CROATIA:

Housing rights and employment still preventing durable solutions

A profile of the internal displacement situation

1 September, 2009

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OVERVIEW

Croatia: Housing rights and employment still preventing durable solutions

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The number of internally displaced people (IDPs) in Croatia has fallen significantly since the armed conflict between the Croat majority and the Serb minority ended in 1995. At the end of the war, around 250,000 people were displaced within Croatia, of whom 32,000 were Croatian Serbs. By June 2009, the number of IDPs had fallen to about 2,400, including over 1,600 ethnic Serbs.

The outcome for the two groups of IDPs has been quite different. In 1995, there were three times more Croat IDPs than Croatian Serb IDPs, but by 2009 the situation has been reversed with twice as many Croatian Serbs as Croats still displaced. As of June 2009, over 220,000 Croat IDPs and some 23,000 Serb IDPs had returned. However almost half of Serb returns to and within Croatia are not sustainable, according to international organisations and NGOs. For the remaining Croat IDPs, the main obstacle to return is the poor economic situation in return areas, whereas ethnic Serb IDPs also face continuing discrimination in accessing housing, property and employment.

Although successive governments have made significant progress since 2000 in reforming and adopting laws to support the return of ethnic Serb IDPs, their implementation has been slow due to their complexity and the discriminatory attitude of administrative bodies. One continuing barrier has been the absence of a remedy for the arbitrary cancellation of tenancy rights for former occupiers of socially-owned apartments; this has mainly affected ethnic Serbs. Alternative housing options have been made available to those who wish to return, but others have been left without any durable housing solutions or compensation for the loss of their tenancy right.

Over the past three years the number of IDPs in Croatia has remained steady, indicating that the remaining few have been unable to resolve their status by returning to their place of origin or integrating locally. To enable them to find durable solutions it would be necessary to combine economic support to the most vulnerable, fair compensation for former holders of occupancy rights, and an effective monitoring system to ensure minority rights are upheld.

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, there was an influx of ethnic Croat refugees fleeing the war in neighbouring Bosnia and Herzegovina.

The Serb secession in eastern and western Slavonia, Banovina, Kordun, Lika and in the Knin region which gave rise to the "Republika Srpska Krajina" led over 220,000 ethnic Croats to flee to other areas of the country. Four years later, Croatia's armed forces regained control of most of these Serb-controlled territories, leading to the displacement of up to 300,000 ethnic Serbs, primarily to Serbia and Montenegro and to Bosnia and Herzegovina (UN CHR, 29 December 2005), and also to eastern Slavonia (the Danube region), the only area of Croatia which was still under Serb control. The November 1995 Erdut Agreement provided for the transitional administration of eastern Slavonia by the United Nations, followed by a handover to Croatia in January 1998. In 1997, the United Nations Transitional Administration in Eastern Slavonia

(UNTAES), UNHCR and the Croatian government signed an accord confirming the right of displaced people to return to and from eastern Slavonia.

Current displacement and return figures

UNHCR in June 2009 put the number of remaining internally displaced people (IDPs) at around 2,400 (UNHCR, June 2009). Of these, over 1,600 were Croatian Serbs displaced in eastern Slavonia (email communication with UNHCR, August 2009). Additionally, almost 72,000 Croatian Serbs still live in Bosnia and Herzegovina and Serbia and Montenegro (email communication with UNHCR, August 2009).

Since 2005, IDP numbers have fallen by only a few hundred a year, compared to an average decrease of 4,500 between 2002 and 2005. This can mainly be explained by the slowing of reconstruction and housing care programmes and the lack of transparency, consistency and fairness in their implementation.

As IDP numbers have decreased, so have government services to house them. In 2007 most of the state-run collective centres which housed the majority of IDPs in eastern Slavonia were closed, with only some of the residents receiving some form of alternative housing, including relocation to other centres outside the region (email communication, Centre for Peace, 11 June 2008). Currently, six collective centres provide housing to almost 170 IDPs (mainly ethnic Croats), 470 refugees and 40 returnees, but two are planned for closure by the end of 2009 (email communication with UNHCR, August 2009). In the absence of a precise closure plan maintenance has been reduced or suspended in the remaining collective centres leading to a deterioration of living standards in 2008.

As of June 2009, over 244,000 IDPs had returned to their place of origin, including some 220,000 Croat IDPs (of whom 92,000 returned to the Danube region) and 23,000 out of a total of some 32,000 Croatian Serb IDPs (UNHCR, June 2009).

Continuing barriers to return

The main obstacles to return for remaining Croat IDPs have been the poor economic situation in their region of origin and some remaining housing issues which led many of them to integrate locally (USDoS, 28 February 2005, p.11; email communication with UNHCR, August 2009). However, the barriers to the return of ethnic Serb IDPs have been harder to overcome. Such obstacles included a slow and often discriminatory implementation of legislation in areas such as property repossession, housing care, reconstruction and access to citizenship. Limited access to property, utilities, education, employment, as well as occasional security incidents against returnees and lack of social cohesion in the return areas has also affected return and its sustainability by preventing integration of returnees with the rest of the population. Indeed, a UNHCR study indicated that between up to half of Serb IDP and refugee returnees left the country or resettled elsewhere within Croatia (UNHCR, 2007).

Discriminatory employment practices against Serbs contribute to this poor sustainability of return. The unemployment rate is much higher in return areas than in the rest of the country (email communication with UNHCR, August 2009). Minorities remain highly under-represented in state administration, the judiciary and the police (EC, November 2008; USDoS, 2009; Minority Rights Group International, July 2008). In 2008, the government adopted an action plan and established the Department for National Minorities to enforce the Constitutional Law on National Minorities, which obliges local authorities as well as public enterprises to employ representatives of minorities according to their percentage within the overall population (EC, November 2008). However, these national policies are not necessarily reflected at local levels, and the Commission on the Elimination of All Forms of Racial Discrimination (UN CERD, March 2009) noted in 2009

the reluctance of some local authorities to implement laws and government policies on non-discrimination, in particular with regard to returnees.

The demographic structure of the Serb returnee population confirms the impact of the unemployment factor on return and raises concern regarding the long-term presence of minority population. 37 per cent of returnees are over 65 (compared with only 17 per cent among the population as a whole) and therefore have access to a pension which guarantees a minimum income. Children constitute only 12 per cent of the returnee population (half of the overall figure for Croatia), bringing into question the long-term sustainability of minority communities in return areas (UNHCR, 2007).

In 2008, the situation of older IDPs and returnees became a little easier as a new government policy to recognise periods of work in areas under Serb control during the war paved the way for increased pension entitlements. At the end of May 2009, almost 16,000 resulting claims had been lodged with the Croatian pension fund, half of the requests had been processed and 3,500 approved.

The complexity of the legal framework, especially regarding housing care and reconstruction, has made it harder for IDPs to assert their rights and effectively prevented their return to urban areas. Indeed most tenancy rights were granted in urban areas and there is still no compensation for the arbitrary termination of these rights. As a result only three per cent of returnees live in settlements of more than 100,000 inhabitants (ECRE, October 2007).

Biased war crimes rulings have also discouraged the return of displaced minorities. A majority of Croatian war crime proceedings continue to be held in local courts where the crime occurred, rather than one of the four courts designated for war crimes (EC, November 2008, p.9; OSCE March 2008). These courts have come under scrutiny for disproportionately pursuing Croatian Serbs and fostering a culture of impunity for war crimes committed against Serbs by the Croatian security forces (EC, November 2007, p.8; AI, 21 January 2009). While some progress has been made on the issue of prosecuting perpetrators irrespective of ethnicity (EC, November 2008, p.8), concerns remain especially on trials against minorities held *in absentia* and on questions of judicial fairness in charging and sentencing minorities (AI, 21 January 2009, OSCE March 2008).

A few violent incidents against ethnic Serb returnees, particularly in the Dalmatian hinterland region (HRW, January 2009; USDoS, 2009), have also affected IDPs' willingness to return (USDoS, 11 March 2008, p.10). In some cases where former owners have tried to access their property, they have been threatened with or subjected to violence while police largely refrained from intervening (ECRE, October 2007). In 2008, police investigations have improved although only a few prosecutions took place (EC, November 2009, p.13), and Croatian Serbs have been appointed as regional police advisers for security issues and ethnically motivated crimes in Zadar and Vukovar.

Property and housing issues

While the restitution of illegally occupied private properties continued in 2007 and 2008, members of local minorities still face difficulties in accessing their housing and property rights (USDoS, 11 March 2008; email communication with UNHCR, August 2009).

Repossession of occupied private properties is almost complete, with only 35 administrative and court cases remaining to be resolved as of August 2009 out of some 20,000 cases (email communication with UNHCR, August 2009). However, this process has lasted more than a decade because of administrative obstruction and the fact that the law gives precedence to the rights of (mainly ethnic Croat) temporary occupants over those of (mainly ethnic Serb) original owners, by making restitution dependant on re-housing of the occupant (USDoS, 2009). The

European Court for Human Rights has found this practice to be in violation of the European Convention for Human Rights (ECtHR) due to the unreasonable length of proceedings, the excessive burden placed on one particular social group, and the failure to strike a fair balance between a pressing social need for housing and individual ownership rights (ECtHR (Radanovic v. Croatia), 2006; *and* (Kunic v. Croatia), 2007 see OSCE, September 2008).

There have been no administrative procedures to help returnees take possession of their agricultural land (HRW, January 2009). The only option is to initiate a lengthy and costly court procedure (email communication with Centre for Peace, 28 April 2008),which many minority IDPs and refugees cannot afford. While a solution was found in 2009 for land allocated by the state to temporary users in Zadar, the problem remains for illegally occupied land in the Dalmatian hinterland.

The reconstruction of homes has slowed and the target of completing the process by the end of 2009 has been postponed to 2010. In 2003, once the reconstruction of houses belonging to ethnic Croats had been largely completed, Croatian Serbs became the main beneficiaries of reconstruction assistance (OSCE September 2007). In the last three years the government has rebuilt fewer than 1,500 housing units, compared to over 9,500 in 2005, and almost 60,000 out of 200,000 destroyed houses have not been rebuilt. It is estimated that two in three rebuilt houses belong to ethnic Croats (email communication with UNHCR, August 2009). Decisions on reconstruction assistance are often not made within deadlines set by law, and many proceedings last for several years (OSCE, March 2007). As of May 2009, more than 2,500 cases and 7,000 appeals against negative decisions were still to be resolved. Government damage assessments have also reportedly discriminated against ethnic Serbs, with under-estimations of the amount of damage to individual properties resulting in owners being unable to fully rebuild their house (ECRE, October 2007).

The most pressing and unresolved property issue, however, remains the situation of former occupancy rights holders (ORHs) of socially-owned flats. This category of housing represented 70 per cent of housing units in former Yugoslav cities (COE CHR, 4 May 2005). These rights had many characteristics of ownership with indefinite right to occupy a flat and the possibility for the occupancy right to be inherited by the relatives of the holder. Most ORHs were allowed to transform their occupancy right into ownership right for a symbolic amount during and after the war. However, displaced persons and refugees were often unable to use this possibility and lost their rights. In contrast with authorities in Bosnia and Herzegovina and in Kosovo, the Croatian government considered that former ORHs had no right of repossession, unlike owners of private property. This position directly affects up to 30,000 households in Croatia, almost exclusively ethnic Serbs, whose occupancy rights over their apartments were terminated in a discriminatory manner when they fled due to the conflict. Local courts took advantage of their flight to cancel their occupancy rights on the grounds of unjustified absence from the apartment refusing to take into account compelling war circumstances. In addition, in areas which were under Serb control during the conflict, 5,000 to 6,000 Serb households lost their right *ex lege* once the conflict was over (OSCE, March 2007). While almost all ethnic Croat ORHs have been able to repossess and purchase their apartments, ethnic Serb refugees and IDPs whose occupancy rights were terminated have been largely unable to do so or gain legal redress or compensation.

Attempts to challenge termination of occupancy rights before the European Court have failed, since Croatia became party to the European Convention for Human Rights after most of the violations were committed. However, references such as the “Principles on Housing and Property Restitution for Refugees and Displaced Persons” adopted in August 2005 by the UN Sub-Commission on Human Rights make clear that acquired housing rights should be recognised and their termination compensated. In 2009 the UN Human Rights Committee confirmed in the Vojnovic case that the arbitrary termination of an occupancy right violated the International

Covenant on Civil and Political Rights and highlighted Croatia's obligation to provide an effective remedy, including compensation (HRC, April 2009).

The only options available to former ORHs are two housing scheme programmes introduced by the government in 2002 and 2003: one related to war-affected "Areas of Special State Concern" (ASSC), and another related to main urban areas outside the ASSC. The schemes offer alternative housing for rent or purchase, but only to former ORHs who wish to return. Almost 14,000 applications have been filed, some 3,300 by ethnic Serb IDPs and the rest by refugees. As of May 2009, less than half of them had received accommodation, mainly in the ASSC (communication, UNHCR, August 2009). Since no disaggregated data by categories of beneficiaries is available it is impossible to assess to what extent implementation of these schemes has contributed to the return of displaced people (OSCE, April 2008).

A new law on Housing Care in ASSC entered into force in 2008 but is not likely to change the situation significantly. Although it allows claimants to appeal negative decisions, it restricts even further the eligibility criteria which could further limit returns.

National response

Since the year 2000, the process of accession to the European Union (EU) has driven successive governments to institute measures that encourage return, as the return of ethnic minorities is a pre-condition for accession (HRW, January 2008). However, the overall approach towards Serb return has been characterised by piecemeal legislation and measures obtained progressively under strong international pressure.

Until 2000, the national framework and policy for return and property repossession favoured the return and resettlement almost exclusively of majority ethnic Croats over minority ethnic Serbs (UN CERD, 21 May 2002). The 2000 elections marked the end of the ten-year rule of the nationalist Croatian Democratic Party (HDZ), and under pressure from the EU the new government from the Social Democratic Party initiated wide legislative reform to uphold minority rights and facilitate the return of Croatian Serb refugees and displaced people. Several discriminatory provisions were amended or cancelled, including laws on the status of displaced persons and refugees, return programmes, property reconstruction and repossession. The HDZ returned to government in 2003, but did not change this trend.

Following elections in November 2007, the HDZ retained the majority of seats, but a representative of the Independent Democratic Serbian Party was appointed as one of the deputy prime ministers with responsibility for regional development, reconstruction and return. In January 2008, issues related to return passed, with the dissolution of the Ministry for Maritime Affairs, Tourism, Transport and Development, to the Ministry for Regional Development, Forestry and Water Management. This Ministry includes a Directorate of Areas of Special State Concern in charge of providing assistance to IDPs, returnees and refugees (OSCE, March 2008).

Reforms have been obtained mainly under strong international pressure from the EU, OSCE and the office of UNHCR. Discriminatory and slow implementation has contributed to limit the impact of reforms which came at a stage, when after ten years of displacement, people have become less likely to return. Issues still to be addressed by the government include the situation of former ORHs, the implementation of existing housing care and reconstruction programmes, and the provision of employment opportunities, security and fair treatment to returnees.

Civil society organisations continue to play an important role in the promotion and protection of human rights, democracy and protection of minorities, however, according to the European Commission, they have faced difficulties influencing policy debate and have remained relatively weak in analytical capacity (EC, November 2008).

International response

The international community has carefully monitored the return of IDPs and refugees to Croatia. The EU, the OSCE and the Council of Europe, including the European Court for Human Rights, have played significant roles in upholding the rights of displaced people and minority groups. However, international organisations have slowly started to decrease their presence in the country. UNHCR and the OSCE have reduced their operations assisting the process of IDP and refugee return, but maintain a presence in the country. UNHCR, for instance, maintains a field presence in Knin and Sisak, provides assistance and advice to minority returnees and focuses on the provision of legal advice for displaced people within the Croatian Danube Region, particularly targeting the most vulnerable among them (email communication with UNHCR, August 2009). Following the closure of the OSCE mission in December 2007, an OSCE Office in Zagreb has been established to monitor war crime proceedings and the implementation of the housing care programme for former occupancy right holders.

Since 2006, UNDP has been working on socio-economic recovery in former war-affected and return areas. The projects assist all communities by providing them with improved infrastructure, access to social services and employment. Particular attention is given to the needs of the elderly population (email communication with UNDP, August 2009).

The EU holds the most influence over the Croatian government because of the accession process and as the main provider of assistance to Croatia. In March 2008, Croatia received an accession target date of 2010. The European Council's decision of February 2008 identified among the priorities for attention refugee return, adequate housing for former tenancy rights holders, recognition of Serb wartime working time for pensions and the reconstruction and repossession of property.

The European Commission through its annual progress report has praised Croatia for taking many steps to facilitate return, but has also identified several areas that require further action, including judicial and public administration reforms, and the promotion of minority rights and refugee return (EC, November 2008). The EC took up the issue of lost occupancy rights and advocated for a more progressive approach in line with solutions adopted in neighbouring countries (EC, November 2007).

CAUSES AND BACKGROUND

General

The conflict in Croatia: overview (1991-1999)

- 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

HRW March 1999, "Background":
"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."

Stubbs 1998, p. 195:
"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."

HRW March 1999, "Background":
"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."

See 1995 Erdut Agreement (full text) [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

OSCE Mission to Croatia September 2000, "UNTAES Agreements":
"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."

Government demonstrates commitment to human rights (2000)

- 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

ICG 26 April 2001, p. 169:
"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 Zagred 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."

HRW December 2000, p. 290:
"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]."

United Nations

HRW 2002, p. 308:
"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."

"***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

HRW December 2000, p. 290:
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."

European Union

HRW December 2000, p. 290:
"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."

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.

OSCE 21 May 2001, p. 2:
"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."

See "Croatia – Stabilisation and Association Report", 4 April 2002 [see sources below].

See also:

"Presidents of Croatia and Yugoslavia issue joint statement on normalization of relations", OSCE, 4 June 2002 [see sources below].

"Balkan presidents hold landmark Sarajevo summit", Reuters, 15 July 2002 [see sources below].

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

OSCE 20 January 2004:
“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".

See also "Croatia: New Government Must Address Refugee Return and War Crimes", HRW, 9 January 2004 [see sources below].

See also section on Patterns of return and resettlements/Policy

European Commission adopts opinion on Croatia's application for EU membership (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
- The Government of Croatia submitted Croatia's application for EU membership on 21 February 2003
- 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

EC 20 April 2004:
"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."

OSCE 27 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 Minster 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."

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

European Council recommends the start of accession negotiations and requires further efforts on return (2005)

- Further to indication that cooperation with ICTY was full, EU allowed opening of accession negotiations
- Political criteria to be met by Croatia includes respect of human rights, protection of minorities, rule of law and facilitation of return movements
- EU assesses that Croatia made progress but needs to address several outstanding issues
- Renewed emphasis of the EU on return issues is welcome by observers

UN CHR, 29 December 2005, par.11:
"Since the conclusion of the armed conflicts on the territory of the former Yugoslavia, the foreign policy of Croatia has reflected the long-term goal of membership in the European Union. On 29 October 2001, the European Union and Croatia signed an agreement for the Stabilization and Association Process. On 18 June 2003, Croatia became a candidate country for accession to the European Union. On 3 October 2005, the European Union decided to open accession negotiations with Croatia."

EU, 9 November 2005, p.3, 10, 33-34:
"Following a positive assessment on 3 October 2005 from the ICTY Chief Prosecutor that cooperation was now full, the Council concluded on the same day that Croatia had met the outstanding condition for the start of accession negotiations and an IGC opening the negotiations was held. The Council agreed that less than full cooperation with ICTY at any stage would affect the overall progress of negotiations and could be grounds for their suspension. (…)

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities." In the case of Croatia and the other Western Balkan countries, the conditions defined by the Stabilisation and Association Process are also a fundamental element of EU policy. In this section, the Commission therefore also monitors cooperation with the UN International Criminal Tribunal for the former Yugoslavia (ICTY), regional cooperation and other related issues such as developments in war crimes trials and refugee return. (…)

In the area of human rights and minorities an appropriate legal framework is in place. The position of minorities has in general continued to improve since the Opinion. However, implementation of the Constitutional Law on National Minorities in particular has been slow. Serbs and Roma continue to face discrimination and the need to improve their situation especially with respect to job opportunities and as well as creating a more receptive climate in the majority community is an urgent priority. Implementation of a new Roma strategy has begun, but major challenges lie ahead. Particular attention should be paid to ensuring all ethnically motivated incidents are properly investigated and those responsible prosecuted. On regional issues, while there has been good progress on refugee return in terms of repossession and reconstruction of housing, a number of foreseen deadlines have not been met. Progress has been particularly weak in implementing housing care programmes for former tenancy rights holders. On-going efforts to create the economic and social conditions necessary for the sustainability of refugee return need to be accelerated. (…)
Problems arose since the Opinion with respect to the requirement for full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), contributing directly to the postponement of the start of accession negotiations foreseen in March 2005. The situation has

meanwhile improved, however, allowing the ICTY Chief Prosecutor to conclude in October 2005 that cooperation was full. This subsequently paved the way for the Council to conclude on 3 October 2005 that the outstanding condition for the start of accession negotiations had been met. Negotiations were formally launched the same day. In its conclusions, the Council confirmed that sustained full co-operation with the ICTY would remain a requirement for progress throughout the accession progress. Less than full cooperation with ICTY at any stage could lead to the suspension of negotiations."

Human Rights Watch, 18 January 2006:
"On October 3, 2005, the Council of the European Union decided to open formal negotiations on membership with the Republic of Croatia. The all-but-exclusive focus on the issue of ICTY cooperation has in the past prevented the E.U. from using its unique position to vigorously demand greater progress on other pressing issues such as refugee return, treatment of minorities, and domestic war crimes trials. However, on October 9, European Enlargement Commissioner Olli Rehn stressed to his hosts in Zagreb that the issues of refugee return, minority rights, and the rule of law would be critical in the European Commission's assessment of the progress Croatia made in meeting the criteria for E.U. membership. The same issues figured prominently in the Accession Partnership document, issued by the commission on November 9. The new emphasis is welcome, although it has probably come several years too late to have any real impact—the process of refugee return is gradually coming to a halt, the memory of war crimes witnesses is becoming unreliable, and the availability of evidence is becoming increasingly problematic."

POPULATION FIGURES AND PROFILE

Global figures

Number of Internally displaced persons is 2'402 (as of June 2009)

- UNHCR estimates the number of IDPs to 2,402 as of June 2009
- Among these, 2/3 are ethnic Serbs residing in the Croatian Danube Region
- Over the past three years the number of displaced people has remained steady indicating that remaining IDPs have been unable to find durable solutions
- 680 individuals still live in collective centers, almost 170 are IDPs

1. Number of IDPs

Over the past three years the number of displaced people has remained steady indicating that the remaining IDPs have been unable to find durable solutions.

30 June 2009	2,402	UNHCR/Government of Croatia
1 January 2009	2,497	UNHCR/Government of Croatia
30 September 2008	2,579	UNHCR/Government of Croatia
May 2008	2,687	Government of Croatia (source: USDOS, 2009)
March 2008	2,600	Souce: Council of Europe, June 2008
1 December 2007	2,900	UNHCR/Representation in Croatia
1 July 2007	3,500	UNHCR/Government of Croatia
31 August 2006	4,200	UNHCR/Government of Croatia
30 April 2006	4,450	UNHCR/Government of Croatia ODPR
9 February 2006	4, 706	UNHCR/ Government of Croatia ODPR
December 2005	7,000	UN RSG Walter Kalin
31 October 2005	4,918	UNHCR/ Government of Croatia ODPR
5 April 2004	11,493	UNHCR/ Government of Croatia ODPR

IDMC compilation, June 2009

UNHCR, email communication, August 2009:
"As of the end of June 2009, there are 2,402 registered IDPs in the country. Among these, 1,638 are ethnic Serbs residing in the Croatian Danube Region."

USDOS, 25 February 2009:
"Authorities took an inconsistent and non uniform approach to minority IDPs, hampering their return. There remained a significant number of IDPs, altough not all were under the government's direct care. As of May 2008, 2,687 IDPs had registered with the government; of this number, 1,638 were ethnic Serbs."

Council of Europe, Committee on Migration, Refugees and Population, June 2008, p.12:
"In March 2008, 2,600 IDPs remained in Croatia half of whom were Serbs."

USDOS, 11 March 2008:
"Authorities took an inconsistent and non uniform approach to minority IDPs, hampering their return. A significant number of IDPs remained in the country, although not all were under the government's direct care. By November [2007] 2,954 (1,644 of Serb ethnicity) IDPs had registered with the UNHCR."

2. Some IDPs are still living in collective centers

UNHCR, email communication, August 2009:
" In total some 680 individuals (472 refugees, 169 IDPs and 39 returnees) live in collective accomodation. At the moment six collective accomodation provide housing for IDPs, returnees and refugees. They are all run by the Directorate for Areas of Special State Concern. CC Mala Gorica (south west of Zagreb) accommodates IDPs, returnees and refugees. CC Dumace (near Petrinja) accommodates refugees (ethnic Croats) from Kosovo; CC Pisarovina (near Zagreb) accommodates IDPs and refugees; CC Blace (near Vinkovci, east Croatia) accommodates refugees, CC Strmica (near Knin, south Croatia) accommodates minority returnees (Serbs). CC Kovacevac (western Slavonia) is being transformed into a permanent accommodation for former IDPs and refugees. CC Blaca and Dumace are planed for closure by the end of 2009."

Statistical overview of displacement in Croatia since 1991 (June 2009)

- During the war, around 582,000 persons were displaced within Croatia out of which 32,000 were Croatian Serbs.
- The number of IDPs has reduced considerably over the years, but has remained stable since 2007

OSCE, March 2007, p.5:
"Between 1991 and 1997, around 950,000 pre-war Croatian citizens were displaced both within the borders of the Republic of Croatia and outside them. Around 550,000 displaced persons were mainly citizens of Croatian nationality, while the remaining 400,000 were mainly minority Serbs, 330,000 of whom were displaced in Serbia and Montenegro, 40,000 in Bosnia and Herzegovina and 32,000 in Croatian Danube region (the former UNTAES region)."

Evolution in the numbers of Internally Displaced Persons in Croatia (end-year figures)

Year	Number of IDPs
1991	550,000
1992	260,705
1993	254,791
1994	196,870
1995	210,592
1996	138,088
1997	100,668
1998	76,443
1999	52,390
2000	34,134

2001	23,402
2002	17,100
2003	12,566
2004	7,540
2005	4,804
2006	3,975
2007	2,873
2008	2,497
2009 June	2,402

UNHCR, Statistical report, June 2009

Situation of ethnic Croatian and ethnic Serb displaced persons, 1991 to March 2005

Situation at end of year (unless otherwise indicated)	Ethnic Croatian displaced persons (in Croatia)[a]	Ethnic Serb displaced persons (in Croatian Danube region)[b]	Total
1991	550 000	-	550 000
1992	260 705	-	260 705
1993	232 103	-	232 103
1994	199 807	-	199 807
1995	210 592	-	210 592
1996	138 088	-	138 088
1997	101 660	31 667	133 327
1998	72 676	10 503	83 179
1999	46 273	4 739	51 012
2000	30 647	3 487	34 134
2001	19 991	3 411	23 402
2002	13 748	3 352	17 100
2003 (July)	12 359	3 323	15 582
2005 (March)	5 256	1 678	6 934

[a] While described as ethnic Croatians, these figures include a small proportion of up to 6 per cent non-ethnic Croatians.

[b] While described as ethnic Serbs, these figures include a small proportion of up to 4 per cent non-ethnic Serbs.

Source: UN CHR, 29 December 2005, p. 11

Between 1997 and 2005 the number of ethnic Croatian and ethnic Serb displaced persons has reduced by 95 %.

ODIHR 26 September 2007:
Between 1991 and 1997, around 950,0004 pre-war Croatian citizens were displaced both within the borders of the Republic of Croatia and outside them. Around 550,000 displaced persons were mainly citizens of Croatian nationality, while the remaining 400,000 were mainly minority Serbs, 330,000 of whom were displaced in Serbia and Montenegro, 40,000 in Bosnia and Herzegovina and 32,000 in Croatian Danube region (the former UNTAES region).

Since the beginning of the intensive return process in 1995, 341,0815 returnees have been officially registered, of whom 64% mainly account for the majority population, while 36% account for displaced Serbs. According to the data of the Ministry of Maritime Affairs, Tourism, Transport and Development (MMATTD), out of 122,031 officially registered minority population returnees, by early September 2006, 89,428 of them returned from Serbia and Montenegro, 8,997 from Bosnia and Herzegovina, while 23,606 returned from Croatian Danube Region to other parts of Croatia. Estimates, however, show that only 60-65% minority returns can be considered sustainable and that some refugees return again to the country of refuge after returning to Croatia and staying in it for a short while, manly due to the constant difficulties they face regarding access to housing, acquired rights and employment.

According to official statistics, in Croatia there are 2,542 unresolved cases involving expellees of mostly Croatian nationality, 1,650 displaced persons of mainly Serb nationality, 2,594 refugees, and a large number of refugees outside Croatia (most of whom are residing in Serbia, Montenegro, Bosnia and Herzegovina and are wishing to return to Croatia). The exact number of refugees who wish to return to Croatia is not available; the MMATTD assesses, based on the number of return claims, that there are at least 11,694 potential returnees, namely less than 20,000.

Total number of returned IDPs reaches 244,087 (2009)

- The total number of returned IDPs since the end of the war reaches 244,087 as of June 2009 (220,856 ethnic Croats and 23,231 ethnic Serbs)
- Return of ethnic Croat IDPs is almost complete but return rate of Serb IDPs has been much slower
- Decrease of IDP figures could be explained by the fact that GOC has provided reconstruction assistance to the vast majority of IDPs
- IDPs who repossess their property or have it rebuilt are no longer counted as IDPs
- Some returnees are still living in collective centres
- Figures must be taken carefully since 44 to 50 per cent of the returnees have not stayed in the country and some person are registered both as refugees and returnees

1. Figures of return:

UNHCR, Government of Croatia, June 2009:

Minority returns to/within Croatia*

A) Refugee returns from the three neighboring countries	108,922

- Serbia/Montenegro"	93,747
- Bosnia and Herzegovina	15,175
B) IDP Returns within Croatia	23,231
Registered minority returns***	132,153

Other refugee/IDP returns to/within Croatia*

Refugee returns from third countries	35,362
Return of IDP Croats and other ethnicities	220,856
Total	256,218

Total registered returns	388,371|

* Sources: Government and UNHCR.
** UNHCR is not in position to verify the past refugee status for 15,929 returnees from Serbia. *** Reported return figure does not necessarily reflect current place of residence.

2. Return of ethnic Croats almost complete, return of ethnic Serbs stalled

UNHCR, email communication, August 2009:
"As of the end of June, there have been 132,153 registered minority returns in Croatia"

HRW, January 2009:
"Despite government declarations expressing commitment to the issue, Serb return to Croatia slowed to a trickle. Most of the 231 displaced persons and 610 refugees who returned to their homes areas during the first half of 2008 were ethnic Croats."

Centre for Peace, October 2008, p.2:
"According to data by Croatian Government, since the beginning of the return of displaced persons in 1995, 345.920 returnees have been officially registered out of which 125.450 were ethnic Serbs: 92.556 refugees from Serbia and 9.358 from Bosnia and Herzegovina; and 23.536 internally displaced from Croatian Danube region. In the middle of 2008, the Government of the Republic of Croatia states: “Return of ethnic Croats is mostly completed with the exception of wider Vukovar area where the reconstruction is still in process. What Republic of Croatia is facing at the moment is the return of exiled ethnic Serbs who are still residing in Serbia and Montenegro for whom the reconstruction of houses continues and other return preconditions are being ensured. Precise number of refugees who want to return to Croatia is not available.”"

Amnesty International Report 2008, Croatia, May 2008:
"Out of at least 300,000 Croatian Serbs displaced by the conflict, approximately 130,000 were officially recorded as having returned home."

ECRE, October 2007, p. 23:
"The Government Office for Refugees, Returnees and IDPs (GOfR) is the main institution, responsible for inter alia data collection on returns in Croatia. Its figures and findings are published in quarterly reports. According to the last GOfR quarterly report from June 2007, the total number of registered returnees was 344,206, of whom 219,734 (64%) are Croat IDPs and 124.472 (36%) Serbs. Among Serb returnees, 91,651 have come from Serbia, 9,256 from BiH, and 23,565 were IDPs in Eastern Slavonia. During 2006, only 5,478 persons returned to Croatia, of whom 82 % were Serbs. It is very difficult to know exactly how many people are still waiting to

return to their place of origin. There are currently 11,543 return requests registered in Serbia and BiH still pending the formal procedure."

3. Decrease of IDP figures could be explained by the fact that GOC has provided reconstruction assistance to the vast majority of IDPs and IDPs who repossess their property or have it rebuilt are no longer counted as IDPs

UNHCR, email communication, August 2009:
"Returnee status in Croatia is granted by the DASSC for six months. IDP status is also granted by DASSC, former IDPs are considered as fully integrated six months after receiving reconstruction/housing assistance."

UNHCR Representation to Croatia, email correspondence, 1 March 2006:
“The decrease of the number of IDPs could be explained by the fact that GOC has provided reconstruction assistance to the vast majority of IDPs, both in CDR and other parts of Croatia. Additionally, the repossession process of occupied private properties in CDR is also being finalized. Consequently, upon reconstruction and repossession, the IDPs have been de-registered by ODPR.”

4. Some returnees are still living in collective centres

UNHCR, email communication, August 2009:
"In total some 680 individuals (472 refugees, 169 IDPs and 39 returnees) live in collective accomodation. At the moment six collective accomodation provide housing for IDPs, returnees and refugees. They are all run by the Directorate for Areas of Special State Concern. CC Mala Gorica (south west of Zagreb) accommodates IDPs, returnees and refugees. CC Dumace (near Petrinja) accommodates refugees (ethnic Croats) from Kosovo; CC Pisarovina (near Zagreb) accommodates IDPs and refugees; CC Blace (near Vinkovci, east Croatia) accommodates refugees, CC Strmica (near Knin, south Croatia) accommodates minority returnees (Serbs). CC Kovacevac (western Slavonia) is being transformed into a permanent accommodation for former IDPs and refugees. CC Blaca and Dumace are planed for closure by end 2009."

4. Figures must be taken carefully:
- some person are registered both as refugees and returnees
- 44 to 50 per cent of the registered returnees do not live in Croatia

UNHCR, email communication, August 2009:
"UNHCR identified some 25,000 persons who are registered as both returnees and refugees; verification of their status with competent authorities is ongoing. "

HRW, January 2009:
"According to United Nations High Commissioner for Refugees, around 125,000 ethnic Serbs who fled the 1991-1995 conflict are registered as having returned to Croatia, of whom around 55,000 remain permanently."

Centre for Peace, October 2008, p. 2:
"Official number of registered returnees, however, does not reflect realistic number of sustainable returns in the Republic of Croatia. OSCE Mission to Croatia estimated, in 2006, that only 60-65% of minority returns can be considered sustainable and that certain number of refugees after returning to and staying in Croatia for a short period, returns to the country of their exile mostly for persistent difficulties in the approach to the housing, acquired rights and employment. An independent 2007 UNHCR ordered study assessment point at even more

defeating results of the sustainability of minority return (...) It is impossible to determine precise number of remained potential minority returnees to the Republic of Croatia."

UNHCR, 2007, p.29:
"Recent studies of returnee trends have shown inaccuracies in the official numbers of returnees, whether those given by 'homeland' governments or international organisations. We do not imply here that there is a deliberate inflating of figures, simply that there is a problem with a certain number of registered returnees who stay in their places of return for a short period of time or only sporadically, rather than permanently. The official registration of a returnee does not actually have to indicate an intention to stay. (...) According to our findings, between 35% and a maximum of 41% of registered returnees reside permanently at their registered addresses, and an additional 3.5% moved to other locations within Croatia. At the same time, Between 44% and 50% of registered returnees do not permanently reside in Croatia. If we translate our findings to the whole population of 120,000 registered Serb (minority) returns, We arrive at a realistic estimate of 46,000 and 54,000 registered returnees living permanently in the country, of whom 42,000 to 49,000 reside in their places of origin. To this figure, a certain number of unregistered returnees who have stayed permanently (perhaps a few thousands) should be added. Some missing data in our sample may suggest that a small proportion, particularly among younger family members, is not registered, not to mention those who, for particular reasons, may have avoided registration upon return. When we deduct some 14,500 deceased returnees, there remain 51,500 to 59,500 registered returnees who continue to reside permanently outside Croatia, mostly in Serbia."
The UNHCR study includes minority returned refugees and IDPs.

Amnesty International Report 2008, Croatia, May 2008:
"At least 300,000 Croatian Serbs left Croatia during the 1991-1995 war, of whom only approximately 130,000 were oficially recorded as having returned, a figure widely considered to be an overestimation of the real numbers of those who had returned. A survey commissioned by UNHCR, the UN refugee agency, and published in May estimated that less than half of registered returnees live in Croatia"

Ethnic Serb internally displaced population may be higher than official figures indicate: IDP re-registration and status recognition procedures are problematic (2003-2004)

- Government of Croatia has consistently resisted registration of Serb IDPs in the Croatian Danube region and refused to give them rights similar to Croat IDPs
- 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

UNHCR Representation to Croatia, email correspondence, 1 March 2006:
"Ever since the first registration of Serb IDPs, their rights arising from the status were the subject of negotiations between the international community and issue of dispute with the GOC. As this group was registered during the peaceful re-integration of the CDR, after the issuance of the Law on Refugees which specified certain dates as of which the person had to be registered as displaced, the GOC used that as an excuse not to grant Serb IDPs the status that was given to Croat IDPs. Serb IDPs have never received the IDP card, heath insurance based on the status, exemption from some taxes, monthly cash grant, as Croat IDPs have. One of the arguments offered during the registration in 1996/97 was that Serb IDPs would be able to return to their places of origin soon and receive the returnee status then, which would then be the same returnee status as given to Croat IDPs upon return. However, the process was not even finalized after the 7 years from the registration and these persons remained throughout this period without the full IDP status rights. It is assumed that more IDPs reside in the region but they were de-registered in the previous years because they failed to report the change of address and ODPR did not find them during de-registration exercises."

Center for Peace, 31 August 2004, par.20 and 29:
"The official number of displaced Serbs is 1.702 persons (…), but the real number is still under the question mark and presumably several hundreds higher than the official one. For example, Centre for Peace Vukovar, in mid 2003, collected information on about one hundred displaced persons currently living in two small villages near Vukovar who were not registered as displaced persons. (…) Certain problems also occurred with the cancellations of the status of displaced persons without any written decisions by the Office for Displaced Persons and Refugees (ODPR) that explained how these persons were not found in their registered addresses during the reregistration. It was noticed that some displaced persons lost their status despite the fact that they lived in the addresses they registered to, which could have been proven by police registration records of those people's temporary addresses but regional ODPR's offices did not take this into their consideration. Lost of the status lead towards lack of possibility to exercise certain rights, such as the right to vote in the elections in places opened for displaced persons and exercise of the right to adequate alternative accommodation if evicted from temporary occupied accommodation and similar."

Center for Peace, Legal Advice and Psycho-social Assistance, 20 May 2004:
"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."

See also section on "Documentation"

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

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

Ministry for Reconstruction April 2002:
"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."

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

	Male	Female	Total

A. Internally Displaced Persons (IDPs)	10,442	11,945	22,387
1. IDPs in Collective Centres	2,772	3,172	5,944
2. IDPs in Private Accommodation	6,038	7,005	13,043
3. IDPs in CDR (ex-UNTAES)	1,632	1,768	3,400
	from BiH	from FRY	Total
B. Refugees	18,184	1,386	19,570
1. Refugees in Collective Centres	2,380	400	2,780
2. Refugees in Private Accommodation	15,804	986	16,790

USCR 2002, p. 204:
"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."

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

USCR 2000, pp. 224-225:
"[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, p. 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. 226:
"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."

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

USCR 1999, pp. 185-186:

"The Croatian government's Office for Displaced Persons and Refugees (ODPR) continued to deregister refugees and internally displaced persons in 1998. […][T]he 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."

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

USCR 1998, p. 170:
"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 78,5000 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."

Total IDP (end 1996): 185,000 persons

USCR 1997, p. 176:
"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."

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

USCR 1996, p. 135:
"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."

Disaggregated data

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)

Republic of Croatia, Report submitted to UN CEDAW 27 October 2003:
"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."

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

OSCE ODHIR 25 April 2000, sect. IV-b-2:
"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)."

UNHCR May 2000:
"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 20 June 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."

