

Danish Immigration Service

Report on the fact-finding mission to Eastern Slavonia

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1 Introduction

From 30 August to 13 September 1999 the Danish Immigration Service and the Danish Refugee Council carried out a fact-finding mission to eastern Slavonia, in Croatia, in search of fresh information on the position of ethnic Serbs there.

The delegation met with national and local authorities, embassies, international, national and local bodies and non-governmental organisations (NGOs) in Zagreb, Osijek, Beli Manastir and Vukovar. It also visited the town of Ilok and the villages of Sotin and Berak. See Annex 1 for a map of Croatia, Annex 2 for a map showing eastern Slavonia and section 12 for a list of those consulted.

The delegation was well received everywhere. Use was made of an interpreter at most meetings. With one exception, none of the delegation's sources wished to remain anonymous.

The purpose of the mission was to gather information and make enquiries in accordance with the following terms of reference:

Terms of reference

After meeting with relevant authorities, international and national bodies and NGOs, individuals etc., the delegation should draw up a fact-finding report describing the following aspects of the situation of the Serb community in eastern Slavonia, in Croatia:

- ◆ population patterns;
- ◆ citizenship:
 - legislation,
 - administration;
- ◆ social and political rights;
- ◆ conscription for military service;
- ◆ representation in political institutions and public administration;
- ◆ property ownership:
 - legislation,
 - administration;
- ◆ security situation and any incidents;
- ◆ law enforcement and legal system;
- ◆ amnesty legislation;
- ◆ entry and exit procedures.

2 Historical background

Following the First World War, Croatia formed part of the Kingdom of Serbs, Croats and Slovenes. During the Second World War, in April 1941 Germany and Italy proclaimed Croatia an independent state, headed by Ante Pavelić, the leader of the Italian-inspired fascist organisation Ustaša. The Ustaša regime imposed a reign of terror and until 1945, when Pavelić fled following the collapse of Germany, waged a campaign to rid the country of non-Croats. This led to the killing of between 70 000 and 200 000 Serbs, a flood of several hundred thousand refugees and enforced conversion of hundreds of thousands more to Catholicism. The Serbs resisted by joining either Tito's partisan army or the Serb nationalist guerrilla army Četnik, which was formed in order to fight the Germans and Italians, but ended up in outright civil war against Tito's communist partisans as well. After the partisans occupied the capital of Croatia, Zagreb, the liberated Croatia was incorporated into the Federative People's Republic of Yugoslavia, which later changed its name to the Socialist Federal Republic of Yugoslavia. Tito died in May 1980 and then in May 1990 Franjo Tuđman was elected to the Croatian Presidency. Under Tuđman a more nationalistic policy was followed, prompting the Croatian parliament that year to pass a constitutional amendment enabling Croatia to secede from the Yugoslav federation. On 25 June 1991 Croatia declared itself an independent, sovereign state, being recognised by the EU on 15 January 1992.

As part of the upsurge of both Croat and Serb nationalism, in July 1990 Croatian Serbs, who had previously formed the Serb National Council, called for a referendum on cultural autonomy for Croatia's Serbs. This was unofficially held in August and resulted in October in the National Council proclaiming Krajina a Serb Autonomous Region (SAR) (*Srpska Autonomna Oblast* (SAO)), declared independent of Croatia in February 1991. In May 1991 a government led by Milan Babić was installed and in August western Slavonia and eastern Slavonia (the latter calling itself the Serb Autonomous Region of Slavonia, Baranja and Western Sirmium) likewise declared themselves Serb Autonomous Regions. In October 1991 the three autonomous regions combined to form the Republic of Serbian Krajina.

In early May 1991 armed conflict broke out between Croats and Serbs in eastern Slavonia, also spreading to parts of the other SARs. The fighting was between Croat police troops and paramilitary forces and Serb paramilitary groups, led in part by Željko Ražnjatović, alias Arkan, and Vojislav Šešelj. The fighting intensified in the autumn and, with the involvement of the Yugoslav army, on 18 November 1991 the Serbs took the main city in eastern Slavonia, Vukovar. The city, which had been under siege and constant shelling for three months, was reduced to rubble. In further fighting 30% of Croatia, including large parts of eastern Slavonia, fell into Serb hands and Croats in those areas were systematically expelled or imprisoned. A total of 80 000 to 90 000 Croats were forced to flee and seek refuge in other, non-Serb-occupied parts of Croatia.

In late 1991/early 1992 the parties concluded an internationally sponsored peace agreement, whereupon the Yugoslav army withdrew. A UN peace-keeping force (UN Protection Force (UNPROFOR)) was deployed for purposes including disarming Serb militias and Serb paramilitary forces, protecting local Serbs from Croat aggression and overseeing the return of displaced Croats.

The peace-keeping force divided the Serb-occupied areas up into Sector South and Sector North, covering Krajina, Sector West, around the town of Pakrac in western Slavonia, and Sector East, covering eastern Slavonia (see Annex 2). The mandate of the peace-keeping force was renewed a number of times up to the beginning of 1995, when Croatia refused to agree to any further renewal. The force was then replaced by one known as UNCRO (UN Confidence Restoration Operation), scaled down from 14 000 to 8 000 in strength.

The peace held until May and August 1995, when the Croats launched two military offensives, known as the Flash and Storm offensives, against Sectors South, North and West, of which they seized control. Some 200 000 Serbs were forced to flee, 60 000 to 70 000 of them to eastern Slavonia, still under Serb occupation. With Croatia also threatening to launch an offensive against Sector East, i.e. eastern Slavonia, and hence a risk of the Yugoslav army becoming involved and the war re-escalating, in November 1995 the parties concluded a new internationally sponsored peace agreement, known as the Erdut Agreement.

Under the agreement, after a transitional period of just under 14 months, eastern Slavonia was to return to Croatia's full control. The Agreement's provisions included demilitarisation, freedom to return for displaced persons, mainly Croats, the right of Serbs to continue to live in eastern Slavonia, the holding of local elections in 1997, establishment of an interim police force and monitoring of the human rights situation. Observance of the Agreement was to be ensured by a 5 000-strong special UN force: UNTAES (United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium). The transitional period was twice extended before on 15 January 1998 eastern Slavonia finally reverted to Croatia and Croatian administration. In January 1997 the Croatian government added to the Agreement a Letter of Intent (see Annex 6), including assurances, for Serbs and other minorities, of cultural autonomy, proportional representation in the police and legal system and a certain number of posts in government.

After the UNTAES period, the OSCE was assigned responsibility for assistance, monitoring and advice on Croatian legislation as regards two-way repatriation of refugees and displaced persons, safeguarding of their rights, protection of ethnic minorities and human rights. The OSCE is also to monitor, assist and advise as regards democratic institutions, processes and machinery. Its remit further includes assisting, advising and monitoring the Croatian police in eastern Slavonia. That remit ends in December 1999.

Parliamentary elections are due to be held in Croatia by January 2000.

3 Geography and population patterns

3.1 Geography

Slavonia comprises the eastern part of northern Croatia, i.e. the area to the east of the towns of Pakrac and Daruvar. The River Sava forms a natural border with Bosnia and Herzegovina to the south, as does the River Drava with Hungary to the north until its course reaches the Baranja area, when it winds southwards past Osijek and on into Serbia. Baranja, which thus lies north of the Drava, has for lengthy periods in its history come under Hungary and is not always classed as part of Slavonia, the area also being referred to as eastern Slavonia and Baranja for that reason.

Slavonia is divided into eastern and western Slavonia, with the border line running from north to south near the towns of Donji Miholjac, Nasiše and Slavonski Brod.

After the end of the UNTAES period, eastern Slavonia was politically subdivided into counties (*županija*), municipalities (*općine*) and villages (*naselje*). The former UNTAES area, UN Sector East, covered parts of the counties of Osijek-Baranja, though not the city of Osijek, and Vukovar-Srijem (see Annexes 1, 2 and 3). Following the expiry of the UNTAES mandate and since reintegration, the area is now known as the Danube region.

The region is a fertile agricultural area, although large parts of it are still landmined, especially those through which the front line used to pass. According to a presidential political adviser, Vesna Škare Ožbolt, there are still 2 million landmines laid, posing considerable problems for farmers, as the minefields impede the full agricultural exploitation of the region.

3.2 Population patterns

No population census has been carried out since 1991. The Croatian Law Centre, an association of law professors and magistrates, explained that in 1997 a law on the holding of a fresh census was enacted, but the law was subsequently suspended, so that a census has been put off indefinitely.

All statistics on population figures and movements in the Danube region from 1991 to September 1999 are therefore based solely on information from the Office for Displaced Persons and Refugees (ODPR). UNHCR statistics thus stem from ODPR data, as do those from the Independent Democratic Serb Party (SDSS). According to the UNHCR in Zagreb, however, experience shows ODPR figures to be reliable and cooperation works well.

The 1991 census showed Croatia to have a total population of 4 784 million, 78,1% of whom were Croats and 12,2% Serbs, giving a total of about 580 000 Serbs.

The same census showed the Danube region to have 201 400 inhabitants, broken down into the following ethnic groups: 86 700 Croats, 73 200 Serbs, 13 000 Hungarians and 28 500 others, including other Yugoslavs, Slovaks, Czechs, Germans, Ukrainians, Ruthenians (a people of Ukrainian origin, settled in the area during the Austro-Hungarian Empire) and Roma etc. Osijek county had 30 136 Serb inhabitants and Vukovar county 45 605.

According to ODPB statistics, as at June 1999 there were 50 115 Serbs living in the region, 5 000 of them Serb refugees and 45 115 indigenous (resident) Serbs.

According to the same statistics, 30 626 indigenous Serbs have left the area since 1991. In 1996, 56 138 Serbs had taken refuge in the area, of whom all but about 5 000 have now left the region again (see Annex 4 and Annex 5, the latter of which shows Serb numbers broken down by individual municipalities and localities for 1991, 1996, 1998 and the first half of 1999, although not whether indigenous Serbs or Serb refugees).

The Independent Democratic Serb Party (SDSS) stated that, of 26 municipalities, four are now inhabited by Serbs only, namely Markušica, Trpinja, Borovo and Negoslavci, all in Vukovar county.

According to the ODPB, the 5 000 Serb refugees include about 1 500 defined as internally displaced resident population of the region. These are people who have left their original place of residence in the region, e.g. because their homes were destroyed, to take refuge elsewhere in the region and are now waiting to be able to return home.

Of the 51 138 Serb refugees who have left the Danube region again, 27 673 have mainly returned to their former homes in Krajina, in Croatia. The rest are presumed to have left for or fled to the Federal Republic of Yugoslavia and other countries.

The ODPB reported that 30% of Serb returnees are aged over 60, many of them very infirm and unable to live alone. There are plans to build old people's homes, but the State cannot afford the outlay. Elderly and infirm refugees also impose an economic burden in the form of expenditure on the hospital network. A western embassy confirmed that the majority of Serbs in eastern Slavonia are elderly. The OSCE in Zagreb explained that young Serbs do not return to eastern Slavonia.

Of the 86 700 Croats originally living in the region in 1991, by October 1996 about 80 000 had left the area or taken refuge elsewhere. Those remaining were mostly Croats in mixed marriages. In 1997 there were about 9 200 Croats in the region and in January 1998 (at the end of the UNTAES mandate) an estimated 31 600 Croats living there, of whom 22 400 had returned to take up permanent residence. By August 1999 a total of 40 535 Croats had returned to the region, 19 809 of them to Osijek county and 20 726 to Vukovar county. According to the ODPB, about 44 000 Croats have not yet returned to the area.

The ODPB added that a few of the Croat returnees are people coming from abroad, where they have worked for many years and built up sizeable pensions.

The UNHCR in Zagreb reported there to be 142 000 ethnic Croats from Bosnia in Croatia.

Of the other minorities in the region, ethnic Hungarians numbered 13 000 in 1991, 6 700 in 1996, 7 100 in 1997 and 7 000 in 1998. Most of the Hungarians have left for Hungary, where 1 200 have been granted refugee status. Numbers from other minorities totalled 28 500 in 1991, 8 500 in 1996, 6 000 in 1997 and 6 000 in 1998.

4 Citizenship

In the former Yugoslavia, all citizens held a kind of dual citizenship. Citizens of Yugoslavia were thus both Yugoslav federal citizens and citizens of one of the six former republics. Following the break-up of Yugoslavia, for many people it was open to question what State they were citizens of.

On 8 October 1991 the Croatian Parliament passed the Croatian Citizenship Act. This makes previous citizenship of that republic the basic criterion for establishing citizenship of Croatia.

Under Article 30(1) of the Act, people are entitled to Croatian citizenship if they have acquired citizenship of Croatia in accordance with the regulations applicable prior to the 1991 Citizenship Act (citizenship of the republic). The key factor is therefore whether people can show that they were included in the register of citizens of the former Republic of Croatia or whether they are in possession of written citizenship papers in the form of a *Demovnica*¹. In addition, under Article 16, people are regarded as Croatian citizens if they are ethnic Croats and were registered as resident in Croatia at the time of adoption of the Act. A declaration in writing that they regard themselves as Croatian citizens, despite not holding citizenship (of the republic) at the time of enactment of the legislation, is also required, under Article 30(2). If the conditions imposed by the above provisions are not fulfilled, citizenship by naturalisation can be applied for, under Articles 8 to 16.

Citizenship applications have to be submitted to the police². They may also be submitted via a Croatian diplomatic or consular representation abroad³. The Ministry of the Interior is responsible for citizenship matters and takes decisions to grant or withhold citizenship⁴. If the Ministry of the Interior rejects an application for citizenship, the applicant can take legal action through the administrative court system.

Citizenship is of relevance for the right of residence, property ownership, issue of documents, including passports, entitlement to vote, work permits in some situations, call-up for military service and other summonses⁵.

¹ The *Demovnica* is an official document establishing Croatian citizenship, under Article 28 of the Act.

² Under Article 24(1) of the 1991 Citizenship Act.

³ Under Article 24(2) of the 1991 Citizenship Act.

⁴ Under Article 25(1) of the 1991 Citizenship Act.

⁵ Croatian Critical Law Review, Croatian Law Centre, Zagreb (1998), p. 339.

4.1 General points

Lovorka Kušan (lawyer) and the Joint Council of Municipalities made the point that people registered in Croatia as citizens in 1991 would have their citizenship recognised. However, few Serbs were registered in Croatia as Croatian citizens in 1991 and most had to apply for citizenship by naturalisation.

The Vukovar Office for Displaced Persons and Refugees, the Mayor of Beli Manastir, Professor Jasna Omejer of the Croatian Law Centre, Lovorka Kušan (lawyer), the Norwegian Refugee Council, the Centre for Peace, Non-Violence and Human Rights in Osijek and the Joint Council of Municipalities reported that earlier problems in granting citizenship have now either decreased or in the vast majority of cases been entirely resolved.

Open Society believed there once again to be problems over citizenship and pointed out that the Ministry of the Interior has begun requiring production of a string of documents. It saw this as a consequence of the forthcoming election, when the question would arise of whether Serbs will be allowed to vote.

The Centre for Peace, Non-Violence and Human Rights in Osijek commented that Croatia's 1991 Citizenship Act is not in principle any better or any worse than other countries' citizenship legislation.

The Centre for Peace, Non-Violence and Human Rights in Osijek, Professor Jasna Omejer and the Vukovar Office for Displaced Persons and Refugees explained that the situation as regards granting citizenship improved in particular around the time of the 1997 local elections in the UNTAES region. Under UNTAES, most Serbs thus obtained citizenship, this being required (then as now) in order to vote. In the months leading up to the election, the authorities therefore took a more relaxed view of the requirements. Professor Jasna Omejer pointed out that the Croatian authorities subsequently agreed to recognise those concerned as citizens ⁶.

Professor Jasna Omejer added that the number of applications for citizenship by naturalisation has fallen ⁷. This can be seen in part from the number of appeals. Many more citizenship applications used to be rejected and many of those decisions were subsequently overturned by the courts. There are currently about 50 cases pending.

⁶ Entitlement to Croatian citizenship in the Danube region under UNTAES is an example of pressure being brought to bear by the international community for implementation of Croatian citizenship legislation. According to reports received, citizenship was acquired more quickly than ever before. Those born on Croatian soil and living in Croatia under UNTAES obtained citizenship fairly swiftly. Those born in Croatia but resident outside the region in 1991 usually had to wait a month or two longer, according to the Croatian Critical Law Review, Croatian Law Centre, Zagreb (1998), p. 141.

⁷ From 8 October 1991 until 1995, 710 226 applications for citizenship by naturalisation were submitted to the Ministry of the Interior, and decisions were taken on 676 681 of them; 642 801 were granted and 33 880 rejected, according to the Croatian Critical Law Review, Croatian Law Centre, Zagreb (1998), p. 118.

4.2 Processing of cases

The Vukovar Office for Displaced Persons and Refugees explained that a birth certificate is required in order to establish citizenship. This may pose a problem for displaced people who have lost their birth certificate, since getting a new one issued is a protracted process. As the authorities could not issue new certificates quickly enough, arrangements were introduced under which any documents may be used, provided they show the place of birth.

The Joint Council of Municipalities pointed to the difficulty of applying for Croatian citizenship for Serbs living abroad, as they are not always able to travel to Croatia. They therefore have to address themselves to Croatian diplomatic representations abroad. However, procedures at such representations are very complicated and may result in rejection for administrative, among other, reasons. Consulates do not have the capacity to deal with more than 50 applications a day and it will therefore take many years to resolve citizenship problems for people living abroad. The Council added that it had approached the Croatian embassy in Belgrade in order to have processing speeded up, as old people had been seen queuing outside the consulate for days. That was the situation a year ago. The Council regarded this as a form of discrimination against Serbs.

As regards processing time, the Centre for Peace, Non-Violence and Human Rights in Osijek reported that it normally takes from one to two years to be recognised as a Croatian citizen by naturalisation. That time is not, however, used for further investigations, since decisions are taken on the basis of the material already available. The Centre felt unable to do anything about the lengthy processing time, being able only to approach the Ministry of the Interior and enquire about any progress in cases. It does usually receive a reply to its enquiries to the Ministry of the Interior.

The Joint Council of Municipalities explained that Croats continue to enjoy more favourable treatment, being granted citizenship automatically, whereas Serbs are often forced to pay bribes.

4.3 Comments on individual provisions of the Citizenship Act

Article 8(1)(3) requires five consecutive years' registered residence in Croatia in order to obtain citizenship by naturalisation. A western embassy, Lovorka Kušan (lawyer) of the Croatian Law Centre, the Norwegian Refugee Council and the Centre for Peace, Non-Violence and Human Rights in Osijek all made the point that, for the purposes of Article 8(1)(3), the Ministry of the Interior requires people to have lived in Croatia for the last five years, although the legislation itself does not require the period to have been the last five years. Lovorka Kušan reported that decisions by the Ministry of the Interior had been upheld by the administrative court. The Centre for Peace, Non-Violence and Human Rights in Osijek, the Norwegian Refugee Council, the Joint Council of Municipalities and Lovorka Kušan all pointed out that Serbs especially fail to fulfil that requirement, as many fled after 1991. The Norwegian Refugee Council did not have any precise figures, but thought possibly around 70% have their citizenship applications rejected for failing to meet the five-year requirement. The remaining 30% or so are rejected under Article 8(1)(5). A total of 1 300 applicants were rejected under the provisions of Article 8(1)(3) and (5) in the Danube region from 1996 to early 1997.

Article 8(1)(5) states that it is a precondition for obtaining citizenship that applicants' behaviour must be such as to show that they observe the legal rules and customs of the Republic of Croatia and accept Croatian culture. Lovorka Kušan explained that Article 8(1)(5) is very broadly construed. In her view, if anti-Croatian activities are given as a reason for an administrative decision withholding citizenship, they should have been established in a court judgment. The Norwegian Refugee Council reported that it was clear from scrutiny of some cases that citizenship had been refused under Article 8(1)(5) on account of criminal proceedings pending against the person in question. It made the point that this is not consistent with the legislation. A ruling by the Constitutional Court has held that citizenship cannot be refused on the grounds that there are proceedings pending. The organisation pointed out that one implication of Article 8(1)(5) is to leave anyone sentenced to imprisonment unable to obtain citizenship by naturalisation.

Professor Jasna Omejer thought Article 30 of the Citizenship Act its most problematic provision. For citizenship of a republic was not linked to territorial factors, but rather to the family's place of origin. A population census was carried out from 1946 to 1948 and citizenship registered on the basis of where any individual was in 1948. The next generation automatically enjoyed the same citizenship as their parents, regardless of place of residence. As a result, tens of thousands of people born and brought up in Croatia were not in fact Croatian citizens. Many did not even know that they held citizenship of another republic or what republic they were citizens of⁸.

