of 2002, and then by the end of 2003; both deadlines expired with the government failing to meet the set objectives.” (HRW 13 May 2004, pp.4-5)

The OSCE/UNHCR regularly evaluate progress in return-related issues, including response by local and national authorities. See "4th Report on Issues of Property Repossession under the July 2002 Amendments to the Law on Areas of Special State Concern (June 2003-September 2003)," OSCE/UNHCR, 28 October 2003 [Internet]


- The Commission was appointed on the 12th of March
- The Commission will oversee the implementation of the return process outlined as a key aspect of the Agreement on Cooperation between the new government and the Serbian Independent Democratic Party in the Croatian Parliament
The Agreement foresees deadlines for the restitution of occupied private property and the processing of applications for state-provided reconstruction assistance for conflict-damaged private properties.

The Agreement also addresses the validation of documents issued in the former Serb controlled areas (addressing the enjoyment of pension rights).

Measures to be adopted in order to ensure alternative housing for former occupancy/tenancy right holders in socially owned apartments who wish to return are also foreseen by the Agreement.

“At a special session held in Osijek on 12 March the Government appointed a commission with the aim of supervising the implementation of return-related aspects of the Agreement on Co-operation between the future Government of the Republic of Croatia and the Representatives of the Serbian Independent Democratic Party in the Croatian Parliament, which was concluded in December 2003. The Agreement is considered an integral part of the Government’s programme with respect to ethnic reconciliation.

The Agreement foresees specific deadlines for the restitution of occupied private property, the processing of pending applications for state-provided reconstruction assistance for war damaged private residential properties and the validation of documents issued in the former Serb controlled areas (particularly important for the enjoyment of pension rights), as well as measures to be adopted in order to ensure alternative housing for former occupancy/tenancy right holders in socially owned apartments who wish to return.

The 14-member Commission is chaired by the former Croatian Democratic Union (HDZ) MP Ms. Gordana Turic. The Commission is comprised of State Secretaries and Assistant Ministers of relevant ministries, such as the Ministry of Justice and the Ministry for Development; the Deputy Chief State Prosecutor; the Director of the State Agency for Real Estate Transactions (APN); the Mayor of Vukovar; and two MPs.

The Commission will supervise and co-ordinate the work of the State administration and judiciary with regard to refugee return, one of the key political conditions for Croatia’s EU accession. As the tasks of the Commission are at the core of the Mission’s mandate, the Mission anticipates that the Commission will be one of its main interlocutors.” (OSCE 30 March 2004)


Croatia first addressed the return of IDPs and refugees in 1997, with the Agreement on the Operational Procedures of Return, establishing return procedures to and from the Danube region.

In April 1998, the Government issued the Procedures for Return of Persons who have left the Republic of Croatia.

In June 1998, the government issued the Programme for Return and Accommodation of Displaced Persons, Refugees and Resettled Persons that established procedures for property repossession.

The 1998 Return Programme, while recognizing the right to return, makes repossession of property contingent on the provision of alternative accommodation to temporary users.

In June 2001 the international community and the government agreed to establish a joint Working Group on Legislation for the Areas of Special State Concern.

The joint working group on return issues and housing reconstruction met several times during the year but was suspended in 2003 due to lack of commitment on behalf of the national authorities.

In July 2002, the Croatian Parliament passed amendments to the 1996 Law on the Areas of Special State Concern, repealing the property repossession provisions of the 1998 Return Programme.
• The amendments also include provisions for housing assistance to former holders of occupancy/tenancy rights in the Areas of Special State Concern, that are still not operational
• In June 2003, the Government enacted provisions for housing assistance to former holders of occupancy/tenancy rights outside the Areas of Special State Concern, that are still not operational

“Croatia first began to address the return of displaced populations in the context of the Croatian Danube Region. The Agreement on the Operational Procedures of Return, signed by the Croatian Government, the United Nations High Commissioner for Refugees (UNHCR) and UNTAES in April 1997, established procedures for return to and from the Danube Region. As part of this agreement, the Government also created the Agency for Legal Transactions and Mediation of Real Estate (known as APN) to facilitate displaced persons and refugees in buying, selling, or exchanging property.

In April 1998, the Government issued the Procedures for Return of Persons who have left the Republic of Croatia, followed by Mandatory Instructions for implementing these procedures. These two documents put into place mechanisms that guaranteed the physical return of refugees from countries of asylum. Once applicants are cleared for return, they can return via UNHCR/ODPR convoy or travel on their own with a one-way travel document.

In June 1998, the GOC issued the Programme for Return and Accommodation of Displaced Persons, Refugees and Resettled Persons (hereafter: the Return Programme), which established procedures for property repossession throughout Croatia. The Return Programme, which became operational in August 1998, ‘recognizes the inalienable right to return of all Croatian citizens’ and states that ‘regardless of the way of return, all returnees will receive equal treatment.’ The key principle under the Return Program is property repossession by pre-war owners. However the Return Programme makes repossession by owners contingent upon the provision of ‘alternative accommodation’ for the temporary users. Thus the Return Programme contravenes international property standards as well as the Croatian Constitution. Owners of occupied property submit claims for repossession of property to municipal-level Housing Commissions. Once an owner has applied for return of his occupied property, the legal users of that property are to be offered alternative accommodation in a state-owned house or flat.

In June 2001 the International Community and Croatian Government agreed to establish a joint Working Group on Legislation (jLWG) for the Areas of Special State Concern. The Joint Legal Working Group met 24 times between June 2001 and January 2003, but was then suspended, because representatives of the International Community questioned the use to convene further meetings and requested a renewal of commitment by the Government. The OSCE considered the Joint Legal Working Group (jLWR) a valuable forum for addressing legal issues related to the process of return and restitution of private property and regrets the failure of the Croatian side to take advantage of the possibilities offered by the jLWG. The Mission continues to seek constructive ways to share its views with the Government Officials.

In July 2002, the Croatian Parliament passed amendments to the 1996 Law on the Areas of Special State Concern, which inter-alia aim at addressing issues of repossession of private properties taken over and assigned under the LTTP. The adoption of the Amendments repealed the property repossession provisions of the 1998 Return Programme, which had been identified as an inefficient regime on property repossession. The amendments also include provisions for housing assistance to former holders of occupancy/tenancy rights in the Areas of Special State Concern, which are, however, still not operational.

