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INTRODUCTION

The reporting period has seen improvements in the dialogue between the Mission and the Government on issues related to the Mission's mandate. The Government has responded positively to the Mission's offer in December 2001 to establish a regular and structured dialogue on issues covered by the Mission's mandate, and to co-operate in identifying the most effective ways to reach a resolution of the outstanding problems. Several other channels of communication have been opened between the Government and the main actors in the international community that could serve to improve work on mandate-related issues.

During the reporting period the Government presented an 'Action Plan for the Implementation of Repossession of Property by the End of 2002' and has announced its intention to modernize media legislation in conformity with international standards. The failure to present a draft Constitutional Law on the Rights of National Minorities to Parliament at the beginning of the year, after almost two years of preparation, has been followed by renewed efforts to adopt a new draft by the end of the year. The Government states that this draft Law will provide for, *inter alia*, increased representation of national minorities in Parliament.

Work on key parts of the Mission's mandate received an additional impetus as a result of the signing of a Stabilization and Association Agreement (SAA) between Croatia and the European Union (EU) in October 2001. Many of the Mission's priorities, in particular those related to the judicial system and the return of refugees and displaced persons, have been identified in the SAA and the European Commission's (EC) first Progress Report on Croatia as preconditions for Croatia's progress towards negotiations on EU membership. In several public statements, the Minister for European Integration has highlighted the need to address the problems of the judiciary, the return of refugees and regional co-operation. Given the similarities in the agendas, the Mission maintains close contacts with EU/EC representatives in Croatia and with Croatian officials responsible for EU integration.

From contacts with senior Government officials during the reporting period, it is evident that there is a shared conviction that progress should be measured in terms of actual implementation of policies. The Mission can play an important role in this regard by providing information, analysis, advice and good offices, both at headquarters in Zagreb and through its comprehensive field presence.

As part of this dialogue, the Government has declared its intention to involve the Mission in issues such as the revision of media legislation and the preparation of the new Constitutional Law on the Rights of National Minorities. In the latter case, the OSCE High Commissioner on National Minorities will also be asked to provide advice. The Minister of Education and Sports initiated consultations with the Mission on the sensitive issue of curriculum in Serb minority schools in the former UNTAES region in Eastern Slavonia. The Government used the Mission's good offices in March when the Minister of Foreign Affairs invited the Mission to a meeting in Knin in order to jointly address the problem of an increased influx of Bosnian Croats to Croatia's war-affected areas. The Mission and the Ministry for European Integration have also agreed on regular working-level contacts.

While the Mission welcomes the new quality of interaction with the Government and its stated intentions, the practical resolution of the principal issues affecting the administration of justice, rule of law, restitution and reconstruction of property, and the creation of conditions that encourage the return of Serb refugees has not materialized to any significant extent. Many important decisions remain to be taken, and implementation has been slow on most accounts.

For these reasons, the Government's objective of meeting the deadline of the 'Action Plan on the Implementation of Repossession of Property by the End of 2002' seems overly ambitious. Progress in the joint Working Group on Legislation related to the return of refugees falls short of expectations.

The return of refugees and displaced persons, which is one of the Mission's main areas of concern, continues to be hampered by several factors, including a non-transparent and incomplete legal framework for return and repossession, which fails to comply with several constitutional and human rights principles; shortcomings of the judicial system; and the shortage of financial resources. In addition, some local authorities do not comply with legislation and ministerial directives. The Government has yet to provide a comprehensive remedy for those refugees and displaced persons who had their occupancy/tenancy rights (*stanarsko pravo*) to socially-owned housing terminated as a result of their forced absence from their place of residence.

Legal and judicial issues form the underpinning of almost every item on the OSCE agenda as well as much of the EU Stabilization and Association Agreement (SAA). It is therefore significant that the Minister of Justice, Administration and Local Self-Government has acknowledged the need to address the problems of the judiciary on several occasions. There is, however, a need to improve the quality of dialogue and co-operation between the Mission and the Ministry.

The activities of the Government in dealing with the Mission's agenda were impeded from early February 2002 until the beginning of March as a consequence of protracted discussions among Government coalition partners on the distribution of Cabinet positions, following changes in the leadership of the second-largest Government coalition party. This situation has now been resolved, but the next general elections (to be held by the end of 2003) may again affect the Government's efforts to address issues covered by the Mission's mandate.

FREEDOM OF THE MEDIA

Law on Media and Overall Situation

Following recommendations by, *inter alia*, the OSCE Representative on Freedom of the Media and the Council of Europe, the Government has committed itself to the reform of media legislation. In February 2002 the Ministry of Culture presented a set of guidelines for the preparation of a new draft Law on Media. A major objective of the new Law will be the regulation of media ownership, which stems from Government concerns about possible dominance by a limited number of financial groups or media conglomerates. The new Law is not intended to replace existent media legislation but may require revision of the Law on Croatian Radio and Television (HRT) and the Law on Telecommunications to comply with the recommendations by the international community[1]. The Government guidelines acknowledge the necessity to guarantee the independence and functioning of the Council for Radio and Television, the body in charge of issuing frequencies and concessions to private radio and television stations. According to the Ministry, a draft Law should enter parliamentary procedure in the last three months of 2002 and be adopted in early 2003. OSCE and Council of Europe experts will be consulted once a draft is completed.

The announcement of the new Law on Media prompted a public debate about freedom of the media and media ownership. This discussion has also been fuelled by several events over the past six months that were perceived as challenges to the freedom of expression[2].

Local media often face a more difficult situation than at the national level, particularly in war-affected areas, and experience interference and pressure by local business and political lobbies, including war veterans' associations. Sensational or biased reporting regarding the return process and war crimes issues continues to impact adversely on reconciliation and normalization efforts in these areas.

Reform of Croatian Radio and Television (HRT)

Croatian Radio and Television (HRT) remains the primary source of information for the vast majority of the population; hence the Government continues to attach particular importance to its reform, in particular its transformation into a public broadcasting service. Deputy Prime Minister Zeljka Antunovic publicly acknowledged in February 2002 the need to reform HRT. Although direct political interference no longer appears to be a significant problem within HRT, the Mission has encouraged the Government to amend the Law on HRT, which was adopted on 8 February 2001, in line with the recommendations of the OSCE Representative on Freedom of the Media in order to remove any possibilities for future interference.

On 7 February 2002 the newly elected HRT Council appointed a new Editor-in-Chief for Croatian Television (HTV) and reconfirmed the current HRT Director. Both elections appeared to be free from political influence. The new Editor-in-Chief embarked on a reform of HTV programming and personnel structures, earning both applause and criticism. In an encouraging move, she announced the creation of a special news desk for human rights and civil society issues intended to fill the current vacuum in the coverage of these issues. Programme decisions by the new Editor-in-Chief, including preventing the airing of a popular talk-show on a proposed law that would abolish the use of fascist symbols, gave rise to a lively and positive debate in the media on perceived restrictions to freedom of expression. Other measures foreseen in the Law on HRT are still outstanding, including the privatization of the third television channel, which the international community has long recommended.