However, many ethnic Croats faced this problem as well. An additional criterion was therefore introduced, whereby members of the Croat nation could also be considered Croatian citizens, even if they did not hold Croatian citizenship when the legislation was enacted. This addition applied only to ethnic Croats, leaving all others, including ethnic Hungarians, Ruthenians, Austrians, Germans, Roma, Italians, Serbs, etc., as aliens. A total of 20 ethnic groups were excluded from automatic eligibility for Croatian citizenship.

In 1993 an attempt was made to refer the issue to the Constitutional Court, but the case was thrown out, forcing 1,8 million people to show that they fulfilled the requirements for citizenship by naturalisation. In Professor Jasna Omejer's view, tinkering with the law in this way is to be regarded as discriminatory, being based on race.

Whether people can be considered Croatian citizens is looked into by the police, who judge solely by religion as shown on birth certificates, with Catholics automatically regarded as Croats and members of the Orthodox Church as Serbs. Religious denomination thus in practice helps determine citizenship. A legal action was dismissed by the Constitutional Court on the grounds that, in considering citizenship cases, the police are only empowered to investigate, not to take decisions⁹. The problem is faced not just by Serbs but by anyone unable to prove their Croat roots. It does, however, according to Professor Jasna Omejer, mainly affect Serbs.

⁸ Birth certificates and citizenship papers often did not specify the republic of which the holder was a citizen, even though this was a statutory requirement (Croatian Critical Law Review, Zagreb, Volume 3, No 3 (1998), p. 339.

⁹ The professor explained that the ruling was not unanimous; one judge subsequently wrote an article admitting that the matter had not been dealt with entirely correctly.

The same source added that the naturalisation rule in Article 8 does not pose any problem in itself. This is quite a normal provision on obtaining citizenship by naturalisation, there being similar provisions in most European countries. The problem is, however, that only ethnic minorities not holding citizenship of the Croatian republic were reduced to applying for citizenship by naturalisation, unlike Croats, who were automatically granted citizenship under Article 30. This means that people born and brought up in Croatia are not necessarily Croatian citizens.

Under Article 26(3), no reason need be given for withholding citizenship. Lovorka Kušan (lawyer), the Centre for Peace, Non-Violence and Human Rights in Osijek and the Norwegian Refugee Council pointed to a problem, in the past, of failure to give reasons for rejection. On 8 December 1993 a constitutional court ruled unreasoned citizenship decisions unconstitutional. Lovorka Kušan explained that the ruling referred to the constitutionally safeguarded right of appeal, a right not exercisable unless the grounds for the decision are known. The Act was not amended in response to the ruling, but it left Article 26(3) null and void.

4.4 Possibilities for appeal

The Centre for Peace, Non-Violence and Human Rights in Osijek explained that an appeal may be lodged with the administrative court within 30 days after receiving a decision refusing citizenship. Like other courts, however, the administrative court is very overworked and it can take up to two years to hear cases. Appellants are usually successful, provided appeals are couched in the right terms. The 30-day rule is a hard-and-fast one, with no possibility of having a case reopened at the original level, so that after 30 days it is necessary to start from the beginning again with a fresh original application. The Centre sees a problem over the guidance given regarding appeals inasmuch as the foot of the letter states that the decision is not open to appeal, but that a case may be brought in the administrative court within 30 days after receiving the decision. Many people, however, only read the first part and think they cannot appeal against the decision.

The Norwegian Refugee Council had helped many people draw up appeals to the court in Zagreb, where there are several hundred cases pending. Most have their appeals upheld. The organisation believed that many people leave the country instead of awaiting a decision, since decisions are sent to it and not to the person concerned. It added that many of those whose appeals have been upheld are still waiting to be issued actual citizenship papers. The organisation had been involved in around 13 000 cases in the Danube region and around 600 cases had been brought to court in Zagreb. About ten cases had been referred to the European Court of Human Rights.

The Centre for Peace, Non-Violence and Human Rights in Osijek reported that considerable financial costs may be incurred in appealing against decisions on citizenship. The actual granting of it costs about 1 500 kuna¹⁰. If a court case is brought and succeeds, no costs are incurred. If, on the other hand, the case fails, costs have to be paid. Around the time of the local elections held in 1997, however, Serbs could have citizenship granted free of charge. According to Osijek county court, decisions are overturned in about 99% of citizenship cases.

¹⁰ HRK 1 being equivalent to about DKK 1 (approx. € 0,14).

4.5 Military service where dual nationality is held

The Centre for Peace, Non-Violence and Human Rights in Osijek explained that Croatian legislation allows dual nationality. There is thus no need to conclude international agreements if the other country also accepts dual nationality, as for instance in the case of Bosnia and Herzegovina. Most Bosnian Croats accordingly hold dual nationality. Serbia does not recognise dual nationality.

On the question of military service, the Centre said that those with dual nationality have to do their military service in their country of residence.

Lovorka Kušan (lawyer) considered agreements on dual nationality with the other former republics to be more of a political than a legal issue. The matter is dealt with in international agreements and not by any law.

4.6 Reception centres

The Norwegian Refugee Council and the Centre for Peace, Non-Violence and Human Rights in Osijek could not comment on reports of reception centres to house those refused citizenship.

4.7 Personal papers

The police, the Mayor of Beli Manastir, the Joint Council of Municipalities and the Norwegian Refugee Council reported that in general there was no longer any great problem in obtaining and issuing person papers.

The Joint Council of Municipalities saw no problem regarding personal papers, once citizenship papers had been issued.

The Centre for Peace, Non-Violence and Human Rights in Osijek said there should no longer be any problem over issue of personal papers.

According to the police in Vukovar, the following papers can be issued at the local police station:

- (1) personal identity cards;
- (2) travel documents;
- (3) driving licences;
- (4) vehicle registration certificates;
- (5) residence permits for foreign nationals, and
- (6) firearms licences.

The Mayor of Beli Manastir explained that personal papers are issued at the local police station, where anyone currently or previously resident in the area can have them issued.

Neither the police, the Joint Council of Municipalities nor the Norwegian Refugee Council knew of any cases of Serbs being charged extra fees for the issue of personal papers, such as passports.

The police explained that identity cards, passports, driving licences and vehicle registration certificates are usually issued on the same day as they are applied for. In some cases, however, it may take two or three days, depending on the number of applications submitted. The police rejected any claim of differences in processing time according to applicants' ethnic origin. The police have on occasion expedited processing of applications from Serbs, as the issuing of documents to Serbs was a political matter. Open Society thought the main problems over the issuing of personal papers lay in the length of time taken to process applications.

Reports of documents and number plates revealing whether the holder is a Serb or a Croat could not be confirmed by the police, the Mayor of Beli Manastir, the Joint Council of Municipalities or the Norwegian Refugee Council. The police were aware of such rumours, including rumours of race being distinguishable from combinations of figures used in personal identification numbers.

The police denied this, emphasising that completely standard forms are used for everyone, with documents issued under the same system and in the same order. Any claim of ethnic differences in number plates was also rejected by the police. The Norwegian Refugee Council explained that the letters A to J had previously been used on number plates, continuing in alphabetical order, once they were all used up, with the letter K. This showed that cars with number plates beginning with letters from K onwards were recently registered and belonged to newcomers, often Serbs. The Mayor of Beli Manastir also denied any ethnic differences in the old documents. According to the Norwegian Refugee Council, during the UNTAES period, all those in the region were issued identity cards and travel documents in Beli Manastir. Some people wrongly believe that this can be taken as showing the holders to be Serbs. Nor had the organisation seen any identity cards with, as also rumoured, a dagger on the back. As regards the abbreviation AOP in birth certificates, supposedly indicating the holder to be a Serb, the Norwegian Refugee Council explained that it stands for automated data processing, meaning that birth certificates are now drawn up by an automated process, whereas in the past they were completed manually. The change was introduced in the mid-1990s. The Joint Council of Municipalities also denied rumours of ethnic markings on documents and number plates and thought such claims speculative.

The Vukovar Office for Displaced Persons and Refugees reported that people without any personal papers are issued a "green card" on registering at the Office for Displaced Persons and Refugees (ODPR). The card is used to establish their status, including whether they are returnees, refugees or internally displaced¹¹. The card also gives access to a number of welfare entitlements. The Office explained that the card may be an advantage in some situations, including job-seeking, where an

¹¹ Information for DPs, Returnees and Refugees in the Osijek-Baranja and Vukovar-Srijem Counties, English Version, UNHCR Field Office, Osijek.

employer may be more inclined to hire someone with a green card who is in financial straits and therefore in particular need of work. The card, bearing a photograph, is valid as an ordinary identity card. It lasts for six months. If holders have no source of income at the end of that period, they are transferred to the ordinary welfare system.

The card has to be stamped by the Office every 30 days, but no penalty is incurred for any delay. If holders fail to report, however, the Office can enquire at their home to see whether they are still living there. The Office has access to various records, including statistical data, and its information is cross-checked with police records.

5 Political, economic and social situation etc.

5.1 Political situation

Under Article 18(1) of the Constitutional Law on Human Rights and Freedom and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, national and ethnic minorities making up more than 8% of the population of Croatia are entitled to proportional representation in the country's Parliament. National or ethnic minorities making up less than 8%, on the other hand, are entitled to elect a total of five representatives, under Article 18(2).

The Croatian Parliament is bicameral, comprising a House of Representatives (*Zastupnički dom*) and a House of Counties (*Županijski dom*). The lower house has 127 seats and the upper house 68, plus another five for selected ethnic representatives.

Under paragraph 6 of the 1997 Letter of Intent (see Annex 6), the Croatian President appoints two Serb representatives to the House of Counties.

A number of aspects of that human rights and ethnic minorities legislation are controversial in Serb eyes, specifically elections and the number of representatives in Parliament. Professor Jasna Omejer of the Croatian Law Centre gave the following account of the background to the legislation and its controversial features.

The old Yugoslav concept of constitutive minorities (forming part of the State) has been dropped in the new States, except for Bosnia and Herzegovina. The approach followed nowadays is of constitution by a majority, whereby all groups other than the ethnic majority are minorities with different rights as a result. In Croatia, 11,5%¹² of the population in 1991 were Serbs. There were also 19 other ethnic minorities. The above minorities legislation was enacted in 1991. It allows ethnic minorities political representation by a number of members varying according to whether minorities make up more or less than 8%, as described earlier. As Serbs in 1991 made up 11,5% of the total population on the basis of the last census held, they would have been entitled to 13 representatives in the October 1995 election on the basis of the 1991 census. In September 1995, one month before the parliamentary election, however, an electoral law was

¹² This figure does not tally with the 12,2% given in the 1991 official population census.

introduced which suspended Article 18(1) of the above minorities legislation, reducing the 13 Serb seats to three. The reason given for its introduction was the lack of any recent population figures to prove that Serbs in 1995 made up more than 8%. This, according to Professor Jasna Omejer, was a purely political decision.

The debate about the number of Serb seats in Parliament has reopened ahead of the forthcoming election. A new electoral law is to be drawn up for the forthcoming election in January 2000. Under a proposal put forward in the media by the governing Croatian Democratic Union (*Hrvatska Demokratska Zajednica* (HDZ)) party, Serbs would only be entitled to one representative, on the grounds that the minorities all make up less than 8% and are therefore only entitled to five representatives altogether. The Serbs would thus have only one representative, with the other four being allocated as follows: one Italian, one Hungarian and two for the other ethnic groups. As a population census has still not been held, a decision on the number of Serb representatives in Parliament will again, in Professor Jasna Omejer's view, be based solely on political considerations.

Legislation on the holding of a new census was introduced in 1997, but also subsequently suspended in a political decision. There are no plans for any census in the immediate future. Under paragraph 5 of the Letter of Intent (see Annex 6), following a new population census Serbs will become entitled to proportional representation in Parliament. The applicability of the above ethnic minorities legislation also hinges on a population census, it being applicable only until a new census has been held. Professor Jasna Omejer thought a census should be organised before any further political decisions are taken on minority issues.

Professor Jasna Omejer supported the opposition proposal that Serbs should be entitled to at least four seats in Parliament. She pointed out that in 1995 the governing party allowed Serbs three seats and, particularly as the number of Serbs in Croatia has risen since 1995, an increase would be justified. The proposal has not yet been discussed in Parliament, however, but in her view the matter will be resolved in the second reading of the electoral law and the number left at three, thus maintaining the 1995 *status quo*.

The OSCE in Vukovar reported work to be in hand on new citizenship legislation, due to be voted on in Parliament in October.

5.1.1 Serb political organisations

The Serb National Council is an umbrella body covering a raft of Serb organisations, including the Association of Serb Organisations, Zagreb, the Joint Council of Municipalities, Vukovar, the Serb Cultural Society *Prosvjeta*, Zagreb, the Serb Democratic Forum, Zagreb, the Independent Democratic Serb Party (SDSS), Vukovar, the Serb Community of Rijeka, the Serb Community of Istria, the Democratic Forum of Baranja, Beli Manastir, the Association of Refugees and Displaced Persons of the Croatian Serbs, Vukovar, and the Representative of Serbs in the Croatian National Parliament. Also affiliated with the Council is the Serbian Orthodox Church. The Council was set up and operates under Article 4(2) of the Croatian Constitution, which relates to the above Law on Human Rights and Freedom and the Rights of National and Ethnic Communities or Minorities in

the Republic of Croatia, and under paragraph 9 of the Letter of Intent (see Annex 6).

The Serb People's Party (SNS), led by Milan Djukić, is not a member of the Council.

The Council is headed by Dr Milorad Pupovac, MP, who also chairs the Serb Democratic Forum, a party-like organisation, as well as belonging to the SDSS and chairing its party programme committee. He stated that, for the purposes of ministerial dealings, the Council would like to be recognised as a minority institution. As matters stand, it is treated by the authorities as an ordinary NGO. The Council has 117 representatives from a total of nine member organisations, including representatives of the Joint Council of Municipalities. Counties with large numbers of Serbs put up two candidates. Of the 117 representatives, one third are prominent Serbs. They are put forward to sit on the Council by their organisation, but have to be approved by the Council's elected members. The Council comes up for re-election this year.

Dr Milorad Pupovac took the view that right-wing Croat activists prevent Serbs from engaging in political action and follow a strategy aimed at creating a climate of hostility. In his belief, right-wing parties form semi-paramilitary groups in the villages, groups tolerated by the governing party, which also controls the press. Improper use is thus made of the media not just for electoral purposes but also to push Serbs out of Croatia.

There are three Serb parties in the Danube region: the Independent Democratic Serb Party (SDSS), the Serb Party of Baranja (SBS) and the Danube Serbs' Party. The last of these was said by the SDSS to be a one-man party without any members.

Dr Milorad Pupovac described the Independent Democratic Serb Party (SDSS) as the largest and only real Serb party in Croatia. According to its leader, Dr Vojislav Stanimirović, the SDSS was founded at the end of the UNTAES period, in 1997, as a successor to the Independent Serb Party (SSS), which was politically and militarily involved in establishing the Republic of Serbian Krajina. When an attempt was made in 1997 to register the SSS for the local elections, registration was refused on the grounds that the party was a terrorist organisation. The leadership of the SDSS and the members of the Serb Joint Council of Municipalities were all previously members of the SSS. Fresh blood has also been attracted, however, according to the party chairman.

The SDSS is, in its own view, the only Serb party actually in operation in Croatia. It has 4 200 members in the Danube region, including a youth wing, and is subdivided into 36 local branches. The party is in the process of extending its coverage throughout Croatia, having a number of branches in Zagreb and western Slavonia.

The party also had a branch in Beli Manastir, in Baranja, which was excluded owing to differences at the time of the 1997 local elections, in which the party won a majority. The branch then founded its own party, the Serb Democratic Party of Baranja.

According to its chairman, the SDSS did well in the 1997 local elections, winning a majority in a number of municipalities and in one town, Beli Manastir. In Vukovar it attracted about half the votes (with the governing HDZ winning a majority), but lost the local election in Ilok.

The party has held talks with Croat parties about cooperation, but had some reservations as it believed the Croat opposition parties to have shown a negative attitude towards Serbs in their public comments. On the other hand, given the general political situation, opposition parties do not find favour with Croats if they support the Serbs and therefore do not have any direct interest in cooperation either. The Liberal Party has, however, been invited to cooperate over the forthcoming election, as the two parties did for the 1997 local elections. The two parties will attempt to form a coalition, irrespective of the form taken by the new electoral law.

The SDSS regarded the number of seats in Parliament as a fundamental problem for Serbs. It found the idea of just one representative unacceptable, failing to reflect Serbs' role in Croatia. Serbs should be guaranteed proportional representation in Parliament and the party wanted to see the old Article 18(1) reintroduced. Until such time as a new census is held, however, in the party's view criteria other than population percentages should be applied. The present preliminary draft new electoral law is considered unsatisfactory. The party emphasised that it does not wish to overlook the rights of other minorities, but their number of representatives in Parliament should reflect their percentages of the population. The party believed the President to have given assurances that the number of Serb representatives in Parliament will not be reduced, but also felt that in spite of that promise the law may very well turn out differently.

According to the SDSS, 30 000 to 40 000 votes were required under the proportional electoral system in order to have one representative elected. There is a 5% qualifying hurdle to be cleared, although it regards 8% as the true figure, since Croatia is divided into nine constituencies, each covering 500 000 inhabitants and each providing 12 representatives. The system requires 8% of the votes in order for a party to enter Parliament. The matter is now to be dealt with in the new electoral law, but the party has not seen the draft.

The party added that, in order to contest elections, a party has merely to be registered on the day on which the election date is announced. In order for a party to be registered, it must have at least 100 members and has to be able to produce a rulebook and party programme. Its programme must not conflict with the constitution. The requirement in order to stand as an independent candidate is 500 signatures, whereas an independent candidate from a minority has only to supply 100. New Serb parties may thus spring up before the election, as the election date has not yet been set. The SDSS did not see any problem in getting a party registered in Croatia.

Before the election, Serbs will have to make a basic choice between voting for the general list or voting for the minority list, i.e. a list is drawn up of registered electors wishing to vote for candidates standing on the minority list. Serb voters' choice will depend on the individual candidates and on the general political climate. The SDSS imagined that Serbs in some surroundings will opt for the general list. They may also do so to avoid self-exposure.

For Croatian Serbs living in the Federal Republic of Yugoslavia and in Republika Srpska, the SDSS saw difficulties in their casting their vote at the forthcoming election. It thought Serbs living abroad will officially be allowed to vote, but there may be practical obstacles, with Serbs living in the Federal Republic of Yugoslavia, for instance, having to go to Belgrade in order to vote; There are also Serbs who, having no papers, cannot prove their Croatian citizenship and will therefore not be able to vote. Of the 200 000 Serbs currently in Croatia, the SDSS estimated 100 000 hold no Croatian papers.

The Centre for Peace, Non-Violence and Human Rights in Osijek did not think either the government or the opposition parties had any proposals as to how Croatian Serbs abroad are to be able to cast their votes. Electoral registers of Croatian émigrés have been drawn up, so that they can vote, but not of refugees living in temporary accommodation, meaning that Serbs, many of whom are refugees, will not be able to vote. According to the Centre, there are 500 000 Croatian Serbs living in the Federal Republic of Yugoslavia who do not hold Croatian citizenship papers and therefore cannot vote. It pointed to the 1997 local elections, when some of the election results in eastern Slavonia could not be recognised by UNTAES on account of irregularities involving lists of electors.

5.1.2 *Serb representation on local political bodies in eastern Slavonia*

Paragraph 4 of the Letter of Intent (see Annex 6) assures Serbs of representation on local political bodies, with the posts of sub-prefect¹³ of both Osijek-Baranja and Vukovar-Srijem counties to be held by ethnic Serbs. In addition, Serbs are assured of the right to establish a Joint Council of Municipalities, which is to meet with the President or his chief of staff at least once every four months.

The prefect of Osijek county, Branimir Glavas, reported that the sub-prefect is a Serb. There are a total of 45 seats on the county council. The result of the 1997 local election produced the following breakdown: the governing HDZ party won 50% and thus has 25 councillors, the Liberal Party 12 councillors, the Peasants' Party 2 and the Serb parties 6.

The prefect reported that voting in the county council is by a simple majority and committee posts etc. are divided up among the parties. None of the six Serb councillors hold any committee posts, however, not even the sub-prefect. The prefect added that decisions are taken jointly and are not ethnically related. He did not think the sub-prefect had any difficulties with the Croats because of being a Serb, although he might have with the Serbs.