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 between displaced Croats and Serbs remains in effect (2006)" [Internal link]

See also section on Documentation

PATTERNS OF DISPLACEMENT

General

Two major waves of displacement occurred during the Croatian war (2005)

- The creation of the secessionist Republic of Krajina corresponding to areas with Serb majority led to displacement of some 220,000 ethnic Croats to other areas of Croatia
- The 1995 offensives of the Croatian army against the Republic of Krajina displaced an estimated 300,000 ethnic Serbs who fled abroad or to Eastern Slavonia, last pocked controlled by Serbian forces
- A UN mission (UNTAES) was established in November 1995 to administer Eastern Slavonia
- Eastern Slavonia reverted to control of Croatian authorities in January 1998
- Displaced persons seem disadvantaged compared to refugees in terms of assistance and social support network

UN CHR, 29 December 2005, par.8-10:
"8. Following a popular referendum in May 1991, the Croatian Parliament issued a declaration of independence from the Socialist Federal Republic of Yugoslavia on 25 June 1991. Following the declaration, armed conflict spread to the territory of Croatia, engaged by the Yugoslav People's Army and with the assistance of paramilitary forces from within and outside of Croatia. As a result of these conflicts, the Government of Croatia lost control of the areas of Eastern Slavonia, Western Slavonia and "Krajina", areas with a pre-war majority of ethnic Serbs or with a substantial ethnic Serb minority. In the course of this fighting, an estimated 220,000 ethnic Croatians fled these areas for other parts of Croatia. In Geneva, on 23 November 1991, and in Sarajevo, on 2 January 1992, ceasefire agreements were signed seeking to bring the fighting to an end.

9. On 15 January 1992, the member States of the European Community recognized the independence of Croatia. On 21 February 1992, the Security Council adopted resolution 743 (1992) establishing a United Nations Protection Force in the contested areas. On 22 May 1992, Croatia was admitted into the United Nations. In January 1993, fighting flared with Government of Croatia incursions into the contested areas. In May 1995, in a military operation named "Flash", government forces attacked Western Slavonia, recapturing significant amounts of territory. In August 1995, in a military operation named "Storm", government forces ecovered "Krajina". In the context of these operations, an estimated 300,000 ethnic Serbs were displaced from their homes, with the majority becoming refugees in adjoining States."

Eastern Slavonia was the last area still controlled by Serbian forces. The Erdut Agreement, concluded on 12 November 1995 and confirmed by a resolution of the Security Council, established a United Nations transitional Administration for Eastern Slavonia, Baranja and western Sirmium (UNTAES).

"In 1997, UNTAES, UNHCR and the Government of Croatia signed an Agreement on the Operational Procedures of Return [of refugees and internally displaced], which, inter alia, confirmed the right of the internally displaced to return to and from the Croatian Danube region.

On 15 January 1998, Eastern Slavonia, Baranja and Western Sirmium were the last sectors to revert to the control of the Government of Croatia, with the final expiry of the UNTAES mandate."

JRS, September 2005, p.379:
"The effects of the war on refugee flows and the political course of the conflicts in the former Yugoslavia also conditioned the experience of refugees and their current options regarding return and reintegration. Those who settled inside Croatia generally experienced more dislocation than those who settled in Serbia. For example, those who fled their homes in 1991 were able to settle in Eastern Slavonia (where they enjoyed greater protection during the Serbian occupation) but (…) given the course of the war, the liberation campaigns waged by the Croatian Army, and the return of occupied land to the Croatian government following the withdrawal of the United Nations, these migrants were ultimately unable to put down extensive roots and develop networks of support. Moreover, since they were not refugees, they were among the last to receive assistance from refugee organizations and international agencies. Refugees who settled at least temporarily in Serbia, still have the opportunity to go back and forth, and thus preserve the option of integration in Serbia or return to Croatia."

Serb population leave Eastern Slavonia to the Federal Republic of Yugoslavia (1996-1999)

- 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

COE 9 April 1999, paras. 36-41:
"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."

U.S. DOS 25 Feb 2000, sect. 2d:
"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."

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

PHYSICAL SECURITY & FREEDOM OF MOVEMENT

General

Incidents of violence against minorities decreased, but cases are still reported in the Dalmatian hinterland (2009)

- Incidents against minorities decreased in 2008 and 2009
- Violence and intimidation still occurred in the Dalmatian hinterland region
- Most attacks were directed at property rather than people
- Some Croats have been targets of interethnic violence
- Majority of Serb returnee feel rather or absolutely safe in Croatia and can openly state their ethnic belonging and practice their religion
- Police investigations have improved altough few cases end in prosecutions
- Two Croatian Serbs have been appointed as regional police advisors for security issues and ethnically motivates crimes in Zadar and Vukovar

UNHCR Zagreb, email communication, August 2009:
"Security situation in the returning areas is stable, incidents against minorities returnees are sporadic and have decreased in 2008 and 2009. When committed, incidents are reported and investigated. The police Directorate has appointed two Serb minority regional police advisors for security issues and ethnically motivated crimes in Zadar and Vukovar."

USDOS, February 2009:
"Public hostilities toward returning ethnic Serb refugees diminished in most part of the country but was still pronounced in the Zadar and Sibenik hinterland region in Dalmatia (...). Incidents including looting, physical threats, verbal abuse, and spraying graffiti on Serb property continued in the Dalmatian hinterland and in the central part of the country. International organizations reported that the frequency and gravity of violent incidents against ethnic Serbs diminished in most of the country with the exception of the Zadar and Sibenik hinterland, where they remained unchanged (...) Verbal provocations against ethnic Serbs were reported in the central and southern parts of the country. (...)

On occasion ethnic Croats were targets of interethnic violence. In February ethnic Serb high school students vandalized a student's home in Borovo, near Vukovar. The vandals destroyed 20 glass windows and the entryway door. They also threatened the Croatian student, insulted the late president, Franjo Tudjman, and chanted "this is Serbia." Police identified and arrested several minors. Deputy Prime Minister Slobodan Uzelac, an ethnic Serb, criticized the violence. A month later an estimated 500 soccer fans from Zagreb and elsewhere in the country arrived in Vukovar on buses and marched through the town, chanting offensive slogans in retaliation. The chants included "kill the Serbs" and "Croatian mother, we shall slaughter Serbs." A heavy police presence prevented any acts of physical violence."

Human Rights Watch, January 2009:
"Serb returnees continue to suffer violence and intimidation, particularly in north Dalmatia, although at a declining rate. Most attacks were directed at property rather than people. Police

generally increased their presence at the scene following such attacks and opened investigations, but did not identify the prepetrators. The most serious incident occured in March (2008) when a group of young men stoned a house of a Serb returnee family in the area of Benkovac, injuring a family member. Police arrested the alleged perpetrators, who are on trial for ethnically-motivated violent assault charges at this writing."

EC, November 2008, p. 13:
"There have been fewer reports of apparently ethnically motivated attaks against the Serb minority and the Orthodox Church. Police investigations of such incidents have improved altough few cases end in prosecutions. Moreover, a number of ethnically motivated incidents occurred over the summer, which could have a detrimental impact on the willingness of refugees to return."

USDOS, 11 March 2008:

“While constitutional protections against discrimination applied to all minorities, open discrimination and harassment continued against ethnic Serbs and Roma. According to the NGO Serb Democratic Forum, one of the most serious ethnically motivated incidents during the year took place in July at the home of Serb returnees in Gornji Vrhovci, a village in the Pakrac area”…”Other ethnically based incidents occurred around the country; however they were usually sporadic in nature, involving primarily verbal abuse, threats, and occasional acts of graffiti and vandalism. For example, near Pakrac a Serb farmer complained that he was verbally abused and threatened by his neighbor following a dispute over a fence.”

“Police investigated but made no arrests in other ethnically motivated attacks against Serbs reported in 2006 that resulted in injury or involved attempted arson, theft, and vandalism in Smokovic, Zemunik Donji, and Ostrovica. Police investigated but had no suspects in the 2006 vandalism of a monument to Croation war victims in Lovas near Osijek.”

“Leading human rights NGOs and the UNHCR noted that violence against ethnic Serbs remained at the same level of frequency as in 2006, but that the number of grave incidents declined due to improved police performance in investigating and identifying culprits. The Croatian Helsinki Committee Executive Director Ranko Helebrant stated that ethnic incidents had not diminished in number, but that local police were more prompt and vigorous in processing reported cases and in using all available instruments to identify culprits. The SDF noted better police performance in places where ethnically motivated incidents had occurred over the past two years. According to Igor Palija, SDF spokesperson, the police were more professional in their conduct and responded to calls related to such cases, which was not common practice in the past. However, the SDF criticized local authorities, particularly in Zadar hinterlands, for showing little will to support interethnic reconciliation.”

For further details on location and nature of ethnic crimes see same document, p.16

UNHCR, 2007, p.94:
"According to the statements of every other respondent, Serb returnees to Croatia can feel rather or absolutely safe in Croatia. Roughly every third respondent (32%) still has some concerns, while every tenth (11%) explicitly states he or she is not safe. (...) It is interesting that respondents from smaller settlements (up to 500 inhabitants) feel on average safer than others and considerably more often assess the relationship between the Serbs and Croats in their location as the same as before the war. (...)

The findings proving that a great majority of returnees feel they can openly state their ethnic belonging and practice their religion are encouraging. A somewhat less positive situation concerns the usage of the Serbian language (see note on the Croatian Serb language). Every fourth respondent has a feeling that he or she is looked at ‘with surprise’ when they speak their language in public.(...)

We maintain that it can be concluded that (physical) safety, and primarily the subjective feeling of safety of Serb returnees to Croatia, does not pose a (serious) impediment to their return and permanent stay."
The UNHCR study includes minority returned refugees and IDPs.

War crime trials illustrate biais of the judiciary (2009)

- Despite some progress, discrimination in war crimes trials continues against Croatian Serbs
- The vast majority of war crimes are prosecuted by the local courts where crimes were committed raising concerns regarding impartiality and witness intimidation
- Specialized war crime chambers prosecuted only two cases in 2008, both for war crimes committed against Croatian Serbs
- Prosecutions for war crimes committed by the Croatian Army and police against Serb continue to be rare
- Many trials against ethnic Serbs continue to take place in absentia
- The Supreme Court reversed trial court verdicts and remanded for retrial approximately 40 percent of individual appeals
- High reversal rate is a good sign that justice is finally done but also reflects very poorly on quality and professionalism of first instance Courts

AI, May 2009:
"A number of war crimes cases against lower-ranking perpetrators were prosecuted by the domestic judiciary. However, according to a report by the OSCE Office in Zagreb, the ethnicity of victims and perpetrators continued to affect the prosecution of war crimes cases. In the vast majority of prosecutions, the victims were ethnic Croats, and the perpetrators members of the Yugoslav Peoples Army (JNA) or Serbian paramilitary groups. There was a continuing failure to investigate most war crimes committed by the Croatian Army and police forces, and impunity for the perpetrators prevailed.

Despite the fact that specialized war crimes chambers had been created in four county courts in 2003, they prosecuted only two cases in 2008, both for war crimes committed against Croatian Serbs. The vast majority of war crimes cases continued to be prosecuted by the local courts in the communities where the alleged crimes had been committed. In some cases witnesses refused to testify as they feared for their safety.

Two former Croatian Army generals, Mirko Norac and Rahim Ademi, were tried by the Zagreb County Court. In May the court acquitted Rahim Ademi of all charges whereas Mirko Norac was found guilty of some of the charges and sentenced to seven years' imprisonment. The case had been transferred to the Croatian judiciary by the Tribunal in 2005. The accused were indicted for war crimes, including murders, inhumane treatment, plunder and wanton destruction of property, against Croatian Serb civilians and prisoners of war during military operations in 1993. There were serious concerns about the number of witnesses who refused to testify, some of them because they feared for their safety. In October, the State Prosecutor's Office appealed against the judgment in relation to both of the accused. "

UN CERD, March 2009, p.4:
"Welcoming the information that a number of war crimes trials that were held in absentia will be reviewed and that a significant number of such cases in which perpetrators were not identified are

being investigated again, the Committee notes the commitment of the State party to investigate war crimes independently of ethnic identity. Nothwistanding, it expresses concern about reports alleging the persistent differential treatment of perpetrators of Serb and of Croat origin. (art. 5(a)).

The Committee recommends that the State party strenghten its efforts to ensure that all war crimes trials conducted at the national level are carried out fairly and in a non-discriminatory manner and that all cases of war crimes are effectively investigated and prosecuted, irrespective of the ethnicity of the victims and the perpetrators involved."

USDOS, February 2009:
"OSCE observers reported that several problems existed with the country's institutions for determining war crimes accountability, although they continued to take steps conducive to achieving an equitable system. There were indications both of "over-" and "under-prosecution." Although there were Croats on trial for war crimes, Serbs constituted the majority of the accused persons. Several indictments and/or trials of Croatians accused of war crimes occurred during the year. In addition, on October 9, the Office of the Chief State Prosecutor issued instructions to all offices on war crimes to ensure uniform practices regardless of national origin of the suspect.

During the year, the OSCE reported that the Supreme Court reversed trial court verdicts and remanded for retrial approximately 40 percent of individual appeals.

The OSCE reported that almost half of defendants on trial during the year for war crimes were in absentia. For example, in the Vukovar County Court, an in-absentia trial was ongoing against one Serb, with two other trials ongoing partially in absentia, with 23 out of 25 Serb accused not present. In the Sisak County Court, one trial involving two Serbs was partially in absentia (one Serb was present), while another trial in the Osijek County Court was ongoing against three Serbs, one of whom was not present."

AI, January 2009:
"Amnesty International is also concerned that in the vast majority of the prosecuted cases the trials took place in absentia where in many cases the defendants' right to a fair trial was violated or severely compromised.

Amnesty International is concerned that the Croatian justice system continues to suffer an apparent discriminatory trend which manifests itself in discrepancies in charging and sentencing of the accused depending on their ethnicity, as well as in the use of trials held in absentia. As a result, war crimes committed by members of the Croatian Army and police forces against Croatian Serbs and members of other minority communities remain largely unaddressed.

The organization is also concerned at the existence of disparities in the nature and gravity of charges brought against the accused depending on their ethnicity. According to the OSCE Office in Zagreb in 2007: “only Serbs were indicted for war crimes based on non-lethal crimes against Croats including detention, abuse, and assault of civilians or POWs, torture, and threats to civilians, threatening and robbing civilians, and damage and arson of property.” Amnesty International is aware that in October 2008 the Chief State Attorney issued instructions to local prosecutors which aimed to ensure common standards for criminal accountability, irrespective of ethnicity, in war crimes cases. However the organization believes that additional measures to ensure the implementation of these instructions are necessary.

As noted above the Croatian judiciary has concluded prosecutions with a final judgement against 611 individuals. However, Amnesty International is concerned that the vast majority of these cases are those in which the proceedings have taken place in absentia, which raises the issue of the defendants’ right to a fair trial. According to the OSCE Office

in Zagreb there are approximately 400 cases in which the accused were convicted in absentia, almost all of them Croatian Serbs."

HRW, January 2009:
"Serbs continued to make up the majority of defendants in war crimes trials. According to the OSCE, during the first nine months of 2008 there were 20 active war crimes trials across eight county courts, involving 72 defendants, 45 of whom are Serb. Nine of the trials (involving 17 defendants) reached final verdicts, with 14 defendants convicted (eight Serbs and six Croats) and three acquitted (two Serbs and one Albanian).

In absentia prosecutions against Serbs continued in Vukovar, Sisak, and Osijek, despite opposition from the State Attorney's Office."

EC, November 2008, p.8-10:
"With regard to domestic prosecutions for war crimes, Croatia continues to be active in trying war crimes cases on its own initiative, with around thirty trials in the past year. A more balanced approach is slowly becoming evident with a greater willingness to prosecute perpetrators irrespective of ethnicity. Further progress has been made on regional cooperation on war crimes matters. The State Attorney issued instructions to prosecutors in October 2008 aimed at addressing the problem of a common standard of criminal accountability for war crimes not being applied irrespective of ethnicity. Many such crimes remain unprosecuted, often due to a combination of a lack of evidence, unwillingness of witnesses to come forward, e.g. due to intimidation, and unwillingness or reluctance of police and prosecutors. The issue of in absentia verdicts from the 1990s has not yet been adequately addressed. Limited use is made of the possibility to transfer cases from local to specialised war crimes courts. Overall, reforms in the judiciary continue but only at a relatively slow pace."

AI, July 2008:
"Since the end of the war the Croatian judiciary prosecuted a considerable number of war crimes cases. However the prosecutions for war crimes committed by the members of the Croatian Army and police forces against Croatian Serbs continue to be rather rare. There still exists a lack of will to investigate and prosecute these cases, especially in smaller towns. The local prosecutors tend to prioritize other cases instead of investigating those as they may be unpopular. In some areas of Croatia war crimes committed against Croatian Serbs have not been yet investigated and prosecuted despite the fact that they were committed in some cases 17 years ago.

HRW, January 2008, p. 3:
"Serbs continue to make up the vast majority of defendants and convicted war criminals in Croatia, a disproportion so large it suggests bias as a factor. According to statistics released by the state prosecutor’s office in May, of 3,666 people charged with war crimes since 1991, 3,604 were prosecuted for involvement in aggression against Croatia, while 62 were members of the Croatian armed forces. The absence of an agreed threshold for determining when acts should be prosecuted as war crimes may also provide part of the explanation for the disparity.

Trials against Croats for wartime abuses were far more likely to result in acquittals. "

OSCE, March 2008, p.2, p. 6-7-8:
"In general, Croatia continued to improve its record toward balanced and fair war crimes prosecution. However, concerns remain, including the conduct of proceedings in individual cases as well as how the criminal justice system as a whole – police, prosecution, and courts – delivers war crimes accountability.

While the number of fully in absentia trials remains low, nearly half of all Serb accused were tried in absentia. Eighty-five per cent of accused in war crimes proceedings were Serbs, while Serbs constituted approximately two-thirds of those arrested, on trial, and convicted in 2007. Croatia continued to seek more than 1100 persons suspected of war crimes, approximately 400 of whom have been convicted in absentia, and has issued more than 600 international arrest warrants.

In the second half of 2007, the Zagreb County Court, functioning as a special war crimes court, started two high-profile trials involving former senior members of the armed forces accused of committing war crimes against Serb civilians. These two proceedings represent significant milestones. However, given several unique features, these cases provide limited insight into the overall situation of war crimes accountability in Croatia, the vast majority of which takes place in local court proceedings against low-ranking Serbs accused of war crimes against Croat civilians and subject to limited attention by the media and international community.

Despite these positive signs, the factor of national origin, while diminishing, continued to observably affect the system of war crimes accountability, including who and what crimes were prosecuted. Past ethnic bias has a present day effect through the continuation of large group cases against Serbs, with little individualized accountability, and for crimes for which Croats are not prosecuted, such as minor assaults or stealing food and money. Indicative of this problem, in late 2007, the Supreme Court invalidated the in absentia convictions of two Serbs because the offenses did not qualify as war crimes. Also illustrative, a local prosecutor dropped charges against two Serbs in late 2007 prior to the end of a fifteen-month trial. Past in absentia convictions and current in absentia
proceedings also continue to disproportionately affect Serbs. During 2007 steps were taken to enhance judges' attention to the quality of defense provided by court-appointed attorneys. However, some inadequacies, particularly in relation to the representation provided to Serb accused, continued to be observed.

In contrast to the Ademi-Norac and 'Sellotape' and 'Garage' trials, the vast majority of cases continue to be investigated and tried in the community where the war crimes occurred, raising impartiality concerns for both the accused and victims. The Zagreb County Court is the only 'special court' currently conducting trials that were specifically referred by the Supreme Court in accordance with the provisions related to special war crimes courts. The three other 'special courts' continue to function primarily as local courts, trying cases involving crimes from their community.

USDOS, 11 March 2008:
"During the year the OSCE reported that, of cases decided, the Supreme Court reversed trial court verdicts and remanded for retrial 58 percent of individual appeals, reflecting a continued upward trend in reversal rates. [...] One of the appeals had been pending for 53 months. The other appeals were pending for periods ranging between five months and 38 months. The OSCE Mission reported that Supreme Court delays in deciding some appeals continued. As of the end of the year, seven war crimes appeals had been pending for over three years. The longest pending cases tended to be prosecution appeals of acquittals and defense appeals of in-absentia convictions.

During the year State prosecutors continued to review all open war crimes cases, eliminating unsubstantiated charges. In May the chief state prosecutor issued a report indicating that, since 1991, the state initiated war crimes proceedings against 3,666 persons. More than 98 percent of the charges involved persons associated with Yugoslav Army or Serb paramilitaries, while less than 2 percent involved members of the Croatian armed forces.

Cases before domestic courts included several partially in absentia trials with large groups of defendants. Persons convicted in absentia regularly made use of their right to a retrial. Voluntary return was the only way that persons who had been convicted in absentia could challenge the conviction under the law."

The review of pending war crime proceedings was completed in 2004 and resulted in dismissal or requalification of charges against some 1,900 persons. See OSCE, Status report n.15, 21 Novembre 2004 , in sources below

Implementation of the 1996 Amnesty Law (2009)

- War crimes indictments often resulted in requalification of charges therefore allowing for the amnesty law to apply
- Some courts continued the practice of convicting persons in mass and in absentia trials
- Many proceedings were characterised by notion of collective guilt rather than individualised guilt
- Convictions were in numerous cases based on lack of evidence or evidence of questionable quality.
- The chief state prosecutor initiated case-by-case reviews of war crimes cases

USDOS, February 2009:
The law provides for amnesty except in cases of war crimes. In practice, when investigations failed to substantiate original charges of war crimes, courts convicted the defendants on reduced charges, thereby facilitating amnesty. This practice resolved the case for the court without further investigation and allows the defendant to go free, but it disregarded the future repercussions that a criminal record could have on potentially innocent defendants, particularly with regard to employment.

USDOS, 11 March 2008:
"The law provides for amnesty except for war crimes. In practice, when investigations failed to substantiate original charges of war crimes, courts convicted the defendants on reduced charges, thereby facilitating amnesty. This practice resolved the case for the court without further investigation and allows the defendant to go free, but disregarded the future repercussions that a criminal record could have on potentially innocent defendants, particularly with regard to employment.

During the year the Organization for Security and Cooperation in Europe (OSCE) reported that courts granted amnesty to Tihomir Golic and Dragoljub Stork, two Serb returnees. In May the Slavonski Brod County Court granted Tihomir Golic amnesty and released him in June. In 2002 the court convicted Dragoljub Stork in absentia and sentenced him to 15 years' imprisonment. The Supreme Court annulled the verdict in 2006 and remanded the case for retrial. In March the deputy county prosecutor reduced the charges against Stork, who was arrested in 2006, to armed rebellion. The court invoked amnesty and released Stork."

Stability Pact, MARRI-DRC, June 2005, p.32:

"Several thousands of proceedings against Serbs were initiated during or immediately after the conflict. In 1996, The Law on General Amnesty was adopted and in numerous instances where

Serbs were originally charged with war crimes, the charge was later reclassified as one subjected to the Amnesty Law. At the same time, the number of cases was reclassified from “armed rebellion” to war crimes or common crimes. Some persons previously convicted of “armed rebellion” and granted amnesty continue to have criminal records. It was not until mid- 2001 that the State Prosecutor ordered a re-opening and modification of inappropriate indictments for war crimes to criminal acts, which are subject to amnesty. Consequently, the Minister of Justice said that more than 21.000 persons were granted amnesty. The information on the lists of persons who were amnestied should have served as re-assurance that there would be no charges pressed against them. In practice, many amnestied individuals have no way of finding out about their status and getting information whether they would be arrested upon their return to Croatia.
Many arrests are based on long-standing indictments after years of inactivity. The scope of proceedings for war crimes since 1991 varies depending upon the sources, but, according to some general observations, final verdicts have been passed against 800 to 900 persons. Procedures are pending against another 1400 to 1500 people and judicial investigation is in the process against another 850 to 900 persons. Many of these proceedings involved criminal allegations against large groups of individuals, (100 or more persons in same cases) which fail to specify an individual defendant’s role in perpetrating of the alleged crime. Therefore, many proceedings were characterised by notion of collective guilt rather than individualised guilt under generally applicable standard of due process. In numerous cases, conviction and lengthy prison sentence, often in absentia, were based on lack of evidence or evidence of questionable quality.”

US DOS 25 March 2004, Sect.1d:
“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.

For more information on juridical review of war crime cases see in the same section: "War crime trials illustrate the bias of the judiciary"

Freedom of movement continued to be constrained for IDPs, particularly in Eastern Slavonia (2003-2006)

- 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

USDOS, 8 March 2006, Section 2.d:
“Refugees returning to the country encountered obstacles obtaining permanent residency status under favorable conditions. The law states that former habitual residents who returned by January could be reinstated to their prewar status as habitual residents without further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship. The government extended the deadline to June. The interior ministry streamlined the

application process after international observers complained that officials varied procedures and criteria for granting permanent residency from case to case. Also, due to poor communication, many potential claimants were unaware that they could regularize their status, and international observers suggested a further extension of the deadline. (…)
Government procedures to verify and document citizenship improved during the year. For example, authorities ceased rejecting applicants who listed a collective center as their permanent address. However, reports continued of obstruction by some local officials who applied procedures inconsistently."

USDOS, 28 February 2005, Section 2.d:
"Freedom of movement continued to be constrained for returning refugees and internally displaced persons (IDPs), who lost tenancy rights and 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:
"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."

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]

SUBSISTENCE NEEDS

Access to utilities

Lack of access to electricity is a serious obstacle to sustainable return (2007)

- Government pledges to reconnect all municipalities by the end of 2008
- More funds are dedicated to providing electricity and only the least populated areas remain disconnected to the electricity network.
- The Serbian Democratic Forum (SDF) identified 300 Serb returnee villages without access to electricity network
- Advocacy efforts from the OSCE and the EU based on SDF report has led to inclusion of returnee villages into re-electrification plans
- Since 2004, an average of 25 per cent of the 300 villages have been reconnected with an additional 10 percent foreseen for 2006
- Remaining obstruction at local level slows down the process which might take 3 to 4 years before completion
- At the end of 2005, the MMATTD and the Croatian electricity company conducted a project of re-electrification of return villages
- 55 million HKN (EUR 7.5 millions) have been earmarked for re-electrification of such villages for 2006

OSCE, 19 July 2007, p. 7:
Since 2004, extensive field work and close co-operation between the Mission, the MMATTD and the Croatian Electricity Company, has ensured that two thirds of 300 returnee villages identified as lacking electricity have been prioritized for re-electrification. The Government worked closely with minority representatives and the Mission over the past twelve months to set re-electrification priorities with relevant authorities who displayed a positive attitude toward resolving outstanding electrification problems. If funding and work on the ground proceed at the current pace, reconnection for virtually all localities can be completed by the end of 2008.

ECRE, October 2007, p. 25:
Starting at the beginning of 2005, a joint project of the MSTTD and HEP (Croatian Electricity Company), has involved the reconstruction of the electricity system in municipalities of return. The original budget of 55 million kuna (EURO 7,33 million) covered work in 55 municipalities of minority return and as a result, more than 4,000 households were consequently connected to the electricity network. In 2006, HEP invested an additional 107 million kuna (EURO 14,2 million) for further reconstruction. There are still some villages without electricity, but HEP claims that it is not cost effective to rebuild the facilities for just a few households. This is unless more families move to the area.

OSCE, News in brief, 27 February 2006, p.3:
“Since mid-2004, with the help of data provided by the Serb Democratic Forum, a legal-aid NGO, the Mission has identified more than 300 Serb returnee villages without access to the electricity network more than a decade after the war. Through a series of analytical reports and field surveys, the Mission has increasingly advocated for the re-electrification of remote returnee villages, with both the Croatian Electric Company (HEP) and the Ministry for Maritime Affairs

Tourism Transport and Development (MMATTD). Subsequently, at monthly meetings held between International Community principals and the Ministry, the Board Director of HEP reports on progress achieved in the villages identified by the Mission. For over a year HEP has included returnee villages in their re-electrification plans when the investment is proportional to the number of existing or expected households. On 13 and 14 February the Mission accompanied HEP officials on several field trips in Central Croatia as part of an effort to identify isolated villages and hamlets where the cost of reconnection would be disproportional to requirements. In such cases, alternative solutions are being sought, such as the provision of generators and solar panels. In some cases households are being relocated to less isolated areas. Since 2004, between 20 and 30 per cent of the 300 or so, villages identified have been reconnected with an additional 10 per cent foreseen in 2006. However, the process remains hampered by differing levels of obstruction still present in certain municipalities run by mayors opposed to the return process, and by structural and financial constraints facing the MMAATD and HEP at the central level. These factors could delay completion of the reelectrification process for another three to four years."

MMATTD, 9 February 2006, p.2:
"The Ministry and Croatian Power Supply Company (HEP) are implementing the program of electrification of approx. 50 places of return this year, primarily those with minority returnees – connections of 3,700 users to the low-voltage power network until the end of this year worth approx. KN 55 million. Beside this basic program, HEP had started the electrification of several additional places (Biljane Gornje and Biljane Donje), worth KN 7.855 million provided by HEP. Out of the overall number of connections approx. 65% have been realized until the end of the last year."

OSCE, 10 November 2005, p.9:
"In some refugee return areas, the persistent lack of access to basic infrastructures such as electrification and water supply undercut dignified living conditions for the returning population. The Government has increased its efforts, both operational (…) and financial, in the re-electrification of a progressive number of minority return villages that used to be connected to the power grid before the war. At present, the Mission notes that the complete re-electrification of the minority return areas might still take a decade unless more extensive financial commitments are undertaken by the Government. Similar financial and policy commitments are necessary for the adequate establishment of the water supply network to minority return villages (…).

At the end of 2005, the Ministry for Maritime Affairs, Tourism, Transport and Development (MMATD) and the Croatian Electric Company (HEP) are conducting a joint project of electrification of minority return villages following requests from the OSCE and EC delegation. In 2005, 62.5 million HRK was allocated to the reconstruction of the low voltage network for 3,700 beneficiaries, to be completed by the end of 2005. The HEP has announced the intention to earmark 40 million HRK for the re-electrification of minority return villages for 2006 which should be adequately integrated by additional funds coming from the MMATTD."

OSCE, 21 November 2004 p.13:
"The Government announced in September to the Mission and its International Community partners a plan to sign an agreement with the State electricity company (HEP) to carry out an ***electrification programme for minority villages*** or villages having return potential. The lack of access to utilities and infrastructure in minority return areas is one of the most powerful obstacles to sustainable return. The project relies on funds provided by the European Investment Bank (EIB) for regional development and is earmarked in the 2004 Croatian State Budget**.** The Government's initiative followed the Mission's report, *Lack of Electricity Supply in Minority Returnee Villages*, shared with the relevant Croatian authorities and the State electricity company (HEP) in early August (…)."

See also in sources below:

Shadow report on the implementation of the framework Convention for the Protection of National Minorities, Centre for Peace, 31 August 2004, p.14 (some returnees are requested to pay electricity bill of the temporary occupant to obtain reconnection to electricity)

List of return locations in areas of special state concern without electricity, Serbian Democratic Forum, September 2005

Shelter

Some 170 IDPs still live in collective centres (August 2009)

- Six collective centres still provide housing for IDPs, refugees and returnees
- In total some 680 individuals live in the collective centres, among which 169 IDPs, mostly ethnic Croats
- Two collective centres will be closed by the end of 2009

UNHCR Zagreb, email communication, August 2009:
" In total some 680 individuals (472 refugees, 169 IDPs and 39 returnees) live in collective accomodation. At the moment six collective accomodation provide housing for IDPs, returnees and refugees. They are all run by the Directorate for Areas of Special State Concern. CC Mala Gorica (south west of Zagreb) accommodates IDPs, returnees and refugees. CC Dumace (near Petrinja) accommodates refugees (ethnic Croats) from Kosovo; CC Pisarovina (near Zagreb) accommodates IDPs and refugees; CC Blace (near Vinkovci, east Croatia) accommodates refugees, CC Strmica (near Knin, south Croatia) accommodates minority returnees (Serbs). CC Kovacevac (western Slavonia) is being transformed into a permanent accommodation for former IDPs and refugees. CC Blaca and Dumace are planed for closure by end 2009.The State and the Red Cross continued to provide meals to refugee residents in some centres. IDPs are provided with monthly cash assistance."

CRP, email communication, August 2009:
"Collective centres are managed by the Ministry of Regional Development, Forestry and Water Management and its Department for Areas of Special State Concern. The intention was to close the CC but some of them are still working."

A significant number of IDPs still live in collective centres (2005)

- 2200 IDPs live in collective centres outside the Danube region
- Majority of those in collective centres are among the most vulnerable individuals facing particular obstacles to return
- Many residents of centres are elderly or others depending on provision of state services to survive
- RSG Walter Kälin recommends consultation with residents to find adequate durable solutions including social housing or specialized institutions
- Transport to place of return should be provided for those who can and wish to do so

UN CHR, 29 December 2005, par.18, 38, 48:

"18. As of 30 April 2005, (…) [t]he total number of IDPs in Croatia was 6,934, of whom 5,256 were ethnic Croatians and 1,678 ethnic Serbs. Two thousand one hundred and ninety IDPs lived in collective centres, 3,066 were in private accommodations and 1,678 displaced persons were in the Croatian Danube region either in collective or private accommodations. (…)

38. For the most part those persons who wished to return and were able to return have done so, while those unable to do so form the bulk of the remaining persons. At the accommodation centres he visited, the Representative observed that few residents remained in centres constructed for much larger capacities. While in certain cases it was contended that individuals did not wish to leave the accommodation centres on account of the provision of services on the part of the State received there, the majority of persons remaining face considerable obstacles to return. Commonly, these are persons with particular vulnerabilities who depend on provision of State services such as housing, food and medical treatment. In particular, these are persons, often elderly, without known family members, conflict-traumatized individuals, the sick and female-headed households. In certain cases, persons wish to return or have resolved status issues, but are unable to in fact return on account of, for example, an absence of affordable transport. In the view of the Representative, it is no longer appropriate that the accommodation centres remain as catch-all facilities which, in practical terms, hold these groups of persons for what appears to be an indefinite future. Durable solutions need to be found for these especially vulnerable persons. (...)

48. A relatively small number of IDPs still live in collective centres, many of whom are particularly vulnerable. In this regard, the Representative makes the following recommendations:
(a) The Government should ensure that all persons still accommodated in collective centres are consulted and provided realistic alternatives concerning their future status, with an identification of their particular needs and the responsibilities of specific local government agencies to meet them;
(b) For particularly vulnerable persons such as the elderly without family dependants, traumatized and sick persons or female-headed households, the central Government should ensure that public specialized facilities, such as social housing, are made available to them, whether in their current area of residence or in the areas from which they fled;
(c) For persons who have identified places of return but are without the means to travel there, the Government should promptly procure the necessary transportation. For persons who have genuine alternatives in terms of housing but remain in accommodation centres from a desire to receive services that they would reasonably be in a position to provide for themselves, should be returned to the relevant areas. As a result, the definitive closure of the accommodation centres should be possible in the medium-term."

Vulnerable groups

Returnees are mainly elderly

- 43 per cent of the returnee population is older than 60
- UNDP presence in the rural areas respond to the specific needs of the elderly population
- Children constitute 12% of the returnee population, half of the children average figure for Croatia
- The socio-demographic structure raises concerns on the sustainability of returns

UNDP, email communication, August 2009:

"UNDP Croatia LIFE programme has been working on socio-economic recovery for former war-affected and return areas in Croatia since 2006. Particular attention was given to the needs of the elderly population, since it is overrepresented in the overall returnee population. We have been supporting establishment of elderly day-care centres, community homes, outreach and mobile assistance teams, etc."

UNHCR, 2007, p.95:
"The average age of all interviewed family members, who represent the total returnee population, is around 51. This is considerably higher than the average age in Croatia which is 39, which is an indicator of the negative age selection of the returnee population. Every fourth returnee is between 65 and 74 years of age, with an additional 12% being 75 or above, which means that more than one third (37%) of the returnee population is above 65 while 43% is older than 60.

On the other hand, it was found that children under 15 made up only 10%, and pre-school children constituted only 3.5% of the returnee population. All in all, children and young people under 19 years of age make up 12% of the returnee population, which is half of what they constitute in the entire population of the Republic of Croatia (CBS 2006).

It can be concluded that, as far as sustainability of return is concerned, the age structure of returnees (who have returned permanently) is unfavourable, although this could have been more or less predicted."
The UNHCR study includes minority returned refugees and IDPs.

Lack of programmes to support women victims of war, displaced and returnees (2006)

Women's network in Croatia, January 2006, p. 31-32:
"Within the population of war participants, victims, refugees and returnees, the specific interestsand needs of women have not been recognised at all. The accent is entirely on the military war participants, who have become a significant segment of activity for the Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity. The consequences of such "denial" are multiple and dangerous to the entire society. There are no special programs or care for women victims of the war violence, women refugees and returnees. No research is being conducted, there is no awareness of the relationship between militarism, nationalism and gender issues, no awareness of the link between increased violence and war consequences. Women are not included in peace negotiations, national initiatives or activities for normalisation of the regional circumstances. They are not a part of the peace process, although they have been behind a number of peace initiative and dialogues. There has been no research of, nor policy for alleviating the consequences of sexual violence against women during the war.
DEMANDS:
a.. Data collection and analysis of the consequences of war on the female population in Croatia, the state of women war victims' rights in the Republic of Croatia should be part of the Government Office for Gender Equality programmes and priorities;
b.. Collection of information and research of the situation and specific needs of women refugees and returnees; financial and organisational support of women's organisations on the war afflicted areas; specific assistance projects for women war victims, refugees and returnees.
c.. Croatian Employment Office will, in implementing employment measures give priority to the needs of women returnees. To this end their local offices shall be given appropriate access to the information on active measures in employment policies.

d.. The Government Office for Gender Equality shall complete guidelines to the bodies of local and regional government on recognising the special needs of women's NGOs in the areas of return, especially in the way of securing quarters.
e.. Including women in all public and political activities concerning regional co-operation, sustainable peace and security concept that is beneficial to women.
f.. Implementation and institutional assistance to the projects ofdocumenting, commemorating, truth and peacemaking; the importance of women participation
g.. Acquainting and continuous informing of the public on jurisdiction and activities of the ICTY and the International Criminal Court in Rome; prosecution of the war crime of sexual violence against women, analyses of ICTY and national courts' decisions; comparative analysis of war crime convictions of women versus those of men;
h.. Additional education on mines and other explosive devices,
i.. Securing continued education, further education or re-education of all interested women war victims, especially victims of mines and civilian victims;
j.. Systematic inclusion of women in peace missions in which Croatia is taking part as a UN member, systematic education of all members of such missions on women's rights and needs in war afflicted areas;
k.. Furthering knowledge on international humanitarian legislation and human rights, especially on preventing violence against women in war and armed conflict; introducing a study of international humanitarian legislation with emphasis on women's human rights, into the Croatian
Military Academy.
l.. Securing greater presence of women in the Ministry of Defence (MORH) and Armed Forces of the Republic of Croatia (OSRH)
• Position of Non-Governmental Organisations for Promotion and Protection of Women's Human Rights

Health

Returnees's isolation entails difficulties in reaching hospitals (2009)

- UNHCR survey shows that minority returnees are often distant from bigger town and face difficulties in accessing important services
- Almost one third of the respondent do not have a doctor's surgery within a distance of 10 km from their house
- Transportation infrastructure is very poor

UNHCR, 2007, p. 70:
"Every forth returnee is troubled by isolation and distance of his or her settlement from bigger towns which entails difficulty in reaching important services (public institutions, schools, hospitals). The objectivity of this finding is verified by the fact that almost one third (30%) of the respondents do not hve a doctor's surgery or elementary school within a distance of 10 kilometres from their house. Here it should be added that more than 60% of respondents live in settlements with a bus line which only once or twice per day connects them to the centre of town or municipality.The sense of loneliness expressed by 16% of returnees is surely the result of the poor level of transportation infrastructure and social isolation, primarily due to the small number of returnees, particularly youngsters, in the area."

The UNHCR study includes minority returned refugees and IDPs.

ACCESS TO EDUCATION

General

Education in minority languages (2009)

- IDPs, refugees and returnees have access to education
- Education for minorities is conducted on the basis of three different models of organization of teaching
- In 2008 and 2009, there were 18 primary schools and 8 high schools holding education in Serbian language and Cyrillic script (Model A) and 20 primary schools followed the model C, which integrates school hours in Serbian laguage

UNHCR Zagreb, email communication, August 2009:
"IDPs, returnees and refugees have access to education. In Croatia, only primary education is mandatory (8 years).

In the year 2008/2009, there were 18 primary shools in Croatia and 8 high-schools holding education in Serbian language and Cyrillic script (model A). There were 20 primary shools aimed at cultivating Serbian language and culture (model C).

A national minorities' school can be established for a smaller number of students than the number prescribed for schools conducting education in Croatian language."

Coalition for promotion and protection of human rights, March 2006:
"Education of students belonging to national minorities is conducted on the basis of three models of organization and performance of teaching:
Model A, the entire teaching is performed in the language and script of a national minority with the
obligation to teach Croatian language and the language of respective minority for the same number of hours. The students have the right and are obliged to learn additional subjects important to their minority community. This kind of a teaching model is conducted in a special institution, but can also be performed in an institution with teaching in Croatian language in special classes with teaching in a minority language and script;
Model B, in accordance to which the teaching is conducted bilingually, natural sciences are taught in Croatian language whilst social science classes are taught in the language of a minority. Teaching is conducted in an institution with teaching in Croatian language, but is special
classes;
Model C, in accordance to which the teaching is performed in Croatian language with additional 5 school hours intended for training of language and culture of a national minority. Additional 5 school hours per week include teaching about the language and literature of a national minority, geography, history, music, and art.

