

## Croatia: Challenges for Sustainable Return of Ethnic Serb Refugees

By Ljubomir Mikić

The disintegration of former Yugoslavia and the establishment of independent Croatia resulted in increasing tensions between the Croat majority and ethnic Serb minority. This led to armed conflict during which 950,000<sup>1</sup> persons were displaced within and outside Croatia in 1991–97. While the return of displaced Croats is almost complete, the return and (re)integration of Serbs remains unresolved, despite the government's commitment to promoting sustainable return and reintegration, ensuring equal treatment and access to rights for all Serb returnees, and implementing its international obligations.<sup>2</sup>

This study focuses on two critical factors inhibiting sustainable return – access to housing and unemployment – which are particularly acute in urban areas. It draws on research conducted in June 2005.<sup>3</sup>

### Background

Serbs remain the largest minority in Croatia, although the Serb population dropped from 12.2 per cent of the total population (581,663) in 1991 to 4.5 per cent (201,631) in 2001,<sup>4</sup> primarily because of the 1991–95 war. Approximately 370,000 Serbs became refugees in Serbia and Montenegro (330,000) and Bosnia and Herzegovina or other countries (40,000), while 32,000 Serbs were internally displaced.<sup>5</sup>

Ethnic Serbs make up 117,500 of 373,247 registered returnees in Croatia since 1995.<sup>6</sup> The majority of Serb refugees have not returned, and only two-thirds of officially reported Serb returnees have stayed permanently in Croatia.<sup>7</sup> Of those interviewed for this study, 37 per cent have considered leaving Croatia since their return; 65 per cent know of persons who returned to Croatia intending to stay but left later on.

In 2005, 180,000 Serbs remain displaced in Serbia and Montenegro and Bosnia and Herzegovina, 128,000 of whom retain refugee status.<sup>8</sup> Many of those who have lost their refugee status have no effective access to basic rights in Croatia.<sup>9</sup>

An independent survey of December 2003 showed that up to 42 per cent of Serb refugees in Serbia and Montenegro and Bosnia and Herzegovina might return if



Uncertain return to urban homes: the city of Karlovac. Vladimir Gajic – Gayo

there were access to housing and improvements in the economy.<sup>10</sup>

*'Lack of political will, bad media presentation, various prejudices, uncertain existence, housing problems, bureaucracy tricks, inter-ethnic incidents and many other things, for sure, do not contribute to return of displaced.'*  
(Serb returnee from Knin)

Only in the last couple of years have senior government representatives called on Serb refugees to return, guaranteeing the right to return of all displaced persons. In November 2003 the government concluded an agreement with Independent Democratic Serb Party MPs, which was supposed to resolve the problems facing the Serb minority in Croatia. In 2004, the government set its priorities for activities intended to speed up sustainable return.<sup>11</sup>

On 31 January 2005 – encouraged by the Organization for Security and Cooperation in Europe (OSCE), the United Nations High Commissioner for Refugees (UNHCR) and European Community (EC) missions –

Croatia, Bosnia and Herzegovina, and Serbia and Montenegro signed the Sarajevo Ministerial Declaration on regional refugee returns and agreed to develop national strategies (road-maps) to resolve outstanding refugee issues by the end of 2006. When the Croatian government presented its draft road-map to international community partners in July 2005, the latter suggested the government consider further issues, including some related to housing, in the road-map. Employment issues have not been included, however.

## Access to housing

Key housing issues include the restitution of temporarily occupied housing to returnee owners, reconstruction of destroyed residential properties, and access to housing and housing care assistance for former occupancy/tenancy rights (OTR) holders of socially owned residences. Restitution and reconstruction issues are common to both urban and rural returnees, while assistance for former OTR holders is mainly an urban issue.

Former OTR holders, once residents of socially owned apartments, are the largest category of displaced Serbs without access to housing. Around 30,000 households (approximately 100,000 potential returnees) are affected.<sup>12</sup> Under international pressure, after years of inaction, the authorities adopted two housing care programmes for this category. The issue of the legality of OTR terminations is not tackled by the programmes. However, a number of such cases are pending before local courts and the European Court for Human Rights (ECHR).<sup>13</sup>

*'Urban Serbs are deprived of flats and their OTRs were terminated. Provision of housing care assistance didn't start yet – there are just stories about it.'* (Interviewee from Petrinja)

The first programme is regulated under the 2000/2 Law on Areas of Special State Concern (ASSCs). Several categories of citizens can apply for housing care assistance in war-affected areas, but former OTR holders are at the bottom of the priority list and few of them have benefited from the programme.