The prefect of Vukovar county, Rudolf König, was himself of German descent. He explained that the county is multiethnic, with many Slovaks, for instance, living in Ilok. Of the county council's 40 members, ten are Serbs. They all represent the SDSS. The prefect thought they coped with the job in the same way as other councillors. The county has two sub-prefects, one being a Serb and

¹³ Prefect being an English translation of the Croatian title *župan*. The post extends beyond that of Chairman of a County Council as, according to the OSCE, a Croatian *župan* has further powers, more akin to those of a Lord Lieutenant. For convenience, the term "prefect" has been used.

one a Croat. In four municipalities the SDSS has an overall majority on the local authority. There are problems over Serb representation on the local authority in the village of Berak, however, as the Serb representatives left the village and Serb joint bodies have not yet designated new representatives.

The mayor of Vukovar, Vladimir Štengel, reported that the city council has 26 members, of whom 12 are from the HDZ (governing party) and 12 from the SDSS, two being independent Croats. One SDSS representative defected to another Serb party. One of the mayor's two deputies is a Serb and the other a Croat.

The Mayor of Beli Manastir, Simo Stupar, said he was a Serb and one of his two deputies a Serb and the other a Croat. Of the town council's 26 members, 15 are Serbs and 11 Croats. The rest of the town's authorities are of mixed ethnic origin. The Mayor reported that the local administration works smoothly, with no clashes between the various ethnic representatives.

With regard to the Serb Joint Council of Municipalities, the UNHCR in Zagreb thought that the organisation maintained ethnic divisions and was not particularly enterprising. According to the OSCE in Zagreb, the way in which Serb politicians hold office invites criticism. They should take the initiative more e.g. as regards reconciliation between sides. They are considered politically immature, but there have nevertheless been positive developments. The OSCE did not think that the SSS had ever been banned, but rather that for reasons of image it was inadvisable to let the party continue and so its name had been changed. The European Commission representative, Per Vinther, took the view that Parliament should operate on straightforward lines and ethnic minorities not enjoy any privileges.

The Local Democracy Agency believed the Serb parties to be losing voters. The parties are too conformist and have problems of identity. In order to win support among Serbs, they need to choose between a separatist and an integrationist policy, as Serb interests are also upheld by moderate Croat parties.

Open Society reported that Stanimirović, the SDSS chairman, who was not party leader during the Krajina uprising, and Pupovac, who heads the Serb National Council, are generally respected among both Serbs and Croats. In its view, Serb parties have been artificially created to pad out the Serb National Council and gain more political clout. The Serb parties were actually considered to have little influence on national politics. In Open Society's view, Serb politicians only enjoy any influence as long as the President allows them to.

5.1.3 Serb media

Dr Milorad Pupovac, who heads the Serb National Council, explained that Serbs enjoy the same access to the media as other opposition parties. Serbs have two television stations, in Vukovar and in Beli Manastir. The Council publishes a monthly magazine entitled *Identity*, the Serb Democratic Forum a fortnightly magazine and the *Prosvjeta* society a monthly magazine. The latter receives a monthly state subsidy of HRK 10 000. The source reported that the Serb press does not experience any difficulties and is not subject to censorship.

5.2 Economic situation

5.2.1 Economy in general

All sources, international organisations, local NGOs and the authorities, reported the economic situation in Croatia to be difficult, with high unemployment. Vesna Škare Ožbolt, a presidential political adviser, considered a healthy economy also to be a prerequisite for reconciliation between sides. The UNHCR in Zagreb took the view that economic problems are of more concern to people generally than nationalism. The European Commission representative thought economic problems exacerbate all other problems.

The prefect of Osijek county put the unemployment figure for Croatia at 300 000, including 29 000 in the Danube region, with all being affected by unemployment, regardless of ethnic group. The UNHCR in Osijek gave the same unemployment figure. The Croatian Red Cross in Beli Manastir reported an unemployment rate of 14,8% in the Danube region, with twice as many pensioners as people in work. The OSCE believed unemployment in the region to stand at between 60% and 90%, but added that, since many people fail to register as unemployed because they do not qualify for unemployment benefit, statistics based on the registered unemployed do not give a true picture. The recorded number of applications for welfare assistance, on the other hand, gives a better idea of the scale of unemployment. The Mayor of Beli Manastir stated that, as a result of the war, unemployment in the Danube region is worse than in the rest of Croatia and as of July 1999 the municipality had 1 737 people out of work. He added that unemployment is a problem not only for Serbs but also for Croats. The same view was taken by the Vukovar Office for Displaced Persons and Refugees and the Trust Establishment Committee in Vukovar. The prefect of Vukovar county thought the situation worst in Vukovar. The Local Democracy Agency reported that both Croats and Serbs were affected by unemployment. That view was shared by the Centre for Peace, Non-Violence and Human Rights in Osijek and the County Trust Establishment Committee in Vukovar. Open Society said unemployment is close to 90% and affects all ethnic groups. The Joint Council of Municipalities put unemployment among Serbs at over 70%, with only those in work during the UNTAES period still having jobs.

The ODPB reported that many factories in eastern Slavonia were destroyed during the war and have not been rebuilt. The Regional Office for Displaced Persons and Refugees in Osijek attributed the economic problems not just to the war but also to the changeover to a market economy. The prefect of Osijek county said the main occupation before the war was farming, but it is hard to get that going again. According to the UNHCR in Osijek, the factories previously operating closed down during the war and no new investment has been forthcoming. In addition, the end of the UNTAES administration also brought a loss of purchasing power. The Mayor of Beli Manastir reported that the businesses damaged during the war also included textiles factories, which provided jobs for many women. The prefect of Vukovar county pointed out that the Borovo rubber factory, the town's largest business, used to have a staff of 40 000, but now has only a few hundred, with no new jobs having been created.

The Joint Council of Municipalities stated that the region has only three or four major businesses, all of them in an economic predicament. Among other difficulties, they face sizeable payment demands by subcontractors and wages are paid with considerable delay. The businesses are therefore trying to cut staff by, for instance, offering employees, including Serbs, an early retirement scheme. One factor contributing to the poor state of the economy is the changeover from a State-controlled to a market economy. The former State enterprises have now been taken over by State privatisation funds, in anticipation of being sold off. This is to be done by offering shares to former employees in proportion to their length of service. According to the Council, however, Serbs who have been living in the region are not given the option of purchasing them. Future employment prospects for Serbs in those businesses are unclear.

The OSCE in Vukovar reported a commonly held belief among the population that the region will not be economically developed until the Serbs leave, a view which the OSCE saw nothing to support.

5.2.2 Labour market

In paragraph 7 of the Letter of Intent (see Annex 6), the Croatian government gives an assurance that representatives of the Serb minority will be appointed to senior posts in the Ministry of Reconstruction and Development and the Office for Displaced Persons and Refugees (ODPR) and as Assistant Ministers at the Ministries of the Interior, Justice, Education and Culture. Paragraph 4 of the Letter of Intent stipulates that the sub-prefects of the region's two counties will be ethnic Serbs. The same paragraph guarantees proportional representation of Serbs in the Danube region within the health service, the judiciary and the police, including in senior posts. In addition, agreement was reached between sides that, after the end of the UNTAES mandate, Serbs would be reappointed to their previous positions in Croatian public administration.

The County Trust Establishment Committee in Osijek explained that Serbs have been reappointed in public administration, there being only few who, of their own free will, did not wish to be. The OSCE in Vukovar also confirmed that Serbs have been reintegrated into public administration. The OSCE in Zagreb reported that, owing to the UNTAES agreement, there are in fact more in work among Serbs than among Croats. The prefect of Vukovar county considered the Serbs privileged in having recovered their former positions and jobs, with two thirds of public-sector jobs being occupied by Serbs. According to the Mayor of Beli Manastir, the breakdown of those working for the town administration is 59% Serbs and 40% Croats. According to the Mayor of Vukovar, out of the municipality's 135 public posts, 95 are occupied by Serbs.

As regards employment in public posts, including the education system, the police, the health service, the legal system and other public administration, the Joint Council of Municipalities thought the situation for Serbs reasonably satisfactory. It is pleased at the number of Serbs employed by the police, but saw too few Serbs in senior posts. The Council did not find the number of Serbs employed in the legal system acceptable, as the agreed ethnic breakdown had not been achieved. It explained that Serb lawyers, including some amnestied, have not been reappointed or admitted to practise as such (see the section concerning amnesty).

In the Council's view, Serbs are not generally appointed to senior posts and their numbers are tending to decline, partly on grounds of lack of evidence of educational qualifications, including diplomas. Some Serbs were unable to provide the requisite evidence of qualifications within the time limits set, or there were problems over recognition of qualifications if, for instance, the course had been followed in Belgrade. The Council regretted the absence of any provision in the agreement with UNTAES whereby Serb posts falling vacant should again be filled by Serbs. If Serbs retire, according to the Council, they are not replaced in their posts by Serbs and the appointment of a Serb needs to be authorised by the relevant Ministry. The Council explained that there is a Croatian provision whereby Croats who, for instance, have helped defend Croatia, sustained a disability in war, come from families which lost one of their members or are returnees take precedence in occupying posts. Serbs enjoy no such precedence. The Council has attempted to renegotiate the agreement on proportional employment with Vukovar City Council, among others, but has made no headway.

In the case of employment in private-sector businesses, according to the Council, there were some signs of discrimination. It referred to an unwritten rule that Serbs are not employed by Croat businesses or, if they are, the conditions of employment are often unregulated. New jobs are reserved for returning Croats, many of whom nevertheless already have work. There are no Serb managers or chairmen of boards of directors, although there are Serb directors.

Behaviour within mixed-race places of work is, according to the Council, correct in the public sector, apart from the railways. No physical problems arise, although there may be provocation and harassment and no normal communication operates between the various ethnic groups.

The Norwegian Refugee Council reported a number of cases in which employees of private firms complain of not having been paid any wages for quite some while. The Council is unable to say whether this is because the businesses are strapped for cash or whether it constitutes harassment.

The Association for Peace and Human Rights in Baranja believed Serbs to be the victims of 75% to 85% of all dismissals. Vukovar hospital, for instance, fired 200 to 300 Serbs employed at all levels and replaced them with Croats. According to the organisation, Serbs are employed in dubious ways and commonly on contracts lasting for only a month or two. It added that Serbs do not acquire the same rights to buy shares in the privatisation of former state-owned businesses as do Croats. The organisation did not think Croatia interested in improving the region's economic situation, with the result that people are moving away, those left behind being pensioners and public employees.

Open Society believed Serbs to be discriminated against on the labour market.

The UNHCR in Zagreb also believed Serbs to be discriminated against on the labour market, but not within the communications industry in Zagreb.

The Local Democracy Agency stated that people are not employed on an ethnic basis. The prefect of Osijek county reported one Serb firm to have a staff of 100, of mixed race. He did not think

firms employ people according to their ethnic background. Nor did the prefect of Vukovar county think race has any influence on employment. He added that, especially in towns and cities where Serbs are in a minority, they felt passed over on the labour market.

The UNHCR in Osijek thought that Serbs now leaving the region were doing so mainly because of the economy. The ODPB reported fresh emigration also to be taking place for economic reasons. The OSCE in Zagreb said the economy forms one of a number of factors in people's decision to leave the region. The Joint Council of Municipalities took the view that those Serbs leaving almost entirely Serb municipalities are doing so on account of the economy. The Association for Peace and Human Rights in Baranja believed Serbs to be leaving the region for a number of reasons, including the economy.

The OSCE in Vukovar could not give any figures for Croats emigrating from the region on account of the economy and unemployment, but thought they were doing so, with younger Croats in particular leaving the region on those grounds.

5.3 Education

Milan Milić, Assistant Minister at the Ministry of Education, himself a Serb and a member of the SDSS and the Joint Council of Municipalities, explained that it has not been possible to reach agreement with the Ministry of Education on a three-year transitional period for education of ethnic minorities, including Serbs. A new law on education of ethnic minorities has not yet been enacted and the government no longer recognises the 1979 legislation. In the meantime, school rules have been drawn up without any consultations between sides, giving rise to dissatisfaction among Serbs. The Assistant Minister said the authorities and schools do not communicate well, with discussions for the purpose being politicised and conducted via the media. In June a seminar on the subject was held in Zagreb with OSCE representatives. At the seminar, representatives of the Croatian legal aid centre presented an assessment showing that the present education legislation was not being complied with.

According to Milan Milić, during the UNTAES period there were about 14 000 Serb pupils and 43 different establishments, including three infant schools and 27 primary and secondary schools. Now, in 1999, at the end of the school year there are fewer than 6 200 Serb pupils. At 30 establishments tuition is given in Serbian. Nine primary to lower-secondary schools teach in Serbian only and 19 in both Serbian and Croatian, i.e. there are Croat schools with Serb sections. No tuition in Serbian is found at higher levels of education. Serb representatives have tried to negotiate with the Minister for Education on the establishment of a Serb teacher training college, but have received no response despite submitting several project descriptions. An arrangement whereby Serb pupils attending entirely Croat schools would be taught once a week under a special scheme, proposed by the Assistant Minister, is not being applied. At first after the UNTAES period there were disputes in mixed schools. According to the Assistant Minister, they involved politically motivated provocation on the part of the authorities.

Milan Milić reported that parents often decide to have their children follow higher education

courses in Serbia, e.g. in Novi Sad. However, difficulties arise over recognition of both old and new Serbian qualifications. It is often necessary to sit up to eight further tests in Osijek, but only one in Zagreb, in order to have qualifications recognised. Croatian universities' explanation for this is that they are self-governing and therefore have differing rules. The Joint Council of Municipalities said there was no difference in content in the case of the old Yugoslav courses. For Serbs nevertheless to experience difficulty in having old Yugoslav educational qualifications recognised, in its view, smacked of harassment. The Council added, however, that no international agreement on mutual recognition of educational qualifications has yet been concluded.

There are no restrictions on admission to Croatian universities. Having been educated according to the Serb curriculum does not diminish young Serbs' chances of winning a place. However, neither the Assistant Minister nor the Council could supply any information on respective numbers of Serb and Croat students.

Milan Milić thought bias was shown in appointing school inspectors. In Borovo a Serb school inspector, according to the source one of the most competent in the region, was dismissed from the fifth primary school and replaced by a Croat. That school is attended by a total of 580 children, of whom 120 are Croats. The Assistant Minister regarded this as a fundamental violation of Serb rights. One of the Serb members of the Trust Establishment Committee in Vukovar believed this case could be resolved in the same way as a similar case in the past, involving the fourth primary school, i.e. by appointing two school inspectors, one from each ethnic group.

The sub-prefect of Osijek county felt the region faces considerable problems in the form of an exodus of well-educated people. He explained that the county has 4 252 pupils at primary schools, of whom 1 449 are taught in Serbian. There are 589 teachers employed, of whom 257 are Serbs. As there are not enough Serb pupils, some of the Serb teachers draw full pay without giving any tuition. There were fewer Serb pupils in 1999 than in 1998, partly because some Serbs have left the region and partly because some have opted to be taught in Croatian.

The deputy chairman of Beli Manastir town council, Mihajlović Radivoj, is also a school inspector at an entirely Serb school. Beli Manastir has two Serb schools and one Hungarian school. Where there are any pupils, the municipality's other schools operate Serb sections. In order to open a class for an ethnic group, there must be at least ten pupils. This rule applies to all ethnic groups throughout Croatia. Serb and Croat teachers give tuition in all subjects, partly because of a shortage of teachers. If Serb parents decide on their children's behalf not to opt for the Serb curriculum, this is so that the children can get on better in the Croatia of the future. There have been instances of clashes between Croat and Serb teachers, but not between children or parents. Serb schools are closed down and Serb classes discontinued only where there are not enough pupils.

The school inspector explained that the differences in courses are not rooted in language, Serbian and Croatian being almost identical (although Serbs use the Cyrillic alphabet, while Croats use the Latin one). The differences lie in the actual curriculum, including history, geography, arts and music. This is drawn up in cooperation with the Ministry of Education and a joint board coming

under the municipal committee. History is taught using new textbooks. Under a moratorium, however, the period from 1989 to 1997 is omitted in history tuition for Serb schoolchildren.

Open Society reported that only Croat pupils are taught religion.

The Helsinki Committee in Osijek believed Croat anthems to be sung at all Croat schools, whereas Serbs, contrary to the provisions of ethnic minorities legislation, are not allowed to sing theirs.

5.4 Social situation

5.4.1 Pensions and social security

The Joint Council of Municipalities explained that all welfare benefits, including sickness cover, pensions and child allowances, are tied to employment. This has given rise to problems for Serbs in determining their employment situation from 1991 to 1997.

Legislation on conversion of accrued pension rights for that period has been enacted, however, but the procedure is very time-consuming, from one to two years being taken to process cases. In the meantime, until processing of a case is completed, an average payment of HRK 650 is made. Croats receive various supplements on top of their pensions. The Serb war-disabled are not, according to the Council, entitled to such special welfare benefits (see paragraph 11 of the Letter of Intent). Welfare assistance comprises from HRK 800 to 1 200 a month, being payable for up to one year. Drawing it entails complications, however, as any property owned has to be mortgaged. There is special assistance available for those without any pension or mortgageable property, but it proves hard to obtain. People unable to obtain any kind of public assistance get by, for instance, by working as day labourers, although wages may be paid very irregularly. Many people grow vegetables and keep poultry and there is lastly the possibility of aid from the Croatian Red Cross. The Council made the point that the various ethnic groups are not treated any differently under the social-security system. The Norwegian Refugee Council confirmed the difficulty of drawing welfare assistance, there being a need to be able to show that no aid is available from any other source and to mortgage any property owned.

The Helsinki Committee in Osijek reported that 6 000 people, nearly half the population, live off welfare assistance in Baranja. Assistance comprises HRK 400 to 500 a month. It is the same for Croats and Serbs, but Croats, unlike Serbs, receive supplements for being returnees or ex-servicemen, supplements exceeding the assistance itself. Croats have also been exempted from paying for electricity etc.

According to the Norwegian Refugee Council, there has been a protracted, mainly technical process under way since 1997 to have pension rights recognised. It is not just Serbs who are affected, but also Croats and Hungarians. There were previously problems for Serbs living in eastern Slavonia in drawing Croatian state pensions. Now the problem arises of the period from 1991 to 1997 not being included in aggregate pension calculations, partly because Serbs have found it hard to prove their past employment record as the relevant documentation has gone missing. The OSCE in Vukovar

confirmed that processing of pension applications is very slow. The Centre for Peace, Legal Advice and Psycho-Social Assistance in Vukovar agreed that this is a major problem for Serbs. The UNHCR in Zagreb reported considerable delay in paying pensions.

The Mayor of Beli Manastir explained that the average pension in the municipality is HRK 1 032 for labourers, HRK 661 for craftsmen and HRK 298 for farmers.

The prefect of Vukovar county said the authorities cannot keep track of Serbs living in Serbia but drawing Croatian state pensions.

It is also, according to the Norwegian Refugee Council, very hard to get a disability pension awarded and processing takes a very long while. In most cases the decision goes against the applicant. Where applications are rejected, there is no chance of any other assistance. The organisation explained that the pension fund is in an impecunious state and will do anything to avoid making payments. The fund also has a huge backlog of cases. This state of affairs poses particular problems for Serbs in eastern Slavonia and, according to the Norwegian Refugee Council, could be termed discrimination. The Croatian Red Cross in Beli Manastir reported the disability pension to amount to HRK 350 a month.

The Joint Council of Municipalities explained that a small user fee is charged for use of the health service. According to the Council, the standard of Croatia's health service is not very high. Medicines, for instance, are in short supply and the state owes pharmaceutical companies large sums of money. There is a shortage of doctors, who do not return to eastern Slavonia. According to the Norwegian Refugee Council, those under 15 and over 60 years of age are covered for sickness benefits out of municipal budgets. Other people have occupational or private cover.

The Vukovar Office for Displaced Persons and Refugees reported that all those returning from Serbia are issued a UNHCR handbook concerning their rights, including social-security entitlements. They receive six months' assistance. After those six months, if they have not found work, they can draw welfare assistance. The Norwegian Refugee Council reported that displaced persons, i.e. those taking refuge elsewhere within eastern Slavonia, do not pay any tax, but the law on this is currently being revised in Parliament. The Office for Displaced Persons and Refugees (ODPR) thought returnees are and will continue to be social-security cases.

5.5 Religious situation

With Croats being Catholics and Serbs belonging to the Serbian Orthodox Church, there is also religious antagonism between them and both Orthodox and Catholic churches were destroyed during the war. In Osijek there were three Orthodox churches, one of which has now been rebuilt with another undergoing restoration work.

