



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**COMMENTS BY THE GOVERNMENT OF CROATIA ON THE
CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS
COMMITTEE (CCPR/CO/71/HRV)**

[22 April 2003]

**THE MINISTRY OF JUSTICE, ADMINISTRATION AND
LOCAL SELF-GOVERNMENT**

Re: Concluding observations of the Human Rights Committee on the initial report by the Republic of Croatia under the International Covenant on Civil and Political Rights

The Ministry of Justice, Administration and Local Self-government hereby provides its observations in reply to the Concluding Observations of the Human Rights Committee on the initial report by the Republic of Croatia under the International Covenant on Civil and Political Rights as follows.

Point 7

The Republic of Croatia is aware of the need to educate judges and lawyers on human rights, as well as on other matters which arise in practice. It has accordingly initiated the founding of a Centre for Professional Training of Judges and Other Judicial Officials. In 2002 the Council of Europe financed the holding of a seminar on this topic. The Office of the Government Agent of the Republic of Croatia before the European Court of Human Rights proposed a training programme to be drawn up for 2003. It is expected that the Centre will start to work in a short time.

Point 8

Article 14 of the Constitution of the Republic of Croatia reads as follows: "Everyone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, sex, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law."

It stems from the provisions of the Constitution quoted that it applies to all persons who are in the territory of the Republic of Croatia, which is in accord with paragraph 1, article 2, of the Covenant according to which each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Point 9

Article 17 of the Constitution of the Republic of Croatia reads as follows: "During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian Parliament by a two-thirds majority of all members or, if the Croatian Parliament is unable to meet, at the proposal of the Government and with the co-signature of the Prime Minister, by the President of the Republic.

The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of persons in respect of race, colour, gender, language, religion, national or social origin. Not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the

right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offences and punishments, or on freedom of thought, conscience and religion.”

We believe that the article of the Constitution quoted is not contrary to the requirements of article 4 of the Covenant. The provision of the Constitution is defined somewhat more broadly from “a public emergency which threatens the life of the nation”. However, the provisions mentioned are in accordance with article 4 of the Covenant, since the extent is strictly determined by the needs stemming from the exigencies of the situation, and the measures are not incompatible with other provisions under international law. It stems from the provisions quoted that a state of war, an immediate threat to the independence and unity of the State and severe natural disasters must first be declared, i.e. a two-thirds majority of Members of the Croatian Parliament, the representative and legislative body of all the citizens of the Republic of Croatia, must first so decide, or that the President of the Republic decides on this with a co-signature of the Prime Minister. This means that matters so important as a “threat to the life of a nation” will be decided upon, and the decision need not always be positive. It can be decided, that is, the assessment can be made, that this threat does not exist. Furthermore, the right to life is protected; torture, cruel, inhuman or degrading treatment or punishment is prohibited; legal qualification of punishable offences and punishments is respected, as well as the freedom of thought, conscience and religion.

A violation of the rights from article 8, paragraphs 1 and 2, article 11 and article 16 of the Covenant is a criminal offence in the Republic of Croatia. Criminal offences determined by law remain criminal offences during a state of emergency. We deem that article 17 of the Constitution of the Republic of Croatia is not contrary to the provisions of the International Covenant on Civil and Political Rights.

In connection with article 100 of the Constitution, which relates to the powers of the President of the Republic during a state of war to issue decrees with the force of law in cases when the Croatian Parliament is unable to convene, we maintain that the solutions for matters which may arise in a state of emergency in which a State could find itself must be regulated in some way.

Point 10. The overview of the situation regarding criminal offences against the values protected by international law

Investigations and criminal proceedings for war crimes have been conducted from the beginning of the aggression against the Republic of Croatia. Up until 2000, the proceedings were conducted mostly for crimes against the Croatian population. Since 2000, investigations and criminal trials have been taking place also for crimes committed against the Serbian population. Some of the proceedings conducted previously, where offences were not qualified in the proper way, and, accordingly, adequate punishments were not imposed, are being reopened when this is legally possible. The competent bodies are making every effort in investigating and processing all war crimes.

One hundred and sixty-six persons were *reported* for having committed war crimes in 1991, 1,026 persons in 1992, 756 persons in 1993, 486 persons in 1994, 777 persons in 1995, 935 persons in 1996, 153 persons in 1997, 58 persons in 1998, 34 persons in 1999, 47 persons in 2000, 92 persons in 2001, 116 persons in 2002, that is a total of 4,466 persons in the period between 1991 and 2002.

A total of 205 persons were *indicted* in 1991 and 1992, 193 persons in 1993, 247 persons in 1994, 192 persons in 1995, 385 persons in 1996, 248 persons in 1997, 36 persons in 1998, 10 persons in 1999, 6 persons in 2000, 112 persons in 2001, 40 persons in 2002, that is a total of 1,786 persons in the period between 1991 and 2002.

