

IHF FOCUS: security situation and law enforcement; free media and access to information; prison conditions; property rights; national and ethnic minorities; international humanitarian law.

Croatia's human rights situation deteriorated seriously in the course of 2005, endangering the slow yet steady progress that Croatia made in the wake of the grave violations committed during the 1995 military operations to the reclaim the Serbian-occupied territories.

The Croatian Helsinki Committee (CHC) attributed the backlash not only to the failure of the Croatian government, but also of civil society and of society as whole to respond adequately to recent human rights developments. At the same time, international factors also played an important role in this process, especially the launch of negotiations on Croatia's accession to the EU - despite the fact that the formal conditions for accession were not met.

The deterioration of the human rights situation in Croatia can be seen in the worsening security situation, the increasing number of physical attacks on ethnic Serbs, the failure of Croatian authorities to adequately react to and investigate these attacks, and a deflation of interest in upholding and promoting the social rights of the most vulnerable social groups.

Harassment and violence against members of minorities increased, making 2005 the worst year since 1996. In most cases Serbs and Roma were the targets and the incidents were followed by defamatory media reporting focussing on minorities and with a strong nationalistic undertone.

The past year also saw government attempts to influence media reporting and witnessed the authorities' violations of the freedom of information law as they routinely denied journalists access to information of public importance or interest. Slander and defamation remained criminalized and courts handed down suspended prison sentences against journalists and writers.

The return of property that was taken away from Croatian Serbs during the war continued. In the last year, violations of property rights were primarily related to: the return of this temporarily annexed property to their rightful owners (persons *in absentia*); reconstruction of property destroyed or damaged during the war or as a result of terrorist acts; or to the provision of assistance to returnees who had lost their tenancy rights.

The judicial bodies of Croatia made some progress in processing war crimes, but the trials monitored by human rights NGOs continued to show bias and were characterized by irregularities. Clear legal and moral principles about the treatment of alleged war criminals were still lacking at the end of the year, and dozens of people charged with war crimes were not held in custody showing a blatant disregard for the gravity of their alleged crimes. While in some cases this practice was justified by the fact that the cases were at least partly disputable, the practice indicated that the authorities were reluctant to impose legal consequences on cases where the war crimes were committed by the Croatian forces.

This progress in the judiciary saw a mounting pressure against witnesses in war crime trials, with no clear solution offered by any legal protection programs. It seems evident that it is time to reintroduce "obstruction of justice" provisions into the criminal code which apply indiscriminately and which establish concrete procedural prerequisites, in turn allowing the community to "breathe freely."

A number of disputable final court rulings by the highest level courts required critical scrutiny and public discussion. The CHC called for the establishment of an independent informal body of experts (aca-

* Based on reports from the Croatian Helsinki Committee (CHC) to the IHF. For more information on human rights issues in Croatia, see the CHC website at www.hho.hr/.

demics and judges) to discuss and appraise some of the judgements that were poorly explained, opening the door for many questions.

With regard to social rights, the protection of the most vulnerable groups in society, including the elderly, the infirm and small children, gave rise to serious concern. There has been a trend to increasingly neglect the protection of certain social rights such as those associated with unemployment and retirement. Further, a generation of teenagers has been left in a desperate position, with few prospects of finding a job - a fatal omission that might leave youth vulnerable to the influence of radical or extremist groups.

Security Situation and Law Enforcement

The security situation deteriorated markedly in comparison to the previous years due to the failure of the police to act adequately. It appeared that wrong personnel decisions in the police hierarchy, alongside the failure to introduce necessary reforms in a timely manner, were the main causes of this situation. Serious security deficiencies were also demonstrated by an increasing number of complaints to the CHC about lack of police intervention - rather than of police misconduct. The problem was made further apparent in the official data on the relations between the police and the state attorney and between the state attorney and the courts of law, which indicated that approximately half of the crimes reported by the police were attributed to "unknown perpetrators." Moreover, it was manifest in a number of high profile individual cases, widely reported in the media.