JUSTICE AND THE RULE OF LAW

Judiciary and the Administration of Justice

The judiciary continues to face severe problems caused by organizational and procedural deficiencies as well as a lack of qualified staff and material resources. The President of the Supreme Court has cited the "…lack of social instruments that should prevent the need for disputes to be resolved before the courts". All of these factors contribute to a huge backlog of cases (1.2 million in May 2002).

The deficiencies have been acknowledged by the Government, which has put forward several proposals for judicial reform, including changes in court jurisdiction and changes to civil and criminal procedure[3]. While the independence of the judiciary has been strengthened through certain legislative measures, implementation has been uneven. The judicial reform package announced in October 2001 by the Minister of Justice, Administration and Local Self-Government largely remains to be implemented.

In a series of decisions in the past months, the European Court of Human Rights held Croatia responsible for on-going problems in the judiciary, including excessive length of proceedings, lack of access to court and ineffective remedies that detrimentally affect substantive rights. On a visit to Croatia in April 2002, the President of the European Court indicated that the Court has received 362 complaints against Croatia, of which 250 have been submitted since January 2002. The decisions by the European Court could provide a powerful impetus for further reforms.

Following several decisions by the European Court that found the Constitutional Court to be an ineffective remedy in terms of length of proceedings, Parliament adopted, in March 2002, amendments to the Constitutional Law on the Constitutional Court that partially addressed defects identified by the European Court. The Constitutional Court is now obliged to hear complaints for excessive length of proceedings in lower courts and may determine a deadline for the lower courts to decide cases, as well as appropriate compensation for any such delay. This solution may, ironically, create an additional backlog of cases and problems with length of proceedings at the Constitutional Court, which despite a 1999 provision setting a general one-year deadline, continues to experience significant delays in issuing some decisions.

The problems faced by the judiciary, in particular judicial vacancies and the lack of experienced judicial officials, remain particularly acute in areas most directly affected by the conflict. A suggestion by the President of the Supreme Court to re-employ - albeit temporarily - judges who were summarily dismissed or retired in prior years has not yet been endorsed by the Government. Permanent re-employment of judges dismissed without explanation during the conflict, particularly those whose challenges were accepted by the Constitutional Court, would address both vacancy and capacity problems, and would correct inappropriate dismissals of the past.

A serious problem in the administration of justice continues to be the lack of enforcement of court decisions at all levels. On the local level, the lack of enforcement is frequently observed in the context of Serb owners of occupied property who encounter obstacles in their efforts to obtain and execute eviction orders.

Of particular concern is non-compliance with Constitutional Court decisions by the legislative and executive branches of Government[4]. The lack of mechanisms to enforce Constitutional Court decisions undermines the effectiveness of the Court as a remedy. Further concerns arise from the fact that legal provisions that have been deemed unconstitutional continue to remain in effect until the adoption of corrective legislation.

Rights of National Minorities

The adoption of a framework law for the protection of national minorities is a remaining international commitment, dating from Croatia's independence in 1991 and its accession to the Council of Europe in 1996. It was announced in February 2002 that a draft Constitutional Law on the Rights of National Minorities, which had been prepared with the advice of the Council of Europe's Venice Commission, would not be presented for parliamentary procedure[5]. The stated reason for the withdrawal was that the draft would not muster the necessary two-thirds vote in Parliament. Minority representatives in Parliament and non-governmental organizations criticized the withdrawal. Meanwhile, the Constitutional Law on Human Rights and Freedoms and on Rights of Ethnic and National Communities or Minorities, which was adopted in 1991 and amended in 2000 to add a list of national minorities and repeal provisions suspended in 1995, remains in place.

The Government acted rapidly and established a new Working Group in March 2002 for development of a new draft Constitutional Law. The ten-member Working Group, of which five are ministers and four Government officials, was tasked to complete a draft by the end of June 2002. It was mandated to consult with a broad range of actors, including relevant Parliamentary Committees, representatives of national minorities in Parliament, the Venice Commission, other international organizations and non-governmental organizations. The lack of minority representation in the membership of the Working Group triggered initial criticism from representatives of national minorities. The Government has committed itself to working with the OSCE High Commissioner on National Minorities in developing the new draft.

Representatives of national minorities have suggested that the publication of the 2001 census results has been delayed in order not to complicate the drafting process.

The Chairman of the Working Group, Deputy Prime Minister Dr. Goran Granic, has acknowledged that the new draft law will, among others, contain provisions for a newly constituted Council for National Minorities on the national level, and an increased number of minority representatives in Parliament. Consequently, the Government expects that the draft will codify some of the provisions for minority representation that are contained in the Erdut Agreement and related agreements with the international community that created the conditions for the peaceful reintegration of Eastern Slavonia[6].

The 2001 Law on Election of Members of Representative Bodies of Local and Regional Self-Government Units calls for by-elections within 90 days after the census results are published in order to correct any under-representation of national minorities. If, as currently suggested, the 2001 census results are published in June 2002, these elections would occur in autumn 2002 under a law that the Council of Europe's Venice Commission has found to be ambiguous. Some municipalities have not observed provisions for minority representation in administrations provided for in the current Constitutional Law. However, representatives of the Serb minority joined the Vukovar city administration in late April 2002.

Rule of Law and Separation of Powers

The Government acknowledges the primacy of the rule of law and the principle of separation of powers and is striving to ensure that it is observed. However, as demonstrated below, there are still examples of actions by the branches of Government that do not abide by the constitutional separation of powers.

The executive frequently interferes with the legislature by adopting sub-legal regulations that substantively modify overarching laws. For example, legal entitlements are infringed by instructions issued by the Ministry of Labour and Social Welfare as well as decrees issued by the Government limiting eligibility under the Law on Convalidation[7]. Many substantive sub-legal regulations have not been published, in violation of the constitutional requirement of the publication of all regulations (*propisi*).

There are still some limitations of legal remedies and substantive relief as a result of interference by the legislature with the judiciary. One of the most prominent examples of injured parties being denied access to remedies was Parliament's suspension in 1996 of Article 180 of the Law on Obligations, which allowed compensation for damage from "terrorist acts", together with the suspension of all pending court proceedings. Article 180 had been used predominantly by Serbs outside the areas most directly affected by the conflict to seek compensation for residential and non-residential property that had been damaged by unknown perpetrators[8]. This was followed in 1999 by amendments to the same Law that stayed all proceedings for compensation for damages caused by members of the Croatian armed forces and police[9].

The Government is, however, now addressing the first part of this issue. This follows a March 2002 decision by the European Court on Human Rights, which established that Parliament's suspension of all proceedings under Article 180 and its failure to adopt new legislation violated the right to access to court guaranteed by Article 6 of the European Convention on Human Rights. The discussion in the media of an initial draft by the Minister of Justice, Administration and Local Self-Government raises concerns that the proposed law may provide more limited compensation than the law under which pending court proceedings were initiated and verdicts rendered[10].

Citizenship and Permanent Residence

Croatian citizenship legislation contains provisions that discriminate on the basis of national origin. These provisions impede the sustainable return of refugees and the integration of non-Croat long-term residents who remained in the country following Croatia's independence.

