



**Report of the OSCE Mission to the Republic of Croatia  
on Croatia's progress in meeting  
international commitments since November 2000**

**12 March 2001**

## Introduction

1. This Eighth Progress Report, like the previous seven, takes into account specific events and issues during the immediately preceding four-month period. It is over one year since the new Government and the new President took office. This change at the helm of the State represented remarkable progress *per se* in the strengthening of democracy in Croatia. The two past Progress Reports have presented the considerable challenge faced by the Government as it sought to prioritise and address the complicated and intertwined political, legal, social and economic issues it had inherited. At the November 2000 EU Zagreb summit, by entering into negotiations on the Stabilisation and Association Agreement, the Government recommitted itself to implementing democratic reform and striving toward international human rights standards.
2. In this Report the Mission documents a number of positive developments in Croatia. These are evidenced by specific acts such as the passage of laws or public statements by Government officials or are reflected in institutional processes, particularly in the judicial and police areas. For example, the application of the Law on Amnesty and the search for missing persons have been more even-handed during the period of review. Addressing the commitment to reform the media, Parliament adopted a new Law on Croatian Radio-Television, which moved closer to precluding state or party political control of the media broadcaster.
3. The Report also highlights areas where a significant amount of work remains to be accomplished. The Mission cannot report any significant progress on the core issues of property restitution, reconstruction of houses destroyed by non-military actions, resolution of lost occupancy/tenancy rights, and implementation of the convalidation law effecting pensions and employment. All of these directly impact on the issues of return and reintegration for a large number of Croatian Serbs. Resolution of this complex knot of issues remains the major task to be addressed by the Government in the coming period.
4. The Report notes that progress was made in reforming a number of laws relevant to the Mission's mandate. It also records that action has not yet been taken with respect to a series of laws that directly affect rights of minorities, citizenship, and institutions which make up the backbone of a modern civil society.
5. On a political level, the most notable act during this reporting period was the national leadership's response to a large number of demonstrations against the prospect of war-crime trials for Croatian soldiers. Rejecting calls to intervene in the judicial process, the national leadership clearly articulated its full support for an independent judiciary and the rule of law, while recognising the right to peaceful protests.
6. The security situation throughout Croatia continued to be stable, and the quality of day to day police work has improved. Administratively, the Ministry of Interior also continued on its path of reform and training in order to strengthen command structures and raise individual police officer's accountability levels.
7. Within the period of the next four months nation-wide local elections will take place. The Mission notes that extraordinary local elections were held four times during the past four months without serious controversy or complaints about the integrity of the voting process. In planning for

nation-wide local elections it is, however, expected that the Government will take due care to meet its commitments in relation to the strengthening of regional and local self-government and the electoral process.

## **Table of Contents**

<b>INTRODUCTION</b>	<b>1</b>
<b>POST-CONFLICT NORMALIZATION</b>	<b>2</b>
<b>I. RETURN</b>	<b>2</b>
<b>II. AMNESTY, WAR CRIMES AND INTEGRATION</b>	<b>4</b>
<b>III. POLICING AND SECURITY</b>	<b>5</b>
<b>HUMAN RIGHTS AND DEMOCRATIZATION</b>	<b>6</b>
<b>IV. LEGISLATIVE REFORM</b>	<b>6</b>
<b>V. ADMINISTRATION OF JUSTICE</b>	<b>8</b>
<b>VI. LOCAL GOVERNANCE AND ELECTIONS</b>	<b>9</b>
<b>LOOKING AHEAD</b>	<b>10</b>

## Post-Conflict Normalization

### **I. Return**

8. **Overview:** The main problems affecting return identified in the previous Progress Reports remain. The legal obstacles to property repossession and the cumulative effect of extensive legislation continue to have a negative impact on sustainable return. In addition, a number of laws negatively affect the return process directly or indirectly, while the negative effects of other amended or abolished legislation are still evident (see para 24). As a result, there has been no significant increase in the level of return of refugees and displaced persons to and within Croatia. The Government's draft amendments and implementing decree to the Law on Areas of Special State Concern have proved an ineffective and incomplete response to these issues.