The Centre for Peace, Non-Violence and Human Rights in Osijek has launched an ecumenical project bringing together different religions with the aim of fostering reconciliation. As far as it could tell, the authorities had no problems with Serbs practising their religion. Cooperation

between the Croatian authorities and the Serbian Orthodox Church is excellent. In the Centre's view, the Serbian Orthodox Church has been paid more heed by the authorities than it was entitled to. The Catholic Church, on the other hand, according to the Centre, could show greater openness than it does at present. The Centre has on a number of occasions approached the Catholic bishop on this point, but found that the leadership of the Catholic Church has not entirely grasped the problem. However, the Centre has cooperated well with individual Catholic priests at local level.

As a number of Serbian Orthodox priests have left the region, Serbs may now, however, according to the Centre, have difficulty in practising their religion by attending church services.

6 Conscription for military service

6.1 Moratorium

Paragraph 10 of the Croatian government's January 1997 Letter of Intent (see Annex 6) exempts ethnic Serbs in the UNTAES region from military service for two years from the end of the UNTAES mandate. That moratorium expires on 15 January 2000. In recent months, calls have been made by Serbs in the press for a two to three-year extension of the moratorium. At the same time it has been pointed out that Ustaša emblems are displayed, Ustaša songs sung, etc., in military barracks.

The Independent Democratic Serb Party (SDSS) wanted a three-year extension of the moratorium on the grounds that trust between the region's Croats and Serbs needs to improve considerably before young Serbs should have to do their military service in the Croatian armed forces. In the party's view, there may be objective reason to fear acts of revenge against those who took the Serb side during the war. It explained that young Serbs of conscription age are panicking and, to avoid military service, taking refuge in other countries, including the Federal Republic of Yugoslavia. According to the party, agreement had been reached between UNTAES and the Croatian government on a possible extension of the moratorium.

The Association for Peace and Human Rights in Baranja also wants the moratorium extended. It believed confirmation to have come from Croats that Ustaša emblems are displayed in military barracks, causing young Serbs to feel threatened. Open Society also advocated extending the moratorium, since Serbs have reason to fear military service on account of threats of revenge. According to Open Society, Ustaša emblems are displayed not just in military barracks but also elsewhere. The organisation also criticised the armed forces for having been involved in human rights violations over the last nine years and for the presence of war criminals in their ranks.

According to the Ministry of Foreign Affairs, the whole debate about military service and Ustaša emblems is just hot air and political propaganda generated ahead of the approaching election. This can be seen, in the source's view, from the fact that some eastern Slavonian Serbs have during the moratorium voluntarily reported for military service, thus showing that they had nothing to fear. The prefect of Vukovar county, Rudolf König, reported that 50 000 Serbs in the area have, of their own free will, opted for Croatian citizenship, which entails both rights and obligations. In his view

it would be unreasonable, in the light of this, to enact special legislation exempting Serbs from their obligations, including military service. To his knowledge, no Serbs from Vukovar have applied for military service on a voluntary basis.

The OSCE in Vukovar regarded the debate about military service or further exemption as fuelling general feelings of prejudice by Serbs and Croats against one another. The OSCE therefore also believed that many young Serbs would leave to avoid military service and thought that the government would extend the moratorium.

The UNHCR in Zagreb, the OSCE in Zagreb and the European Commission representative were all opposed to extension of the moratorium. According to the UNHCR, doing military service will form part of Serbs' integration process. In the European Commission representative's view, Serbs have generally been over-protected and so there is no justification for extending the moratorium. The UNHCR reported the Croatian army to be very orderly, even though there have been instances of Ustaša emblems being displayed in barracks and Ustaša songs being sung. These were nevertheless isolated incidents and not instigated or orchestrated from above.

The Croatian Law Centre was not familiar with the debate in detail, but had learned about it from the media. According to the Centre, the Minister for Defence has agreed to take the matter up, at the suggestion of the Joint Council of Municipalities, and give favourable consideration to a possible two-year extension. Public debate on the issue has been very mild, although there is disagreement among Serbs. One Serb member of parliament has opposed any extension. On the other hand, Croat opposition parties, including the Liberal Party, to which the mayor of Osijek belongs, took the view that an extension would be preferable. The Centre quoted the mayor as reportedly having said that not all the requirements for full integration in eastern Slavonia have been fulfilled and he therefore advocates extending the moratorium.

Professor Jasna Omejer of the Croatian Law Centre said she was not aware of Ustaša emblems being displayed in barracks, nor was there any proof of such occurrences in the Croatian armed forces. In her personal opinion, the various ethnic groups live immersed in a world of such symbolic references, which is a very primitive form of political culture. She saw no reason for Serbs to have any real fear of doing their military service in the Croatian army.

6.2 Alternative national service

The Centre for Peace, Non-Violence and Human Rights in Osijek reported that there was an alternative national service option available for conscientious reasons, including religious grounds. However, a request for alternative service has to be made on first being summoned to appear before a conscription board. After that it cannot be accepted. The Centre thought the legislation difficult to understand, although, following pressure from the international community, preparations were now under way in Parliament to amend its wording.

The Centre counsels young people on applying for alternative national service and has produced a 64-page brochure of advice and guidance for the purpose. It explained that few have been

recognised as conscientious objectors, adding that conscientious objection is frowned upon in Croatian society, especially in the armed forces, one reason for this being that Croatia was until recently at war.

Open Society believed it was now possible, both before and during the call-up procedure, to apply for recognition as a conscientious objector and for alternative national service.

The UNHCR in Zagreb reported that civilian service is performed in humanitarian and welfare institutions, including homes for the blind.

7 Property ownership

7.1 Return programme

The conflict between Serbs and Croats unleashed a string of ethnically motivated movements of refugees to, from and within eastern Slavonia. When Serb autonomy was established in eastern Slavonia in 1991, large numbers of Croats were displaced from the region. During the same period, refugees were also displaced internally within eastern Slavonia, e.g. Serbs from Osijek city. Following the Flash and Storm military operations in May and August 1995, ethnic Serbs from western Slavonia and Krajina were displaced to eastern Slavonia.

The Erdut agreement of November 1995 stipulated that eastern Slavonia was to be reintegrated into Croatia; under the agreement, all internally displaced people are entitled to return to their place of origin, or they can opt to remain in their present place of residence.

A major logistical task was then faced, as Serbs living in Croats' homes in eastern Slavonia had in many cases themselves been displaced from western Slavonia or Krajina in 1995. The displaced Serbs' own homes there, however, were often being lived in by Croats or Bosnian Croat refugees.

On 23 April 1997 representatives of the UNHCR, the Croatian government and UNTAES concluded an agreement for the return of internally displaced people to their place of origin, entitled the Agreement on the Operational Procedures of Return. In that agreement the Croatian government undertook to establish an operational return programme. On 1 June 1998 the Croatian government then introduced the Programme for the Return and Accommodation of Displaced Persons, Refugees and Resettled Persons ("the return programme").

Under the return programme, a number of housing commissions have been set up in cities and municipalities in areas in which there are returnees. People wishing to repossess their property can apply to the local housing commission to have ownership of property established. The housing commission also has to draw up a plan for the owner's repossession of the property. If the property is inhabited by people whose home is likewise occupied or has been destroyed in the war, the authorities have to try and find alternative accommodation until those people's housing problem is resolved.

Housing commissions consist of five members, two of whom represent the main minority community in the area. Decisions are taken by a majority, but require the vote of at least one of the ethnic minority representatives.

Under the return programme, a state authority, the Agency for Transactions in Specified Real Estate (ANP), was also set up, to facilitate the purchase and sale of housing. Among other tasks, the ANP buys up properties for use as alternative accommodation for people evicted from their homes.

The OSCE in Zagreb pointed out that the rules on repossession of housing are not laid down by law, but rather in a programme. This does not enjoy the same legal status as legislation, so there is a problem where the government fails to implement it uniformly across ethnic groups.

A number of sources, including the OSCE in Vukovar and the European Commission representative, pointed to discriminatory aspects of housing legislation such as the 1996 Areas of Special Concern Act and the 1996 Reconstruction Act.

7.1.1 *Housing commissions in eastern Slavonia*

Osijek county

According to the chairman of the Osijek city housing commission, it has received 216 applications from people wishing to return and repossess property which they abandoned during the war. Applications usually come from Serbs forced to leave Osijek city. It should be noted that the city was not taken by the Serbs. Only two or three applications are from Croats. According to the chairman, there is rarely any doubt about ownership and those living in the properties know they will have to leave. In 54 cases the parties concerned themselves arranged all the paperwork, in 83 cases the owners returned with the housing commission's assistance and in eight cases the occupants had to be ordered to hand back possession. The chairman reported a great deal of understanding normally shown by both sides, with the vast majority of people wishing to return to their place of origin.

According to the Regional Office for Displaced Persons and Refugees in Osijek, in June and July 1999 agreement was reached in the county on a plan for the removal of 200 Serbs living in Croat homes. There are still 84 Serb families living in Croat homes without any agreement having been reached. Those cases give rise to considerable problems.

The Beli Manastir housing commission explained that 1 300 cases have come before it, with only 42 cases remaining unresolved. These usually involve Serbs living in Croat homes who want to return to their place of origin.

According to the mayor of Beli Manastir, cooperation with other housing commissions in Croatia does not work well, which prevents Croats and Serbs from being able to exchange housing with one another. The mayor identified difficulties with the commission in Knin in particular. According to the mayor, the Beli Manastir housing commission has done its best to improve communication, but

without success. The Osijek housing commission reported difficulties with the return of Serbs to, for instance, Knin, where many homes are being lived in by Bosnian Croats.

Vukovar county

Osijek county court explained that it used to hear many cases for the establishment of property ownership and that cases still arise, partly for the eviction of people occupying others' property. The owners usually win their cases, which are dealt with fairly quickly, being quite straightforward. However, it often proves impossible to evict the occupants if they cannot be offered alternative accommodation.

A member of the Vukovar county housing commission explained that there is a major housing problem in Vukovar city. The commission receives 30 visitors a day, some five or six of whom come from the Knin area. Since 1997 the commission has had 1 553 applications for repossession of housing submitted to it. In 673 cases the housing commission has completed its proceedings and 45 cases have been resolved by finding alternative accommodation for people occupying a home in the area. In over 50% of cases people regained possession of their property. The remaining cases are unresolved, usually because there are Bosnian Croats living in Serbs' homes elsewhere in Croatia. The commission denied any difference in time taken to deal with cases, depending on applicants' ethnic origin. The time taken ranges from a few months to a year. It proves difficult to resolve cases as Vukovar suffered extensive destruction and there is no alternative accommodation available.

7.2 General implementation of the return programme

According to Vesna Škare Ožbolt, a presidential political adviser and head of the National Trust Establishment Committee, the housing issue has been a tough nut to crack, partly because there are Bosnian Croats living in Serbs' homes, e.g. in Knin. The sluggishness of the process is not due to any lack of political will.

The ODPB explained that there are no longer such great problems over repossession of housing in eastern Slavonia, whereas there are in the rest of Croatia, where one of the difficulties is being able to offer alternative accommodation to people living in Serbs' homes. It will take both time and money to resolve the problems.

According to the Vukovar Office for Displaced Persons and Refugees, considerable progress has been made with the return of Serbs to their homes in eastern Slavonia or other parts of Croatia. People are moving back in both directions: from eastern Slavonia to western Slavonia and Krajina and from other parts of Croatia to eastern Slavonia. The authorities are satisfied with the process, even though a great deal of work remains to be done. The feasibility of returning depends in large part on the pace of reconstruction and is closely bound up with developments in the economy.

Several sources, including the OSCE, members of staff of the UN High Commissioner for Human Rights in Zagreb, the Centre for Peace, Non-Violence and Human Rights in Osijek and the Helsinki Committee in Zagreb, took the view that the return programme is implemented differently

according to whether Serbs or Croats are seeking to repossess property. The sources pointed out that in eastern Slavonia, where Serbs are occupying Croat homes, eviction procedures operate more expeditiously. In other parts of the country, such as Krajina, where Serb homes are usually being lived in by Bosnian Croats, the process is very long-drawn-out.

A number of sources, including the OSCE, the UN High Commissioner for Human Rights and the Centre for Peace, Non-Violence and Human Rights in Osijek, made the point that in eastern Slavonia the courts have jurisdiction in cases to establish ownership and they apply more expeditious procedures for the eviction of Serbs from their housing, in some cases without any alternative accommodation being found. According to the Centre for Peace, Non-Violence and Human Rights in Osijek, it is right that ownership should take precedence, but the rules are implemented unevenly. If the owner is a Croat, legal proceedings are swift, whereas Serbs do not enjoy equally effective legal protection. There are also cases of Serbs being evicted before the actual court ruling.

According to the same sources, in other parts of Croatia the courts do not have jurisdiction to hear cases for repossession of housing. This applies, for instance, to the Knin area, where many Serbs own property being occupied. A claim for repossession of housing has to go before the housing commissions, which are ineffectual according to members of staff of the UN High Commissioner for Human Rights in Zagreb. The OSCE reported that only 700 out of 6 000 Serbs have regained possession of their housing in the rest of Croatia. In Krajina the process is very protracted, with problems because there are many Bosnian Croats living in Serb homes. According to the organisation, there are tacit expectations locally that the Bosnian Croats should remain.

The Joint Council of Municipalities made the general point that reintegration has proved difficult and the Croatian authorities have not been idle in this respect. There are still many problems and mistakes; it referred here in particular to the uneven situation as regards property rights and reconstruction aid.

According to the Centre for Peace, Legal Advice and Psycho-Social Assistance and the Centre for Human Rights in Baranja, Serbs are ejected from their housing by the police without any written ruling. The organisations knew of three such cases within the last week. The return programme is being implemented differently for Serbs and for Croats. The sources mentioned a case in which a Serb from Osijek was displaced to the UNTAES region in 1991. The lawsuit for the owner's repossession of property has taken a year. Croats' lawsuits usually last a month. According to the two organisations, it is practically impossible for Serbs to secure recognition of their rights in property disputes.

7.2.1 Alternative accommodation

Under the return programme, those evicted from housing are to be offered alternative accommodation until their housing problem has been resolved.

The ODP and the Regional Office for Displaced Persons and Refugees in Osijek pointed out that the international community will not allow Serbs to be offered alternative accommodation in camps.

In Krajina, according to the ODP, it has not been possible to find alternative accommodation facilities, as there is extensive destruction in the region and the reconstruction process takes time. The ANP has recently bought up over 3 000 houses, 2 000 of them damaged in part and needing to be repaired. Those houses will in future be used as alternative accommodation. In this way the Office expects to be able to resolve a few thousand cases by the end of the year.

The Regional Office for Displaced Persons and Refugees in Osijek reported that people forced to move out of housing have been offered temporary accommodation until their housing problems are resolved. About 150 families are living in houses bought up by the ANP and there are 100 families in Beli Manastir living in publicly owned properties. According to the mayor of Beli Manastir, internally displaced Serbs have been put up in state-owned properties, a fairly small number of families have been found flats and some are living with relatives and friends.

A number of sources, including the OSCE, members of staff of the UN High Commissioner for Human Rights in Zagreb, the UNHCR in Osijek and the Centre for Peace, Non-Violence and Human Rights in Osijek, pointed out that internally displaced Serbs in eastern Slavonia have been evicted from housing and had to take alternative accommodation, whereas the same does not apply to Croats living in Serbs' homes elsewhere in Croatia. According to the UNHCR's Osijek office, the 5 000 or so internally displaced Serbs in eastern Slavonia constitute a vulnerable group, having a discriminatory policy applied to them as regards use of alternative accommodation. The same does not happen in the case of Bosnian Croats living in Serb homes. Members of staff of the UN High Commissioner for Human Rights in Zagreb made the point that the return programme is not being implemented uniformly across ethnic groups and in some cases Serbs have been given seven days to leave housing without being offered alternative accommodation. At the same time it proves impossible to evict a Croat living in a Serb home.

The Joint Council of Municipalities also reported cases of Serbs from other parts of Croatia being ordered to leave housing in eastern Slavonia without being provided with alternative accommodation or enabled to return to their original homes.

A western embassy took the view that the discriminatory treatment of Serbs in matters including property claims is a deliberate general policy by the Croatian authorities, designed to ensure that Croats remain in a majority in eastern Slavonia and Knin.

According to the OSCE, discrimination against Serbs over repossession of their properties, in conjunction with other problems, is deterring them from returning from Serbia.

The UNHCR commented that one of the reasons for inadequate implementation of the return programme in some areas relates to shortage of resources, but that this also serves as a convenient excuse for the Croatian authorities, which are capable of acting effectively if they wish to.

7.3 Tenancy rights in respect of state-owned housing

A lawyer at the Centre for Peace, Non-Violence and Human Rights in Osijek pointed to many problems for Serbs over entitlement to publicly owned housing. Such housing was available during the communist period, especially in towns and cities, where State enterprises rented out housing, usually flats, to their workers. The tenants enjoyed exclusive tenancy rights, applying indefinitely and transferable to other members of the household, e.g. relatives. Such tenancy rights amounted almost to ownership, as the tenants, by paying rent into special housing funds, had paid for the flats in part. Before the war a start was made on a privatisation programme for such housing, whereby tenants could buy properties at prices well below their market value. However, war broke out before privatisation had been completed and many people then had to abandon their housing. Under the legislation applicable at the time, tenancy rights were terminated if tenants left the flat for more than six months other than by special arrangement with the landlord. A large proportion of the Serb community, particularly in major urban centres such as Osijek, had to leave such housing, which was subsequently lived in by local Croats or refugees.

The Osijek housing commission made the point that the legal provisions on termination of tenancy rights after six months were not applied when people had left on account of the war. That was a special case, in which others were temporarily allowed to live in the flats without the former tenants forfeiting their rights in respect of the housing. In some instances more than two or three years elapsed before tenancy rights were revoked.

The lawyer from the Centre for Peace, Non-Violence and Human Rights in Osijek explained that cases were brought in the courts for the termination of tenancy rights. The former tenants, frequently Serbs, could not attend the legal proceedings and the courts appointed lawyers to represent their interests. This was just a formality, however, as the lawyers often did not challenge the ruling and the former tenants lost their rights in respect of housing.

According to the lawyer, former tenants can challenge a ruling terminating their tenancy rights within 30 days of becoming aware of it. Quite a number of Serbs have sought to have cases reheard. The Centre has conducted such proceedings, but the courts do not generally allow the claims and have established a very restrictive practice. In order for a ruling to be overturned, they require, for example, a conviction for perjury in the course of the termination of tenancy rights. In the Centre's view, that is a very shabby way to treat those concerned, who have been deprived of their rights, including the right to buy housing for a price well below its market value. This makes it hard for Serbs to return to towns and cities.

The Osijek housing commission reported that about 2 500 cases for review of rulings terminating tenancy rights in respect of state-owned housing have been brought since March 1999, following the Kosovo conflict. The applications come from people who left in 1991 and would now like to return. The aim of most applications, however, is to regain possession of properties and then go on to sell them, as many people do not want to return after eight or nine years living abroad, where they have children at school, etc. There are currently 430 such cases pending. This poses a major problem as many years have gone by and some properties in the course of time been sold to new

occupants. The commission's head took the view that many of the claims for re-establishment of tenancy rights will not be upheld.

The Centre for Peace, Legal Advice and Psycho-Social Assistance made the point that Serbs have not been able to buy State-owned properties and the Croatian authorities now consider it too late to claim entitlement to do so. That constitutes discrimination against Serbs.

Both the OSCE in Vukovar and the Joint Council of Municipalities regarded it as a considerable problem that Serbs have been deprived of their entitlement to buy State-owned housing.

Several sources reported many houses for sale in eastern Slavonia and difficulty in selling property in the region. The Regional Office for Displaced Persons and Refugees in Osijek county pointed out that property values have slumped and Serbs do not want to sell off their property on the cheap.

7.4 Reconstruction aid

The Croatian government enacted legislation on reconstruction aid in March 1996. A number of sources, including the OSCE and the European Commission representative, pointed to discriminatory aspects of that legislation as regards Serbs' eligibility for aid to rebuild property.

The ODPB reported widespread destruction following the war, with the reconstruction aid programme proving very costly. It added that most of the money used to be spent on Croat homes, but Serb homes are now also being rebuilt.

The Vukovar Office for Displaced Persons and Refugees explained that 6 385 homes have been rebuilt, 1 500 of them in Vukovar. Most of the homes rebuilt are Croat ones, which is as it should be, since Croat homes make up the bulk of those destroyed. There has, however, also been some reconstruction of houses owned by Serbs and other minorities. It is a requirement for reconstruction aid that ownership be undisputed. The following priorities are also laid down by law: families of those killed, families of those missing, those disabled in war, other refugees and large families. These priorities have given rise to problems in Vukovar, where nearly all families meet the requirements.

Damage falls into six classes, with classes 1 to 3 involving minor damage, for which the State pays aid for improvements, while classes 4 to 6 comprise serious damage, for which the State carries out actual reconstruction work.