For example, the 1991 Law on Croatian Citizenship provides for citizenship by naturalization to non-resident Croats under more lenient standards than to individuals of other ethnic groups who were permanent residents until the conflict. For this reason, the Council of Europe's Venice Commission recommended in March 2002 that the Law on Croatian Citizenship be revised. In addition, the Ministry of the Interior's insistence upon formal renunciation of another citizenship by non-Croat permanent residents, even in cases where such renunciation is not reasonably possible, effectively leaves such individuals unable to obtain Croatian citizenship[11].

Further, the Law on the Movement and Stay of Foreigners, which is closely linked to the acquisition of citizenship by naturalization of non-Croats, subjects non-Croat pre-conflict residents, whose permanent residence has been terminated by the Ministry of the Interior, to the same legal requirements as new immigrants[12]. The draft proposal for a new Law on Foreigners should properly take into consideration the distinction between pre-conflict residents who became foreigners upon independence through operation of law on the one hand, and newly-arrived foreigners on the other hand.

War Crimes

During the reporting period, there has been progress towards a more even-handed approach in pursuing individual responsibility for war crimes regardless of national origin. The initiation of prosecutions against Croats, as well as President Stjepan Mesic's recent reaffirmation of the importance of individual criminal accountability, have been significant confidence-building signals to the minority Serb population, and returning refugees in particular. A greater public understanding of the importance of granting general amnesty for all military-related activities associated with the conflict was also registered[13].

The new State Prosecutor, who assumed office in early May 2002, stated that the war crimes issue will remain a priority, but cautioned that the State Prosecutor cannot introduce significant changes prior to substantial judicial reform. He noted the proposed revisions to the Law on Criminal Procedure as one promising change (see section on Judiciary and the Administration of Justice). The new State Prosecutor started the investigation that led to an indictment in the highly publicized 'Lora' case when he was the County State Prosecutor in Split (see below). His predecessor, who was removed from office by Parliament in April 2002, initiated the current and more balanced policy with regard to reviewing pending cases and determining the sufficiency of evidence, while curtailing dubious practices such as *in absentia* prosecutions. The Government has long announced the creation of a new office for war crimes by the end of 2001, but this has yet to materialize.

War crimes prosecutions were pursued more vigorously in 2001 than in previous years with 112 newly issued indictments compared to a total of only 52 in the previous three years. Approximately two thirds of those whose cases were referred to the prosecutor for war crimes in 2001 were of Serb ethnicity. A substantial number of arrested Serbs were released after a short period, either having the charges dropped or being allowed to continue proceedings from freedom[14]. This included a number of Serb returnees who had been indicted or convicted *in absentia*.

In general, war crimes proceedings continue to suffer from judicial delays similar to those observed in civil proceedings. However, since these proceedings, like all criminal cases, frequently involve loss of the defendant's liberty, judicial delays are even more critical[15]. A few courts continue to conduct *in absentia* trials and issue *in absentia* verdicts[16]. While the information to date is primarily anecdotal, given the relatively small number of cases against ethnic Croats, there appear to be disparities in charges, convictions and sentencing that correlate with national origin[17].

A number of high-profile war crimes trials continued or were initiated in Rijeka, Split, Zadar and Karlovac. While the Government's determination to support sensitive investigations and prosecutions of ethnic Croats accused of war crimes has been re-affirmed, numerous reports point to security problems at such trials, including the intimidation of witnesses and court personnel. Death threats were delivered in March 2002 to the Presiding Judge at the Rijeka County Court in the so-called 'Gospic Group' case against former Croatian soldiers. In the 'Lora' case against seven former and active Croatian soldiers, witnesses were threatened, with some excusing themselves from testimony or changing their testimony under threat[18]. In this climate, the President of the Supreme Court called on the Croatian public to contribute to an atmosphere of tolerance and respect for civil order.

Co-operation with the ICTY continued to improve. During a visit to Croatia in May 2002, the ICTY Chief Prosecutor continued discussions with the Government regarding the development of a mechanism by which the ICTY could assist in building domestic capacity and providing support for domestic prosecutions, particularly at the investigative stage. The State Prosecutor has committed his Office to conducting an inventory of war crimes cases and to identifying capacity for pursuing investigations of medium and low-level suspects.

The concept of command responsibility as a basis for ICTY indictments and convictions has been questioned on several occasions, primarily by opposition parties but also by some senior Government leaders. Yet command responsibility was the basis for a conviction of a Serb returnee in February 2002 by the Karlovac County Court, as well as a March 2002 indictment against a Serb by a County Court in Eastern Slavonia.

Missing Persons and Exhumations

The Mission has concluded that the search for missing persons through exhumations is now adequately managed by the Government Office for Missing and Detained Persons, and that the exchange of information and mortal remains with the Office's counterparts in the Federal Republic of Yugoslavia and Bosnia and Herzegovina has improved. The Mission can therefore limit monitoring of exhumations to particularly sensitive cases.

The Head of the Office informed the Mission that 462 persons, of whom 320 were Serbs, were exhumed in Croatia in 2001. According to the same source, 1,349 persons remained officially missing in Croatia as of mid-May 2002. The Head of the Office also asserts that an additional 1,001 persons, primarily Serbs, are believed to be missing from the period during and after the military/police operations 'Flash' and 'Storm'. Human rights groups in both Croatia and the Federal Republic of Yugoslavia have recently claimed that as many as 2,100 Serbs are still missing from Croatia[19]. To address the on-going discrepancy in the total number of persons missing from Croatia, the Government announced in February 2002 that a unique registry would be created to register all persons missing from Croatia between 1991 and 1995 as a result of the armed conflict.

RETURN, REINTEGRATION AND RESTITUTION OF PROPERTY

Overview

The main obstacles to the sustainable return of refugees and displaced persons remain the impediments, legal and otherwise, to the repossession of occupied property and the lack of a remedy for terminated occupancy/tenancy rights (*stanarsko pravo*) to socially-owned housing that were taken away during and after the conflict, either through court procedures or *ex lege*. Both private property and occupancy rights are "possessions", and are therefore subject to human rights guarantees in the Croatian Constitution and international conventions[20].

The resolution of these issues will require a stronger commitment on the part of the Government. In addition, the Government faces both financial and political constraints in addressing these issues.

The financial burden is primarily related to the self-imposed task of providing alternative accommodation to all temporary users of property owned by Serbs regardless of the occupants' ability to sustain themselves or their displacement status. Once the Government decides to provide a remedy for terminated occupancy/tenancy rights, this would also require substantial financial resources.

The political constraints are of several kinds. Since the repossession of property will involve evictions of temporary occupants, many of whom are ethnic Croats from Bosnia and Herzegovina, there exists a risk of a political fallout from a vigorous implementation of property repossession. Furthermore, several local authorities remain opposed to the return of Serb refugees and internally displaced persons.

The presence of mines in the war-affected areas remains a serious obstacle to sustainable return. The Croatian Mine Action Centre (CROMAC) has made impressive progress in co-ordinating mine clearance and promoting mine awareness. The Mission is continuing its support in this area.

