

# ECRI

European Commission against Racism and Intolerance  
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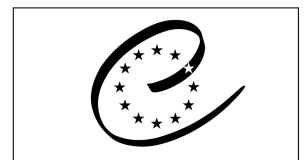
## **European Commission against Racism and Intolerance**

ECRI's country-by-country approach:

## REPORT ON CROATIA

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Strasbourg, 9 November 1999



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

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## INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law<sup>1</sup>, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.

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<sup>1</sup> The report prepared by the Swiss Institute (ref: CRI (98) 80), covering relevant legislation in member States of the Council of Europe is available on the web site [www.ecri.coe.int](http://www.ecri.coe.int) and, in hard copy, from ECRI's Secretariat.

- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

To date, six series of ECRI's country-specific reports have been made public, in September 1997, in March 1998, in June 1998, in January 1999, in March 1999 and in May 1999 respectively<sup>2</sup>. A seventh series of country-specific reports was transmitted to the governments of the countries concerned in September 1999, and is thus now being made public<sup>3</sup>.

The following report contains ECRI's analysis and proposals concerning Croatia.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all member States of the Council of Europe. With this seventh series of reports, for which the procedure was completed by September 1999, ECRI has concluded its reports on all member States of the Council of Europe<sup>4</sup>.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

As from 1999, ECRI has begun a follow-up procedure to its country reports, examining what action governments may have taken on the proposals they contained, updating their contents generally and focusing on specific issues of concern in greater depth. Some 10 countries will be addressed annually in this way, over the period 1999-2002.

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<sup>2</sup> *The first six series comprise reports on Andorra, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "The Former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom.*

<sup>3</sup> *Reports on Albania, Croatia, Cyprus, Moldova and Turkey.*

<sup>4</sup> *Given that Georgia joined the Council of Europe recently (April 1999), the first report on this country will be produced later.*

For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

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# REPORT ON CROATIA<sup>5</sup>

## Introduction

The Republic of Croatia became independent following the break-up of the Federal Socialist Republic of Yugoslavia. The country, situated between West and East, had 4 685 000 inhabitants in 1990, of which 78% were Croat and 12% were Serb, the remainder being made up of various minority groups (including Hungarians, Slovenians, Italians and Albanians). However, subsequent events resulted in major demographic changes, with displacements and a considerable influx of refugees, particularly from Bosnia. The problems faced today in Croatia as regards the relations between the various ethnic and/or religious communities are to a large extent the result of a war started in 1991 against Croatia as well as of armed conflicts which took place in the country until 1995. The recent nature of these events, which brought great suffering to the civilian population, remains an obstacle to the building of a climate of confidence between these communities. This specific post-war situation is unique among all the member States of the Council of Europe and renders any analysis delicate but at the same time particularly necessary, especially as the peace remains fragile.

As soon as its internal situation became more stable, Croatia expressed the desire to join the Council of Europe and to become a member of the democratic European family. Considerable progress has been made to guarantee the rule of law and the freedom both of individuals and minority groups.

Co-operation with various international organisations has been strengthened, and the monitoring of the honouring of Croatia's undertakings continues in a positive fashion in many areas. However, serious problems still exist, in particular as regards the rights of members of minority groups, which account for a significant part of the population of the Republic of Croatia. Although episodes of ethnically-motivated violence and discriminatory practices are relatively decreasing over time, members of minority groups continue to be subject to physical threats as well as differential treatment in various fields, particularly in certain parts of the country.

