

**OSCE**  
High Commissioner  
on National Minorities

His Excellency  
Mr Mate GRANIC  
Deputy Prime Minister and  
Minister for Foreign Affairs  
of Croatia  
ZAGREB  
Croatia

Reference :  
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The Hague  
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Dear Mr Minister,

May I first of all express my thanks for the help your Ministry gave to me during my visit to your country on 4-8 February by arranging a number of appointments for me in Zagreb and in Osijek and by providing useful documentation.

One of the main objects of my visit was to study the situation in the Croatian territories of Eastern Slavonia, Baranja and Western Sirmium, which, as laid down in the Basic Agreement concluded on 12 November 1995 in Erdut and in Security Council Resolution 1037 (1996), will be under a United Nations Transitional Administration (UNTAES) for an interim period.

I have tried especially to study the problems which will have to be faced in the field of inter-ethnic relations in the region where many ethnic groups lived together before the war, with Croats being the largest group, and Serbs coming second. The war has radically changed its ethnic composition, on the one hand because most of the Croat population fled in 1991, on the other hand because the number of persons of Serb nationality grew considerably, mainly as a consequence of the influx of Serb refugees after Operation Flash in former Sector West in May 1995 and Operation Storm in former Sectors North and South in August 1995.

Article 7 of the Basic Agreement states that all persons have the right to return freely to their place of residence in the region and, according to information I received, 90% of the Croats who fled should in principle like to do so as soon as possible. On the other hand, all those who have come to the region with previous permanent residence

in Croatia (in other words: the Serbs who fled from former Sectors West, North and South) have the right to live in the region. But if those who fled return, and all those who fled to the region remain, it is obvious that, even if a vast house building programme would start immediately, many people would have no appropriate accommodation for a number of years, even more so because so many houses in the region have been destroyed.

The problem can be alleviated somewhat by ensuring that the process of illegally occupying houses belonging to Croats comes to an immediate end and by making it clear to Serbs who did not have residence in other parts of Croatia before they came to the region that they have no right to stay. But even if these evidently necessary steps would be fully effective, the problem of an immense shortage of accommodation would remain in case of immediate return of those who fled without a parallel return home of those who fled into the region. I would therefore recommend that your Government agrees to a process of return in stages and considers ways to promote the voluntary return of residents of Croatia who came to the region. Such a parallel process is in my view the only way to avoid a potentially chaotic and possibly destabilising situation. I am aware that many Croats from the region, having passed many years living in camps, are becoming increasingly impatient to go home. But to return to face chaotic housing conditions is not in their interest.

The formula mentioned to me of making room for Croats by transferring Serbs from the region to the camps where Croat refugees have been living could in my view only be applied if the persons concerned would go home out of their free will. Article 7 of the Basic Agreement makes it clear that all persons who resided elsewhere in Croatia before they came to the region have the right to stay there.

The desirability of promoting a voluntary return of Serbs in the region to the areas of Croatia where they resided previously brings me to the more general question of the line your Government is following on this subject. In the "Report by the Government of the Republic of Croatia on the implementation of Security Council Resolution 1019 (1995)" your Government has pointed out that it is trying to create the conditions for the return of those Serbs who left and who would now like to return, and that it is prepared to ensure respect for their rights, complying with European standards in this field. Your Government adds in its report that those wanting to return must be willing to accept the Republic of Croatia as their state, respecting its democratically elected Government and its laws. It states, furthermore, that many of the Serbs who want to return do not accept the new reality of the establishment of a sovereign Croatian State.

I do of course agree that citizens of a state have to obey its laws. But the formulations chosen raise the question whether the mere suspicion that a citizen might not respect the sovereignty and the laws of Croatia would be enough to refuse such a person the right to return. I express the hope that this will not be the case, because such a policy would open the door to arbitrary decisions and would lead to a severe curtailment of the right to return which is recognised in principle by your Government.

Reacting to the demand contained in Security Council Resolutions 1009 (1995) and 1019 (1995) that the Government of Croatia fully respects the rights of the local Serb population including their right to return in safety, your Government mentions i.a. that as of 10 January 1996, the Bureau for Displaced Persons and Refugees has received

2964 requests for the return of 4504 Serbs who left. As of 2 February 1996, this Bureau approved the return of 1841 persons to be reunified with their families in the Republic of Croatia. These data indicate that so far only a very small percentage of the Serbs who fled have returned or have submitted requests for return.