In this climate, rather of taking measures to reform the police force and to modernize police operations to correspond with the current needs, more repressive measures were planned, and

ideas such as relaxing the regulations on the use of firearms suggested. Such steps were well marketed by the authorities and largely perceived by the desperate public as "strong measures" to fight crime. Even the interior minister publicly stated that "criminals do not have human rights."

Free Media and Access to Information

The operation of the media in Croatia is regulated by article 38 of the Constitution, by the Media Law, the Law on Public Radio and Television (HRT), and by the Law on the Electronic Media. The Freedom of Information Act, whose implementation was overseen by a public body, also has an impact on the work of the media. All of these laws were adopted in the past two years, with the government relying in their prepared advice and the recommendations of the OSCE to ensure their compatibility with international human rights standards.

The ruling reformed Croatian Democratic Union (HDZ) did not hide its dissatisfaction with the reporting on HRT and the government attempts to influence it. The methods of pressure included unusually severe attacks on individuals in high positions in the national broadcasting company HRT such as Andrija Hebrang, former minister of health, and highly critical parliamentary debates on the HRT's annual report, during which the entire governmental block attacked the HRT news programs and documentaries. The criticism did, however, subside somewhat during the year.

◆ In November, the HRT leadership dismissed the editor of the program "Otvoreno" Tihomir Ladičić citing "unprofessionalism" in his interpretation of the statement of Ivica Rajčić, an ICTY indicted war criminal. Ladičić claimed that during the war operations in Bosnia and Herzegovina, the Croat forces sometimes cooperated with Serbs to bombard Sarajevo. It was

generally believed that the editor was fired in order to decrease pressure on the HRT from circles close to the ruling party.

The Croatian Constitution prohibits censorship but journalists and media tended to practice self-censorship when reporting on the political situation. Financial pressure was also exercised to some extent by companies in their buying of advertising space, and there were clear expectations and pressure from Catholic groups. However, the attempt of a very strong lay Catholic group to take the television program "Zlikavci" off the air did not succeed.

Defamation and Slander

The Croatian criminal code includes provisions on defamation and slander, providing for fines and prison sentences for those who violate the law. While the law does not differentiate between state officials and other people, its provisions state that in the case of defamation through press, radio, television, in front a number of persons, or at a public assembly, the plaintiff must prove that the defendant had "an exclusive intention" to damage the honour of the plaintiff.

In practice, courts accepted light evidence to prove "exclusive intention" and in the course of 2005, five journalists and one writer - Robert Frank (*Novi list*), Ljubica Letinić (HTV), Vladimir Matijanić (*Feral*), Slavica Mrkić-Modrić (*Novi list*), Ilija Maršić (a retired *Slobodna Dalmacija* journalists), and the writer Predrag Matvejević - were convicted for defamation and were given suspended prison sentences. Such interpretation of the criminal code by courts was even criticized by the justice minister who announced that the government would promptly propose changes to the law to decriminalize defamation and slander.

Harassment of Journalists

Journalists continued to face harassment and violence.

◆ Drago Hedl, a journalist with the weekly *Feral Tribune*, received an anonymous letter threatening to kill him because of his investigation regarding Croatian war crimes in the town of Osijek during the war in 1991–1995.

◆ On 26 August, Davor Pongračić, a photographer from *Jutarnji list* who took photos of a hit-and-run case in which a police officer was killed, was beaten by another officer who was nervous by the journalist's activities on the crime scene. His superior officer announced that disciplinary measures would be taken against the police officer.

◆ Denis Latin and Zrinka Vrabec-Mojžeš received many death threats because of the TV talk-show "Latinica" broadcast on 12 December, in which the heritage of the late Croatian president Franjo Tuđman was critically discussed.

There were, however, encouraging developments in court cases dealing with harassment against journalists and in many cases journalists won their cases.

◆ Damir Mašić, president of the HDZ Lovinac branch was sentenced by the Zadar Municipal Court to seven months in prison on two years' probation because he had threatened to kill Lada Kalmeta, a journalist with *Slobodna Dalmacija*.

◆ On 5 December, the Šibenik Municipal Court convicted Stipe Petrina, the head of the Primošten municipal council for denying Simeona Pancirov, a journalist of *Slobodna Dalmacija*, access to information. Petrina had prohibited the journalist from entering into meetings of the local municipal council and to press conferences. Petrina received a three-month suspended sentence.