In order to facilitate and co-ordinate the work on a legal framework for return and reintegration, the Government and the international community established a joint Working Group on Legislation in June 2001 which has begun a process of reviewing outstanding problem areas and considering legislative regulatory solutions. The Mission has, with the support of other international members of the Working Group, proposed an agenda of seven topics related, amongst others, to property repossession, terminated occupancy/tenancy rights, reconstruction assistance, convalidation of documents, and unconditional return[21]. After lengthy discussions, the Government endorsed the agenda on 13 May 2002. The Working Group has still made very little progress.

Property Repossession - Policies

Property repossession remains at the core of the return process. It is estimated that more than 10,000 housing units owned by minority refugees or displaced persons are still occupied by temporary users[22].

In December 2001, the Government presented an ambitious 'Action Plan for Implementation of Repossession of Property by the End of 2002'. The Action Plan envisions the return of all homes that were assigned to temporary users on the basis of the 1995 Law on Temporary Take-Over and Administration of Specified Property, which was repealed in 1998.

The Law provided the basis for assigning almost 19,000 residential properties to temporary users. The repossession of property has remained slow since the Action Plan was presented, not least because the Action Plan confirms that the provision of permanent alternative accommodation or temporary accommodation for up to 7,000 households is a precondition for repossession by owners. During the reporting period, 919 homes were repossessed.

Overall, 10,557 of the almost 19,000 residential properties have been returned to their owners as of 17 May 2002 (5,158 were registered as vacant, while 5,339 were repossessed by their owners); 8,308 remained occupied and must still be returned to their owners.

It therefore appears unlikely that the Government will meet its stated objectives in the Action Plan. Government officials now state that the main goal for this year is to facilitate repossession for the more than 4,000 owners who have applied for repossession by identifying alternative accommodation for as many occupants of these properties as possible.

In 2000 Croatia was granted a loan of €30 million by the Council of Europe Development Bank (CEB) in order to provide alternative accommodation and increased reconstruction, to be matched by an equal State contribution, but the full amount has not yet been disbursed. According to the Government, the provision of temporary or permanent alternative accommodation according to the Action Plan will require at least an additional €80 million, to be financed from the State budget and loans from international and European financial institutions.

The Action Plan only refers to residential properties temporarily allocated under the 1995 Law on the Temporary Take-Over and Administration of Specified Property, and omits many types of occupied property such as:

- A significant number of homes assigned under the 1995 Law which were not registered by the Government and are therefore not included[23];
- Other types of occupied property that were also considered as state-administered under the 1995 Law, including business premises, agricultural land, forests and moveable property including agricultural equipment;
- Properties allocated by authorities through other means than those foreseen by the 1995 Law or occupied without any authorization[24].

In order to meet its commitment, the Government has proposed draft amendments to the 1996 Law on Areas of Special State Concern, which were intended to expedite the repossession of private property assigned for use under the 1995 Law. The proposal was adopted in a first reading in Parliament in January 2002 but the changes and particularly the provisions on temporary accommodation encountered significant opposition, also within the Government coalition, and remain pending.

The changes would facilitate repossession by transferring responsibility from the municipal housing commissions to the Government and by introducing the possibility of temporary accommodation, including collective centres, until permanent alternative accommodation could be found for occupants. While the Government accepted advice by the Mission and other international partners in the joint Working Group on Legislation, and although the draft amendments represent an improvement, the proposed changes fell short of acknowledging the principle that owner's rights must prevail over user's privileges[25].

The joint Working Group for Legislation has agreed to initiate discussions on a comprehensive legal regime on property repossession in order to address remaining repossession issues.

Property Repossession - Problems

In most respects, Croatian legislation and judicial practice favours the interests of temporary occupants of housing (mostly Croats) *vis-à-vis* the legal rights of the owners (mostly Serbs). The policy of requiring temporary occupants of Serb houses to vacate the property only after being provided with alternative accommodation remains at the root of the slow process of property repossession. The Mission continued to suggest that the Government limit the provision of alternative accommodation only to those who qualify under the Law on Social Welfare. This would speed up repossession by easing the burden on the extremely scarce supply of housing stock as well as the financial burden.

The denial of repossession until alternative accommodation is provided to occupants, which is contained in the Programme on Return from June 1998, has been challenged in the Constitutional Court on the basis that it violates ownership rights. These challenges remain undecided. However, a similar alternative accommodation requirement in the 1995 Law on the Temporary Take-Over and Administration of Specified Property was invalidated in 1997 by the Constitutional Court as contrary to constitutional protections for ownership.

The property repossession process involves differences in treatment between ethnic groups. Courts in the Danube Region generally rule in favour of Croat owners on the basis of standard ownership legislation that provides for efficient repossession of property. With few exceptions they fail to do so in other regions of Croatia, where the plaintiffs are owners of Serb ethnicity. Further, most Serb temporary users of Croat property in the Danube region, who were evicted over the past years, have not been offered alternative accommodation[26]. Finally, some resources that could be used for alternative accommodation for temporary users of Serb property are instead being used for housing for newly arrived Bosnian Croats[27].

The rights of owners to receive fair compensation for the use of their occupied property remains limited. Parliament's "authentic interpretation" in 1999 of Article 14 of the Law on the Status of Expelled Persons and Refugees exempts occupants from rent obligations, irrespective of their ability to pay. The President of the Supreme Court reinforced this position by stating in a communication to the Government in January 2002 that those temporary occupants "… are not obliged … to pay compensation for the use of a house or apartment … owned by a third person, because they were users on the grounds of a valid legal basis". The Government has not assumed responsibility for compensation to owners of private property that it has assigned to temporary users.

The state-owned electricity company (HEP) continues to disconnect electricity when Serb owners repossess their homes, arguing that owners must pay all debts incurred by former temporary users.

The use of multiple homes by the same occupants and the use of houses without Government authorization further slow the return process. The Government has stated on several occasions that the resolution of cases of multiple/illegal occupancy of properties originally allocated under the 1995 Law on the Temporary Take-Over and Administration of Specified Property is a priority. As of one year ago (May 2001), the Government had identified more than 1,600 housing units occupied by users who had received Government assistance to reconstruct their own properties in Croatia, or others who had never been granted permission for temporary

use. The majority of these occupants are not entitled to State-provided housing care or alternative accommodation.

Of the identified cases of multiple/illegal occupancy, approximately 34 per cent had been officially registered as resolved by 1 May 2002. In the majority of cases where occupants have disobeyed administrative orders to vacate occupied properties, the authorities have not sought eviction orders in court. It appears that an effective resolution of these cases depends on a complete overhaul of the property regime and on more decisive action by the authorities to use the instruments available under current legislation.

Unresolved property issues are being reflected in the work of the Ombudsman. Owners of occupied property lodged the largest number of complaints received by the Ombudsman in 2001. Legislative recommendations to improve property repossession that were provided in the Ombudsman's 2000 Annual Report were not implemented in 2001. The Ombudsman asserted that "… basic ownership rights have been threatened for over six years and the problem is not being dealt with seriously". As a result, he concluded that owners were justified in seeking protection from the European Court of Human Rights.