This raises the question whether the data quoted above indicate a lack of interest in return, or reflect a lack of confidence in the possibilities of return. A completely reliable answer could only be given after detailed research. However, those who do wish to return home have to face difficulties regarding documents, accommodation, property and security which, at any rate for all those who cannot return in the framework of family reunification, prove virtually impossible to overcome, at least to the present.

Serb returnees need a "domovica", a document proving residence in Croatia and Croatian citizenship. This creates special difficulties for all those who fled from formerly Serb occupied areas of Croatia, like former Sectors West, North and East. While persons living elsewhere in Croatia got their Croatian citizenship without difficulty after Croatia became independent, people in these areas got documents from local Serb authorities or from the so-called Serb Republic of Krajina which have no validity. They might be able to settle this problem by applying to their local authorities, but because they cannot enter the area they fled from without domovica, and most of them have no relatives left in the area who could apply to the local authorities on their behalf, they have to apply in writing. In practice this procedure scarcely works. I would therefore recommend that Croatia tries to solve this problem both by accepting documents of the former SFRY as sufficient proof that a person is a permanent resident of Croatia, and by providing a temporary document allowing a visit to the area which would provide the opportunity to get the necessary documents from the local authorities.

The second difficulty facing Serbs wanting to return is that many houses have been burned, mostly after the actual hostilities had ended, while a great number of houses which remained intact have become inhabitable as a consequence of extensive looting which continued for many weeks after the Croatian Army had reconquered the area, and which, in some areas, has not completely ended even now. The Secretary-General of the UN states in his report S/1995/1051 of 21 December 1995 to the Security Council on the situation of human rights in Croatia that "United Nations officials consider that virtually every abandoned Serb property in the former Sectors North and East has been looted". I would recommend that Croatia will consider the reconstruction of the devastated area and the repair of houses which can be made habitable again as a task which has to be carried out equally in former Sector East and in former Sectors West, North and South, and that special attention will be given to the compensation of the owners who were the victims of vandalism. Reconstruction in former Sectors West, North and South will also increase the interest of Serb refugees in former Sector East in returning, and this in turn will facilitate the return of Croats who want to return to their homes in Eastern Slavonia, Baranja and Western Sirmium.

The third difficulty standing in the way of Serbs wanting to return to the areas of Croatia they came from relates to the difficulties they will face in reclaiming their property. I was gratified by the fact that the Croatian Parliament decided to amend the Law on Temporary Take-Over and Administration of Specified Property in such a

way that there is no longer a time limit for an appeal against decisions of the Commission for the temporary take-over and usage of property abandoned by refugees. However, article 11, paragraph 1, now reads:

"The issue of return into possession and for use of the property in the ownership of the person listed in article 2 of this Law will be regulated by the agreement on normalisation of the relations between the Republic of Croatia and the Federal Republic of Yugoslavia".

While the previous text of the law only made it possible to reclaim property for a 90 day period ending last December, the new law makes it impossible to reclaim property until normalisation of relations with the FRY has been achieved. Once normalisation of relations with the FRY has taken place and a decision to return specific property has been taken, the owner still faces another difficulty. Article 11, paragraph 4, of the law makes it clear that the owner can only take possession of his property after appropriate alternative property has been given to the person to whom the reclaimed property had originally been allocated by the Commission on the temporary take-over and usage of property.

In my view, the right to property as recognised in the international instruments which apply to Croatia is violated if the exercise of this right is made dependent on the normalisation of relations with another state. I would therefore recommend that your Government proposes to Parliament to annul the relevant article of the law.

Moreover, I would recommend that the law be amended in such a way that the owner must be able to exercise his property rights within two months after the annulment of the decision of the Commission regarding the allocation of that property to another person.

I also noted that the law on renting of apartments in the liberated areas, which opened the opportunity to allot apartments left vacant by their occupants, has not been amended. This law also contained the time limit of 90 days for returnees to claim their occupancy rights which by now has expired. I recommend that the law be amended in such a way that returnees still have a chance to claim their occupancy rights.

The fourth difficulty standing in the way of a return of Serb refugees is the question of security. I already referred to the large scale burning and looting of houses after the ending of military operations, especially in former Sectors North and South, and to the fact that, even though looting has diminished since the end of 1995, a number of cases of looting have been reported since the beginning of this year. It is obvious that many Serbs will only overcome their hesitations to return if they can count on a police force which shows willingness to provide protection and which is of sufficient size to provide protection. Confidence would also be strengthened if determined efforts would be made to reduce what the President of the Security Council described in the paragraph regarding former Sectors North and South of his statement of 8 January 1996 (S/PRST/1996/2) as "a considerable discrepancy between the number of perpetrators that so far has been brought to justice and the number of reported violations of international humanitarian law and human rights".