A total of 53 persons were *convicted* in 1991 and 1992, 157 persons in 1993, 127 persons in 1994, 82 persons in 1995, 57 persons in 1996, 127 persons in 1997, 33 persons in 1998, 32 persons in 1999, 23 persons in 2000, 36 persons in 2001, 50 persons in 2002, that is a total of 777 persons in the period between 1991 and 2002.

Two persons were either *acquitted or charges against them were rejected* in 1991 and 1992, 12 persons in 1993, 3 persons in 1994, 3 persons in 1995, 8 persons in 1996, 13 persons in 1997, 6 persons in 1998, 2 persons in 1999, 18 persons in 2000, 22 persons in 2001, 13 persons in 2002, that is a total of 102 persons in the period between 1991 and 2002.

A total of 85 *motions to carry out investigation* for war crimes were filed in 2002.

The Republic of Croatia and its judiciary will also continue in the future work on the identification and bringing to trial of all the individual perpetrators who committed war crimes during the armed conflict in the Republic of Croatia.

Point 11

The Republic of Croatia advocates impartial prosecution of war crimes regardless of the nationality of suspects, including the non-discriminatory application of the General Amnesty Act, in accord with the highest legal standards.

The General Amnesty Act ("Narodne novine" (*The Official Gazette of the Republic of Croatia*), No. 80/96) does not provide a definition of a war crime. However, article 3, paragraph 1, provides an exhaustive list prescribing that the perpetrators of the most serious violations of humanitarian law, which have the characteristics of a war crime, shall be exempted from the amnesty for the criminal offences committed during aggression, armed rebellion or armed conflicts and in connection with aggression, armed rebellion or armed conflicts in the Republic of Croatia, namely for the following criminal offences: the criminal offence of genocide from article 156; the war crime against the civilian population from article 158; the war crime against the wounded and sick from article 159; the war crime against prisoners of war from article 160; unlawful killing and wounding of the enemy from article 161; unlawful taking of the belongings of those killed or wounded on the battlefield from article 162; the use of forbidden means of warfare from article 163; injury of a mediator from article 164; brutal treatment of the wounded, sick and prisoners of war from article 165; unjustified delay of the release of prisoners of war from article 166; destruction of cultural assets or of facilities containing cultural assets from article 167; war of aggression from article 157; misuse of

international symbols from article 168; racial and other discrimination from article 174; establishment of slavery and the transport of slaves from article 175; international terrorism from article 169; endangering the safety of persons under international protection from article 170; the taking of hostages from article 171 of the Penal Code (“Narodne novine” Nos. 110/97, 27/98, 129/00 and 51/01) and the criminal offence of terrorism regulated by the provisions of international law.

We emphasize that the General Amnesty Act does not apply to persons accused of serious human rights violations. It applies, by means of the exercise of due diligence, to the cases where there is no sufficient evidence that these were war crimes, and war crimes are not subject to amnesty from criminal prosecution.

The General Amnesty Act was applied to 220 persons in the Republic of Croatia in the period between 1 January and 31 December 2002.

Points 12 and 13

The Republic of Croatia has recognized the importance of the fight against organized crime, and, within this fight, of the combat against all forms of criminal activities related to the trafficking in and smuggling of human beings, especially women and children.

Located at an international intersection of traffic routes used by organized crime for the purpose of trafficking in and smuggling of people, Croatia has undertaken significant activities in the fields of legislation and prevention, as well as in the development and equipping of institutions for the more efficient fight against organized crime.

On 7 November 2002 the Republic of Croatia ratified the United Nations Convention against Transnational Organized Crime with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Air and Sea thereto and the Ministerial Declaration on Trafficking in Human Beings. The Conventions and bilateral agreements signed provide for vast opportunities for cooperation between the Republic of Croatia and other States at a global level, but first all forms of cooperation with the countries in the region need to be promoted, since our neighbours are located on the main transit routes used by organized crime for the trafficking in and smuggling of people.

The criminal legislation of the Republic of Croatia (the Penal Code, the Criminal Procedure Act and the Office for the Combat against Corruption and Organized Crime Act) contains provisions which provide a framework for the fight against trafficking in human beings.

Although the Penal Code of the Republic of Croatia contains provisions which can be applied to criminal activities related to the trafficking in human beings (article 175: “Establishment of Slavery and Transport of Slaves”; article 177: “Unlawful Transfer of Persons across the State Border”; article 178: “International Prostitution”; and article 195: “Pandering”), it was precisely with a view to providing a transparent and clear definition and to making it easier to distinguish criminal activities that the work on the amendments to the Penal Code was started.