Eastern Slavonia has the highest percentage of students attending minority language classes (2006)

- Croatian legislation entitles members of national minorities to receive education in their native language and script
- Attendance in minority classes often leads to separation of children along ethnic lines
- Need to balance the right to education in minority language and integration of minorities within the country
- Eastern Slavonia has highest concentration of national minorities in Croatia amounting to 20%

EU, 9 November 2005, p.2:
"As regards the use of the Serbian language and script in schools, according to a recent Council of Europe report there is a degree of legal uncertainty in the Croatian legislation concerning the conditions and procedures for the implementation of educational models envisaged in the Croatian Law on Education in Languages and Scripts of National Minorities."

ECRI, 14 June 2005, p.20-2:
"ECRI notes that Croatian legislation allows members of national minorities, including the Serb minority, to receive education in their native language and script. ECRI welcomes the efforts made by the Croatian authorities over the last few years to implement these provisions. However, it notes that there are some public schools in the town of Vukovar where ethnic Croat children and ethnic Serb children receive exactly the same education but in separate classes and separate areas of the town. The authorities acknowledge that this is so and explain that it is the outcome of a request from the Serb community itself, which wants Serb children to receive education in the Serbian language. ECRI understands that the authorities wish to meet the Serbs' wishes, but is concerned at the method used, which might result in all contact being broken off between pupils within the same public school on the sole basis of their ethnic origin. Some NGOs, as well as representatives of the Serb community, have stated that opting for identical but entirely separate classes in the same school is a solution that may in the long term prove detrimental to relations between the two communities."

OSCE, 3 March 2006:
Interview with OSCE Croatia Head of Mission asked about his opinion on separation of children at school in Eastern Slavonia:
"I spoke with Independent Serb Democratic Party (SDSS) representatives in Vukovar and they told me that, naturally, Serbs in Vukovar did not want apartheid, they did not want their children separated from Croat children, but they did request that their right to education in Serb language and script be respected, a right also exercised by Italian or other minorities in Croatia."

OSCE, Courier, December 2005:
"Recognition of the right to education in minority language and script within the CLNM was commended, although the need for minorities to learn Croatian language and script was also stressed."

OSCE, NIB, 13 February 2006:
"Further encouraging developments include the Government appointment of six minority education advisors - two for the Serb minority and one each for the Italian, Hungarian, Czech and Slovak minorities – and an obligatory annual survey that each school must conduct in order to evaluate parents' expectations regarding education in a minority language and script."

OSCE, Courier, December 2005:
"The Vukovar-Sirmium (V-S) and Osijek-Baranja (O-B) counties are endowed with the highest concentration of national minorities in Croatia, making up nearly 20% of the V-S population and 13% of the O-B County. So it comes as no surprise to learn that these two counties have the highest percentage of students attending classes in minority languages. Of the 22 minorities in Croatia, seven practice education in respective minority languages, involving some 11,000 students. For a better understanding of minority education issues, FO Vukovar is currently working on an *Education Catalogue,* in close co-operation with county education officials both in Vukovar and Osijek. The Catalogue will group minority education schools geographically, organizationally, statistically, as well as according to models of teaching and languages. It is a little known fact that the Croatian education system offers three models of education in minority language and script. Model "A" means teaching in the language and script of national minorities, in addition to the compulsory teaching of Croatian language. The "B" model provides for social subjects in minority language and science subjects in Croatian. Finally, model "C" implies teaching in Croatian with minority language nurturing classes. On the whole, Serbs and Hungarians follow models "A" and "C"; Germans model "A"; while Slovaks, Ruthenians and Ukrainians have opted for model "C". Notwithstanding the positive results of Croatia's education-related laws, the OSCE maintains that the current state of affairs in some schools in this region could possibly lead to a certain form of self-isolation, with minority children remaining divided. Therefore, the question of balancing legal provisions on the one side, and integrating minority communities into society on the other, remains to be solved.

Progress towards respect of minority rights at school (2006)

- Conference on implementation of the CNLM reviews progress on minority rights
- Introduction of a unique history books in all Croatian schools in September 2005 is a major achievement
- New history book covers the period from the 1991-1995 war until present
- Ten new textbooks for primary schools have been translated into Serbian and in Cyrillic script for subjects such as geography, nature and society and history for the school year 2005-2006.
- History textbooks ends a moratorium on history teaching in Serbian language classes introduced in 1997 in the Croatian Danube Region

OSCE, Courier, December 2005:
"(*A*) conference (*was*) standardised by the Mission on the Constitutional Law on the Rights of National Minorities (CLNM). Three years since its adoption, the conference was held in Zagreb on the 18th of October to review the implementation of the CLNM – its achievements and areas for improvement. (…)

Recognition of the right to education in minority language and script within the CLNM was commended, although the need for minorities to learn Croatian language and script was also stressed. The agreement between the Education Ministry and Serb representatives to introduce a common history textbook for all pupils was highly praised. Concern was expressed over the physical separation of Serb and Croat pupils in some schools in Eastern Slavonia. It was recommended that this should be ended as quickly as possible."

OSCE, NIB, 13 February 2006:
"With the introduction of the same history books in all Croatian schools this year, the Ministry considers the problem of a contested history curriculum resolved. (…) A supplement for history

teachers will be finalized after the addition of remarks from the Croatian History Institute, the Faculty of Philosophy and the Croatian Academy of Sciences and Arts."

EU, 9 November 2005, p.21:
"As regards *education*, some progress was made when following two years of discussions since the expiry of a moratorium on history teaching in Serb language classes in Eastern Slavonia, a Ministry of Education-appointed Commission of historians including minority members concluded work on a history supplement covering the period from the 1991-95 "Homeland War" until present. This history supplement was introduced as from the school year starting September 2005. Unfortunately, its introduction has not been short of controversy and led to negative reactions among the Croat majority community. In August 2005, the Ministry of Science, Education and Sport and representatives of the Serb minority agreed on the use of standardized history textbooks for all children regardless of their ethnicity as from the school year 2006/07. Implementation of these new provisions will need to be carefully monitored to ensure that minority issues are adequately covered in national curricula."

OSCE, NIB, 13 September 2005:
"A moratorium on history teaching in Serbian language classes in the Croatian Danube Region had been introduced in 1997 because history teachers found the content of history textbooks inadequate and partial, and the language offensive to the Serbian minority. The Ministry of Education also informed the political representatives of the Serbian community that ten new textbooks for primary schools had been translated into Serbian and in Cyrillic script for subjects such as geography, nature and society and history for the school year 2005-2006.
The Mission notes that in his February visit, the High Commissioner on National Minorities offered assistance in the development of a curriculum reflecting the richness and diversity of the society as a whole."

OSCE, 18 November 2005, p.12-13:
"The implementation of legislation related to minority education needs further attention, in particular in regard to the training of teachers and provision of teaching materials in minority languages. The physical separation between Croat and Serb pupils in some schools in Eastern Slavonia remains an issue of concern, however the Ministry of Education is preparing a plan to address the problem and the local authorities are beginning to express more understanding about the negative consequences of creating segregated educational conditions."

Obstacles to education

Returnees's isolation entails difficulties in reaching schools (2009)

- UNHCR survey shows that minority returnees are often distant from bigger town and face difficulties in accessing important services
- Almost one third of the respondent do not have an elementary shool within a distance of 10 km from their house
- Transportation infrastructure is poor

UNHCR, 2007, p. 70:
"Every forth returnee is troubled by isolation and distance of his or her settlement from bigger towns which entails difficulty in reaching important services (public institutions, schools, hospitals). The objectivity of this finding is verified by the fact that almost one third (30%) of the

respondents do not have a doctor's surgery or elementary school within a distance of 10 kilometres from their house. Here it should be added that more than 60% of respondents live in settlements with a bus line which only once or twice per day connects them to the centre of town or municipality. The sense of loneliness expressed by 16% of returnees is surely the result of the poor level of transportation infrastructure and social isolation, primarily due to the small number of returnees, particularly youngsters, in the area."

The UNHCR study includes minority returned refugees and IDPs.

In Eastern Slavonia children go to school in separate classes (2006)

- Inter-ethnic relations at school in Eastern Slavonia are still a source of tensions
- 200 Croat parents protested against the appointment of Serb teachers in a school near Vukovar
- Concern over physical separation of children along ethnic lines was expressed by the High Commissioner on National Minorities
- OSCE Head of Mission considers such situation as unsustainable
- Ministry of Education's plan provides for mixed kinder gardens and primary schools

OSCE, NIB, 13 September 2005:
"Issues affecting inter-ethnic relations at a school in Eastern Slavonia have been in the spotlight in the run-up to the start of the school year 2005-2006. Media reported that on 5 September, around 200 Croat pupils boycotted the first school day at the Dalj primary school, near Vukovar. A few days earlier, their parents had sent a petition to the Ministry of Education opposing the decision of the School Principal to assign three ethnic Serb teachers to their children because these teachers had allegedly participated in the war against Croatia in the 1990s. In a meeting with Croat parents, the teachers and the School Principal, representatives of the Ministry of Education decided to re-assign the three Serb teachers to different classes in the same school or other schools.

The physical separation of Croat and Serb pupils in some schools in Eastern Slavonia has been a topic of increased interest for the Mission since the last visit of the High Commissioner on National Minorities (HCNM) in February. During his meetings with top Croatian officials, the High Commissioner expressed concern over the physical separation of pupils along ethnic lines and emphasized the need to integrate national minority students in the Croatian society, while ensuring the right of minority students to minority language education. When he visited Eastern Slavonia and met with local authorities at the end of August, the Head of Mission continued to stress the importance of education issues. The physical separation is particularly evident in Vukovar where Croat and Serb pupils attend classes in separate buildings in the kindergartens and in some secondary schools, or have school in separate shifts. The result is the same: Croat and Serb pupils are deprived from the opportunity to meet and interact."

OSCE, 3 March 2006:
Interview with OSCE Croatia Head of Mission:
"Eight years since its peaceful re-integration, Croat and Serb children still attend separate elementary and high schools in Vukovar. Do you consider such a situation normal and sustainable?
This issue causes me great concern. During my visit to the Croatian Danube Region, I talked to different officials, from the Mayor of Vukovar to Serb minority representatives, students, school

principals, and none of them advocated the separation of children along ethnic lines. I presented my belief that it was necessary to avoid a system of parallel education of children of Croat and Serb nationality, because such a system could create a divided society. Today, children in Vukovar go to different kindergartens and, after that, to different schools. This parallel system could lead to the creation of two separate identities - two separate histories are taught and children are taught to have two separate visions of the world that surrounds them. Serbs and Croats do not want mixed marriages, they frequent separate Croat and Serb cafes, restaurants and clubs. We consider this situation unsustainable. (…)

When can we expect the establishment of the first ethnically mixed class in Vukovar?
In agreement with representatives of the Croatian government, it was decided that in the course of this month a working group would be formed to come up with proposals and suggestions, so that by the end of this school year, a specific plan for the following school year would be in place."

OSCE, NIB, 13 February 2006:
"The Ministry of Science, Education and Sport has given full backing to a Mission project designed to encourage mixed primary schools in Eastern Slavonia. The project envisages the joint participation of Croat and Serb children in art, literary and sports contests. The Ministry is willing to provide expert assistance wherever necessary and send written recommendations to the schools in question encouraging full participation in the project. (…) Currently, distinct facilities or a shift system serve to separate these children. The Ministry has subsequently updated the Mission about plans aimed at progressively phasing out the current arrangement. Following discussions between the Ministry and local authorities in Vukovar-Sirmium County, it was agreed that ethnically mixed kinder gartens will be promoted locally among parents. Efforts will also be made to rearrange the shift system in primary schools according to grades not ethnicity. The Ministry is prioritizing the construction of a new economic secondary school in Vukovar, which should make more space available for mixed education. Strong Ministry support for the new, mixed Polytechnic College in Vukovar was also expressed."

ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

Self-reliance

Minority returnees are more affected by unemployment (2009)

- Unemployment rate in areas of return are over twice the national average, altough not all unemployed are registered
- Croatian Serbs face more difficulties accessing employment, especially in war affected areas
- 11% of minority returned refugees and IDPs do not have financial income, compared to 2% for the overall Croatian population
- Almost half of the returnees must be surviving on support received from children or relatives living abroad
- Contrary to expectations, the vast majority of returnees are not oriented towards agriculture, eventough 70% of returnees possess arable land

UNHCR, email communication, August 2009:
The overall registered unemployment rate within the working age population in the counties with high returns numbers is over twice the national average. Reports show that Serb returnees have little chance to get employment in the private sector. The labour market is very limited, with few new jobs being created".

Amnesty International, May 2009:
"Croatian Serbs continued to face problems accessing employment, including in public institutions."

EC, November 2008:
"Members of the Serb minority, including those who remained in Croatia during the war, face difficulties concerning access to employment, especially in the war affected areas."

UNHCR, 2007:
"According to our respondents, 11% of returnee households did not have financial income, excluding welfare assistance, in the month preceding the research. According to research conducted by the Puls agency (2006), the related percentage for the overall Croatian population is only 2%.

[...] In our sample, every fourth such household is a recipient of welfare assistance and another quarter survive on cultivating their land. The rest (this might also include the above-mentioned) must be surviving on support received from children or relatives who are in refuge or who are migrants.

[...] Almost every second returnee (46%) is a pensioner or a recipient of a family pension. Every third respondent (31%) is unemployed, but one third of whom are not registered at the unemployment bureau.

[...] Almost every second returnee (46%) is a pensioner or a recipient of a family pension. Every third respondent (31%) is unemployed, but one third of whom are not registered at the unemployment
bureau.

[...] The vast majority of returnees, though mainly living in rural areas, are not oriented towards agriculture, particularly not as a future occupation, so other means of employment will have to be sought (unless this trend changes). An unexpectedly small percentage (2%) stated they live off agriculture, as the others may have thought they did not make a permanent income in agriculture. This is even more surprising, since it was found that over 70% of returnees possess arable land."

The UNHCR study includes minority returned refugees and IDPs.

Ethnic discrimination in the labour market slows return (2008)

- Unemployment and discriminatory hiring practices inhibit return
- Despite the enactment of the Constitutional Law on the Rights of Minorities in 2002, there has been too little progress in employment discrimination against Serb returnees

ECRE, October 2007, pp. 20:
"Unemployment is a big problem in Croatia. Given Croatia's economic situation, the difficulties with employment facing minority returnees cannot be solely attributed to discrimination. Many of the regions where the majority of people are returning to, were underdeveloped even before the war. Yet the percentage of jobless minority returnees is disproportionate to that of the general population that is unemployed. With the exception of Eastern Slavonia, in all other regions, the percentage of ethnic Serbs employed in public services does not correspond to their numbers as a percentage of the general population. This is despite the obligation of the local authorities, as enshrined in Art. 22 of the 2002 Constitutional Law on National Minorities, to employ representatives of minorities according to their percentage within the overall population."

OSCE, 19 July 2007, p. 9:
The *Constitutional Law on the Rights of National Minorities* (CLNM) guarantees employment of national minorities at all levels of public service – including State and local administration, which incorporates the police - and the judiciary. While the legal framework is in place, concrete plans for implementation and a means of assessing progress toward stated goals are still required. Implementation is particularly important in refugee return areas, with the link to return made explicit in the Sarajevo Declaration. To facilitate fulfillment of commitments related to minority employment guarantees, the Mission and Government co-organised two round tables for local and national authorities, with plans for an additional event later in 2007.

In May, the Government adopted the 2007 *Civil Service Employment Plan*, which for the first time includes targets for minority hires in the State administration. Of approximately 21,200 civil servants employed at the national level (excluding the Ministry of the Interior), approximately three per cent are minorities, contrasted with the total minority population of 7.5 per cent. The Plan sets a goal of minorities constituting 7. 5 per cent of all new hires, with the largest targets set for the Ministries of Justice and Interior. Statistics about the distribution of minorities throughout the country and individual minority groups are necessary to fully assess implementation. Obtaining such information is frustrated by the fact that most statistics related to the police are legally classified as a State secret. Of almost 4,000 civil servants employed at the county level, six per cent are minorities, a number approaching the national average for minorities. However, because minority percentages at the county level vary considerably from county to county

compared with the national average, the Plan foresees an overall goal of new minority hires of 25 per cent, with the highest targets set for the two counties in Eastern Slavonia.

Of more than 60 local and regional self-governments obligated to produce employment plans for local administration based on the 2001 census, only 11 per cent have done so. According to the Government, all such local and regional self-governments taken together employ minorities at approximately 65 per cent of proportionality. Some local and regional self governments claim they are unable to implement the CLNM, given the absence of vacancies or new positions as well as imprecise information on staff and applicant's national origin.

The need to coordinate reform efforts with CLNM implementation remains a challenge, particularly in areas with significant minority populations. Officials accurately point to the need for minorities to invoke their minority status during the recruitment process in order to benefit from the legal priority for qualified candidates "under equal conditions." It is equally true, however, that officials need to establish a climate and recruitment procedure that facilitates and encourages people to declare their minority status. How officials should balance the CLNM guarantee for minorities with guarantees for preferred treatment for other categories of applicants, including veterans and disabled persons, also remains unresolved.

Members of minority groups continue to face discrimination and remain under-represented in the administration and the judiciary (2009)

- Constitutional Law on National Minorities (CLMN) is not adequately implemented and results in under-representation of minorities in state administration, the judiciary and the police
- Figures confirm under-representation of national minorities in administrative and judicial bodies
- Discrimination in employment is one of the most important obstacles to minority return
- In 2008, an Action Plan for the implementation of the CLMN has been adopted and a department for national minorities was establishe in the Central State Administration Office but some provisions are not well implemented.

USDOS, February 2009:
"Discrimination continued against ethnic Serbs in several areas, including the administration of justice, employment, and housing. Ethnic Serbs in war-affected regions continued to be subject to societal harassment and discrimination. Local authorities sometimes refused to hire qualified Serbs even when no Croats applied for a position.

Six years after the parliament passed the Constitutional Law on National Minorities (CLNM), authorities had not implemented its provision on proportional minority employment in the public sector in areas where a minority constitutes at least 15 percent of the population. Ethnic Serbs, the largest minority, were most affected by the slow implementation of the law.

In August [2008] the SDF reported that there was continued discrimination against ethnic minorities seeking employment in civil services, administration, and justice. A SDF survey conducted between April and August showed that the number of Serbs employed in local administration and public services remained at levels similar to their last survey in 2006. For example, in Glina, in the central part of the country, Serbs made up 29 percent of the population, but only 2 percent of the Serbs were employed in the local civil services and administration. In Knin, a city that is 21 percent Serb, only 6 percent of Serbs were employed by the state. Survey

results differed only in eastern Slavonia. In Vukovar Serbs made up 33 percent of the population but constituted 36 percent of those employed in the local civil service and administration.

In September SDSS officials complained that the adoption of an action plan for the implementation of the CLNM lacked clear and precise measures. Of approximately 21,200 civil servants employed at the national level in 2007, approximately 3 percent were ethnic minorities, while minorities made up 7.5 percent of the population. Members of minorities accounted for almost 4,000, or 6 percent, of civil servants at the county level in 2007. The State National Minority Council received 41.5 million kunas ($8 million) for minority associations' cultural programs during the year, a 15 percent increase from 2007.

The law provides that minority participation is to be taken into account when appointing judges in regions where minorities constitute a significant percentage of the population. According to an OSCE report from 2007, members of minorities made up approximately 4 percent of the country's judges, with Serbs comprising only 2.5 percent. The report noted that minorities needed to invoke their minority status during the recruitment process in order to benefit from this provision of the law.

In November the SDSS listed eight cases of ethnic Serbs who applied for positions of judges at administrative, commercial, and municipal courts and two who applied as trainees at municipal courts. According to the SDSS, the courts rejected the applicants despite their qualifications. Despite the lack of minority judges in the country, the positions were either cancelled or filled by other applicants."

UN CERD, March 2009:
"The Committee welcomes the measures taken by the State party to ensure fair and adequate representation of minorities in central, regional, and local administration, police force, and the judiciary and notes the results achieved so far, such as the election of a member of the Roma minority to the national parliament. Notwithstanding all these efforts, the Committee is concerned about the continuing underrepresentation of minorities in the judiciary. (art. 5 (c)) The Committee encourages the State party to take further measures aimed at fair and adequate representation of all minority groups in all public bodies, including the judiciary and the human rights coordination bodies at county level. It also invites the State party to take measures with a view to encouraging minority women to become more active in public life."

Amnesty International, May 2009:
"Croatian Serbs continued to face problems accessing employment, including in public institutions."

EC, November 2008:
"Some progress has been made with regard to the implementation of the Constitutional Law on National Minorities (CLNM). An Action Plan for implementation of the CLNM was adopted in June 2008 which covers all main issues and relevant institutions. A department for national minorities was established in the Central State Administration Office (CSAO). The CSAO adopted an employment plan for 2008. This plan foresees the recruitment of 158 members of national minorities at the central level and 44 in the offices of the State Administration in the Counties.

However, implementation of the CLNM's provisions in practice presents a mixed picture. Some provisions are implemented well, others only to a limited extent. Problems persist, particularly in terms of under-representation of minorities in state administration, the judiciary and the police. The plan for employment in the administration at County, Town and Municipality level is still not adequate. A long–term strategy to implement the CLNM minority employment provisions is still

lacking. Adequate statistics to allow proper monitoring are still missing. No details of implementation of the 2007 targets are available.

Members of the Serb minority, including those who remained in Croatia during the war, face difficulties concerning access to employment, especially in the war affected areas. Discrimination continues particularly in the public sector at the local level. Croatia needs to encourage a spirit of tolerance and take appropriate measures to protect those who may still be subject to threats or acts of intimidation."

Minority Rights Group International, July 2008:
"Subsequent Reports highlight that its [the Constitutional Law on National Minorities] inadequate implementation has resulted in under-representation of minorities in state administration, the judiciary and the police.

[...] Discrimination against minorities in employment has been highlighted in the EU's and human rights bodies' reports alike. It remains one of the major concerns of minority communities [...]

Discrimination in employment is mentioned as one of the most important obstacles to minority return affecting primarily the Serb community in all Reports. The social and economic discrimination against Roma is also noted. The under-representation of minorities in public administration, the judiciary and police is consistently highlighted. The government is also criticized for the lack of adequate statistical data, which would facilitate the monitoring of the situation and the design of adequate policies to remedy the situation.

[...] human rights bodies are explicit in expressing their concern at the serious discrimination in economic life that affects mostly the members of the Serb community, and in recommending that additional positive measures be launched aimed at eradicating the negative consequences of the past discriminatory practice in employment.

USDOS, March 2008
Five years after the Constitutional Law on National Minorities was passed, authorities have not implemented its provision on proportional minority employment in the public sector in places where a minority constitutes at least 15 percent of the population. Ethnic Serbs, the largest minority, were most affected by the slow implementation of the law. During the year government ministers participated in several discussions organized by the OSCE on implementation of the Law. In May the government adopted the Civil Service Employment Plan, which sets a goal of bringing the percentage of minority hires in state administration to the level of minorities in the general population. During the year the Central State Administration Office prepared for the first time a plan to employ minorities in state administration; with targets to hire 286 minorities in the central administration, and 50 minorities at regional offices. Of approximately 21,200 civil servants employed at the national level, around 3 percent were ethnic minorities, while minorities made up 7.5 percent of the population. Members of minorities accounted for almost 4,000, or 6 percent, of civil servants at the county level. The State National Minority Council received $7.4 million (37 million kunas) for its activities during the year, a 25 percent increase from 2006.

The law provides that minority participation is to be taken into account when appointing judges in regions where minorities constitute a significant percentage of the population. According to an OSCE report, as of May, members of minorities made up approximately 4 percent of the country's judges, with Serbs comprising only 2.5 percent. The report noted that minorities needed to invoke their minority status during the recruitment process to benefit from this provision of the law.

Human rights and Serb NGOs noted several cases of ethnic Serb judges who, although fully qualified, were unable to secure positions in areas with a significant Serb minority population, and the government appointed persons without experience or from other towns instead. In 2005 one

ethnic Serb judge appealed the State Judicial Council's decision when it turned down his bid for the position at the Municipal Court in Gvozd. The administrative court wrote in its response that the applicant indicated his Serb ethnicity, but did not indicate that he was a minority member, and thus failed to invoke his minority rights. An appeal was pending at year's end**.** The same judge applied for and was refused a position at the Vojnic municipal and misdemeanor courts; his case was pending before the ECHR.

UNHCR, 2007:
"It cannot be expected, at least not in the near future, for there to be an increase in the employment of returnees in state bodies, since this would only increase competition and tensions with the 'majority' population, and in the long run lead to new conflicts or unsustainable return. There is already a surplus rather than a shortage of employees in state bodies. This problem will be difficult to resolve without new investment cycles in the areas of return to open up new employment opportunities and entrepreneurial options, primarily for returnees, but also for the 'majority' population, and consequently to facilitate the reintegration process."
The UNHCR study includes returned refugees and IDPs.

ECRE, October 2007, pp. 20:
"Unemployment is a big problem in Croatia. Given Croatia's economic situation, the difficulties with employment facing minority returnees cannot be solely attributed to discrimination. Many of the regions where the majority of people are returning to, were underdeveloped even before the war. Yet the percentage of jobless minority returnees is disproportionate to that of the general population that is unemployed. With the exception of Eastern Slavonia, in all other regions, the percentage of ethnic Serbs employed in public services does not correspond to their numbers as a percentage of the general population. This is despite the obligation of the local authorities, as enshrined in Art. 22 of the 2002 Constitutional Law on National Minorities, to employ representatives of minorities according to their percentage within the overall population."

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Government of Croatia reopened application for pension rights (2009)

- In 2008 the government issued a decree allowing citizens to apply for recognition of work experience during the conflict.
- As of the end of May 2009, there were over 15,700 claims lodged with the Croatian Pension Fund, with half of the requests processed and 3,500 positive decisions
- Concerns remain on the legitimacy of the work of the bodies in charge of the process
- Time spent as a member of para-military units does not count as working experience. Only working experience for which documented evidence is available can be convalidated.
- For several years, NGOs and international community put pressure on Croatia to reopen possibilities for convalidation claims.
- Before 2008 ethnic Serbs experienced difficulties to validate documents issued by "Republika Srpska Krajina" during the war.

- The Law on Convalidation provided for recognition of such documents but a short deadline for application and uneven implementation had only allowed a few people to benefit from the law.
- This situation was a serious obstacle to return considering that 43% of the returnee population is over 60.

UNHCR, email communication, August 2009:
"As of the end of May 2009, 15,799 claims were lodged with the Croatian Pension Fund. The Fund administratively processed 7,134 claims. 3,509 positive decisions were issued. 8,645 claims are pending administrative processing."

USDOS, February 2009:
"The government took steps to recognize or "convalidate" legal and administrative documents issued by entities not under the country's control during the 1991-95 conflict. In May and June, the government issued a rulebook and a decree allowing citizens to apply for recognition of work experience leading to accessing pensions. The regulations effectively annulled the 1999 deadline for submission of such applications. International observers reported that the government initiated implementation of the new procedure, and the UNHCR registered 9,200 new applications for convalidation. A total of 616 of these were resolved positively, while 794 were resolved negatively. International observers noted that some administrative bodies continued to interpret the law in a restrictive fashion despite the government's instruction."

Center for Peace, January 2009:
"Enforcement of the Ordinances on Procedure of Convalidation of Decisions and Individual Acts in the Area of Pension Insurance (“Official Gazette” no. 53/08) in May 2008, extended the deadline for convalidation of working years exercised in the area of the Republic of Croatia under the UN administration. The project team carried out activities of informing potentially interested parties on enforcement of the Ordinances and establishment of the newly-prescribed deadline for the submission of convalidation requests. At the very beginning, the project team noticed specific problems related to the issuing of first decisions for convalidation of working years, referring to the process of verification of working years, the problem of acquiring relevant written evidence as well as the lack of implementation of the administrative proceedings. First decisions indicated unclear and bleak elaborations as well as impossibility to verify the legitimacy of the work of the competent bodies and the implementation of LAP. Decision’s elaborations failed to indicate material regulations on which grounds the legal matter was resolved, i.e. rejected.

Human Rights Watch, January 2009:
"The government adopted a procedure in May to allow Serbs to register periods of work in formerly occupied areas (an impediment to Serbs qualifying for Croatian pensions)".

Croatian Pension Insurance Institute, December 2008:
"The Law on Convalidation (Official Gazette no. 104/97) and Rules of Procedure of convalidating individual decisions and acts in the field of pension insurance (Official Gazette 53/08.), which came to power on May 17, 2008, regulate issues of convalidation of service insurance and convalidation of decisions and individual acts in the field of pension insurance issued by various bodies and legal entities with public jurisdiction in the territories of the Republic of Croatia under the UN protection or administration. The primary novelty brought by the Rules of Procedure is that persons who insured while residing in the formerly occupied areas of the Republic of Croatia were no longer bind by deadlines for submission of requests for convalidation of insurance and pension service.

Time spent as a member of para-military units does not consist as working experience, thus only working experience for which documented evidence is available can be convalidated.

EC, November 2008:
"Apart from housing, other key concerns facing returnees are employment, enduring hostility in certain localities and "convalidation", or the validation of working years concerning pension rights, of those residing in the parts of Croatia not under Croatian government control during the 1990s. In this regard it is positive that the Government has taken various decisions reopening the possibility for these pension rights to be accessed."

ECRI, October 2007, p. 31:
Convalidation is the procedure of recognizing the administrative acts of the authorities of another country or of territories of Croatia that were not under Croatian government control during the conflict. There is concern about the process of convalidation of the employment and social rights or other entitlements of people that worked, finished their education, passed driving tests or obtained any kind of certificate in areas that were temporarily outside Croatian government control during the war. After Operation “Storm” and the peaceful reintegration of Eastern Slavonia into Croatia, many people from the region have faced problems with the convalidation of their employment and pension rights.

In September 1997, the Croatian Parliament adopted the Law on Convalidation, providing the possibility to validate documents issued by entities that were not under Croatian government control in the period of the 1991-95 conflict. It also adopted supporting Decisions for each administrative district. The key concern with this legislation is that it established difficult preconditions for convalidation. Firstly, it stipulated that all requests for convalidation had to be submitted withint six months from the adoption of the Law, not taking into account that most people eligible for convalidation might have been outside Croatia and had no access to sufficient information about the possibility or process. Secondly, it required that each case was supported by two witnesses who could confirm the authenticity of the supporting documentation for convalidation. In order to qualify as a witness, individuals were required to have resolved any outstanding convalidation claims that personally concerned them. In effect this meant that there were not enough people who could act as witnesses in the initial convalidation cases, making the procedure unnecessarily bureaucratic.

Despite complaints by NGOs about the shortcomings of the convalidation procedure, there has been no positive response from state institutions. Recently however, there have been discussions within the MSTTD about the possibility of reopening the procedure for submitting requests for convalidation. This could be an important development as it would provide the opportunity to convalidate the rights and entitlements of many people who were not able to apply within the original timeframe of six months provided under the 1997 Law on Convalidation. Without convalidation, these individuals cannot prove that they have finished schools, passed driving exams, or even that they worked and are now eligible for a pension. Convalidation might also remove some of the administrative obstacles to return for people who have so far opted to remain in Serbian or BiH where their documents are valid and their work experience or educational qualifications recognized

OSCE, March 2007, p. 22:
Despite the fact that a large number of displaced persons, due to subjective or objective circumstances, missed the time limit for the filing of working years convalidation claims, the Republic of Croatia has not allowed an extension of the time limit for the filing of claims. The issue of extension of the time limit for the filing of convalidation claims is one of the open issues discussed within the Sarajevo process. This issue has also been highlighted as a short-term priority in the Accession Partnership process with the European Union. Specifically, the Decision

of the European Council of 20 February 2006 sets out, as one of the political priorities of the Accession Partnership, “Reopen the possibility for convalidation claims and review all applications made since expiry of previous deadline.”

EC, 9 November 2005, p.29:
“The validation of documents issued by the so-called “Republika Srpska Krajina” (RSK) is still an outstanding issue. “Convalidation” is necessary for recognition of working years during the 1991-1995 period and, thus, pension rights. The Government accepts the principle that working years should be “convalidated” and pension rights ensured. However, there are a number of specific issues to be resolved. The original deadline for requests for convalidation expired already in 1999 and needs to be reopened for the many potential beneficiaries who could not reasonably have been expected to apply by then, a large number of whom were, and still are, abroad and, thus, could not submit applications. Moreover, all adverse decisions made on the basis of applications submitted after the deadline expired should be reviewed."

ECRI, 14 June 2005, par.41-42:
“ECRI is concerned at reports that ethnic Serbs who came under the authority of the “Republika Srpska Krajina” from 1991 to 1995 still face problems and administrative barriers when it comes to validating official documents issued during this period, These difficulties have a major impact on the economic and social rights of the individuals concerned, in particular on persons seeking recognition for years worked during this period in order to draw pensions. The failure to extend the official deasline beyond April 1999 has prevented many people from applying for validation, and even those who did apply in time are having trouble provind their entitlement to a pension.

Recommendations:
ECRi reiterates its recommendation to the Croatian authorities to take all the necessary measures to resolve the problems facing ethnic Serbs as regards the implementation of the 1997 Law on Convalidation.”

UNHCR, 2007:
"The average age of all interviewed family members, who represent the total returnee population, is around 51. This is considerably higher than the average age in Croatia which is 39, which is an indicator of the negative age selection of the returnee population. Every fourth returnee is between 65 and 74 years of age, with an additional 12% being 75 or above, which means that more than one third (37%) of the returnee population is above 65 while 43% is older than 60."

Participation

Participation of minorities in local-level elected bodies continues to be unsatisfactory (2009)

- The government did not take updated voter lists into account in calculating the number of elected minority representatives but used the 2001 census.
- The use of the voters' list would have resulted in greater minority representation due to the return of refugees
- Elected representatives of minority groups may not represent the interests of the entire community due to persistent political divisions
- Despite increased financial support, Local Councils of National Minorities are not recognized as advisory groups and lack independence,

- According to NGOs, the 2007 and 2008 EU progress report are not analytical enough when it comes to minority political rights
- An Action Plan for the implementation of the CLNM has been adopted but local representatives, Local Council of National Minorities, minority institutions and organization were not consulted.

USDOS, February 2009:
"The law requires that ethnic minorities have representation in local government bodies if the census showed that a minority group constituted at least 5 percent of the local population. While authorities generally implemented this provision, the government did not take updated voter lists into account in calculating the number of elected minority representatives, as required by law. Use of the voters' lists could have resulted in greater minority representation due to the return of refugees since the 2001 census."

Common Values and The King Baudouin Foundation, 2009:
The effectiveness of representation of minority interests in the representative bodies on national and local levels remains an issue of concern. For example, minority representatives elected from the non-minority party list may feel more accountable to a political party than to the minority to which
they belong. In some cases, persistent political divisions and divergent interests within a minority group raise the question of whether elected minority representatives can be considered representatives of an entire community. Minority policies adopted on a national level are not necessarily reflected in practice at local levels, although policy makers on both levels may belong to the same political force.

The participation of minorities in public life in Croatia is guaranteed by the establishment of the Council for National Minorities whose members are nominated by local or regional councils of national minorities, by minority associations and other organizations of minorities, religious communities, legal entities and citizens belonging to national minorities and representatives of national minorities in the Croatian Parliament. The Constitutional Law on the Rights of National Minorities also stipulates the possibility of constituting councils of national minorities or to elect individual representatives of national minorities on a local and regional level. Councils of national minorities are non-profit legal entities with a consultative status to local and regional authorities. They cannot therefore be considered as an institution of minority self-governance. Members of the councils and individual representatives of national minorities are elected from amongst candidates nominated by minority associations or by a number of persons belonging to a national minority as stipulated by the Law. Thus, neither non-minority nor minority political parties are given a legal opportunity to nominate candidates at elections for the councils and individual representatives of national minorities. Financial constraints, a lack of adequate human and technical resources to perform their work and in some cases non-recognition of their consultative status remain key obstacles to effective and high-quality work on the part of the councils and representatives of national minorities. With regard to the scope of their responsibilities in improving, preserving and protecting the position of national minorities on a local level, some councils tend to rely on political agreements concluded at various levels than on legal mechanisms.

EC, November 2008:
"The capacity of the local councils of national minorities (CNMs) to advise the local government on matters of concern for minorities has improved. Most of the CNMs have been provided with premises and funding. In 2008, the State council for national minorities received around € 5.7 million from the state budget for national minority associations. This is an increase of 19% compared to 2007. [...] Despite increased financial support, CNMs are not sufficiently recognized

yet as advisory bodies by the majority of local authorities. Moreoever, their independence and influence is affected by the fact that they depend on the budget of the town authority or council."

Minority Rights Group International, July 2008, p. 19:
"Little attention, however, is paid to the issue of participation of minorities in local-level elected bodies, which continue to be unsatisfactory. The 2005 Report thus mentions that 'Problems have arisen in connection with the application of those provisions of the CLNM concerning reserved seats for minority representatives in local and regional governments. The problem related to the discrepancies in the 2001 census lists in comparison with the 2005 voters lists, and the government's decision, in spite of the legal requirements, to use the former when establishing the numbers of minority representatives in local bodies. This resulted in the lower level of representation in the representative bodies of the Serb minority in particular, effectively curtailing their participation rights.

Reports also refer to the consultative councils of national minorities established in line with the CLNM. This mostly relates to the lack of institutional relations between the local authorities and the councils, the latter being under-resourced and not always clear about their role. The Reports mention the very low voter turnout in both the 2003 and 2006 rounds of elections for the councils.

[...] it should be kept in mind that political representation by minority representatives does not translate automatically into genuine and effective representation of minority communities. As one minority representative states, 'Political parties represent only one segment of a particular community that accepts its party program.' Moreover, regarding the effectiveness of the councils of national minorities as means of consultation and communication with local and national authorities, a major challenge remains in that the councils are not recognized as advisory bodies and the negotiation often shifts to the political domain. According to the representative of the Serb national minority in Županja: 'Local authorities simply do not want to hear minority representatives. It has been one year that I have served as the Serb representative in Županja and I have not received a single invitation or query or information on any projects in Županja. The only
information I have is what I find myself.'At the same time, these consultation bodies remain
dependent on the power of the purse of the local authorities with whom they are supposed to engage, which has a significant impact on their independence and influence. In the words of the President of the Council of the Serbian national minority in Beli Manastir, 'As long as minority institutions depend on the budget adopted by the town authority or council, we cannot speak of their influence.'A number of structural issues affecting the effective participation of minorities in public life thus remain outside the coverage of the EU Reports."

Center for Peace, December 2008:

"The report [the EU report] notes that the financial allocations for the work of minority organizations have increased by 19% in comparison to 2007. This undoubtedly constitutes an act of goodwill of the Government but what remains uncertain is to what extend it is a reflection of the progress in the exercise of key minority rights in the Republic of Croatia. The progress report should have been more analytical in this regard.

The Report goes on to state that the Action Plan for the Implementation of the Constitutional Law on the Rights of National Minorities has been adopted. Its adoption, undoubtedly, shows that there is a need to strengthen the implementation of the Constitutional Law. Therefore, the adoption of the Action Plan is crucial for the comprehensive and effective implementation of the Constitutional Law and strengthening the rights of national minorities in the Republic of Croatia. The process of the adoption of the Plan, however, was neither transparent nor open to participation of local representatives and councils of national minorities, minority institutions and organizations. Local national minorities' representatives expressed their disappointment with the

fact that they were not informed about the process of drafting and the content of the Action Plan. They have protested the fact that they were neither consulted nor involved in the process of its production. Despite the fact that the Government adopted the Plan almost half a year ago, the Action Plan still bears the confidentiality label and its content is still not publicly available. All of the above points at the limited possibility for participation of minorities in decision-making processes on issues which affect them such as planning, implementation and evaluation of relevant Governmental measures targeting minorities."

Representative of the Serb Party appointed Deputy Prime Minister (2009)

- For the first time a member of the Independent Democratic Serbian Party has been appointed Deputy Prime Minister and is in charge of the portfolio for Regional Development, Reconstruction and Return.

EC, November 2008, p.7:
"A new government was formed following parliamentary elections in November 2007. The centre-right coalition led by HDZ has a majority of 83 seats out of 153. For the first time the eight minority MPs are official coalition partners and a member of the Serb party, the SDSS, took one of the Deputy Prime Minister posts and became a member of the cabinet."

OSCE, March 2008, p.3:
"In mid-January 2008, the Parliament approved a new Government, led for a second term by Prime Minister Sanader, together with its Programme for the period 2008 to 2011. For the first time, a representative of the Independent Democratic Serbian Party (SDSS) is a member of the Government, having been appointed as one of the Deputy Prime Ministers. Very encouraging for mandate-related issues is also the fact that he was assigned the portfolio for Regional Development, Reconstruction and Return."