9. **Legal Regime Relating to Property Repossession:** Although the Government's October 2000 decision envisioned reform of the property repossession regime, a uniform and comprehensive legal structure for repossession has not been established. The Government has drafted additional amendments to the already amended Law on Areas of Special State Concern. These new amendments, which were presented to the Mission in December 2000, do not meet international legal and human rights standards. These amendments are still pending. In January 2001, the Mission, with the support of the international community, presented a detailed analysis of the proposed amendments to the Ministry for Public Works, Reconstruction and Construction. To overcome existing difficulties in the property repossession process, the Mission proposed on 17 January 2001 the establishment of an informal working group of the international community and relevant ministerial experts to develop comprehensive language which would comply with Croatia's specific situation and meet international legal standards.

On 1 February 2001, the Government issued a Decree on Conditions and Criteria for Accommodation in the Areas of Special State Concern, which the Mission believes will have the same negative effect on the return of property as the pending draft amendments. The Decree purports to implement the Law on Areas of Special State Concern, as amended in July 2000. The implementing decree, however, appears to broaden its own application through its reference to the

1998 Return Programme.<sup>1</sup> The Mission questions the legality and propriety of this action, which further confuses an already complex problem. Specifically, the decree continues to make the owner's right of repossession contingent upon the provision of alternative accommodation for the temporary user, preventing or delaying the repossession of property by the owner. Under the terms of the Decree, if state-owned alternative accommodation is unavailable for the temporary user, a mandatory rental contract would be imposed on the owner by the Ministry for Public Works, Reconstruction and Construction. No provisions are established to provide a fair market rental price. The Mission has suggested on several occasions that if the Government is prepared to pay a rent subsidy, that it pay the subsidy to the temporary user for other accommodation and permit the owner to repossess his property. The Mission also has continued to encourage the Government to consider approaching the matter of alternative accommodation for temporary users from the perspective of existing Croatian social welfare standards, meaning that the Government would be obliged to provide housing assistance only to those who are in social and financial need.

The Mission believes that the Decree, in conjunction with the Law, could also reinforce the discriminatory effects of war-related legislation by allocating state-owned flats which are subject to unresolved occupancy/tenancy rights' claims (see para 30). Furthermore, while the Decree appears to regulate alternative accommodation to all temporary users equally, the conditions of the Decree and its relation to other legislation and regulations<sup>2</sup> appear to discriminate against Serb displaced persons in the Danube Region who own occupied property in other parts of Croatia, by denying them alternative accommodation.

**10. Process of Property Repossession:** Problems of conflicting jurisdiction between the courts and the Housing Commissions persisted during the past four months. A significant number of courts still denied access to owners seeking to repossess their property through the judicial system.<sup>3</sup> In these cases, owners were usually referred to the Housing Commission, as stipulated by the Return Programme. Decisions taken by Housing Commissions, however, cannot be enforced without prior court decisions. Even when courts ruled in favour of the owner and issued eviction orders, these orders were not effectively enforced. At the same time, Housing Commissions have further reduced their activities, justifying this with a lack of guidance and material support from the Government. Thus, repossession through Housing Commissions continued to be rarely successful.

**11. Government Action:** Some promising steps were taken to address property repossession issues. Beginning in January 2001 the Ministry for Public Works, Reconstruction and Construction has been conducting a review of decisions issued on temporary use of property to determine the status of each property, its owners and users as well as to identify cases of multiple/illegal occupancy. The Mission has welcomed this initiative and has made a standing offer of practical assistance. The Ministry has collected evidence that over 21,000 decisions for temporary use were issued by Croat authorities.<sup>4</sup> According to recent statistics compiled by the Mission,<sup>5</sup> about 350 repossessions have been recorded in the last four months, bringing total repossessions to 4,435.<sup>6</sup>

**12. Multiple/illegal occupancy:** Following the Government's October 2000 decision to prosecute such cases, the State Prosecutor has initiated court proceedings for evictions in at least 17 cases in

---

<sup>1</sup> Decree on Conditions and Criteria for Accommodation in the Areas of Special State Concern, Article 11. The Law on Areas of Special State Concern governs the repossession of property in only a very few cases, while the Decree's reference to the Return Programme applies to all cases of occupied private property.