In June 2003, the Government enacted provisions for housing assistance to former holders of occupancy/tenancy rights outside the Areas of Special State Concern. The geographical area covered by the latter programme includes most of Croatia's large cities. The provisions are still not operational.” (OSCE 2003, “Government Action on Return”)

87
Ombudsman's 2003 annual report documents increase in complaints relating to property, social welfare and reconstruction assistance (2004)

- 30% of the complaints received by the Ombudsman pertained to violations of social welfare entitlements, including pension/disability insurance, health insurance, social welfare and labour.
- The second largest group of complaints (approximately 29%) relate to property and housing rights violations.
- The report highlights the failure of state bodies to enforce court decisions on evictions as the main reason for violations of the right to property.
- The Ombudsman also warned of the ongoing problem of owners who are saddled with the unpaid debts of former temporary occupants following physical repossession of their property.
- Another body of complaints relate to obstacles in accessing state reconstruction assistance, mainly due to a state imposed deadline in 2001.

“On 23 March 2004, the Croatian Ombudsman forwarded his 2003 Annual Report to the Parliament for discussion. Two issues dominated the complaints lodged in 2003. The first, constituting nearly 30 per cent of all complaints, pertained to violations related to various social welfare entitlements, including pension and disability insurance, health insurance, social welfare and labour. The majority of applicants complained about unreasonably long delays by pension offices and a failure by the administration to implement decisions of the Administrative Court.

The second largest group of complaints (approximately 29 per cent) pertained to violations of property and housing rights, primarily for refugees. The Ombudsman emphasized that despite the repeal in 1998 of the Law on Temporary Take-Over and Administration of Specified Property, property allocated by the Government pursuant to this Law remains occupied to the present day by temporary users, especially in the Areas of Special State Interest. The failure of state bodies to enforce court decisions on evictions remains the main reason for violations of the right to property. The Ombudsman also warned of the ongoing problem of owners who are saddled with the unpaid debts of former temporary occupants following physical repossession of their property.

Another significant reason for complaints was the difficult access to state reconstruction assistance. The main cause of such complaints was that the majority of applicants failed to meet the deadline for the submission of requests for reconstruction assistance which expired in December 2001. The Ombudsman reported that nearly 12 per cent of all complaints were related to delays in judicial proceedings, particularly at municipal courts, although the judiciary does not fall within the Ombudsman’s jurisdiction.

Nearly one third of all complaints received in 2003 were lodged during field visits by the Ombudsman to ten counties. The field visits were financially supported by the Government of Norway and the OSCE Mission to Croatia and similar support for visits in 2004 will also be provided. Information provided during field visits also facilitated an increase in the number of complaints coming from Bosnia and Herzegovina and Serbia and Montenegro, primarily related to the termination of their occupancy/tenancy rights.” (OSCE 13 April 2004)

The Ombudsman institution is established in the Croatian Constitution. For more information on the Ombudsman institution, see the website of the OSCE Mission to Croatia, “Rule of Law: Ombudsman” [Internet]

See also, “OSCE expert urges reform of Ombudsman institution in Croatia”, OSCE, 23 June 2003 and “The Ombudsman Institution in Croatia: An Expert Analysis (by John Hucker)” OSCE, 6 June 2003 [Internet]
The "Directorate for displaced persons, returnees and refugees" coordinates assistance to the displaced within the Ministry for Reconstruction (2000-2001)

- The Social Welfare Centres provide returnees with a six-month social welfare package, but budget constraints and bureaucracy cause delays
- Members of the former ruling party HDZ in the Ministry for Reconstruction allegedly hamper the return process

"DIRECTORATE FOR DISPLACED PERSONS, RETURNEES AND REFUGEES is entrusted with administrative and expert activities relating to return and care for displaced persons, returnees and refugees such as: implementation of regulations on displaced persons, returnees and refugees; proposing measures regarding accommodation and assistance to the displaced persons, determining priority needs, coordination of various domestic and foreign participants that raise material means, cooperation with social welfare center components dealing with accommodation of those persons. Legal framework has also been envisaged, based upon which the above mentioned activities will be realized (Agreement of the work group on operative procedures of the return, Program of the expelled persons, refugees and resettled persons, international agreements on return of refugees)." (MPWRC 2001)

For more information, consult the website of the "Directorate for Displaced Persons, Returnees and Refugees" [Internet]

"The Ministry of Public Works, Reconstruction and Construction's Office for Displaced Persons and Refugees (ODPR) is responsible for the welfare of returnees. Returnees receive a six-month social welfare package. This is formally administered through the country's 78 social welfare centres that are funded from the budget of another ministry - the Ministry for Social Affairs. Both ministries are currently addressing this administrative anomaly. However, severe restrictions on resources, and bureaucratic inadequacies at a local level, have resulted in not all returnees receiving their entitlements." (ECRE January 2001, para. 3.1.7)

See the website of the Ministry of Labour and Social Welfare [Internet]

"In the Ministry for Reconstruction of the Republic of Croatia, the most significant operational body in charge of all issues regarding the returnees, the representatives of the former ruling party, the Croatian Democratic Community (HDZ), still holds positions. They appear not to be interested in solving the questions that arise with the return of the Serb refugees and justify their inactivity by their inability to influence local bodies to do anything. Also, the Office for Ethnic Minorities of the Government of Croatia is incompetent, inefficient, and unable to initiate energetic action regarding this issue. Therefore, besides psychological relaxation after the elections and promises for more intensive return of the refugees by high-level authorities, the situation regarding ethnic minorities, especially Serb returnees, has not changed significantly." (IHF 6 October 2000)

International response

OSCE Mission to Croatia: extensive assistance and field monitoring in return and property-related issues (1996-2004)

- The Mission is mandated to assist and monitor implementation of Croatian legislation and international commitments on the return of refugees and IDPs and the protection of their rights
• The mandate of the OSCE Mission to Croatia also includes providing assistance and expertise to Croatian authorities in the fields of human rights and rights of national minorities
• The Return and Integration Unit at the Mission Headquarters in Zagreb consults frequently with the respective Government ministries and agencies
• The Mission issues periodic reports on Croatia's progress in its meeting international commitments (Progress Reports)
• The Mission and UNHCR issue periodic reports to assist the government in identifying problems in the implementation of property repossession procedures
• While monitoring return of IDPs and refugees, the Mission has also examined related aspects of social protection in Croatia, including pension payments, unemployment, and social assistance
• The OSCE mission also provides advice, assistance and expertise to Croatian authorities to promote and protect human rights and the rule of law

“The mandate of the OSCE Mission to Croatia includes providing assistance and expertise to the Croatian authorities in the fields of human rights and rights of national minorities, advising on the full implementation of legislation and monitoring the proper functioning and development of democratic institutions in order to promote reconciliation, the rule of law and conformity with internationally recognized standards.