Progress in implementation of the Constitutional Law on the Rights of National Minorities although certain issues remain to be addressed (2007)

- EU notes progress, but urges better implementation of the Constitutional Law on national minorities
- Collating of voter list should be reformed to address low minority turnout and update census data for election of minority representative
- Representation of minority group members in Parliament and local councils was assessed as a positive achievement of the Law
- Clarification of basis for calculation of minority quotas in local assemblies is needed
- Right to education in minority language and script as well as need for minority to learn Croatian language and script was stressed
- Government did not take updated voter lists into account in calculating the number of elected minority representatives

EC, 6 November 2007, p. 12:
Some progress has been made with regard to the implementation of the Constitutional Law on national minorities (CLNM). The Central State Administration Office prepared for the first time a recruitment plan for minorities in the state administration. In 2007, it is planned to employ 286 minority members in the bodies of the state administration at the central level and 50 members at the regional level. In 2007, the State council for national minorities received around € 5 million from the state budget for national minority associations, up by 25% compared to 2006.

However, implementation of the CLNM's provisions in practice presents a mixed picture, some provisions are implemented well, others only to a limited extent. There is no overall action plan covering all bodies concerned by the CLNM to ensure its full implementation. Problems persist, particularly in terms of under-representation of minorities in state administration, the judiciary and the police. A long-term strategy to implement the CLNM's minority employment provisions is lacking. Detailed recruitment plans are missing at all levels of state administration. Some steps have been taken to collect data on ethnic affiliation. However, a civil servants' registry to allow for systematic statistics collection has still to be set up.

Elections for the local councils of national minorities (CNMs) were held in June 2007. The number of candidates increased considerably compared to the 2003 elections. However, voter turn-out was again very low. The government financed the organisation of the elections but made a limited effort to promote them. Moreover, the provisions of the CLNM were not respected in that the elections were called one month later than stipulated and for fewer councils than minorities are eligible to vote for. The capacity of the CNMs to advise local government in relation to minority issues – as provided for under the CLNM – goes unrecognised by the majority of local authorities and many local councils struggle to obtain premises and funding.

OSCE, Courrier, December 2005:
"(a) conference (was) organized by the (OSCE) Mission on the Constitutional Law on the Rights of National Minorities (CLNM). Three years since its adoption, the conference was held in Zagreb on the 18th of October to review the implementation of the CLNM – its achievements and areas for improvement. (…) Chairman of the Parliamentary Committee for Human Rights and the Rights of National Minorities, Furio Radin, stressed that the autonomy of minority MPs in Parliament was one of the main achievements of the CLNM. He nevertheless advocated a specific election law and transparent voter lists to address the deficiencies in the model of electing minority representatives and the low minority voter turnout. "The process of collating voter lists should be reformed, so that they can serve the purpose of updating census data for electing minority representatives, in line with the Constitutional Law," said Radin. (…)
The right to specific minority representation in Parliament and to proportional representation in local councils and assemblies was assessed as a positive achievement of the Constitutional Law. The participants raised the need to clarify, as part of electoral reform, the basis for calculating minority quotas in local assemblies. Positive marks were also given to the establishment of consultative and advisory mechanisms between local authorities and minorities, through the creation of local Councils of National Minorities (CNMs) and a national Council for National Minorities. The discussion identified that more attention in the future needed to be given to the status, functioning, financing and capacity-building of the CNMs. Participants stressed that particular attention was needed to ensure minority representation in state administration and judicial bodies, especially at local levels and in return areas. They welcomed the recent adoption by Parliament of a law on local self-government addressing the issue.

Recognition of the right to education in minority language and script within the CLNM was commended, although the need for minorities to learn Croatian language and script was also stressed. The agreement between the Education Ministry and Serb representatives to introduce a

common history textbook for all pupils was highly praised. Concern was expressed over the physical separation of Serb and Croat pupils in some schools in Eastern Slavonia. It was recommended that this should be ended as quickly as possible.

All participants agreed that the public broadcaster, HRT, covered minority issues well. However, they recommended more focus on the benefits of minority integration and on the problems they faced."

Procedure to determine representation of minority members in local assemblies needs to be clarified (2006)

- Voter lists have not been taken into account to calculate the number of minority representatives
- Difference between the 2001 census used to calculate minority representatives and 2005 voters list is considerable
- Use of voter lists would have allowed greater minority representation
- National Council of National Minorities claims that CLNM has been violated

USDOS, 8 March 2006, section 3:
"The law requires that ethnic minorities be represented in local government bodies if the census shows that a minority group constitutes at least a specified percentage of the local population. While authorities generally implemented this provision, the government did not take updated voter lists into account in calculating the number of elected minority representatives, as is also required by law. Use of the voters lists would have resulted in greater minority representation due to the return of refugees since the 2001 census.

In July the government instructed local governments to exclude voters lists in determining the proportion of minorities in local communities. In October the National Minorities' Council asked the government to withdraw its instruction on grounds that it contradicted the law. The Serb community and NGOs expressed similar criticisms. Observers estimated that additional minority councilors would be seated in over 12 towns if voters lists were taken into consideration. In October GONG challenged the government's instruction in the Constitutional Court. In December the opposition SDP appealed on the same grounds. The court had not reached a decision by year's end. However, minority elections were held in October in three municipalities, where additional councilors were elected albeit with minimal voter participation."

EU, 9 November 2005, p.12:
"Before and even after the local elections of May 2005 there was a serious lack of clarity on how to implement those provisions of the Constitutional Law on National Minorities concerning the allocation of reserved seats for minority representatives. According to a Government decision of 22 July 2005, it appears that the number of reserved seats for minority representatives was based on the 2001 census lists, without any adjustment to take into account the most recently updated voters lists. With regard to the Serb minority, the difference between the 2001 census and the 2005 voters list is considerable, particularly in return areas. It is therefore vital that the provisions of the CLNM are correctly applied in order to ensure minority rights are fully respected. More generally, there is a need in Croatia for consistent and permanent electoral legislation which regulates issues such as the voters lists, out-of-country voting, and campaign financing in a transparent manner."

OSCE, 7 July 2005, p.12:
"The local elections *(in May 2005)* were the first to fully and simultaneously incorporate the election of ***minority representatives*** according to the 2002 Constitutional Law on the Rights of National Minorities (CLNM), which guarantees proportional representation in the local assemblies, when the share of a given minority in the population is above 5 percent (in the case of counties) or 15 percent (in the case of municipalities and cities). However, an important question regarding how "***proportional representation***" is to be determined remains unclear, and may have affected heavily on the number of minority representatives seated in local councils and administrations. In its 10 June session, the National Council of National Minorities asked the Government to establish who should be held accountable for the apparent failure to apply correctly the provision of the Constitutional Law pertaining to the update of minority quotas."

Progress for Serb IDP voting rights despite persisting difficulties to access documentation (2005)

- Further to March 2005 amendments national minorities can vote even without a permanent residence in Croatia
- 2003 elections were the first to provide equal voting rights to Serb and Croat IDPs
- OSCE did not note concerns specific to IDP voters in this election
- Difficulties for ethnic Serbs to obtain certain document could hinder the exercise of their voting rights

EU, 9 November 2005, p.12:
"In March 2005, Parliament adopted Amendments to the Law on Local Elections, the main element of which was the abolition of the provision that members of national minorities can participate in local elections only if they have their registered permanent residence in Croatia and actually reside there. With the aim of introducing a similar provision for all citizens, in March 2005 the Government also submitted draft amendments to the Law on Permanent Residence and Temporary Residence to Parliament in urgent procedure. However, it did not clarify who would check whether a citizen was actually residing at the place of his/her registered permanent residence or how, or according to what criteria. While the Government did eventually withdraw these draft amendments, the way in which they were prepared, submitted to Parliament, changed and, eventually, withdrawn is illustrative of the often ad hoc rather than systematic law-making process in Croatia."

Brookings, November 2004, pp.25-29:
"The ability of IDPs in Croatia to exercise their voting rights has depended on minority protection, which over time has significantly improved. Initially, a legal distinction between Serb and Croat IDPs resulted in discriminatory practices, in particular as regards polling arrangements and voter registration. In recent years, however, significant improvements in the electoral process and arrangements for absentee voting have facilitated IDPs' exercise of the right to vote. In the most recent parliamentary elections in 2003, no discrimination against Serb IDPs was observed. Ethnic Serbs nonetheless continue to experience difficulties in accessing documentation, which likely impedes their electoral participation. (…)

An earlier assessment of IDPs' right to political participation in Croatia concluded that "discriminatory practices against the displaced Croatian Serb minority in terms of access to documentation and voting procedures has been a notable feature of elections in 1997 and 2000 respectively." (…)These discriminatory practices were rooted in a legal distinction between

“expellees,” who were mostly Croats, and “displaced persons,” who almost always were Serbs. This distinction posed particular problems in parliamentary elections. (…)

Parliamentary Election, 23 November 2003: Since the legal distinction between absentee and displaced voters was deleted from national legislation in 1999, the 2003 parliamentary election was the first in which no discriminatory differentiation between Serb and Croat IDPs was recorded. (…)
The OSCE did not note concerns specific to IDP voters in this election. Under the system of absentee voting used, displaced voters were entered into the electoral register of their temporary residence, but voted for the constituency in which they have permanent residence. (…) Displaced minority voters thereby had a choice between voting for the general list and casting their ballot as minority voters. Furthermore, no distinction was observed between the treatment of ethnic Croat and ethnic Serb voters. (…)

In early 2004, it was reported that ethnic Serbs continue to face difficulties in validating legal and administrative documents issued by the Republika Srpska Krajina between 1991 and 1995. Ethnic Serbs also face difficulties in obtaining recognition of birth certificates. Similar problems have been reported when Serb residents of Croatia seek citizenship. Given the importance of identity documentation for voting, the difficulties Serbs face in obtaining such documents could prove a problem in the exercise of voting rights. (…)"

DOCUMENTATION NEEDS AND CITIZENSHIP

Documentation

Complex administrative requirements impede IDPs access to documentation (2005)

UNGA, 7 September 2005*:*
Extract from RSG on the Human Rights of IDPs, Walter Kälin, report on visit to the Balkans:
"*Lack of awareness of rights, coupled with administrative obstacles*. Many IDPs are marginally aware of the rights to which they are entitled, both under domestic and international law. Others are unable for practical reasons to access entitlements and remedies provided in Government offices. These disadvantages are coupled with local administrative systems which too often have cumbersome and complex requirements, particularly in the area of documentation and registration. This frequently results in aggravated helplessness, disorientation and disempowerment suffered by IDPs, who become even more firmly locked into their existing situations. Obstacles to access to health care, education, social security benefits and other State services or to the labour market can easily become insurmountable. Since there seems to be no social safety net for those who fall outside the system, those who have not managed to get into the system, owing to the burdensome administrative practices, are further marginalized and pushed into the informal economy. The Representative thus recommended accelerating administrative reforms with a view to simplifying the administrative registration requirements and processes for all people. He underlined that particular attention should be paid to the additional difficulties IDPs have to face when trying to regularize their situation."

Returnees face difficulties to obtain documentation necessary to open rights to certain benefits (2006)

- Returnee status is regulated by the Law on amendments of the law on the status of displaced persons and refugees
- Returnees living in collective centres or without property face obstacles to obtain their ID card which conditions access to returnee status benefits

UNHCR Croatia, 1 March 2006:
“The Law on Amendments of the Law on the Status of displaced persons and refugees regulates the equal status and rights for returnees and displaced persons. A returnee has kept the basic rights he/she had as a displaced or refugee (financial support, humanitarian aid, help by social adaptation, health protection, settling down other necessary costs of living). A returnee also obtains, on the basis of particular regulations, the right to tax and customs benefits, with the aim to encourage persons to return.

The status of returnee can be obtained by displaced persons who:
- have obtained (or obtain) right to reconstruction of their war damaged or destroyed houses, in accordance with the Law on reconstruction;
- have made the contract on the apartment lease;
- have entered their house/apartment;

- have obtained the possession of a house/apartment in the liberated area.

1. PRACTICE: Implementation, recognition of returnee status, procedure, requirements and differences:
UNHCR recorded that returnees with ODPR's "Confirmation on Arrangements for Return" do not have access to the benefits of "Returnee Status" before obtaining personal documents in particular the ID card. Acquisition of the ID is already a time consuming process for the "normal" returnee (1 to 3 months and then another couple of months until first receipt of returnee grants). It is even more difficult if not impossible for the collective centers' residents, former habitual residents (returnees who are non-Croatian citizens), returnees without property (former occupancy/tenancy right holders), since it is not a rare case that these returnees are waiting for resolution of their personal status for more than a year."

IDPs, refugees and returnees are unable to obtain documentation to access employment and other social rights (2002-2006)

- 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

USDOS, 8 March 2006, p.9:
"The government did not take steps to recognize or "convalidate" legal and administrative documents issued by entities not under Croatian control from the period of the 1991-95 conflict. Without such recognition, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems in accessing pensions and disability insurance, establishing work experience, and other areas."

USDOS, 28 February 2005, p.10:
"An ongoing impediment to the return and reintegration of ethnic Serb refugees was the frequent failure of the Government to recognize or "convalidate" their legal and administrative documents from the period of the 1991-95 conflict. Without such recognition, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems, including pensions, disability insurance, and the ability to establish work experience."

UNHCR/Stability Pact June 2002, p.3:
"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."

USCR 2003, p.188:
"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."

See also:
Section on Self-Reliance regarding convalidation issues and pensions
The section on pensions, pp. 13-14 in "Croatia Returns Update", 13 May 2004 [see sources below]
"Failure to obtain validation of their documents required to access social benefits discourages return of minorities (2003-2004)" [Internal link]

IDPs and refugees face difficulties to obtain documentation (2006)

- Recent changes in procedure allow people living in collective centre to apply for documentation
- Displaced persons who lost their tenancy rights during the war face difficulties to obtain documentation because they lack a permanent address
- Until 2002 IDPs of Serb ethnicity living in the Croatian Danube Region had difficulty to register their permanent address

USDOS, 8 March 2006:

"Government procedures to verify and document citizenship improved during the year. For example, authorities ceased rejecting applicants who listed a collective center as their permanent address. However, reports continued of obstruction by some local officials who applied procedures inconsistently."

USDOS, 28 February 2005:

"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."

USDOS, 28 February 2005:

"Freedom of movement continued to be constrained for returning refugees and internally displaced persons (IDPs), who lost tenancy rights and experienced difficulties in regularizing their status because they had no permanent residence (domicile), which is a precondition for acquisition of a civilian ID. "

Centar za mir, August 2004:

"Upon pressures by international community, in September 2002, Croatian authorities agreed to recognise refugees / returnees who had permanent addresses in Croatia on October 8, 1991 (the date of termination of relations with former Yugoslavia) as foreigners with permanent address status. Special problem related to permanent address which is to be declared when issuing all relevant documents affected displaced persons of Serbian ethnicity, former tenancy rights holders and members of their families that were already issued Croatian documents (ID cards and passports) during the UNTAES period on the basis of their pre-war permanent addresses. Upon the expiration of the documents issued within the UNTAES period, the above-mentioned persons were unable to get new documents using the old addresses of their pre-war permanent residence although they never cancelled their registrations. They were told that since their tenancy rights were terminated they needed to register on a different permanent addresses (which considers that they needed to either own a house or an apartment or conclude a lease agreement) in order to be able to get new documents."

The Law on the Status of Displaced Persons and Refugees: discriminatory distinction between displaced Croats and Serbs remains in effect (2006)

- 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

ICG 26 April 2001, p. 176:
"[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)."

U.S. DOS March 2002, sect. 2d:
"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."

UNHCR Croatia, 1 March 2006:
"With regards to the specific position of Serb displaced persons (DPs) in the Danube Region, some introductory points should be made. In the initial phase of the integration of CDR into

Croatian legal and administrative system, UNHCR and other international bodies faced difficulties persuading the government to even register the individuals that were found in the CDR, but originated from other areas of Croatia, let alone grant them a status. During initial registration in 1997/98, displaced persons in CDR (*rasljene osobe)* were registered as a special category and were never incorporated as a group into the Law on Status of Displaced Persons (*prognanik)* and refugees. Although de facto they are in the same position as other DPs (*prognanici*) who are by definition "….*persons who, individually or in an organized manner, fled from the place of residence from one area of the Republic of Croatia, endangered by war, in order to avoid immediate threat for life caused by the aggression and other war activities*….", Serb DPs (*raseljene osobe),* falling under the same definition were never given a status, but were treated as a special category and were only "mentioned" in the two documents – Erdut Agreement and Program of Return. The program gave them the opportunity to remain in the CDR, sell their property and leave or return to pre-war places of origin. Here is a brief comparison between the two "statuses" with regards to some rights originating from the DP (*prognanik)* status:

	PROGNANIK	RASELJENA OSOBA
DP card	Yes	No, registration form
Health insurance	Yes	No
Exemption of court fees	Yes	Selectively, differs from court official to court official
Cash grant	Yes	No
Transport upon return	Yes	Yes, if registered

Once returning to pre-war place of origin, according to our knowledge Serb DPs did not face any problems in obtaining returnee status. Finally, with respect to Croatian Serb IDPs in Croatian Danube Region, UNHCR is of the opinion that the discrimination in terms of DP status ('raseljene osobe' versus 'prognanik') should be discontinued, possibly in the context of ODPR's announced "exit strategy"."

UNHCR Croatia, 1 March 2006:
"As of entering of the Law on Amendments to the Law on Status of Displaced Persons (*prognanika*) and Refugees (Official Gazette 128/99) into force, the status of **displaced person** (*prognanika*) and **refugee cannot be acquired** (since 8 December 1999)."

Legal status of minorities

The Constitutional Law on the Rights of National Minorities regulates status of national minorities (2007)

- Many minorities continue to face discrimination in the labour market.
- 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

- Several provisions in the CLNM on education and other rights remain to be fully addressed by relevant authorities

USDOS, 11 March 2008:
Five years after the Constitutional Law on National Minorities was passed, authorities have not implemented its provision on proportional minority employment in the public sector in places where a minority constitutes at least 15 percent of the population. Ethnic Serbs, the largest minority, were most affected by the slow implementation of the law. During the year government ministers participated in several discussions organized by the OSCE on implementation of the Law. In May the government adopted the Civil Service Employment Plan, which sets a goal of bringing the percentage of minority hires in state administration to the level of minorities in the general population. During the year the Central State Administration Office prepared for the first time a plan to employ minorities in state administration; with targets to hire 286 minorities in the central administration, and 50 minorities at regional offices. Of approximately 21,200 civil servants employed at the national level, around 3 percent were ethnic minorities, while minorities made up 7.5 percent of the population. Members of minorities accounted for almost 4,000, or 6 percent, of civil servants at the county level. The State National Minority Council received $7.4 million (37 million kunas) for its activities during the year, a 25 percent increase from 2006.

OSCE Mission to Croatia 12 May 2003
"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."

[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.

OSCE 12 May 2003, pp. 18-19
"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."

For an update on implementation of the CLNM see Section on Self-reliance and public participation

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 advice 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

US DOS 25 February 2004, Sect.3:
"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."

OSCE 20 August 2002, p.1:
"The obligation to adopt such legislation dates from Croatia's 1996 accession to the Council of Europe. Recent calls for the fulfilment of this long-standing commitment include February 2002 Resolution of the Council of Europe Committee of Ministers on the implementation of the Framework Convention for the Protection of National Minorities,[1] the April 2002 European Commission Stabilisation and Association Report, and the Mission's June 2002 Status Report.[2]"

Footnote [1] Croatia ratified the Framework Convention for the Protection of National Minorities in October 1997 and submitted its first report in 1999. In April 2001, the Advisory Committee issued an opinion that formed the basis for the 2002 resolution by the Committee of Ministers.

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.

The English version of the "Constitutional Law on the Rights of Minorities", 13 December 2002, is made available by the OSCE Mission to Croatia [see sources below].

For more information see "Background Report: Constitutional Law on National Minorities" OSCE Mission to Croatia, 20 August 2002 [see sources below].

Citizenship

Access to citizenship remains a problem for ethnic Serbs (2009)

- The Government failed to amend the Citizenship Law, which has discriminatory effects on minorities.
- Some ethnic groups continue to face difficulties in obtaining documentation necessary to acquire citizenship.
- Excessive delays in the processing of citizenship have resulted in the loss of social and educational benefits particularly for ethnic Serbs.
- The CERD recommended the government to remove administrative and other obstacles encountered to access citizenship

Refugees International, March 2009, p.45:
"Excessive delays in the processing of citizenship, in particular that of ethnic Serbs, have resulted in the loss of social and educational benefits.[...] The Government has failed to amend the Citizenship Law, which has a discriminatory effect on Roma and other persons who are not ethnic Croats".

UN CERD, March 2009:
"The Committee [...] notes the information provided by the State party on access to citizenship. However, it reiterates its concern that some ethnic groups, in particular persons of Roma, Serb and Bosniak origin, continue to face difficulties in obtaining the documentation necessary to acquire citizenship. [...] The Committee recommends that, in order to ensure that access to citizenship is granted on a non-discriminatory basis, the State party should remove any administrative and other obstacles and assist persons whose access to obligatory documentation is limited, such as persons of Roma, Serb and Bosniak origin."

Centre for Peace, January 2009:
"Specific problems have been noticed in processes of issuing decisions regarding status rights of citizens related to obtaining Croatian citizenship, acquiring temporary / permanent resident's permission in the Republic of Croatia, attaining the status of a permanently settled foreigner and acquiring different documents per citizen's requests.
Registered problems in the work of the Police Administration in Vukovar-Sirmium County relate to the lengths of procedures, inconclusive decisions and the lack of application of administrative proceedings according to LAP."

New "Law on Foreigners": implementation and procedures varies from case to case (2006)

USDOS, 28 February 2005, Section 2.d.:
"The new Law on Foreigners entered into force on January 1*(2004)*. The law's transitional provisions enabled former habitual residents to return and regularize their status. The law states that if they return within 12 months, they will be reinstated into their pre-war status as former habitual residents without any further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship. During the year, the MUP issued 160 identity cards to foreigners and conducted a review of 76 permanent residency documents of Croatian Serb returnees who were habitual residents of the country prior to 1991. However, international monitors reported that the Ministry followed different procedures and varied its interpretation of its own internal guidelines from case to case. In December, the Government extended the deadline for applications to regularize status. Due to a lack of information, many potential claimants were unaware of the possibility to regulate their status. The Ministry initiated a procedure to cancel the permanent residency status of 2,700 persons."

UNHCR Croatia, 1 March 2006, p.2:
"The Law on Foreigners does not require evidence of secured housing or financial means for living. Unfortunately, one of the preconditions for the permanent residing foreigner status is a proof of health insurance which is not in accordance with the spirit and overall objective of the transitional provision of the Law. In addition to this, the police requested all former habitual residents to present their country of nationality passports (!) as well as a need to have a residence address in Croatia upon return."

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

Citizenship law impedes the integration of non-Croat long-term residents (1992-2003)

- 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

US DOS 25 February 2004, Sect.5:
"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."

OSCE 21 May 2002, p. 7:
"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."

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

OSCE 21 May 2002, p. 8:
"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."

U.S. DOS 25 February 2004, Sect. 1b:
“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.”

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 [see sources below].

PROPERTY ISSUES

General

Law and policy

2008 provisions regarding housing care programmes inside and outside ASSC (2009)

- In July 2008 a new Law on Areas of Special State Concern came into effect for the provision of Housing Care inside the ASSC.
- The new Law introduced two-instance proceedings in deciding upon housing care requests.
- However, it established more restrictive conditions for exercise the right of housing care.
- Outside the ASSC, a government's decision introduced two-instance proceedings in deciding upon housing care requests.
- Applicants for HC have now legal remerdies in reference to the negative letters on the rights to provision of HC.
- However, it is not possible to file an appeal against positive decisions.

Changes within ASSC

Centre for Peace, January 2009:

Before the Law on Areas of Special State Concern („Official Gazette“ no. 86/08) came into effect in July 2008, the legal framework of provision of housing care inside ASSC was regulated by the earlier Law on Areas of Special State Concern (“Official Gazette” no. 44/96, 57/96, 124/97, 73/00, 87/00, 69/01, 94/01, 88/02, 26/03 (consolidated text) 42/05 and 90/05) and sublegal acts.

The earlier LASSC failed to set out precise terms for obtaining the right to housing care, which affected citizens' legal security, and set too broadly the internal field of margin of appreciation belonging to the competent bodies’ when deciding about the right to housing care, which enabled arbitrariness in operation of the competent bodies.

Previous Law on ASSC did not contain procedural provisions which would regulate the action of the competent body, after a person has submitted a request for the housing care. Thus, when deciding on housing care requests, one had to proceed in keeping with provisions of the Law on General Administrative Procedure.

The new 2008 LASSC introduced two-instance proceedings (instead of one-instance as before) in deciding upon housing care requests. In early phase of implementation of the Law, in the second half of 2008, only negative decisions issued in accordance with LAP were registered. As in the previous period before the new LASSC come into effect, the practice of issuing (positive) consents that have no foothold in LASSC and have no character of an administrative act pursuant to LAP, instead of decisions, continued.

Nevertheless, the 2008 Law on ASSC established more restrictive conditions for exercise of the right to housing care in ASSC in comparison to the earlier legal framework. This could have even more negative reflection on an applicant's access to rights, as well as on the return of refugees and displaced persons.
„The previous Law on ASSC established the right to housing care, which can be enjoyed by a person or members of their family if they do not own or co-own a family house or an apartment on the territory of the Republic of Croatia or on the territory of the states formed in the process of SFRY disintegration, if they have not sold it, given it as a present or in any other way disposed of it as of 8 October 1991, in other words, if they have not been granted the legal position of protected lessee, the new 2008 Law on ASSC has expanded the ownership and co-ownership over a house or an apartment limitation to territories of also other states where potential beneficiaries currently live. It is necessary to review this new limitation for the fact that provisions of the 2008 Law on ASSC apply to procedures that have just been initiated while the provisions of the previous Law on ASSC apply to the pending procedures.“

Changes outside ASSC

Centre for Peace, January 2009:

In housing care outside ASSC procedures no regulations were applied but other legal acts (Conclusion, Implementation Plan, Guidelines) which do not have character of a regulation. The 2003 Conclusion of the Government of the Republic of Croatia on the way of Provision of Housing care to Returnees who do not own a House or an Apartment and who Used to live in Socially owned Apartments (former tenancy rights holders) in the territory of the Republic of Croatia outside ASSC („Official Gazette“ no. 100/03; 179/04 and 79/05) does not determine the returnees' right to housing care, but rather the position of the Government of the Republic of Croatia to provide housing care to returnees who want to come back and have permanent residence in the Republic of Croatia on a condition that:
• they do not own or co-own a family house or an apartment on the territory of the Republic of Croatia or on the territory of other states formed in the wake of the former SFRY disintegration, or
• they have not sold it, given it away as a present, or in any other way disposed of the facility as of 8 October 1991, i.e. they did not get the legal status of protected lessee.

In May 2008 the government of the Republic of Croatia issued Decision on the Implementation of the Provision of Housing Care for Returnees - Former Tenancy Rights Holders over Apartments outside ASSC („Official Gazette“ no. 63/08), obliging the Ministry of Regional Development, Forestry and Water Management to conclude Protected Rent Lease Agreements with the beneficiaries of the apartments (returnees), according to the consent on provision of housing care. The Government, however, failed to oblige the Ministry to conclude contracts on purchase of apartments with those beneficiaries who have decided in favour of such provision of housing care. By Government’s Decision two-instance (instead of one-instance as before) proceeding in deciding upon housing care requests was introduced. This was followed by issuance of first, but negative decisions on the provision of housing care outside ASSC. Therefore, “prior to mid 2008, applicants for housing care (outside ASSC) had no legal remedies available in reference to the negative letters on the right to provision of housing care. In that sense, the positive step forward in 2008 refers to the fact that regional offices of the Ministry of Regional Development, Forestry and Water Management in case of negative decisions started passing the first instance

decisions containing instructions on available legal remedies. Nevertheless, it is not possible to file an appeal against the “positive” approval establishing the right to housing care as these approvals do not have a character of an administrative act. If the right to provision of housing care was to be decided in the form of a Decision, that is an administrative act, such a possibility would exist since a decision must contain an instruction on available legal remedy.“

The complexity of restitution mechanisms hinders access to rights (2009)

- Complexity of the legislation makes the whole process of Housing Care non-transparent and renders the decisions arbitrary
- Unlawful interpretation of property laws discriminates against minorities
- Administration apparatus implementing the law is characterized by changing competencies depending on national, regional and local level
- The establishment of deadlines combined with insufficient information has deprived many people from their right
- Displaced persons face difficulties to avail themselves of their rights in this complex set up

Centre for Peace, January 2009:
"Housing care of refugees and displaced persons, former tenancy right holders in the Republic of Croatia, is not regulated in a uniform manner but rather by means of regulations and acts of different legal force, which makes the whole structure complicated, incomplete, and fragmented. Consequently, much obscurity, confusion, vagueness, and contradiction occurs both in regulations and acts, but also in actions of competent administration bodies that handle housing care within and outside ASSC."

Centre for Peace, October 2008:
"Housing care of refugees and displaced persons, former OTR holders in the RoC, is not regulated in a uniform manner but rather by means of regulations and acts of different legal force, which makes the whole structure complicated, incomplete, and fragmented. Consequently, much obscurity, confusion, vagueness, and contradiction occurs both in regulations and acts, but also in actions of competent administration bodies that handle housing care within and outside ASSC.
Some of the key characteristics of implementation of existing housing care models in the RoC refer to non-transparency and arbitrary, illicit, volatile, and unprofessional actions of competent bodies of public administration; not abiding by valid national legislation; the absence and the impossibility of enforcing adequate legal remedies, lack of control, etc., for which reason legal security of citizens and observation of principles of the rule of law are severely undermined.
Non-transparency of actions and too broadly defined an internal field of margin of appreciation are contrary to basic principles of for example ECHR and enable total arbitrariness of actions undertaken by the competent authorities and officials. Such actions are often subject to criticism and complaints of potential housing care beneficiaries."

ECRE, October 2007, p. 24:
"The Law on Reconstruction (Narodne novine 24/96) regulates the reconstruction of all housing units destroyed during the war. The law provides for the submission to the municipal office of MSTTD, of a request for assistance in reconstructing the house or apartment where someone permanently resided before 1991. After a positive decision by MSTTD has been taken, a special commission visits the property to assess the damage inflicted on a scale from one to six

(category six being used to describe the most damaged houses). Following this assessment, the property is then placed in the priority list for reconstruction of the relevant municipality."

UN CHR, 29 December 2005, par.22-23; 27; 42-43:
"22. At the level of domestic law, the applicable regimes have in the past been, and remain, of considerable complexity. The legal position applicable to a particular situation could be affected by numerous laws, ordinances and government decisions and mandatory instructions, which have been amended on numerous occasions. The jurisprudence of the courts in interpreting these provisions has added an additional layer of complexity. Broad distinctions have often been formally drawn in law between "areas of special State concern", that is, areas which in the course of armed conflict were de facto removed from the control of the Government of Croatia, and other areas in the country. Further distinctions were also effected with respect to areas formerly under UNTAES control. Additional complexities were introduced by legislation dealing specifically with property rights deriving from tenancy/occupancy regimes applicable in the former Yugoslavia. Thus, for example, the Housing Act provided that so-called "specially protected tenancies" could be terminated in the occupant's absence without justification for a six-month period. In turn, the Supreme Court's jurisprudence held that "war events" as such did not justify non-use of a flat, and that moreover, "the fact that a flat that is not being used by its tenant is illegally occupied by a third person does not, per se, make the non-use [of the flat by the tenant] justified".(…) As a result of these provisions, many displaced persons lost rights with respect to properties they had occupied, despite, in numerous cases, having taken considerable steps to recover them.

23. Against this background, some key stages in the evolution of the legal framework warrant specific mention. From 1993 onwards, the major legislation concerning the legal position of displaced persons has been the Act on the Status of Displaced Persons and Refugees, as repeatedly amended. From 1992 to 1996, reconstruction of housing damaged or destroyed by conflict, State participation therein and individual eligibility thereof were governed by the Act on the Financing of Reconstruction, the Act on Loans for Reconstruction of Properties Damaged and Destroyed in the War, and the Act on the Designation of War Damage, accompanied by Regulations on areas where funds were to be spent according to the Financing Act, and on organizing and financing reconstruction of war-damaged family homes and economic facilities which sustained the most severe damage. Amendments in 1996 repealed these two regulations, with the regime being further adjusted by later regulations and amendments. The combined effect of these regulations was widely regarded, both nationally and internationally, as possessing an indirectly discriminatory effect against Serb minorities on account of the limitations on coverage of damage inflicted at different times, or on the time of return. (…)

27. This complex legal regime was twinned with a similarly complex administrative apparatus, with differing and changing competencies at national, regional and local levels concerning implementation and administration of the relevant laws. At the central level, dominant roles were played by the Ministry for Development and Reconstruction, subsequently the Ministry for Public Works, Reconstruction and Construction and then the Ministry for Maritime Affairs, Tourism Transport and Development. Within ministries, core functions were administered by the Directorate for Regional Development and then the Directorate for Displaced Persons, Refugees and Returnees. Alongside these units, specialist administrative bodies were established in the form of the Commission for Implementation of the Programme of Return and later the Coordination Commission for Areas of Special State Concern and the Commission for the Return of Refugees and Displaced Persons and the Restitution of Property. In conjunction with the complex mesh of legal instruments and decisions, extensive administrative instruments provided additional detail, notably the Programme of Return and Accommodation of Expellees, Refugees and Displaced Persons (1998), followed by the Action Plan for Implementation of Repossession of Property (2002). (…)

Prevalence of occupant's interest over owner's discriminates against ethnic Serbs and delays possibility for return (2008)

- LASSC provides that temporary occupant is entitled to temporary or permanent accommodation
- The owner cannot repossess his property before the temporary occupant has been provided with accommodation which delays his return
- The European Court for Human Rights challenged this principle and found it discriminatory
- Delays in repossession have led many owners to sell their properties further to offers from State bodies
- In UNTAES region, where displaced temporary occupants were ethnic Serbs and owners ethnic Croats, provision of alternative accommodation was not a pre-condition to repossession by the owner
- Provisions of the law to limit entitlement to alternative accommodation are not fully used
- No efforts have been made to check availability of housing in neighbouring countries
- Provision of alternative accommodation to the occupant is not conditioned by his income
- Authorities will to provide alternative accommodation to categories which are not eligible to it has delayed the restitution process

OSCE, March 2007, p. 7:
"The RLAP [Regional Legal Assistance Programme of the OSCE] network member organizations monitored some 40 cases of occupied property between January and September 2006, from which it is to be concluded that the number of cases pending solution is several times bigger than that stated by the MMATTD. Of all cases monitored by the RLAP network, there was one case of restitution of private property to the original owner in Benkovac. In administrative and court proceedings involving the restitution of private property to the original owner, the interest of temporary occupant is still placed above the interest of the owner and the repossession of property is conditioned by provision of the housing to temporary user."

OSCE, September 2008:
"Croatia's repossession program gives supremacy to temporary occupants not the legal owners. This principle was successfully challenged before the European Court for Human Rights (ECtHR).9 ECtHR found Croatia to be in violation of the European Convention for Human Rights(ECHR) for unreasonable length of proceedings (Art. 6), excessive burden placed on one particular social group, as well as failing to strike a fair balance between a pressing social need for housing and individual ownership rights (Art. 1, Protocol 1 to ECHR)."

USDOS, 8 March 2006, p.5:
"During the year the government continued to facilitate repossession of illegally occupied homes; however, the property law implicitly favors ethnic Croats over ethnic Serbs. The law gives precedence to the right of temporary occupants, who are mainly ethnic Croats, to that of original owners, predominantly ethnic Serbs. Owners generally could not repossess their property unless housing was secured for the temporary tenants."

Stability Pact, MARRI-DRC, p.6:
"From 1995 to the present days, the ownership rights of Serb refugees are regulated by separate laws and decrees rather than within the regular legal framework set up in the Constitution of Republic Croatia and the Law on Ownership and Other Property Rights. (…) [*The]*law has persistently favoured those who were allocated abandoned property over the rightful owners.

Although the Constitutional Court2 struck down such provisions as unconstitutional in 1997, The Programme of Return adopted a year later, and some other laws, contained identical provisions that made temporary occupant safe from eviction as long as he/she was not provided with an alternative accommodation. Also, some other laws contained similar provisions that protected the temporary occupants from the eviction. After 2002 law revision a number of discriminatory provisions were removed but the law continued to prevail the right of temporary occupant above the right of owner. Prior to the eviction, the government must provide an alternative accommodation to temporary occupant, thus the right of the owner depends of availability of the houses or funding for alternative accommodation. Government's ability to provide alternative accommodation has been limited and it resulted with substantial delays in property repossession. Waiting for years, many refugees have grown disillusioned and decided to sell their houses for rather small prices. Also, some local authorities keep addressing Serbs to sell their houses. Even certain criminal acts have been noticed in reference to purchase of those houses by the State agency."

Center for Peace, 31 August 2004, p.13:
"Although this opposes the Constitution and property related laws, the Government continues to give priority to the temporary users (ethnic Croats from B&H) over the owners (exiled and displaced ethnic Serbs) by preventing evictions of those persons until they are provided with an alternative accommodation which is also affected by the slowness in the work of courts, legal bodies, delays and balking of the evictions of temporary users who, in some cases, have, at their disposal, another accommodation or are using several apartments at the same time. The courts in former UNTAES area, in cases in which displaced ethnic Serbs were occupying properties owned by ethnic Croats, were passing decisions on evictions of temporary users regardless of their being provided an alternative accommodation. This example shows that there was an obvious discrimination on the basis of ethnicity."

COE, 4 May 2005, par.42 to 46:
"42. Following the displacement of the population as a consequence of the conflicts, a great number of accommodation belonging to members of Serb community were occupied, with or without legal authorisation, by Croat displaced persons or refugees mostly from Bosnia and Herzegovina. In accordance with the Law on Temporary Take-Over and Administration over Specified Properties adopted in 1995, municipal Housing Commissions could declare the house unoccupied. As a result of this law, all Croat citizens – members of the Serb minority did not benefit from this law due to ethnic division of the country during the conflict – who submitted a claim could be allocated new housing. Thus, 18,500 housing units were granted to Croat displaced persons or to refugees coming from neighbouring countries.

43. Even though the law of 1995 was abolished, the decisions taken by municipal Commissions were not declared void and the occupiers were allowed to stay in the allocated residencies until an alternative solution was found for them. In this way, the authorities gave priority to the right of occupancy before the right of ownership. This system of restitution avoids placing temporary occupants in a difficult situation but consequently strongly slows down the return of Serb owners.

44. I was surprised to find out that even though temporary occupants possess sufficient resources to rent or construct another accommodation, they can only be evicted once an alternative accommodation has been offered. According to the law, legal occupation should end once the occupant has been offered with alternative solution or if he/she owns a property in the territory of former Yugoslavia. This legal provision often generates unacceptable situations where temporary occupant occupies an accommodation not necessarily needed while the owner and his family are forced to live with friends or relatives or in a shelter due to their lack of means.

45. It should however be pointed out that practically none of the eviction procedures is implemented on grounds of possession of property abroad. This is due to the lack of co-

ordination between Croatia and the States concerned, notably Bosnia and Herzegovina. According to the information provided by NGOs, the relevant administrative agency refuses evidence that owners could bring concerning the occupant's ownership of property abroad – testimonies, written statements of neighbours, etc. – accepting only official documents. Furthermore, this administration does not take the necessary steps to obtain such official documents. The Serb owners are consequently forced to wait for an alternative accommodation to be offered to the occupant even though the latter possesses accommodation abroad. In my exchanges with the Government, I was informed that Croatia, as a state respecting the rule of law, will only recognise official documents. I was informed that Croatian diplomats might intervene to examine the veracity of other circumstantial evidence. Official documents are obviously the best means of proving title to foreign property; however one ought not to exclude other conclusive proofs or to verify information offered by interested parties.

46. As already mentioned, the law stipulates that occupant loses his/her title of occupation when he/she refuses alternative accommodation. It seems that the implementation of this provision by local administrations meets difficulties. Thus, I was informed of cases where an occupant had refused accommodation because it was not located in the same municipality or because the alternative accommodation offered was too small. I was also informed of a case where two refusals of alternative accommodation and a decision of the Ombudsman were not sufficient for the owners to repossess their property."

OSCE, April 2005, p.5:
"The Ministry has continued in the reporting period to provide alternative housing to occupants that htave been previously declared ineligible for housing care. (note 5) This mainly refers to: a) occupants whose private houses have meanwhile been reconstructed by the State and who should therefore leave the property; b) occupants whose decision on temporary use has been cancelled and who did not leave the property, despite being ordered to do so by the Ministry; c) occupants who received alternative housing from the Ministry but still refuse to vacate the property. The Ministry considers that they have been simply provided with temporary accommodation until the conditions are ripe for the return to their original properties."

New procedures for property repossession adopted in July 2002

- 2002 amendments to the Law on Areas of Special State Concern (LASSC) establish the framework for repossession of certain kind of private property
- The deadline for repossession of property fixed to 31 December 2002 was not respected and repossession is still ongoing
- The LASSC provides for compensation from the State regarding properties not repossessed within the deadline
- No compensation is provided in the law for period of occupation preceding the deadline
- Responsibility for repossession 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
- Despite the fact that those amendments represent a progress, implementation has been slow and authorities have failed to use all the provisions aiming at accelerating repossession

Stability Pact, MARRI-DRC, 30 June 2005, p.8-9:

"The Law on Temporary Administration and Take-over of Specified Property was repealed in 1998 shortly after the Programme of Return was adopted**,**. (…) And, ever since, the procedures related to the temporary occupancy, administration and supervision of the property taken over by that Law shall be ruled according to the provisions set up in the Programme.