The Proposal of the Amendments to the Penal Code Act envisages an amended incrimination from article 175, with an amended title: "The Establishment of Slavery and Trafficking in Human Beings". Recognizing the definition of "trafficking in human beings" from the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the text of the amendments proposed underlines the essential elements of the criminal offence:

- Recruitment, transportation, transfer, purchase, sale, harbouring or receipt of persons;
- By means of various forms of coercion or fraud, or the abuse of power;
- For the purpose of exploitation, forced labour or servitude, sexual exploitation or illicit transplantation of parts of the human body.

Trafficking in children or minors would constitute a more serious form of this criminal offence, with a harsher sanction imposed. The incrimination of taking away or destruction of a personal identification card, passport or another identification document in connection with the above is being introduced as well as a new incrimination which will apply to the user of a service who knew that the service was obtained from a victim of trafficking in human beings.

A separate paragraph of this article which regulates trafficking in human beings will emphasize that the fact that a person has given consent to forced labour or servitude, sexual exploitation, slavery or practices similar to slavery or illicit transplantation of parts of his or her body has no relevance for the existence of this criminal offence.

The final Proposal of Amendments to the Penal Code will be forwarded for parliamentary procedure in March 2003.

Article 177 of the Penal Code covers the field of combat against illicit transfers of persons across the State border, that is it includes the prohibition of smuggling of people across the border committed for lucrative purposes, while article 178 contains various forms of prohibition of incitement and pandering for the purposes of international prostitution.

In article 279, the Penal Code contains also the incrimination of concealing money obtained illegally, that is money laundering. In addition to the existing Prevention of Money Laundering Act, this provision represents the basis for the combat against organized crime, which aspires to legalize dirty money obtained through the trafficking in and smuggling of human beings by means of various financial and other activities.

The Penal Code also contains provisions on the confiscation of pecuniary benefit obtained by a criminal offence as well as criminal law sanctions which also represent, in the sense of general prevention, a framework for the combat against this type of crime.

The Office for the Combat against Corruption and Organized Crime Act contains procedural provisions relating to security measures and measures of forceful deprivation of the proceeds or other pecuniary benefit obtained through criminal offences, allowing in this manner for more efficient confiscation of any profit where grounds for suspicion exist that it stems from the trafficking in and smuggling of human beings, in cases when these criminal offences were

committed through the activities carried out by organized crime. As a specialized State's Attorney's Office, the Office is, inter alia, responsible for the prosecution of criminal offences of transnational organized crime. This allows for continuing planned and systematic activities by the State's Attorney's Office, the police and other competent bodies of State authorities and the courts in the combat against organized crime also in the field of trafficking in and smuggling of human beings.

The Criminal Procedure Act ("Narodne novine", Nos. 110/97, 27/98, 58/99 and 112/99) contains procedural institutions and measures offering to the State's attorney's offices, the police and the courts the framework for the detection, investigation and processing of criminal offences of trafficking in and smuggling of human beings and for the imposition of appropriate criminal law sanctions upon them, as well as for the confiscation of the profits obtained through these criminal offences.

A National Action Plan to Combat Trafficking in Human Beings has been made within the Stability Pact Anti-Trafficking Initiative and was adopted by the Government of the Republic of Croatia on 14 November 2002. The National Action Plan envisages the activities connected to the following: the creation of an adequate legal framework; offering assistance to victims; prevention; international cooperation and coordination of activities and training.

The combat against the trafficking in human beings and illegal migration, against the dangers inherent in these activities and their connections with all the forms of corruption, cannot be carried out efficiently without an additional training of the police, the courts, the State's attorneys, customs and other supervisory services. Having recognized the significance of training as an instrument for the efficient fight against trafficking, the Ministry of Justice, Administration and Local Self-government has established the Centre for the Professional Training of Judges and Other Judicial Officials.

In the period between 1991 and 31 December 2002, a total of 1,538 criminal offences against the values protected by international law were registered in the Republic of Croatia.

During and immediately in the aftermath of the military-police actions "Flesh" and "Storm", that is in 1995, 26 perpetrators were registered of the criminal offence of murder in the Republic of Croatia with a total of 47 victims, mainly civilian persons of Serbian nationality. Seventeen cases in which a total of 32 persons were killed were resolved out of these 26 criminal offences committed, in such a manner that criminal reports were filed with the competent State's attorney's offices against 22 persons. In all these cases judicial proceedings were instituted. According to information we have, some of these proceedings have been completed, and some are still pending.

It should be mentioned that nationality, as a motive for murder, was identified in approximately 1 per cent of all the murders committed in the Republic of Croatia during the last several years in which the perpetrators were identified and court proceedings instituted.

Furthermore, in cooperation with the judicial authorities, the Ministry of the Interior has intensified the work on the investigation into all available crime information and knowledge about the perpetrators of and criminal offences committed during the aggression, armed rebellion or armed conflicts, and in connection with the aggression, armed rebellion or armed conflicts in

the Republic of Croatia, regardless of the nationality of victims or perpetrators (see the table showing criminal offences against the values protected by international law, with the total number of criminal offences and persons reported in the period between 1990 and 2002).