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<sup>5</sup> *Note: Any development subsequent to 16 October 1998 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

Some of the key areas identified by ECRI as meriting particular attention include:

- the need to ensure that the rights of minority groups are thoroughly respected;
- the protection of the rights of refugees and displaced persons and the enhancement of confidence-building measures and security conditions in certain areas of the country, with a view to facilitating a harmonious reintegration of refugees and displaced persons in their areas of origin;
- the need to monitor the non-discriminatory implementation of law and regulations concerning, *inter alia*, acquisition of citizenship, employment, property rights and provision of social services;
- the need to raise human rights awareness, particularly as concerns non-discrimination, both among State employees and the general public;
- the continuation and strengthening of co-operation with international organisations working with the Croatian authorities to improve the human rights situation;



## **I. LEGAL ASPECTS<sup>6</sup>**

### **A. International Instruments**

1. Croatia has ratified all the relevant international legal instruments in the field of combating racism and intolerance, with the exception of the European Social Charter. ECRI hopes that ratification of this convention, which is currently under study, will be attained soon. ECRI understands that the Croatian authorities are currently considering the question of accepting Article 14 of the Convention for the Elimination of All Forms of Racial Discrimination, which would allow for individual complaints to be examined by the Committee for the Elimination of Racial Discrimination. ECRI hopes for a successful conclusion of this process as soon as possible.

By virtue of Article 134 of the Constitution of Croatia, "international agreements concluded and ratified in accordance with the Constitution, made public, and which are in force, shall be part of the Republic's legal order and shall be above law in terms of legal effects".

### **B. Constitutional Provisions**

2. Article 14 of the Constitution establishes the principle of equality before the law as well as the right of every individual to enjoy the rights and freedoms secured by the Constitution regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other characteristics. ECRI notes the recent amendment of Article 14 whereby these rights are recognised to every person and not only to citizens. However, ECRI regrets that association with a national minority does not appear among the prohibited grounds of discrimination<sup>7</sup>.

Article 15 guarantees to members of all nations and minorities equal rights and freedom to express their nationality, to use their language and script and to cultural autonomy. Any call for or incitement to national, racial or religious hatred or any form of intolerance is prohibited and punishable (Article 39).

3. The Parliament recently adopted amendments to the Constitution, some of which, such as the one mentioned above, can be regarded as improvements. However, it is regrettable that in the Preamble to the Constitution, in the section concerning the status and enumeration of national minorities, there is no explicit mention of Slovenians or Muslims, which constitute respectively the third and fourth minority groups in the country. This omission is all the more difficult to understand given that other smaller ethnic or religious groups are mentioned, and that the Slovenian and Muslim minority

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<sup>6</sup> *A full overview of the legislation existing in Croatia to combat racism and intolerance is provided in the publication CRI (98) 80. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography).*

<sup>7</sup> *Article 14 of the European Convention on Human Rights, which is directly applicable by virtue of Article 134 of the Constitution of Croatia, contains association with a national minority as a ground of discrimination. However, the scope of Article 14 of the European Convention on Human Rights is limited to the rights set forth in the Convention.*

groups are still financed by the Government, together with sixteen different minority groups, according to the activities carried out and irrespective of their inclusion in the Constitution.

4. The Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Minorities and Communities in the Republic of Croatia of 1991 contains a non-discrimination clause and provides for rights which are in line with international standards. However, some provisions of this law have been suspended by the authorities on the basis of the demographic changes in the population produced by the war. These provisions concern the granting of a special status to districts mainly inhabited by ethnic communities, the representation and participation in public institutions of sizeable communities and minority groups and the international supervision of the implementation of this law. The Croatian authorities co-operate with the Commission for Democracy through Law of the Council of Europe to address the problems posed by the suspension of these provisions. ECRI stresses that the Constitutional Law deprived of these provisions is inadequate in the present situation and encourages the ongoing close co-operation with this Commission, emphasising the paramount role which the solutions recommended in this field can play in restoring a climate of confidence and security.

