



Submission by the United Nations High Commissioner for Refugees

**for the Office of the High Commissioner for Human Rights' Compilation Report-
Universal Periodic Review:**

THE REPUBLIC OF CROATIA

I. Background and Current Conditions

Croatia acceded to the 1951 Convention Relating to the Status of Refugees and to its 1967 Protocol (hereafter, jointly referred to as the 1951 Convention) in 1992 with retroactive effect following declaration of independence on 8 October 1991. Croatia is also a party to the 1954 Convention relating to the Status of Stateless Persons, but has not yet ratified the 1961 Convention on the Reduction of Statelessness.

On average, Croatia deals with 150 asylum applications per year, but 50 per cent of the asylum-seekers leave the country before receiving a final decision. In 2009, 147 persons applied for asylum, the majority of whom originate from neighbouring countries, as well as from Pakistan, Afghanistan and Iran. Since 2006, 20 persons have been granted protection in Croatia (15 were recognized as refugees and five were granted subsidiary protection). The recognition rate remains relatively low at eight per cent. The asylum system has improved significantly in the past two years. However, some shortcomings still exist both in legislation and in its implementation, which are highlighted in the following sections.

UNHCR is pleased to note that its comments and recommendations on the Draft Asylum Law have largely been incorporated in the latest draft of this new piece of legislation. The Draft Asylum Law aims to fully align the Croatian asylum legislation with the 1951 Geneva Convention and the respective EU *Acquis*. UNHCR supports the Croatian authorities and NGOs to develop an asylum system in line with international and European standards and practices. UNHCR has assisted the Government in the drafting process of the current asylum legislation and has provided support for the establishment of the reception centre for asylum-seekers. Croatia has the necessary legislative and institutional framework in place for a fair and effective asylum system.

Return and reintegration of refugees

Despite the progress made in the area of return and (re)integration, there are still approximately 71,000 registered Croatian refugees (mainly ethnic Serbs) in the region (Bosnia and Herzegovina, Montenegro and Serbia) for whom durable solutions have not yet been found. They often represent the most vulnerable, including elderly people without family support and persons who remain in collective centers. Most of them face multiple problems due to the lack of resources and the reduction in humanitarian aid.

Croatia has been a candidate country for European Union membership since 2004. Against this background and in follow-up of the 2008 High Commissioner's Dialogue on Protracted Refugee Situations, UNHCR has played an important role both for persons of concern to UNHCR and NGOs, as well as for the authorities in facilitating, accelerating and monitoring the implementation of the outstanding aspects of the refugee return and reintegration programmes in the last two years.

As of 31 December 2009, 132,405 Serb minority returnees were registered by the Croatian authorities. A UNHCR Return Sustainability Study of 2007 indicated that 54 per cent of those who had returned remained in Croatia. The repatriation process continues with an average of 1,000 returnees per year.

UNHCR's overall assessment of the conditions conducive to return is positive, yet access to adequate housing remains the main challenge. Some 14,000 Croatian returnees, Internally Displaced Persons (IDPs) or refugee families are awaiting allocation of housing units through different housing assistance programmes implemented and financed by Croatia.

It is believed that there are still numerous refugees who are former Occupancy/Tenancy Rights holders (OTR holders) but who lack a durable solution, and, therefore, will not return and/or cannot currently benefit from the Housing Care Programme of Croatia. A comprehensive and just solution for former OTR holders needs to be found. Such solution should include: 1) the full and effective implementation of the current housing care programmes; 2) exploration of the possibility to re-open the application deadline and introduce the buy-off option for housing outside the ASSC (Areas of Special State Concern); 3) restitution of the formerly socially owned apartments that are still not privatized; and 4) a fair settlement mechanism for those former OTR holders who will not return and/or cannot benefit from the Housing Care Programme. On the issue of lost OTRs, the Human Rights Committee delivered its views, on 30 March 2009 (Communication No. 1510/2006), concluding that the Croatian authorities had an obligation to provide the family with a solution, and bring domestic practice into conformity with the ICCPR.¹

¹ The Committee found a violation of article 14, paragraph 1 (right to fair trial and equality before courts), article 2 paragraph 1 (obligation of state parties not to discriminate) and article 17 (right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence, or unlawful attacks on honour and reputation) of the ICCPR.