Specialized organizational units for the investigation of war crimes have been organized and are operating within the Ministry of the Interior. Police officers specially trained for the criminal investigation of criminal offences against the values protected by international law are working in these units.

- *To substantiate this we enclose a table showing criminal offences against the values protected by international law.*

Point 14

The manner of solving the problem of the abuse of prisoners by fellow prisoners is regulated by the Execution of Prison Sentence Act (“Narodne novine” Nos. 128/99, 55/00, 129/00, 59/01 and 67/01). Such behaviour is qualified as a more serious disciplinary offence. Two hundred and twelve disciplinary proceedings for conflicts between prisoners were instituted in 2001, and 219 in 2002.

Psychosocial assistance and support is being offered in cases of abuse. The possibility of dislocating the abusers to another ward or transferring them to another penitentiary or prison for the purpose of preventing contacts and mitigating harmful consequences is also available.

Points 15 and 20. The return of resettled persons and the reconstruction of destroyed property

In the period between 1 January and 31 December 2002, the Ministry of Justice, Administration and Local Self-government checked the data on sentencing for 467 persons who had filed applications to return to the Republic of Croatia from Bosnia and Herzegovina and the Federal Republic of Yugoslavia. Four hundred and forty-seven out of 467 persons have not had any previous convictions. The Ministry has forwarded these data to the UNHCR.

Already in 2001 the Government of the Republic of Croatia initiated and carried out the majority of the measures necessary to ensure and speed up the return of all displaced Croatian citizens to their homes, with priority given to the activities which provide accommodation for all the remaining displaced persons and refugees, and guarantee sustainable return. The Government continued to implement these measures in 2002 and 2003. The activities mentioned primarily relate to the reconstruction of their homes in Croatia and Bosnia and Herzegovina, the repossession of property and housing accommodation in Croatia for the returnees who do not have property, including those who are former holders of protected tenancy rights and refugees who opted for local integration in Croatia as the final solution.

In particular, the activities mentioned can be categorized in the following basic groups:

- The return of property according to the Action Plan of the Government of the Republic of Croatia for the implementation of the return of property up until the end of 2002 (the deadline for the implementation of the measure is the end of 2002 and further);
- Housing accommodation for the temporary occupants of the property currently occupied by means of alternative accommodation or the completion of the reconstruction of damaged housing units in the Republic of Croatia or Bosnia and Herzegovina (the deadline for the implementation of the measure is the end of 2003 and further);
- The reconstruction of damaged housing units and basic infrastructure (the deadline for the implementation of the measure - end of 2004 and further);
- Housing accommodation of the returnees who do not have any property (the deadline for the implementation of the measure - continuously);
- The provision of the unified application of new laws and regulations and procedures for the repossession of property.

Each of the activities mentioned is accompanied by a concrete programme implemented by the Croatian Government, and by significant financial means invested in each programme. They are based on concrete decisions and regulations of the Croatian Government rendered and adopted over the past two years, whose objective is to speed up and finish all the processes, among which the following should be especially mentioned.

Amendments to the Reconstruction Act and Amendments to the Areas of Special State Concern Act were already enacted in the first part of 2000. Discriminatory provisions were removed from these Acts, by which all the returnees were provided with an equal right to return. In addition more flexible and efficient systems of reconstruction and housing accommodation were defined. This was a clear sign to all the Croatian refugees and an invitation to return to the Republic of Croatia and to their homes.

In March 2001, the Government held a special thematic session in Knin on the areas of special State concern and rendered a set of decisions and incentive measures for the return. The measures covered a broad field from legislation, property issues and reconstruction to economic revitalization. The results of the implementation of these decisions and measures should be pointed out:

- The implementation of the revision of all occupied private property, since it was found that the housing commission responsible up until then for the repossession of property had not provided reliable records of the occupied property;

- The implementation of an expanded reconstruction programme; in September 2001 the Government of the Republic of Croatia rendered a decision on taking additional loans on the domestic market for the purpose of implementation of an expanded reconstruction programme;
- The initiatives for legislative amendments with an emphasis on the solution of the issue of the return of property;
- The activities focused on the incentives for businesses and reconstruction of the local economy by means of loans from the Croatian Bank for Reconstruction and Development, as well as activities providing incentives for employment;
- Rehabilitation activities;
- Activities in the field of the renovation of infrastructure through physical reconstruction and set-off of debt to *Hrvatska Elektroprivreda* (Croatian Electricity Company) and *Hrvatske vode* (Croatian Waters);
- The support programme of the Government of the Republic of Croatia for the return of Croats to Bosnia and Herzegovina - so far, 625 families of returnees to Bosnia and Herzegovina with 2,257 family members, who previously lived in Croatia as refugees, have received assistance through donations of construction material for reconstruction.