I noted in the report your Government issued recently on the implementation of Security Council Resolution 1019 (1995) that your Government views the pardoning by the President of 455 persons of Serb ethnicity detained during and after Operation Storm on charges of armed rebellion as a measure intended to strengthen the

confidence of Serbs in the Croatian state and government. As fears that charges of armed rebellion will be initiated against them are especially strong amongst Serbs from former Sectors South and North, I suggest that the general amnesty previously proclaimed will be extended from May 1995 to 1 September 1995.

Please allow me, Mr Minister, to summarize my suggestions and recommendations. As regards Eastern Slavonia, Baranja and Western Sirmium, only the full implementation of all elements of the Basic Agreement can provide a viable solution for the problems of that region. Demilitarization and the establishment of security by an effective police force with an international component deserve special priority. The wish of Croats returning to the territory to see their property restored to them must be respected, but the wish of Croats of Serb nationality to see their property restored to them must also be respected. Any other approach would constitute a violation of article 15 of the Constitution of Croatia, which states that members of all nations and minorities shall have equal rights in the Republic of Croatia. Steps must be taken urgently to facilitate the acquisition of domovicas by Croats of Serb nationality wanting to return and to provide effective security for them upon their return.

The return of Croat refugees to former Sector East will be facilitated and speeded up if the Government of Croatia takes steps to make a voluntary return to former Sectors West, North and South a viable option for the Croatian citizens of Serb origin who have fled from these areas. The difficulties standing in their way at present are so great that, apart from those who return in the framework of family reunion, only few will manage to find their way back. The early start of programmes for reparation and reconstruction of houses is equally needed in Eastern Slavonia, Baranja and Western Sirmium and in former Sectors West, North and South.

These were the comments and suggestions I should like to submit to you, Mr Minister. I am looking forward with great interest to your answer.

Yours sincerely,

[signature]

Max van der Stoep  
High Commissioner on National Minorities

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**Ministry of Foreign Affairs**  
**Minister**

Zagreb, 19 March 1996

Dear Mr. Commissioner,

First of all, allow me to thank you for the suggestions and recommendations contained in your letter of 22 February 1996. They represent a most valuable input and I can assure you that they will be given due consideration in our future activities regarding the minority related issues. In that respect, let me inform you about the recent developments in the fields that you have kindly pointed out.

As you are surely aware, on 11 March 1996 Mr Milan Milutinovic, Minister of Foreign Affairs of the Federal Republic of Yugoslavia, paid a return visit to Zagreb. The two delegations had a fruitful discussion, touched upon a number of issues and reached several agreements. We have also agreed to extend our full support to the implementation of the Basic Agreement on Eastern Slavonia, Baranya and Western Sirmium, UNTAES and the Transitional Administrator, general Klein. During the meeting I strongly emphasised the urgency of solving the question of missing and detained persons, and asked for the assistance of FRY in solving this matter with the Bosnian Serb authorities.

Mr Milutinovic assured me of his understanding of the gravity of this situation and promised to convey our requests to the Yugoslav officials dealing with this question.

Furthermore, Minister Milutinovic restated the position of his Government that Eastern Slavonia, Baranya and Western Sirmium is indeed an integral part of the sovereign Croatian territory. At the end of the meeting, Mr Milutinovic and myself signed the agreed minutes on the contents of the agreements on opening of the Adriatic pipeline, as well as on performing consular functions on our respective offices in Zagreb and Belgrade. At the same time, the ministers of transport signed the agreed minutes on air and railway traffic, telecommunications and the opening of the Zagreb-Belgrade highway.

Thus, we have made another decisive step towards the normalization of the relations between our countries.

However, I must emphasize that the mutual recognition between the Republic of Croatia and the Federal Republic of Yugoslavia within their internationally recognized borders remains the basic prerequisite for establishing the full normalization, and I am sure that we shall address this issue in the immediate future.