The second programme is regulated by the 2003 government Conclusion, intended exclusively for former OTR holders in areas outside the ASSCs where the main urban centres are situated. It refers to potential housing care provision for 80 per cent of all former OTR holders (around 24,000 households). Some 3,600 requests were submitted under this programme by the extended deadline of 30 September 2005, but there are no registered cases of the allocation of apartments so far.

Failure to implement these programmes makes former OTR holders doubt the government's intentions to facilitate the return of the urban population.

Significant progress has been achieved in the restitution of temporary occupied housing units during the past three years. Only 107 out of 19,500 temporarily abandoned residential properties of displaced Serbs await restitution.<sup>14</sup> However, many properties are made uninhabitable by departing occupants. Few owners have received the state assistance for repairs that they are entitled to.<sup>15</sup> In July 2005 the government adopted a Conclusion on providing assistance to owners of such properties, but implementation has yet to occur.

Some occupants have been suing returnee owners for unsolicited investments in the restituted properties. Occupants' interests are prioritized over owners' rights; this was not the case with occupied properties owned by ethnic Croats.

Serb returnees made up 80 per cent of beneficiaries of state reconstruction assistance in 2004 (after reconstruction of ethnic Croats' residential properties was almost complete). Extension of the deadline for submission of reconstruction requests in 2004 allowed 16,000 new requests to be submitted (mainly from Serbs displaced abroad). But 8,000 claims remain unprocessed and 10,000 appeals against first-instance negative decisions await resolution.

The OSCE has noted an increasing number of questionable negative decisions, and has encouraged the government to address an apparent misreading of the law.<sup>16</sup> The rate of positive decisions (below 30 per cent) is low.<sup>17</sup>

## Access to employment

Employment is highly important in motivating and sustaining returns to urban areas.<sup>18</sup> 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.<sup>19</sup> In the ASSCs 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.<sup>20</sup>

*'[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.'*<sup>21</sup>

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).<sup>22</sup> In 2003, of 66 judges employed by judicial bodies, 65 are ethnic Croats, and all state attorneys are ethnic Croats.<sup>23</sup> Serbs make up only 2.6 per cent of civil servants and employees in the courts and state prosecutor's offices.<sup>24</sup>

*'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...'*<sup>25</sup>

*'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.<sup>26</sup>

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.<sup>27</sup>

## Conclusion

The sustainable return of displaced Serbs to Croatia, to urban centres in particular, remains difficult. This is evidenced in the ineffectiveness of housing programmes for former OTR holders and discrimination against Serbs in employment.<sup>28</sup> Effective implementation of the CLNM provisions and combating discrimination in employment would enable significant employment of Serb returnees; contribute to their economic integration; and strengthen their participation in public life and decision-making processes. The road-map provides an opportunity for the big push that is needed for the Croatian authorities to fulfil

their obligations to displaced Serbs, and to secure their economic, social and cultural rights.