Especially significant progress has been achieved in the field of the repossession of occupied private property, as one of the key elements of the return and protection of human rights, especially the right to dispose of private property. In the second half of 2001, the Government launched a comprehensive reform of the system of repossession of property, on the basis of a review of all occupied property which was carried out by the Ministry of Public Works, Reconstruction and Construction in the first half of that year. This provided a clear definition of the initial situation. In September 2001 the Croatian Government rendered a decision to complete the process of repossession of all occupied property by the end of 2002. The implementation of this decision was elaborated in a plan called the Action Plan for the Repossession of Property adopted by the Government in December 2002, which elaborates in detail the activities and measures, together with the deadlines for the repossession of property and for providing housing accommodation to the temporary occupants of the occupied property. The legal definition of these activities for the speeding up of the repossession of property which have been launched, was given in the amendments to the Areas of Special State Concern Act of July 2002 (“Narodne novine”, No. 88/02).

The Amendments mentioned harmonized and amended the procedure for the repossession of property, defined the deadline for the repossession of property by the owners as the end of 2002 and disbanded the local housing commissions which had been responsible for the repossession of property up until then. The overall responsibility for the return of property was taken on by the Ministry of Public Works, Reconstruction and Construction as of

30 August 2002. Also, this Act introduced the measures for the more efficient management and use of State-owned housing facilities. Temporary occupants of occupied property were given priority in housing accommodation in order to ensure the repossession of property, thus giving priority to the owners of the occupied property over other returnees.

The Regulation on the Order of Priority for Housing Accommodation in the Areas of Special State Concern ("Narodne novine" No. 116/02) established the order of priority when deciding on applications for housing accommodation of other returnees to the areas of special State concern who did not have any property. Among these, the priority was given, inter alia, to the former holders of specially protected tenancy rights.

At the beginning of February 2003, the Ministry announced a programme for housing accommodation of former holders of protected tenancy who are returning outside of the areas of special State concern, with an implementation deadline not exceeding four years. All the returnees who do not have any property or accommodation in Croatia will be provided temporary accommodation up until their final housing accommodation.

Through the measures and activities mentioned above, the Government has removed all the remaining legislative and administrative obstacles for the efficient return of all the displaced Croatian citizens, with the emphasis on the provision of sustainable conditions of the return.

The activities and measures mentioned were followed by significant investments by the Croatian Government over the last three years aimed at the creation of sustainable conditions for the return and development of the war affected areas, especially for the reconstruction of housing facilities and basic communal infrastructure and social infrastructure damaged or destroyed by the war, as well as the repossession of property and housing accommodation. Two thousand eight hundred and fifty-five million Kuna (381 million Euros) were spent on the reconstruction of the destroyed and damaged housing facilities alone. The housing accommodation programme was financed from the budget of the Republic of Croatia, and from a 30 million Euro loan from the Council of Europe's Development Bank. The provision of additional funds with a view to providing housing accommodation for the remaining 5,000 temporary occupants who are currently occupying other people's property is under way. Four hundred and ninety million Kuna (40 million Euros) will be provided from the State budget for this purpose. In November 2002 the Government requested a new loan from the Council of Europe's Development Bank in the amount of the remaining 292 million Kuna (40 million Euros) necessary for the completion of the programme. The funds have already been allocated in the State budget and also from the loans taken on the domestic financial market for the financing of the pace of the reconstruction achieved, which had already been speeded up in the previous period.

In addition to the above, the transparency of the implementation of all the programmes by the Government of the Republic of Croatia should be mentioned, as well as the improvement of cooperation with non-governmental organizations, especially those which include returnees who are members of national minorities and other displaced citizens.

International cooperation in connection with the implementation of the return programme, including cross-border return, has also been intensified with Bosnia and

Herzegovina and the Federal Republic of Yugoslavia, which has resulted in access for the Republic of Croatia to international financial institutions and funds for the financing of projects.

In addition to the funds from the State budget, the Government of the Republic of Croatia has since 2000 been implementing reconstruction programmes also from funds obtained from domestic and foreign loans, with a view to intensifying and speeding up the reconstruction programme. A total of 119,000 housing units damaged in the war have been repaired through reconstruction activities, and ca. 13 billion funds from the State budget have thus been spent. The assistance by the international community for the housing units reconstruction process has so far been ca. 7 per cent.