The Mission is also mandated to assist and monitor the implementation of Croatian legislation and international commitments on the two-way return of all refugees and displaced persons and on the protection of their rights.” (OSCE 18 December 2003)

“The Head of the OSCE Mission to Croatia has stated that the Mission will continue to place equal emphasis on the development of non-discriminatory legislation and on the implementation of this legislation and related programmes in the field.

The Mission carries out extensive field monitoring of return issues. The Mission also liaises intensively with the respective Government Ministries and agencies. In the course of these contacts, the Mission endeavours to assist Croatia by highlighting areas where the Government does not appear to be meeting its commitments to return and making suggestions for future action.

The Mission issues periodic reports on Croatia's progress in meeting its international obligations, which are shared with the OSCE Permanent Council in Vienna, of which Croatia is a member. During the development of these reports, the Mission engages in intensive dialogue with the authorities. The Mission and UNHCR also issue periodic reports ‘Issues of property repossession under the July 2002 Amendments to the Law on Areas of Special State Concern,’ which are intended to assist the Government in identifying problems in the implementation of property repossession procedures.

While monitoring the process of return and integration of displaced/refugee populations, the Mission has examined several related aspects of social protection in Croatia, such as transfer of Bosnian-Herzegovinian pension payments, unemployment registration, social assistance and provision of health care. Contacts were made with the OSCE Missions in Bosnia-Herzegovina and Serbia-Montenegro to highlight areas of joint concern. Respective Government offices were approached on the working level for clarification of particular issues.” (OSCE 2004, “Strategies, Activities, Difficulties of the OSCE Mission in Dealing with the Topic”)

The OSCE Mission has been present in Croatia since 1996. The Mission also carries out activities in the fields of democratization, rule of law, political affairs, public affairs and media, and police affairs. For further information on the OSCE’s involvement in return activities, see the “Return and Reintegration” section of the OSCE Mission to Croatia website [Internet].
UNHCR: protection and assistance to IDPs, refugees and returnees (2004)

- UNHCR will focus on two main goals in 2004, assuring the protection and assistance needs of returnees and refugees are met and strengthening the asylum regime in Croatia
- UNHCR’s programme goals in 2004 include ensuring the protection and assistance needs of IDPs and returnees/refugees are met
- The agency programmes are also designed to ensure that durable solutions for the displaced are included and developed in the peace-building process and that further displacement is prevented

“In accordance with Europe Bureau Strategic Directions 2000-2004 and conclusions of the Humanitarian Issues Working group (HIWG) in June 2002, whereby 2003 is mentioned as the final year of UNHCR direct involvement in the return process in the region, UNHCR Croatia has developed an operation plan for 2004 that is built under two overarching goals/themes i.e. responsibly phasing down its activities in finding durable solutions for the post-Dayton caseload while assuring that protection and assistance needs of returnees and refugees are met, and strengthening of asylum regime in Croatia.

UNHCR projects aimed at providing durable solutions for the Post-Dayton caseload in the region of former Yugoslavia for the past seven years, were developed and implemented on a specific mandate prescribed in Annex 7 of the Dayton Peace Accord.

 […]

To achieve the set goals for 2004 and respecting the regional nature of the post-Dayton process, the existing co-ordination between UNHCR offices in the region, as well as cooperation with other international partners and respective governments will be further strengthened. As part of a harmonised approach with UNHCR offices in Serbia and Montenegro and BiH, UNHCR Croatia, in 2004, will gradually phase-down its return-related activities by the end of ‘return season’ and will focus more on its core mandate i.e. strengthening of the asylum system.

 […]

Selected Programme Goals and Objectives

<table>
<thead>
<tr>
<th>Theme: Durable Solution for post-Dayton Caseload</th>
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<tbody>
<tr>
<td>Main Goals:</td>
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<tr>
<td>• The protection and assistance needs of returnees/refugees and IDPs are met</td>
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<tr>
<td>• Durable solutions for the displaced are included and developed in the peace-building process</td>
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<td>• Sustainable solutions are ensured for the longer term and further displacement is prevented</td>
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<tr>
<td>Principle Objectives Related Output</td>
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<tr>
<td>• Promotion and facilitation of voluntary repatriation to and from Croatia;</td>
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<td>• Limited public information campaigns and go-and see visits;</td>
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<td>• Transport of limited number of most vulnerable refugees and their belongings;</td>
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<td>• Laws and regulations affecting return and re-integration of refugees from Croatia are improved;</td>
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<td>• Technical legal advice provided to the Government through Joint Working Group for Legislation;</td>
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<tr>
<td>• Monitoring and advocacy in coordination with other members of international community;</td>
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<td>• Adequate protection and care is provided to refugees pending identification of a durable solution;</td>
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<tr>
<td>• Legal advice, social counselling and access to health care provided to refugees through qualified NGOs;</td>
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<tr>
<td>• Local integration of a limited number of Bosnian refugees who are unable to return is achieved;</td>
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</table>
Assist the Government in creating a framework for long-term integration of refugees;
• Attract complementary funding and development assistance for return areas;
• Close co-operation with multilateral and bilateral actors, ranging from the local authorities to NGOs, diplomatic missions and multilateral development actors such as World Bank and UNDP.


For more details of UNHCR's programme goals, objectives and priorities in Croatia, see UNHCR Country Operations Plans (COPS) [Internet link]

UNHCR phases down return-related activities in Croatia (1991-2004)

• The agency closed its three remaining field offices in Knin, Sisak and Osijek at the end of 2003
• UNHCR was the key humanitarian agency in the country since the agency arrived in 1991, providing assistance to thousands of IDPs as well as to refugees arriving from neighbouring states
• The signing of the Dayton peace agreement in late 1995 brought new stability to much of the region, allowing UNHCR to focus on the return and reintegration of refugees in Croatia
• UNHCR will continue to visit the areas from its Zagreb headquarters and work through local partners to ensure that needs are addressed
• The agency is also working to ensure that local structures will provide humanitarian and legal assistance to internally displaced persons and refugees returning to zones ravaged by the war

“The last days of 2003 marked the end of an era for the UN refugee agency as it closed its three remaining field offices in Croatia in recognition that local relief agencies and the government are now meeting many of the needs of asylum seekers and refugees.

Croatia has undergone enormous changes since 1991, when UNHCR first arrived in a country then fighting for independence.

Initially operating out of quarters within a historic Austro-Hungarian military barracks in the Croatian capital, Zagreb, the agency relocated its premises several times as its operation expanded. Eventually it established 10 offices throughout the country, with hundreds of staff members working to protect the rights of traumatised refugees and overseeing convoys of trucks crossing frontlines to deliver relief aid.”

After such a dramatic decade, a sea change is the only way to describe the refugee agency’s closure of its three local offices in Knin, Sisak and Osijek at the end of 2003, all located in cities once on the frontlines of war zones and crowded with victims of the conflict.