Freedom of Information

While the adoption of the Freedom of Information Act in 2003 established a

framework for the right of access to information, its implementation has been characterized by a culture of secrecy. In journalists' experience and according to NGO monitoring, the Croatian public still did not have "the right to know."

In the two years that it has been in force, journalists, who are the most frequent requestors of information, have faced serious difficulties in obtaining even routine information of public importance or interest and access to "sensitive" information remains virtually blocked. An important court ruling was, however, found in favor of a journalist seeking information.

- ◆ On 24 August, Jelena Berković, a reporter working with Radio 101, won a case before the Administrative Court against Prime Minister Ivo Sanader whose office had refused to give her the report of the Office for Internal Supervision for 2003-2004 that she had requested in June 2004. She did not receive the report despite several additional requests. This was the first freedom of information case won by a journalist against a Croatian government. Nevertheless, after the court ruling, the prime minister's office missed the 30-day deadline set by the court to deliver the requested report and finally did it under overwhelming public pressure.

According to research conducted into the freedom of information issue in Croatia, Bosnia and Herzegovina and Serbia, Croatia even lagged behind the two other countries, which both have a poor record of ensuring access to information.¹ The survey's findings showed that Croatia's Freedom of Information Act had not been yet fully implemented with half of the monitored public bodies failing to: respond to requests of information; appoint information officers for processing information requests; establish a catalogue of information and documents deposited (to be controlled by a public body); and to open a register of information requests, as provided by the Freedom of Information Act.

- ◆ The CHC and its NGO partners sent 268 requests for information to the highest public bodies (including the president of the republic, parliament, prime minister and other ministers, the judiciary, regional and local administrative bodies, and parastate institutions). Thirty-eight percent of the authorities addressed provided the information requested in time. Not a single of the seven requests addressed to the Zagreb mayor's office were responded to, confirming the fact that the Zagreb mayor's office is probably the most closed public body for access to information in Croatia. This finding was further supported by the exclusion of journalists from the city board meetings.

- ◆ A journalist of the largest daily *Večernji list*² published a chronology on his requests for information to the prime minister's office. He never received a response to his February request (which was followed-up with dozens of phone calls and three additional written requests) to receive their report on Combating Money Laundering. After the last request, the prime minister's office only confirmed the arrival of the journalist's complaint.

Ironically, even the president of the Administrative Court denied both the CHC and a journalist's access to information concerning the implementation of the Freedom of Information Act.

- ◆ A journalist of *Večernji list* was provided information on number of freedom of information cases in courts only over two months after his request. He learned that only 60 citizens had sought justice in the Administrative Court: the court had declared only four complaints admissible and 35 were still pending because the defendants had failed to provide the court with necessary information. Moreover, the president of the court refused to reveal the names of the four public bodies the court had found to have violated the right of access to information.

Prison Conditions

Most complaints concerning penitentiaries received by the CHC came from the prisons of Lepoglava, Glina and Zagreb, the majority complaining about final prison sentences and living conditions in prisons - particularly concerning overcrowding. While the CHC was unable to review the validity of court judgements, it looked into complaints related to prison conditions and intervened in several cases.

The prison population was relatively large in relation to the total population of Croatia, making overcrowding the main problem with regard to the prison system. Croatia had 23 closed correctional institutions and more than half of them operated 30-percent overcapacity.

In a report to the parliament, the government pointed *inter alia* to the problem of overcrowding in closed penitentiaries and its effects on the standard of accommodation, the lack of qualified staff in those institutions, the shortage of appropriate space and a shortage of equipment for the officials in charge.

Inadequate conditions were of particular concern in the cases of the so-called "risk groups," which includes prisoners with a diagnosed post-traumatic stress disorder, rehabilitated drug addicts, and former members of armies other than Croatia's serving sentences for war crimes committed on the Croatian territory.