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Mr Commissioner,

I would also like to bring you up to date regarding other issues mentioned in your letter. Within the framework of measures designed to facilitate the return of refugees and displaced persons, I fully agree with you that housing is of the utmost

importance. In that respect, the Republic of Croatia is attaching great significance to the reconstruction of the war damaged areas. The reconstruction is taking place in the total of 282 places in 13 of altogether 21 Croatian counties. The number of family houses undergoing reconstruction amounts to 130,000 housing units, of which 33,000 housing units of 5th and 6th category of damage (torn down). The total of 4,725 houses have already been reconstructed up to the supporting structure, roof truss, doors and windows. In 1995, ca. 6,000 workers were involved in reconstruction, both on site and in production of building materials and works were completed in the amount of 462,832,455.17 kunas. At the same time, 12 schools have been reconstructed, 18 schools are under reconstruction, reconstruction of 19 schools is being prepared and 46 companies are involved in the reconstruction of schools. Up to 31 December 1995, we spent 13,717,051.00 kunas for the reconstruction of schools.

Furthermore, 20 facilities with ca. 600 flats are reconstructed or are under reconstruction, and the reconstruction of further 60 facilities with ca. 1,500 flats is being prepared. The costs for this part of the reconstruction amount to 4,848,912.00 kunas. Additionally, the Republic of Croatia invested further 87,483,877.60 kunas in the reconstruction of 5 infrastructural facilities, 4,977.188.36 kunas in the so-called paint and glass actions, 8,427.283 kunas were given to the citizens for the reconstruction of houses between the 1st and 4th damage category and 23,035,927 kunas were given to 546 owners for the interior decoration of reconstructed houses.

Being aware of the considerations expressed in your letter regarding the return of the Croatian citizens of Serb nationality, the Republic of Croatia is embarking on reconstruction projects taking into account the multiethnic structure of the area. For example, the developments in Western Slavonia are as follows: in Nova Gradiška rebuilding of 27 houses, of which 17 are Serb-owned, is to be completed soon; in Medari 17 have been rebuilt, of which only 10 are owned by Croats; in Marčički 38, mostly Serb-owned; in Donji Bogi?evci 17, of which 11 Serbian; in Poljane 17, of which 12 Serbian etc.

Referring to your suggestions regarding the legal issues, let me inform you that up to 11 March 1996 14,000 requests for return were filed, of which 6,125 with complete documentation. For 3,120 persons the right to return and reunification of families was already granted.

Parallely, regarding the criminal acts committed after the operations Flash and Storm, up to 13 March 1996 investigation has been opened against 257 persons, first-instance proceedings have been completed against 649 perpetrators and 14 persons were convicted.

In the liberated areas, up to the same date 3,940 requests for the continuation of payment of pensions and invalid pensions were filed, of which 3,472 have already been resolved.

Moreover, the deliberations regarding the general amnesty are underway - however, the outcome depends largely on the progress in solving the already mentioned question of the missing and detained persons, the issue to which my Government, as well as the Croatian public, attaches the greatest importance.

Finally, Mr. Commissioner, let me add a few general remarks. The Republic of Croatia has repeatedly agreed to host the OSCE Long Duration Mission and the discussions regarding its establishment and mandate are underway within the OSCE Permanent Council in Vienna. To this preceded a joint OSCE and Council of Europe Mission, led by Ambassador Mario Sica, which visited Croatia on 20 - 23 February 1996. The concerns of my Government, but also the democratic progress we have achieved, are reflected in their report. I am convinced that, once established, the OSCE Mission will contribute to further strengthening of democracy and democratic institutions in Croatia, promote and facilitate peaceful reintegration of both people and territory, as well as enhance the protection of human and minority rights, to which, I am sure, you will also contribute substantially.

On the other hand, the Republic of Croatia is on the way to becoming the full member of the Council of Europe and in that regard the President of the Republic of Croatia, Dr. Franjo Tudjman, and the President of the Parliament, Dr. Vlatko Pavletic, signed on 15 March 1996 to the formal undertaking of the commitments, expressing thus the willingness of Croatia to fulfil the criteria for accession to the Council of Europe. Among the commitments that might be of special interest to you, there is the undertaking to sign the European Convention of Human Rights at the moment of accession, as well as the obligation to sign and ratify within one year from the time of accession the European Framework Convention for the Protection of National Minorities and the European Charter on Local Self-Government and the Charter for Regional and Minority Languages. I have stressed merely the legal framework for the protection of human and minority rights, but it is my firm belief that all the commitments undertaken represent the highest democratic and civilization standards that Croatia is prepared to honour and implement.

I hope that this letter shall contribute to your valuable activities, your Excellency, and I am convinced that our exchange shall continued in the future. In the meantime I remain,

Sincerely yours,

Dr. Mate Granic  
[signature]