<sup>2</sup> Law on Temporary Take-Over and Administration of Specified Property, Law on Areas of Special State Concern, Law on Status of Expelled Persons and Refugees including the Authentic interpretation of Article 14 of this Law, and 1998 Return Programme.

<sup>3</sup> This practice is in contradiction to international standards and the Croatian Constitution on access to courts.

<sup>4</sup> It is important to note that many properties are used illegally without decisions. An unknown additional number of decisions for temporary use were issued by "Republika Srpska Krajina" authorities in the Danube Region.

<sup>5</sup> According to information collected by the Mission as of 1 March 2001, the total number of recorded applications for repossession is 12,095.

<sup>6</sup> However, in some instances properties were recorded as 'repossessed' even though they were never occupied, while in others, cases were solved through private agreements between the owner and user.

Korenica in southern Croatia. The Government estimates that several thousand properties are occupied by illegal/multiple occupants throughout the country. This problem requires decisive and widespread action by the authorities.

**13. Reconstruction:** Although the Law on Reconstruction was amended in June 2000 to remove discriminatory provisions, the authorities continued to interpret the law in such a way as to deny reconstruction assistance to individuals whose property was damaged or destroyed by so-called 'terrorist acts.' Many hundreds, if not thousands, of Serb-owned homes in need of reconstruction were affected by this practice. In a positive step, on 9 March 2001, the Ministry for Public Works, Reconstruction and Construction issued instructions entitled 'Requests for Reconstruction and Recipients of Donations.' These instructions permit persons who have received partial reconstruction assistance through various donations to receive additional assistance from the Ministry. The instructions also state that the Ministry will "initiate harmonization of the legal regulations in place, so that all objects damaged or destroyed in terrorist actions could be included in the program of reconstruction." The Mission looks forward to the early implementation of this initiative.

**14. Return of Croatian Serbs:** According to the most recent official data, the total number of minority returns since the end of conflict to Croatia is 78,470, among them 51,985 returns from FRY and 3,806 from BiH, while 22,679 were internally displaced persons from the Danube Region.<sup>7</sup> However, the sustainability of these returns remains questionable because some individuals return only to settle their affairs prior to leaving again. Others may wish to remain but find that damaged, destroyed or occupied housing, lost occupancy/tenancy rights, lack of employment, destroyed utilities such as electricity and water supply systems, and limited social infrastructure such as schools and clinics remain as significant obstacles.

**15. Return of BiH Croats/Bosniaks:** As for cross-border returns from Croatia to BiH, specifically return to the entity of Republika Srpska, figures continue to be extremely low. The Government was unable to explore a solution for cross-border return through a bilateral agreement with BiH because of the length of time it took to establish a BiH Government following the November 2000 elections.

## **II. Amnesty, War Crimes and Integration**

**16. Implementation of the Law on Amnesty:** The application of the 1996 Law on General Amnesty improved over the past four months and has been notably more even-handed, with national authorities publicly distinguishing between criminal acts subject to amnesty<sup>8</sup> and war crimes. According to Mission field reports, at least 84 individuals were amnestied during the reporting period. However, as previously noted by the Mission, the working group on amnesty established by the Government in May 2000 has not yet addressed difficult legal issues, such as the uniform implementation of the Law and cases that were re-classified as war crimes following earlier amnesty decisions. The Mission also notes with concern that no steps were taken to create a mechanism to re-examine cases of ethnic Serbs, many of whom were previously convicted in a politicized judicial environment. In order to encourage return and reconciliation, the authorities need to intensify efforts in de-politicizing the issue of amnesty and in promoting an objective implementation of the law.

**17. Domestic War Crimes Prosecution:** Positive changes in the attitude of the authorities toward domestic war crimes prosecution continued in this reporting period. On several occasions, high-ranking Government officials made public statements in support of individual criminal accountability for war crimes. Out of approximately 29 war crimes arrests reported to the Mission in the last four months, 10 individuals were released from custody. Out of these released

---

<sup>7</sup> Ministry for Public Works, Reconstruction and Construction, Department for Expellees, Returnees and Refugees (still referred to as ODPR), 1 February 2001.