- ***Citizenship Law***

5. The law on Citizenship of 1991 makes a distinction between those with a claim to Croatian ethnicity and those without. Members of the "Croatian people" are eligible for citizenship as long as they submit a written statement that they consider themselves Croatian citizens, even if they were not citizens of the former Socialist Republic of Croatia (Article 30.2). Other individuals, even when they had previously resided legally in Croatia as citizens of the former Yugoslavia, must go through the process of naturalisation in order to obtain citizenship and fulfil the more stringent requirements established for naturalisation. There have been reports of discrimination in the issuance of citizenship papers to members of ethnic and religious minorities, particularly Serbs and Muslims. These cases were frequently based on Article 26 or Article 8 of the Law on Citizenship. Article 26 allows the Interior Ministry to deny citizenship papers to people otherwise entitled to citizenship for the sole reason of "national interest". Article 8 includes the requirement that applicants' conduct demonstrates that they are "attached to the legal system and customs of Croatia". Hostility and lack of co-operation from local government officials in the processing of the applications in Western Slavonia and the Knin region<sup>8</sup> is also reported. ECRI expresses its concern at these reports and urges the Croatian authorities to take the necessary corrective action.

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<sup>8</sup> *Whenever reference is made to the Knin region throughout the text, ECRI is referring to the same geographical area as the one covered by the term "Krajina", employed in some of the documents used by ECRI for the preparation of the report.*

6. A major citizenship question is posed by the situation of tens of thousands Croatian Serb refugees now residing in the Federal Republic of Yugoslavia. While many of them who may wish to return to Croatia possess valid claims to citizenship, their inability to prove eligibility has placed them in a difficult position. ECRI notes the recent adoption of the Programme of Return and Care of Displaced Persons, Refugees and Exiles, the Procedures for return and the Mandatory Instructions for acquiring documents required for the implementation of these procedures (see below, para. 15).

### **C. Criminal Law Provisions**

7. The new Criminal Code of the Republic of Croatia, which entered into force on 1 January 1998, penalises the denial or restriction of human rights and freedoms specified in the Constitution, law or other regulation on the basis of nationality, race, colour, religious affiliation, ethnicity, gender, education, social status, social origin or property (Article 106). The same article punishes offenders who deny or restrict the rights of citizens to express their national identity and cultural autonomy (para. 2) or to use their language and script (para.3).

Article 174 (former Article 133 of the Basic Criminal Law) penalises the discriminatory restriction of fundamental human rights and freedoms recognised by the international community, the dissemination of ideas claiming superiority of one race over another as well as the promotion of racial hatred and the incitement to racial discrimination.

8. ECRI expresses serious concern at the failure to include in the new criminal code the previous Article 240 establishing the offence of incitement to national, racial or religious hatred or intolerance. ECRI believes that the re-establishment and enforcement of such a provision is of the utmost importance, particularly in the current situation, and draws the attention of the Croatian authorities to its general policy recommendation n°1 on this specific point.

### **D. Civil and Administrative Law Provisions**

9. Croatia's Labour Law contains a very full list of grounds of prohibited discrimination in the field of employment. However, ECRI feels that association with a national minority should be included among these grounds.

10. The adoption of anti-discrimination legislation to cover fields other than employment (such as housing, provision of goods and services, etc.) would also be desirable. As a further step, the effectiveness of the administrative and judicial means by which an individual may seek redress for alleged discrimination should be increased.

11. In June 1997 a law on association was adopted which raised concern among several non-governmental organisations. The law confers to the government broad supervisory powers to prevent the founding of an association and to monitor all aspects of an association once founded<sup>9</sup>. ECRI stresses the vital role that free associations, and particularly NGOs, play in the fight against discrimination and intolerance and hopes that the provision contained in the above mentioned law will not be detrimental to the carrying out of their activities.

## **E. Specialised bodies**

12. In 1991, an Office for Ethnic and National Communities or Minorities was established within the government. The main tasks of the Office include: to propose measures for the implementation of the rights of ethnic and national minorities and to monitor the application of relevant international instruments. In carrying out these tasks, the Office is assisted by the Council of Representatives of Ethnic and National Communities or Minorities, in which all national communities and minorities present in Croatia are represented.