During a meeting at the mayor's office in Beli Manastir, it was explained that no major reconstruction projects have been carried out in Beli Manastir, as there has been less damage to property there than in other areas and a city like Vukovar has thus been given first priority. There are nevertheless buildings in pressing need of renovation, having been allowed to fall into disrepair during the war.

According to both the OSCE and the UNHCR, it is mainly Croat homes that have been rebuilt.

The European Commission representative reported that both ethnic groups' homes are in practice being rebuilt, as international projects include the rebuilding of Serb homes. It would be nice, though, to see State funding for reconstruction of Serb homes. A problem arises in that there are time limits for applying for reconstruction aid, with people being out of the country.

On disputes arising over housing issues, see the section below concerning the security situation.

8 Security situation

8.1 Incidents

The English word "incident" has entered Croatian everyday language as a term used on all sides for events or occurrences stemming from ethnic disputes. The term is used to describe all kinds of intimidation, from spitting at one another to murder. That is the sense in which the word is used below.

The police in Vukovar explained that the number of reports made to the police in the Danube region is established on a monthly basis, there having been 146 recorded criminal cases in July 1999. The same period saw 51 other offences reported. These comprised 6 cases of threatening behaviour, 11 of brawls, 24 of noisy verbal abuse, 7 of insulting behaviour towards the police, 1 shooting incident and 2 breaches of the peace. Cases are not recorded by ethnic group. Of the 146 criminal cases recorded in the Danube region in July 1999, 78 involve Vukovar county. Of those 78 cases, 65 concerned common and economic crime, i.e. theft and property crime as well as related physical aggression. Only one case involved grievous bodily harm. From July up to 9 August 1999 there were 12 recorded other offences. Of these cases, 5 involved altercations between Croats, 2 between Serbs and Croats, 4 between Serbs and 1 between Ruthenians. The police concluded that the situation in the Danube region is stable, with very few cases in many towns and villages, an exception being the villages of Berak, Sotin and Svinjarevci, especially Berak.

Police records of offences in the villages of Berak, Sotin and Svinjarevci show the following picture:

	1998	Jan. to 23 August 1999
Murder	0	1
Arson, mainly against Serb property	6	3
Explosive devices thrown at Serb property	3	1
Attacks on the police	0	2
Disturbances of public order, including molesting other people	10	5
Serious incidents, verbal threats, threatening telephone calls and other infringements of privacy	31	12

The one recorded murder was committed in Berak on 9 August 1999. The victim was a young Serb and a Croat suspect has been remanded in custody. The case is currently under investigation. It completely transformed the situation in the village. According to the police, there were no recorded incidents in Berak prior to 16 June 1999. The police thought many people saw Berak as symptomatic of the security situation in eastern Slavonia, but this view was rejected by the police themselves. In Sotin, where Croats have been holding prayer meetings from 19.30 to 21.00 each day since 25 August 1999 (see the section on missing persons), there have been no recorded incidents at all during the period. The last recorded offence took place on 15 July 1999 and involved two Serbs. A case was recorded on 17 June 1999 between a Croat and a Serb.

Osijek county criminal investigation department explained that in the past the police received up to 30 calls a week; now the figure is just two to five and they involve ordinary police work and not ethnic disputes. From January to July 1999 there were 425 recorded criminal cases in the county, making about 50 to 60 cases a month. According to the criminal investigation department, the number of ethnic disputes has fallen, while economic crime has increased.

Police records for January to July in 1998 and in 1999 for Osijek county show the following picture:

	Jan. to July 1998	Jan. to July 1999
Total cases	427	425
Common crime	284	170
Economic crime	11	20
Organised crime	103	192
Special security cases	6	4
Drugs offences	3	18
Cases involving minors	3	8
Road traffic offences	17	13

The police explained that ethnically motivated cases classifiable as incidents are shown in the statistics as special security cases.

The OSCE police monitoring group in Vukovar (see the section concerning the police in eastern Slavonia) considered there to have been serious problems in Vukovar county over the last nine months, with two murders, both victims being Serbs and both suspects Croats. There have also been other acts of physical aggression and general ethnically inspired instability. Some 42% of all ethnically related incidents in Vukovar county occur in Vukovar and a number of surrounding villages. The villages in which problems arise and Serbs find themselves in an exposed position are Berak, Marinći, Tompojevci, Čakovci, Sotin and Svinjarevci. Crime throughout the region is reported to be on the increase.

The OSCE in Zagreb thought the number of incidents had declined, but that half of them now occurred in Vukovar, where the situation has deteriorated. The police there do not provide proper protection.

A western embassy reported 866 recorded incidents in the Danube region over the first five months of 1999.

The UNHCR in Osijek explained that incidents may involve threatening telephone calls, infringement of privacy by Croats pestering Serb families and physical harassment.

The Centre for Peace, Non-Violence and Human Rights in Osijek defined incidents as threats made orally in connection with housing problems, e.g. moving out within a set time limit, with those overstaying it suffering intensified threats, verbal abuse and unlawful intrusion into private homes, explosives hurled and broken windows. Most incidents, in the Centre's view, are relatively minor ones. Incidents occur at intervals when Croats return and around the end of the school year, the worst period being the summer holidays. The Centre was dissatisfied with the work of the police, who in its view fail to do enough to prevent incidents.

The Helsinki Committee in Osijek reported daily incidents in rural districts, adding that they now affect Roma, too, as all non-Croats and all who are not good Croats also face repression.

Open Society believed Serbs cannot go shopping, Serb children cannot go to school, ethnic anthems are sung at school and Serbs are beaten, receive threatening telephone calls and are spat upon. Prominent Croats, including priests, reportedly make disparaging remarks about Serbs, as do the media. Everyday harassment was considered less in Baranja than Vukovar, but the scale of it depends on the ethnic make-up of villages. Problems are worst in the area between Vukovar and Vinkovci. Most incidents were said to be verbal ones.

The Vukovar country public prosecutor, Biserka Treneski, reported the number of incidents to have fallen, with groups increasingly bridging their differences as housing problems are resolved. She explained that in Vukovar there were 17 cases of threatened use of violence and murder threats and 12 cases of arson and of explosives being hurled in 1998. In 1999 there have been some cases of threats and thefts of private property and cars as well as a few physical attacks. A case of arson at a pigsty in Berak was reported in late August. The prosecutor said two murders have been committed in 1999, both cases being under investigation. One was committed in May in the village of Marinći, where an argument between a Croat and a Serb degenerated with firearms being used to kill the Serb. In the murder in Berak, she explained, a young Serb died of injuries sustained in an attack. Of 25 witnesses questioned, all stated that there was only one assailant.

The County Trust Establishment Committee in Osijek reported isolated incidents, although the last one recorded was a long while ago. The situation in eastern Slavonia was therefore said to be better than in the rest of Croatia.

The OSCE in Vukovar took the view that incidents occur in connection with housing problems and the psychological pressure generated by these results in intimidation on a daily basis.

The Vukovar housing commission said it did not have the authority to intervene in incidents over housing problems. In one incident concerning a housing case in Sotin, the housing commission did nevertheless settle the case in two days so as to head off any further escalation. Housing incidents, however, according to the commission, show a marked decline, although the police still receive reports and complaints. Three or four cases have ended up being dealt with by the police.

The Regional Office for Displaced Persons and Refugees in Osijek considered the ethnic situation now to be good, with fewer disputes at present than before the war. Serbs and Croats now move on account of housing problems, not ethnic disputes.

The Vukovar Office for Displaced Persons and Refugees reported that housing conditions at first provided the bone of contention but are now, except for Vukovar, a secondary factor. Initial contacts between sides after the end of UNTAES were violent, but mostly verbal in nature. There have been a few physical clashes and two murders committed, both victims being Serbs. The murder in Marinći was, according to the Office, committed by an Albanian on account of disagreements going back to before the war. The Office did not know the reason for the murder in Berak, but did not believe it to be a housing dispute, as both parties concerned were living in their own property. Nor did the Office think the problems in Berak were due to returning Croats. It explained, however, that in 1991 Berak had a population of 926, of whom 440 became displaced. Of these, a total of 89 had returned to Berak by February 1999, 203 by May and 206 by July, so that most of the returnees went back to Berak in the spring of 1999.

The Joint Council of Municipalities criticised the police for their investigations into the Berak murder. It believed more than one person to have taken part in the killing, although only one has been arrested. It reported that Serbs had left the strife-ridden villages of Berak, Sotin and Marinći for places such as the Federal Republic of Yugoslavia, Denmark and other countries. In 1991, according to the Council, 40% to 45% of Berak's inhabitants were Serbs. There are now only ten elderly families left. The Council has held talks with the police, the OSCE and the chairman of the local council in an effort to resolve the problem.

Open Society was also critical of the police and thought investigations into the Berak murder inadequate. One of its members had talked to people living in Berak, according to whom the victim said "they're beating me up", meaning that, contrary to police claims, there was more than one person involved in the murder. Open Society reported that five or six Serb families left Berak the day after the killing.

A western embassy believed there to have been 20 Serb families living in Berak before the murder, with only ten left now. It criticised the local police for not providing Serbs with adequate protection.

The prefect of Vukovar county said the murder had jangled Serb nerves and he was trying to calm people down.

Vesna Škare Ožbolt deplored the murder in Berak, which she believed to have been committed under the influence of alcohol. The OSCE in Zagreb explained that the murder was presented in the media as a couple of drunks getting into a fight, but it was nevertheless known to have been a brutal murder. The UNHCR in Osijek thought the killing happened as a result of a brawl.

The head of the Serb National Council, Dr Milorad Pupovac, had not heard of reports of small groups of Croats from other parts of Croatia driving to eastern Slavonia on "Serb-hunting safaris".

8.2 Missing persons

According to the Ministry of Foreign Affairs, a total of 14 000 Croats were reported missing in the course of hostilities. There are still 1 800 people missing in the Danube region. Around 120 mass graves for those killed have been found in the Danube region over the period. Some of the bodies found remain unidentified or are unidentifiable. The Croatian government has set up a national committee, the Commission for Detained and Missing Persons, headed by Colonel Ivan Grujić, to try and locate missing persons on a nationwide basis by means of documentation and tracing work.

The local Commission for Detained and Missing Persons in Osijek explained that it was set up in 1992 and officially registered as a civil association in December 1993. It is politically independent and has no affiliation with the government either. None of its members in Osijek belongs to any political party. The association has a membership of about 1 000, all of whom are searching for their next of kin. It pointed out that it makes no distinction according to ethnic origin, also having Serb members, and helps anyone who has lost track of relatives. All of its members are from the Danube region. There are seven associations in the rest of Croatia, including one in Vukovar. The association receives state funding for certain projects e.g. looking after missing persons' children.

The association said it holds peaceful demonstrations, which are reported to the police and therefore entirely lawful. Demonstrations began in 1992, being held two or three times a year and attended by between 500 and 1 000 people, with no police present at them. In recent months the association has begun holding prayer meetings in the village of Berak and in the last week of August in the village of Sotin as well. These involve members, many of them elderly women, assembling and praying beneath a cross set up in the middle of the village¹⁴. The association explained that prayer meetings have not been held until now as it did not previously have access to the area, there being no connection between the prayer meetings and the return of Croats to the area.

The association explained that there were 400 people reported as missing in 1991 and 160 have still not been traced. It thought that, the more Serbs returned, the more information should be

¹⁴ The delegation drove through both Berak and Sotin; in both villages there was a large cross set up, with pictures of missing persons displayed beneath it. Apart from names, the pictures showed dates of birth and details of where and when missing persons had last been seen. In Berak a small group of elderly women dressed in black had assembled in front of the cross.

forthcoming. It also believed it had evidence from Croat eyewitnesses that Serbs know what has become of missing persons and where they are. The association added that Serbs remain very tight-lipped and have difficulty in looking Croats in the eye. Serbs have also tried to remove the traces of their deeds and they behave disparagingly towards participants in demonstrations, laughing and swearing at them. However, some Serbs do pass on information about missing persons and the association has also been tipped off anonymously. In this way it learned of the location of a mass grave. Its members, it maintained, do not go knocking on Serbs' doors, demanding information from them, although Croat returnees have been known to do so.

The association accused the OSCE of sheltering Serbs while forbidding the association's members to visit Serb families in search of information about missing relatives. It has asked the OSCE to set up a committee to arrange to obtain information from Serbs, but the OSCE referred it to the authorities.

The association claimed that no incidents arise from its activities. It is opposed to incidents and wants relatives to be searched for by peaceful means. There are no groups responsible, only individuals with frayed nerves. Events in Berak and Sotin merely reflect the fact that there are many people missing from just those villages. The killing of a young Serb in Berak was, according to the association, a criminal act.

The Joint Council of Municipalities held a meeting on 7 September 1999 with Croat representatives from Sotin concerning prayer meetings. At the meeting, also attended by Colonel Grujić from the national Commission for Detained and Missing Persons, the Council had proposed the setting up of a joint Serb and Croat committee to work for solutions to problems concerning missing persons, as there are also Serb mass graves to be opened.

The Council had also proposed the establishment of a telephone hot line which Serbs could call anonymously with information. However, its proposals had come to nothing yet as the Serb candidates put forward by it were rejected. The Council met with an unwillingness to excavate other ethnic groups' graves until all graves containing Croats had been found.

The prayer meetings, in the Council's view, have been introduced in a systematic attempt to persuade Serbs to move out of the villages. At prayer meetings, Serbs are harassed by Croats placing lighted candles in front of their houses. The Council considered the whole issue of missing persons to be heavily politicised, with radical groups in mixed-race villages taking unfair advantage of the families of missing persons. It added that war criminals should be brought to book for their deeds, but this should be done through the courts.

The head of the Serb National Council, Dr Milorad Pupovac, explained that a new campaign to locate Croat mass graves has been launched, this being the context in which a Serb was killed in Berak. According to Dr Pupovac, the new campaign is related not to returning Croats but to the forthcoming parliamentary election. He did not know who was behind it, but believed the campaign to be bringing instability to the region. He declared Serbs willing to help Croats find those missing, but this must be done via the local authorities.

The Croatian Red Cross in Beli Manastir reported the drawing up of search lists of over 310 missing persons in Baranja. Only one of them has been located. The organisation was not involved in any contact or cooperation with the Commission for Detained and Missing Persons in Osijek, but does work with the government's Commission. In the organisation's belief, demonstrations do not help, but rather tend to exacerbate conflict.

The Vukovar Office for Displaced Persons and Refugees reported murdered people being dug up almost daily.

Vesna Škare Ožbolt explained that a mass grave containing 67 bodies was found in Berak, but none of the dead were from there. Over 120 mass graves in all have been opened, which has eased psychological pressure. Everyone, according to the source, should help resolve the problem.

The Trust Establishment Committee in Vukovar has attempted, in connection with prayer meetings in Sotin, to appeal to participants for searching for missing relatives to be kept within proper bounds. The Committee thought tension heightened on 18, 19 and 20 November each year, around the time of All Saints' Eve, when Catholics pray for their dead.

The Ministry of Foreign Affairs said the subject of missing persons was poisoning the atmosphere, as Croats believe Serbs know where mass graves and hence Croats' missing relatives are.

The UNHCR in Osijek did not regard the issue of missing persons and mass graves as a source of ethnic conflict, but thought the issue and the situation hyped up by the media ahead of the approaching election.

The prefect of Vukovar county believed the issue of missing persons, in particular, a source of conflict, e.g. in Berak. For Croats, as Catholics, it is also a matter of faith. Croats are disappointed that Serbs will not help them trace their missing relatives. In Vukovar 4 000 people were killed, 1 800 disappeared and 860 have not yet been traced, although there are smaller towns which, in percentage terms, had far more killed than Vukovar. The prefect added that the Commission for Detained and Missing Persons in Osijek was unfairly exploiting the situation for the purposes of the forthcoming election and there could be some minor parties behind it.

According to the police in Vukovar, many Croats were victims of the war. Some of the local Serbs took the Serb side, but the amnesty absolved them of any guilt. In Berak there are still 32 Croats missing, while in Sotin 17 mass graves have been found and 23 bodies dug up. However, they have not yet all been identified.

The OSCE in Vukovar explained that the mass graves issue affects both Croats and Serbs. Besides prayer meetings and demonstrations, attended by old women bussed in from Zagreb, displays of belongings of unidentifiable bodies uncovered have also been arranged in Vukovar and Zagreb. In addition, a wall has been built around the OSCE headquarters in Zagreb, with a name inscribed on each brick so as to stand for one of the missing. The OSCE in Vukovar believed all this to be

organised at a low level, with the old women being politically exploited, for the purpose of driving Serbs out of the villages.

The Local Democracy Agency regarded the issue of war crime victims as the main cause of the tense situation. The issue is taken advantage of by right-wing political parties. However, the aim is not ethnic cleansing, but rather to create a complex political situation in order to win the forthcoming election.

The OSCE in Zagreb considered the prayer meetings to be a campaign launched by local Croat politicians wishing to create a tense situation.

Open Society took the view that the missing persons issue is being used for political purposes by, for instance, the governing party and other right-wing parties, such as neo-nazis, which should be banned.

The European Commission representative considered the missing persons issue to be an orchestrated campaign, but on the other hand also saw a human rights problem involved.

Members of staff of the UN High Commissioner for Human Rights in Zagreb regarded the murder in Berak and the prayer meetings as a kind of psychological torture of Serbs.

8.3 General assessment of the security situation

Vesna Škare Ožbolt, a presidential political adviser, was satisfied with the security situation in eastern Slavonia, pointing out that it was the same as in other parts of Croatia. There are nevertheless problems in areas in which war crimes were committed. The source emphasised that the security situation may at any time become strained in the event of heavy politicisation. Given eastern Slavonia's history over the last ten years, the prefect of Osijek county considered the security situation good. The prefect of Vukovar county regarded the position of Serbs nowadays as broadly similar to that of other people. Following the UNTAES period, there was inevitably tension, but by way of legislation the authorities are endeavouring to foster peaceful coexistence.

The UNHCR in Osijek considered the security situation in eastern Slavonia to be stable. In 1997 people were leaving the area on account of the security situation and harassment, but that is not happening now. The UNHCR added that there are regional differences and went on to refer to the OSCE as the main source in this respect. The UNHCR in Zagreb thought the situation tense and also heavily politicised owing to the forthcoming election. The problems faced by Serbs in the area stem from a combination of the poor state of the economy and verbal and physical harassment. The UNHCR could not say that it was generally unsafe for Serbs to return to eastern Slavonia.

The OSCE police monitoring group in Vukovar thought the security situation generally stable, albeit depending on the definition of this, stability being a relative concept. The source pointed out, however, that the situation is unstable in six villages and in Vukovar city (see the section on incidents). The OSCE in Vukovar heard tougher talk being used, which it put down to the election.

The term "ethnic cleansing" is too strong a description, as Serbs are leaving the area for a number of reasons. The OSCE in Zagreb did not consider ethnic cleansing to be going on; that was too strong a term for the situation in eastern Slavonia. The OSCE added that there is a risk of strife in Berak spreading across the region, failing a suitable response by the government, which has not been forthcoming up to now. In addition, the OSCE saw a problem of people not turning to the police when they have difficulties.

A western embassy thought the human rights situation worse this year than last on account of local political circumstances, but also considered the human rights situation bad in general. Serbs face discrimination at all levels. The source did not regard this as ethnic cleansing, but every effort is made to induce Serbs to leave and bring their numbers down as low as possible in eastern Slavonia. The situation may improve after the election.

Members of staff of the UN High Commissioner for Human Rights in Zagreb thought Serbs in eastern Slavonia suffer harassment, whereas Serbs in Zagreb do not face any such problems.

The Local Democracy Agency reported that the situation has improved considerably since 1997, but remains tense in some places, such as Vukovar. In western Croatia, Zagreb and Osijek, Serbs are no longer any problem. What problems there are get blown up in the media and exploited for political purposes. The organisation concluded that there are not now any security problems for Serbs in eastern Slavonia.

The Centre for Peace, Non-Violence and Human Rights in Osijek believed Serbs now to be in a better position than they used to be.

The Joint Council of Municipalities reported a general feeling of insecurity among Serbs, with security conditions varying from one geographical area to another. It added that all Serbs have experience of being a target for arson, physical attacks and hurled explosives.

The Centre for Peace, Legal Advice and Psycho-Social Assistance in Vukovar thought the two murders committed this year in eastern Slavonia showed anti-Serb violence to be on the increase. Serbs find themselves under pressure to leave the region, with provocative acts forcing Serb families out at the rate of five to seven a day. The Centre added that there are problems with democracy generally throughout the country and ordinary Croats also have difficulty in exercising their rights.