Occupancy/Tenancy Rights

The lack of a comprehensive remedy to the widespread termination of occupancy/tenancy rights (*stanarsko pravo*) remains one of the major obstacles to sustainable return. According to Government information as of 1998, approximately 20,000 occupancy/tenancy rights holders who were forced from their residences or who fled during the conflict had their occupancy/tenancy rights terminated through court proceedings *in absentia,* based on the former Yugoslav legal regime, primarily on the basis of an absence of more than six months. These terminations affected socially-owned apartments located in cities that remained under Government control such as Zagreb, Split, Osijek and Zadar. Additionally, occupancy/tenancy rights held by thousands of almost exclusively Serb households were terminated through provisions of the 1995 Law on Lease of Apartments in the Liberated Areas, which stipulated that occupancy/tenancy rights were cancelled if the occupant was absent more than 90 days from the enactment of the Law. The vast majority of Serb occupancy/tenancy rights holders could not return to their apartments within such a short time after the conclusion of military operations.

Most of the remaining residents of such apartments as well as new residents, predominantly Croats, who were assigned the apartments of ethnic Serbs, were later eligible to privatize them. Those who left were thus disadvantaged further *vis-à-vis* those who stayed.

A large number of former occupants have initiated court procedures, seeking review of *in absentia* decisions issued on the basis of "unjustified" absence during and after the conflict. The vast majority of these requests for review were denied. Those individuals whose rights were terminated under the Law on the Lease of Flats in the Liberated Areas, adopted immediately after the conflict, remain without remedy. A challenge to the Law remains pending in the Constitutional Court.

In December 2001, after consultations with representatives of the international community, the Government stated that a proposal for a comprehensive solution to this issue would be prepared, but such a proposal has not yet materialized. In preliminary discussions, Government representatives insist that restitution of the previous apartment or compensation for terminated occupancy/tenancy rights through provision of other housing should only be given in war-affected areas and only to those that actually return and remain in Croatia. Some officials indicate that the Government could eventually be ready to consider solutions for the

entire country. Public comments by President Stjepan Mesic in February 2002, acknowledging that circumstances during the conflict provided reasonable grounds for Serbs to depart in fear for their physical safety, suggest that the climate for addressing this issue is improving.

In order to provide assistance and advice on this complex issue, the Mission renewed its consultations with the Council of Europe in March 2002 in order to develop in-depth legal analysis and recommendations.

Reconstruction

Of approximately 195,000 residential properties that were damaged or destroyed during the conflict, more than 111,000 have been reconstructed. The vast majority of reconstructed houses belong to ethnic Croats. Over 90 per cent of this reconstruction has been implemented through the Government reconstruction programme and the Government has recently taken a HRK one billion loan from the Croatian Bank for Reconstruction and Development for this purpose. According to the Government, the total number of reconstructed houses will be 118,000 at the end of 2002. In the past year, the Government signed partnership agreements with major international donor organizations active in this field.

In the latter months of 2001, the Government, supported by the UNHCR, for the first time encouraged and promoted the conditions for filing reconstruction applications to Serb refugees in their place of asylum. This was accompanied by a public information campaign in the Federal Republic of Yugoslavia and Bosnia and Herzegovina. By the Government deadline of 31 December 2001, these efforts resulted in approximately 19,000 new applications from Serb refugees currently residing in these countries.

The processing of the approximately 42,000 pending applications for reconstruction has continued over the past half year, although at a slow pace. The Law on Reconstruction was amended in June 2000 to provide for the reconstruction of properties regardless of the cause of damage and without territorial limitations, thus including houses damaged or destroyed by "terrorist acts" in areas of Government control. This was followed by ministerial instructions of 23 May and 17 December 2001, reminding offices competent for reconstruction of the June 2000 amendments and legal changes allowing the reconstruction of properties damaged by such acts. However, a number of such offices throughout Croatia, and in a few cases the Ministry for Public Works, Reconstruction and Construction itself, have continued until February/March 2002 to issue negative decisions for properties damaged in this manner. The Government has made a strong commitment to correct these practices. The Mission also encourages the Government to revise applications previously rejected.

Unconditional Return

Former residents of Croatia, who lived in the country in 1991, but who are currently not Croatian citizens, continued to face problems in settling their status upon return. This detrimentally affects their ability to obtain identity documents, pensions and other social benefits. The requirement to secure permission from the Ministry of the Interior and the Ministry for Public Works, Reconstruction and Construction is at odds with the Government's obligation to allow unconditional return for all pre-war residents. Principles for remedying this problem have been prepared in April 2002 by the UNHCR, the Mission and other international representatives and are being discussed within the joint Working Group for Legislation. (See also Citizenship and Permanent Residence Section).

Cross-Border/Regional Return

The outlook for Croatia's co-operation with Bosnia and Herzegovina and the Federal Republic of Yugoslavia on issues related to the return of refugees has improved considerably during the reporting period. Intensified bilateral contacts, including visits by the Minister of Foreign Affairs to Sarajevo and Belgrade, have been instrumental in this regard. The signing of Croatia's Stabilization and Association Agreement (SAA) with the EU, which lists regional co-operation on refugee-related issues as a priority, and related activities of the Steering Committee on Refugee Matters of the Stability Pact for South Eastern Europe have contributed to the improvement.

On 11 December 2001, the Governments of Croatia and Bosnia and Herzegovina signed a bilateral agreement, providing for the exchange of data on the property status of individuals who reside in properties belonging to others in Croatia or Bosnia and Herzegovina, respectively. The agreement, which must be ratified, is the first bilateral instrument that addresses the long-standing issue of cross-border double or multiple occupancy, and in conjunction with legal action in Croatia, it could accelerate the physical repossession of those properties. The draft amendments to the 1996 Law on Areas of Special State Concern contain a proposal that would provide the basis for legal action to be taken against cross-border multiple occupants. This proposal, however, is strongly opposed by various Bosnian Croat associations.

The regional aspects of housing repossession were brought into sharper focus in recent months by a significant influx of Bosnian Croats to Croatia, who had received eviction notices from Serb-owned housing in Drvar in Bosnia and Herzegovina. The Government's immediate and thoughtful initial response to the situation in mid-March, and its invitation to the UNHCR and the Mission to be involved in addressing the issue, helped defuse potential tensions. In a welcome follow-up in late April, the Ministry for Foreign Affairs proposed that the Mission, the Union of Associations of Settlers in Croatia (ZUNH) and part of the Serb community in Croatia develop a joint public information project on both sides of the border. The purpose of the project would be to clarify programmes for accommodation in Bosnia and Herzegovina, which could contribute to a greater sense of security and stability in the region. Although the Government has publicly stated that problems of Bosnian Croats must be resolved in Bosnia and Herzegovina, some state officials and local authorities have publicly hinted that Croatia might be ready to provide housing to prospective newcomers, which will impede the Government's announced intention of accelerating the return of property to Serb owners.