<sup>8</sup> The Law on General Amnesty covers "criminal acts committed during the aggression, armed rebellion or armed conflicts or in relation to the aggression, armed rebellion or armed conflicts."

individuals, in three cases the charges were dropped, while in the remaining cases the individuals were allowed to defend themselves from liberty. Croatian authorities continued to show a willingness to prosecute war crimes regardless of ethnicity, arresting both Serbs and Croats.

Following its January 2001 assessment that the prosecution of war crimes was unsatisfactory, the Government decided to create specialized units across the entire spectrum of law enforcement institutions, including the police, public prosecutor and courts. The Ministry of Justice was tasked to draft legislation for this new mechanism, which includes the establishment of a special office within the Ministry, intended to ensure a more even-handed and professional performance of these institutions. The review of approximately 190 “suspended” cases affecting about 1,820 individuals, which started in October 2000, is still ongoing. The State Prosecutor’s Office stated to the Mission that the purpose of the review is to close the cases, either with convictions or by dropping the charges. As a result of this review, there has been an increase in police investigations and “informative talks” as well as an increase in arrests, which has led to a sense of uncertainty within the Serb community. In the Mission’s assessment the police handling of this process was conducted professionally and promptly. The review appears to be part of an independent and impartial action by the judicial system, which the Mission believes should contribute to a greater sense of transparency in the system and provide for legal certainty. The Mission expects that all cases will be dealt with expeditiously by the judiciary and based solely on individual responsibility.

**18. Co-operation with ICTY:** After ICTY Chief Prosecutor Carla Del Ponte commented critically in an address to UN Security Council in November 2000 on the level of co-operation with Croatia, some Government officials strongly condemned the Tribunal’s work and questioned its impartiality and investigative methods. The Government produced a document defining its position on future co-operation with the ICTY. Among the 13 points enumerated in this document, the Government demanded that the ICTY base its investigations on the principles of individual guilt and not on command responsibility. The Chief Prosecutor’s visit to Zagreb in January 2001 served to improve communication and resolve misunderstanding on both sides. Since then, the level of co-operation between the Government and ICTY has shown marked signs of improvement.

**19. Missing persons:** The Danube Region Working Group<sup>9</sup> held its first meeting after approximately one year of inactivity, thus re-activating this institution for the search for missing persons in the Vukovar area. Exhumations of mass graves took place in central and southern Croatia during this reporting period. Notably, on two occasions mass graves of Serb victims were exhumed by the authorities. The Mission welcomes these developments, which demonstrate a positive commitment to the effective application of unbiased search criteria. In November 2000, the Government Office for Missing and Detained Persons met again with its FRY counterpart in an effort to intensify the search for missing persons.

### **III. Policing and Security**

**20. Restructuring:** The Ministry of Interior continued to implement its restructuring plans, which began in May 2000 to strengthen command structures and raise accountability levels by making personnel changes and closing or merging police sub-stations. The Mission assesses that these changes have had a positive effect on police performance, without affecting the security situation. At the Ministerial level, a reshuffling and streamlining of Assistant Minister positions and portfolios, as well as the appointment of a new Police Department Director, was officially announced in the beginning of March 2001. In the Danube Region, police officers of Serb ethnicity continued to express concern over future downsizing. However, the Ministry again reaffirmed its commitment to a multi-ethnic police force throughout Croatia and informed the Mission that the Serb Assistant Minister will retain his responsibilities.

In order to establish a legal framework for future restructuring, a new Law on Police entered into

---

<sup>9</sup> Formerly the Sub-Commission for Missing and Detained Persons in the Danube Region. This Sub-Commission was established in 1999 and held its last meeting in March 2000.

force on 1 January 2001. The Law allows for the creation of community co-ordinating bodies, which should increase co-operation between the local police and various local community actors, including non-governmental organizations. In general, the Law complies with international policing standards, though a full assessment of the effectiveness of its application will depend upon implementing regulations currently being prepared by the Ministry of Interior.<sup>10</sup>

21. **Security:** The security situation throughout Croatia remained stable, although lingering tensions in war-affected areas such as Tenja, Borovo, Petrinja and Benkovac persisted. The Mission continued to monitor some isolated ethnically-related and motivated incidents in the war affected areas, often resulting from unresolved property repossession issues. The most notable occurrences in this reporting period were three separate bomb incidents in Zagreb, with one bomb exploding in front of the Orthodox Church and another under the monument commemorating the victims of fascism in the main cemetery.