• **Law on the Amendments to the Law on the Areas of Special State Concern. (…)** [*passed by*] the Croatian Parliament in August 2002, That law*, inter alia,* regulates the repossession of property seized on grounds of the Law on Temporary Take-over and Administration of Specified Property and, thus, replaces respected provisions of the Programme on Return. Although the Government that took power in the January 2000 was fully aware of the fact that both the 1998 legal and administrative procedures set in the Programme of Return, as well as Housing Commissions, as executive bodies, represented completely inefficient legal tool for the property repossession, the Amendments to the LASC were not adopted until 2002. Instead of establishing concise and sufficiently transparent law in accordance with the constitutional rights and the rights given by the Law on Ownership and Other Property Rights, the Government decided to regulate the property repossession issues with the Amendment to Law on Areas of Special State Concern (since 1996. it was fifth amendment to the same Law). Although the Law on the Amendments contains some legally questionable provisions and number of obscurities, the new regulation made some progress towards securing property rights: (a) The key provisions of the Programme of Return regarding the repossession of the properties were repealed; (b) Local housing commissions previously responsible for repossession of properties were cancelled, and their jurisdiction, since September 2002, was taken over by the Government (Ministry for Public Works, Construction and Reconstruction); (c) The Law sets a time limit for repossession of properties by rightful owners to 31 December 2002 and «compensation of damage» if the property is not returned within that time. However, compensation for the property does not include the right described under the article 50 of the Croatian Constitution (…) but only recognises the possibility of the rent payment for a lease of a house (without other property) from the end of 2002 until repossession of the property, if owner applies for it under the conditions set by the Ministry. Compensation for the years of unlawful occupancy is not recognised. (d) The property owner is, for the first time, authorised to file a lawsuit in order to protect his/her ownership rights; (e) The concept of temporary alternative accommodation is introduced for temporary occupants for whom authorities are unable to provide permanent accommodation; (f) Temporary occupants who are owners/co-owners of the residential property and those who sold or disposed of such property after October 1991, or who hold the status of protected lessee are not eligible for the alternative accommodation; (g) the individuals who reject offered housing care (alternative accommodation) should lose any eligibility for the state assistance in housing. (…)

After the jurisdiction from Housing Commissions was transferred to the Ministry for Public Works, Construction and Reconstruction (now Ministry of Sea, Tourism, Traffic and Development), situation has improved in general but, still, for the shortcomings of the new regulation on one hand, and complicated and demanding administrative procedure on the other hand, the owners face a number of difficulties in its practical enforcement."

The 2002 amendments to the LASSC still fail to address a number of issues:

"The deadline for the repossession of the property (end of 2002) prescribed by the law related only to administrative procedure of cancellation of the decision granted to temporary occupants but not to physical repossession of property by the lawful owner. Actually, refugees were cheated because the law provision says that property shall be repossessed before the end of 2002, and they believed it would be returned to them within the deadlines set by the Law. Although the deadline was extended twice - to the end of 2003 and than to the end of 2004, these deadlines were not met. The Government approved very small compensation for the owners who did not come in possession of their property within legally prescribed period (0,93 Euro per square metre of living space)

Bodies competent for the implementation of the regulations often failed to act in favour of the owner. Some Law provisions that might accelerate the repossession of property are not

implemented in practice, particularly the provisions regulating the issue of alternative accommodation and illegibility of temporary occupants for such accommodation. Possibility of providing temporary alternative accommodation for the occupant is not exercised in practice."

OSCE, 16 July 2002:
"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."

Law on Areas of Special State Concern does not address repossession of various types of property, including agricultural land and business (2007)

- Owners of properties illegally occupied or occupied based on decisions other than the law can only repossess their property through lengthy and costly Court procedures
- There are many cases where the State allocated land and business premises to Croat settlers who were not displaced by war
- Council of Europe Commissioner for Human Rights suggests a fast extra-judiciary procedure to facilitate repossession

OSCE, March 2007, p. 7:
"Administrative mechanisms for the restitution of illegally taken agricultural land and business premises have not been established, so that owners have only one option to resort to – to institute lengthy proceedings. It is obvious from the above that the state failed to ensure the rule of law in its territory and access to rights on equal footing for all citizens and without discrimination, by placing an excessive burden upon one category of citizens in view of the fact that there is no charge-free legal aid system, that those citizens have low incomes or no income at all, the costs involved for instituting proceedings, as well as the fact that the majority of owners still live outside the country of origin.

According to the MMATTD, there were only 6 pending cases of occupied agricultural land in wider area of Benkovac, at the end of June 2006. At the same time, the Serbian Democratic Forum reported as many as 125 cases of illegally occupied agricultural land in the same region. At the beginning of June 2006, the OSCE Mission to Croatia was aware of some 20 cases of illegally occupied agricultural land and business premises. All stated above is supporting the opinion that the state must offer adequate mechanisms for resolving all identified problems and that it must actively participate in the resolution of those problems, irrespective of the fact how their complexity or scope are presented on the basis of the available statistical data.

Moreover, the government has not established any administrative mechanisms regulating the restitution of movable property of displaced persons, placed under the Republic of Croatia's temporary administration. Neither was this question considered within the Sarajevo process. In other words, the authorities were legally bound to appoint a commission to make an inventory of the movable property found in abandoned real assets in the private ownership of displaced persons or in the flats of occupancy/tenancy right holders, and to prevent the destruction of or damage to such movable property. It has been noticed that the unavailability of such movable property inventories potentially leads to difficulties in presenting evidence in court proceedings and that it discourages owners as injured parties from claiming their property before a court of law."

Stability Pact, MARRI-DRC, 30 June 2005, p.9-10:
"[*The 2002 amendments to the Law on Areas of Special State Concern*] fail to address a number of issues that affect the repossession of property such as repossession of business premises, farming land, farming equipment as well as an unknown number of residential properties which were taken over by means other than the law in 1995 (based on decisions by army or police, and different county commissions). Owners who wish to file a lawsuit against the occupant are about to face very lengthy court proceeding. (…)
The Government which came into the office in 2003 has intensified its efforts to return private properties according the 2002 Amendment to LTTSP nevertheless, only residential properties (houses) shall be returned in that respect, while the repossession of other types of properties was not addressed yet. There are many cases of illegal occupancy of privately owned business premises and farming land, most of which the State allocated to Croat settlers for temporary use although they came from all over Croatia and had never lived in the areas of armed conflict, and, therefore can not be considered as internally displaced persons"

COE, 4 May 2005, par.62:
"62.During my visit, my attention was drawn to the fact that some commercial premises and agricultural land belonging to owners of Serb origin continue to be used illegally by Croat occupants. Although the 1995 law concerning the temporary use and administration of certain properties authorised such practices, its repeal in 1998 legally put an end to these authorisations. However, owners willing to recover their properties have to initiate expensive and time-consuming judicial proceedings. The establishment of a fast and extra-judiciary procedure could be foreseen in order to allow owners to recover as quickly as possible full enjoyment of their properties."

OSCE 18 December 2003, p.6:
"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."

Croatia's solution for former holders of tenancy rights: an exception in the region (2007)

- Return of refugees and displaced is still hampered by the lack of adequate solution for former holders of occupancy rights on publicly owned apartments (occupancy/tenancy right holders)
- In former Yugoslavia, enterprises would allocate socially-owned flats to their workers through an occupancy right
- During the war, private properties and socially-owned flats of refugees and displaced persons were allocated to other people
- In Bosnia and Herzegovina and Serbia and Montenegro, the restitution process provides for repossession of both private property and socially owned property
- Croatia does not allow for repossession or compensation for lost occupancy right but only offers housing care to those who wish to return
- In Croatia, privatization of socially-owned flats allocated during the war prevented repossession and return of former holders of occupancy rights on those flats
- International pressure exerted in Bosnia and Herzegovina and Serbia and Montenegro on this issue did not apply to Croatia
- The solution offered to former holders of tenancy rights consists of housing care limited to those who want to return
- Croatia, unlike other countries in the Balkans never recognised occupancy rights as ownership rights
- The Government has adopted two housing schemes to begin to address this issue

IWPR, 4 August 2005:

"Ten years after Operation Storm, the return of Serbs to Croatia is still being obstructed, especially those who formerly lived in publicly-owned housing. Bosnia and Hercegovina has resolved the housing restitution problem under the scrutiny of the international community. But it seems a blind eye has been turned to Croatia's treatment of analogous cases.

During the Yugoslav communist era, enterprises reinvested profits in apartments for their workers, which resulted in a form of public-sector housing known as "socially owned property". Workers granted occupancy rights were entitled to keep the property for life, and transmit the right to their heirs. They could even sublet part of the property to generate income.

Such rights could be cancelled only by judicial procedure in cases where, for example, a worker did not use his or her apartment for more than six months without good cause. However, such cancellations were exceptional.

In the former Yugoslavia, socially-owned apartments were the sole homes of hundreds of thousands of families.

After the 1992-95 war in Bosnia, residents of socially-owned property there were deemed to be on a par with private owners, and such apartments were thus subject to restitution to their pre-war occupants.

Besides displaced persons and refugees who were provided temporary housing, in most cases the socially-owned apartments had been seized by people who profited from the conflict to obtain second homes. In the general atmosphere of anarchy, there was a scramble to occupy such apartments.

A massive programme of restitution under international monitoring largely resolved the problem in Bosnia, and by now almost 200,000 houses and apartments have been returned to their pre-war occupants. Many have not actually returned home but have at least been enabled to sell or exchange their homes.

The process defused a potential crisis over these returnees, whose unresolved grievances could have made them prey to political manipulation.

But practice in Croatia has not followed that of neighbouring Bosnia. Here, the new occupants of seized apartments were often ethnic Croat refugees from Bosnia who quickly obtained the right to privatise the properties and thereby transform occupancy rights into private ownership. In many cases, they resettled permanently in Croatia.

In Bosnia, such practices were forbidden by the international community as contrary to the right to return, as set out in Annex 7 of the Dayton Peace Agreement. The cancellation of occupancy rights was forbidden as contrary to the European Convention for Human Rights and Essential Freedoms (whose application in Bosnia is ensured by the domestic human rights commission) and to Annex 6 and 7 of the Dayton agreement.

In Bosnia, the aim was to return all properties, both private and socially-owned, without distinction.

Yet in Croatia, the widespread privatisation of socially-owned apartments deprived refugees and displaced persons of any possibility of returning. More than 30,000 families - the overwhelming majority non-Croats - which had occupied socially-owned apartments lost the possibility of returning to these homes forever.

Croatia's practice is at variance with that of other former Yugoslav states. In Kosovo, for example, socially-owned property is being returned to its pre-war occupants, while in Serbia and Montenegro, the supreme court has declared that the cancellation of occupancy rights of displaced persons is illegal, and that such people have a right to reclaim socially-owned apartments.

The succession treaty between the former Yugoslav republics includes an obligation on all new states to respect pre-war property rights.

The disparity of treatment between Bosnia and Croatia has created tensions, especially in the Bosnian town of Banja Luka where many Croatian Serbs settled after 1995. These Serbs feel unfairly deprived of the right to return or to freely dispose of their property, which has instead been given over to Bosnian Croats.

At the same time, they have also lost out because when the laws on property restitution were put into effect in Bosnia, they faced the prospect of eviction from the properties they occupied, because these formerly belonged to Muslims and Croats who fled from or were expelled from the Serb entity in Bosnia, Republika Srpska.

This sense of injustice led to demonstrations in Banja Luka against the eviction of Croatian Serbs, which the government of Republika Srpska exploited to slow down the return of Muslims and Croats to Banja Luka.

International pressure on Croatia has achieved little, and successive Croatian governments have failed to shift from their position of denying restitution or compensation to the former occupiers of socially-owned apartments. Zagreb has simply dismissed the issue as a legacy of a socialist system that no longer applies to Croatia.

Within the context of Croatia's accession to the EU, the issue has not been given much consideration or placed under particular scrutiny.

In Bosnia, the so-called Property Law Implementation Programme provided precise statistics about the number of properties returned to pre-war owners and occupiers, and the statistics were used to assess Bosnia's performance on the road to joining the Council of Europe, CoE, in 2002.

Only after it was determined that more than 50 per cent of more than 200,000 properties had been returned was Bosnia deemed to have discharged its obligations and allowed to join the CoE. The authorities in Bosnia have now returned around 200,000 habitable properties to their pre-war owners, as virtually all claims were decided positively.

No such obligation was placed on Croatia when it joined the CoE in 1997, at a time when no property restitution process was under way. Nor was the issue raised when discussions began over EU accession, even though the membership requirements are stricter than those of the council.

That is not to say that no property has been returned to Croatian Serbs. The process of returning some 19,000 private properties is currently in train, and with luck it will be completed by the end of this year. But this offers no remedy to the 30,000 families who were not private owners and

whose occupancy rights have been cancelled. They represent the largest single group of refugees in the former Yugoslavia in need of housing whose case has not been addressed.
The solutions that Croatia has proposed are inadequate, as the housing care schemes it has put in place for former tenants whose occupancy rights have been terminated are limited to those who want to return. This disregards the now widely-accepted principle that property ownership or peaceful enjoyment of possession is a right in itself which, when violated, should receive due remedy, compensation or restitution, quite independently of intentions to return.
The current housing schemes for refugees and displaced persons do not amount to restitution in kind, as they are also subject to numerous legal limitations.
The whole programme is short of funding, so that only a few hundred new apartments have been constructed. Nor is it clear how many of these have actually been allocated to returnees.
The EU has so far refused to take a strong line on terminated occupancy rights in Croatia until the European Court of Human Rights issues a judgment.
In spite of the clear differences between the standards set for Croatia and Bosnia, in April 2004 the EC recommended that accession negotiations with Croatia should begin. Commending the measures Croatia had taken in terms of refugee returns, it urged the country to remain actively engaged in the issue.
But in subsequent documents, the issue of refugee returns disappeared from the conditions that Croatia has to fulfil. The only one now outstanding is full cooperation with the Hague tribunal, where the main outstanding issue is the need to detain and hand over Gotovina.
This disparity in treatment is resented by the displaced persons and refugees themselves, who cannot understand why similar solutions have not been more uniformly applied wherever the same problems exist. They feel their rights are being decided by distant political elites rather than by the application of sound and clear principles based on international standards. Their frustration may yet become another factor for instability in the Balkans."

OSCE, March 2007, p. 16:
The Government of the Republic of Croatia has adopted two housing schemes for former occupancy/tenancy rights holders who have filed claims for return. The first scheme is governed by the Law on Areas of Special State Concern of 2000/2002 and it covers the former war-affected areas, while the other one is regulated by Government Conclusions of 2003 and 2006 and it covers the areas outside the former war-affected areas, that is, outside the areas of special state concern (ASSC). Despite the fact that a considerable amount of time has elapsed since the adoption of both schemes, before October 2006, only a few cases of provision of housing care to refugee and IDP Serbs, former occupancy/tenancy right holders, whose rights were terminated by virtue of a court decision or by the force of Law, were registered. According to the data of the MMATTD of September 2006, a total of 8,921 applications for housing care by former occupancy/tenancy right holders are still unresolved, and that requires the securing of not more than 7,000 housing units. According to the MMATTD, 2,953 families of former occupancy/tenancy right holders have been provided with housing care in the ASSC, mostly in reconstructed flats in the territory of the town of Vukovar, while another 1,428 applications are still pending of users who are already temporarily residing in flats, and 3,068 applications of users for whom the housing facilities for accommodation are to be secured. By analyzing data gathered by the RLAP network it can be concluded that housing care for former occupancy/tenancy right holders in the ASSC, with the exception of the town of Vukovar, is still at its initial stage. Thus, for instance, in the areas of the Karlovac and Sisak-Moslavina counties, the cases of providing housing care to just one person in Hrvatska Kostajnica and one in Glina were recorded; to five persons in Vojnic; and to two persons in Petrinja. From the available statistics it is not possible to precisely determine the number of persons provided with housing care, who resided outside the Republic of Croatia at the time of filing the application.

The Law on Areas of Special State Concern and the Rulebook on the Order of Priority of Housing Care in the ASSC of 25 September 2002 provide for five categories of persons who have priority in housing care in the ASSC. Although former occupancy/tenancy right holders are ranked as the

lowest priority category for housing care, the Constitutional Court of the Republic of Croatia, in its Decision took a stand that there may be no competition for precedence in obtaining housing care among persons belonging to different categories; instead, this competition is taking place exclusively among persons belonging to the same category, based on the criteria laid down by the Rulebook on the Order of Priority. The network has been continuously noting that County Offices responsible for housing care issues are not guided by the mentioned Decision of the Constitutional Court and that former occupancy/tenancy rights holders are placed at the bottom of the priority list of persons with the right to priority in housing care. Furthermore, the process of determining housing care priority lists is nontransparent, because the information on the method for determining the score for drawing up priority lists, as well as the order of priorities, are not publicly available.

See also: "European Court of Human Rights' judgment stops short of defining Croatia's obligations towards former occupancy rights holders (2006)

EU should request adequate remedy for loss of occupancy rights (2005)

- While international community has imposed restitution of terminated occupancy rights in Bosnia and Herzegovina, it seems to have accepted lack of remedy in Croatia
- Emerging international law standards on post-conflict restitution do not support limiting legal remedies to claims for privately-owned homes
- Housing care solution proposed to former occupancy rights holders is limited to those who wish to return and does not represent a compensation

Rhodri Williams, April 2005, p.1-2:
"Aside from the issue of compliance with the ICTY, Croatia's candidacy to join the European Union should be considered in light of the fact that it permanently appropriated urban apartments comprising the long-term homes of as many as 34,000 Croatian Serb families, transferred them to ethnic Croats, and subsequently declined to provide even rudimentary legal remedies such as compensation to the victims, largely preventing their return. Tacit international acceptance of this state of affairs stands in marked contrast to settled policy in neighboring Bosnia that all homes abandoned by ethnic minorities during the war should be (and were) subject to restitution. (…)

[***In Croatia]*** [d]omestic legal remedies for Serbs who lost their apartments have been manifestly ineffective.(…) Limited international pressure on the Croatian authorities has yielded only a vague offer of "housing care" on a low priority basis to the subset of apartment claimants who meet conditions such as not having access to other housing.(…) Even were it to be implemented, such a minimal response falls well short of legal compensation arguably due to all victims and critical to their viable return or resettlement. In addressing the issue in the context of Croatia's candidacy, the EU appears to have accepted provision of "housing care" as an adequate response, barring a judicial finding that cancellation of apartment rights in Croatia constitutes a violation of the European Convention on Human Rights (ECHR). (…)

The broader political ramifications of the apartments issue in Croatia provide an argument for the EU to affirmatively consider for itself whether the matter is relevant to Croatia's candidacy, rather than leave the onus on the victims to prove that it is in court. Emerging international law standards on post-conflict restitution do not support limiting legal remedies to claims for privately-owned homes.(…) More important, neither does international practice in Bosnia, which was praised by the EU Commission in a November 2003 report for "having guaranteed to refugees

and displaced persons the right to reclaim and/or return to their property" – including apartments.(…) The report went on to note that "return of displaced people to homes within [Bosnia] is frustrated by the presence of refugees from other countries," a reference to the ongoing presence of some 23,000 Croatian Serbs in Bosnia, many of whom are unable to return precisely because of the permanent and unremedied loss of their apartments in Croatia.

A perceived double standard in the international community's approach to property restitution in Croatia vis-à-vis Bosnia is likely to impact negatively on Croatia's stature as a role model for other countries in the western Balkans aspiring to EU membership. Croatia's neighbors have not made return of the refugees they are forced to harbor a major issue, in part due to their overriding interest in bilateral trade and good diplomatic relations.xiii However, the perception that the international community has tacitly allowed Croatia to permanently dispossess a large group of vulnerable displaced persons and held Bosnia to a higher standard is unlikely to improve confidence in either Croatia as the regional messenger of accession or the institutions it will come to speak for."

See also:
"Make the Sarajevo Declaration compliant with the UN Principles on Housing and Property Restitution for Displaced Persons and Refugees", ICHR, 31 March 2006 (see sources below).
UN Principles on Housing and Property Restitution for Refugees and Displaced Persons, 28 June 2005

European Court of Human Rights' judgment stops short of defining Croatia's obligations towards former occupancy rights holders (2006)

- The Grand Chamber of the European Court of Human Rights declared case related to cancellation of occupancy rights inadmissible therefore reversing the admissibility decision in first instance
- The Grand Chamber did not examine the merits of the case i.e whether the judicial removal of occupancy rights amounted to a violation of the convention
- The Court ruled in another case that a claim to a "social tenancy apartment" was protected under Article 1 Protocol 1 of the Convention
- Other cases of terminated occupancy rights could be presented to the European Court and result in a different outcome
- Some 30,000 ethnic Serbs lost their occupancy rights during the war through discriminatory application of the law
- Blecic illustrates the adverse human rights consequences of a pattern of discriminatory terminations of occupancy rights to socially owned flats during and after the war in Croatia
- In its 2004 judgment, the ECHR ruled that Croatia's courts had been right to accept that Blecic's absence from the apartment for more than six months justified the termination of her rights to her "socially owned" apartment.
- The fact that most cancellations of rights became legally final prior to Croatia's 1996 ratification of the ECHR does not allow the European Court to consider such cases

ICHR, 8 March 2006:
"The European Court of Human Rights has ruled against Krstina Blecic in her bid to repossess her property in the Croatian city of Zadar. The Grand Chamber ruled that the case was not admissible, not at all discussing the case's merit, which was the original reason for re-opening the case in 2004. The Court considered that the European Convention for Human Rights does not

apply in this specific case as the events complained of occurred before its entry into force in November 1997, therewith reversing its admissibility decision in first instance. It ruled with eleven votes against six that 'an examination of the merits of this application could not be undertaken without extending the Court's jurisdiction to a fact which, by reason of its date, is not subject thereto.' It did specifically not rule whether or not a violation of Ms. Blecic rights had taken place. The judgement therefore stops short of defining the obligations of Croatia towards former occupancy rights holders.

On the issue of admissibility, ICHR had argued that the interference with the applicant's right to respect for her home and the peaceful enjoyment of her possessions, became complete with the decision of the Constitutional Court dated 8 November 1999, that is to say, after the Convention and its Protocols came into force in respect of Croatia. The same position is reflected in the 6 dissenting opinions attached to the Judgment. Massimo Moratti, ICHR's Executive Director said, "While we are disappointed with the result of the judgment, we would like to emphasise that the Court did not discuss the merits of the case at all. They did not comment whether the judicial removal of occupancy rights for displaced persons and refugees amounts to a violation of the European Convention or not. By doing so, the hopes of displaced persons and refugees who are struggling to repossess their apartments or to be compensated for their loss, have been put on hold. Dismissing this case was the easy way out for the Court. It sends a mixed signal – why re-open a case based on merits, and then rule against it as inadmissible?

It is of interest to note that on a similar case *Teteriny v Russia* the Court ruled that a claim to a 'social tenancy agreement', similar to occupancy rights in former Yugoslavia, is protected under Article 1 Protocol 1 of the Convention. Also the UN principles on housing and property restitution for displaced persons and refugees state that occupancy rights should be "recognized within restitution programmes". ICHR continues advocating for the implementation of the same standards in terms of property repossession across the whole region as a fair solution to the plight of displaced persons and refugees. ICHR will furthermore continue to pursue cases before the European Court of Human Rights of individuals claiming repossession of the pre-war properties in any of the countries of former Yugoslavia. Moratti continued, "With the huge need out there, ICHR will continue fighting the good fight – as there are around 30,000 similar cases of people who have had their legal rights trampled on by Croatia. We are in it for the long haul."

OSCE, Stat rep 17, 18 November 2005, p.7:
"The legal issues involved in the termination of OTR are currently being reconsidered by the European Court of Human Rights (ECHR) in a review of the Blecic case which began in September 2005. Regardless of the outcome, it appears likely that the Blecic case will not be the last word on the contentious issue of judicial OTR terminations, as the numerous cases proceeding through the domestic courts present different factual or procedural circumstances that could lead to different legal results."

USDOS, 8 March 2006:
"In September the ECHR Grand Chamber began reconsideration of the 2004 ECHR ruling that termination of a person's tenancy rights in an apartment did not violate the right to a home or to peaceful enjoyment of possessions. In the case, the tenant left an apartment at the outset of war and did not return within six months as required by law in order to maintain tenancy rights. The ECHR ruling effectively confirmed the government's assertion that tenancy rights could not be treated as a form of ownership and set a precedent for many potential claimants—mostly ethnic Serbs—who had lost tenancy rights on similar grounds."

Amnesty International, 14 September 2005:
"Amnesty International considers the case of Kristina Blecic to be illustrative of the adverse human rights consequences of a pattern of discriminatory terminations of occupancy rights to socially owned flats during and after the war in Croatia. Provisions ending the occupancy right, in

those cases where the property had been vacated for six months, were in the vast majority of cases strictly applied only against Croatian Serbs (and Montenegrins). In applying such provisions the Croatian authorities typically failed to take into consideration the circumstances of the war which may have prevented Croatian Serbs from remaining in their flat. These circumstances included violent attacks, harassment and discrimination against Croatian Serbs and, in some cases, their forced eviction by members of the Croatian Army and police forces. (…)

Amnesty International considers that one of the greatest obstacles to the sustainable return of thousands of Croatian Serbs has been the failure to date of the Croatian authorities to provide adequate housing solutions to Croatian Serbs who were stripped of their occupancy rights, including where possible by reinstating occupancy rights to those who had been affected by their discriminatory termination."

Rhodri Williams, April 2005, p.2:
"In addressing the issue in the context of Croatia's candidacy, the EU appears to have accepted provision of "housing care" as an adequate response, barring a judicial finding that cancellation of apartment rights in Croatia constitutes a violation of the European Convention on Human Rights (ECHR).(…)However, the sole relevant case before the European Court of Human Rights is likely to remain unresolved for an indeterminate time to come. (…) Moreover, due to the fact that most apartment appropriations in Croatia became legally final prior to Croatia's 1996 ratification of the ECHR, virtually all other cases will be technically barred from the Court's consideration. (…) As a result, the current proceedings are likely to produce an ambiguous outcome, based solely on the facts of the single technically admissible case among over 30,000 apartment appropriations."

Human Rights Watch, 17 November 2004:
"The European Court of Human Rights should reconsider a landmark case on housing rights in Croatia, Human Rights Watch said today. The case concerns the wartime termination of the right to occupy socially-owned property (so-called "tenancy rights")—a continuing obstacle to the return of Serb refugees to Croatia. In July this year, the Court held that a refugee would have had to return to a war zone in Croatia to preserve her tenancy rights there—a ruling that runs counter to international humanitarian and refugee law. In the assessment of Human Rights Watch, the Grand Chamber (appeals chamber) of the European Court should accept the request for referral in the case of Blecic v. Croatia, lodged by the applicant on October 25, 2004. The referral request follows a July 29 decision by the first-instance chamber of the court that Croatia did not violate the applicant's right to a home and the peaceful enjoyment of her property when it stripped Krstina Blecic, a refugee from Croatia, of her tenancy rights to an apartment.

The European Court ruled that Croatia's courts had been right to accept that Blecic's absence from the apartment for more than six months justified the termination of her rights to her "socially owned" apartment."

See also:
Grand Chamber judgment Blecic v. Croatia, ECHR, 8 March 2006 (see sources below).
Principles on housing and property restitution for refugees and displaced persons, Final report of the Special Rapporteur, Paulo Sérgio Pinheiro, 28 June 2005
"OSCE amicus curiae brief to the European Court of Human Rights in Blecic v. Croatia", OSCE Croatia, April 2003 (see sources below).

Termination of occupancy rights against Croatian Serbs differed depending on the area (2005)

- During and after the war 30,000 households, almost exclusively Serb, lost their occupancy-right on their apartment
- In urban centres which always remained under control of the Croatian authorities those rights were cancelled through Court procedures
- In war affected areas 5-6000 Serb households lost their rights ex-lege immediately after the war.
- Former occupancy rights holders remain the largest category without housing option
- In the Danube region of Eastern Slavonia which remained under UN administration until 1998, occupancy rights holders did not lose physical access to their flats but lost their status and need to regularize their stay in those flats
- Legal vaccum remains in Vukovar

OSCE, 29 July 2005, p.3:
"Up to 30,000 households throughout Croatia, almost exclusively Serb, who used to live in former socially owned apartments as holders of occupancy/tenancy rights (OTR) lost these rights and physical access to their homes during and after the war2. In the urban centres, which always remained under the control of the Croatian authorities, their rights were cancelled in the course of and after the armed conflict through nearly 24,000 court procedures primarily because of 'unjustified absence' of more than six months. In the war affected areas, additional estimated 5-6,000 Serb households lost these rights *ex lege* immediately after the war. This is the largest remaining refugee and IDP category still without a housing option."

Note 2
Former OTR holders in the Danube Region of Eastern Slavonia, as a rule, did not lose physical access to their flats. They, however, with the abolishment of the legal institution of occupancy/tenancy rights (*stanarsko pravo*) in 1996 lost their formal OTR status. In consequence, they are not in need to be provided by the authorities with flats, but only with an authorization to remain in their flats or a contract on *protected lease*. In many cases the authorities have reconstructed these flats. In such cases, tenants were either allowed to return to their reconstructed apartment or were provided with an alternative flat."

OSCE, 21 November 2004, p29, note 11:
"In the Danube region OTR were not terminated either *ex lege* or through individual court proceedings. The concept of OTR was abolished in 1996 by the Law on the Lease of Apartments. OTR holders that did not purchase their apartments became protected lessees. However, at that time the Danube Region was not under the control of the Government, given the fact that the peaceful reintegration of the Region was realized only in January 1998 following the end of the mandate of the UN Transitional Administration in Eastern Slavonia (UNTAES). Subsequently some of former OTR holders in Baranja could sign contracts on protected lease with local authorities while those in Vukovar were left in a legal vacuum."

Stability Pact, MARRI-DRC, 30 June 2005, p.22:
"Former OTR holders on this territory (***Eastern Slavonia under UN administration, UNTAES)*** have been living in a legal limbo since their acquired rights have not been cancelled, but they have not universally been granted the status of so called protected lessees as foreseen by law, as it happened to former OTR holders from other parts of Croatia who eventually did not manage to privatise their former socially owned apartments."

Termination of occupancy rights did not affect ethnic Croats who often benefited from it (2005)

- Socially-owned apartments represented over 70% of housing units in former Yugoslavian cities
- During the war several thousands occupancy rights were cancelled by Courts for unjustified absence of more than 6 months from the apartments
- Many such apartments were then allocated to Croat refugees and displaced persons aiming at limiting Serb return
- Contrary to ethnic Serbs, ethnic Croats could regain possession of their apartments upon their return
- In 1996, the system of socially-owned property was terminated allowing tenants to purchase their flat or become protected tenants which also benefited people of Croat origin against Serb displaced or refuges who had lost their occupancy right
- Former occupants of housing in collective property are in fact the most important category of refugees whose housing problems have not yet been resolved

COE, 4 May 2005, par.52-56:
"52. Before the conflict, several thousand of Serbs lived in socially-owned or public company-owned apartments. The right to use these apartments was quasi similar to full property right but excluded the possibility of selling this right and with the possibility for the State to end the lease in limited cases. This category of housing represented more than 70% of housing units in former Yugoslavian cities.

53. During and just after the conflict, the authorities in charge at the time cancelled several thousand of leases granted to Serbs through judicial decisions brought in the absence of the tenant in the majority of cases. In order to terminate these contracts, the State or the State-own companies submitted requests to courts calling for the application of Article 99 of the Law on Housing, which provides for an ending of the renting contract in cases of an unjustified absence of the occupant for more than six months.

54. Afterwards, apartments were re-allocated to Croat refugees and displaced persons. Obviously, such procedures aimed to limit, as much as possible, the return of Serbs who had fled during the conflict. Moreover, a great number of Croats could regain possession of their apartments upon their return even in cases where it had been occupied by another person while members of the Serb minority were not able to do the same. Despite courts action submitted by previous occupants who claimed abusive interpretation of the law or possibility of defending their interests – which they could not do during the first procedure due to their absence–courts have refused to rule on these requests.1 Finally, Serbs who fled Croatia following the operations "Storm" and "Flash" lost their rights in accordance with one legislative provision, seeing themselves deprived of any possibility of court action to challenge their contract's termination.2.

55. The system of socially-owned property was terminated on 5 November 1996, giving way to a new system of renting, with tenants enjoying the possibility of purchasing their accommodation off the state at prices lower than the market value (…). Once again, people of Croat origin have found themselves *de facto* privileged in comparison with those of Serb origin who left the country and lost their tenancy rights. (…)

56. Consequently, the present Government again inherited a situation where, either through decisions of courts or through laws, a number of individuals, and notably a large part of the Serb community, sees the possibility of returning to their cities of origin hindered by housing problems.

Recently, the European Court of Human Rights found, for the time being, no violation of an applicant rights who challenged the allocation to another person of an apartment left unoccupied during the conflict. (…) Beyond the facts relating to an applicant who was neither a refugee nor a displaced person , (…) this decision does not take away the historic and political responsibility of Croatia in terms of solving housing problem within its territory. Furthermore, if Croatia considers that former tenants have lost their rights on apartments they occupied; it is its duty to find alternative solutions in order to allow refugees and displaced persons to return to their municipality of origin. Former occupants of housing in collective property are in fact the most important category of refugees whose housing problems have not yet been resolved."

[Note 1: Norwegian Refugee Council, *Triumph of Form over Substance ? Judicial Termination of Occupancy Rights in the Republic of Croatia and attempted Legal Remedies*, 18 May 2002.]

[Note 2: Law on Renting of Apartments in Liberated Areas in Croatia, no. 73/1995, 27 September 1995.]

Overview: progress and shortcomings of the legislation on reconstruction (2007)

- 1996 Law on Reconstruction included several provisions which effectively discriminated Serb applicants
- Amendments to the Law on reconstruction in 2000 removed most discriminatory provisions
- Authorities demand Croatian citizenship in order to access reconstruction assistance
- Until 2003 only very few Serbs benefited from reconstruction
- 2003 Law on Terrorist Acts provides that property owners who originally sought compensation in Court for damages should seek an alternative remedy under the Law on Reconstruction.
- Since some claims are not eligible under the Law on Reconstruction, claimants end up without remedy
- Eligibility rate for reconstruction is 30 percent
- Commissions assessing the damages disregard more lenient provisions of the 2000 Law and conclude that property is not eligible to reconstruction
- Some 10,000 complaints against eligibility decisions have been filed

Legislation:
Stability pact, MARRI-DRC, 30 June 2005, p.13-14:
"The Law on Reconstruction came into force in 1996 (…) and different legal acts regulating the reconstruction prior to the spring of 1996 were annulled (…). The Law sets the number of provisions and eligibility criteria that effectively discriminate Serb applicants. Such Law opened wide possibility for harassment and arbitrary behaviour of officials authorised for its implementation, and the possibility for the reconstruction of houses belonging to Serbs in practice almost did not exist. However, the real problem was not in the quality of the Law since such a law demonstrated political will focused on the prevention of Serb return. Although official statistic of ethnic composition of the beneficiaries is not available, according to data gathered by non-governmental organisations, from 118.580 housing units being reconstructed by the beginning of 2003, only very few belonged to Serbs. Their claims for the reconstruction were rejected or stalled – and, for years, they received neither positive nor negative answers. The owners of the houses destroyed in "terrorist acts" were not entitled to the reconstruction.

• The Amendment to the Law on reconstruction (…) was adopted in June 2000 and the majority of discriminatory provisions were repealed. However, because of some vagueness of the Law,

the Government issued the Guidelines and a number of different by-laws and instructions for its implementation that caused many problems not only to the beneficiaries of reconstruction rights but to the county officials in its practical enforcement as well.
The Amendment determines: (a) that reconstruction areas cover the entire territory of the Republic of Croatia and reconstruction refers to damaged or destroyed material goods exposed to destructive effect of the armed conflict or to the consequences of those effects (previously the reconstruction areas referred only to the areas that were temporary occupied and were exposed to destructive effects of Serbs, Montenegrins and terrorist unites). (b) The persons with habitual residence in Croatia in 1991 shall be entitled to exercise the rights on reconstruction (previously only Croatian citizens were eligible if they proved their citizenship with "Domovnica", a document that majority of Serbs could not obtain at that time); (c) the individuals convicted of war crimes are not eligible to reconstruction, and those indicted for the same criminal acts will have their reconstruction rights deferred till the finality of court verdict. In both cases, the family members of the proprietor are not excluded from the right to reconstruction (previously the right to reconstruction excluded the individuals under penal procedure for the criminal acts committed in armed conflicts and in war against Croatia, the denial extended to the family members as well.); (d) The article which determined the priority for the reconstruction and which gave minimal chances to the Serb returnees to exercise their reconstruction rights was deleted. However, deleted provision was replaced with the list established in by-law of the relevant Ministry and it placed the Serbs at the bottom of the priority list.

According to the Governmental Decision of February 15, 2001, the deadline for the application for the State provided reconstruction assistance was set by 31 December 2001. In March 2004, pursuant to the Agreement on Co-operation with SDSS and OSCE proposal the Government reopened the deadline for submission of new request for state provided reconstruction assistance from 1 April to 30 September 2004."

Implementation:
OSCE, March 2007, p. 11:
"The Law on Reconstruction stipulates that only those applicants, who resided in the facility – subject of the reconstruction request, until the beginning of armed conflicts in 1991, should be eligible for reconstruction assistance. Therefore, reconstruction requests had to contain, among other things, proof of the applicant's permanent residence address in a particular region until the outbreak of armed conflicts. The competent County Reconstruction Office is obliged to acquire this proof. By monitoring different cases, the network noticed that in a number of them the authority in charge of reconstruction requested that the applicant should acquire proof of residence on his own, which is in contravention of the relevant provision of the Law on Reconstruction, as well as of the principle of cost-effectiveness in administrative procedure."

p. 13:
"In some of the analyzed cases the reconstruction offices of Zadar, Lika-Senj, Šibenik-Knin and Bjelovar-Bilogora Counties requested the applicant to submit a photocopy of a Croatian citizenship certificate and a valid Croatian identity card for himself and all members of his family. This, however, is not prescribed by the Law on Reconstruction and it makes the reconstruction right conditional on Croatian citizenship. The 2000 Amendments to the Law on Reconstruction were aimed at, *inter alia*, enabling even those owners or co-owners of the houses destroyed or damaged in war, who were not Croatian citizens but had residence in the Republic of Croatia in 1991, to return to Croatia. Furthermore, the reconstruction of a destroyed or damaged house is one of the basic conditions for the physical return of refugees who live abroad and for issuing a residence certificate and an identity card with the address of the reconstructed family house.

There were also cases in which some County Reconstruction Offices requested, as a condition for exercising the right to reconstruction that the applicant and members of his family should submit a certificate on their refugee status in the state in which they currently reside. The

competent offices explain these unlawful actions by the fact that when a refugee acquires foreign citizenship, e.g. of the Republic of Serbia, and is issued an identity card in the country of new citizenship, he/she is integrated in another state and has a new residence in it. The Law on Reconstruction envisages that the persons eligible for reconstruction are the owners or co-owners of the residential buildings destroyed or damaged in war, protected lessees in the flats in those buildings, and the owners of other destroyed or damaged material goods, who are Croatian citizens, as well as the persons who had residence in the Republic of Croatia in 1991, regardless of their present residence or refugee status recognized to them in another state. Such conduct of the competent authorities could have an adverse effect on the return process in view of the fact that the person who has submitted a reconstruction request has at the same time expressed a wish and intent to return to and permanently settle in the country of origin."

OSCE, 21 November 2004, p.12:
"The 2003 Law on Terrorist Acts provides that property owners who originally sought ***compensation for damages resulting from terrorist acts*** through civil lawsuits initiated in the early to mid-1990s should seek an alternative remedy under the Law on Reconstruction. However, since the Law's adoption in July 2003, few if any property owners have been granted reconstruction assistance by the Ministry. Although court claims have been pending for years, there is no continuity between the two procedures and property owners must submit a new claim to the Ministry. Because some pending property claims involve property that is ineligible under the Law on Reconstruction, it is foreseeable that the Ministry will deny these claims, with the result that the property owners have no right to compensation either from the courts or the Ministry."

OSCE, 18 November 2005, p.7:
"The Law's retroactive elimination of such pending civil claims, without any remedy, has been the basis for several complaints against Croatia lodged at the ECHR."