On 23 April 2002, the Minister of Foreign Affairs visited Belgrade and met with his Yugoslav counterpart. The Minister stressed that the Government planned to remove all obstacles for sustainable return of refugees by the end of 2002. According to the Minister, all private property had to be returned to owners; in the areas of special state concern, former occupancy/tenancy rights holders would either be given their apartments back or be offered alternative accommodation.

The 'Framework for Enhanced Regional Co-operation on Return Issues', known as the 'Common Principles on Return' and presented in October 2001 to the OSCE Permanent Council by the Heads of the OSCE Missions to Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, was welcomed by the Government. The Mission looks forward to providing advice and assistance for the implementation of these principles to the Government.

POLICE ISSUES

Restructuring and Performance

Most aspects of nation-wide police downsizing were finalized during this reporting period. The Ministry of the Interior continues to address alternative employment and individual appeals to transfers and layoffs responsibly. An increasing number of senior police officials now display appropriate management and leadership skills. However, the heavily centralized Croatian police structure still does not grant authority commensurate with command responsibility, a fact that reduces the effectiveness of police management. Shortages of experienced managers still leads to some deficiencies in handling sensitive issues such as property disputes, weapons possession and ethnically-related incidents, but the Ministry's follow-up response to most cases continues to ensure that such incidents remain localized. Performance standards are continuing to improve, and have been reflected in successful efforts to deal with corruption and other illegal activities among police and local government officials and to collaborate with international partners in combating transnational crime.

A more stable security environment prevailed in most areas, allowing the Mission to reduce simple police monitoring during this reporting period. Local police continue to deal effectively with most ethnically-related incidents. Although trust by minority communities in police performance continues to improve, some incidents are still not reported by victims of ethnically-related incidents because of concerns about safety after reporting such incidents to the police. It is essential to increase awareness among some police officials of how a small number of ethnically-related incidents can disproportionately affect the perception of security and conditions for return. The police also have had to deal more with tendentious reporting by media outlets about incidents in ethnically-tense areas.

Wide-spread circulation of illegal arms and explosives continues to hamper economic development and sustainable return, particularly in central Croatia[28]. In a positive development in March 2002, the Government announced amendments to the Law on Weapons that give the relevant authorities greater ability to investigate and prosecute weapons-related crime[29].

Training and Donor Initiatives

Several training activities aimed at providing education on the protection of human rights and minority rights were implemented by Police Administrations. The Ministry of the Interior is aware that more specialized initiatives will also be required in order to foster better implementation of modern policing techniques, including crime prevention and community policing, recruitment, and gender and victim sensitivity. The Ministry also recognizes that the fight against illicit trafficking activities of transnational criminal and terrorist organizations requires further regional and international co-operation. A renewed commitment of financial and expert support from the international community will in turn also be required. The Mission will assist the Ministry in addressing inconsistencies in training and donor initiatives.

Recruitment and Demographic Profile

A formal decision by the Ministry of the Interior to reshape its recruitment and personnel management policies in order to achieve a demographic profile of the police that corresponds to that of the population has yet to be adopted. Both the Ministry of the Interior and the Ministry of Foreign Affairs have re-confirmed their commitment to the 1995 Erdut Agreement and the 1997 Letter of Intent, which provide minimum standards for minority representation in the Danube Region. The appointment of Serb police officers and supervisors necessary for compliance with these agreements is continuing, but has not yet been accomplished.

Policing Objectives for 2002

In October 2001, the Mission and the Ministry of the Interior established five core 'Police Objectives' and co-founded a working group in order to more effectively focus co-ordination between the Ministry and the Mission[30]. One primary objective is to assist in developing additional measures to ensure that police operational matters are insulated from political interference, irrespective of the Government's composition. Other objectives refer to addressing complaints of alleged police misconduct involving property disputes and citizenship applications, and assisting the Ministry of Justice, Administration and Local Self-Government in implementing a comprehensive witness protection programme that also includes witnesses' families and court personnel[31].

WORKING WITH NON-GOVERNMENTAL ORGANIZATIONS

The strength of non-governmental organizations (NGOs) varies considerably throughout the country. NGOs in cities like Zagreb, Rijeka, Split or Osijek are well trained and professional, mainly due to a huge investment by international organizations and agencies since 1991. In the remote and war-affected areas the situation is quite different. In the period between 1991 and 1999 there was little public support for associations working on human rights and democratic institution-building. The massive relocations of populations during the armed conflict obliterated the sense of community conducive to the work of NGOs. Additionally, regardless of their political affiliation, the general attitude of several authorities towards NGOs continues to be indifferent or suspicious.

In order to strengthen the NGO sector, the Government established a Council for the Development of Civil Society on 14 March 2002 as an advisory body to the Government. The Council consists of 21 members, 10 of which are Government representatives at the level of Deputy or Assistant Minister as well as heads of other state administrative bodies; 11 members are representatives of the NGO community. The President of the Council is an NGO representative. The Mission must still assess the activities of the Council.

Since 1999 the Mission has dedicated its efforts in the NGO field to supporting grassroots projects and civic initiatives in the war-affected areas. Projects focus mainly on youth and women's organizations, and NGO capacity building in order to improve co-operation between all parts of society. In the past six months the Mission has observed increased contacts between NGOs, associations and local authorities as Mission-sponsored projects encouraging participation and partnership have borne fruit.

The chronic difficulty in securing finances and premises continued during the past half year to hinder the work of many NGOs. Budgets from local governments and the private sector are insufficient. Consequently, NGOs continue to rely heavily on international contributions and unpaid volunteers. Although the adoption of the Law on Associations in September 2001 has created a more favourable environment for NGOs, a legal framework encouraging donations through tax deductions or granting tax exemption for human rights and institution-building organizations would help address this problem. The Government Office for Associations is currently exploring this issue.

One positive development in this reporting period was an increase in NGO activities organized through co-ordination meetings launched by international organizations. In Eastern Slavonia the Mission served as the catalyst in many of these, a task it plans to continue throughout Croatia in 2002. The first Regional NGO Fair in Osijek in November 2001 and the widespread dissemination of the 'Civic Initiative Handbook – Eastern Slavonia', which was sponsored by the Mission, were two such initiatives resulting from these co-ordination

meetings. Another positive development was Prime Minister Ivica Racan's activities in creating a positive image of NGOs during December's celebration of the International Year of Volunteers.

CONCLUSION

Croatia is facing several challenges. Its ambitious objective to become part of the Euro-Atlantic community, which has been acknowledged through the signing of an EU Stabilization and Association Agreement (SAA) in October 2001 and the announcement of a Membership Action Plan (MAP) with NATO in May 2002, has underlined the necessity to urgently address several problems within the Mission's mandate, many of which are consequences of the armed conflict.