In the early 1990s, the former Yugoslavia became the centre of Europe’s largest relief operation since the end of the Second World War as fighting also erupted in Croatia’s neighbouring state of Bosnia and Herzegovina.

[...] The period saw UNHCR face one of its most trying moments as it worked to deliver aid to some 3.5 million of people throughout the former Yugoslavia in a vast operation directed from its regional headquarters in the Croatian capital.

[...] UNHCR brought in international non-governmental organisations to help, and built up national agencies in Croatia to cope with the needs of hundreds of thousands of displaced persons and a flood of refugees arriving from neighbouring states. Government counterparts were given useful training to augment their skills in dealing with asylum seekers and refugees.
The signing of the Dayton peace agreement in late 1995 brought new stability to much of the region, allowing UNHCR to focus on the return and reintegration of refugees in Croatia. By the end of 2003, over 100,000 Croatian Serbs had returned to their homes, while an estimated 230,000 internally displaced persons had also gone back.

[...]

The closure of UNHCR's Knin, Sisak and Osijek offices does not mean that returnees are being abandoned. UNHCR will continue to visit the areas from its Zagreb headquarters and work through local partners to ensure that needs are addressed. The agency is also working to ensure that local structures will provide humanitarian and legal assistance to refugees and internally displaced persons going back to zones ravaged by the country’s independence war.” (UNHCR 7 January 2004)

**EU return assistance: humanitarian assistance, reconstruction, socio-economic development (1991-2004)**

- The European Commission allocated 243.2 million for humanitarian assistance and democratic stabilization between 1991 and 1995
- Between 1996-2004, EU assistance focused on reconstruction, refugee and IDP return, and basic economic recovery
- In 2004 and beyond, EU assistance will provide support to socio-economic revitalization and development in war-affected areas

“The EU has been supporting Croatia’s areas of special state concern since 1991. The nature of the programmes has evolved over time, reflecting changing priorities: from humanitarian aid during the war, to post-war reconstruction and socioeconomic relief since 1996. With Croatia emerging as an official candidate for EU accession, the focus has turned to preparing Croatia for successful participation in the EU’s regional policy in the near future.”

**Humanitarian Aid**

In the difficult period of war, from 1991-1995, the EU provided_243.2 million to Croatia for humanitarian assistance and democratic stabilisation. This programme supported the basic needs of the war-affected population by providing food, hygiene and medical assistance, small scale housing reconstruction, and income-generating support.

**Reconstruction and socio-economic recovery in the post-war period**

Subsequently, in the period 1996-2004, assistance was focused on reconstruction, refugee return, and basic economic recovery. Support was also given to the democratisation process, the independent media and de-mining. The achievements of the programme included:

- Rebuilding of over 4000 housing units, enabling direct return of approximately 13000 people
- Repair of public utilities and infrastructure such as electricity, water sewage, schools and health centres, benefiting all residents and creating the basic conditions for economic development on local level
- Mine clearance of an area of approximately four million square meters
- Loans for individuals and small businesses in return areas, in order to help them to set up small businesses and provide them with basic livestock packages. Loan application and training for entrepreneurs was supported by local development agencies

**Towards regional policy**

Overcoming economic and social disparities among its many regions has long been one of the European Union’s fundamental principles. About one third of the entire EU budget is dedicated to supporting lagging regions through the so called ‘Structural Funds’. Upon accession, Croatia will be able to participate in the EU’s Regional Policy.
To be able to manage money from the Structural Funds effectively, Croatia will need to develop **administrative capacity**, structures and systems to be able to prepare and implement development programmes, in partnership with social and economic stakeholders.

**Preparing Croatia for EU Structural Funds**

With a view to EU accession, the European Commission has started implementing a comprehensive programme to enable Croatia to effectively manage and implement regional development policy. The EC support is twofold. On the one hand, there is institution building to develop coherent structures and systems for managing structural fund type activities. On the other hand, there is investment support to socio-economic revitalization and development in war-affected areas.

**Structures and systems on national level**

The approach to regional development in Croatia takes on board the lessons learnt from the accession country experience. The CARDS 2002-2004 programme, thus tries to build the right administrative systems and structures, which address institution building requirements both on national and county level. It was considered important to achieve a national consensus about a regional policy framework, which clarifies all institutional roles and responsibilities in the process, before starting preparations for a Community Support Framework. Therefore, the **CARDS 2002 programme** supports the set up of necessary structures, systems and mechanisms for managing regional policy. The **CARDS 2003 programme** then addresses national development planning. Subsequently, the **CARDS 2004 programme** aims to enable absorption of investment funds, by increasing capacity for project preparation, and by preparing a pipeline of large investment projects.

**Sustainable development of war-affected areas**

The above-mentioned national institution building effort is complemented by a ‘bottom-up’ approach to drive a regional development process in selected war-affected areas, on the level of the counties. The approach here is to ‘simulate’ structural funds, by first assisting in the preparation of a so called ‘Regional Operational Programme’ (ROP), and subsequently by providing **funds for investment** in priority projects that are identified through the ROP.

To prepare a county ROP in line with EU Structural Funds principles, the counties engage in a widely concerted and consulted effort. The county prefect appoints a core working group to co-ordinate the programme preparation. The working-group consults with various experts, civil society representatives and a ministerial consultation group, at every key stage. All local and national stakeholders need to agree on the final programme, before the county council formally adopts it. While the methodology of the programme requires a certain learning process the counties that have committed to the process, started a serious effort at creating a ‘partnership for development’.

The ROP contains an analysis of the basic socio-economic situation of the county, an assessment of strengths, weaknesses, opportunities and threats (SWOT) and an outline strategy with objectives, priorities and measures. On the basis of the measures, priority projects are prepared and selected according to quality criteria.” (EC 6 May 2004)

*For more information on EU programmes in Croatia consult the website of the Delegation of the European Commission in Croatia and the website of the European Union Programme for Reconstruction and Return in the Republic of Croatia (EUPOP)[Internet].*

European Court of Human Rights considers application concerning terminated occupancy/tenancy rights admissible (30 January 2003)
“The repossession of homes is among the key concerns for the Mission. The repossession process is delayed and suffers from both legal and political impediments. Generally speaking, the legislation and policies in place favor the interests of the occupants over the interests of owners. In early 2004, the ECHR agreed to review the case of Kostic v. Croatia that presents the question whether Croatia's delay in returning occupied private property violates the European Convention.