◆ Twenty-eight non-Croat prisoners convicted of war crimes and serving their sentences in the Lepoglava correctional institution filed requests to the Ministry of Justice for transfer to their country of origin, i.e., Serbia and Montenegro. During the slow processing of their requests, various restrictions were imposed on them by the administration of the Lepoglava correctional institution. For example, unlike other prisoners, they were not allowed to work nor leave the facility for weekends, with the administration citing "security reasons."

Following intervention by the CHC, some transfer requests were finally solved but the Lepoglava prison remained overcrowded.

◆ A prisoner serving in the correctional institution of Dubrovnik complained that he was not allowed to contact his social worker or his lawyer, that he did not receive adequate medical care, and that he was constantly subjected to threats by the security officials, who once even burned his written complaint. Following the CHC's intervention with the Ministry of Justice on his behalf, the prisoner was summoned for an interview with the Dubrovnik prison administration and told to "be careful regarding what and to whom he writes."

National and Ethnic Minorities

The rights of national minorities are protected under the Constitutional Act on the Rights of National Minorities (2002), which provides for cultural, educational and linguistic rights and autonomy for minorities. Furthermore, it provides for the representation in parliament of the minorities that constitute at least 1.5% of the total population. Further, minorities that make up 5-15% of the whole population on the local level have the right to at least one deputy in local councils, while those over 15% have the right to proportional representation.

Minority communities can also elect their respective community councils on the municipal and regional levels. The councils have an advisory role, but neither legislative nor executive nor veto power. On the national level their activities are coordinated and represented by the Council for National Minorities.

The election of representatives of national minorities in local and regional legislative bodies (councils and assemblies) should be regulated by the statutes of municipalities and regions. However, a majority of these statutes have not been updated.

ed to include provisions for the inclusion of minority representatives in legislative bodies. As a result, after the local and regional elections of May 2005 minorities still did not have proportional representation in most local councils.

Under article 37 of the Constitutional Act, the government is obliged to report to the parliament on an annual basis on the implementation of the act. The government has never submitted such a report. However, as of this writing, the report is apparently under preparation and is expected to be presented to the parliament in early April 2006.

Violence against Minority Members

2005 saw an increase in threats to and violations of the rights of ethnic minorities, in particular Serbs and Roma. Two people were killed, several buildings were blown up - including some of symbolic significance such as buildings of municipal councils that include Serb representatives. Out of 34 violent incidents against Serbs documented by the CHC, only one was solved. Investigations into many violent incidents against minority members were also hampered by the unwillingness of witnesses to step forward to give evidence about such crimes. This indicated that the shift toward more tolerance and reconciliation among senior political leaders of the major political parties was not supported by the general population.

Violent incidents also incited defamatory media reporting of minorities, laced with nationalistic undertones and reaching its highest level since 1996. Again, Serbs were particularly targeted.

Serb Minority

According to the Serb Democratic Forum, 49 cases of attacks on Serbs were registered throughout the year. What is more, law enforcement officials failed to investigate the cases properly and accord-

ingly failed to find and punish the perpetrators.

While in some cases the targets were cultural, religious and political institutions of the Serb minority, in others individuals and their property were targeted. The attacks wide ranging in their severity, including threats and verbal insults, the damage and destruction of property, physical violence and even two murders. Only in a few cases of attacks against Serbs did the police apprehend the perpetrators.

◆ Mileva Domjenković, a 71-year-old woman from Sisak, was strangled in the night of 29/30 March, reportedly because her "Serb songs" had irritated the perpetrator.

◆ On 18 May, Dušan Vidić was found killed near Karin in the area of heightened ethnic tension. There was no public information on the results of the investigations into his death, which gave rise to suspicion that the crime was ethnically motivated: the victim had no money, nor had he been involved in any previous conflicts.

Although many minority members who approached the CHC did not necessarily highlight the ethnic dimension as being relevant to their cases, racial differences are thought to be the motivation behind many human rights violations. This was demonstrated in a variety of situations: citizenship issues and acquired rights that could be realised only by obtaining citizenship (e.g. pension and health insurance and other social rights); returning refugees experienced a multitude of problems relating to property reclaim and reconstruction, employment, etc. Latent discrimination was also likely to play a part in problems with state and local administration, employment and labour rights. In all of the cases that CHC dealt with in 2005, ethnic Serbs made up about 30% of victims or potential victims (versus 4.54% of the majority population).