The Government has made several important policy statements on property repossession, reforms of the judicial system, regional co-operation, minority legislation, etc. In many cases, the intentions are still to be followed by Government decisions or legislation. Implementation of decisions on return and property repossession has been slow. Although the resolution of most issues will require considerable time, it should be possible to make progress in the course of the next six months in order to:

- Create a more favourable climate towards the return of refugees and displaced persons, both among individual returnees and in receiving communities. Measures to be taken include information and public awareness efforts to promote reconciliation, efforts to reduce uncertainty stemming from *in absentia* war crimes indictments, measures against the intimidation of Serb returnees in some areas, and encouragement of civil society initiatives;

- Remove the remaining legal and administrative obstacles to the return of refugees and displaced persons. Measures should be taken to recognize the right to redress for lost occupancy/tenancy rights in all parts of the country, to simplify the legal and administrative framework for the repossession of property, to execute decisions on property repossession more swiftly, and to support the repossession of property with sufficient financial means. It should be clearly recognized that the rights of owners prevail over the interests of occupants. Further measures should be taken to make it easier for former residents to acquire citizenship;

- Develop a dialogue with regional neighbours on return issues in order to harmonize rules and to increase transparency and predictability. This could involve harmonization of procedures and regulations for repossession of property, cross-border public awareness efforts, measures related to war crimes investigations, acquisition of citizenship by former permanent residents, etc;

- Address the shortcomings of the judicial system in order to strengthen the rule of law, guarantee basic rights, encourage return and, at the same time, to improve conditions for investment, economic development, etc. Problems to be addressed include the backlog of court cases, the length of court proceedings, the insufficient execution of court rulings, the lack of uniform court practice in property repossession cases, etc. There exists a good opportunity to further improvements on war crimes prosecutions and co-operation with the ICTY;

- Involve minorities more effectively in society and political life. This will require development of minority legislation, including a Constitutional Law on the Rights of

National Minorities, that is regarded as useful and legitimate by minorities themselves, as well as removal of discriminatory provisions in other legislation. The legislation should include fair provisions for representation of minorities in elected and administrative bodies;

- Eliminate the possibilities for political influence on key sectors of society, in particular the judiciary, media and the police. Regarding the media, this will involve elaboration of a new law on media and transformation of state radio and television into a public broadcasting service;

- Engage in a more effective and action-oriented dialogue with the international community on return, judicial reform, police reform, etc., in order to build consensus, to ensure quality of decisions and legislation, and to ensure compatibility with Croatia's Euro-Atlantic integration efforts. This will require early consultation on legislation within the consultative bodies that have been created with the international community.

END NOTES

[1] International recommendations stress that current Croatian media legislation should be reformed in such a way that HRT and administrative bodies overseeing public and private media become fully independent from state control. One suggestion has been to merge the Law on HRT and the Law on Telecommunications into a single broadcasting law that includes the creation of a single broadcasting council as an independent regulatory body for both public and private media.

[2] Three notable events illustrate this point. A January 2002 episode of the popular HTV talk show, *Latinica*, highlighted alleged shortcomings in the Croatian judiciary, in particular the unresolved investigations and pending trials against criminal organizations, media tycoons, as well as the role of an alleged media cartel controlling Croatian media. Airing of this episode caused the State Prosecutor to state that charges might be pressed against the show's participants. The show sparked a wide public debate on free media and the OSCE Representative on Freedom of the Media sent a letter to the Minister of Foreign Affairs expressing concern over the possible criminal prosecution of the responsible journalist. On 18 February, another pre-recorded episode of *Latinica* was taken off the air moments before being shown. The programme intended to address the issue of whether it would be necessary to introduce a law banning the use of symbols associated with the *Ustasha* regime, as well as political parties that continue to promote that period of Croatian history. The programme's cancellation was widely condemned in the media, prompting the HTV Editor-in-Chief to promise that the show would be aired at a later date. Finally, the bank accounts of the Croatian weekly *Feral Tribune* were frozen on 4 March following a verdict of the municipal court in Zagreb, which ordered the weekly to pay approximately HRK 200,000 to two separate plaintiffs who sued the weekly for compensation of damage caused by the publication of two separate articles in 1993 and 1995. The court ruled that the articles caused "mental anguish" because of the nature of certain statements made about the plaintiffs. *Feral* stated that the fine risked putting the weekly out of business altogether. President Stjepan Mesic and many others condemned the court decision as constituting undue pressure on the media, though the verdicts stood and *Feral Tribune,* with the help of public donations, paid the plaintiffs.

[3] Some of the amendments to the criminal procedure law, adopted on 17 May 2002, include: provisions detailing co-operation between police authorities and the State Prosecutor in the pre-investigative stage, signaling the State Prosecutor's leading role in investigations; an obligation for police and other state bodies to provide information to the State Prosecutor upon request; a one-month deadline for issuing written verdicts after an oral verdict is published, failure to respect the deadline being a basis for appeal; introduction of "house arrest"; and provisions for detaining mentally-ill defendants in psychiatric facilities rather than in prisons.

[4] Examples of Parliament and executive bodies failing to comply with the Constitutional Court's decisions include the following. Firstly, although the Constitutional Court decided in 1999 to invalidate parts of the 1996 Law on Compensation for Property taken during the Yugoslav Communist Regime, Parliament has failed to adopt corrective legislation within the Court's original deadline of April 2000. Faced with the expiration of a fifth deadline on 1 July 2002, Parliament is currently considering a legislative proposal. Secondly, in a series of cases, the latest from February 2002, the Court invalidated decisions of the Ministry of the Interior and the Administrative Court denying citizenship by naturalization on the basis of the five-year residence requirement for non-Croats. The Ministry of Labour and Social Welfare continued to deny civil benefits, e.g., convalidation of working years counted toward pension on the basis of administrative determinations of "participation in paramilitary formations", despite a 1999 Constitutional Court decision holding in an analogous situation that elimination of civil benefits, e.g., termination of occupancy rights, based on a civil court determination of "participation in hostile activities" in the absence of a criminal verdict was contrary to constitutional guarantees. Finally, the Government has not yet acted on a November 2000 Constitutional Court decision finding that the Administrative Court is not a court of full jurisdiction for property rights. Therefore, litigants in such cases before the Administrative Court continue to be denied a fair trial as mandated by Article 6 of the European Convention on Human Rights.

[5] At the time of withdrawal of the draft Constitutional Law, the Council of Europe's Venice Commission reaffirmed several related recommendations, in particular that the preamble of the Constitution be amended to eliminate the specific list of minorities. It also recommended a number of changes to the 2001 Law on Election of Members of Representative Bodies of Local and Regional Self-Government Units (hereafter: Law on Local Elections) that have "… a significant impact on minorities", in particular the legal threshold of five per cent that was deemed to be "… quite high and may exclude national minorities from being represented". While the current Law on Local Elections calls for proportional representation of national minorities to be reflected in the statutes of local and regional self-government, the Venice Commission found that the Law was ambiguous on this issue, particularly given its alternative reference to "adequate representation" of national minorities.

[6] Meanwhile, the Government has sought to reduce the funding of the Joint Council of Municipalities (JCM), the main body of Serb self-government created in the former UNTAES region, and to earmark most of its funding for cultural activities The JCM has attributed this to a desire by the Government to reduce the role of this body and to ultimately dismantle it.