Stability Pact, MARRI-DRC, 30 June 2005, p.14:
"As the right on reconstruction of the houses destroyed by "terrorist act" was not specifically mentioned, it was not clear whether the owners of such houses were eligible or not for the assistance in reconstruction. A year later, relevant Ministry issued the instruction saying "that bodies in charge for the implementation of the Law must also take the applications for reconstruction of houses destroyed in "single act of terrorism" including those previously turned down. Filed applications will be processed but final decision will follow after the co-ordinating of legislative regulations"

OSCE, 29 July 2005, p.5-7:
"So far, the rate of positive decisions regarding ***eligibility[to reconstruction]*** is below 30 percent. The main reason is that many residential properties have been assessed as 'no-war damage', following the restrictive definition of the 1996 Law, but disregarding the June 2000 Amendments to the Law on Reconstruction. These amendments foresee the eligibility also for properties not damaged by direct war operations. These damages, such as planting of mines, explosive devices, detonations, and pillage etc, often referred to as *terrorist acts*, disproportionately affect Serb properties, mainly in areas which always remained under the control of the Croatian Government. The main condition according to the 2000 Amendments county commissions is still conducted in accordance with laws and instructions (…) pre-dating the June 2000 amendments to the Law on Reconstruction, which contain criteria contradicting the damage definition of these amendments to the Law on Reconstruction and which exclude from reconstruction assistance. The Mission has repeatedly called upon the Government to apply the latest revisions and amendments to the law adopted in June 2000, and to stop using the discriminatory parts of the 1996 Law on Reconstruction which no longer apply(…). Mission spot checks in the field continue to identify destroyed houses whose damage has been superficially or wrongly assessed by county commissions for war damage assessment. As a result of the high

proportion of questionable decisions rendering the applicant ineligible for reconstruction assistance, the ***number of new appeals*** against first instance negative decisions has reached approx. 1,500. The total number of pending complaints against eligibility decisions amounts to approx. 10,000. The Ombudsman recently noted excessive delays in processing reconstruction applications, observing however that his intervention in some individual cases proved successful (…). He stressed that State officials needed to issue decisions in a timely fashion because it was legally required, rather than doing it on the basis of political arbitration(…). The Ministry intends to speed up processing of these appeals by hiring new lawyers. Through the 2003 Law on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations (Law on Terrorist Acts), Parliament changed the nature and scope of the remedy available for ***property damage resulting from terrorist acts*** in pending court cases. While under the prior law owners could seek financial compensation for any type of property through court proceedings, the Law on Terrorist Acts limits the right to recovery to reconstruction of residential property through an administrative remedy(…). As acknowledged by the Government, few property owners have received a remedy after the application of the Law on Terrorist Acts because much of the property for which owners had submitted claims is no longer eligible for the substituted remedy of reconstruction. The Supreme Court has confirmed Parliament's action, finding that property owners whose pending claims were stopped since 1996 and then re-started under the new law since 2003 are no longer eligible for a financial remedy, but only reconstruction (…). This retroactive elimination of previously valid claims in which property owners had a "legitimate expectation" of having their claim decided could result in ECHR review."

Restitution of private property

Repossession of private property is almost complete but precedence is still given to the right of temporary occupants

- According to official figures, property restitution is almost complete.
- However, properties claimed in court proceedings, those addressed to the State Attorney's Office and unclaimed properties relate to more than 200 additional cases of still occupied housing units.
- Repossession requests sometimes linger in the courts
- Precedence is given to the right of temporary occupants and not to the legal owner
- This principle has been referred to the European Court for Human Rights, which found Croatia to be in violation of the Convention for Human Rights

According to UNHCR as of 2009, 19,245 properties have been repossessed out of a total of 19,280 previously occupied properties. There are 30 pending court decisions and 5 pending administrative decisions. However, according to other sources, properties claimed in court proceedings, those addressed to the State Attorney's Office and unclaimed properties relate to more than 200 additional cases of still occupied housing units. Figures have to be taken carefully since properties sold to the State or properties uninhabitable because of looting and devastation by the occupants have been formally considered as resolved cases (seein the same section "Impact on property restitution had limited impact on return")

USDOS, February 2009:
"During the year the government worked towards completion of its program to return occupied private properties to their rightful owners; however, the property law implicitly favors ethnic Croats over ethnic Serbs by giving precedence to the right of temporary occupants, who were mainly ethnic Croats, to that of original owners, predominantly ethnic Serbs who lost possession during the 1990s. In 11 cases, owners could not repossess their homes and were waiting for completion of administrative procedures. "

HRW, January 2009:
"Serbs continue to face difficulty repossessing occupied homes, despite court judgments in their favor. Repossession cases sometimes linger in the courts."

EC, November 2008:
"54 houses, of which 45 waiting for a court decision, remain to be repossessed and handed over to their rightful owners. [...]The repair programme for houses damaged or looted prior to repossession is coming to an end."

OSCE, March 2008:
"At the end of 2007, the State Attorney was engaged in approximately 50 court actions related to the return of private homes allocated by the Government, repossession of which depended upon the completion of long-lasting judicial proceedings. In approximately 10 cases the State Attorney lacked sufficient information from the Ministry to initiate a repossession proceeding, while the return of approximately 10 homes remained at the initial administrative stage at the Ministry. In addition, a limited number of court actions initiated by owners for private property, including homes, business premises and agricultural land, remained pending. The Ministry's commitment to pay users for courtawarded claims for their investments in private homes remained to be fulfilled, with some owners in jeopardy of losing their property by judicial sale."

OSCE, ODHIR, September 2007:
"The Government's effort to close the process of repossession of the temporarily occupied private housing units is near its successful end. As of September 2006, 18 cases remained to be solved out of total of 19.280 occupied housing units. However, properties claimed in court proceedings, those addressed to the State Attorney's Office and unclaimed properties relate to more than 200 additional cases of still occupied housing units. In administrative and court proceedings involving the restitution of private housing units supremacy is given to temporary occupants over rightful owners. This principle was successfully challenged before the European Court for Human Rights (judgments Radanovic vs Croatia; Kunic vs Croatia)."

OSCE, 29 July 2005, p.7:
Various ***administrative or judicial impediments*** still hamper the successful completion of the repossession process, by continuously favouring occupants' interests over owners' rights. Although the process of property repossession has entered its completion stage, the effects of these serious shortcomings relate to earlier repossessed properties as well, and remain unresolved. This refers to the continued *housing care* requirement for occupants as a *precondition (…)* for their vacating property, the lack of assistance for owners of houses devastated and looted, as well as pending lawsuits against owners for compensation of occupants' investments in properties while under State administration."

The European Court for Human Rights has challenged the provision according to which the owners right to repossess his property was conditioned to the availability of housing for the occupant in two judgments: Radanovic vs. Croatia, Dec. 2006 and Kunic vs. Croatia, Jan. 2007.

For more information on this see in the Property section, Law and Policy, "Prevalence of occupant's interest over owner's discriminates against ethnic Serbs and delays possibility for return (2008) "

Restitution of private property had limited impact on return (2009)

- Impact of repossession on sustainability of return is limited by two main factors: selling of properties or extensive looting rendering the house uninhabitable
- According to OSCE in 2005, physical repossession by the owners took place in only half of the resolved cases
- Some people who had formally repossess their homes could not return since properties had been devastated and looted by the occupants.
- Victims could make a request for repair material but priority was not being given to these cases and court actions were rarely initiated.
- After the war, the State Agency for Real Estate Transaction (APN) encouraged many Serbs to sell their properties, in order to provide alternative housing care for occupants. Sold properties have been considered as being returned.
- Precedence has been and is still given to the right of temporary occupants and not to the legal owner

AI, May 2008:
"Among those who had formerly lived in private properties and who had formally repossessed their homes, some could not return because their homes had been made uninhabitable by looting and devastation."

OSCE, 29 July 2005, p.7:
"The impact of the repossession on the sustainability of return remains limited. ***Physical repossession*** by the owners takes place in only half of the resolved cases. Up to 8,000 of the properties considered as having been returned were in fact sold by the owners to the State, mainly while still occupied. A significant number of owners prefer to sell their properties to the State and remain in their countries of refuge (…). In addition, more than 3,000 properties considered as having been returned remain empty and often devastated. In most such cases the authorities have no knowledge of the whereabouts of the owners. Many of the physically repossessed houses are ***devastated and looted***, mainly by their departing occupants, and are not inhabitable. As of June 2005, few owners had received at least some kind of State assistance in the form of building materials, to which they are entitled under the 2002 Amendments to the Law on Areas of Special State Concern /LASSC. In June, the European Commission against Racism and Intolerance (ECRI) strongly recommended the Croatian Government to "make every effort to prevent occupants who are obliged to relinquish property from looting and damaging it, by taking effective measures with regard to prevention, compensation and punishment". (…) Two-thirds of the remaining occupied properties are located in ***Dalmatia*** and more than half are concentrated in three municipalities: Knin, Benkovac and Obrovac. (…) The repossession primarily depends on the pace of construction of alternative housing for the temporary users. Since the beginning of the year, 198 houses in five newly established settlements (Benkovac, Knin, Korenica, Gracac, Obrovac) have been handed over to temporary users of Croatian Serb properties, mainly Croats from Bosnia and Herzegovina.

Various ***administrative or judicial impediments*** still hamper the successful completion of the repossession process, by continuously favouring occupants' interests over owners' rights. Although the process of property repossession has entered its completion stage, the effects of these serious shortcomings relate to earlier repossessed properties as well, and remain unresolved. This refers to the continued *housing care* requirement for occupants as a *precondition (…)* for their vacating property, the lack of assistance for owners of houses devastated and looted, as well as pending lawsuits against owners for compensation of occupants' investments in properties while under State administration."

Stability Pact, MARRI-DRC, 30 June 2005, p.12:
"Many owners whose houses are occupied, are the subject of persuasion by the State Agency for Real Estate Transaction (APN) to sell their property, which is than used for alternative housing care for occupants. The Government has intensified the purchase of residential houses from Croatian Serbs in municipalities with high number of illegal occupancy but in the same time with a high return rate. Measures used include rising the offered price above market level and public invitation to owners to put their houses on sale. Thus the policy of selling the houses rather than their repossession, initiated in 1998 Program of Return, has continued to the present days. As it was reported by OSCE, repossession in up to half of cases takes place through the purchase of the occupied properties through APN."

This information was confirmed in 2009 by CRP (email communication, August 2009)

OSCE, 21 November 2004, p.11:
"The Mission's spot checks indicate that ***physical repossession of property*** takes place in only around half of monitored cases. This is because many property repossession cases are not being resolved through the actual hand-over of the properties to the owners, but are being resolved when the State purchases the occupied house, mainly as alternative housing for the occupant. According to the Government, this pertains to approximately 25 percent of the 2,071 cases resolved since January 2004. Alternatively contractual agreements have been reached between the occupants and the owners (such as lease contracts)."

See also in the same section "Repossession of private property is almost complete but precedence is still given to the right of temporary occupants"

OSCE, 1 April 2005, p.5:
"Field observations confirm that looting and deliberate devastation of properties, often through removal of integral parts by temporary occupants prior to their departure, takes place in 30 to 55 percent of the monitored repossessions."

COE CHR. 4 May 2005, par.59-60:
"Victims of these acts, who are mostly of Serb origin, can make a request for repair materials, but are not given priority with regards to houses destroyed during the conflict or to needs in new construction. Therefore construction support is given to them after a long delay - often after more than a year. Sometimes local Ministry officials even discouraged them to make such a request. During the visit, we visited houses looted in 2003 – doors, windows, heating systems, bathrooms as well as electricity equipments were pulled out or removed – and the Serb owners were still waiting to receive requested reconstruction materials.

The action undertaken to stop these acts, which represent criminal offences of theft and damaging of other people's properties does not seem to be very fruitful. No information campaign was made by the Office for Displaced Persons, Returnees and Refugees (ODPR) to inform occupants that looting the accommodation they occupy could lead to the lost of their right

to alternative accommodation and could ultimately lead to financial sanctions. In cases of vandalism, an expert records the damage, the ODPR then transmits a documented case to the Prosecutor's office concerning the acts committed. During my discussions with the Head of the ODPR, he showed me some case files concerning acts of vandalism which were transferred to the public prosecutor's office. Yet, due to the work load of tribunals and priority not being given to these cases, it seems that court actions are rarely initiated. In the few cases where action was undertaken, owners were sometimes requested to prove that damages were committed by the occupant or that he/she owned the stolen objects."

USDOS, 28 February 2005, Sect.1 f:
"Police were sometimes unwilling to intervene in housing disputes, which occasionally involved attack against property, looting, and arson (see Section 5). There were allegations that the police did not always remain impartial and uphold the law when it came to housing disputes between ethnic Croats and ethnic Serbs. For example, in Vojnic, police did not intervene on any occasion, despite requests from the original owner that the property was being damaged and that an illegal occupant renovated the property without proper permits. He continued to use it for business purposes and was offered alternative housing, but refused to vacate. Also, near Hrvatski Kostajnica, when a woman whose home was being looted called police, they took no action, indicating that they would not take action unless the incident became violent. "

HRW 13 May 2004, p.7:
"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.[...]"

Compensation for investment made by the occupant threatens repossession (2006)

- Some temporary occupants attempt to prevent their eviction by requesting compensation for investment on the owner's property
- Despite a constitutional court decision confirming that investment claims should be separate from repossession claims, courts keep joining procedures thereby postponing repossession
- Courts have ordered compensation payment from owners while the possibility for the owner to receive compensation for the period his property was occupied has been denied
- EU recommends to exclude the possibility of claims for compensation for unsolicited investments being made against the owner
- An intervention from the international community was necessary to prevent an ethnic Serb owner to lose his repossessed property
- The property had been put on auction because the owner could not pay the amount required by the Court for unsolicited investments
- OSCE recommends that a legal remedy is found to address similar cases
- 24 similar cases are currently before Croatian Courts

ECRI, 14 June 2005. par.112:
"[I]t is still difficult to secure an eviction order from the courts, particularly because the occupants ask the owners to reimburse them for the outlay they have made on the property without the owners' consent. This procedure delays the conclusion of the proceedings. (…) Human rights NGOs regret that, as a rule, priority is given to the interests of the occupants-even illegal ones-over those of the owners in the restitution process."

Stability Pact, MARRI-DRC, 30 June 2005, p.13:
"Temporary occupants often refuse to vacate the property demanding from the owners to reimburse them for the investments made during temporary occupancy, and most courts also join repossession dispute and investments claim and it results with delay of repossession claims. The constitutional court has determined that investment claims filed by temporary occupant can be decided in a procedure separate from repossession claims. However, court practice continues to be contrary to the Constitutional Court's decision. (…)
Although temporary users invested illegally, and often with a permission or under protection of relevant local authorities (for what they were not authorised), the state bodies do not consider them responsible, and temporary occupants are filing the counterclaims against the owners (…). Increasing number of counterclaims filed by occupants against owners to obtain payment for their investments and common court practice in such cases could potentially have significant impact on property repossession. The result of the continuation of such a practice would be that the owner, after repossessing the property, could lose it again. In number of cases, courts have ordered such payments, while, at the same time, they did not allow the owners to file "counterclaims" for obtaining the rent for the period their properties were occupied."

COE CHR, 4 May 2005, par.61:
"There are recent examples of justice decisions condemning the owner to compensate the temporary user, even in case of illegal use, for the "investments" made during the occupancy. I was also informed of court decisions where the owner was condemned to a pay large amount to the occupant of his house even though he did not consent for the use of his property or for the work undertaken. Certainly, occupants may have undertaken work in the habitation from which the owner may benefits. However, the compensation practice seems worrying to me if we consider, on the one hand, that authorisation to use the property was given by the State without the consent of the owner and that, on the other hand, the occupancy was given free of charge. Therefore one can consider the possibility for the Parliament to adopt legislation on this subject with the aim of avoiding a situation where owners have to bear the full responsibility of a situation which they have neither created nor consented to."

EU, 9 November 2005, p.29:
"In any case, it would be advisable to exclude the possibility of claims for compensation for investments made without the owner's consent being made against the owner"

OSCE, News in brief, 12 January 2006, p.1-2:
"Swiftly following a joint appeal by International Community (IC) Principals from the OSCE, UNHCR and EC, the Ministry for Maritime Affairs, Tourism, Transport and Development (MMATTD) successfully intervened to block the public auction of a house owned by Stevo Zabrdac, a Croatian Serb.
As previously reported, Stevo Zabrdac faced the loss of his property in Daruvar, Western Slavonia, due to his inability to abide by a court order to reimburse unsolicited investments made by a former temporary user.
In an attempt to prevent the sale of Mr. Zabrdac's house via public auction, IC Principals sent a letter to the Minister for MMATTD on 16 December requesting intervention. On 30 December, the MMATTD initiated trilateral consultations between the owner, the temporary occupant and the

State, resulting in a settlement agreeable to all, with the Ministry taking over the financial obligations assigned to the owner by the court. As a consequence, Mr. Zabrdac and the former temporary user then signed an out-of-court settlement withdrawing their respective court requests.
The Mission welcomes the Ministry's initiative, although a legal remedy preventing the emergence of similar cases in the future would be preferable. According to the MMATTD, similar *ad hoc* trilateral settlements will be used to deal with the 24 reimbursement claims currently pending before various Croatian courts."

OSCE, News in brief, 3 January 2006, p.5:
"On 15 December, the Municipal Court (MC) in Daruvar, Western Slavonia, publicly auctioned the house of a Croatian Serb who was unable to reimburse unsolicited investments made by a former occupant. Investments to the property in question were made by the occupant without the owner.s consent while the property was under State administration between 1996 and 2003**.** During this period the occupant was exempt from paying rent to the owner following an authentic interpretation by the Croatian Parliament of art. 14 of the Law on the Status of Expelled Persons and Refugees.
On 5 July 2002, the MC in Daruvar ordered the owner, Stevo Zabrdac, to pay 44,000 KKN to Romeo Tunic, the temporary user, following the user's claim for reimbursement of investments he made in the property. Unable to pay the court order, the MC offered Mr. Zabrdac.s house for sale as his only valuable asset. During the third auction attempt, the former occupant offered to purchase the house for less than half its current market value. If this amount is paid to the court within 15 days, it will result in Mr. Zabrdac losing ownership of a house he repossessed in the course of 2003. Court decisions ordering reimbursement by legal owners to former occupants clearly run counter to efforts to ensure the repossession of private property. With returnees exposed to the loss of their properties for a second time, the Government will face further potential cases of forced displacement. This highlights a gap in the current legal framework. In May 2004, the Mission proposed draft amendments to the Code on Civil Procedure, which would foresee a ban on such investment claims by former occupants.
In the most recent meeting between the Minister of Maritime Affairs Tourism Transport and Development (MMATTD) and International Community (IC) partners held on 9 December, the Assistant Minister of Justice and the Deputy State Attorney for Civil Affairs stated that a trilateral out-of-court settlement between the State, the occupant and the owner of the property would be the most likely legal solution to this case. Unfortunately, no such legal solution has presented itself, despite the case being mentioned regularly in meetings with the MMATTD since November 2004.
In light of the 15-day deadline facing Mr. Zabrdac, IC representatives sent a letter to the Minister for MMATTD on 16 December advocating a speedy solution to this case. In addition, IC Principals stressed the urgency of a concrete legal remedy, bearing in mind that 24 such cases are currently pending before various courts in Croatia."

Despite improvements, repossession of land illegally occupied continues to be an obstacle to return (2009)

- In May 2009, some progress have been made in the Zadar hinterland where a decision of the court allowed Serb returnee owners to repossess their land plots
- However, administrative mechanisms for the restitution of agricultural land have not been established
- The only option available is to initiate a lengthy and costly court procedure which many displaced peoples and returnees cannot afford

UNHCR, email communication, August 2009:
"The repossession of occupied agricultural land belonging to minority returnees in the Zadar hinterland was resolved by end May (2009). The issue relates to 28 land plots of 17 Serb returnee owners, who had for many years been stuck in privately initiated court proceedings as the only means to recover their land. Out of court agreements were reached between the three parties: owners (all of them are returnees), former occupants and the State. The State compensated the former occupants for their investments, while the owners entered into immediate possession of their land plots including planted fruit trees and other perenni al plants. Cases of illegal occupation of land and/or residential property are subject to court procedure."

USDOS, February 2009:
"(...) 34 owners of agricultural land with unclear title could not take possession of their plots, mostly in the Zadar hinterland. During the year the government took steps to speed up the process. In June it provided a detailed plan to offer compensation to current users for the investments made on the land over the years, a potential subject of lengthy lawsuits."

HRW, January 2009:
"There is still no effective remedy for those seeking the return of occupied agricultural land."

EC, November 2008:
"There is still slow progress on repossession of occupied agricultural land."

OSCE, March 2008:
"At the end of 2007, the Ministry confirmed that it would compensate a limited number of users of agricultural land if they vacated the property, while return of the land was to be resolved by the judiciary. However, no compensation agreements had been concluded with users and no final court decisions have resulted in the return of land. Bilateral donors have been sought to continue the Mission's legal aid project to fund court proceedings intended to assist with the return of the land."

USDOS, March 2008:
Disputes over the ownership of agricultural land were almost always a factor prompting ethnic incidents in the region. Ethnic Serbs in the Zadar area encountered difficulties in repossessing their land for a combination of reasons, including investments by temporary users, unregulated cadastre books, and slow court processing. According to police statistics, in areas of more intense refugee return, agricultural land issues remained the primary cause of interethnic incidents.

OSCE/ODHIR, September 2007:
"Administrative mechanisms for the restitution of illegally taken agricultural land and business premises have not been established, while the reported numbers of unresolved cases vary between 20 and 125."

OSCE, March 2007:
"Administrative mechanisms for the restitution of illegally taken agricultural land and business premises have not been established, so that owners have only one option to resort to – to institute lengthy proceedings. It is obvious from the above that the state failed to ensure the rule of law in its territory and access to rights on equal footing for all citizens and without discrimination, by placing an excessive burden upon one category of citizens in view of the fact that there is no charge-free legal aid system, that those citizens have low incomes or no income at all, the costs involved for instituting proceedings, as well as the fact that the majority of owners still live outside the country of origin.(...)

According to the MMATTD, there were only 6 pending cases of occupied agricultural

land in wider area of Benkovac, at the end of June 2006.18 At the same time, the Serbian Democratic Forum reported as many as 125 cases of illegally occupied agricultural land in the same region. At the beginning of June 2006, the OSCE Mission to Croatia was aware of some 20 cases of illegally occupied agricultural land and business premises. All stated above is supporting the opinion that the state must offer adequate mechanisms for resolving all identified problems and that it must actively participate in the resolution of those problems, irrespective of the fact how their complexity or scope are presented on the basis of the available statistical data.(...)"

UNHCR, 2007: info contradictoire
"The problem of illegal use of land has been almost entirely resolved (as has the illegal occupation of houses). Only 1% of respondents claim they cannot use any piece of their land because it is
being occupied by someone else against their will. Another 4% have had parts of their land illegally taken."

Socially-owned apartments

Implementation of housing care programmes for former tenency rights holders wishing to return to Croatia remains slow (2009)

- Implementation of the two models of Housing Care remained slow
- The target date for full implementation outside the areas of special state concern has been brought forward to 2009 but there are concerns that this deadline will not be respected
- In June 2008, an Action Plan on implementation of the housing care programmes was adopted but Croatian Serb NGOs disputed official statistics on the number of people included in the programmes
- Reportedly, many of the potential applicants were not able to register their claims due to short deadlines
- Since no disaggregated data by categories of beneficiaries are available it is impossible to assess to what extent implementation of the housing care program contributes to the return of displaced peoples
- CERD recommended the government to solve all outstanding housing issues faced by former tenancy rights-holders, by the end of 2009 as envisaged

According to UNHCR and data provided by the authorities as of May 2009, since the beginning of the Housing Care programmes some 13,600 requests have been submitted by former ORHs, 3,310 filed by Croatian Serbs IDPs and the rest by refugees. As of May 2009, less than half of them had received an accommodation, mainly in war affected areas.

Administrative processing

(data provided by the authorities / May 29, 2009)

Total number of family requests:	**13,583**
a) Within the war affected areas (ASSC):	9,021
b) Urban areas:	4,562
Positively decided requests:	**8,734**
a) Within the war affected areas (ASSC):	7,157
b) Urban areas:	1,577
1st Instance negatively decided requests, incl.suspended:	**2, 620**
a) Within the war affected areas (ASSC):	1,208
b) Urban areas:	1,412
1st Instance pending requests (incomplete/no-contact/other)	**2,229**
a) Within the war affected areas (ASSC):	664
b) Urban areas:	1,565

Source: UNHCR Zagreb, email communication, August 2009

Implementation

Housing units allocated:	**6,198***	**(6,040)****
a) Within the war affected areas (ASSC):	5,336	
b) Urban places:	862	
Cases pending allocation:	**2,536*****	**(2,504)****
a) Within the war affected areas (ASSC):	1,821	
b) Urban places:	715	

**** Data provided by the authorities / May 29, 2009***

***** Data provided by the authorities / March 2009***

****** Source: UNHCR estimate according to the Government figures, i.e. Positively decided requests - housing units allocated = cases pending allocation***

Source: UNHCR Zagreb, email communication, August 2009

OSCE, email communication, August 2009:

"The government of Croatia in its Action Plan for Housing Care envisages to implement it in the period between 2007 and 2009, through three resepctive benchmarks. The Benchmark 2007 was successfully completed by the end of the last year. Covered by this benchmark, 1,000 former OTR holders (families and individuals) received HC within and additional 418 outside the ASSC. Trough the benchmark 2008 which is continuing, 1,000 former OTR holders should or some have already received HC inside the ASSC, and 454 outside the ASSC:

We estimate that due to technical delays, financial crisis, the inability to construct/reconstruct in harsh meteorological conditions in winter and other unforeseeable occuprences may cause delays. "

USDOS, February 2009:

"The government slowly continued the program to resolve the claims of persons, mainly ethnic Serbs, who held tenancy rights in socially owned apartments prior to the war but who lost these rights during or just after the war. Individuals submitted 13,397 claims for government-provided

housing under the program, 4,559 of which were in urban areas. According to the UNHCR, from 1995 through the end of October, the government had allocated 5,557 housing units, mainly in war-affected areas. The Ministry of Regional Development, Forestry, and Water Management delivered approximately 97 percent of its 2007 target of 1,400 housing units; by October it had delivered approximately 823 of the targeted 1,400 housing units for the year. "

AI, May 2009:
"Croatian authorities failed to address the problem of people who had occupied socially owned apartments, and had lost their tenency rights during the war (many of them Croatian Serbs). In June, an Action Plan on implementation of the housing care programmes was adopted but Croatian Serb NGOs disputed official statistics on the number of people included in the programmes. Reportedly, many of the potential applicants were not able to register their claims due to short deadlines."

UN CERD, March 2009:
"The Committee notes the commitment expressed by the delegation of the State party to enable the remaining refugees of the war to return to the State party if they wish to do so, including by solving their housing problems and creating conditions for their reintegration into society. Notwithstanding this commitment, it continues to be concerned about a substantial number of unresolved cases of returnees, in particular with regard to the restitution of property and tenancy rights. (art. 5 (e))

The Committee reiterates its recommendation of 2002 that the State party intensify its efforts aimed at facilitating the return and reintegration of refugees, especially returnees who belong to the Serbian minority, by adopting and implementing fair and transparent measures for their sustainable return. In particular, the State party should ensure the implementation of its policies and laws to solve all outstanding housing issues faced by property owners and former tenancy rights-holders, by the end of 2009 as envisaged. The State party should create conditions under which returnees of all ethnic origins can opt for a permanent stay".

HRW, January 2009:
"While the two existing government-sponsored housing care programs enable those who wish to return to apply for and receive housing, there was no progress towards a viable solution for Serbs stripped during the war of the right to occupy socially-owned property (an impediment to Serb return to urban areas). The government fell short by around 100 units on its pledge to provide 1,400 housins units for Serb returnees by mid-2008."

EC, November 2008:
Implementation of the Croatian government's housing care programmes within and outside the areas of special state concern (ASSC) for the former tenancy rights holders who wish to return to Croatia continues to be slow, although implementation has picked up in recent months.

Outside the ASSC, only around 530 (12%) of 4,560 requests have been solved definitely. There are a further 1,360 (30%) positive decisions awaiting action. 1,806 are still waiting to be processed (40%) and 864 received a negative decision (19%). The target date for full implementation outside the areas of special state concern has been brought forward to 2009.

Of 8,668 applications inside the ASSC, 4,788 (55%) families have been allocated an apartment out of the 6,816 positive decisions, a slight increase on last year. However, 653 administrative decisions are still pending and 1,199 were decided negatively. For both inside and outside, the negative decisions are under revision, with the help of UNHCR, before they will be sent to the applicants.

The Government's benchmark for 2007 to provide 1,400 accommodation units inside and outside the ASSC has been largely met. For the remaining 60 cases, Croatia has introduced the possibility of daily compensation payments until the foreseen accommodation is available. 598 cases of the 2008 target of 1,400 have been solved.

Centre for Peace, October 2008:
"Deadlines for finalization of the housing care process are frequently altered what makes the final deadline for completion of the housing care process uncertain.

Commitments that the RoC in 2007 assumed as to the housing care of former tenancy right holders, reiterated here in Warsaw at last year's HDIM, have not been fulfilled, and that to a large extent. Declaratory campaigning for solving of the problem of housing care for former OTR holders is inadequately supported by practical deeds. Further on, unavailability of data disaggregated by ethnicity and / or previous IDP/refugee status and / or previous OTR status makes monitoring of the progress and impact of the housing care models on former OTR holders difficult and almost impossible.

Existing housing care models obviously do not represent adequate mechanisms which would enable that the issue of former OTR holders is resolved permanently, in a fair and durable way, and within reasonable time frame."

OSCE, September 2008:
"The agreement on comprehensive solution for terminated OTRs has not been reached yet, leaving this issue outstanding within the Sarajevo Declaration process.

Housing care program inside the war affected areas available to potential returnees to Croatia (former OTR holders) recorded progress in issuance of the eligibility decisions. Out of total number of 8,541 applications received until January 2008, 83,07% were positively resolved which makes 7,095 cases. Precise figures on the number of applicants who are still residing outside Croatia are not available, thus making it impossible to assess the pace of implementation and its influence on refugee return. Following issues are of particular concern: lack of transparency in determining priority beneficiaries' lists; ungrounded differential treatment of applicants; exclusion of local self-government units from decision making (contrary to the applicable law7) (Article 38); shortcomings in implementation of the Law on General Administrative Procedure and excessive lengths of proceedings.

Housing care program outside the areas of special state concern.Total number of applications received until the closure of the deadline on 30 September 2008 was 4,425 cases. Until January 2008 1,263 (27.77%) positive recommendations were issued, 825 (18,14%) negative recommendations were issued while the number of the housing care receivers in 2007 was 155 cases. Still not available are reliable data on number of concluded protected lease agreements, data on number of housing units allocated to those who applied and still reside outside of the Republic of Croatia.

AI, May 2008:
"Croatian Serbs continued to be victims of discrimination in access to employment and in realising other economic and social rights. Many Croatian Serbs could not return because they had lost their rights to socially owned apartments. Implementation of existing programmes to provide "housing care" to former tenants and occupants remained slow".

Regional Legal Assistance Programme, September 2007:
"In relation to the provision of the Housing Care in the Areas of Special State Concern former OTR holders are placed at the bottom of priorities for housing care assistance in accordance to

2002 Rulebook on the Order of Priorities for Housing Care. Although the Constitutional Court interprets7 that Rulebook does not give precedence to any of 3 priority groups of beneficiaries, the Regional ODPR offices continue to apply the Rulebook in accordance with their own interpretations and give some groups preferential treatment.

Concerning the discrepancy in application of the Law and preferential treatment applied in that regard, the RLAP network possess data about approximately 30 cases in which certain category of beneficiaries were provided with the housing care assistance more than once – this mainly relates to ethnic Croat families settled from Bosnia and Herzegovina and Kosovo.

Additional problem is the fact that refugees/returnees who are provided with the housing care, use these housing units on the basis of the Consent which is issued by the Office for Displaced Persons and Refugees (ODPR). This ODPR practice is in discrepancy with the Law on General Administrative Procedure which stipulates obligation of the first instance body to issue a decision when determining the particular right of the applicant. As a consequence of such ODPR practice, legal remedy is not available and beneficiaries are lacking ability to request protection of their rights in the court procedure.

Regarding Housing Care Programmes outside the Areas of the Special State Concern (hereinafter ASSC), in September 2006 implementation of this housing scheme was still in its initial phase, with just few beneficiaries registered to that date. However, the lawyers participating in the project emphasized disputable regulatory framework in regard to the Housing Care Programme which is based on the Conclusion of the government of the Republic of Croatia rather than on the Law. Some lawyers stand at the point that we cannot talk about existence of the right/entitlement in legal sense if the claim is not based on the law but rather on the Conclusion. The Conclusion does not produce any legally binding effect, thus there is no remedy and no court protection available, since the Conclusion merely serves as a form in which the Government is expressing its intentions and strategies.

Judicial proceedings on tenancy rights threaten new displacement (2007)

- Court proceedings continue to challenge the ability of former occupancy/tenancy rights holders to resolve their displaced status
- In hundreds of judicial proceeding, the Croatian state sought termination of occupancy rights which often result in eviction of the former tenancy right holder
- Some of these Court terminations are based upon alleged participation in enemy activity in the absence of any conviction which is contrary to a Constitutional Court decision
- Court-ordered evictions mainly affect Croatian Serb families who still reside in apartments belonging to the Ministry of Defence or other state bodies.
- In January 2005, the Government accepted the proposal of the international community to adopt a moratorium on the execution of those evictions until housing care is provided to those persons
- Despite instruction to local attorneys to delay evictions in July 2005, the state continued to seek eviction in September 2005

ECRE, October 2007, p. 27:
One of the main impediments to return to urban centres in Croatia is the reinstatement of the former occupancy/tenancy rights (OTR). Between 1991 and 1992, over 80,000 people of Serb nationality fled the cities of Zagreb, Split, Rijeka and Osijek in Croatia. In most of these cases,

social property owners filed court complaints asking for the termination of the occupancy/tenancy rights of the legal tenants for the properties not in use for more than 6 months. According to court statistics, there were more than 23,000 OTR termination cases all over Croatia, mainly during the period between 1991 and 1995. Around the same time (1991-1996), through a process of privatization, other OTR holders were able to buy their apartments at discounted rates and with additional benefits.

Almost all OTR termination cases were adjudicated in the absence of tenancy rights holders who were represented in the proceedings by an attorney appointed by the court. There was no examination of the reasons why OTR holders had left their apartments and whether their reasons were legitimate. This was done despite the fact that an enquiry of this type was a main component of the legal procedure for OTR termination.

In contrast with the average length of court cases of more than 5-7 years, termination procedures were swiftly concluded. The outcome was always the same involving the termination of occupancy/tenancy rights of people who had left their apartments because of the war. In many cases, the court-appointed special representatives of absentee OTR holders did not appeal against termination decisions despite their obligation to act to protect their clients' best interests.

Upon return, former OTR holders could ask for the reopening of proceedings under certain conditions. Notwithstanding the revision of the individual cases, the Croatian Helsinki Committee is not aware of any case involving the original decision for termination of tenancy rights being subsequently overturned. Some former OTR holders have taken their case to the European Court of Human Rights (ECtHR). In the Blecic v. Croatia case, ECtHR held that the judicial termination of occupancy/tenancy rights did not violate the right to home or the right to peaceful enjoyment of possessions as guaranteed by the European Convention on Human Rights (ECHR). The ECtHR verdict provided the Croatian state with a strong precedent to argue that there is no reason for tenancy right issues to be resolved according to the requests of former OTR holders or civil society organizations. This is despite the fact that the characteristics of the Blecic case were not typical of many OTR cases.

OSCE, March 2007, p. 15:
The network member organizations were intensively monitoring the status of at least 8 cases related to the terminated occupancy/tenancy rights, which are at different stages of judicial proceedings. Out of five cases involving lawsuits for terminated occupancy/tenancy rights, three are before the Supreme Court of the Republic of Croatia in the procedure of judicial review, while in two,48 first instance decisions are still pending.

In two cases49, in which the occupancy/tenancy rights were never revoked from displaced persons by virtue of a court decision and in which parties requested to enter into lease agreements for the apartments concerned, positive practice of the Constitutional Court of the Republic of Croatia was observed. In two of its decisions50, the Constitutional Court took a stand that the time limit for the conclusion of the Agreement on Lease of Apartments, set out in the Law on Lease of Apartments*,* is not a preclusive time limit. In other words, first instance courts had first taken an opposite stand and on those grounds they refused claims for the conclusion of lease agreements filed by displaced holders of occupancy/tenancy rights. First instance courts were of the opinion that plaintiffs had occupancy/tenancy rights on the effective date of the Law on Lease of Apartments, but they lost that right by unjustifiably missing the time limit for entering into lease agreements. On the basis of these judgements of the Constitutional Courts, County (second instance) courts started to reverse the judgements of Municipal (first instance) courts and to refer cases back to them for reconsideration. On the example of one of the two monitored cases, the RLAP network has observed the acceptance of the practice of County courts and the mentioned stand of the Constitutional Court by the first instance court. To be precise, the Municipal Court in Vinkovci, pronounced a judgement in a retrial on the annulment of a lease

agreement that was concluded between the respondent, the town of Vinkovci, and the user, and ordered the town of Vinkovci to enter into a lease agreement for the flat with the plaintiff, a displaced holder of the occupancy/tenancy right. This precedent has opened a possibility for all former occupancy/tenancy right holders, whose rights were never cancelled by virtue of final judgements, to repossess their flats by taking legal action for entering the contract on lease.

OSCE, 18 November 2005, p.7:
"In hundreds of judicial proceedings, the State continues termination proceedings against persons who never left their OTR flats, and is moving ahead with eviction proceedings (…) in a manner contrary to established Constitutional Court interpretations. In July 2005, however, the Attorney General instructed local state attorneys to delay seeking enforcement of eviction orders against former OTR holders if they had applied for the housing programme, until such time as housing is physically provided."

OSCE, News in Brief, 27 September 2005, p.3:
"Despite the lack of the legal prerequisites articulated by the Constitutional Court, lower court decisions have terminated occupancy/tenancy rights (OTRs) on the grounds of the participation in enemy activity by the OTR holder, without any previous criminal conviction, and are moving ahead in eviction proceedings. These court actions also indicate that Croatia, in particular the Ministry of Interior, continues to seek to evict persons who never left OTR flats in a manner contrary to established Constitutional Court interpretation. In a series of decisions starting in 1999, the Constitutional Court ruled that terminations of occupancy/tenancy rights under Article 102a of the Law on Housing Relations on the ground of the OTR holder's participation in enemy activity could only comply with constitutional guarantees if the OTR holder had been subject of a prior criminal conviction.

In late August 2005, the Karlovac Municipal Court (Central Croatia) denied the request of Dragica and Dragomir Miljenovic to stop the eviction sought by the State. Their OTRs had been terminated in 1999. The 2005 court decision indicated that unconstitutionality is not a legal ground to stop an eviction. As found by the court, two members of the Miljenovic family resided in the apartment during the entire war period. Nevertheless, the occupancy/tenancy rights of the holder were terminated due to the fact that he spent some time in occupied territory. Croatian authorities never charged him for any acts related to war. In mid-September, the Split Municipal Court scheduled the eviction of Stevan Babic and his family whose OTR was terminated in 1996. Again, as found by the court, family members never left the apartment, while Stevan Babic took care of his disabled father in occupied territory returning after the war. Again, he was never charged for criminal activities against the state. Numerous evictions have been attempted in both cases, but so far postponed due to interventions of non-governmental organizations, the international community or the poor health of the OTR holders. Complaints to the Constitutional Court have been pending in both cases since early 2004 and 2003, respectively."

OSCE, 29 July 2005, p4-5:
"Hundreds of proceedings involving the ***termination of OTR*** continue in the Croatian courts. The State continues to seek termination against OTR holders who reside in their apartments; they will be evicted if the State's lawsuit succeeds. The State also seeks to terminate even where the OTR holder's absence resulted from forcible eviction by members of the military or police during the conflict and the OTR holder used all available legal means to regain possession. Finally, the Government continues to seek termination and eviction of Serb residents although to date no alternative housing has been provided under the housing care programme. The Council of Europe recently recommended that in "cases concerning the legality of the termination of occupancy/tenancy rights, particular care should be taken to ensure that each case is examined carefully and in a non-discriminatory manner."10 The Mission and its international partners have long advocated for moratorium on the execution of evictions in ongoing court-ordered OTR terminations, which threaten to cause new displacement in 2005, almost ten years after the war.

At the end of 2004, the Ministry of Defence agreed to forego eviction of former OTR holders until – if eligible - they receive housing under the above-mentioned options. While the Ministry continues to seek termination, no new executions of evictions from MoD flats have come to the knowledge of the Mission since January. Other State bodies have not yet followed this suggestion."

OSCE, Access to housing, April 2005, p.16:
"The state has within recent years implemented some evictions based on final decisions of termination,(…) while other evictions remain pending and subject to execution at any time.(…) The Mission is continuing to monitor such court-ordered evictions mainly affecting Croatian Serb families, many of these former OTR holders still reside in apartments belonging to the Ministry of Defence or other state bodies. In the course of 2004, the Mission and its international partners proposed to the Government to adopt a moratorium on the execution of those evictions until potential evictees are provided with housing by the State provided that they are eligible to receive it. This suggestion has been accepted by the Ministry of Maritime Affairs Tourism Transport and Development and the Ministry of Defence in January 2005."