22. **Police Performance:** Overall police performance continued to be good, with more members of minority communities expressing their satisfaction to the Mission. In the Vukovar area, police commanders took a number of steps, including meeting with parents and school administrators, to ease ethnic tensions in two schools. However, the classification of ethnically motivated incidents by the police as being only violations of public order was still noted throughout Croatia. OSCE police monitors maintained regular working meetings to retroactively monitor as well as to provide advice and assistance to local police officers. The police monitors also continued to meet with local border police to discuss issues including trafficking in human beings. Since the end of the Police Monitoring Group (PMG) mandate on 31 October 2000, good co-operation and information-sharing with the Mission continued, without affecting the security situation or the effectiveness of the local police in the Danube Region.

## Human Rights and Democratization

### IV. Legislative Reform

23. **Adherence to International Instruments:** The Government continued to amend certain laws to bring them in compliance with ratified international instruments. In this regard, the Criminal Law was amended to improve protection of victims of domestic violence. Croatia was also among the first countries to sign Protocol No. 12 of the European Convention on Human Rights on Discrimination and to ratify the Optional Protocol to the UN Convention on the Elimination of all Forms of Discrimination against Women. The Government continued to co-operate with the Council of Europe experts, particularly regarding the drafting of legislation, such as the Law on Associations. However, the November 2000 amendments to the Constitution did not reflect recommendations by Council of Europe experts and the Mission to bring several provisions into compliance with the European Convention of Human Rights, particularly with regard to extending to all individuals certain rights, currently guaranteed only to citizens. The Mission views the commenced negotiation on the Stabilisation and Association Agreement with the European Union as a renewed commitment to meet its obligations with regard to the respect of human rights.

24. **Residual Discriminatory Effects of Amended Legislation:** Since November 2000, no progress has taken place to remedy the effects of previously abolished discriminatory legislation affecting property rights. Similarly, no action has been taken to address the unequal treatment of individuals resulting from the implementation of the amended Law on the Status of Expelled Persons and Refugees.<sup>11</sup> These lingering effects prove detrimental to the principles of rule of law

---

<sup>10</sup> Some issues of concern include the fact that the Law continues to allow for a very broad level of ministerial discretion in judicially unauthorized wire-tapping and surveillance activities in circumstances such as threats to state sovereignty or the economic system.

<sup>11</sup> This Law was identified in 1998 as discriminatory, as it guaranteed special privileges to particular groups of individuals (those fleeing from Croatian territories not under Government control, largely Croats, or from other countries affected by the conflict, again often Croats) and not to others (those fleeing areas under Government control,

and equality of individuals before the law and will continue to militate against minority returns. Further, even though the Law on Reconstruction was amended in June 2000 to remove discriminatory provisions, the authorities continued to interpret the Law in a discriminatory way (see para 13). The Mission reiterates its concern regarding discriminatory elements contained in the "Rulebook" on the implementation of the Law on Reconstruction.

**25. Reform of Media Legislation:** On 8 February 2001, Parliament adopted the **Law on Croatian Radio-Television (HRT)**. The Law includes several recommendations made by the Mission and/or Council of Europe, including the privatization of the third television channel and the change in the composition of the HRT Council, the advisory and supervisory body, from state/party officials to representatives from civil society. However, the Mission assesses that although the Law represents a step forward in the reform of the state broadcaster, it does not establish a clear-cut legal framework for the transformation of HRT into an independent public service broadcaster. In particular, the Law enables Parliament to appoint six of the seven members of the Board of Management, which is responsible for appointing HRT's Director. Similarly, the Ministry of Culture is responsible for supervising the legality of the HRT Council appointments. These two provisions could allow for possible interference by ruling authorities. Additional amendments may be needed to ensure the full independence of HRT from political control. The Council of Europe will conduct a follow-up analysis. The draft **Law on Telecommunications**, presented to the Mission by the Ministry for Maritime Affairs, Traffic and Communication in September 2000 and analyzed by the Council of Europe in October 2000, has not yet been sent to parliamentary procedure. The Law, which is currently being revised by the Ministry, is crucial to the work of private broadcasters in Croatia. The Mission and the Council of Europe have recommended to the Government that the broadcasting regulator be an independent body, free of political control.