## Notes

- 1 Commission of the European Communities (CEC), Opinion of the European Commission on Croatian Suitability for EU Membership, 20 April 2004, COM(2004)257 final, p. 27, [www.delhrv.cec.eu.int/en/eu\\_and\\_country/AVIS040420](http://www.delhrv.cec.eu.int/en/eu_and_country/AVIS040420)
- 2 The UN Universal Declaration of Human Rights and the provisions of the relevant international treaties Croatia is party to.
- 3 Interviews were carried out in Knin (n = 29), Petrinja (n = 30), Karlovac (n = 25) and Pakrac (n = 30). Selection was by the 'snowball' method and fulfilled the following criteria: returnees of Serb ethnicity – former refugees and displaced persons from urban areas of the Republic of Croatia; persons capable of work aged 20–60; proportionally equal representation of the sexes; minimum secondary school, college or university completed; employed and unemployed persons represented. The areas were selected on the basis of higher numbers of registered returns compared to other urban areas, geographical dispersion and varieties in their sizes (9,000–60,000 inhabitants).
- 4 State Office for Statistics, [www.dzs.hr](http://www.dzs.hr)
- 5 CEC, *op. cit.*
- 6 As at 30 June 2005; Government of the Republic of Croatia – Office for Displaced Persons and Refugees (ODPR) and the UNHCR.
- 7 OSCE Mission to Croatia, Status Report, December 2003, No. 13, p. 4.
- 8 OSCE Mission to Croatia, Background Report, 29 July 2005.
- 9 *Ibid.*; such as right to peaceful enjoyment of property, recognition of pensions and acquired rights.
- 10 Agency PULS, 'Motivation and Emotional Factors of Refugee Return to the Homeland and the Acceptance of Returnees by the Local Population', empirical research, 2004, p. 15.
- 11 National Programme of the Republic of Croatia for Accession to the EU – 2004, Official Gazette *Narodne novine*, No. 37, 23 March 2004.
- 12 OSCE Mission to Croatia, Background Report – Housing Solution for Former Holders of Occupancy/Tenancy Rights (OTR), April 2005.
- 13 For example, *Belčić v. Croatia*, currently under review by the Grand Chamber.
- 14 As of 5 September 2005; Ministry of Maritime Affairs, Tourism, Transport and Development, [www.mmtpr.hr](http://www.mmtpr.hr)
- 15 OSCE Mission to Croatia, Background Report, 29 July 2005.
- 16 OSCE Mission to Croatia, Status Report, 7 July 2005, No. 16, p. 5.
- 17 For more information see OSCE Mission to Croatia, Background Report, 29 July 2005.
- 18 Our study shows that 84 per cent of the interviewees consider employment to be very important for sustainability of return to cities; 79 per cent of interviewees believe that developing programmes and access to employment could motivate displaced persons to return to cities.
- 19 State Office for Statistics, [www.dzs.hr](http://www.dzs.hr)
- 20 ECRI, Third Report on Croatia, adopted 17 December 2004, p. 19.
- 21 Serbian Democratic Forum, Information on the Employment of Serb Returnees, Persons Belonging to the Serb Minority in the Areas of Special State Concern, October 2004.
- 22 As of 31 December 2004; 'Comments of the Government of Croatia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Croatia', 13 April 2005.
- 23 Country Report on Human Rights Practices, US Department of State – Bureau on Democracy, Human Rights and Labor, 2003 Report on Human Rights in Croatia, February 2004, [www.state.gov/g/drl/rls/hrrpt/2003/27831](http://www.state.gov/g/drl/rls/hrrpt/2003/27831)
- 24 'Comments of the Government of Croatia on the Second Opinion', *op. cit.*
- 25 ECRI, *op. cit.*, p. 19.
- 26 These findings include additional information provided by 64 more persons, family members of 114 original interviewees.
- 27 CEC, *op. cit.*
- 28 Direct and indirect discrimination with regard to job seekers and employees based on national/ethnic origin is prohibited by 2003 Labour Code amendments. A national strategy to combat discrimination was to be adopted at the beginning of 2005, but this has not yet happened.

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## Recommendations

### To the Government of Croatia:

1. Efforts to create the conditions for sustainable minority returns in accordance with the principles of the January 2005 Sarajevo Declaration should be intensified. The national road-map should be further developed in consultation with minority organizations, which should be actively involved in implementation and monitoring.
2. All occupied private properties should be restituted to their owners. Owners should be urgently compensated for properties devastated while under state administration. The government should be responsible for compensation for unsolicited investments.
3. The process of reconstruction, and appeals against first instance negative decisions, should be speeded up; the process should be completed by the end of 2007.
4. Housing programmes should be implemented without delay. Former OTR holders applying for housing assistance in the ASSCs should not be discriminated against.
5. National policies and practice should comply with the UN Committee on Economic, Social and Cultural Rights (Ecosoc) General Comment No. 4 on the rights to adequate housing (Art. 11(1) of the ICESCR); the Ecosoc principles on housing and property restitution for refugees and displaced persons (E/CN.4/Sub.2/2005/17, 28 June 2005); and the UN Sub-Commission on the Promotion and Protection of Human Rights Resolution

No. 2004/2 on housing and property restitution for refugees and displaced persons.

6. Legislative amendments and operational strategies for securing proportional representation of minorities in state administration and the judiciary with clearly stated dynamics and funds should be adopted and implemented without delay.
7. Discrimination in employment should be investigated. A national strategy to combat discrimination should be adopted by the end of 2005. Comprehensive ethnic disaggregated data collection and monitoring mechanisms to combat discrimination should be developed in consultation with international experts and minorities.
8. Effective economic development programmes focused on all areas of return and reflecting specific needs of returnees and potential returnees should be developed in consultation with minorities.

### To the EU, OSCE and international actors:

1. Intensive monitoring, 'encouragement' and assistance for Croatian government policies on sustainable minority returns, and the implementation of the principles of the January 2005 Sarajevo Declaration, should continue.
2. Cooperation with civil society and minority organizations and support for their constructive participation in decision-making processes should be intensified.

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