The increased scope of work resulted in the abolition of priority lists or waiting lists for the implementation of the programme. Nine partnership agreements were signed over the last three years with the most significant international donor organizations, all with a view to better coordinating the implementation of the reconstruction programme and harmonizing the criteria. In addition to the above, other non-governmental organizations as well as the representatives of the beneficiaries of rights have been significantly involved in the preparation and implementation of the reconstruction programme. A good cooperation with the representatives of the Serbian Democratic Forum Serbian National Council and others has been established in this. The representatives of international monitoring organizations have been mentioning in their reports over the last years the significant steps forward and progress achieved, and emphasizing the transparency of the implementation of the programme. Possible vague or unclear elements are being resolved speedily and efficiently, and have no impact on the pace of the implementation.

A comprehensive media campaign focusing on the deadlines for the filing of applications for reconstruction and on the provision of information on the implementation of the programme was carried out in Croatia and abroad in the second half of 2001 with the assistance of UNHCR. This especially relates to the territory of Serbia, Montenegro and Republika Srpska. The priority measures are under way to address the needs of all those temporarily accommodated in collective temporary accommodation centres in these countries.

The nationality of the beneficiaries of the right to construction is not a characteristic according to which any of the records of beneficiaries are kept. However, an analysis of the settlements where citizens of the Republic of Croatia of Serbian nationality used to live prior to the war leads to an estimate of 75 per cent of the beneficiaries mentioned were included in the Programme for the Organized Reconstruction of Family Homes in 2003.

All the activities mentioned above have resulted in a significant improvement of the pace and sustainability of the return over the last three years.

Seventy thousand four hundred and thirty-two displaced persons and refugees, Croatian citizens, have returned to their homes, including 38,321 (54.4 per cent) of returnees of mainly Serbian nationality, who had, prior to that, been refugees in the Federal Republic of Yugoslavia and Bosnia and Herzegovina.

Twenty-two thousand five hundred and seventy-eight housing units have been reconstructed, thus making the return of ca. 66,000 returnees possible. The repossession of

property has been provided for 12,212 owners, thus making their return into their property possible. Two thousand two hundred and forty-eight temporary occupants, mostly refugees from Bosnia and Herzegovina, and, fewer, returnees without any property, who have vacated the occupied private property, have been provided housing accommodation, and this property has accordingly been returned to its owners, mostly returnees who are members of national minorities.

It is especially important to point out the speeding up the return of citizens of Serbian nationality, which is the result of the measures and activities undertaken, and the overall change of the atmosphere in local returnee communities.

Point 16

The Ministry of Justice, Administration and Local Self-government every year follows the work of all the courts in the Republic of Croatia on a regular basis and makes an annual Statistical Overview about this. This Statistical Overview shows all the cases received by courts during one calendar year, the number of the cases solved and the number of pending cases. This Ministry is aware of the heavy backlog of cases awaiting hearing, especially from previous years. Certain activities have been undertaken in relation to this. The Government of the Republic of Croatia has adopted the Strategy of the Reform of the Justice System in the Republic of Croatia. One of the priorities of this reform is certainly the solving of the delays in administration of justice. In this sense, amendments to procedural laws are to be adopted, with a view to removing the possibilities for abuse of procedural rights by parties in proceedings and increasing their procedural discipline.

Also, in 2001 and 2002 the Ministry of Justice, Administration and Local Self-government published announcements of vacancies for vacant judicial posts at all the courts at which the number of judges is not sufficient, that is where vacancies exist. Staffing of courts and State attorneys' offices by the appropriate number of civil servants has also been completed. The Center for the Professional Training of Judges and Other Judicial Officials has started its work as part of the implementation of the justice system reform programme, with the task of permanent and continuous training of judges and State attorneys, with special emphasis on the training of young and still insufficiently experienced judges and State attorneys.

The reform of the judiciary also includes training of judicial officials. The Government of the Republic of Croatia has undertaken the task of defining a system of professional and permanent education of employees of the justice system through the Centre for the Professional Training of Judges and Other Judicial Officials. The task of the Centre is to promote professional and permanent training of judges and other officials in the justice system through various forms of educational activities and professional training in new laws and regulations and topical problems related to new technologies for the management of judicial affairs, as well as in European and other international laws and regulations. The programme of the Centre will include various forms of professional training which will be carried out in various legal and law-related fields (criminal, civil, commercial, labour, misdemeanour, European laws, ICT skills in law, etc.), by organizing conferences, seminars and workshops, where the main partners will include representatives of the judicial power and university community in the Republic of Croatia (judges, State attorneys, etc.).

Point 17

Article 199 of the Penal Code incriminates the criminal offence of slander. Article 2 incriminates a qualified form of slander for which anyone who slanders another through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the insult becomes accessible to a large number of persons will be punished.

Defamation is regulated in article 200 of the Penal Code. Paragraph 2 of this article defines public defamation as a qualified form of this criminal offence committed when the basic criminal offence is committed through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons. We note that article 203 of the Penal Code excludes the unlawfulness in the case of the slandering content or the defamatory content referred to which are realized or made accessible to other persons in scientific or literary works, works of art or public information, in the discharge of official duty, political or other public or social activity, or journalistic work, if, from the manner of expression and other circumstances, it clearly follows that such conduct was not aimed at damaging the honour or reputation of another.