Roma Minority

Roma faced difficulties in realising their fundamental rights of welfare support, health care, housing, education, and employment. Many members of the Roma community who had lived in Croatia for decades were not Croatian citizens because they had not been granted citizenship automatically at the moment of the break-up of Yugoslavia (unless they had been already registered residents of Croatia). The naturalization procedure was slow and non-transparent, leaving room for arbitrary decisions.

The unlawful practice of administrative authorities requiring evidence (for example, a property charter and lease contract) for residence registration presented an additional obstacle. Without legal status, Roma also lacked socially supported health insurance. Although primary health care was guaranteed to all minors up to 15 years of age, discriminatory practices by local health administrations resulted in many Roma children being excluded from health care. Other discriminatory practices against Roma included reluctance by authorities to send ambulances to Roma settlements in cases of emergency. Further, Roma victims of racial violence often faced difficulties in obtaining medical certificates.

In the past year, Roma also faced serious problems in administrative procedures due to the overall low level of education and high degree of illiteracy: Roma often filed their requests (e.g. for welfare support) orally, with administrative officers responding also orally, thus depriving Roma of a chance to file a complaint and of their right to assistance provided by law to uneducated citizens. Even though official statistics on Roma employment was not available, there were many indications of discrimination against them. Even the state institutions tended to avoid giving Roma full-time jobs that would be particularly appropriate for them, such as working as as-

sistants for Roma pupils in elementary schools or court interpreters for the Romani language.

Although the Constitution and other laws prohibit discrimination on grounds of ethnicity or race, the police and state attorneys failed to take into account possible racial motivation, treating incidents of violence against Roma and others as minor disturbances, thereby systematically downplaying the possibility of hate motivation and the fact that many of the attacks were carried out by organised groups. Hate crimes were not specifically addressed in the Croatian criminal code. The only provision that has been implemented in favor of Roma is the free legal aid for Roma provided for under the National Program for Roma.

Citizenship

Only 6% of a total number of cases received in 2005 by the CHC deals with citizenship issues.

It was extremely difficult for citizens of Serbia and Montenegro born in Kosovo to obtain Croatian citizenship. While most of the problems citizens faced in this process were ultimately solved positively, citizenship was granted on the strict condition that they would give up their former citizenship within a period of two years. This, however, was virtually impossible for Kosovars because the authorities of Serbia and Montenegro were reluctant to issue them with the necessary documents and the United Nations Interim Administration Mission in Kosovo (UNMIK) refused to get involved in such cases on the grounds that the legal status of Kosovo was not determined. These practices left many families in legal limbo.

◆ A family from Kosovo but permanently settled in Croatia fulfilled all legal conditions for Croatian citizenship except one - they had not been able to renounce their citizenship of Serbia and Montenegro be-

cause they were not in possession of all necessary documents do so.

In addition, ethnic Croats who were former Yugoslav citizens but had failed to declare themselves as Croats in various documents such as birth certificates, school or university diplomas, and documents related to their employment, faced problems in obtaining Croatian citizenship. This was due to legal provisions which prescribe that foreigners who submit an application for Croatian citizenship on the basis of belonging to the Croatian people (article 16 of the Law on Croatian Citizenship) must provide evidence on being a Croat. In cases where an individual does not have any such documentation he or she faces serious problems in proving his/her ethnicity. Persons who in the former Yugoslavia did not declare themselves as members of any ethnic community in their employment documents, birth certificates and diplomas or did not have any certificate from the Catholic Church (to which an overwhelming majority of ethnic Croats belong) of receiving Catholic sacraments, are now confronted with problems of proving their belonging to Croatian people.

Property Rights

Violations of property rights were primarily related to: the return of temporarily confiscated property to its rightful owners (usually persons *in absentia*); reconstruction of property devastated and damaged during the war or as a result of terrorist acts; and helping returnees who had lost their tenancy rights.