[7] The 1997 Law on Convalidation passed at the insistence of the UNTAES provided for the recognition by Croatian authorities of judicial and administrative acts and decisions issued by authorities of the so-called "Republika Srpska Krajina", as well as their replacement with documents from the respective Republic of Croatia bodies. Acts undermining legal entitlements under the Law include ministerial instructions from 1998 barring recognition of all working years counted towards pensions accumulated by former residents of the so-called "Republika Srpska Krajina" if the applicant participated in paramilitary formations, as well as the 1998 Government decree setting *inter alia* a 1999 application deadline for recognition of working years. A challenge to the Government decree remains pending in the Constitutional Court.

[8] Residential property damaged by "terrorist acts" was explicitly excluded from the Law on Reconstruction until 2000.

[9] The provisions are contained in Articles 184a and 184b.

[10] The limitation of damages to personal injury and the elimination of compensation for property damage would interfere in on-going proceedings in which some claimants have already received verdicts awarding compensation. The proposal eliminates access to court even in pending cases, substituting an administrative remedy.

[11] The Venice Commission has also expressed concern with voting rights, since non-Croat permanent residents who cannot obtain citizenship as described in the text cannot participate in local elections.

[12] As of February 1997, the Ministry of the Interior reported to the Special Rapporteur of the United Nations Commission on Human Rights that 20,000 decisions had been issued terminating permanent residence of pre-conflict residents who had not acquired Croatian citizenship and who had been outside the country for more than one year without reporting their residence to the Ministry or consular officials.

[13] As one notable example, the Zadar County Court applied amnesty to one large group indictment where the evidence was deemed insufficient to merit war crimes charges against 58 Serbs.

[14] In contrast, a number of Serbs whose war crimes convictions are final and who exhausted all normal legal remedies prior to the election of the new Government in 2000 remain imprisoned under verdicts of questionable validity.

[15] Delays include failure by County Courts to issue written verdicts within the legal time limit after an oral verdict has been published. As appeals cannot be lodged until issuance of a written verdict, judicial delays impede the right of appeal. A number of procedures also appear to have been suspended, either at the investigation, trial or appeal stage, although they have not been formally abandoned or dismissed.

[16] For example, on 14 May 2002 the Osijek County Court convicted 12 Serbs *in absentia* for war crimes against civilians on the basis of an amended indictment from February 2002. Charges against two defendants who appeared before the court in an earlier phase of the case were reduced by the County State Prosecutor from genocide to armed rebellion and the defendants were released from custody.

[17] Examples of cases that suggest disparities include two at the Bjelovar County Court, namely the so-called "Virovitica" case (three Croats sentenced to one-year imprisonment for war crimes against civilians), and the "Bjelovar" case (four Croat soldiers acquitted of war crimes against civilians and prisoners-of-war in a politicized atmosphere). The Bjelovar County State Prosecutor has appealed both cases. Other examples include the so-called "Pakracka Poljana" case in the Zagreb County Court (Croats were indicted for murder of a member of their unit but not with torture and murder of Serb prisoners-of-war) and the so-called "Varivode" case in the Sibenik County Court (Croat defendants had incriminated themselves during the investigation and charges were dropped).

[18] In-court intimidation of witnesses was also observed at the Karlovac County Court in the case against Fikret Abdic. In the case of Zorana Banic, extradited from Switzerland in November 2001, adverse pre-trial publicity and threats were accompanied by the refusal of local attorneys to represent the defendant. Her Zagreb-based attorneys, whose request to have the trial moved from the Zadar County Court to another venue was denied, have been threatened. Inflammatory media coverage in Zadar raises concerns about the possibility of a fair trial.

[19] The numerical discrepancy appears to result from a difference in reporting sources. Most Serbs reported as missing from Croatia were reported to the International Committee of the Red Cross (ICRC), rather than the Government Office. In addition, many Serbs, as well as Croats and persons from other ethnic groups were never officially reported as missing in any reliable registry of missing persons from Croatia.

[20] The European Court of Human Rights broadly interprets “possessions” for the purposes of Article 1, Protocol 1 of the European Convention on Human Rights to include a variety of property rights and interests that have an economic value. Further, the Human Rights Chamber in Bosnia and Herzegovina, directly applying the European Convention, has determined that occupancy rights are “possessions” under Article 1, Protocol 1. See, for example, *M.J vs. Rupublika Srpska* (1997) and *Kevesevic vs. the Federation of Bosnia and Herzegovina* (1998).

[21] Two other agenda items proposed by the Mission include relevant aspects of the Law on the Status of Expelled Persons and Refugees, and the Law on Obligations.

[22] This figure includes homes registered as occupied by the Government and an estimate of the number of homes that are still occupied without having been registered.

[23] According to a Mission survey of local authorities in Sisak-Moslavina County, approximately 3,500 occupied properties were not registered in this County alone. However, it is unknown how many of these omitted properties remained occupied. In response, the Ministry for Public Works, Reconstruction and Construction claims that only a small [unspecified] number of such homes exist, namely illegally occupied properties for which no decisions were issued by relevant authorities.

[24] According to the Ministry for Public Works, Reconstruction and Construction, property repossession procedures for properties allocated by other means than those foreseen in the 1995 Law have been slow because many rightful owners have not been identified.

[25] If adopted, the draft amendments would reintroduce into legal force an alternative accommodation requirement similar to that previously invalidated by the Constitutional Court. (See Property Repossession – Problems section).

[26] The Government asserts that these Serb evictees have the right to apply for “housing care”. However, the provision of alternative accommodation is not a precondition for evictions in the Danube Region.

[27] Eleven families of Bosnian Croats who arrived in summer 2001 recently received construction materials to repair damaged houses owned and leased to them by the Government Agency for Transactions in Specified Real Estate (APN). These families are among some of the first beneficiaries of state-provided housing care articulated in the June 2000 Amendments to the Law on Areas of Special State Concern and the February 2001 Decree on the Conditions and Criteria for Accommodation in the Areas of Special State Concern. According to Government statements, the provision of alternative accommodation for eligible occupants who are supposed to vacate properties belonging to others, as opposed to housing care for new settlers, is the priority for 2002. Additionally, the Ministry for Public Works, Reconstruction and Construction, Department for Expellees, Returnees and Refugees (still referred to as ODPR), has granted these 11 families “returnee” status, thus entitling them to a six-month living allowance as well as health insurance.

[28] Urgent attention is also required in central Croatia to remove abandoned ordnance from numerous locations that are accessible to the public.

[29] On 13 May 2001, the Government also passed a ‘National Programme for the Increase of General Safety through the Voluntary Hand-Over of Weapons, Ammunition and Mine-Explosive Devices’. Due to its recent adoption, the Mission must still assess the Programme and its implementation.

[30] The working group is officially called the 'Working Group of the Ministry of the Interior for Development'.

[31] Other objectives include efforts to validate the effectiveness of donor training, advice in implementing a nation-wide community policing programme, and assistance in the development of efficient and non-discriminatory means of selection, promotion and evaluation in human resource administration and management.