Point 18

The Croatian Parliament adopted a new Associations Act in July 2001, which was published in "Narodne novine" No. 88/01, and is a result of the harmonization of the text of the Draft Bill over several months of public debate through meetings, panel discussions and written observations by the representatives of the non-governmental sector and by the experts of the Council of Europe. Accordingly, the solutions contained in this Act reflect high European standards in the field of freedom of association.

In addition to the possibility of association of physical and legal persons, who have the capacity of a legal person, the provisions of the Associations Act also regulate the issue of association of those who are not legal persons (art. 3), to whom the provisions of the Civil Obligations Act ("Narodne novine" Nos. 53/91 and 3/94) which regulate the institution of partnership apply appropriately. An association may carry out activities for the realization of its goals even before its registration in a register, i.e. from the date of its foundation (art. 5, para. 1). Accordingly the realization of the purpose of the foundation has been made possible immediately upon foundation, even before the termination of the registration proceedings.

The number of founders of an association has been decreased from 10 to 3. A founder of an association may be a physical person with disposing capacity and a legal person, and accordingly, foreign nationals may found associations freely, without any restrictions (art. 10, para. 2). The statute of an association contains significantly fewer mandatory elements (art. 11, para. 3), which allows for the expression of the free will of the members of an association. The only limitation is that the internal organization of an association must be based on the principles of democratic representation and democratic expression of will of its members (art. 6, para. 3).

The name of an association may contain individual foreign words if they constitute the name of the international organization of which the association is a member, if they are usual in the Croatian language, if there are no appropriate words for them in the Croatian language or if these are words from a dead language. Also no previous approval is necessary for the words "Croatia" and its derivatives and for the names of the units of local and regional self-government, parts of their coats of arms and flags, which accelerates the registration proceedings and lightens the burden on the bodies that used to grant approvals.

State administration offices have subject matter jurisdiction for the registration of associations. The State administration office of the seat of an association has venue (art. 14, para. 3). Associations may function on the entire territory of the Republic of Croatia without limitations. The Ministry of Justice, Administration and Local Self-government registers foreign associations. This legislative solution has implemented the deconcentration of tasks from the State administration to the bodies in the units of regional self-government, which allows for the faster and efficient exercise of legal rights by citizens, concrete performance of the tasks of the registration of an association into a register, as well as of any changes of statutory issues with respect to associations.

In relation to the registration of foreign associations, it should be mentioned that the consent by the Ministry of Foreign Affairs for the work of a foreign association on the territory of the Republic of Croatia, which used to be necessary under the former Associations Act, is no longer necessary, which significantly accelerates the procedure of registration of foreign associations founded under the legal order of a foreign State.

The amount of data an association, which is a legal person, is required to furnish to the registration office has decreased (art. 19, para. 1). No time limit is prescribed for the filing of an application for the registration of changes into the register by a person authorized for representation of an association. The limitation concerns the use of data before their entry into the Register of Associations.

The Government of the Republic of Croatia allocates, on the basis of a public contest, a grant from the State budget to associations or programmes which are of interest for the general/public good in the Republic of Croatia (art. 23, para. 1).

Supervision of the work of associations is carried out primarily by the members of the association. Procedure is prescribed for cases when the members of an association find irregularities in the implementation of the statute. If the body designated in the statute fails to remove the irregularities within 30 days of the receipt of a written warning alleging these irregularities, the member concerned is entitled to file a complaint for the protection of his or her rights prescribed in the statute of the association, with the county court with venue according to the seat of the association. The following measures may be undertaken in inspection supervision proceedings conducted by an official from the State administration office: orders to remove the deficiencies and irregularities established, and a misdemeanour report alleging the violation of this Act.

There are fewer reasons for the dissolution of an association:

- A decision on dissolution rendered by a competent body;
- The cessation of activities;
- A legally effective court decision which prohibits the activities of an association;
- Bankruptcy.

The office of State administration shall render a decision on the dissolution of an association for the reasons mentioned and inform the court for the purpose of carrying out bankruptcy proceedings. Deletion from the register is to be carried out by the office of State administration on the basis of a legally effective judgement prohibiting the activities of an association or a legally effective ruling on the conclusion of bankruptcy proceedings, by which association's status as a legal person is terminated.

The reasons given for the prohibition of an association are based on article 43, paragraph 2 and article 16 and article 11, paragraph 2 of the European Convention on Human Rights. There is no temporary prohibition of the work of an association which would be decided upon by an administrative body. The court decides on the prohibition of the activities of an association, in court proceedings, and if the competent State attorney assesses that reasons for the prohibition of the activities exist, he or she will file a motion with a county court with venue according to the seat of the association. The procedure for the prohibition of an association is conducted subject to the application of civil contentious procedure rules.