The most significant housing-related human rights concern and obstacle for refugee return is, however, the lack of legal and practical redress available to families who lived in socially owned apartments and whose occupancy and tenancy rights were terminated, either by law or by court decision. The legal and human rights aspects of occupancy and tenancy right terminations in Croatia are expected to be addressed by the European Court of Human Rights (ECHR) in the case of Blecic v. Croatia. The Mission as well as the Mission to Bosnia and Herzegovina submitted an amicus curiae brief.” (OSCE 2004, “Rule of Law: Property Repossession”)

For further information see:
“Final Decision as to the Admissibility of Application no. 59532/00 by Kristina Blecic against Croatia”
European Court of Human Rights online database, 30 January 2004 [Internet]


The Stability Pact for South Eastern Europe channels donors’ support to return and reintegration (1999-2004)

- The Stability Pact is a regional initiative to strengthen the countries of South Eastern Europe in the areas of peace, democracy, human rights and economic prosperity
- Partners include the EU Member States, the European Commission, as well as the UN, OSCE, Council of Europe, NATO, OECD
- Donors' support to the return process in Croatia in coordinated by Working Table III (Security Issues) of the Stability Pact
- The Migration, Asylum, and Refugee Regional Initiative (MARRI) Programme aims at better management of, and sustainable solutions to problems of migration, asylum and return in the region
- MARRI emphasises the importance of access without discrimination to economic and social rights for IDPs and refugees as a basic condition for sustainable return and reintegration

“The Stability Pact is the first serious attempt by the international community to replace the previous, reactive crisis intervention policy in South Eastern Europe with a comprehensive, long-term conflict prevention strategy.

On 10 June 1999, at the EU’s initiative, the Stability Pact for South Eastern Europe was adopted in Cologne. In the founding document, more than 40 partner countries and organisations undertook to strengthen the countries of South Eastern Europe ‘in their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region’. Euro-Atlantic integration was promised to all the countries in the region. At a summit meeting in Sarajevo on 30 July 1999, the Pact was reaffirmed.” (Stability Pact 13 February 2004, “About the Stability Pact”)

“The EU Thessaloniki Summit stressed the importance of migration related issues in Southeastern Europe and into the European Union. Against this background, the Stability Pact for South Eastern Europe launched a Regional Programme of Action aiming at a better management of, and sustainable solutions to
the problems of migration, asylum and refugee return in the Western Balkans. The Action Programme is the result of six months of preparations among states in the SEE region, other member states of the Stability Pact, the European Commission and relevant international organisations.

In spite of recent positive developments and the return of more than 1.5 million refugees since the end of the wars in Bosnia-Herzegovina, Croatia and Kosovo, the region still harbours one of the largest numbers of refugees in the world, with more than 1 million refugees and displaced persons desperate to resume normal lives as citizens in their old or new homes. Furthermore, persons from four (Albania, Bosnia-Herzegovina, FYR of Macedonia, Serbia & Montenegro) of the five Western Balkan States are still up on top of the lists of nationalities seeking asylum in Western European countries- even years after the Balkan wars have ended. A growing number among the more than 3 million people originating from SEE resident in Western Europe, begin to travel back to take part in the emerging democratisation and economic development process in the Western Balkans. Third-country nationals - moving with the help of traffickers or on their own initiative, are capitalizing on the relative weakness of existing border management in SEE to transit through the region on their way to Western European countries.

The MARRI Programme of Action will promote closer regional cooperation, recognising that migration, asylum and refugee movements are cross-border in nature and therefore require a coordinated cross-border approach. The fragmented way, in which European countries have attempted for years - often without much success - to deal with these issues, suggests that only a coherent, interrelated action can yield the desired results. Coordinating the policy responses to the mutually related issues of migration, asylum, border management, visa policies and refugee return is also vital in terms of state and human security. For these reasons, MARRI aims at coordinating actors responsible for foreign policy, for economic development, for security and for justice and home affairs from the Western Balkan countries and match them with their counterparts of other states and of international organizations.

[...] MARRI emphasizes the importance of action to move from a humanitarian refugee approach to an approach of citizenship and access for all refugees and displaced persons without discrimination to economic and social rights making it possible for them to return and integrate in a sustainable way. Such an approach is also conducive to better neighbourly relations and normalization in the region.” (Stability Pact 23 June 2003)

[...]

“The Stability Pact Partners:
The countries of the region: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, FYR of Macedonia, Moldova, Romania and Serbia & Montenegro
The European Union Member States and the European Commission
Other countries: Canada, Japan, Norway, Russia, Switzerland, Turkey, USA
International organisations: UN, OSCE, Council of Europe, UNHCR, NATO, OECD
International financial institutions: World Bank, International Monetary Fund (IMF), European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), Council of Europe Development Bank (CEB)
Regional initiatives: Black Sea Economic Co-operation (BSEC), Central European Initiative (CEI), South East European Co-operative Initiative (SECI) and South East Europe Co-operation Process (SEECP)” (Stability Pact 13 February 2004, “About the Stability Pact”)

For more information, see the Stability Pact website, under Working Table 3, Migration, Asylum and Refugee Regional Initiative (MARRI).

See in particular, “MARRI Programme of Action”, MARRI, August 2003 [Internet]

OSCE public awareness campaign on sustainable return (2003)
“All of the above problems are compounded by a certain lack of information regarding conditions of return, laws, programmes and assistance among those wishing to return and those that have already returned. Therefore the Mission will be actively supporting the return process through a comprehensive Public Awareness Campaign with the Government on sustainable return, the planning for which began in 2003. The Government, Mission and international and domestic partners hope to change the public climate and practical conditions for the return of refugees from Serbia-Montenegro and Bosnia-Herzegovina. Key target audiences are local receiving communities of Croat ethnicity and local government authorities. Some high-level officials including President Stjepan Mesic have agreed to support the campaign.” (OSCE 2003, “Need for Comprehensive and Transparent Information”)

IREX and OSCE (Croatia) produced a documentary series on IDP/refugee returns covering a wide range of issues including legal, social, economic obstacles to return. For more information, see “IREX/Croatia and OSCE/Croatia Agree on Joint Production of Documentary Series on Refugee Returns”, December 2003 [Internet]

OSCE police monitoring in the Danube region (1996-2000)

- Upon the expiration of the UN mandate in Eastern Slavonia, the OSCE assumed responsibility for the monitoring of the performance of the Croatian police in the area
- The mere presence of the OSCE police monitors, identified by their standardised uniform, has contributed to a feeling of security in the Region
- The OSCE Police Monitoring Group in the Danube Region will cease operations as a distinct unit of the OSCE Mission to Croatia, commencing 31 October 2000
- The OSCE will, however, continue with police monitoring and with its assessment of the security situation in the Danube Region as well as in other war-affected areas

"In January 1996 UNTAES assumed full executive authority over the Danube Region. During this period the UN international police established a local transitional police force comprising different ethnic groups. As well as monitoring, the International Police Force also undertook training of the local police force. The local police force was eventually integrated into the Croatian national police force.