Open Society thought the situation generally in eastern Slavonia worse than last year. It also believed ethnic cleansing was taking place in eastern Slavonia and administrative terror imposed. The Serb question has become a key issue in Croatian politics in the run-up to the election campaign and right-wing politicians are using Serbs for propaganda purposes.

The Helsinki Committee in Osijek reported Croats to be deeply suspicious of Serbs and constantly trying to prove that Serbs do not belong in Croatia. Claims that Serbs are denied their rights are

construed by the state as disloyalty. Serbs have their human rights violated, although this also happens to increasing number of Croats. The Committee received information from Serbs confiding in it which could not be corroborated by others, as Serbs are unwilling to repeat their statements in public for fear of reprisals. The Helsinki Committee in Zagreb considered that Serbs were systematically harassed and that ethnic cleansing was being practised in eastern Slavonia.

Serbs' physical existence was not, however, under threat at present. Croatia was an example of an intolerant culture, with Muslims, Roma, journalists, Istrians and anti-fascists all in the same boat as Serbs. In the long run, under the circumstances, Serbs will be unable to go on living in Croatia.

8.4 Kosovo conflict

As to whether the Kosovo conflict has had a bearing on the security situation in eastern Slavonia, the UNHCR in Zagreb reports that it has set off a growing tide of anti-Serb rhetoric, had an adverse psychological effect, making the situation more tense, and left Serbs more helpless and lowered their morale. This has also, in the UNHCR's view, set back the reconciliation process between ethnic factions. On the other hand, according to the UNHCR, Serbs have been their own worst enemies in complaining about the bombing of Serbia. The Kosovo conflict has also led to the reopening of war crimes cases.

The European Commission representative thought the Kosovo conflict to have had only a minor impact. Serbs behaved sensibly, keeping a low profile and not demonstrating against the bombing of Serbia as Serbs did in other countries. No sizeable cross-border movements have been noted, not even of young Serbs.

Members of staff of the UN High Commissioner for Human Rights in Zagreb could not see any direct connection between the situation in eastern Slavonia and the Kosovo conflict. The OSCE in Zagreb endorsed that view, while adding that any impact there has been is in the realm of sentiment.

A western embassy considered the Kosovo conflict to have resulted in greater economic difficulties and therefore fewer returnees to eastern Slavonia than to other parts of Croatia.

The Osijek housing commission explained that the Kosovo conflict has brought fresh pressure to bear on the situation, with many new applications to return to eastern Slavonia being made by Serbs who left in 1991. A total of 430 applications have been received, the first ones being recorded on 17 March 1999. The Vukovar Office for Displaced Persons and Refugees confirmed that, following the Kosovo conflict, some Serbs have returned to eastern Slavonia from Serbia and Republika Srpska.

The Centre for Peace, Non-Violence and Human Rights in Osijek saw no connection between the Kosovo conflict and the situation in eastern Slavonia, while observing that, if the situation is now somewhat worse than it was, the cause lies rather in the approaching parliamentary election.

Open Society did not think the Kosovo conflict has had any impact on the security situation in

eastern Slavonia, apart from some Kosovo Serbs now wanting to return to Croatia. The forthcoming parliamentary election, on the other hand, is making an impact, in its view.

The Serb Joint Council of Municipalities considered the situation in the Danube region to have deteriorated following the Kosovo conflict. It regarded the conflict as being exploited by radical Croat groups exerting pressure on Serbs, especially in mixed Croat and Serb environments.

8.5 Prominent figures, including NGOs

The head of the Serb National Council, Dr Milorad Pupovac, had not personally experienced any security problems, but had been publicly called a terrorist.

With one exception, none of the other members of the Joint Council of Municipalities had met with any problems on account of their activities.

One member of the Centre for Peace, Legal Advice and Psycho-Social Assistance in Vukovar had recently come under some pressure. Another member had, at a UNHCR-sponsored NGO conference in Zagreb, been subjected to some provocation by black-shirted neo-nazis. He was physically assaulted and they took his camera. He later received an apology from the government. A third member thought the political climate generally difficult for NGOs. Portrayed as public enemies, they receive no state funding. Although they would like to cooperate with the state, their enquiries go unanswered. The sources' own NGO had never experienced any problems.

A member of the Association for Peace and Human Rights in Baranja believed the police to be approaching his friends for information in the belief that he is working for the US intelligence service.

The Centre for Peace, Non-Violence and Human Rights in Osijek had not run into any problems on account of its activities, nor did it know of other local NGOs having met with any.

The OSCE in Zagreb believed that prominent Serb politicians and actors were protected via the media and were not in an exposed position.

The interviewees from Open Society reported having been lambasted in the press, and not infrequently, as Jews, liberals, Serbs, homosexuals and communists with a hankering after the old Yugoslavia.

8.6 Mixed-race marriages

The OSCE in Zagreb explained that mixed-race marriages come up against more problems than monoethnic Serb ones, problems comparable to those faced by mixed marriages in Bosnia. It depends, however, on the side taken by the couple during the war; if, for instance, the Croat remained in the Danube region, the couple may experience problems. According to the organisation, however, the situation has improved greatly since 1995, even though there may be local difficulties.

The UNHCR in Zagreb considered mixed-race marriages to be tolerated, although this might differ from one case to another. Where the husband is a Croat, there will be no problem. Life in the villages may be difficult, however, as couples may be subjected to verbal abuse.

A western embassy described the situation for mixed-race marriages as problematic.

In Open Society's view, mixed-race couples are vulnerable, but it depends where they are living now and where they lived during the war. Open Society added that non-ethnic Croats as a whole experience difficulties in Croatia and mixed marriages are out of favour in the Balkans altogether. Serbs are generally regarded by Croats as traitors, according to the organisation, and not fit for a Croat to marry.

The Helsinki Committee in Zagreb thought mixed-race marriages have a hard time of it, with their offspring enjoying no security. In marriages where the father is a Serb, the children are not regarded as true Croats.

8.7 Reconciliation process

Following the end of the UNTAES mandate, it was agreed that Trust Establishment Committees should be set up in cities and municipalities to work for reconciliation between the parties. The committees should be composed of representatives drawn from the local administration, the police, refugee boards, reconstruction boards, Serbs and other minorities, being chaired by the local mayor.

The Trust Establishment Committee in Vukovar explained that it was set up the day after enactment of the Croatian government decree, i.e. on 28 October 1997. Meetings are convened either by the chairman or at the instigation of a member. Initially the committee met once a month. According to the mayor, the committee's work has gradually been taken over by the local city administration and, as at the same time the situation has stabilised, the committee last met six months ago, in April 1999. The mayor did not see any need to call further meetings, unless specific cases arose. The committee engages in preventive work via the media, attempting to resolve problems currently arising and establish rules on, for instance, which flag should be flown on what occasion. Its representatives, such as the mayor, have also intervened in specific disputes and tried to mediate between sides, including over incidents in schools. The committee has no current plans regarding, for example, cultural events. Nor does it plan any further meetings with the OSCE as, in the mayor's view, dual meetings should be avoided. The committee receives no funding for its work, nor did the mayor see any need for this. Any activities are paid for out of municipal budgets.

The County Trust Establishment Committee in Osijek consists of a number of mayors of municipalities in Osijek county and representatives of the police, the Croatian Red Cross, the housing commission, various ethnic groups etc. Its chairman explained that the committee meets several times a month. At the meeting with the delegation, individual representatives supplied information on a variety of problems, including financial ones, and on work to resolve those problems in their respective geographical areas.

The ODPR took the view that not everything works perfectly, of course there are problems, but the starting situation was also difficult, requiring a changeover from both the former socialist regime and the state of war. The UNHCR in Zagreb was disappointed at the results of the reconciliation process. Some of the committees were established in name only and have never come into operation. Nor did the OSCE in Zagreb consider the committees to be operational or the agreement ever to have been complied with by the government. A western embassy shared that view.

Vesna Škare Ožbolt, on the other hand, thought the authorities have conducted a positive reconciliation process, with more achieved since January 1997 than could have been expected. She added that whingeing Serb leaders should themselves take steps to bring reconciliation and apologise to Croats.

In the view of the UNHCR in Zagreb, the Joint Council of Municipalities does not in practice play a very proactive role and makes for the opposite of reconciliation.

The European Commission representative believed returning Croats to be bringing with them a critical mass of hatred. In the normal way, among ordinary Croats, there are no anti-Serb feelings. Serb organisations themselves contribute to the schism.

The Ministry of Foreign Affairs saw an important role for NGOs and local authorities in the reconciliation process, but this takes time, reconciliation having never been achieved following the Second World War, in which 50 000 to 70 000 Serbs lost their lives under the Ustaša regime.

The Local Democracy Agency thought a large proportion of the population felt there were no ethnic disagreements. Neither side felt any guilt and 30% of the population had ties with the other side through friends and relatives. In a few years' time, animosity would vanish of its own accord.

The Centre for Peace, Non-Violence and Human Rights in Osijek was dissatisfied with the national Trust Establishment Committees, which it regarded as being too passive. It thought the committees should also include NGOs, so as to bring about reconciliation from the bottom up and not from the top down. As currently constituted, the committees operate as administrative units. Members are delegated to them and they do not engage in any preventive work. The Centre had offered to cooperate in establishing peace teams to take action in the event of disputes. In addition, it had devised and carried out a number of reconciliation projects. The Centre had also organised projects specifically aimed at women and children, as well as holding human rights courses.

The Local Democracy Agency had since 1993 run projects and held seminars for teachers, police officers, children and NGOs from both ethnic groups and for Croat returnees regarding human rights and reconciliation. At seminars the sides meet on common ground. Courses incorporate both legal and psychological subjects.

Antonija Kukuljica of the Trust Establishment Committee in Vukovar is the head of municipal cultural activities and sporting events. She explained that Vukovar has four cultural associations:

one Croat, one Ruthenian and two Serb ones. Each association practises its own culture, there being in the case of Croats and Serbs no cooperation between associations or reciprocal participation in cultural events. The city does not enjoy a rich cultural life. A number of theatrical performances have, however, been staged, attended by ethnically mixed audiences. The city used to have two libraries, one of which has been rebuilt. It is used by both Croats and Serbs, with the emphasis on children's books. The city also has a civic museum, about to open an architectural exhibition. Antonija Kukuljica thought a greater effort should be made for children. She added that most employees of the civic museum are Croats, while most employees of the library are Serbs. One of the Serb members of the Trust Establishment Committee in Vukovar reported the founding of a football club for both Croat and Serb youngsters; after winning a number of matches, the club had become very popular.

9 Law enforcement

9.1 Police

9.1.1 Role of the OSCE

Since 1998 the OSCE has been monitoring the Croatian police in eastern Slavonia. It has 280 international staff (including 120 police monitors) and 320 local staff and operates with 20 local offices, three regional coordination offices and a head office in Zagreb¹⁵. According to the OSCE's head of police monitoring in Vukovar, it has nine police monitoring offices in the Danube region.

There is an agreement between the Croatian government and the UNTAES administration on proportional representation of Serbs in the police within the Danube region.

9.1.2 Integration of police forces, including ethnic composition

Police forces come under the overall authority of the Ministry of the Interior. According to the Ministry, there have not been any particular problems with integration of Serb and Croat personnel in the police, considering that the war was fought out only a few years ago. The police in the Danube region currently have a strength of 1 500, with Serbs enjoying influence at all levels, including as senior police officers. The police in Vukovar reported that, in the Serb areas of Borovo, Mirkovci and Makusica, 70% of policemen are Serbs and their senior officers also Serbs. In Vukovar the head of police is a Croat and in Ilok the head is a Croat with two Serb deputies. In the Danube region just over 50% of policemen are Croats, the remainder being Serbs or from other ethnic minorities. At national level, Serbs make up 25% of the police, representing slightly more than their percentage share of the population at the time of the last census, in 1991.

¹⁵ Human Rights Watch: Croatia, Second Class Citizens: The Serbs of Croatia. The Role of the International Community, page 1.

The OSCE's head of police monitoring in eastern Slavonia reported that the police in the Danube region have a strength of about 1 400, of whom 51% are Croats, 44% Serbs and the remaining 5% members of other ethnic minorities. The OSCE ensures that Serb officers leaving the force are replaced by Serbs. Two posts falling vacant for officers on the beat, for instance, were recently filled by Serbs. According to the OSCE, cooperation between the two ethnic groups works surprisingly well, with very few problems, all things considered. The OSCE head office in Zagreb pointed out that some Serb senior police officers may come to seem like puppet figures. Serb senior officers are at times excluded from any real influence, e.g. being unable to attend high-level meetings with Croat colleagues, but on other occasions this is due to their own failure to take the initiative.

The Joint Council of Municipalities could confirm that Serbs make up from 40% to 45% of police personnel in the Danube region, but not in senior posts. Its members are satisfied with the percentage representation, but not with the implementation of the abovementioned agreement on proportional representation at senior level. The Council pointed to problems regarding cooperation and the extent of Serbs' real influence.

According to the Trust Establishment Committee in Osijek, it was at first hard to integrate Serb and Croat police officers.

When asked whether Serb officers have left the force, feeling subject to harassment in the course of their duties, Vukovar county police explained that swift disciplinary action is taken in response to any such harassment. The police did not believe any to have left for this reason and reported that, of 400 Serb officers, only a very small number, about four or five, have left the force, resigning by mutual agreement.

According to the OSCE's head of police monitoring in eastern Slavonia, there have been cases of harassment, but they are a thing of the past. Internal enquiries have been carried out within the police. Subsequent complaints by Serb officers turned out to be unfounded. The source pointed out that the disciplinary system is uniformly applied and disciplinary action taken against Croats and Serbs in equal numbers. The OSCE head office in Zagreb added that no instances are seen of Serbs having to resign or generally being given the dirty work in the police. Part of the problem is that some Serb officers lack training in and experience of police work. The OSCE pointed to a tendency for Serbs, when difficulties arise, to put them down to discriminatory treatment of them as Serbs.

The Joint Council of Municipalities remarked that there are not usually any physical clashes, but rather harassment of and discrimination against Serb officers.

9.1.3 Police response to ethnically motivated incidents

The Ministry of the Interior reported a police clear-up rate in 1998 of 73% of all cases reported. For the first eight months of 1999 the clear-up rate was 89%. Vukovar county police made the point that they always try to arrange for patrols to include both ethnic groups so as to reassure the public.

The OSCE's head of police monitoring in eastern Slavonia observed that police in the region generally do a satisfactory job, except for the police in Vukovar. The security officer attributed this to the conflictual nature of the Vukovar area, with ethnic disputes smouldering on the surface. In some instances the police respond satisfactorily in Vukovar, but in many situations they do not. As the OSCE put it, there may be examples of satisfactory police work throughout eastern Slavonia, including Vukovar, but there may also be obvious inadequacies. One reason given for this by the OSCE was poor training. Many officers have the right intentions but are unaccustomed to using their own judgment or reacting of their own accord, this being a hangover from the communist era.

Both the UNHCR and a western embassy had the impression that the police do a satisfactory job for the most part, but further referred to the OSCE as the main source in this respect.

According to the Helsinki Committee in Zagreb, the police appear on the scene and draw up reports when incidents arise. Formally speaking, they do their job, but there is then usually no follow-up in bringing those responsible to justice. The Joint Council of Municipalities reported police investigations of the previous month's murder in Berak to be getting nowhere. Two people were arrested, one of them subsequently being released. According to the same source, however, it was common knowledge that ten people took part in the attack.

As to whether the Serb population report all ethnic abuses, the OSCE headquarters in Zagreb said that this was not always the case. In areas such as Berak, where Croat officers at the local police station rule the roost, Serbs find it difficult to approach them. A western embassy pointed out that, in some cases, Serbs suffering ethnic incidents lack the confidence to go to the police and so simply leave the area.

9.1.4 Training and experience

The Ministry of the Interior made the point that many officers have no police training and so a police training college has been established in Erdut, where they can follow regular training courses.

According to several sources, including the OSCE, the Centre for Peace, Non-Violence and Human Rights in Osijek and the Local Democracy Agency, police officers lack adequate police training and experience. The Local Democracy Agency has instructed police officers in human rights. It explained that, as long as rules have to be applied directly, they are followed by officers but, where there is any room for interpretation, individuals tend to be guided by their own beliefs. The Local Democracy Agency did, however, consider the police to have become more professional. According to a lawyer from the Centre for Peace, Non-Violence and Human Rights in Osijek, the police are not decisive enough. As the lawyer put it, the police may seem like bystanders at the scene of incidents.

The OSCE's head of police monitoring in eastern Slavonia thought lack of experience and training was the case particularly with Serb officers. The lawyer from the Centre for Peace, Non-Violence and Human Rights in Osijek observed that this also applied to some Croat officers who had been

given jobs in the police because they had fought in the war. The Local Democracy Agency pointed out that many police officers were recruited in the 1990s from among political activists.

9.1.5 *Disciplinary action*

Vukovar county police explained that any member of the public can make a complaint about the police, either orally or in writing. There is a police disciplinary board for the purpose. Both Serbs and Croats are represented on it, along with an OSCE representative. In a case involving a breach of police rules of conduct, internal enquiries are carried out and disciplinary proceedings may then be brought. The officer concerned may be suspended while the case is heard; the member of the public is also notified of action taken in the case. According to police figures, 40 complaints have been made about the police this year, mostly about the traffic police as well as about police work for housing commissions and border-control police. Nine Serb complaints were dismissed as unfounded.

The Local Democracy Agency reported less corruption in the police than among other authorities.

9.2 Legal system

9.2.1 *Organisational separation of courts and public prosecutors*

Courts

The Croatian court system comprises city or municipal courts at local level, county courts at regional level and a national Supreme Court in Zagreb. There is also a national Constitutional Court (which rules on the constitutionality of legislation or administrative decisions as well as giving final judgments in individual cases) and an Administrative Court. A parallel system for civil law hears all civil cases¹⁶.

The Ministry of Justice explained that the court system is structured in the same way in eastern Slavonia as in the rest of the country. There are thus two county courts, for Osijek and Vukovar counties respectively. Each county has a number of city or municipal courts at local level. According to the lawyer from the Centre for Peace, Non-Violence and Human Rights, Osijek county has six local courts, in Osijek, Beli Manastir, Đakovo, Načise, Noni Miholaac and Valpovo. Vukovar county has three local courts, in Vukovar, Vinkovci and Županja.

Public prosecution service

Vukovar county public prosecutor's office explained that eastern Slavonia has one regional public prosecutor's office each for Osijek and Vukovar counties, with a number of sub-prosecutors' offices covering cities or municipalities. There are sub-prosecutors' offices in those cities or municipalities reported above to have local courts. The national authority is the Public Attorney in Zagreb, coming under the Ministry of Justice.

¹⁶ US Department of State, Croatia Country Report on Human Rights Practices for 1998, page 4.

Appeal system

Osijek county court and the lawyer from the Centre for Peace, Non-Violence and Human Rights in Osijek explained that city or municipal courts hear cases at first instance. However, criminal cases in which over ten years' imprisonment may be imposed always go straight to the county court. In civil proceedings an appeal lies to the Supreme Court in cases involving a financial claim in excess of HRK 3 000. The Supreme Court does not rule on the evidence produced, but considers whether the judgment is consistent with the relevant law applicable.

9.2.2 *Ethnic composition of the judicial system in the Danube region*

In 1997 an agreement was concluded between UNTAES and the Croatian government to ensure proportional Serb representation within the judicial system in the Danube region after the end of the UNTAES mandate. Under the agreement, Serb representation in the judicial system should reflect the pre-war ethnic composition of the population. According to the Ministry of Justice, this means that 40% of posts within the judicial system in the Danube region should be held by Serbs and 60% by Croats. The ethnic composition requirements apply to judges and administrative personnel in the courts and staff of the public prosecution service. Serbs currently make up 30% to 35% of judges in the Danube region's courts as, according to the Ministry, it has proved difficult to find qualified Serb magistrates.

The Joint Council of Municipalities is not happy with the number of Serbs in the legal system, pointing out that, in appointing judges, the authorities fail to observe the agreement with UNTAES (see the section concerning amnesty).

A Serb member of staff of a national NGO wishing to remain anonymous on this issue told the delegation that she had before the war served as a judge in Osijek and during the war worked in Vukovar. She had twice unsuccessfully applied for posts on the bench, to each of which was instead appointed a Croat who, in her opinion, had no particular specialist experience.

9.2.3 *Operation of the courts, including appointment and independence of judges*

According to the Minister for Justice, Zvonimir Šeparović, the Ministry has no way of influencing decisions by the courts. The Minister pointed to the need to bear in mind here that Croatia is going through a post-communist transition period, with the legal system being ridded of any susceptibility to political influence. The new constitution establishes an independent judiciary with judges appointed for life. Judges are better paid than any other public servants, which reinforces their independence. The Minister pointed out that 60% of judges have served for less than six years, but they are gradually gaining experience and the picture looks promising.