Return of Property

During the war and the first three post-war years, around 19,500 housing units, which belonged to Croatian Serbs, were given to temporary users (60% of them Bosnian Croats), on the basis of a 1995 law. Return of that property to its original owners started in 1999 and continued throughout 2005.

As of 1 June 2005, 650 property units³ appropriated from their pre-war owners were still to be returned: there were demands of return for 486 units and the remaining 174 units had not yet been demanded.

In most cases, the return of property was accomplished only legally on paper but not in reality, i.e., only half of the owners regained their property in physical sense. Around 8,000 property units that were believed to have been given back to their rightful owners were in fact sold to the government while they were still occupied. Another 3,000 housing units, also believed to have been returned to pre-war owners, remained empty and devastated because their rightful owners had not yet returned to Croatia. In addition, a great number of houses which were physically returned to their rightful owners, were devastated and plundered (mostly by their temporary users) and were considered uninhabitable by their rightful owners.

By June 2005, a small number of owners had received some legal right to state assistance in the form of building material. Two thirds of the property units that still remained occupied were located in Dalmatia (mostly in Knin, Benkovac and Obrovac).

Reconstruction of Devastated or Damaged Property

A great number of private houses and flats was destroyed or damaged during the war. In light of this, the Croatian government adopted each year a new plan for the reconstruction of such property. The majority of rightful owners, who had a legal right to reconstruction, renovated their houses and flats. The 2005 program of reconstruction anticipated the reconstruction of a total of 3,000 houses and the same number of cash payments. In spite of the fact that the process of reconstruction was nearly over as of the end of 2005, there

were still a number of repeated requests for reconstruction that concerned cases in which the owners were not eligible to aid under the 1996 law on reconstruction but could receive assistance in accordance with the amended 2000 law on reconstruction.

The right to reconstruction was violated by the extremely long duration of trials concerning property disputes - many of which had been pending for years despite the court's legal deadline of 60 days. In total, according to the data of the OSCE mission to Croatia, around 10,000 complaints were pending as of early 2006.

Housing of Former Tenancy Right Holders

Around 24,000 tenancy right holders lost their tenancy rights in court due to the fact that they had not been using the apartment during a six month period for reasons considered to be unacceptable. Around 6,000 former tenancy right holders (mostly in the region of Podunavlje) became protected leaseholders because they had lost their right to purchase by a given deadline their state-owned apartments on which they had tenancy right.

Succumbing to pressure from the international community, the Croatian government adopted a program to solve the cases of former tenancy right holders who had lost their rights due to absence. According to the program, the government is obliged to reconstruct or to buy around 500 apartments worth 44 million kuna (EUR 5.5 million) for those who had lost their tenancy rights. As of July, the government had not, however used the mentioned funds for that purpose. While as of that date 2,598 requests for housing accommodation had been submitted, only 16 cases of apartments had been solved administratively and none of the people concerned had actually taken up residence in their respective premises.

International Humanitarian Law

Systematic court monitoring for war crime cases was carried out in the course of 2005 using the identical methodology of reporting by the monitoring teams of the Altruist Centre from Split, the Centre for Peace, Non-Violence and Human Rights in Osijek, the Citizens Committee for Human Rights from Zagreb, and the CHC. Court monitoring was conducted with the purpose of influencing judicial practice and contributing to building of trust in local courts. In the course of 2005, the teams observed most war crime trials that took place in Croatia (with the exception of some cases in the county courts in Zadar and Slavonski Brod) which was a total of 13 court trials in eight county courts. They also participated in the monitoring of court procedures on a regional level in Serbia and Montenegro and Bosnia and Herzegovina.

According to the data of county courts, 16 war crime trials were conducted in Croatia during 2005 for war crimes against civilian population (article 120 of the criminal code), war crimes against wounded and ill (article 122), organizing groups and incitement to commit genocide and war crimes (123), genocide (article 119), and the crime of illegal killing and wounding of enemy (article 124). The trials were held in Bjelovar, Karlovac, Osijek, Sl. Brod, Split, Vukovar, Varaždin, Zadar and Zagreb. About 75% of the cases were re-trials as decided by the Supreme Court of the Republic of Croatia (12 out of 16 cases).