On 16 October 1998, upon expiration of the UN mandate, the OSCE assumed responsibility for monitoring the performance of the Croatian Police in the Danube Region. The OSCE deployed over 100 international police officers making up what became known as the OSCE PMG which reported through an OSCE police chain of command to an OSCE Police Commissioner. Today, there are 88 PMG officers in the field.

The mere presence of the PMG police monitors, identified by their standardised uniform, has contributed to a feeling of security in the Region. Unlike in central and southern Croatia, the Mission has a special agreement with the Minister of Interior defining the monitoring role of the OSCE police monitors in the Danube Region. This agreement allows for the OSCE police monitors to work side-by-side with the Croatian Police, inside the Croatian police stations, and monitor all police activities in the Danube Region. In addition, police monitors attend police interviews and interrogations, perform joint patrols and have access to all police files and documents. This allows for the police monitors in most cases to be able to monitor the performance of the local police by first hand observation.” (OSCE Mission to Croatia September 2000, "Police monitoring")

"The OSCE Permanent Council in Vienna has decided that the OSCE Police Monitoring Group in the Danube Region will cease operations as a distinct unit of the OSCE Mission to Croatia, commencing 31 October 2000. This decision was taken with the knowledge that the security situation in the Danube Region has remained stable and the performance of the local police has shown steady improvement in the last few months.
The OSCE will, however, continue with police monitoring and with its assessment of the security situation in the Danube Region as well as in other war-affected areas, after the closure of the Police Monitoring Group. The Mission encourages the local population to continue to report incidents to the local police authorities." (OSCE 21 September 2000)

Policy and recommendations


- Facilitating refugee return to Croatia is fundamentally the responsibility of the Croatian authorities
- HRW recommends the government undertake a number of steps including measures to speed up repossession of property and measures to prevent looting, compensation and legal redress to former tenancy rights holders, and resolution of employment and pension discriminatory practices

“In addition to a comprehensive set of recommendations to the Croatian government, Human Rights Watch addressed detailed recommendations to the international community – including to the E.U. and the OSCE – on their role in advancing refugee return to Croatia in its September 2003 report, Broken Promises. Those recommendations, and the need for continued international engagement to progress on return, remain equally important today. Facilitating refugee return to Croatia, however, is fundamentally the responsibility of the Croatian authorities. Only the Croatian government has the power to resolve the issues that currently inhibit return and to live up to its obligations and commitments. The recommendations that follow are therefore directed toward the Croatian government. Human Rights Watch encourages Croatia’s international partners, particularly the E.U. and its individual member states, to make Croatia’s implementation of the below recommendations an integral part of their bilateral relations with the Croatian government.

To the Croatian Government:

On the Repossession of Property:
- Temporary occupants who refuse housing care (stambeno zbrinjavanje) or temporary alternative accommodation offered by the government should be evicted after prompt proceedings meeting due process standards;
- Croatia should fully implement the legislation, adopted in July 2002, which denies entitlement to alternative housing care to temporary occupants who own vacated property in Bosnia and Herzegovina or Serbia and Montenegro;
- Owners of temporarily occupied property should receive just compensation from the state for continued deprivation of the use of property, as provided by law, as well as compensation for deprivation of the use of property in the past;
- Courts should use expedited procedures for resolving repossession cases, irrespective of whether these have been initiated by the state prosecutor or the property owner; verdicts reached under the Law on Areas of Special State Concern should be promptly executed;
- Temporary occupants’ use of Serb houses for business purposes should be promptly ended;
- Temporary occupants who use the property only occasionally, while living and working elsewhere, should be deemed multiple occupants and evicted without prior provision of alternative accommodation; the Law on Areas of Special State Concern should be amended accordingly;
- Wherever members of a family lived in the same household before the war and now occupy two or more Serb houses, it should be considered a case of multiple occupancy and the temporary occupants
should be evicted without prior provision of alternative accommodation; the Law on Areas of Special State Concern should be amended accordingly;
· Temporary occupants who are determined to be financially or otherwise able to make other housing arrangements should be subject to eviction without prior provision of alternative accommodation.

On Looted and Damaged Properties:
· The government of Croatia should introduce looting and property damage as ex-officio prosecutable criminal offenses tailored for the specific circumstances of occupied property, rather than acts prosecutable in civil proceedings;
· State prosecutors should prosecute temporary occupants who intentionally damage or loot property that has been allocated to them;
· If reasonable grounds exist for concluding that a temporary occupant damaged or looted the property allocated to them, the government should consider that person ineligible for state-provided housing care even before the conclusion of the judicial proceedings.

On Tenancy Rights to Socially Owned Properties:
· Where apartments have not been privatized, original tenancy rights holders should be given an opportunity to repossess them, and they should be offered an opportunity to obtain a protected lease or purchase the apartments on terms comparable to other privatizations;
· Where the apartments have not been privatized because they were destroyed after the termination of the pre-war tenancy rights, the pre-war rights holders should be beneficiaries of the building reconstruction or should be entitled to a similar apartment in another location;
· Where the post-conflict occupant has purchased the apartment, the former tenancy rights holder should be entitled to a property of equivalent value;
· If the former tenancy rights holder does not choose any of the solutions from the above, he or she should be given fair compensation.

On War Crimes Prosecutions:
· Authorities should show a greater commitment to apprehending and trying fairly war crimes suspects irrespective of their ethnic origin;
· Given the high number of dropped charges and acquittals in war crimes cases against Serb returnees in recent years, the authorities should wherever possible pursue provisional release as an alternative to detention of indictees pending trial;
· As part of the government’s ongoing statewide review of outstanding war crime indictments and supporting evidence, those indictments for which the state prosecutor does not have a prima facie case should be dropped.