II. Achievements and Best Practices

UNHCR acknowledges the efforts and achievements of Croatia in addressing issues relating to persons of concern to UNHCR:

- Since 1995, Croatia has reconstructed 146,520 family houses, of which 35 per cent are for Croatian Serb returnees. Nevertheless, 7,104 family claims are still pending in the appeal instance and more than 2,092 await implementation of the Housing Care Programme
- In 1991 and 1992, Croatia registered more than 550,000 displaced Croatian citizens and around 400,000 refugees from Bosnia and Herzegovina. Almost all of these persons have returned or found other durable solutions. It is estimated that 120,000 Bosnia and Herzegovina refugees of Croat ethnicity have acquired Croatian citizenship. For the remaining 2,285 IDPs and 1,133 refugees, who are mainly non-Croats, solutions are being implemented. Local integration of non-Croat refugees remains a concern. While employment and housing is granted in principle, acquiring a permanent residence permit and, eventually, citizenship is delayed for another three years.
- Out of 20,000 private homes that had been occupied, almost all were repossessed by returnees and IDPs. Only 24 cases are pending before Croatian courts. The issue of occupied agricultural land in Zadar hinterland was finally resolved in April 2009.
- Since 2003, ex-OTR holders who wish to return and live in Croatia can benefit from a Housing Care Programme (HCP). Its implementation for minority returnees started in 2006. So far, more than 13,700 family applications were filed, of which 8,871 were decided positively and 7,092 have received Housing Care. The implementation of the HCP for ex-OTR holders is of relevance for Chapter 23 (Judiciary and Fundamental Rights) in the EU negotiations. 63 per cent of the filed applications are from Serb refugees, IDPs and returnees, out of which more than 5,400 have received positive decisions.
- With a recent re-opening of (con)validation, a mechanism for validating working years spent in areas not controlled by Croatian authorities during the armed conflict, full access to pensions for returnees, refugees and displaced persons has been facilitated.
- Rights of ethnic minorities are provided under the Constitutional Law on the Rights of National Minorities and the Anti-discrimination Act.
- In the framework of the EU accession process, the Government of Croatia is required to revise its legislation and practice. In 2007, it adopted a new Asylum Act. Amendments to the law are being prepared to fully align it with the relevant EU *Acquis* on asylum. The Government has involved UNHCR, NGOs and other stakeholders in the drafting of the amendments to the Asylum Act which are due to be adopted in 2010.
- The Government has committed itself to improving the independence and impartiality of the second instance asylum appeals body (Commission for Asylum), which will be replaced in 2012 by the Administrative Court.

- The Government continues to cooperate with UNHCR and NGOs in the monitoring of border practice, to ensure the respect of the principle of *non-refoulement* and access to the territory and to the asylum procedure for persons in need of international protection.

III. Recommendations

- It is recommended that the Government of Croatia further improves the implementation of the existing Housing Care Programme, including consideration of extending the application deadline (to all the refugee applicants – OTR holders - who missed the 2005 deadline) and establish a buy-off option for within the housing scheme for urban areas.
- It is recommended that the Government of Croatia establishes a comprehensive mechanism for a fair and just solution for former occupancy/tenancy right holders who do not intend to return to Croatia and thereby benefit from the existing Housing Care Programme.
- It is recommended that the Government of Croatia resolve all outstanding appeals for reconstruction of family houses (approximately, 7,000 family claims).
- It is recommended that the Government of Croatia fully implements the Constitutional Law on the Rights of National Minorities and ensure access to employment and representation in state administration, police and judiciary for minority returnees.
- It is recommended that Croatia accede to the 1961 Convention on the Reduction of Statelessness.
- It is recommended that the Government of Croatia fully aligns its national refugee and asylum legislation with the EU Aquis and the 1951 Refugee Convention.
- It is recommended that the Government of Croatia enhance its administrative and capacity-building activities in the field of asylum, in order to cope with the increased number of asylum-seekers that is expected to lodge their applications in Croatia, once the country joins the EU.
- It is recommended that the Government of Croatia provide an effective solution for the accommodation of all unaccompanied and separated children (USC) and the timely and appropriate appointment of specialized guardians for USC including asylum-seekers.

IV. Capacity Building and Technical Assistance

- UNHCR is ready to continue to provide technical assistance and capacity-building for designated government staff as well as assist in building the required institutional capacity to: a) finalize the refugee return chapter and b) to build an effective and efficient asylum system in Croatia.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
March 2010**