13. An Ombudsman has competence to examine the violations of human rights committed by administrative or executive bodies. The Office of the Ombudsman is reported to be increasingly active and to have improved access of non-governmental organisations and other bodies to the government. ECRI feels that it is very important to further enhance the role of this institution in public life, through, *inter alia*, increased publicity, better training of staff, and an extension of contacts with national institutions in other countries as well as with international organisations and local non-governmental organisations. Furthermore, ECRI draws the attention of the authorities to its General Policy Recommendation N° 2 on specialised bodies to combat racism and intolerance at national level, and hopes that the institution of the Ombudsman will develop along the lines set down in this Recommendation, paying particular attention to the problems of racism and intolerance.

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<sup>9</sup> *For example, the activities of an association can be suspended on the grounds of a "well founded" suspicion that its activities contravene the Constitution or the law. The association can be kept closed until such time as it establishes its innocence in a court of law, and someone can be appointed to manage and dispose of the association's property in the meantime.*

## II. POLICY ASPECTS

### F. Reception and Status of refugees and displaced persons

14. According to figures of the Croatian Office for Displaced Persons and Refugees (ODPR), in August 1996 Croatia still had on its territory almost 170,000 displaced persons and 185,000 refugees, mostly from Bosnia-Herzegovina. Although in the past few years there were reports of ill-treatment of Bosnian Muslim refugees by law enforcement officials, ECRI understands that the situation has subsequently improved. However, it considers that the authorities should closely monitor the situation and take any appropriate measures, such as intensive human rights training of officials who deal with refugees, as mentioned under G.

15. Only a small part (around 18%) of the almost 200,000 Croatian Serbs who fled the areas subject to Croatian military operations in summer 1995, have been able to return to their homes. Meanwhile, however, tens of thousands of Croats are settling in the region. ECRI notes the "Programme for the Return and Accommodation of Displaced Persons, Refugees and Exiled Persons" adopted by Parliament in June 1998 and encourages the Croatian authorities to implement it as speedily as possible. Furthermore, ECRI encourages the authorities to undertake all possible efforts to strengthen and expand confidence-building measures, also in co-operation with international instances and at grass-root level, and to increase the level of security in the areas in question in order to facilitate the return of refugees and displaced persons to their homes. Moreover, given reports of the slow pace of the Croatian ODPR in dealing with potential returnees' submissions for clearance, the authorities are encouraged to address the difficulties which have so far led to this situation.

16. As for the Danube region<sup>10</sup>, ECRI notes the Agreement on the Operational Procedures of Return reached by the Joint Working Group on Returns in April 1997. The Agreement establishes mechanisms to register and process all requests for return into and out of the Croatian Danube Region and sets up an Agency for Property Negotiation for those who do not want to return to their former places of residence. While this agreement constitutes a positive development, ECRI notes the difficulties currently encountered in its implementation, resulting in a modest amount of accepted applications for return and reconstruction assistance as well as in few actual returns. Priority should therefore be given to ensuring a satisfactory implementation of the Agreement.

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<sup>10</sup> This includes the regions formerly under the United Nations Administration for Eastern Slavonia (UNTAES), ie Eastern Slavonia, Baranja and Eastern Sirmium.

17. ECRI notes the adoption of the law on Areas under Special State Care, which contains a series of economic, social and other measures designed for speedier revitalization of these areas. ECRI considers that the authorities should channel priority funding for social, education and economic reconstruction projects to Croatian villages and municipalities whose local authorities are willing to encourage the return of refugees and displaced persons of all ethnic groups, which could serve as models of "open communities".

## **G. Training**

18. ECRI considers that there is a need to raise awareness both among State employees and the general public on international human rights standards - particularly as regards non-discrimination - and their implications. It considers in particular that, despite action taken by the Government, further intensive training is needed for the police, some members of which have been reported to carry out their duties in a discriminatory manner, especially in Western Slavonia and the Knin region. Furthermore, it is felt that army personnel and prison staff would equally benefit from training in the fields of human rights and non-discrimination.