The amounts of fines for misdemeanours were reduced and harmonized, as are the number of misdemeanours.

The issue of the interim period following the entry into force of the Act is regulated so as to allow associations to continue their activities on the basis of the existing registration, while the county State administration offices carried out ex officio the registration of associations within 90 days from the date the collection of documents is taken over from the Ministry of Justice, Administration and local Self-government. On the basis of this legislation, the existing associations did not have to be subject to the procedure of "re-registration". Upon the entry into force of the Associations Act, those "social associations" and "associations of citizens" as well as foreign associations which did not adjust themselves under the former Associations Act, which obligation was due on 15 January 1998, were deleted from the Register.

The property over which the association had the right of disposal or the right to use it up until the enactment of the 1997 Associations Act, except for the property of trade-union associations, becomes the property of the associations of their legal successors as of the date of the application of the 2001 Associations Act. The Associations Register is unified, kept in electronic form and accessible to the public. More than 22,000 associations are registered in this Register, and the tendency of registration in the Register has been constantly increasing since the entry into force of the new Associations Act.

It stems from everything mentioned above that the Associations Act was harmonized with the highest European standards and provides a framework for the strong development of the civil society in the Republic of Croatia.

Points 19 and 21

The legislation regulating labour law and employment have been harmonized with the provisions of the Constitution of the Republic of Croatia which prescribes that every person in the Republic of Croatia has all rights and freedoms without any discrimination of any sort whatsoever. The provisions on the prohibition of discrimination are also contained in the provisions of the Labor Act. This issue from the field of labour and employment will be more broadly regulated by the Amendments to the Labour Act (which are being prepared) and which will bring a higher degree of adjustment to the European Union directives (especially the Council's Directive 2000/78/EC, Directive 76/207/EEC and Council Directive 2000/43/EC).

Point 22

The Republic of Croatia enacted the new Constitutional Act on the Rights of National Minorities ("Narodne novine" No. 155/02) in December 2002. With this Constitutional Act it ensures the realization of the following rights to members of all national minorities, where the notion of a national minority means a group of Croatian citizens whose members are traditionally settled on the territory of the Republic of Croatia, and its members have ethnic, linguistic, cultural and/or religious characteristics different from other citizens and are moved by the desire to preserve these characteristics (article 7 of the Constitutional Act):

1. Private, public and official use of their language and script.
2. Upbringing and education in the language and script which they use.
3. Use of their signs and symbols.
4. Cultural autonomy, by means of preservation, development and expression of their own culture and preservation and protection of their cultural heritage and tradition.
5. The right to manifestation of their religion and the found of religious communities together with other members of that religion.
6. Access to the media and to the performance of the activities of public communication (receipt and dissemination of information) in the language and script they use.
7. Self-organization and association for the purpose of the realization of common interests.
8. Representation in representative bodies on the State and local levels as well as in administrative and judicial bodies.

9. Participation by members of national minorities in public life and management of local affairs through councils and representatives of national minorities.
10. Protection from any activity which threatens or could threaten their survival and the realization of their rights and freedoms.

It stems from the above that members of the Roma population in the Republic of Croatia also have the status of a national minority. The Government of the Republic of Croatia has initiated, together with the Council of Europe, the "National Programme for the Roma" within which adequate solutions for a comprehensive solution for the status of the Roma in the Republic of Croatia are being sought, starting from the improvement of quality of life, through the development of Roma settlements, health care, to the teaching of Croatian language and Latin script, with a view to faster integrating the Roma national minority into the society. The vast majority of them do not speak the Croatian language, which is one of the obstacles for their inclusion into, for example, educational programmes. The Roma in the Republic of Croatia have their own associations which are entitled to funds from the State budget for the work of these associations. The Republic of Croatia has been investing a great deal of effort and hopes that by the implementation of the "National Programme" instituted and with other conditions fulfilled, the status of the Roma in the Republic of Croatia will improve significantly.

We also believe that members of the Serbian national minority in the Republic of Croatia are not being discriminated against whether in comparison with members of other minorities or in relation to the majority population, as rights equal to the rights of everybody else have been offered and ensured to them. The areas of special State concern, that is the areas to which members of Serbian nationality should return, since they were displaced from those areas, are a major problem. These are areas with many problems, mostly of an economic nature, due to the poorly developed economy, resulting in a lack of jobs, while the agricultural land is unfortunately still mostly mined, which constitutes an additional danger. Accordingly, all the inhabitants of these areas devastated during the armed conflict on the territory of the Republic of Croatia are affected by the same problems.

It is unfortunately true that there are incidents motivated by national discrimination, but this is definitely not the rule, and any person who has committed an offence motivated by discrimination on any grounds is subject to criminal responsibility.