On Employment and Pensions:
· The government should closely monitor employment practices in state institutions and enterprises. Pertinent ministries should intervene in cases in which discrimination on ethnic grounds is apparent and develop a proactive strategy for recruitment and hiring of qualified minority candidates;
· The government should end discriminatory practices and ensure fair employment opportunities for Serb returnees in the state administration and state-owned enterprises;
· Croatia should vigorously implement the July 2003 amendments to the Labor Law, which prohibit discrimination on the basis of ethnic origin, among other grounds;
· With respect to pensions, the government should establish a new deadline for submitting requests for the validation of work completed between 1991-95 in areas under the control of de-facto Serb authorities;
· The government should relax the requirements for proving 1991-95 employment status, by unequivocally eliminating the requirement that only witnesses who have validated their own employment status can testify that the applicant was employed in the same company. Witness statements should be considered to create a rebuttable presumption of the applicant's wartime employment.” (HRW 13 May 2004, pp.14-16)
EC: return of refugees and IDPs and resolution of property issues is necessary for Croatia's integration into the EU (2003-2004)

- Croatia formally applied for EU membership in February 2003
- Pending the fulfillment of the conditions of the Stabilisation and Association Agreement, it is foreseen Croatia will join the EU in 2008
- The EU 2003 Stabilisation and Association Report notes that in practice only “limited progress” has been achieved in the return process and in the integration of the Serb minority
- The report also underlines the need for more concerted cooperation on behalf of the government regarding war crimes accountability
- In April 2004, the European Commission issued an Opinion on Croatia's application for EU membership

“In February Croatia formally applied for full membership to the European Union (EU), pending complete implementation of its outstanding commitments under the Stabilization and Association Agreement, with a view to joining the EU in 2008. In March the EU Commission issued its 2003 report on Croatia which welcomed positive developments in the strengthening of the country's democracy and improved regional relations, but criticized inter alia the lack of cooperation with the International Criminal Tribunal for the former Yugoslavia (Tribunal), continuing problems with the return and reintegration of Croatian Serb refugees and the slow pace of judicial reform.” (AI October 2003)

“The European Union has consistently emphasized improvements in the Croatian government's policy regarding the return of Serb refugees and full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) as preconditions for deepening of relations with Croatia. The March 26, 2003 Stabilisation and Association (SAP) Report, in which the European Commission identifies political and economic reforms required to allow Croatia's progress towards a closer relationship with the E.U., reflects this position.

[...]

Regarding refugee returns, the SAP report found that ‘[i]n practice, only limited progress has been achieved in the return process, and de facto integration of the Serb minority’ that had fled during the 1991-1995 Balkans war. The report identified the return of refugees as one of the '[p]riority areas needing attention in the next 12 months.'

In June 2003, the E.U. foreign ministers issued conclusions likewise making clear that progress was ‘required on refugee return, in which very little was achieved in the last year, in particular with regard to the integration of the Serb minority.’

On the issue of war crimes accountability, the SAP report found that ‘[t]he Government's attitude in the co-operation with ICTY remains lukewarm,’ and called on the Croatian government to ‘ensure full co-operation with ICTY.’ More recently, the General Affairs Council conclusions of October 13, 2003 called for full cooperation by the former Yugoslav states with the ICTY. The Council called on the countries of the region ‘to improve their co-operation in respect of arrest and transfer of indictees still at large, requests for documents, access to archives and availability of witnesses.’ It reaffirmed that ‘full cooperation [...] with ICTY remained an essential element’ of the SAP process and made clear that ‘[f]ailure to cooperate
fully with ICTY would seriously jeopardize further movement towards the E.U.’ Addressing the need for domestic war crimes trials, the Council ‘stressed the importance of strengthening national judicial systems and to improve their capacity to prosecute cases transferred from the ICTY.’” (HRW 8 January 2004)


UN Special Rapporteur on economic, social and cultural rights expresses concern over slow and restricted return of displaced Serbs (2003)

- The report outlines how return programmes and property repossession measures taken by the government have favoured persons of Croat ethnic origin
- Legislative and practical restrictions placed on ethnic groups, particularly Serbs have served to severely restrict the right to restitution and slowed and restricted the return process
- The SR notes the importance of integrating appropriate restitution laws within the legal structure of the State in a manner which is non-discriminatory
- The Rapporteur also highlights the importance of having capable institutions to facilitate return and restitution in a prompt manner, consistent with human rights norms and standards

“Croatia’s declaration of independence in June 1991 saw the beginning of a major military offensive by rebel Serb forces. With the support of the Yugoslav People’s Army (JNA), the Serb forces gained control over parts of Western Slavonia and Eastern Slavonia and eventually declared the unified territory to be a single State, the ‘Republika Srpska Krajina’. Armed conflict in Eastern Slavonia in 1991 led to the expulsion of over 80,000 ethnic Croats from the region.

Once the JNA withdrew in 1992, a peace plan was agreed upon under the auspices of the United Nations, and United Nations peacekeepers deployed in the areas under Serb control (the United Nations Protection Force, or UNPROFOR) were charged both with the protection of Serb civilians and with facilitating the return of displaced Croats. [1]

In early 1995, the Government of Croatia indicated that it was unwilling to permit further extensions of the UNPROFOR mandate in Croatia. [2] A mission with a more limited mandate and reduced troop strength was therefore authorized in February 1995 by the Security Council, with the consent of the Government. Its deployment was effectively ended in May 1995, however, when the Croatian army launched an offensive against Serb-held territory in Western Slavonia (known as ‘Operation Flash’), recapturing the territory. A similar action in sectors North and South (known as ‘Operation Storm’) in August 1995 recaptured the remaining areas outside Eastern Slavonia. According to international human rights organizations, the two operations caused the flight of more than 200,000 Serbs to Eastern Slavonia, Bosnia and elsewhere in Croatia, the single largest population displacement during the conflict in the former Yugoslavia. In the case of Operation Storm, the exodus was accompanied by the killing of Serb civilians and widespread forced eviction and the destruction of Serb housing. [3]

As a means of maintaining the displacement of persons of Serbian descent, the Government of Croatia adopted abandonment legislation favouring persons of Croat ethnic origin. Pursuant to the Law on Renting Apartments in the Liberated Areas and the Law on Temporary Taking Over and Administration of Specified Property (LTTP), Croats who fled their homes during the fighting in the early 1990s were considered to have justified reasons for doing so, while the flight of other ethnic groups, including the Serbs, was characterized as ‘voluntary’, thus effectively denying them the remedy of restitution. [4] This legislation also applied to Croats, but it was in fact not applied in areas where Croats left following Serb aggression.
Furthermore, under the Croatian restitution programme, only owners of private property, and Croatian citizens of Croatian ethnicity, were entitled to benefit from measures of restitution. These restrictions, particularly in a country with a history of social housing, served to restrict severely the scope of restitution, thus compromising the ability of the restitution process to contribute to post-conflict peace-building in any meaningful way. The national housing commissions which were established to deal with the complicated process of restitution, and upon which a successful return programme hinged, unfortunately failed to function properly. In fact, in many cases, these housing commissions appear to have actually prevented the return of property to members of non-Croatian groups.

In December 2001, the Government presented an action plan for the repossession of property affected by LTTP by the end of 2002. As of today, a substantial number of properties remain occupied because, even though legislative reforms took place, the provision of alternative accommodation for the tenants before repossession can take place has been retained, a stand that negatively affects Serb owners.