19. In relation to the need to raise awareness among the general public, ECRI notes the work carried out in co-operation with international organisations to establish a national programme for human rights education covering the pre-school to university levels and hopes that efforts will be made to further develop and implement it.

## **H. School Education**

20. A new Law on Education in the Languages of Ethnic and National Communities or Minorities was prepared in September 1997 by the government and is currently before the Parliament. It contains provisions establishing a compulsory statement of national identity and making the possibility for Croatian children to enrol in minority schools conditional on the availability of rooms and the provision of Croatian language classes. During the preparation of this draft law, experts of the Council of Europe expressed the view that the compulsory declaration of a single national identity is limiting and undesirable in a multicultural society and does not cohere very well with the general principles of freedom of choice in matters of education. ECRI understands that the intention of the Croatian authorities is to ensure that the genuine demand of minority groups for mother tongue education is met. However, it feels that this could be done by devising criteria other than a compulsory statement of national identity.

21. ECRI notes with interest the reintegration of the education system in Eastern Slavonia into the Croatian school system and the collaboration between the Croatian authorities and the representatives of the Serb community. This allowed the adoption of a curriculum for Serb majority schools in time for the 1997-1998 school year and the conclusion of agreements, notably as concerns the appointment of Serbian teachers and school directors, the supply of bilingual textbooks and the use of the Serbian language. Some problems in the implementation of these agreements have been noted. ECRI considers that continued joint efforts to find solutions to cultural and

educational problems, particularly in this region, will enhance the establishment of a harmonious cohabitation between the Croatian and Serbian communities.

## **I. Employment**

22. The catastrophic economic situation in Western Slavonia and the Knin region makes life very difficult for all inhabitants, whether they be Serbian or Croatian. However, Serbs and other minorities are reported to be disproportionately affected by unemployment as well as by layoffs and dismissals, and the few jobs that become available are reported to be more likely to be offered to Croats than to Serbs. ECRI feels that firm measures are needed to address these problems and that all possible efforts should be made to ensure that the existing anti-discrimination employment legislation is efficiently implemented in practice.

23. ECRI underlines the importance of a diverse ethnic composition of the body of civil servants. Recruitment among members of minority groups should therefore be encouraged. In this respect, ECRI expresses concern at reports of dismissal of non-Croatian civil servants, notably judicial officers, allegedly based on ethnicity, and urges the authorities to investigate these cases and provide effective mechanism of redress where appropriate.

## **J. Housing**

24. Although decreasing in number, unlawful evictions and attempts at eviction of ethnic Serbs are reported to continue to take place, particularly in Western Slavonia and the Knin region. In these parts of the country, in accordance with the Law on the Temporary Takeover of Specified Property of 1995, many homes belonging to Croat Serbs were placed under State administration and given over to newly arrived Croats who may not be dispossessed of the property until proper alternative accommodation is found. As for State-owned flats, under the law on the Lease of Flats in the Liberated Territory of 1995, rights to rented apartments were lost irrevocably if tenants had not reclaimed them within a deadline of three months, which is, in the opinion of ECRI, extremely short in those circumstances. In practical terms, this has resulted in very few Croatian Serb refugees regaining access to their homes. Some local housing commissions have also been reported to be dismissive and even hostile to Croatian Serbs seeking to reclaim their homes. It is felt that there is a need for a clear commitment to restitution of property as well as restoration of lost tenancy rights on State-owned apartments through the establishment of an effective and expeditious mechanism to this end. In this respect, ECRI notes that, in July 1998, the above mentioned laws were abrogated.

25. In the Danube Region, although evictions are still reported to take place, the above-mentioned Agreement on the Operational Procedures of Return represents a significant improvement. The authorities are therefore encouraged to take steps in conformity with the guidelines of this Agreement and to facilitate their implementation.