Housing care programmes for former occupancy right holders differs depending on region (2007)

- Two housing schemes for former occupancy right holders were adopted in 2002 and 2003
- Implementation of housing programmes started at the end of 2005 and in very limited number
- The government has pledged to complete the processing of pending applications for OTR in 2007
- Programmes differ in geographical scope, legal aspects and housing options
- One programme applies to urban areas and the other to war affected areas
- Complexity of housing care creates confusion among potential beneficiaries and authorities supposed to implement them
- The total number of beneficiaries of housing care programme in areas of special state concern does not specify how many of those are former occupancy right holders
- Both programmes propose status of protected tenant or purchase of apartments but conditions differ
- Inside the ASSC the government has adopted a Decree determining a symbolic price comparable to that in force in the 1990s
- Access to housing for former OTR holders would enable the return of the relatively skilled and educated urban population
- Housing care programmes do not represent a recognition of tenancy rights as property/possession rights but a measure to facilitate return

OSCE, 29 July 2005, p.3:
"Two housing schemes were adopted by the Croatian Parliament in 2000/2002 and by the Government in 2003 for former OTR holders inside and outside the areas directly affected by the war (*Areas of Special State Concern* / ASSC). The programmes differ in geographical scope, procedural and legal aspects, and in housing options available4.

Stability Pact, MARRI-DRC, 30 June 2005, p.21-22:
"According to the presented legal framework there are two models of housing. These models are not based on the recognition of legal essence of the problem of the loss of tenancy right, instead, they satisfy more or less imposed international commitment to enable the return of those

refugees who lived in so called socially owned apartments and for that purpose the housing accommodation must be provided. Also different rights of former OTR based on their pre-war residence lead to the inequality before the law.
The first model is regulated by 2002 Amendment to the Law on the Areas of Special State Concern and the accompanying Priority Criteria of the Housing Care regulate the first model
The second model is created by the 2003 GoC Conclusion with the accompanying Implementation Plan for Provision of the Housing Care.
Besides these two models**,** the specific situation refers to the tenancy rights holders on the territory that was under transitional administration of UN (so called UNTAES) that was peacefully returned under the control of the Croatian Government in January 1998. Former OTR holders on this territory have been living in a legal limbo since their acquired rights have not been cancelled, but they have not universally been granted the status of so called protected lessees as foreseen by law, as it happened to former OTR holders from other parts of Croatia who eventually did not manage to privatise their former socially owned apartments. There is another, still unsolved problem and it refers to the tenants who held OTRs over private/nationalised apartments before the tenancy rights were cancelled. (…)
Obviously, such a controversial legal framework and different position of the eligible applicants, depending in which part of Crotia they reside or resided before the war, makes the confusion not only among potential beneficiaries but also among those who are going to implement such as confused regulation."

OSCE, 19 July 2007, p. 6:
"In war-affected regions inside the ASSC, the Government has identified sufficient available housing stock. However, the repair and upgrading of substandard housing is required, and former OTR holders must be given priority over other categories of applicants for State housing if the Government's goal of providing 1,000 housing units per year until 2009 is to be met. As of June, 329 families in the war-affected areas have received housing. The Government has recently taken steps to more speedily clarify State ownership of some 14,000 formerly socially owned apartments inside the ASSC, so that the availability of housing stock can be determined. In terms of the purchase conditions for apartments allocated as housing care to former OTR holders in war affected areas, the Government, following a Mission recommendation, has adopted a Decree determining a symbolic price comparable to that in force in the 1990s."

OSCE, 29 July 2005, p.3, note 4:
"Applicants for both programmes can be provided, if eligible, with housing in the form of lease of State owned apartments under favourable conditions (the average monthly rent amounts to around € 0,20 per square meter.) Nevertheless the purchase option differs within the ASSC where it is regulated by the 2003 Decree on conditions for the purchase of a State owned family house or apartment in the Areas of Special State Concern, NN (48/03) and outside the ASSC where one of the requirements for the purchase of subsidized apartments is the Croatian citizenship. This would potentially exclude a portion of the refugee population from applying for the purchase option since in many cases it might take several years for them to acquire the Croatian citizenship. In addition, outside the ASSC the purchase price of State owned apartments is around 60 percent of the market price. Therefore the subsidized price still amounts to more than € 900 in cities like Zagreb, which is not affordable for most of the minority returnee households."

ECRE, October 2007, p. 28:
Under the pressure of the international community and national NGOs, the government agreed to resolve the situation of former OTR holders, through the adoption in August 30, 2006 of the Program of Housing Care for former occupancy/tenancy rights holders.

That program consists of two categories of provisions corresponding to two types of geographic areas where OTR terminations took place: Areas of Special State Concern (ASSC) and non

ASSC regions. Its stated aim is to provide a solution to former tenancy rights holders who wish to return to Croatia and have no access to other accommodation. Since it is not possible to reinstitute former apartments, as these have been privatized, the program provides for the allocation of state owned apartments to returnees in the same place where they formally lived.

Criticisms have been advanced that the Program is discriminatory towards returnees in that it imposes many conditions that were not asked from OTR holders who bought their apartments during the process of privatization from 1991 to 1996. Here are just some examples:

• There is a requirement that returnees provide a written statement confirming their intention to remain and settle in Croatia after getting housing under the Program of Housing Care. This requirement did not apply during the privatization process.
• For those outside the Areas of Special State Concern, there is the possibility to buy the apartment that the state initially makes available as rental property, but at a price that is much higher than the price paid by former OTR holders that bought their apartments during the privatization process.
• It is prohibited to sell any apartment provided under the Program of Housing Care for a period of 10 years. Such a requirement did not apply in the case of OTR holders purchasing their apartments during the privatization process.
• The size of the apartments to be made available under the Program of Housing Care is determined by provisions of the Law on Reconstruction stipulating 35 m2 per former OTR holder + 10 m2 for each additional household member. That would mean that a single former OTR holder of a 150 m2 apartment would now only be able to get an apartment that is 35 m2.

Despite the concerns outlined above, the Program of Housing Care would resolve the housing problems of some returnees. Yet, the slow pace characterizing its implementation means that the resolution of many returnees' situation might be far from imminent. Up to now, the MSTTD has collected over 4,000 requests for housing accommodation from former OTR holders, and have issued just 396 positive decisions. None of the families affected by these decisions have actually entered their apartments or houses.

OSCE, 19 July 2007, p. 6:
In the course of the past twelve months the Government has committed itself to improving implementation of both the 2002 and 2003 housing care programmes for former OTR holders, targeting war affected areas inside the 'Area of Special State Concern' (ASSC) and the main urban centres outside the ASSC, respectively. Implementation plans were drafted, setting timeframes for processing the approximately 8,500 applications which remain unresolved in both programmes.

The Government has pledged to complete the processing of pending applications for OTR housing care by the end of 2007**.** However, this remains dependent on a number of unpredictable variables such as: obtaining documentation for 1,600 incomplete files from former OTR holders in Serbia; uniformity of practice and improved performance of regional offices of the Ministry of Maritime Affairs, Tourism, Transport and Development (MMATTD) particularly in the war-affected areas; and establishment of an appropriate appeals procedure. Conditions for the purchase of flats within both programmes and the guarantee that family members may be allocated the same housing after the main protected lessee is deceased remain unresolved but the Government has indicated it is prepared to find a solution in the post-election period.

OSCE, March 2007, p. 16:
The Government of the Republic of Croatia has adopted two housing schemes for former occupancy/tenancy rights holders who have filed claims for return. The first scheme is governed by the Law on Areas of Special State Concern of 2000/2002 and it covers the former war-affected areas, while the other one is regulated by Government Conclusions of 2003 and 2006 and it

covers the areas outside the former war-affected areas, that is, outside the areas of special state concern (ASSC). Despite the fact that a considerable amount of time has elapsed since the adoption of both schemes, before October 2006, only a few cases of provision of housing care to refugee and IDP Serbs, former occupancy/tenancy right holders, whose rights were terminated by virtue of a court decision or by the force of Law, were registered. According to the data of the MMATTD of September 2006, a total of 8,921 applications for housing care by former occupancy/tenancy right holders are still unresolved, and that requires the securing of not more than 7,000 housing units. According to the MMATTD, 2,953 families of former occupancy/tenancy right holders have been provided with housing care in the ASSC, mostly in reconstructed flats in the territory of the town of Vukovar, while another 1,428 applications are still pending of users who are already temporarily residing in flats, and 3,068 applications of users for whom the housing facilities for accommodation are to be secured. By analyzing data gathered by the RLAP network it can be concluded that housing care for former occupancy/tenancy right holders in the ASSC, with the exception of the town of Vukovar, is still at its initial stage. Thus, for instance, in the areas of the Karlovac and Sisak-Moslavina counties, the cases of providing housing care to just one person in Hrvatska Kostajnica and one in Glina were recorded; to five persons in Vojnic; and to two persons in Petrinja. From the available statistics it is not possible to precisely determine the number of persons provided with housing care, who resided outside the Republic of Croatia at the time of filing the application

OSCE, 21 November 2004, p.4:
"Access to housing for former OTR holders would enable the return of the relatively skilled and educated urban population and would thus contribute to a more dynamic Serb community in Croatia."

See map on Areas od Special State Concern (ASSC)

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

OSCE 18 December 2003, p.2:
"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 8 July 2003:
"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."

HRW 13 May 2004, pp.8-9:
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.[…]"

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

"Broken Promises: Impediments to Refugee Return to Croatia, Vol. 15, No. 6(D)", HRW, September 2003 [see sources below].

Reconstruction

Croatian Serbs represent the majority of reconstruction beneficiaries since 2003 but are still faced with difficulties (2009)

- After reconstruction for Croats was almost completed in 2003, Croatian Serbs became the main beneficiaries of reconstruction
- In the last three years the government reconstructed 1,489 housing units compared to 9,510 in 2005 only, bringing the total number to142,649 out of almost 200,000 destroyed houses
- 2/3 of the overall number of reconstructed houses (142,649) belong to ethnic Croats
- As of May 2009, there were more than 1,840 pending implementation and at least 7,000 appeals against negative decisions
- The deadline for the resolution of the pending cases set for the end of 2009 will probably not be respected due to numerous delays
- Decision making process often exceeds reasonable time, since many proceedings last for several years
- In April 2008 The Ministry of Regional Development, Forestry and Water Management issued Instructions to accelerate the process but the Center for Peace sutdy reveals that no significant progress has been made.
- Discriminations on the basis of ethnicity in the process of damage assesment are reported

Reconstruction of damaged houses, comparison from 2006 to 2009. In three years, the government reconstructed 1,489 housing units.

	Application solved/ houses-rebuilt
May 2009 (Directorate for Reconstruction)	142,649
July 2008 (OSCE, Sept 2008)	142,208
December 2007 (OSCE, March 2008)	142,480
December 2006 (ECRE, October 2007)	142,144
2006 (OSCE and Regional Legal Assistance Programme, Sept 2008)	141,160
MMATTD, February 2006	138,523

IDMC compilation, August 2009

Reconstruction of Damaged and Destroyed Housing

Estimated overall number of damaged houses	**195,000**	
1. Applications solved/houses re-built (2/3 ethnic Croat)	**142,649**	
2. Pending applications: 2nd Instance	**9, 199***	**10, 052****
3. Decisions taken, pending implementation	**2, 566***	**1,840****

** data as of May 29, 2009*

*** data as of March 2009*

SOURCE: Directorate for Reconstruction

According to UNHCR on the 9,199 pending application , the Ministry estimates that some 2,000 are not linked to reconstruction.

UNHCR, email communication, August 2009.
"A deadline for recontrstruction was set for end 2009. [...]"

"The biggest issue relates to the number of appeal cases, pending second instance decisions."

USDOS, February 2009:
"[...] reconstruction of Serb houses continued. As of september authorities had finished repairing damage to 300 out of 400 properties that were eligible for repair under the government protocol for looted propoerties. "

Centre for Peace, January 2009:
"Monitoring of cases in processes of exercising rights on reconstruction registered inconsistent enforcement of the LAP and the Law on Reconstruction („Official Gazette“ no. 24/96, 54/96, 87/96, 57/00) – observing legally determined deadlines for passing decisions (a single case has not been registered where first instance authority competent for acting upon reconstruction requests concluded within 30 days, while the delays in the 2nd instance range from 2 months up to 4 years);
administrative proceedings are carried out without the hearing the parties; irregular and incomplete reestablishing of the facts which are relevant for deciding upon requests; applicants are not informed of the reasons for which the decision has not been passed within legally prescribed deadlines and similar. Despite numerous rush-notes communicated to the Directorate for Reconstruction of family houses, to which the Directorate regularly responded assuring that the
problems will be resolved (even within prescribed deadlines), the proceedings were
not updated and 2nd instance decisions were not issued. With an aim to accelerate and finalize administrative proceedings in cases of reconstruction and provision of housing care inside ASSC, the Ministry of Regional Development, Forestry and Water Management issued Instructions - Acceleration of administrative-legal proceedings on establishing rights on reconstruction and

provisions of housing care on April 01, 2008. Despite the Instructions, project team did not register any significant improvements in decisions issued upon requests related to the access to right on reconstruction.

EU, November 2008, p.14:
"As regards reconstruction of housing, some 2,700 units were reconstructed in 2007/2008 and approximately 1,500 will be reconstructed in 2008/2009. This will leave an estimated 2,500 housing units still to be reconstructed depending on the outcome of appeals. There remain approximately 8,700 outstanding appeals against negative eligibility decisions, many of which have been pending for four years. Housing assistance has also been extended to applicants with rejected reconstruction claims.

OSCE, September 2008:
"Reconstruction of damaged properties has seen significant progress. 142,208 houses and apartments were reconstructed by July 2008. However, in addition to this number of unsolved cases there are 10,438 cases undergoing appeal out of which 643 cases pending first instance and 9,795 pending second instance. Poor implementation of the Law on General Administrative Procedure, poor quality of the first instance proceedings, and numerous mistakes in damage assessment procedures are causing excessive delays in proceedings - up to several years."

OSCE, March 2008, p.13:
"Out of 195,000 destroyed housing units, by the end of 2007 the State has reconstructed 142,480 houses (including reconstruction of 55,000 houses of higher category of war damage, cash grants for 40,500 owners of houses with lower category of war damage, 42,800 loans and 4,180 other models of assistance) arriving to below 400 pending applications to be processed in the first half of 2008. More significant caseload represent 13,635 appeals of reconstruction decisions out of which some 9,700 cases affecting the scope of reconstruction assistance, while the rest of appeals relate to administrative disputes (not resulting in reconstruction assistance) or to cases that would certainly be rejected due to ineligibility. The Ministry continues to bypass the strict eligibility criteria of the Law on Reconstruction by transferring a part of the appealed negative decisions for reconstruction to the more flexible housing care programme providing State assistance in form of the building materials. The Government signaled plans at the end of 2007 to resolve seventy percent of appeals in 2008, leaving thirty percent for processing in 2009.The completion of organized reconstruction and payment of reconstruction grants should follow the same timeframe."

ECRE, October 2007, p. 25:
"Until the end of 2006, 142,144 destroyed houses and apartments had been reconstructed. Ninety percent of the reconstruction costs were covered by the state budget (a total of 15 billion kuna /EURO 200 million) while 10% was covered by foreign donations. Up to 2002, the majority of reconstruction beneficiaries were ethnic Croats, but since then this has changed and almost 80 % of the houses rebuilt are owned by ethnic Serb returnees. At present, there are 1,700 reconstruction cases still outstanding out of which, 900 are from the pre-2004 caseload, while 800 have been submitted since the extension of the deadline for submitting reconstruction requests in 2004. In 2006, a total sum of 2,392 grants were given to individuals, whose properties were classified as having suffered a lower degree of damage, to reconstruct their houses on their own. The reconstruction of 2,900 houses and 250 apartments was completed last year. It is planned that during 2007, a total of 1,200 houses and about 900 apartments, out of which 411 already started in 2006, will be reconstructed.

The process of housing reconstruction is at an end. Some problems however still remain. The Croatian Helsinki Committee has recorded several cases of discrimination on the basis of ethnicity in the process of classification of the degree of damage of individual properties. Even though some houses were almost completely destroyed, they were classified under the fourth or

even third damage category because they belonged to ethnic Serbs. As a result, their owners were unable to access the level of state financial support necessary for the full reconstruction of their property. There have also been cases of discrimination in connection with the drawing up of priority lists for reconstruction in each municipality. This has involved the prioritization of reconstruction of houses mostly belonging to ethnic Croats living in the municipality regardless of whether they were first to return to the municipality or not.

Another problem has arisen with regard to the houses classified under the fourth damage category. By the time they got prioritized for reconstruction, they had suffered additional damage due to the delays or the weather conditions. This factor had not been taken into consideration when making the assessment of reconstruction costs. In such cases, returnees have had to cover from their own, often very limited resources, the additional expenses necessary for the full reconstruction of their houses."

"An additional concern relates to the poor quality of some reconstruction work. There have been cases of “reconstructed” houses that have proven unsuitable for human habitation. As some of the private firms contracted by MSDDT are owned by local or state politicians, it has been difficult to launch a complaint with the Ministry against them. There have been however, some cases of returnees who brought civil charges against the state, and in few instances, were successful in getting a decision in favour of the full reconstruction of their houses."

OSCE and Regional Legal assistance programme, September 2008, p.6:
"Ever since the reconstruction process started in Croatia, 141,160 destroyed or damaged houses and flats have been reconstructed. In the last couple of years, most reconstruction beneficiaries (some 80%) have been displaced citizens of Serb nationality. According to official figures, in September 2006 there remained 2,410 outstanding requests for reconstruction assistance. However, these figures do not include or reflect pending second instance cases, the number of which was 14,787 in 2006, including 800 repeated appeals.

Identified issues of concern mainly refer to shortcomings in implementation of the Law on General Administrative Procedure (principles of legality, efficiency, hearing the parties, cost-effectiveness, extending assistance to the lay party, observing deadlines for passing decisions, and the obligation to notify a party of the reasons for not passing a decision within a legal time limit), excessive lengths of proceedings - exceeding prescribed deadlines in bringing decisions, poor quality of the first instance proceedings, numerous mistakes in damage assessment procedures, evidence establishment procedure and assessment of validity of evidence, extending eligibility conditions beyond those stipulated by the Law on Reconstruction. The majority of the complaints received by the Ombudsman’s Office of RoC mostly relates also to the length of the procedures in various administrative fields. However, not only that the deadlines prescribed by law are not respected but the decision making process often exceeds reasonable time, since many proceedings last for several years.

Additional aggravating factor is the lack of the proper registry system within the state administration which results in the lack of precise records on the number of cases, specific problems, outcomes of the procedure, etc. Therefore an efficient monitoring system is also lacking. This makes the control or supervision of performance of the administrative apparatus, as it was foreseen by the law, almost impossible in practice."

OSCE, March 2007, p. 11:
"The RLAP network intensively and comprehensively monitored the disposal of pending cases by the first instance and the second instance authorities, when it comes to exercising the right to reconstruction assistance. The network noted numerous problems in the work of the competent administrative authorities, as well as shortcomings in the implementation of the principles and provisions of the Law on General Administrative Procedure in establishing the right to

reconstruction, particularly in observing the principles of legality, efficiency, hearing the parties, cost-effectiveness, extending assistance to the lay party, observing deadlines for passing decisions, and the obligation to notify a party of the reasons for not passing a decision within a legal time limit."

There are numerous cases of appeals lodged due to superficial or incorrect assessment of the degree of damage inflicted on housing facilities. Thus, for instance, in a number of analyzed cases it turned out that during investigation the competent County commission for the inventory and assessment of war damage misidentified damaged facilities and owners.

The Law on Reconstruction stipulates that only those applicants who resided in the facility – subject of the reconstruction request, until the beginning of armed conflicts in 1991, should be eligible for reconstruction assistance. Therefore, reconstruction requests had to contain, among other things, proof of the applicant's permanent residence address in a particular region until the outbreak of armed conflicts. The competent County Reconstruction Office is obliged to acquire this proof. By monitoring different cases, the network noticed that in a number of them the authority in charge of reconstruction requested that the applicant should acquire proof of residence on his own, which is in contravention of the relevant provision of the Law on Reconstruction, as well as of the principle of cost-effectiveness in administrative procedure.

There were also cases in which some County Reconstruction Offices requested, as a condition for exercising the right to reconstruction that the applicant and members of his family should submit a certificate on their refugee status in the state in which they currently reside.43 The competent offices explain these unlawful actions by the fact that when a refugee acquires foreign citizenship, e.g. of the Republic of Serbia, and is issued an identity card in the country of new citizenship, he/she is integrated in another state and has a new residence in it. The Law on Reconstruction envisages that the persons eligible for reconstruction are the owners or co-owners of the residential buildings destroyed or damaged in war, protected lessees in the flats in those buildings, and the owners of ther destroyed or damaged material goods, who are Croatian citizens, as well as the persons who had residence in the Republic of Croatia in 199144, regardless of their present residence or refugee status recognized to them in another state. Such conduct of the competent authorities could have an adverse effect on the return process in view of the fact that the person who has submitted a reconstruction request has at the same time expressed a wish and intent to return to and permanently settle in the country of origin."

EC, November 2007, p. 14:
"As regards reconstruction of housing, some 2,000 units were reconstructed leaving perhaps some 2,500 housing units still to be reconstructed. There remain over 10,000 outstanding appeals against negative eligibility decisions, many of which have been pending for four years. There has been almost no progress on the approximately 200 houses/flats that remain to be repossessed and handed over to their rightful owners. "

MMATTD, 9 February 2006, p.1-2:
"Reconstruction of housing: In the last few years (since 2002) majority of beneficiaries of reconstruction have been ethnic Serbs – cc. 70%. Most of them) submitted their claims during two extended deadlines for submission – in 2001 and between March and September 2004 (a total of 38,000 reconstruction claims). There remain 4,100 reconstruction claims to be solved. Among them 3,100 are claims submitted during the last extended period, and 1,000 are claims submitted earlier for which the ownership proceedings have not been concluded or the documentation is incomplete and can not be processed without the owner's cooperation. All of concluded reconstruction claims have already been included into reconstruction. In 2005 a total of 9,510 houses and apartments were reconstructed: 5,207 cash grants have been paid for houses of lower damages, 3,930 houses of higher degree of damages and 373 apartments.

For 2006 it is planned to finish organised reconstruction of 3,000 houses that started last summer, as well as to start a new program of reconstruction and payment of cash grants for remaining 4,000 to 5,000 houses. This should bring to an end the process of reconstruction of housing stock damaged and destroyed in the war.
A total of 138,523 destroyed and damaged houses and apartments have been reconstructed to date in Croatia at a cost of KN 15.2 billion (135,043 family houses and 3,480 apartments)."

Former holders of occupancy rights are not entitled to reconstruction (2004)

Former holders of occupancy rights who owned another property destroyed during the war are not entitled to reconstruction under the law since only the main residence could be reconstructed and this was usually the socially-owned flat.
HRW, 13 May 2004, p.10:
"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. (…) 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"

Access to reconstruction assistance is discriminatory against ethnic Serbs (2000-2007)

- Discriminatory damage assesment practices deny Serbs of reconstruction assistance
- 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

ECRE, October 2007, p. 25:
"The process of housing reconstruction is at an end. Some problems however still remain. The Croatian Helsinki Committee has recorded several cases of discrimination on the basis of ethnicity in the process of classification of the degree of damage of individual properties. Even though some houses were almost completely destroyed, they were classified under the fourth or even third damage category because they belonged to ethnic Serbs. As a result, their owners were unable to access the level of state financial support necessary for the full reconstruction of their property. There have also been cases of discrimination in connection with the drawing up of priority lists for reconstruction in each municipality. This has involved the prioritization of reconstruction of houses
mostly belonging to ethnic Croats living in the municipality regardless of whether they were first to return to the municipality or not."

"An additional concern relates to the poor quality of some reconstruction work. There have been cases of “reconstructed” houses that have proven unsuitable for human habitation. As some of the private firms contracted by MSDDT are owned by local or state politicians, it has been difficult to launch a complaint with the Ministry against them. There have been however, some cases of returnees who brought civil charges against the state, and in few instances, were successful in getting a decision in favour of the full reconstruction of their houses."

OSCE, March 2007, p. 11:
"The RLAP network intensively and comprehensively monitored the disposal of pending cases by the first instance and the second instance authorities, when it comes to exercising the right to reconstruction assistance. The network noted numerous problems in the work of the competent administrative authorities, as well as shortcomings in the implementation of the principles and provisions of the Law on General Administrative Procedure in establishing the right to reconstruction, particularly in observing the principles of legality, efficiency, hearing the parties, cost-effectiveness, extending assistance to the lay party, observing deadlines for passing decisions, and the obligation to notify a party of the reasons for not passing a decision within a legal time limit."

For example, "The Law on Reconstruction stipulates that only those applicants who resided in the facility – subject of the reconstruction request, until the beginning of armed conflicts in 1991, should be eligible for reconstruction assistance. Therefore, reconstruction requests had to contain, among other things, proof of the applicant’s permanent residence address in a particular region until the outbreak of armed conflicts. The competent County Reconstruction Office is obliged to acquire this proof. By monitoring different cases, the network noticed that in a number of them the authority in charge of reconstruction requested that the applicant should acquire proof of residence on his own, which is in contravention of the relevant provision of the Law on Reconstruction, as well as of the principle of cost-effectiveness in administrative procedure."

OSCE, 2001:
"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."

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 priorty 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)

PATTERNS OF RETURN AND RESETTLEMENT

General

Integration upon return varies according to ethnicity (2002-2005)

- Many returning refugees go through a phase of internal displacement before going back home
- Ethnic Croat returnees integrate much more easily than ethnic Serb
- While Croat displaced persons consider that the main obstacle to return is the bleak economic situation, ethnic Serb DPs face a wider array of obstacles
- To avoid employing Serbs, some employers bus migrant workers to fill low level jobs
- Comparison with former Croat displaced persons shows that they received more support for the
- reconstruction of their homes than minority returnees

Journal of Refugee Studies, September 2005, pp.373, 374-375:
"Most of the Serbian participants interviewed had moved from Croatia to Bosnia, then to Western or Eastern Slavonia before returning home. The experience of the Croatian participants was more varied and included settlers who had arrived from Bosnia. In almost all cases, those who identified as returnees had participated in some form of convoy and group exit during the war. The living conditions that greeted migrants upon their return were markedly different from one ethnic group to another, and from one set of migrants to another. For example, one Serbian couple, Rado and Mile, had been living in a one-room wooden cabin in a collective centre outside Sisak. The cabin was dark and the only decor to be seen consisted of plastic soft drink bottles that had been filled with earth and turned into hanging planters. By contrast, most of the ethnic Croat participants interviewed had been able to return to permanent housing, often at the invitation of the Croatian government.

Some participants returned to formerly occupied but otherwise functional accommodation; others waited in collective centres while damaged housing was reconstructed; former tenancy rights holders lived in collective centres without a clear plan for the future. The most fortunate were the Bosnian Croats, who at the very least were housed in semi-permanent structures complete with heating and double glazing which the OSCE mockingly described as like 'Club Med'.

They and their neighbours owned cars and thus were able to move more freely. Others were even more fortunate and had received a formal invitation to settle. In Josip's case, the state authorities had offered him the possibility of securing temporary property which he immediately followed up by requesting a temporary permit for housing from the municipal authority. (…)

In general, ethnic Croat returnees and settlers quickly found social acceptance and opportunities for integration in post-war Croatia while ethnic Serbs did not. The lack of opportunities for non-Croats was made evident in the following account by a senior Serbian local in Knin:

"After Operation Storm, the political structures told me I couldn't get a job because I am Serb. Nobody here was choosing to which nation I was to belong. Now if you are looking for a job, they

are still looking at what type of blood is flowing through your veins (D. C., interview 21 April 2004, Knin).
(…)
He claimed that since the war ended, there had been some obvious changes in policies towards minorities but suggested that covert discrimination was now the rule. Contrary to the Croatian constitution, he argued that:

"Patterns of discrimination are not as direct as after Operation Storm but are more 'hidden' . . . Still, there is obstruction that we feel in every aspect of life . . . property and unemployment, rights of national minorities (D. C., interview 21 April 2004, -(Knin)."

His colleague developed the picture painted with some examples of local employment policy in Knin, where migrant workers are bussed in to fill low level jobs. Her account sustained the common view that the use of migrant labour was closely linked to the settlement programme of the Tudjman and subsequent governments and that these policies only served to reinforce the divide between Serbs and Croats of working age.

"People are not employing Serbs. Here's one example, a lady got a job in hospital. She had 20 years of experience. But the very same day, the doctors signed a petition to say they wouldn't work with her. Another bad example . . . we have 16 teachers in secondary school. Perhaps 8 are from Knin . . . the rest are from other parts of Croatia. While we have others registered, there are 10 buses coming in on a daily basis with workers from outside the city (D. M., interview 21 April 2004, Knin)."

OSCE, 18 November 2002, p12:
"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."

The main purpose of the2001 UNHCR 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.
Puls, January 2001, p.24:
"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. 33:
"[A]s 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."

Opinions over the end of the return process diverge (2005)

- Some observers consider that the return process nears completion
- Return of ethnic Croats is virtually complete
- An OSCE survey indicates that ethnic Serbs refugees do not want to return
- New measures come late for refugees and displaced who after years of exile have often given up on return
- Abrogation of discriminatory laws has not remedied past violations which still obstruct return
- Intention of Serb refugees not to return is not the result a free choice and could be modified by positive measures

USDOS, 28 February 2005, p.11:
"Despite an ongoing government program to reconstruct thousands of homes damaged in the 1991-95 war, government officials, NGOs, and international observers assessed that the returns process was nearing its completion with significant changes in the ethnic composition of most communities. The return of ethnic Croats to their prewar domiciles was virtually complete. An OSCE survey indicated that the majority of Croatian Serb refugees did not want to return to their prewar domiciles. While ethnic tensions continued in the Danube region and parts of Dalmatia, the overall security situation was stable (see Section 5). The largest disincentive to returns was the poor state of the regional economy and the absence of a concrete solution that provides housing to former tenancy rights holders."

CHR, 4 May 2005, par.38:
"Despite the establishment of financial help and social protection for a period of 6 months upon their return, a great number of refugees remain reluctant to return due to difficulties related to access to housing. In addition, there are fears due to the changes in their place of origin, of discrimination or of being indicted of war crimes.(…) Here one cannot neglect the impact of the time – between 8 and 12 years – spent by the refugees and displaced persons without being able go back to their place of origin. During this period of time they created a life elsewhere, integrated in a new community and now found themselves faced with a dilemma: return to Croatia or continue with their "new life" abroad. However, these difficulties fade progressively as the decrease of the average age returnees proved it. With the aim of shifting away from this difficult period, it is up to the Croatian authorities to put in place, as soon as possible, a complete programme to resolve the housing issue thus permitting the return of those who wish to return."

Stability Pact, MARRI-DRC, 30 June 2005, p.4:
"To gain better understanding of the background of obstacles that refugees still face in exercising their rights, it is important to give an overview, not only of the actual legal framework but also of the laws that serve as a legal ground for various restrictions, in the period from 1990 to 2000.

This legislation contained a number of unconstitutional and discriminatory provisions that affected the position of Croatian pre-war residents belonging to the minorities, mainly of Serb ethnicity, who had fled from Croatia during the war. (…)

It may seem that presenting the regulations, which were revised, or which are no longer in force belongs to the "history". However, their consequences, to a great extent, determine refugee position at the present time. After 2000 Parliamentary elections, the new Government failed to make radical law revision, and to establish legal framework that would ensure the restitution of deprived rights and equality before the law for all Croatian citizens. Contrary to the endeavours and proposals of international organizations (OSCE in particular) and NGOs this did not happen. The "modest" law revision which was made, as well as other insufficient and inadequate

measures, in fact, reflected the government's attitude towards minority return – the Government has never genuinely tried to facilitate the return of Serbs. Being prevented to return and realize their property rights and all other rights within reasonable time after the armed conflict was over, and more than 8 years after they fled form their homes, their willingness to return had faltered. The majority were forced to find other solution.

To day, all relevant national and international politicians, without analyzing why more than 200.000 Croatian Serbs opted to stay in the country of exile or third countries, and could more be done for their return, state that the return process came to its end. It is hard to say that majority of them was in a position to make free choice. Someone's decision to stay or to return largely depends to the possibilities offered by the country of their origin or the country of their exile. But, they were forgotten by both. In fact, their exile lasted for to long, and this will, certainly, reduce the number of returnees.

However, it is too early to categorically state that very few refugees are willing to return under new, more favourable circumstances considering Government's commitment to meet all EU requirements regarding refugee and minority. The return will be significantly determined by the concrete measures the Government will pass, the timeframe in which those measures should be brought to the effect, and, to a great instant, by resolute response from international community and degree of tolerance towards the GoC when fail to respect their obligations. It will be also influenced by good or bad experiences of those who have already returned. But, what one has to take into consideration is that the legacy of the policy led during the last decade of the past century shall be a big burden for the government. Ten years of doing nothing and accumulating unresolved issues imposed considerable financial problem to the Croatian Government that could be considered justified limit to meet all requirements for sustainable return but could also be used as an excuse for doing less than possible."

Resolution of housing issue is a pre-condition to return but does not necessary lead to return (2004)

Centar za mir Vukovar, email 9 February 2006:
"The main obstacles to the return of Croatian Serb IDPs or their permanent integration in places of their current residence are those related to housing issues. This mainly refers to former occupancy tenancy rights (OTR) holders. Cancellation of OTRs continues to be an impediment to either return or permanent local integration in CDR. Although some IDPs in the Croatian Danube Region (CDR) obtained a kind of temporary housing decisions, implementation of housing programs for former OTR holders could be considered a complete failure so far.
It's difficult to estimate discrimination against ethnic Serb IDPs (former OTR holders) in accessing housing assistance in the Areas of Special State Concern as, for example, Regional ODPRs in Vukovar-Sirmium and Osijek-Baranja counties data are not disaggregated on categories of the housing assistance beneficiaries."

MRG, July 2005, p.1:
"An independent survey of December 2003 showed that up to 42 percent of Serb refugees in Serbia and Montenegro and Bosnia and Herzegovina might return if there were access to housing and improvements in the economy."

OSCE, 21 November 2004, p. 11:
"The Mission's spot checks indicate that ***physical repossession of property*** takes place in only around half of monitored cases. This is because many property repossession cases are not being resolved through the actual hand-over of the properties to the owners, but are being resolved

when the State purchases the occupied house, mainly as alternative housing for the occupant. According to the Government, this pertains to approximately 25 percent of the 2,071 cases resolved since January 2004. Alternatively contractual agreements have been reached between the occupants and the owners (such as lease contracts)."

The majority of returnees are elderly (2001-2004)

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

EC 26 March 2004, p.11:
"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."

ECRE January 2001, para. 3.2.6:
"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."

Return movements

Total registered returns of displaced persons: 242,684 (as of February 2006) 234,684 (as of April 2004))

- Registered IDP returns in 2005: 2.792 ethnic Croats and no ethnic Serb IDP compared to some 5,700 IDP return in 2003
- Over the years, the majority of IDP returnees have been ethnic Croats (approximately 65%)
- The total number of returnees registered between 1995 and February 2006 is over 338,200 of which approximately 35% are minority returns of ethnic Serbs (out of which some 23,800 are IDPs from the Danube region)
- Observers assess minority return as significantly lower

MSTTD, 9 February 2006, p.1:
Return of displaced persons and refugees
"A total of 338,618 returnees :
218,478 are displaced persons, mostly Croats (65%), and
120,140 are ethnic Serb returnees (35%) – 87,688 from SMN, 8,807 from B-H and 23,645 displaced persons who had resided in the Croatian Danube region (CDR).
In 2005 a total of 7,537 returnees to Croatia have been registered, among them 37% formerly displaced Croats (2.792) and 63% ethnic Serb returnees who had returned from SMN and B-H (4,745). Out of that, some 3,676 returnees are still on the state welfare.
• The exact number of refugees who want to return to Croatia is not available. Based on the return applications and housing requests submitted by refugees still residing abroad, the number

of potential returnees is estimated at approx. 20,000 – 25,000 persons. Refugees from SMN and B-H have submitted 11,868 individual applications for their return to Croatia. However there are 4,100 unsolved reconstruction claims submitted mostly by refugees from SMN an B-H, as well as 9,700 housing requests by ex-tenancy right holders among whom approx. 40% are residing abroad."

HRW, January 2006, p.1:
"Between three hundred thousand and 350,000 Croatian Serbs left their homes during the 1991-95 war, mostly for Serbia and Montenegro, and Bosnia and Herzegovina. As of September 2005, the government had registered 122,000 Serb returnees. Croatian Serb associations and the Organization for Security and Co-operation in Europe (OSCE) mission to Croatia assessed the actual number of returnees as significantly lower—between 60 and 65 percent of the registered figure—because many Croatian Serbs had left again for Serbia and Montenegro or Bosnia and Herzegovina after only a short stay in Croatia."

MMATTD, 5 April 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"

Overview of registered IDP returns between 1995 and February 2006

- 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

Ministry for Public Works, Reconstruction and Construction October 2003, p. 3:
"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):
82,3 57 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: **315,102B**"

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 [see sources below].

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)

OSCE 18 December 2003, p.3-4:
"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."

[Footnote 1] By 1998: 30.019; 1998: 24.922; 1999: 12.329; 2000: 10.576; 2001: 10.572; 2002: 9.640; by Nov. 2003: 8.826. Total: 106.884

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
Ministry of Reconstruction 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."

"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."

Return movements in 2001
European Commission 4 April 2002, p. 9:
"According to the latest UNHCR figures to date, 103,891 returns from abroad (FRY and BiH) have been registered (e.g. 17,483 in 2000 and 11,867 in 2001). Overall 223,469 internally displaced persons returned to their places of origin (e.g. 15,308 in 2000 and 11,196 in 2001)."

USCR 2002, p. 202:
"The pace of refugee and internally displaced returns slowed in 2001, compared to 2000. about 22,500 refugees and internally displaced persons returned to their places of origin in Croatia in 2001, compared to about 36,000 combined refugee and internally displaced returns in 2000. Croatian authorities estimated that 327,000 persons had returned to their homes since the 1995 Dayton peace agreement, of whom about 223,000 had been internally displaced and 104,000 had been refugees."

Return movements in 2000
MPWRC/Office for Displaced Persons, Returnees and Refugees 8 May 2001:
"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."

ECRE January 2001, paras. 3.2.3-3.2.4:
"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."

Policy

Implementation of the Sarajevo Declaration : Croatia makes progress, but the issue of occupancy-rights remains unresolved (2009)

- The 2006 deadline for the implementation of the Sarajevo Declaration on Regional Return of Refugees and Displaced Persons has not been respected
- In 2008 the government estimated that the process was completed since Croatia produced and implemented its national strategy
- Progress has been made on the issue of pension rights in 2008
- Compensation for former tenancy rights holders (ORH), mostly ethnic Serbs, remains unresolved.
- OSCE estimates that existing housing care models do not represent adequate mechanisms to resolve permanently the issue of former ORHs.

EU, November 2008, p. 16:
"Some progress has been made with regard to implementation of the Sarajevo Declaration,

which aimed to finalise the regional refugee return process by the end of 2006. By reopening the possibility for validating pension claims, one of the two main outstanding issues has been tackled by Croatia. Further efforts are needed to resolve the outstanding issues, in particular how to deal with compensation claims of those who lost occupancy and tenancy rights (OTRs) in Croatia."

Coalition for Promotion and Protection of Human Rights and Center for Peace, October 2008, p.2-3:
That initiative of the three OSCE Missions, the UNHCR offices, and European Commission delegations resulted in adoption of Sarajevo Ministerial Declaration on regional refugee return that has been signed by the Republic of Croatia, Bosnia and Herzegovina, and Serbia and Montenegro. Signatory states have agreed to develop national strategies that would be consolidated into the regional strategic framework for resolution of remained refugee issues by the end of 2006. The strategies should have created legal and political presumptions for
return or local integration of refugees depending on their individual decisions. Declaration foreseen deadline, however, was not respected, regional strategic framework was not created and the process initiated by signing of the Declaration was blocked. Representatives of the Republic of Croatia have many times, during 2008, emphasized that the process, as to the Republic of Croatia, is completed since Croatia produced and implemented national strategy. Nevertheless, the key opened issue within the “Sarajevo process” refers to the recognition of the right to possible financial or another kind of compensation for exiled and displaced former tenancy rights holders from the Republic of Croatia, mostly ethnic Serbs.

For more information on national Road Maps see "Sarajevo Declaration: regional agreement on refugee return can positively impact return of displaced persons (2005)"
OSCE, September 2008:
"The main elements of the [Croatian] Road Map relate to: housing, access to rights, infrastructure and economic factors, local integration, exchange of data and deadlines. The process is at the standstill and the deadline stipulated in the Declaration has not been met. Hardships experienced in meeting the imposed deadlines mainly relate to reaching a consensus regarding solutions for the two most intricate outstanding issues and changes in the Governments resulting in the absence during protracted periods of persons being in charge of the process and vested with the decision making powers. Two outstanding issues need to be solved within the Croatia’s Road Map - extension of deadlines for convalidation of working years registered in the areas that were ontrolled or administered by UN, and identification of comprehensive solution for terminated occupancy/tenancy rights. In May 2008, a new Rulebook on procedure for convalidation of the decisions and particular acts have come into effect opening a possibility for submission of applications for convalidation of working years."