The slow and restricted return of displaced Serbs to their homes and habitual residences in Croatia severely compromises the restitution process. Of the estimated 300,000 Croatian Serbs displaced during the conflict, only 80,000 have returned to their pre-war places of residence.[5] The Croatian case reveals the importance of integrating appropriate restitution laws within the legal structure of the State in a manner which is non-discriminatory. This case also highlights the importance of having capable institutions ready to facilitate return and restitution in a prompt manner which is consistent with human rights norms and standards, including those related to non-discrimination.” (UN Sub-Commission on the Promotion and Protection of Human Rights, 16 June 2003, pp.6-7)

[Footnote 2] Readers may also be interested in the activities of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) in the process of housing and property restitution. Please see for more details: [Internet].
[Footnote 3] Ibid.
[Footnote 4] Under the 1995 Law on Temporary Taking Over and Administration of Specified Property, more than 18,500 private residential properties belonging almost exclusively to Croatian Serbs were taken over by the Government and assigned to Bosnian and domestic Croats, including internally displaced persons and Bosnian refugees of Croatian ethnicity (settlers).

UN Committee on the Elimination of Racial Discrimination recommends measures to prevent discrimination against Croatian Serbs IDPs and refugees (2002)

“While noting the challenges confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons, the Committee is concerned that return is still hindered by legal and administrative impediments and hostile attitudes adopted by some central and local officials. In this regard, concern is further expressed about allegations of inconsistency and lack of transparency in the National Programme for Return. The Committee is particularly concerned about the insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter-related issues of residency and citizenship rights. The Committee recommends that the State party introduce further measures to ensure fairness, consistency and transparency in the National Programme for Return. Further, the State party is strongly urged to take effective measures to prevent discrimination, especially against Croatian Serbs, particularly as regards the restitution of their property, tenancy and occupancy rights, access to reconstruction assistance and rights to residency and citizenship. It is recommended that the State party provide in its next periodic report information concerning the steps taken
to introduce effective legal and administrative regimes to resolve these issues. The Committee draws the attention of the State party to its general recommendation XXII concerning the rights of refugees and displaced persons.” (UN Committee on the Elimination of Racial Discrimination, 21 May 2002)

**UN Human Rights Committee calls on government to ensure right of return to those displaced by the conflict (2001)**

“While noting recent efforts to simplify procedures and remove obstacles in the way of those wishing to return to Croatia, in particular displaced persons of Serbian ethnicity, the Committee remains concerned at the number of cases which are still outstanding and at the length of time these persons are having to wait for resolution of their cases.

The State party should ensure that no difficulties are put in the way of persons who left Croatia as a result of the armed conflict, in exercising their right, under article 12, paragraph 4, of the Covenant to return to their own country. The deployment of sufficient resources towards providing those persons, who have a right under the Covenant to return to Croatia, with accommodation must be a priority with the State party as it is essential to render enjoyment of this right meaningful.” (UN HRC 30 April 2001, para.15)

*See also, "Comments by the Government of Croatia on the Concluding Observations of the Human Rights Committee", 20 June 2003 [Internet]*

**Reference to the Guiding Principles on Internal Displacement**

**Known references to the Guiding Principles (as of May 2004)**

**Reference to the Guiding Principles in the national legislation**

None

**Other References to the Guiding Principles (in chronological order)**

None

**Availability of the Guiding Principles in local languages**

<table>
<thead>
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<th>The Guiding Principles have been translated into the Serb-Croatian language.</th>
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<td>• GP in Serb-Croatian [Internet]</td>
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**Training on the Guiding Principles**

None
## ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>APN</td>
<td>Agency for the Mediation of Real Estate Transactions</td>
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<td>ARFG</td>
<td>Area Return Facilitation Group</td>
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<tr>
<td>BiH</td>
<td>Bosnia and Herzegovina</td>
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<tr>
<td>BPRM</td>
<td>Bureau for Population, Refugees and Migration (U.S. State Department)</td>
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<tr>
<td>CDR</td>
<td>Croatian Danubian Region</td>
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<tr>
<td>CHAP</td>
<td>Common Humanitarian Action Plan</td>
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<td>CHC</td>
<td>Croatian Helsinki Committee</td>
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<tr>
<td>COE</td>
<td>Council of Europe</td>
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<tr>
<td>CROMAC</td>
<td>Croatian Mine Action Centre</td>
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<td>EUPOP</td>
<td>European Union Reconstruction for Return Programme</td>
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<tr>
<td>FRY</td>
<td>Federal Republic of Yugoslavia</td>
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<tr>
<td>GFAP</td>
<td>General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement)</td>
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<td>GOC</td>
<td>Government of Croatia</td>
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<td>HDZ</td>
<td>Croatia Democratic Union</td>
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<td>HSP</td>
<td>Croatian Party of Rights</td>
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<td>IDP</td>
<td>Internally Displaced Person</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<td>JCM</td>
<td>Joint Council of Municipalities</td>
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<td>JNA</td>
<td>Yugoslav People's Army</td>
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<td>LEDA</td>
<td>Local Economic Development Agency</td>
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<td>LTTO</td>
<td>Law on the Temporary Takeover and Administration of Specified Property</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<tr>
<td>ODIHR</td>
<td>Office for Democratic Institutions and Human Rights</td>
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<td>ODPR</td>
<td>Office for Displaced Persons and Refugees</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<td>OHR</td>
<td>Office of the High Representative</td>
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<tr>
<td>OSCE</td>
<td>Organization for Security and Cooperation in Europe</td>
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<td>PARINAC</td>
<td>Partners in Action</td>
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<td>PMG</td>
<td>Police Monitoring Group</td>
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<td>RS</td>
<td>Republika Srpska</td>
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<tr>
<td>SEC</td>
<td>State Election Commission</td>
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<tr>
<td>SFRJ</td>
<td>Socialist Federal Republic of Yugoslavia</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
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<td>Acronym</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UNICEF</td>
<td>United Nations Children's Fund</td>
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<td>UNLO</td>
<td>United Nations Liaison Office</td>
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<td>UNMAAP</td>
<td>United Nations Mine Action Assistance Programme in Croatia</td>
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<td>UNMAS</td>
<td>United Nations Mine Action Service</td>
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<tr>
<td>UNPROFOR</td>
<td>United Nations Protection Forces</td>
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<td>UNTAES</td>
<td>United Nations Transitional Authority for Eastern Slavonia</td>
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<td>USAID</td>
<td>U.S. Agency for International Development</td>
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<tr>
<td>UXO</td>
<td>Unexploded Ordnance</td>
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