#### **K. Other social provision**

26. There appear to have been significant improvements as regards the provision of social welfare services and the restoration of essential services in Western Slavonia and the Knin region. Imbalances continue to be noted, however, between reconstruction assistance provided to communities populated by recently arrived Croats and that given to villages inhabited predominantly by remaining Croatian Serbs. In general, there is evidence that Serbs, particularly displaced persons, are still subject to administrative discrimination in such fields as pensions, social welfare, reconstruction assistance and health care. These practices are reported to be mostly the result of deliberate unobservance or unawareness on the part of officials at the local level. The authorities are therefore urged to ensure that governmental decisions and policies are communicated and implemented at all administrative levels.

#### **L. Ethnically motivated attacks and harassment**

27. Given the recent nature of the conflict, resentment and tensions between members of different communities are still very high. Despite a significant decrease, thefts and physical attacks, notably against Croatian Serbs, often resulting in serious injuries and death, continue to be a major problem in some regions, particularly in Western Slavonia and the Knin region. It is felt that a reinforced and effective presence of police officers trained in human rights could contribute to a reduction of crime and to an improvement of the security conditions. As for prosecutions, while some progress has been made regarding more recent incidents, major crimes which occurred at or near the time of Croatia's military operations in the summer of 1995 remain for the most part unresolved. ECRI stresses that such crimes should be rigorously investigated and their perpetrators punished, particularly with a view to restoring a climate of confidence.

#### **M. Media**

28. ECRI emphasise that politicians and government officials bear a responsibility not to supply the media with material likely to foster ethnic tension and should instead encourage them to report any incident or episode in a balanced fashion and to disseminate positive information. As a further step, codes of self-regulation may prove useful in this respect.



## **N. The Programme on Establishment of Trust, Accelerated Return and Normalisation of Living Conditions in the War Affected Regions of Croatia**

29. The Programme, adopted in October 1997, has the following goals: the creation of a general climate of tolerance and security; the realisation of equality of all citizens with regard to the State administration; the establishment of trust; the creation of general social, political, security, and economic conditions for normalisation of life in the war affected regions of Croatia; the speedy, secure and organised return of all Croatian citizens to the regions from which they were expelled or displaced; the participation of all citizens in the building of a democratic society; and the creation of a political framework for the implementation of the relevant legal norms.

A National Trust Establishment Committee, reporting to the President and the Government of the Republic, is responsible for adopting measures, in co-operation with other bodies of the State, to implement the Programme. The counties, cities and municipalities must also establish their Committees, reporting to the National Trust Establishment Committee.

30. ECRI stresses the paramount importance of this ambitious programme, notably with a view to promoting trust and reconciliation nation-wide. It is noted, however, that the Committees at the local level are often reported not to work effectively and have in some cases not yet even been established. The authorities are strongly encouraged to give priority to monitoring the thorough implementation of the programme at the different levels.

## **O. Other Areas**

### **- *The Danube Region***

31. Following the termination of the UNTAES mandate on 15th January 1998 and the peaceful reintegration of the Danube region into the legal system of the Republic of Croatia, the pre-conditions for the building of a "normal life" for all persons in the region must be established. Although efforts are already underway, ECRI encourages the Croatian authorities to take all additional necessary steps to promote goodwill, build confidence and provide assurance of a safe, secure and stable environment to all people in the region, and stresses the importance of the restoration of the multi-ethnic character of this region to this end. As previously mentioned, a more efficient implementation of the Agreement on the Operational Procedures of Return seems necessary.