Osijek county court reported, regarding appointment of judges, that a 15-member State Judicial Council¹⁷, set up in 1993, takes the final decision on the appointment of judges. The Council

¹⁷ The State Judicial Council is responsible for appointment of and disciplinary action against, including removal of, judges, chief justices and public prosecutors. The upper house of parliament puts forward nominees for membership of the Judicial Council and the House of Representatives then elects the members for an eight-year term. US Department of State, Croatia Country Report on Human Rights Practices for 1998, page 5.

comprises eight judges, four public prosecutors, two law professors and one private legal practitioner, with the inclusion of the president. The judges are then appointed by parliament. Unlike the previous situation, whereby judges were appointed for eight-year terms, they are now appointed for life.

According to a number of interviewees, including the OSCE, members of staff of the UN High Commissioner for Human Rights in Zagreb, a western embassy, Open Society, the Helsinki Committee in Zagreb, the Croatian Law Centre and the Centre for Peace, Non-Violence and Human Rights in Osijek, it remains questionable whether judges are truly independent. The OSCE considered there to be some highly politicised judges. Members of staff of the UN High Commissioner for Human Rights in Zagreb took the view that judges are in reality chosen by the governing HDZ party, being far from independent. The European Commission representative also saw insufficient separation between the government and the judiciary. The source reported some wire-pulling, especially in the case of the Supreme Court and the Constitutional Court, the latter court having given a series of rulings which subsequently attracted criticism. Political influence is brought to bear on key posts, whereas the situation is fairly reasonable in the lower courts. The source instanced the Chief Justice of the Supreme Court being criticised by the President and thereupon resigning from the post. The same judge was subsequently appointed as a judge in the Constitutional Court. The Local Democracy Agency regarded judges as not fully independent, but not fully under the government's thumb either. According to the source, this depends on the individual judge and the level of court.

A lawyer at the Centre for Peace, Non-Violence and Human Rights in Osijek thought the operation of the judicial system imperfect. Judges have to be politically sound in order to sit on the bench. According to Open Society, the court system at all levels is controlled by the government, including the Ministry of Justice.

Several sources, among them Open Society and the Helsinki Committee in Zagreb, pointed out that 65% to 70% of judges have been replaced within the last few years. According to the Helsinki Committee in Zagreb, the HDZ has thus appointed people whom the party thinks politically suitable. Among such cases, in the source's view, have been five judges on the Supreme Court, including its chief justice. The Chairman of the Helsinki Committee, Vjekoslav Vidović, said he used to be a judge on the Supreme Court, having been dismissed by the President, who was displeased with his judgments. The Croatian Law Centre reported cases in which an amnesty had previously been granted being reopened with war crimes charges brought, which it saw as showing the courts to be politicised.

According to a western embassy, the Centre for Peace, Non-Violence and Human Rights in Osijek and a Swedish judge, Christer Karphammer, who until spring 1999 was employed by the OSCE to monitor the court system, the judicial system shows examples of discriminatory treatment on account of ethnic origin. The western embassy reported instances of Croats' cases being disposed of in advance. A lawyer at the Centre for Peace, Non-Violence and Human Rights in Osijek could not discern any direct discrimination against Serbs, but rather unequal treatment as regards, for

instance, the time taken to hear cases. There are large numbers of cases pending and hence always an excuse to hand for overlooking a case. According to Christer Karphammer, the judicial system generally works well but, where ethnic or political conflicts of interest arise, the judicial system will be obliged to bow to political interests. Serbs thus cannot count on a fair trial, this being so throughout the judicial system in civil and criminal cases alike.

According to Open Society and Swedish judge Christer Karphammer, Osijek court in eastern Slavonia poses a particular problem. Christer Karphammer pointed out that its chief justice comes from the right wing of the HDZ.

9.2.4 Resources

Staff at the Ministry of Justice reported a general problem of courts having to cope with an excessive caseload and many judges being inexperienced. Efforts are, however, being made to establish new courts and introduce computerisation etc. so as to speed up the hearing of cases. According to several sources, there are around one million cases still pending and the European Commission representative said it can take four years to have a case heard by a commercial court.

According to a number of sources, including the OSCE, the European Commission representative, a western embassy and the Centre for Peace, Non-Violence and Human Rights in Osijek, there are many inexperienced judges. The latter source pointed out that the large number of young judges could be seen as a source of reassurance for future and hope of better things to come. Christer Karphammer considered that the judicial system will work in the longer term, pointing out that judges have just received a pay increase. The European Commission representative reported there to be 1 500 judges in Croatia, a large number in relation to the size of the country.

The European Commission representative and Christer Karphammer did not think corruption widespread in the courts.

10 Amnesty legislation

Croatia enacted amnesty legislation in 1992 and 1995 and most recently the current 1996 amnesty legislation, attached as Annex 7. Snježana Bagić, Deputy Minister at the Ministry of Justice, and the Croatian Law Centre explained that there have been no significant substantive changes made to those amnesty laws.

Under the legislation, an amnesty is granted for criminal offences committed during or in connection with the aggression, armed rebellion or armed conflicts in the Republic of Croatia. Amnesty applies to offences committed over the period from 7 August 1990 to 23 August 1996. The amnesty legislation excludes war crimes and offences under the Croatian Penal Code not committed in connection with the conflict.

Several government sources and the Joint Council of Municipalities explained an amnesty as meaning that those convicted do not have to serve the rest of their sentences and legal proceedings pending or investigations under way are closed, with any suspects being released.

10.1 Implementation of amnesty legislation

10.1.1 Numbers covered by amnesty legislation

The Ministry of Justice reported around 18 000 individual amnesties to have been decreed throughout the country.

According to Osijek county court, amnesty decisions have been issued for about 10 000 people in Osijek county. The court made the point that cases coming under the amnesty legislation are taken up by the authorities of their own accord. The Vukovar county public prosecutor added that Vukovar county court was established on 15 August 1997 and has thus not played much part in implementing the legislation, but that about 13 700 people were covered by the law while the Osijek court was operating in both Osijek and Vukovar counties.

The Swedish judge, Christer Karphammer, until spring 1999 monitoring implementation of the amnesty legislation at courts in eastern Slavonia, reported that 13 575 people had been granted an amnesty. According to the Joint Council of Municipalities, 13 500 people have been granted an amnesty in eastern Slavonia, most of them Serbs. A few Croat deserters from the army have also been amnestied.

10.1.2 Trials in absentia

Vukovar county public prosecutor explained that, with the Danube region under the UNTAES mandate, cases arose in which the public prosecutor's office could not contact the accused, as the Croatian authorities had no jurisdiction of their own over the area. In such instances, indictments were issued, evidence taken and convictions handed down *in absentia* under the provisions of the Penal Code. In the majority of cases an amnesty was then granted. The prosecutor could not say how many people have been convicted *in absentia*. The Joint Council of Municipalities pointed out that 90% of cases involved Serbs convicted of insurrection against the Croatian state. The remaining cases concerned Croats convicted of desertion, terrorism etc. Almost all male Serbs of military service age were prosecuted and 95% of them convicted *in absentia*.

10.1.3 Granting of amnesty

According to a judge at Osijek county court, a decision granting an amnesty gives a number of personal particulars of the beneficiary, such as forename and surname, parents' names, date of birth, marital status, last known address and names of any children. The judge pointed out that during the war it more often than not proved impossible to serve an amnesty decision on the beneficiary in person and so UNPROFOR had to deliver the decision to the beneficiary. After the end of UNPROFOR's mandate, the decision was sent to the beneficiary by registered mail. If it returned undelivered or the beneficiary could not be contacted, the decision was displayed on the court notice board for a given length of time. The accused's defence counsel also received a copy of the

decision. According to the judge, there can be no certainty that the message reached everyone, but anyone can approach the court with an enquiry. They will then be told, either straight away or within a month, whether they have been amnestied. The judge added that it is possible to appoint a resident lawyer or relative as a proxy to take receipt of the letter.

Vukovar county public prosecutor similarly reported a notice board displayed at the court, showing the names of those granted an amnesty. Notice is also sent to the beneficiary's last known address. In addition, anyone can apply to the court, either in writing or by telephone, to find out whether they have been amnestied. The prosecutor had not personally received any such enquiries.

Christer Karphammer did not think it possible for Serbs to approach the courts to check whether they have been amnestied. He explained that the authorities have sent the Joint Council of Municipalities a number of lists of people granted an amnesty. However, those lists do not include specific decisions and it is often impossible to identify the beneficiaries with any certainty. He instanced a list of 1 033 names without any further personal particulars, while emphasising that this does not preclude the possibility of the same individual also appearing on a list of war criminals.

The Joint Council of Municipalities had tried to pass on information from such lists to beneficiaries. However, a considerable proportion of the decisions could not be delivered, either because the beneficiaries have left or because there are insufficient details given to identify them. The Council's members did think it possible for people to approach the courts to find out whether they have been amnestied or not. They can also address themselves to the Joint Council. Members took the view that amnesty decisions have ceased to be valid, as new war crimes cases have been opened.

According to the Norwegian Refugee Council, no little uncertainty has been sown with Serbs unaware whether they have been granted an amnesty or not. The organisation attempted to establish a database of people amnestied but, with 5% to 10% of cases recorded, had to abandon the project for want of resources. It had at that point received 3 000 to 4 000 decrees naming 30 000 people amnestied for various acts in eastern Croatia. The same source did nevertheless think it possible for people to approach the courts to find out whether they have been granted an amnesty.

The Deputy Minister at the Ministry of Justice was able, through her work for the Article 11 Commission¹⁸, to inform a number of Serbs living in Serbia or Bosnia and Herzegovina that they are under investigation for criminal acts. Information has been passed on via the Commission in over 500 cases.

10.1.4 New war crimes charges

The OSCE in Zagreb reported that in 1996 the Croatian authorities had a list of 1 000 people suspected of war crimes. Following international pressure, that list was successively whittled down to some 800 and then 150 people. In 1997 the Croatian authorities told UNTAES that, owing to lack of evidence, war crimes charges would only be brought against 25 people. According to the

¹⁸ Under Article 11 of the Erdut agreement, a commission composed of ambassadors in Zagreb is to monitor implementation of that agreement.

OSCE, it was agreed at the same time that the Croatian authorities would inform the International Criminal Tribunal for the former Yugoslavia (ICTY) if anyone other than the 25 were to face war crimes charges on the basis of fresh evidence. The OSCE reported that it was also quite clear from the Croatian government programme for establishment of trust that the Minister for Justice has to inform the ICTY of any new war crimes charges, yet that is not being done.

The European Commission representative in Zagreb thought uncertainty over amnesty implementation one of the main problems for Serbs. People regarded as being covered by the amnesty legislation have found themselves under arrest. According to the same source, the Croatian government has not complied with the above agreement on informing the ICTY.

The Minister for Justice, Zvonimir Šeparović, stressed that the amnesty process in Croatia has been conducted transparently. The Deputy Minister added that only a few cases have been brought since reintegration, these being new cases in which there was not previously sufficient evidence to prosecute. She went on to assert that the ICTY has been informed of the new war crimes cases.

The prefect of **Osijek county**, Branimir Glavas, commented that the amnesty legislation is being fully complied with. The legal system currently has four or five cases, including that of the Šodolovci group (see below), before it by way of specific cases. The source thought the cases have made Serbs edgy and bringing war crimes cases creates problems but, if they receive a report, the authorities have to look into it. He pointed out that it will be possible to react at any time in the event of irregularities during legal proceedings and the President can grant anyone convicted an amnesty. A judge heading the criminal division of Osijek county court explained that the court has recently been hearing two war crimes cases. The first involves two people in Dalj, one of whom (a police officer) is present in court, the other being tried *in absentia*. The second is the Šodolovci case (see below), in which five people were convicted in that court in May and have appeals pending before the Supreme Court.

The mayor of Beli Manastir reported everyone to have been amnestied and no new charges brought in connection with the war. When the delegation talked to Christer Karphammer a few days later, on 7 September 1999, he told it that a war crimes case had been opened in Beli Manastir the previous day.

In the case of **Vukovar county**, the prefect, Rudolf König, reported most Serbs to have been amnestied but, should any fresh evidence emerge of killings of civilians etc., then war crimes cases are brought. The vast majority of those responsible for war crimes have long since made their escape and a small number been convicted in ordinary legal proceedings. The mayor of Vukovar argued that, if war criminals could be brought to justice, this would help Serbs generally, as not all Serbs would be suspected of war crimes. The mayor added that there were very serious crimes committed in the Vukovar area, appealing for Serbs to come forward with information, if need be anonymously.

Nearly all sources, including the OSCE, the European Commission representative, members of staff

of the UN High Commissioner for Human Rights in Zagreb, a western embassy, the Croatian Law Centre, the Norwegian Refugee Council, the Helsinki Committee in Zagreb, Open Society and the Centre for Peace, Non-Violence and Human Rights, voiced concern regarding implementation of the amnesty legislation.

The OSCE reported there previously to have been very few war crimes cases, but with an increase just recently in arrests in connection with the war. The new cases have sown uncertainty among Serbs as to the validity of amnesties granted. A member of staff at the OSCE had been in Serbia in December and talked to Serb refugees. He explained that refugees' main concern about returning to eastern Slavonia was the risk of facing war-related charges. In the OSCE's view, younger Serbs fear prosecution and Serbs have reason to be frightened of returning to eastern Slavonia, which is why elderly Serbs are almost the only ones going back.

Members of staff of the UN High Commissioner for Human Rights in Zagreb reported many charges to have been brought of late. There can be no certainty of not being prosecuted for war crimes and the male population may therefore have good reason to fear charges. This deters refugees in Serbia from returning, and is also one of the reasons why Serbs leave the region.

According to a western embassy there is no transparency about the granting of amnesty, with the process being highly political. There have been instances of the public prosecutor's office bringing proceedings for a civilian criminal offence in order to avoid bringing a war crimes case. The amnesty situation stands in the way of Serbs' return. The same source reported that the Croatian embassy in Serbia had refused to issue passports to some 6 000 people on the grounds that they are under investigation for criminal acts. In the source's view, that represents an abnormally large number of people.

The Helsinki Committee in Zagreb reported a string of new war crimes cases being brought over the last two years, with many convictions. There have been some new lists of people suspected of war crimes, with instances of everyone in a village being named. Serbs feel considerable uncertainty as to whether they are included on such a list or not.

Several sources, including the OSCE in Zagreb and a western embassy, referred to cases of people having been checked by the authorities in connection with possible criminal charges and subsequently having a war crimes case brought against them. The OSCE mentioned a case from the Sisak area, in which a Serb was indicted in 1994 and later amnestied. He returned to Sisak, was issued a passport and joined the police (which, according to the OSCE, involves security screening), and was subsequently arrested for war crimes. The OSCE reported a number of such cases recently. A western embassy also gave an example in which the Ministry of the Interior had stated that a Serb police officer was not under investigation for any criminal offence, but the officer was subsequently charged with war crimes.

According to the UNHCR, Serbs returning with its assistance do not report facing any war crimes charges. The UNHCR provides those wishing to return with legal advice and can enquire for them

whether they are under investigation for any criminal offence. This does not, however, according to the UNHCR, guarantee that they will not later face war-related charges. It further referred to the OSCE as the main source in this respect.

Monitoring by the Croatian Law Centre

The Croatian Law Centre has twice carried out systematic monitoring of war crimes cases in Croatia. A number of lawyers attend trials and report back to the project's head lawyer, Čedo Prodanović, after which an assessment is made of cases. Čedo Prodanović reported that the Centre carried out a project in 1996 and is just completing a further assessment of the latest cases. He explained that, shortly after the Storm offensive, in August 1995, war crimes charges were brought in a number of cases involving Serb members of the armed forces in the Republic of Serbian Krajina, who usually had previously been amnestied as ordinary soldiers. In late 1995 the cases were reopened as war crimes ones, without any change in their facts or circumstances. As the lawyer put it, the only difference was the colour of the case file. The accused were detained for six or seven months and most of them then released for lack of evidence. He explained that, under Croatian criminal procedure, people cannot be remanded in custody for longer than six months. Very few were in the end convicted. The lawyer saw this as a way of forcing Serbs to leave the region. The Croatian Law Centre covered ten such cases at Karlovac court, completed in late 1996 (August to December 1996), although there were more of the same kind.

The Croatian Law Centre also carried out a monitoring project in 1996. It monitored 30 cases involving 36 Serbs and three cases involving nine Croats. All of the Serbs were sentenced to from eight to ten years' imprisonment. The finding to emerge from the Centre's first monitoring exercise was that legal safeguards depended on the accused's ethnic origin. Serbs were usually given short shrift and heavy sentences. All of the Croats were released bar one, who pleaded guilty. The cases were clearly approached very differently, depending on the accused's ethnic origin.

Čedo Prodanović reported new cases brought against war criminals just recently. The Centre's current monitoring exercise covers 19 cases involving 27 people. The cases come from all parts of Croatia (near the former front lines) and do not include any Croats. The Centre has not yet finally assessed the information, but the cases are thought to be like the earlier ones. In the present cases, the accused are usually convicted on insufficient evidence initially and it then takes the Supreme Court about six months to order their release.

10.1.5 General comments on cases

A number of sources, including the OSCE, a western embassy, members of staff of the UN High Commissioner for Human Rights in Zagreb and the Croatian Law Centre, thought the Croatian authorities were deliberately attempting to inspire fear among Serbs with the new war crimes cases. Čedo Prodanović of the Croatian Law Centre saw those cases as designed to deter Serbs from returning. In the lawyer's personal view, Serbs are leaving for economic reasons but also because they fear reprisals, as they have reason to.

According to members of staff of the UN High Commissioner for Human Rights in Zagreb, by

means of the new cases the authorities are conveying a message to male Serbs that anyone returning may face such charges. In one instance the local press announced that a Serb would be arrested for war crimes, but did so one week before the public prosecutor's office brought charges, thus enabling the person to flee. According to the same source, the long-term aim is to push Serbs out of eastern Slavonia, i.e. ethnic cleansing. A western embassy thought this a deliberate Croatian policy designed to ensure that Croats remain in the majority in eastern Slavonia and Knin. In its view, that is how the inadequate implementation of amnesty legislation should be understood.

The Vukovar public prosecutor did not think the latest cases in the county were a cause for concern among the population, as Serbs themselves knew what they had done. If they were not responsible for war crimes, they would not be prosecuted.

The Local Democracy Agency pointed out that war crimes had been committed against civilians in their hundreds in Croatia. All those responsible would normally be prosecuted, but a political decision was taken to grant amnesty. As the Croatian government did not wish to prosecute Croat war criminals, it could not prosecute Serbs. Agreement had therefore been reached in conjunction with the international community that only around 100 people were suspected of war crimes. The Croatian government has since added a few more Serbs to the list of suspected war criminals. It is not a large number, being more symbolic in significance. The real war criminals are abroad, e.g. in Belgrade. According to the organisation, the amnesty issue is of no relevance to the exodus of Serbs.

10.1.6 Possible future cases

The Vukovar county public prosecutor found it difficult to comment on the number of future war crimes cases, which will depend on the evidence coming to light. The prosecutor reported the discovery in late August of a grave containing ten people: seven women, two men and a child. Many people remain missing and so more cases may arise.

The Swedish judge, Christer Karphammer, reported that there were just over 100 people listed as suspected war criminals, with more being added to the list. In the judge's personal opinion, up to half of them are war criminals and in the end around 300 people will face such charges.

The Joint Council of Municipalities had no desire to shelter those who have committed war crimes, but could not accept politically motivated prosecutions. Implementation of the amnesty legislation has sown uncertainty among Serbs as to their legal position, with insufficient evidence being produced in many cases. There are currently about 90 Serbs imprisoned. The same source estimated that there were war crimes cases involving 350 to 400 people, basing this view on the numbers accused at present: 25 in Vukovar, 42 in Baranja, 27 in Dalj, 32 in Mikluševci and 36 in Borovo Naselje, compared with the government's previous list of suspected war criminals.

The Serb National Council reported at least 80 Serbs to have been imprisoned for acts committed in connection with the war. It has visited those held, a quarter of whom were imprisoned within the last year. In the source's view, they have not committed war crimes. In western Slavonia two

people have been imprisoned for the same crime. Some are being held without sufficient evidence and have to wait for at least two years for their cases to be heard by the Supreme Court.