Criminal proceedings were conducted against 79 people. Sixty-two of the defendants were members of Serb paramilitary formations, 39 of them stood trial *in absentia*. Seventeen defendants were members of the Croatian military and police units, with four of them still at large. In four cases re-trials were ordered, in two cases the defendants were found not guilty (five people in total) and in two cases (con-

cerning three people) the defendants were convicted. Most punishments were prison sentences of varying lengths. The state prosecutor's office dropped charges in the Mikluševci case against ten defendants.⁴

The number of victims to whom the above-mentioned indictments related was 286, 19 of them prisoners of war and 276 civilians.

The trial monitors reported that in the cases where the accused were members of the Croatian military and police units, the present judicial police officers and prison guards showed clear sympathy to the defendants. The principle of holding public hearings was formally respected in all monitored cases, however, in cases against accused members of Serb paramilitaries the trials were only open to personal friends of the defendant, family members, journalists, monitors, and in some cases members of veterans' associations. Sometimes neither the defendant, nor his or her family was present. The monitors reported that the general atmosphere was that of disinterest, both among the public and even among the defendants. In some cases, half whispering voices and comments from the audience clearly put the presiding judges and witnesses under pressure. This was especially obvious in the Hrastov case trialing the crime on Korana Bridge⁵ during testimony of witnesses from Serbia and Montenegro or Bosnia and Herzegovina, and during the Lora case.⁶

The monitoring clearly revealed court bias in favor of Croat defendants and against perpetrators in crimes against Croat victims. The Supreme Court, however, overturned most of this type of first instance judgement. Indictments against members of the Croatian military and police units were raised exclusively in murder cases while other types of violations and less serious acts were not even investigat-

ed. In some of the observed cases, the judges openly stated their political opinions against such trials, showed their reluctance to precede the trial, and allowed the defence to behave inadequately, thereby blatantly undermining humanitarian law. Such behaviour was especially obvious in the Lora and Virovitica cases.

Despite instructions by the Supreme Court and the leading state prosecutor to hold separate proceedings for persons tried *in absentia*, this rule was not observed in an instance which saw three proceedings tried under a single indictment.

While witnesses of the injured party in crimes committed by Serb paramilitaries generally did not complain about pressure placed on them by the public or the perpetrators, they did express frustration about the long and repeated proceedings in cases in which the defendants were still at large. On the other hand, the witnesses giving testimony against Croatian members of military and police units were clearly under pressure - often exerted by the perpetrators themselves or their supporters. In some cases the defence attempted to question their credibility in a manner that at least bordered on procedural error. Many witnesses that lived outside Croatia refused to come and testify due to mistrust of the independence of the judiciary.

The monitors concluded that despite all irregularities and lack of objectivity in the observed cases, the judicial bodies of Croatia have made progress in processing war crimes and are increasingly acting according to the ICTY statutes. The protection of witnesses to war crimes was included in the legislation (although effective protection was not yet guaranteed) and better cooperation between the prosecuting parties of Croatia, Serbia and Montenegro as well as Bosnia and Herzegovina was established in cases dealing with war crimes.

Endnotes

- ¹ The results were published at the special CHC website, www.gradjani-imaju-pravoznati.hho.hr. The results of the survey were points of reference in public discussions held in Zagreb, Sarajevo and Belgrade on 28 September, in the presence of high public officials. The purpose of the discussions was to promote more transparent, open and accountable government activities with greater participation by citizens in important affairs.
- ² *Večernji list*, July 4, 2005
- ³ The latest statistics available as of this writing.
- ⁴ Thirty-five individuals suspected of committing war crimes in 1991 and 1992 in the village of Miklusevci in the Vukovar area, populated mainly by the Ruthenian minority.
- ⁵ Mihajlo Hrastov, a member of the Ministry of the Interior of the Republic of Croatia, was charged with the killing of 13 reservists of the Yugoslav National Army (YNA) at the Korana Bridge in Karlovac on 21 September 1991.
- ⁶ Concerning killings of Serbs at the navy base "Lora" in Split at the beginning of the war.