### **- *Roma/Gypsy community***

32. Overall, Roma/Gypsy are reported to continue to face societal discrimination and official inaction when complaints are filed. Progress has been made in the fields of education and public awareness, through the publication of studies on the subject of Romani education, initiatives related to the organization and financing of education of Roma children, training of Roma teachers, and public forums on the difficulties faced by

Roma/Gypsy in society. The authorities are encouraged to give further support to such initiatives, taking into account ECRI's general policy recommendation N° 3 on combating racism and intolerance against Roma/Gypsies. Furthermore, the authorities are encouraged to pay particular attention to the question of citizenship which seems to pose a problem for the Roma/Gypsy community in Croatia.

- *Jewish community*

33. Although anti-Semitism per se does not appear to be a serious problem in Croatia, the rehabilitation of figures and elements associated with the pro-Nazi Ustaša regime constitutes a dangerous development. The situation should therefore be monitored.

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**General data as supplied by national authorities**

*For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Croatian authorities on 6 March 1997.*

*ECRI accepts no responsibility for the data below.*

*Data concern the pre-war period. Ethnic Croats: 78,10%. Declared affiliation: Serbs: 12,16%; Muslims: 0,91%; Hungarians: 0,47%; Slovenians: 0,47%; Italians 0,45%. Undeclared affiliation: 6,02%*

\* *Population of Croatia: 4 776 000 (1995).  
This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)*

## BIBLIOGRAPHY

*This bibliography lists the main published sources consulted during the examination of the situation in Croatia: it does not cover all the various sources of information (media, contacts within the country, national NGOs, etc) which were utilised.*

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6. Antisemitism World Report, 1996 by the Institute for Jewish Policy Research and American Jewish Committee
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8. Initial, Second and Third periodic Report submitted by Croatia to the Committee for the Elimination of Racial Discrimination.
9. Concluding Observations of the CERD (A/50/18, paras.163-178)
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12. S/PRST/1997/4: Statement by the president of the UN Security Council
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14. S/1996/691: Further Report on the Situation of Human Rights in Croatia Pursuant to Security Council Resolution 1019 (1995)
15. S/1997/195: Further Report on the Situation of Human Rights in Croatia Pursuant to Security Council Resolution 1019 (1995)
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17. Documents by the European Commission for Democracy through Law, in particular: CDL (97) 29: Decision on establishing the Council of Ethnic and National Communities or Minorities in the Republic of Croatia; CDL (97) 24 fin: Memorandum on the Revision of the Croatian Constitutional Law of Human Rights and Rights of Minorities; CDL-INF (97) 3: Report on the State of Progress of Co-operation between the Venice Commission and the Republic of Croatia; CDL (96) 26: Report on the Implementation of the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Communities and Minorities in the Republic of Croatia
18. Council of Europe documents, in particular: Doc. 7818: Motion for a recommendation on the Return of Croatian Refugees and Displaced persons; Doc. 7617: Communication from the Committee of Ministers concerning the accession of Croatia to the Council of Europe; Doc. 7533 and Doc. 7510: Opinion on Croatia's Request for Membership of the Council of Europe; CM/Inf(97)18: Summary Interim Report on Education and Culture Activities in Eastern Slavonia.

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Croatia.**



## APPENDIX

ECRI wishes to point out that the analysis contained in its report on Croatia as indicated on page 7, is dated 16 October 1998, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Croatia to engage in a process of confidential dialogue with ECRI on its draft text on Croatia and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the national liaison officer expressly requested that the following observations on the part of the authorities of Croatia be reproduced as an appendix to ECRI's report.

### ***OBSERVATIONS PROVIDED BY THE AUTHORITIES OF THE REPUBLIC OF CROATIA CONCERNING ECRI'S REPORT ON THE REPUBLIC OF CROATIA***