"The agreement on comprehensive solution for terminated OTRs has not been reached yet, leaving this issue outstanding within the Sarajevo Declaration process."

OSCE, April 2008:
"The issue of potential financial or other compensation for refugees and displaced tenancy right holders remained one of the open questions within the implementation of the process initiated by the Sarajevo Ministerial Declaration on Regional Return of Refugees and Displaced Persons signed by the Republic of Croatia, B&H, and Serbia and Montenegro on January 31, 2005.

Existing housing care models obviously do not represent adequate mechanisms which would enable that the issue of former tenancy right holders is resolved permanently and within reasonable time frame, pursuant to principles of the Sarajevo Ministerial Declaration on Regional Return of Refugees and Displaced Persons."

OSCE, March 2008:
"The Mission continued to support efforts to successfully complete the Sarajevo Declaration Process (hereafter: the Process), [...]

Regarding the comprehensive solution for former OTR holders, the Government demonstrated its good will to identify a feasible solution and reiterated its readiness to address the issue bilaterally, outside the Process. While several possible concepts were contemplated to assist integration of former OTR holders in their current place of residence, such as regional donor conference, or a financial contribution of a humanitarian character, none of them was accepted by Serbian representatives. In view of that, the participants of the Process' Task Force meeting in late 2007 concluded that no further progress on this and related issues was possible at the working level, and suggested the negotiations to be referred to a higher political level. As of the end of 2007, the call for a ministerial meeting had not been successful, owing also to momentous political events in the respective countries. On the technical side, the countries' activity plans – the Road Maps – were yet to be finalized at the end of 2007. The updates should specify concrete mechanisms to fully
resolve the issues highlighted during the Process as addressing the needs of regional return – notably the housing care programmes for former OTR holders, the issue of unsolicited investments into occupied properties and repossession of occupied agricultural land."

OSCE, News in Brief, 22 November 2005, p.1-2:
"The fourth meeting of the Task Force of the Sarajevo Declaration, regrouping representatives of Croatia, Bosnia and Herzegovina (BiH) and Serbia and Montenegro and the international community took place in Budva, Montenegro on 17 November. The Government representatives managed to identify all the open issues in the respective Road Maps and came to the following conclusion: the BiH Road Map can be considered as final, since there were no additional comments on the document; in the Serbian Road Map two rather technical benchmarks were identified as still problematic while most of the open unresolved issues were identified in the Croatian Road Map. These unresolved issues relate in particular to the following benchmarks which had been suggested to be included by the Serbian Government and international community partners: compensation for lost occupancy tenancy rights (OTR) ; convalidation for working years spent in Serb-controlled areas during the war; amendments to the Law on Reconstruction; equal representation of minority returnees in public administration; extension of the deadline for regularization of status (article 115 of the Law on Foreigners); remedies for unsolicited claims for investments; repossession of agricultural land and business premises; inter-state exchange of data on war crime proceedings.

Apart from the firm statement by the representative of the Croatian delegation in the Task Force that the compensation for lost OTR would not be included into the Road Map, there was no in-depth discussion on the open issues and reasons for their non inclusion into the Road Map by the Croatian Government. Therefore the conclusion of the meeting was that all open issues should be dealt with in a ministerial consultative meeting in Sarajevo, which should take place before the official ministerial meeting where the Road Maps would be signed. The jointly agreed international community position is that in order to achieve the political resolution of all refugee returns issues, the Road Maps need to be as comprehensive as possible. For all the open issues that the governments have chosen not to include into the respective Road Maps or the Operational Matrix, a clear reference in the respective Road Maps should set the mechanisms by which those issues would be resolved."

Sarajevo Declaration: regional agreement on refugee return can positively impact return of displaced persons (2005)

- During 31 January 2005 Sarajevo Ministerial Conference, Bosnia and Herzegovina, Croatia and Serbia and Montenegro committed themselves to resolving the remaining displacement situation by the end of 2006
- According to the joint Declaration resulting from the conference, each country has to produce a road map to reach this objective

CHR, 29 December 2005, par.31:
"**Importance of comprehensive, overarching regional arrangements**. It is rare that a situation of internal displacement is limited in its effects and implications to a single country. By contrast, it is much more common for a situation of internal displacement to have numerous bilateral and regional dimensions. A situation of internal displacement is a function of both refugee and IDP movements in flux across a number of States, and a solution seeking simply to address a single issue such as the IDP situation in one State risks neglecting broader issues in the regional context that are necessary for comprehensive resolution of the situation. With respect to Croatia, the 2004 Agreement on Succession Issues only recently entered into force, some 10 years after the conclusion of armed conflict on its territory, and the 2005 Sarajevo Declaration remains to be implemented. Inter-State agreements regulating return of refugees, which have a direct impact on the resolution of situations of internal displacement, are of vital importance to resolution of the underlying displacement issues. In the Croatian context, such agreements have been slow in coming and durable solutions of displacement issues have been accordingly delayed."

EU, 9 November 2005, p.29:
"There has been relatively good progress in terms of regional cooperation on the refugee issue. A regional ministerial conference on refugee return was held in Sarajevo on 31 January 2005. At that conference, the relevant ministers from Bosnia and Herzegovina, Croatia and Serbia and Montenegro adopted a joint Declaration which now forms the policy basis for dealing with refugee issues at regional level. In so doing, the three countries committed themselves to resolving the remaining population displacement by the end of 2006; to facilitating the return or local integration of refugees, depending on the latter's decision, without any discrimination; to granting refugees the same rights and and the same responsibilities as all other citizens; to providing assistance and support to refugees in cooperation with UNHCR, the EU and OSCE; and to ensuring access to all rights and entitlements, including the right to accommodation, in a fair and transparent manner. According to the Sarajevo Declaration, each country should produce a 'roadmap' for the implementation of the above mentioned goals. These roadmaps would then be unified in a joint implementation matrix. A task force working group has been set up to assist this process and while a certain degree of progress on technical issues has been made, deadlines are slipping and road maps are being finalised with a certain delay. If further delays occur, the deadline set of end 2006 for resolving the refugee issue will become increasingly unrealistic. The Sarajevo initiative is a positive development and an important political opportunity for Croatia: for the first time ever, it is proposed to address not only refugee return but also local integration in Bosnia and Herzegovina and Serbia and Montenegro, such that the refugee file can be closed once and for all."

Improvement of political climate towards return although resistance remain within the population (2005)

- Government of Croatia display positive attitude towards minorities

- However, proclaimed policies still have not produced convincing results
- Obstacles to return are numerous and civil society is weak
- Study shows strong anti-Serb feelings within the population
- Need for the Government to promote confidence and reconciliation building measures at local level

Stability-Pact, MARRI-DRC, 30 June 2005, p.38:
"It could be concluded that the situation is much better when compared with the previous period, especially normatively and institutionally, but also in overall social and political climate. The incumbent authorities, particularly the Government of the Republic of Croatia, display positive attitude towards minorities, sending encouraging messages. Although the previous government greatly contributed to the democratisation of the society after 2000 elections, it failed to send such a clear signal of the profound breakthrough in their minority policy.

In order to improve minority's rights, in December 2003, the new Government signed an agreement with the representative of Serb minority and, at the end of 2004, the Agreement between the RoC and S&MN on National Minorities has been signed. In Danube region, some important provisions of the Erdut agreement and the Government's Letter of Intent have been implemented. Obviously, the efforts in recognition of the rights of Serb minority are developing in the right direction. However, the proclaimed policies still have not produced convincing results in many areas important for the position of Serb minority. Therefore, the State still needs to make additional efforts to integrate the Serb community into Croatian society at all levels. Also Serb community shall act in same direction."

OSCE, 21 November 2004, p.3:
"The local political climate is becoming more favourable to refugee return but problems with ethnic incidents remain in some heavily war-affected areas. Property repossession has progressed well in some areas, but remains slow moving in parts of Dalmatia and Southern Croatia. A persistently difficult economic situation also hinders reconciliation efforts. Civil society organisations are weak and under-financed. Minorities have gained a forum at the local level through the creation of Councils of National Minorities, but in many cases these remain weak."

ECRI. 14 June 2005, par.86, 88-91:
"86. ECRI is pleased to learn that the government has recently made numerous symbolic gestures aimed at fostering mutual understanding between the different ethnic communities, for instance by portraying national minorities as an "asset" to the country. The government has also repeatedly expressed its disapproval of racist or intolerant acts and statements in a manner that should have a positive impact on public opinion. (…)

88. In its, second report, ECRI recommended that the Croatian authorities give high priority to the issue of reconciliation and confidence-building between ethnic communities in the wake of the conflict, especially in the areas directly affected by the war.

89. A study carried out in 2004 indicates that further progress is needed to improve the climate between ethnic communities in Croatia, especially as regards the return of refugees and displaced persons. According to the study's findings, only 14% of ethnic Serb refugees have expressed their intention of returning to Croatia, though 42% said they might consider returning to Croatia if their homes were properly refurbished. 63% of the ethnic Croats who answered the questionnaire said that they did no believe the return of ethnic Serbs was a good thing for Croatia. Lastlym the study concludes that both ethnic Serbs and ethnic Croats exhibited a high percentage of social distance in relation to ethnic groups other than their own.

90. Interethnic incidents still occur, albeit infrequently, targeting both ethnic Serbs in places where ethnic Croats are in the majority and ethnic Croats in areas where ethnic Serbs are in the majority. Representatives of the Serb community have indicated that neither tolerance nor understanding could as yet be said to exist between the different ethnic communities. A form of parallel co-existence appears to be developing in the war affected areas. Human rights NGOs describe interethnic relations in Croatia in terms of indifference or even a degree of hostility, though it is widely acknowledged that the climate has improved since the ed of the armed conflict.

91. Despite the government's symbolic gestures in favour of the Serb community, ECRI notes that little action has so far been taken to foster communication and mutual understanding between the majority Croatian population and members of the Serb community."

UN CHR, 29 December 2005, par. 34 and 44-45:
"While a degree of local administration is appropriate and indeed necessary, care must be taken to preserve the rights of IDPs from arbitrary and at times capricious actions on the part of local administrators. The housing commissions operating at local and regional levels, which were abolished in the reform of 2002, illustrated a number of these difficulties. Local and regional administrators often wield a disproportionately large degree of practical power in such situations which, when coupled with significant discretion contained in legislation and administrative mechanisms, permits readily administrative action to reflect bias on the part of the administrator or that of wider sections of the local population. It is also essential that central authorities have the capacities, including necessary legal powers, to enforce full and proper application of the relevant law by local and regional authorities. (…)

44. The Representative was concerned to hear that in a number of regional and local areas the respective authorities had fallen short of the political lead set by the central Government. The Representative was concerned that signals of exclusion and resistance to moving forward exhibited by local politicians and certain media are likely to create uncertainty amongst members of both majority and minority ethnic groups as to the current situation in the country and the degree to which the course of reintegration and forward development was in fact guaranteed.

45. Such divisions on ethnic bases were also shown at regional and local levels by oft-heard complaints that participation of ethnic minorities in local administrations, even when specifically provided for by law, was either non-existent or existed at insufficient levels. Such attitudes on the part of the State at this level also found reflection in behaviours of private individuals, with landlords, employers and others exhibiting hostile and dissuasive attitudes towards members of ethnic minorities seeking to live and work in certain areas. In some cases in recent years, physical attacks on members of ethnic minorities had been the most aggressive manifestations of such attitudes. Taken together, these manifestations have a particularly corrosive effect on communities at the local level and entrench mistrust and mutual apprehension. The Representative emphasizes that resolution of such latent issues at the local level and in the general population are indispensable to durable, sustainable resolution of issues of internal displacement. While (re-)creation of the physical and property infrastructure to accommodate returnees is a necessary first step, that is not of itself sufficient. On the contrary, measures to build social confidence, particularly through appropriate representation of minorities in local mechanisms of Government and effective enforcement of non-discrimination laws, are essential to lock in progress achieved and to build a durable basis for a common future."

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

- Members of Serb party express reservations regarding implementation of the Cooperation agreement with the Croatian Government
- 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

OSCE, 21 November 2004, p.3:
"In September and October, Members of Parliament from the Independent Democratic Serb Party (SDSS) expressed reservations about the implementation of the *Cooperation Agreement* signed with the Croatian Democratic Union (HDZ) in December 2003. After SDSS leaders publicly criticized the Government's policy, mainly regarding refugee return and minority representation in the State administration, the judiciary and the police, Prime Minister Sanader held a series of meetings with representatives of the SDSS and Bosniak minority. Subsequently, both the Serb and Bosniak delegations stated their overall satisfaction with discussions and the Serb delegation expressed the view that the *Cooperation Agreement* was leading toward positive results."

USDOS, 28 February 2005, Section 3:
"In 2003, the SDSS signed an agreement with the Government in exchange for a commitment from the 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. This commitment was generally carried out by local and regional elected representative bodies; however, the Government's commitment to ensure proportional representation in the police, judiciary and public services was not systematically addressed. "

Obstacles to return and resettlement

According to estimates sustainability of Serb return ranges between 40 to 60 per cent (2009)

HRW, January 2009:
"According to United Nations High Commissioner for Refugees, around 125,000 ethnic Serbs who fled the 1991-1995 conflict are registered as having returned to Croatia, of whom around 55,000 remain permanently."

Centre for Peace, October 2008, p. 2:
"Official number of registered returnees, however, does not reflect realistic number of sustainable returns in the Republic of Croatia. OSCE Mission to Croatia estimated, in 2006, that only 60-65% of minority returns can be considered sustainable and that certain number of refugees after returning to and staying in Croatia for a short period, returns to the country of their exile mostly for persistent difficulties in the approach to the housing, acquired rights and employment. An independent 2007 UNHCR ordered study assessment point at even more

defeating results of the sustainability of minority return (...) It is impossible to determine precise number of remained potential minority returnees to the Republic of Croatia."

Council of Europe, Committee on Migration, Refugees and Population, June 2008, p.12:
"Actual returns have been low tough: about one third of Croatian Serb IDPs and refugees have returned but only half of these returns have been sustainable."

Amnesty International Report 2008, Croatia, May 2008:
"At least 300,000 Croatian Serbs left Croatia during the 1991-1995 war, of whom only approximately 130,000 were oficially recorded as having returned, a figure widely considered to be an overestimation of the real numbers of those who had returned. A survey commissioned by UNHCR, the UN refugee agency, and published in May estimated that less than half of registered returnees live in Croatia"

UNHCR, 2007, p.29:
"Recent studies of returnee trends have shown inaccuracies in the official numbers of returnees, whether those given by 'homeland' governments or international organisations. We do not imply here that there is a deliberate inflating of figures, simply that there is a problem with a certain number of registered returnees who stay in their places of return for a short period of time or only sporadically, rather than permanently. The official registration of a returnee does not actually have to indicate an intention to stay."

"According to our findings, between 35% and a maximum of 41% of registered returnees reside permanently at their registered addresses, and an additional 3.5% moved to other locations within Croatia. At the same time, Between 44% and 50% of registered returnees do not permanently reside in Croatia. If we translate our findings to the whole population of 120,000 registered Serb (minority) returns, We arrive at a realistic estimate of 46,000 and 54,000 registered returnees living permanently in the country, of whom 42,000 to 49,000 reside in their places of origin. To this figure, a certain number of unregistered returnees who have stayed permanently (perhaps a few thousands) should be added. Some missing data in our sample may suggest that a small proportion, particularly among younger family members, is not registered, not to mention those who, for particular reasons, may have avoided registration upon return. When we deduct some 14,500 deceased returnees, there remain 51,500 to 59,500 registered returnees who continue to reside permanently outside Croatia, mostly in Serbia."

OSCE, March 2007, p.5:
"Estimates, however, show that only 60-65% minority returns can be considered sustainable and that some refugees return again to the country of refuge after returning to Croatia and staying in it for a short while, manly due to the constant difficulties they face regarding access to housing, acquired rights and employment."

Sustainability of return is endangered by the socio-demographic structure of permanent returnees (2009)

UNHCR, 2007, p. 96-97:
"The average age of all interviewed family members, who represent the total returnee population, is around 51. This is considerably higher than the average age in Croatia which is 39, which is an indicator of the negative age selection of the returnee population. Every fourth returnee is

between 65 and 74 years of age, with an additional 12% being 75 or above, which means that more than one third (37%) of the returnee population is above 65 while 43% is older than 60.

On the other hand, it was found that children under 15 made up only 10%, and pre-school children constituted only 3.5% of the returnee population. All in all, children and young people under 19 years of age make up 12% of the returnee population, which is half of what they constitute in the entire population of the Republic of Croatia (CBS 2006).

Such a ratio between returnees under 19 years of age and those above 60 gives a very unfavourable returnee population aging index of 358 which puts into question its biological sustainability, particularly in the light of the fact that the vast majority of returnees live in small and isolated settlements (under 500 inhabitants), which are already demographically endangered. It can be concluded that, as far as sustainability of return is concerned, the age structure of returnees (who have returned permanently) is unfavourable, although this could have been more or less
predicted.

In short, it has been shown that (permanent) returnees (just like migrants in general) are exceptionally negatively selected with respect to age, education, qualification, family situation and some other vital features. This has a negative impact on the biological and
social sustainability of returnee communities.
UNHCR study includes returned refugees and returned IDPs.

Government of Croatia reopened application for pension rights (2009)

For more information see Issues of Self-Reliance and Public Participation, Self-Reliance, Government of Croatia reopened application for pension rights (2009)

Minority returnees are more affected by unemployment (2009)

For more information see section on Issues of Self-Reliance and Public Participation, Self-Reliance, Minority returnees are more affected by unemployment (2009)

War crime trials illustrate biais of the judiciary (2009)

For more information on this subject see section Physical Security and Freedom of movement, General, War crime trials illustrate biais of the judiciary (2009) and Incidents of violence against minorities decreased, but cases are still reported in the Dalmatian hinterland (2009)

In practice, only limited progress has been achieved in the return process: overview of obstacles to IDP and refugee return (2003-2007)

- Housing problems, lack of jobs, access to documentation and discrimination constitutes major obstacles for sustainability of return
- Failure to bring to justice people suspected of war crimes create a sense of insecurity for potential returnees

- Presence of mines also hinder sustainability of return by preventing agricultural activities
- Simplification of complex administrative rule would facilitate access to rights for displaced personsThe 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

IHT, 22 December 2005:
Interview of Walter Kälin; Representative of the Secretary General on the Human Rights of IDPs:
"People from different ethnic groups still discriminate against each other. Throughout the Balkans, returnees can still expect prolonged and unjustifiable delays in having their houses connected to water and electricity. They are discriminated against when applying for jobs and are denied access to pension funds and the state health system. Too little is done so that returnees' children can go to a school in their own language. In many places the police are perceived as biased. National and religious symbols are not used to create unity but to feed divisions and insecurity among minorities. And the overburdened and cumbersome judiciary systems are not able to enforce a strong rule of law. The failure, moreover, to bring to justice thousands of people suspected of war crimes, in particular Ratko Mladic and Radovan Karadzic, who helped orchestrate ethnically motivated mass expulsions, continues to cast a pall over the progress made and has done nothing to reduce fears and insecurity. (…) Several steps are needed urgently in the Balkans. First, there must be an immediate, concerted effort to find solutions for the most vulnerable people still in collective shelters - particularly the Roma in Northern Mitrovica. Second, help must be extended to those who prefer to integrate locally, so that they have access to jobs and public services. Third, efforts must be made to better inform displaced persons and minorities about their rights, to simplify administrative rules so they can claim their entitlements, and to halt discriminatory practices against them. Fourth, donor governments and the World Bank should be encouraged to invest in rebuilding schools, health facilities, housing and other infrastructure, so that displaced persons and returnees begin to lead normal lives. Finally, all crimes and acts of violence against the displaced and those returning must be investigated and prosecuted. Only then will the promise of Dayton be fully realized."

EU, 9 November 2005, p.27:
"The main issues refugees face upon return relate to housing, a lack of public infrastructure in the return villages, especially electricity; difficulties in terms of economic reintegration and employment, and an often negative atmosphere within some receiving communities. The potential for harassment based on unfounded "war crimes" allegations, has been considerably reduced thanks to an initiative of the Croatian State Prosecutor to review and weed out the numerous unfounded cases against Croatian Serbs (*see also the section on domestic war crimes trials*). Some return areas are also still contaminated by mines. Both refugees who return and those who opt for local integration also often encounter difficulties with access to pension rights in particular with regard to the so-called "convalidation" for rights accumulated in the period 1991-1995. The principle focus of the Croatian Government since the Opinion has been on housing and de-mining. The latter has been dealt with through Croatian budget resources and is planned to be completed by 2010. In terms of economic reintegration, the Government has put in place some measures for the economic development of the areas of return but no specific measures

targeted at returnees. Little has been done to date to improve the atmosphere within the receiving communities."

OSCE, 7 July 2005, p.6:
"In addition to housing problems, other factors represent disincentives to minority refugee return. Lack of jobs and economic opportunities, including discrimination against minority members in return areas, represent a major impediment for sustainability of return. Appropriate administrative adjustments are still required to redress the persistent denial of recognition of ***working years*** (for pension benefits) in the former Serb controlled areas, a practice which is contrary to the Law on Convalidation of 1998. Administrative measures are also needed to address the difficulties that mostly displaced Croatian Serbs, who lost the status of permanent residence for foreigners after leaving the country during the armed conflict, still face to ultimately acquire Croatian citizenship. In some refugee return areas, the persistent lack of access to ***basic infrastructures*** such as electrification and water supply, undercut dignified living conditions for the returning population. The Government announced in early July that it will increase its efforts, both operational and financial, in the re-electrification of a progressive number of minority return villages that used to be connected to the electrical grid before the war."

EC 26 March 2004, pp.4,8:
"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."

OSCE 18 December 2003, p.4:
"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."

US DOS 25 February 2004, Sect.2d:
"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."

See also:
"OSCE sees progress on Croatia key laws, urges faster return", OSCE, 8 July 2003 [see sources below].

"Croatia fails Serb Refugees: Ethnic discrimination slows return", HRW, 3 September 2003 [see sources below].

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 [see sources below].

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

High unemployment rate combined with discrimination restricts access of minorities to the labour market and affect return negatively (2006)

- Unemployment in return area is higher than in the rest of the country
- Despite legislation providing for representation of national minorities within administration and judiciary very few minority are employed in these sectors
- Majority of employed returnees work in the private sector
- Failure to facilitate repossession of agricultural land and business premises reduces opportunities of self-employment of returnees
- Private entrepreneurs, although not bound by the law to hire Serbs, have proved to be more willing to do so than government agencies

MRG, 1 July 2005, p.2-3:
"Employment is highly important in motivating and sustaining returns to urban areas.(…) The International Labour Organization (ILO) estimates the average unemployment rate in Croatia for 2004 at 13.8 per cent. According to the Croatian Employment Agency (CEA) the unemployment rate in the second half of 2004 was 17.7 per cent.(…) In the Areas of Special State Concern (ASSC) the unemployment rate is much higher. NGOs point to discrimination against Serb returnees, but CEA unemployment statistics do not include records on the ethnicity of those registered.

Our research shows that 93 per cent of interviewees believe that there is discrimination against ethnic Serbs. The European Commission Against Racism and Intolerance (ECRI) notes that there are many allegations of discrimination against ethnic Serbs regarding access to public sector jobs.(…)
'[In] Gvozd and Topusko ... with 6,989 inhabitants altogether, of which 3,430 are Serbs ... only 14 [Serbs] are employed; in Kistanje and Benkovac there are no employed Serbs; it is the same in Vojnic although Serbs are the majority in that town; 18 Serbs are employed with Knin public sector, none with the City Administration, State Administration Field Offices ... etc.'

The Constitutional Law on the Rights of National Minorities (CLNM) guarantees the right to proportional representation of minorities in the state administration and judiciary. However, minorities remain under-represented in these areas. Minorities constitute 7.5 per cent of the

Croatian population, but only 4.9 per cent of those employed by judicial bodies are from minorities (ethnic Serbs make up only 2.4 per cent of judicial staff). (…) In 2003, of 66 judges employed by judicial bodies, 65 are ethnic Croats, and all state attorneys are ethnic Croats.23 Serbs make up only 2.6 per cent of civil servants and employees in the courts and state prosecutor's offices.24
'Some ethnic Serbs who applied for a post for which they were fully qualified did not obtain it, even where no one else met the requirements ... the post remained vacant ...it would appear that ethnic Croat candidates are given preference over better-qualified ethnic Serb candidates...' 25

'My husband applied ... for posts in the judiciary but all of his applications were rejected or job interviews were cancelled.... Despite his skills and experience [a graduated jurist with 15 years' experience as a judge] my husband can't get a job all these years since our return [1997].' (Interviewee from Glina)

From our research, it appears that the majority of employed returnees work in the private and civil society sectors. Of the employed interviewees, 8 per cent work in public institutions (hospitals, schools, etc.), 43 per cent in private companies/crafts; 43 per cent with NGOs and agricultural enterprises; while 6 per cent are self-employed.(…)
Fifty-eight per cent of interviewees consider self-employment as the solution to returnees' unemployment. One obstacle to this is the failure in some cases to provide prompt repossession of agricultural land and business premises to returnees. Government economic development measures in the areas of return do not include specific measures for returnees."

UNHCR, 1 September 2005, p.3:
"[I]f the present difficult socio-economic situation in the return areas remains, it may also continue to affect the pace of return negatively. Unemployment, countrywide officially at some 15%, can be as high as 90% in some return areas, where the already poor pre-war economic infrastructure has collapsed with little prospect for rapid economic revitalization. Therefore, once refugees have become returnees they still need humanitarian assistance that will facilitate their initial legal as well as social reintegration in their communities. Community based projects will help them to reach this subsistence level as a basis for a sustainable return and the preservation of their dignity, as well."

Human rights Watch, 18 January 2006:
"Limited economic opportunities for minority returnees, partly caused by employment discrimination, also greatly impedes return. A December 2002 constitutional law on minority rights obliges the state to ensure proportionate representation of minorities in the state administration and the judiciary, as well as the executive bodies and administration of self-government units. In most areas, there are no Serb returnees in the police, the judiciary, or the regional offices of the state ministries. Private entrepreneurs, although not bound by the law to hire Serbs, have proved to be more willing to do so than government agencies."

Stability Pact- MARRI-DRC, p.26:
"In the areas of refugee return the rate of unemployment is much higher and job possibilities are very restricted, except the limited possibilities in state and local administration and public institutions. Particularly in a difficult position are Serbs who are still discriminated and their access to job is almost impossible. While very few Serbs have been able to find jobs in private businesses owned by Croat entrepreneurs, virtually no Serb returnees are employed with the state, county and municipal administration or in public services, such as health centres, schools, post offices, power-supply companies etc. The situation is identical in the judiciary."

See also section on Self-reliance and public participation

Restricted access to pension discourages return of elderly ethnic Serbs who constitute the majority of returnees (2003-2005)

- The majority of returnees are elderly Serbs whose only prospect is a state pension
- Procedure of recognition of working years penalizes ethnic Serbs who worked in Republika Srpska Krajina during the war
- 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

JRS, September 2005, p.370-371:
" The majority of returnees are elderly Serbs whose only prospect is a state pension. (…) One additional concern is access to state pensions and the issue of convalidation—the recognition of periods of time spent in employment. The government had introduced a number of schemes that made it difficult for ethnic Serbs to claim past years of work, which should have contributed to their pension. The issue of convalidation is particularly important because it relates to final pay pension schemes. To secure a convalidation of one's working papers, it was necessary to produce two witnesses who were qualified as having worked with the applicant and whose own employment status had been certified by means of convalidation. Given the social distance between ethnic groups, this was especially difficult to achieve (A. J. and M.A., interview 19 April 2004). Returnees tended to rely onmembers of their own ethnic group for support and most were in the same situation. Further, there were obvious practical difficulties since many refugees did not have complete files and would not have copies of their employment log (stored in their employer's office) which they would not have considered when they were forced to flee."

U.S. DOS 25 February 2004, Sect.5:
"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."

See also:

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

"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 [see sources below]

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)

- Access for former OTF holders would enable the return of skilled and educated urban population
- 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

OSCE, 21 November 2004, pp. 4:
"Access to housing for former OTR holders would enable the return of the relatively skilled and educated urban population and would thus contribute to a more dynamic Serb community in Croatia."

OSCE 18 December 2003, p.6:
"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 2003, "Occupancy/Tenancy Rights Issue Still Unresoloved":
"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 21 May 2002, pp. 12-13:
"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."

See also:
Section on Property
"OSCE statement on tenancy/occupancy rights in Croatia" OSCE, 2003 [see sources below].
"Broken Promises: Impediments to Refugee Return to Croatia" HRW, September 2003 [see sources below].
"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 [see sources below].

OSCE report: discrimination against ethnic Serbs in war crimes proceedings hinders return (2002-2005)

- Ethnic bias against ethnic Serbs is frequent in the judicial system notably in the area of war crimes
- Despite progress a number of Serb returnees are still faced arrests for charges to be later dropped as unsubstantiated
- Climate of impunity for crimes persists in Croatia in favour of ethnic CroatsThe 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

EU, 9 November 2005, p.16 and18:
"With respect to the *impartiality* of the judicial system, some problems remain, mostnotably in the area of war crimes trials where, despite progress since the Opinion, ethnic bias against Serbs in local courts persists. (…) Despite some progress in the reduction in the number of unfounded charges for war crimes being levelled at members of the Serb minority *(see the section on domestic war crimes trials*), a number of Serb returnees have faced arrest on return to Croatia since the Opinion only for charges subsequently to be dropped."

UN CHR, 29 December 2005, par.15:
"15. As to human rights issues which currently subsist, issues of impunity remain of primary concern. Over recent years, the extent of the cooperation of Croatia with the International Criminal Tribunal for the Former Yugoslavia as well as indications of selectivity and unfairness in domestic criminal proceedings have been criticized, and despite important progress made in recent times, a certain climate of impunity for war crimes and crimes against humanity is reported to linger. Similarly, a still substantial number of cases of disappeared persons arising out of the armed conflicts remain unresolved, with a number of perpetrators of such incidents still at large."

OSCE, 21 November 2004, p.5-6:
"The Croatian Chief State Prosecutor completed in October a *review of pending domestic war crime proceedings*, resulting in the abandonment of a significant number of unsubstantiated charges against Serbs, thus leaving 1,900 substantiated cases. Nevertheless, arrests of Serb returnees and Serbs travelling in several other European countries continued on the basis of charges that were later dropped as unsubstantiated. Efforts to improve the quality and fairness of *domestic war crime proceedings* remain largely targeted on ICTY transfer issues rather than viewing domestic war crimes adjudication in a comprehensive fashion. This could contribute to the creation of a two-tier system of justice for war crimes. National origin of both victims and defendants continues to affect the adjudication of war crimes."

OSCE 1 March 2004:
"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, "Background Report: Domestic War Crime Trials 2002":
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."

See also:

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

Impunity for War Crimes and Discriminatory Prosecutions in "Legacy of War: Minority Returns in the Balkans", HRW, 26 January 2004 [see sources below].

"Croatia: Benchmarks for meeting E.U. requirements on refugee returns and war crimes accountability", HRW, 8 January 2004 [see sources below].

The Section on Impunity for war-time human rights violations, in "Concerns in Europe and Central Asia, January – June 2003", Amnesty International, October 2003 [see sources below].

"Concluding Observations of the Human Rights Committee: Croatia", Principal subjects of concern and recommendations, paras. 10-11, UN Human Rights Committee, 30 April 2001 [see sources below].

HUMANITARIAN ACCESS

General

NATIONAL AND INTERNATIONAL RESPONSES

National response

National Response (Overview 2009)

Since the year 2000, the process of accession to the European Union (EU) has driven successive governments to institute measures that encourage return, as the return of ethnic minorities is a pre-condition for accession (HRW, January 2008). However, the overall approach towards Serb return has been characterised by piecemeal legislation and measures obtained progressively under strong international pressure.

Until 2000, the national framework and policy for return and property repossession favoured the return and resettlement almost exclusively of majority ethnic Croats over minority ethnic Serbs (UN CERD, 21 May 2002). The 2000 elections marked the end of the ten-year rule of the nationalist Croatian Democratic Party (HDZ), and under pressure from the EU the new government from the Social Democratic Party initiated wide legislative reform to uphold minority rights and facilitate the return of Croatian Serb refugees and displaced people. Several discriminatory provisions were amended or cancelled, including laws on the status of displaced persons and refugees, return programmes, property reconstruction and repossession. The HDZ returned to government in 2003, but did not change this trend.

Following elections in November 2007, the HDZ retained the majority of seats, but a representative of the Independent Democratic Serbian Party was appointed as one of the deputy prime ministers with responsibility for regional development, reconstruction and return. In January 2008, issues related to return passed, with the dissolution of the Ministry for Maritime Affairs, Tourism, Transport and Development, to the Ministry for Regional Development, Forestry and Water Management. This Ministry includes a Directorate of Areas of Special State Concern in charge of providing assistance to IDPs, returnees and refugees (OSCE, March 2008).

Reforms have been obtained mainly under strong international pressure from the EU, OSCE and the office of UNHCR. Discriminatory and slow implementation has contributed to limit the impact of reforms which came at a stage, when after ten years of displacement, people have become less likely to return. Issues still to be addressed by the government include the situation of former ORHs, the implementation of existing housing care and reconstruction programmes, and the provision of employment opportunities, security and fair treatment to returnees.

Civil society organisations continue to play an important role in the promotion and protection of human rights, democracy and protection of minorities, however, according to the European Commission, they have faced difficulties influencing policy debate and have remained relatively weak in analytical capacity (EU, November 2008).

Improved response under international pressure (Overview 2006)

Up to 2000, the national framework and policy for return and property repossession favoured the return and resettlement almost exclusively of majority ethnic Croats rather than minority ethnic Serbs (UN CERD, 21 May 2002).The 2000 elections marked the end of the 10-year rule of the nationalist party led by the late President Franjo Tudjman, the Croatian Democratic Party (HDZ), and a significant change of the national policy towards return. The new government initiated wide legislative reform aiming at upholding minority rights and facilitating the return of Croatian Serb refugees and displaced people. Several discriminatory legislative provisions were amended or cancelled, including the Law on the Status of Displaced Persons and Refugees, the Return Programme, the Law on Reconstruction and the LASSC dealing with property repossession. The return of the HDZ to government in 2003 did not change this trend as illustrated by the cooperation agreement on measures to facilitate return signed between the HDZ and members of parliament representing Croatian Serbs in December 2003. Further to this agreement a Commission for the Return of Refugees and Displaced Persons and Restitution of Property was established in March 2004 to coordinate government activities on those issues (ECRI, 14 June 2005, par.103).

The accession process to the European Union (EU) has also been a significant incentive for Croatia to make statements and take measures more favourable to return since the EU considers the return of Croatian Serbs a pre-condition for deepening relations with Croatia (HRW, 13 May 2004; EU, 8 November 2005). In January 2005, a regional ministerial conference on refugees took place in Sarajevo and resulted in a joint declaration establishing principles and measures to facilitate the return of refugees and close the chapter of displacement by the end of 2006. Like the European Union, the Sarajevo declaration signed by relevant ministers from Bosnia and Herzegovina, Croatia and Serbia-Montenegro, focuses on refugees rather than displaced persons. However, since both are faced with the same obstacles prior to and upon return, a process addressing such obstacles also benefits displaced people.

Overall, Croatia's approach towards Serb return has been characterised by piecemeal legislation and measures obtained progressively under strong international pressure from the EU, OSCE and the office of the United Nations High Commissioner for Refugees (UNHCR). The result is that most reforms come at a stage where their impact on return is likely to be limited by the fact that, after ten years of displacement, people have become more hesitant to return. Despite an improved political climate at national level, significant resistance to return persists at local level and limits the impact of the new measures (UN CHR, 29 December 2005, par.34). To address this situation, the government and the OSCE Mission to Croatia launched a media campaign in November 2005 intending to raise public awareness on, and create an environment more favourable to, return (OSCE, 3 January 2006).

A number of outstanding issues still remain to be addressed by the government. The new legislation has not, in several cases, suppressed the violations of rights resulting from past legislation. Displaced persons and refugees who missed the deadline to apply for validation of pension-related documents are still unable to obtain full pension rights. Former occupancy rights holders who lost their apartments during and after the war are offered inadequate solutions which are not even being implemented. Funds for the housing care programme remained unspent in 2004 and 2005 (OSCE, 21 November 2004, p.4; OSCE, 29 July 2005, p.2). In addition, at a meeting of the task force resulting from the Sarajevo declaration on refugee return which took place in March 2006, Croatia refused again to consider compensation for former occupancy rights holders, as requested by Bosnia-Herzegovina and Serbia-Montenegro.

International response

International Response (Overview 2009)

The international community has carefully monitored the return of IDPs and refugees to Croatia. The EU, the OSCE and the Council of Europe, including the European Court for Human Rights, have played significant roles in upholding the rights of displaced people and minority groups. However, international organisations have slowly started to decrease their presence in the country. UNHCR and the OSCE have reduced their operations assisting the process of IDP and refugee return, but maintain a presence in the country. UNHCR, for instance, maintains a field presence in Knin and Sisak, provides assistance and advice to minority returnees and focuses on the provision of legal advice for displaced people within the Croatian Danube Region, particularly targeting the most vulnerable among them (email communication with UNHCR, August 2009). Following the closure of the OSCE mission in December 2007, an OSCE Office in Zagreb has been established to monitor war crime proceedings and the implementation of the housing care programme for former occupancy right holders.

Since 2006, UNDP has been working on socio-economic recovery in former war-affected and return areas. The projects assist all communities by providing them with improved infrastructure, access to social services and employment. Particular attention is given to the needs of the elderly population (email communication with UNDP, August 2009).

The EU holds the most influence over the Croatian government because of the accession process and as the main provider of assistance to Croatia. In March 2008, Croatia received an accession target date of 2010. The European Council's decision of February 2008 identified among the priorities for attention refugee return, adequate housing for former tenancy rights holders, recognition of Serb wartime working time for pensions and the reconstruction and repossession of property.

The European Commission through its annual progress report has praised Croatia for taking many steps to facilitate return, but has also identified several areas that require further action, including judicial and public administration reforms, and the promotion of minority rights and refugee return (EU, November 2008). The EC took up the issue of lost occupancy rights and advocated for a more progressive approach in line with solutions adopted in neighbouring countries (EU, November 2007).

International Response (Oberview 2006)

The return of IDPs and refugees to Croatia has been carefully monitored by the international community. The EU and regional organisations such as the OSCE and the Council of Europe, including the European Court for Human Rights, have played a significant role in monitoring or upholding the rights of displaced people and minority groups. UNHCR has mainly focused on displaced people within the Croatian Danube Region which is where most Croatian Serb IDPs moved following the 1995 offensive of the Croatian army. Since the closure of its field offices at the end of 2003, UNHCR efforts have focused on finding durable solutions for refugees, IDPs and returnees by the end of 2006 in particular through provision of legal advice (UNHCR, 1 September 2005; UNHCR, 7 January 2004). The Return and Integration Unit of the OSCE Mission to Croatia has been mandated since 1997 to ensure and monitor the protection of IDP and refugee rights. The OSCE Mission has worked closely with the government, providing advice on property repossession and rule of law. Its in-depth reports on various issues have been an essential source of information and advocacy for the EU, the Council of Europe and other organisations following the situation in Croatia. The combined efforts of the OSCE, the EU and UNHCR have been instrumental to convince the government to make reforms in favour of the

return of Croatian Serbs. It is largely due to their efforts that the government agreed on several occasions to postpone legislative deadlines which were limiting access to the rights of displaced persons and refugees.

The EU is the main provider of assistance to Croatia. Between 1991 and 2004 Croatia received €631 millions to support democracy, the economy and the rule of law as well as reconstruction and support for the process of sustainable return of refugees and IDPs (EU, 9 November 2005, p.6). 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). This last point has been identified by the Representative of the Secretary-General on the Human Rights of IDPs as essential to facilitate return. Further to his visit to Croatia in June 2005, Walter Kälin called on the international community to support the government's efforts to revitalise the economy of war-affected areas (UN CHR, 29 December 2005). Finally, given that EU pressure has been one of the main incentives to make reform in favour of return, many put their hopes on the EU to take on the issue of lost occupancy rights and advocate for measures in line with solutions adopted in neighbouring countries (Rhodri Williams, April 2005). Such measure, in favour of this group which concerns almost exclusively Serb refugees and IDPs would provide a remedy to their lost rights and remove one of the main remaining obstacles to return.

Policy and recommendations

Reference to the Guiding Principles on Internal Displacement

Known references to the Guiding Principles (as of April 2006)

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

The Guiding Principles have been translated into the Serb-Croatian language.
Date: unknown
Documents: · GP in Serb-Croatian [Internet]

Training on the Guiding Principles

None

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