10.1.7 Specific cases

Current case against 23 accused in Vukovar

The Vukovar public prosecutor referred to a current case in which 23 people stand accused of genocide and war crimes. The case opened in Vukovar on 16 September 1998. Only one person is present in Vukovar, the others having left, probably for the Federal Republic of Yugoslavia. They have been charged with genocide, under Article 119 of the Croatian Penal Code, and war crimes against civilians, under Article 120. The atrocities took place after the fall of Vukovar, when Croat civilians were taken away to commercial premises and executed. The public prosecutor's office knew of the case during the UNTAES period, but did not have access to the evidence and so no proceedings had previously been brought against the accused. In 1998 the authorities carried out a major investigation in Vukovar, where the victims were discovered. The prosecutor expected the case to be completed by the end of the year. Čedo Prodanović, a lawyer from the Croatian Law Centre, said it has not been monitoring this case but, according to media coverage of the case, a number of witnesses have testified that the accused did commit war crimes.

Preliminary investigations into a case in Borovo Selo

The Vukovar public prosecutor also referred to another case, against someone from Borovo Selo who stands accused of an offence under Article 122 of the Croatian Penal Code, concerning war crimes against prisoners of war. According to the prosecutor, preliminary investigations into the case, including questioning of witnesses, are still under way. The accused is being questioned by the police and has had access to a lawyer. The case was brought when a private individual returning to the area recognised the accused and reported the case to the police. The accused is a police officer, head of the fourth division in 1999, suspected of atrocities in connection with the detention of prisoners of war in Borovo Selo.

Šodolovci group

According to the OSCE, in some cases the Croatian authorities attempt to convict Serbs on a basis of collective responsibility. The organisation pointed to the Šodolovci case, in which a number of people from the village of that name to the south of Osijek were convicted at first instance of war crimes arising out of a military attack on civilian areas of Osijek city. The mayor and a number of other inhabitants were sentenced to from eight to fifteen years' imprisonment and the judgment found all of the village's inhabitants guilty.

Osijek county court explained that the Šodolovci group had previously been convicted *in absentia*. One of the group's members had reported to the police and been taken into custody. The criminal case was then reopened and the person in question convicted at Osijek court in May 1999, with a Supreme Court ruling now awaited. The International Criminal Tribunal has taken an interest in the Šodolovci case. Its representatives have discussed with the chief justice of Osijek court the

possibility of transferring the case to The Hague.

According to several sources, including a western embassy, the Croatian Law Centre and members of staff of the UN High Commissioner for Human Rights in Zagreb, the Šodolovci group were convicted without sufficient evidence. Members of staff of the UN High Commissioner for Human Rights in Zagreb pointed out that no witnesses could identify the accused, who were nevertheless found guilty. One of the accused was convicted in the previous case for unloading a truck of ammunition and has now been convicted of war crimes. According to the Croatian Law Centre, many aspects of the trial in the Šodolovci case are open to criticism. The Centre's lawyer, Čedo Prodanović, did not believe those concerned to be war criminals. They happened to be present in the village at the time of heavy shelling of Osijek city. A western embassy pointed out that the five Serbs were convicted on a collective basis, with insufficient evidence. The conviction came as a shock to the international community and Serb leaders.

Christer Karphammer noted that the defendants in the Šodolovci case were released while the case was being heard. They remained in the area, in permanent employment, and all expected not to be convicted. However, they were variously sentenced to three, eleven and fifteen years' imprisonment. He added that the Minister for Justice met the judge in the case just after the end of court proceedings, with judgment being handed down a few days later.

According to the Norwegian Refugee Council, the Šodolovci group were regular soldiers, bearing no individual responsibility for the shelling of Osijek city.

The Joint Council of Municipalities pointed out that the five defendants in the Šodolovci case returned to eastern Slavonia after the Council itself and the international community guaranteed their safety, yet they were sentenced to from eight to fifteen years without any guilt on their part.

Horvat case

The OSCE in Zagreb explained that Horvat had been living in Germany when he was charged with war crimes and the Croatian authorities applied to Germany for his extradition; He was arrested in Germany on 16 October 1996 and extradited to Croatia on 5 March 1997, subsequently being sentenced at Osijek county court to five years' imprisonment for war crimes, a conviction upheld by the Supreme Court.

Osijek court reported that Horvat was convicted by it initially and the conviction then upheld by the Supreme Court.

Several sources, including the Norwegian Refugee Council and Christer Karphammer, took a critical view of the conviction on the basis of the evidence produced. Christer Karphammer explained that Horvat, who was sentenced to five years' imprisonment on 16 December 1998, has now been in prison for two and a half years and questions arise in that judgment was not handed down until four and a half months after the end of court proceedings. The Norwegian Refugee Council thought five years a lenient sentence, but that the evidence in the case very threadbare.

According to the Joint Council of Municipalities, Horvat was sentenced to five years' imprisonment for atrocities alleged to have taken place at a time in the war when he was actually in Germany as an immigrant worker.

10.1.8 Legal safeguards

The Vukovar public prosecutor made the general point that parties are free to choose their own legal adviser and, if the defendant cannot afford defence counsel, a lawyer will be appointed by the court. Defence counsel in war crimes cases will usually be a Serb and a lawyer is required by law to be present during questioning in all cases carrying a maximum sentence of 20 years' imprisonment. According to the same source, defence counsel is allowed to produce evidence in the normal way. In criminal cases in which the defendant is a Serb, an OSCE representative will attend court hearings. The prosecutor added that those convicted *in absentia* are entitled to a retrial.

Members of staff of the UN High Commissioner for Human Rights in Zagreb pointed to a fundamental problem in that the accused usually have to prove their innocence, which causes difficulty and results in convictions. International principles concerning the presumption of innocence are not observed.

The Joint Council of Municipalities thought the accused had to prove their innocence, which was very hard, and this did not inspire confidence in the Croatian judicial system.

Čedo Prodanović, a lawyer at the Croatian Law Centre, pointed out that Serbs mostly have court-appointed counsel, who will often be less professional and also have unduly close links with the courts.

10.1.9 Prosecution of Croats

The Minister for Justice, Zvonimir Šeparović, noted that the authorities have never refused to extradite Croat war criminals to the International Criminal Tribunal for the former Yugoslavia¹⁹. However, extradition decisions are a matter for the courts and the state cannot interfere. The Minister reported there to be 12 Croats in prison, with a Croat sentenced to 20 years' imprisonment in one case. During the two liberation offensives, a few Croats committed revenge killings of elderly people, for instance. According to the Minister, the cases have not been closed and the authorities will be reviewing them very shortly.

According to members of staff of the UN High Commissioner for Human Rights in Zagreb and the Croatian Law Centre, no Croats have been convicted of war crimes. In the Croatian Law Centre's view, if a Croat has committed war crimes, the public prosecutor's office will try to bring charges under the manslaughter provisions of the Penal Code, whereby the accused receives a lighter sentence. The Open Society Institute reported Croats responsible for atrocities in western Slavonia to have been either acquitted or given very light sentences.

¹⁹ In January 1999 the International Criminal Tribunal for the former Yugoslavia sought the extradition of Mladen Naletilić (Tuta) and Vinko Martinović (Stela), charged with war crimes in Bosnia. Vinko Martinović was extradited by the Croatian authorities on 9 August 1999.

The Joint Council of Municipalities pointed out that war criminals should be prosecuted regardless of ethnic origin, that Croats committed war crimes and up to now none had been convicted in Croatia or at the International Criminal Tribunal in The Hague.

A western embassy referred to the case of Pakracka Poljana, in which an ethnic Croat claimed in a newspaper article to have killed 80 Serbs. The government was obliged to bring a criminal case against him and four accomplices, but they have all since been released. The International Criminal Tribunal in The Hague has shown an interest in the case.

10.1.10 Amnesty and criminal record

According to the Joint Council of Municipalities, Serbs granted an amnesty may find this proves an obstacle to their future career. There have been cases, including among the Council's members, in which Serbs previously serving as judges have been unable to find employment within the judicial system, this being due, in the source's view, to having fought on the Serb side in the war. Vacant posts within the judiciary in Beli Manastir and Vukovar have not gone to Serbs, even though there were qualified applicants. There have also been instances of Serbs not being allowed to practise as a lawyer. Members of the Council instanced a lawyer having practised in Vukovar during the war and not now being admitted to practise law on the grounds that he was unfit to do so.

The Ministry of Justice explained that all legal effects of a conviction cease upon subsequent granting of an amnesty. The amnestied individual thus has no criminal record. The information is held in central records kept at the Ministry of Justice. The Ministry denied that Serb judges have been refused employment on account of prosecution following the war. As regards private law practice, the Ministry reported that a few lawyers in Vukovar experienced difficulty in registering as this required them to join the Bar Council, which charges hefty membership fees. According to the Ministry, the case in question had nothing to do with serving on the Serb side in the war.

Osijek county court likewise reported that for those amnestied the slate is wiped clean. The Ministry of Justice does keep records of past convictions, to which the courts have access should a new criminal case arise. The same source did not know of any judges being refused employment for having served on the Serb side in the war.

11 Entry and exit procedures, including passports

11.1 Travel document issue

The police explained that the 1991 Croatian legislation on travel document issue remains applicable, with no significant amendments made since its enactment, but new provisions will come into force on 1 January 2000. The police could not give precise details of the changes, but believed the main one to be that national passports will in future be issued centrally and not locally as at present.

Passport applications have at present to be submitted to the local police station for the applicant's

place of residence. Decisions on them are taken by the local authority, which can only refuse to issue a passport for the following two sets of reasons:

- (1) reasons relating to conscription for military service, and
- (2) reasons relating to criminal justice.

Local authorities have access to central records showing whether anyone is wanted. The various courts supply information for the records, which are available to a number of authorities and updated every day. In this way the authorities can ensure that passports are not issued to wanted persons. Passports are normally issued on the same day as they are applied for. Thousands of passports are issued each day; however, with most people now holding a passport, the number of applications shows a sharp downturn. If issue of a passport is refused, the applicant can complain to the Ministry of the Interior, which usually takes a month to deal with cases. It costs HRK 120 to have a passport issued, although there are various fees to be paid as well, the price being the same for all citizens. The police rejected claims that Serbs have to pay more than Croats for a passport, adding that until about a year ago Serbs from the Danube region were issued passports free of charge. Around 90% of Serbs availed themselves of that facility. Forged passports are produced, usually abroad by photo substitution. Forgeries involve all ethnic groups, including Croats, Hungarians and Serbs.

The UNHCR in Zagreb explained that the authorities check on applicants in various records before issuing passports. However, there is no guarantee that applicants will also be checked out via regional courts before being issued passports.

The OSCE in Zagreb reported that records of criminal convictions are searched before passports are issued. Fresh charges are being brought all the time, however, and so the possibility of a case pending against someone lawfully issued a passport cannot be ruled out.

The Centre for Peace, Non-Violence and Human Rights in Osijek explained that, as a rule, issue of a passport means that the holder is not in trouble with the authorities. This only holds true on the date of issue, however, with no guarantee that a case will not subsequently be brought against the holder. People may also risk being detained at the border, even though previously issued a passport. They may, for instance, be detained on suspicion of an ordinary criminal offence, even if in reality suspected of war-related crimes.

The Norwegian Refugee Council reported people under investigation on suspicion of crimes committed during the war to have been refused passports in 1997 and 1998. It had in such cases helped them draft complaints to the authorities. People used to wait for months without any decision being taken and many of those issued passports in 1997 and 1998 went on to be charged with crimes. Issue of passports and other personal papers now generally takes a few days for women and a week for men, as checks have to be made with the military authorities in the case of men.

The Norwegian Refugee Council made the point that, even once issued a passport, people are not in the clear with the authorities. Passports may be issued so as not to give people the impression that they are under investigation, with the result that they leave the region. Moreover, border-control lists of wanted persons are constantly being amended.

A western embassy reported some 6 000 people to have been refused passports on account of cases pending against them. Such refusals are entirely legal, according to the letter of the law, but there is no openness regarding lists of wanted persons. The embassy added that this represents an abnormally high number of people suspected of criminal offences.

11.2 Entry and exit checks

The police explained that entry and exit checks are carried out entirely normally by the relevant border authorities, which have access to central records of wanted persons and can thus check for entry and exit of wanted persons. As they do so on a spot-check basis, there is no guarantee that a wanted person cannot nevertheless leave the country. Provisions on penalties for illegal entry and exit appear in special legislation. An alien entering Croatia illegally will be punished for the offence and expelled from the country. Anyone leaving the country illegally will not be punished on returning to Croatia. Like all other countries, Croatia also has a market in unlawful travel, according to the police, particularly for Rumanians passing through the country *en route* to western Europe.

The UNHCR in Zagreb reported no special restrictions applying for exit checks, with people in possession of a passport not experiencing any difficulty. People who have left Croatia illegally will not be prosecuted on returning. Entry checks are no different in Croatia from those in any other European country. Anyone caught entering the country on a false passport will be reported to the immigration authorities. The UNHCR pointed out that travellers coming from Slovenia need only produce an identity card at the land border. The UNHCR was not aware of rejected asylum seekers experiencing any difficulty in entering Croatia, adding that the Croatian authorities have no way of knowing that they have applied for asylum abroad.

12 List of organisations and individuals consulted

Association for Peace and Human Rights, Baranja, Mr Milorad Nenadović, Mr Mirko Jevi

Centre for Peace, Legal Advice and Psycho-Social Assistance in Vukovar, Ms Ankica Mikić, Ms Milena Jurišić, Mr Ljubomir Mikić, Mr Pepić M Drago

Centre for Peace, Non-Violence and Human Rights, Osijek, Human Rights Programme Director and Legal Adviser Ms Biserka Milošević

Commission for Detained and Missing Persons, Head of Office Mr Tomislav Krstić, Ms Mira Moržan and members of the Commission

County Court in Osijek, Vice-President Mr. Antun Bukvić, Judge and Head of the Criminal Division, Ms Ružice Šamuta

County Public Prosecutor in Vukovar, Ms Biserka Treneski

County Trust Establishment Committee, Mr Franjo Zdravčević, Mr Emil Šmit, Mr Vinko Guksić, Mr Marko Posavac, Mr Tomislav Ilić, Mr Jozo Juros, Mayor of Beli Manastir Mr Simo Stupar, Mr Darko Varga, Ms Zorica Lučić, Mr Željko Vajda

Croatian Helsinki Committee for Human Rights, Chairman Mr Vjekoslav Vidović, Acting Director Mr Bojan Munjin, Senior Research Fellow Mr Damir Gubiša, Mr Čedo Prodanović

Croatian Law Centre, Head of Centre Ms Kesna Grubić, Professor Ms Jasna Omejer, Lawyer Mr Čedo Prodanović, Lawyer Ms Lovorka Kušan, Legal Adviser Ms Nataša Đurović

Croatian Helsinki Committee for Human Rights in Osijek, Head of Office Mr Jaroslav Pecnik

Croatian Red Cross, Mr Emil Stošić, Ms Julijana Vurm

Embassy of the Republic of Croatia, Denmark, Ambassador Dr Mario Mikolić, Second Secretary Ms Andrea Javor

Embassy (western) in Zagreb

European Union, Special Envoy Mr Per Vinther

Government Office for Displaced Persons and Refugees (ODPR), Head of Office Mr Lovre Pejković, Secretary-General Ms Sonja Lovrečić,

Independent Democratic Serb Party (SDSS), Chairman of the SDSS and Representative in Parliament Dr Vojislav Stanimirović, Mr Jovan Ajduković, Mr Milan Milić, Assistant Minister Mr Milan Mirić

Karphammer, Christer, Swedish Judge (OSCE Monitor until spring 1999)

Local Democracy Agency, Mr Damir Jurić, Mr Olivier Haener

Mayor of Beli Manastir, Mr. Simo Stupar, Mr. Josip Lomparonić, Mr. Ogmjemović Žoran, Mr. Lubjmir Horvat and *Vice-president of the City Council of Beli Manastir* Mr. Mihajlović Radivoj

Mayor of Vukovar, Mr. Vladimir Štengl

Ministry of Education and Sport, Assistant Minister and Member of Joint Council of Municipalities Mr. Milan Milić

Ministry of Foreign Affairs, Ambassador and Assistant Minister Mr. Josip Paro, Ambassador and Assistant Minister Mr. Vladimir Drobnjak, Head of Department Mr. Snježana Novak, Counsellor Mr. Željko Vukosav, First Secretary Mr. Krešimir Kedmenec

Ministry of Justice, Minister of Justice Mr. Zvonimir Šeparović, Minister Deputy Ms. Snježana Bagić, Assistant Minister Ms. Lidija Lukina Karajković, Assistant Minister Mr. Ivan Turudić

Ministry of the Interior, Assistant Minister Mr. Joško Morić

Norwegian Refugee Council, Mr. Borislav Miogdragović, Ms. Tihana Hinek, Mr. Duško Simić, Mr. Draga Solar, Mr. Aleksandar Kojić, Ms. Snježana Vučenovic-Dokić

Office of the President, Political Adviser Ms. Vesna Škare Ožbolt

Open Society Institute Croatia, Executive Director Mr. Branko Vuković, Civil Society Program Director Mr. Drago Vručinić, Media Program Director Mr. Saša Milošević

OSCE in Vukovar, Mission Member Mr. Stephen Beale, International Monitor Ms. Giordana Raleff

OSCE Police Monitoring in Vukovar, Mr. Tom Johnson

OSCE in Zagreb, Mr. Peter Moesgaard Sørensen, Police Adviser Mr. Gerard Beekman, Return & Integration Adviser Mr. Oliver Lacey-Hall, Political adviser Mr. Paul Jukić and Mr. Matthias Lettner

Osijek Housing Commission, Head of Office Mr. Branko Pek

Police Headquarters in Vukovar-Srijem County, Mr. Stipo Rimać, Željko Šimundić, Mr. Zeljko Simundić, Mr. Josip Grčanac, Mr. Vladimir Dragun, and Head of Crime Department Mr. Tomislav Iljić

Prefect of Osijek-Baranja County, Mr. Branimir Glavas and representatives of Baranja Counties

Prefect of Vukovar-Srijem County, Mr. Rudolf König

Regional Office for Internally Displaced People in Osijek, Head of Office Ms. Nada Arbanas, Mr. Tomislav Krstić, Mr. Mira Moržan

Serb National Council, President and Member of Parliament Dr. Milorad Pupovac, Secretary General Mr. Jovan Vejnović

Joint Council of Municipalities, Chairman Mr. Miloš Vojnović, Vice-Chairman I Ajduković, Mr. Milan Mirić, Mr. Mirko Jagetić, Assistant Minister, Mr. Milan Milić

Trust Establishment Committee in Vukovar, Mayor of Vukovar City Mr Vladimir Štengl, Mr Krešimir Šlafhauzer, Ms Antonija Kukuljica, Mr Tomislav Vukas, Mr Gabrijel Takac, Mr Miroslav Keravica, Mr Đorđe Macut, Mr Josip Grčanac

UNHCR in Osijek, Head of Office Mr Gossian Kjiramand, Associate Liason Officer Ms. Shoko Hanzawa

UNHCR in Zagreb, Chief of Mission in Croatia Mr Robert M. Robinson, Assistant Public Information Officer Mr Andrej Mahečić, Durable Solutions Officer Mr Jose Belleza

UN High Commissioner for Human Rights, Zagreb, staff members

United Nations International Criminal Tribunal for the former Yugoslavia, staff member

Vukovar Housing Commission, Mr Stipe Seremet, Mr Zoran Bračić, Ms Brano Sjuvić

Vukovar Office for Displaced Persons and Refugees, Head of Office Mr Ante Drmić

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14 Abbreviations

APN Government Agency for Transactions in Specified Real Estate

CRPC Commission for Real Property Claims

DPs Displaced persons

FRY Federal Republic of Yugoslavia

ICTY International Criminal Tribunal for the former Yugoslavia

JCM Joint Council of Municipalities

HDZ *Hrvatska Demokratska Zajednica* (Croatian Democratic Union)

HRK Croation Kuna

NGO Non-governmental organisation

ODPR Office for Displaced Persons and Refugees

OSCE Organisation for Security and Cooperation in Europe

RS Republika Srpska

SAO *Srpska Autonomna Oblast* (Serb Autonomous Region (SAR))

SDSS *Samostalna Demokratska Srpska Stranka* (Independent Democratic Serb Party)

SDS *Samostalna Srpska Stranka* (Independent Serb Party)

UNCRO UN Confidence Restoration Operation

UNHCR United Nations High Commissioner for Refugees

UNPROFOR UN Protection Force

UNTAES UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium

15 List of annexes (not available electronically)

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| Annex 6 | Letter of Intent by the Government of the Republic of Croatia on the Completion of the Peaceful Reintegration of the Region under the Transitional Administration, Republic of Croatia, 13 January 1997 |
| Annex 7 | 1996 General Amnesty Act |