#### ***Constitutional Provisions***

*The Constitution of the Republic of Croatia specifies that members of all national groups and minorities shall have equal rights. The Constitution provides for equality before the law and non-discrimination. The Government would like to stress that enumeration of the national minorities in the Preamble to the Constitution, after amendments to the Constitution in 1997, did not change anything in the status and rights of minorities in Croatia. The rights of minorities in the Republic of Croatia remain protected in accordance with the international law standards. The initial proposal in the Parliament was not to mention the specific minorities in the Preamble, but the minority representatives in the Croatian Parliament proposed the criteria of enumeration. This criteria was accepted by a two-thirds majority of all representatives of the Croatian Parliament. The criteria is recognised in the field of international law as a principle of autochtony. The minorities which are not mentioned in the Preamble have equal rights as they have had before and as the other minorities have, according to all relevant international standards and Conventions of the Council of Europe related to the Minorities.*

*The Government has established a working group for the purpose of drafting the law on minority rights. The activities are mainly aimed at replacing the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Minorities and Communities in the Republic of Croatia and its suspended provisions. Upon its completion and prior to the beginning of the legislative procedure, the proposed text will be discussed with the members of the Commission for Democracy through Law of the Council of Europe and the members of the Minority Council in Croatia.*

#### **D. Civil and Administrative Law Provisions**

*11. The Government of the Republic of Croatia would like to inform ECRI that several Croatian experts are drafting a new law on the association, bearing in mind the comments from Council of Europe experts and the remarks received from various non-governmental organisations. In this respect, the Governmental Office for Cooperation with NGO's was established in November 1998. This Office has already produced some concrete results, especially in the field of financing the NGO's specialised in human rights.*

#### **I. Employment**

#### **J. Housing**

*The Government of the Republic of Croatia has taken notice of the fact that in the data provided by the various international organisations the Serbs are frequently objecting much more than Croatians, especially regarding employment and housing in the liberated areas, Upon comparison of the number of complaints submitted to the Governmental bodies from Croatians and viewing the same problems in the same areas, it is obvious that the problem is of financial nature. More specifically, the problems lay in a slow process of restructuring and other economic problems. The reason for this disproportion in numbers is that Serbs turn their complaints primarily to the NGO's and international organisations, whereas Croatians transmit their complains to the Governmental bodies. The numbers can be compared and the results show that approximately the same percent of Croatians and Serbs are not satisfied with a process of employment and housing in the liberated areas. Therefore, the given reasons are objective, hence mostly of economic and financial nature.*

*As the Law on the Temporary Takeover of Specified Property (1995) and the Law on the Lease of Flats in the Liberated Territory (1995) have been abrogated as of July 1998, the problems mentioned in Paragraph 24 no longer exist. The Housing Commissions, as mentioned in the Report , are established with the aim to speed the procedure and remove administrative complications and if anyone is unsatisfied with their work, he/she can turn to the Court.*

*Current data shows that approximately 60 000 Croatian Serbs have returned to the Republic of Croatia. The Government strongly believes that this figure proves that the Government provides conditions for normal life and is promoting mutual understanding of all people in all areas of society.*



## **Other Areas**

- **The Danube Region**

*The Government of the Republic of Croatia is fully aware that the situation in the Danube Region is still sensitive, but it has established various mechanisms and bodies to facilitate the process of return of all previous inhabitants of this region. After the reintegration of the Danube Region into the legal system of the Republic of Croatia, the Government is promoting a more positive attitude of tolerance, goodwill, and is working on providing assurances of a safe, secure and stable environment to all people in the Region.*

- **Jewish Community**

*The Republic of Croatia, as every democratic state based on the rule of law, has accepted the possibility of existence of extremist groups that have a right to freely express their opinions, as long as they do not violate the rights and freedoms of other persons. The legislation prohibits discrimination, maltreatment and violence on the basis of the said differences, and also applies to the Jewish community in the Republic of Croatia.*

*Finally, the Government of the Republic of Croatia would like to stress its awareness of the importance of combating racism and intolerance and the role of education in this process. In this regard, the Croatian National Committee for the Education on Human Rights in cooperation with UNESCO and Council of Europe experts has prepared a Programme on Education on Human Rights which will be implemented in all the primary and grammar schools in Croatia in the near future.*