**26. Constitutional Law on Minorities:** The concerns expressed in the previous Progress Report about the amendments introduced by Parliament<sup>12</sup> to the 1991 Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic and National Communities or Minorities (Constitutional Law on Minorities) persist. The working group created by the Government, which includes minority representatives, has continued to draft a new, integral Constitutional Law on Minorities, in consultation with the Council of Europe's Venice Commission. However, the deadline for the adoption of the Law was postponed until May 2001, almost one year after Parliament asked the Government to draft legislation.

**27. Census Law:** The Mission remains concerned with the application of Law on Census of Population, Households and Apartments. In particular, it is questionable whether an accurate population count can be made in the upcoming April 2001 census given the difficulties in return and property repossession. More importantly, the result of this count will most likely affect the level of representation of minorities, if it serves as the legal basis for determining representation in the legislature and other representative bodies.

**28. Citizenship Law:** As noted in previous Progress Reports, concerns regarding the restrictive discriminatory application of the Citizenship Law remain. However, in a series of recent individual cases, the Constitutional Court has played a positive role for establishing uniformity in the implementation of this Law by clarifying that any five-year period of permanent residence can serve as grounds for the acquisition of citizenship through naturalization. Additional concerns remain with regard to sub-legal regulations issued by the Ministry of Interior impeding the entry into Croatia of refugees, who were former habitual residents but do not possess documentary proof of citizenship.

---

largely Serbs). Individuals who obtained one of these statuses also accrued additional benefits and privileges under a number of other laws. In November 1999, the Law was amended to eliminate these categories. However, it did not strip the status from individuals already holding it, who thus retain the benefits established under this and other laws. Therefore, the Law needs to be further amended to eliminate its residual discriminatory effects.

<sup>12</sup> Adopted in May 2000

29. **Convalidation Law:** The implementation of the Law on Convalidation continues to be problematic. In particular, the implementing instructions issued by the previous Government, which contradict the Law in matters of procedure and eligibility criteria, remain in force. Application deadlines set in the Government decree, but not found in the Law, continue to prevent the review of applications for convalidation of working years and pensions of persons who returned to Croatia after 10 April 1999.

30. **Occupancy/Tenancy Rights:** The resolution of the loss of occupancy/tenancy rights to formerly socially-owned flats under the terms of discriminatory laws and practices introduced during the conflict is one of Croatia's longstanding commitments.<sup>13</sup> To date, the Government has still not proposed a comprehensive legal regime for restitution or adequate compensation in lieu of restitution of these rights, based on principles of international law. Non-governmental organizations estimate that between 50,000 and 60,000 households lost their rights to socially owned property through discriminatory laws and practices. Official Government figures note that about 20,000 occupancy/tenancy rights were terminated through court procedures. The remaining cases (no official data exists) were lost *ex lege*, through the operation of the Law on Lease of Apartments in the Liberated Areas and other regulations. Resolving the problem of these rights claimed by refugees, displaced persons and returnees is essential for accelerating the return process.

## V. Administration of Justice

31. **Amendments to the Law on the State Judicial Council and the Law on Courts:** After introducing institutional changes within the judicial system through the November 2000 amendments to the Constitution, Parliament adopted changes in December 2000 to the two above-mentioned Laws, which have been identified by experts of the Government and the Council of Europe as a part of a series of laws<sup>14</sup> requiring amendment. Amendments to the Laws incorporated some recommendations of the Council of Europe experts. For example, the amendments provide for more transparency and for an increased role of professional bodies within the procedures for appointment, dismissal and discipline of judges. They also allow for a Constitutional Court review of disciplinary decisions on the request of the individuals concerned, providing grounds for an increased independence of the judiciary.

32. **Backlog of cases:** The judicial system remained burdened by an extremely heavy backlog of cases, which was further aggravated by a large number of judicial vacancies. The situation remained especially acute in rural war-affected areas, where many municipal courts continued to work under inadequate, provisional arrangements. For example, in Korenica and Glina in central Croatia, 'visiting judges' worked one or two days of the week despite the fact that three or four permanent judges were required. Other courts in central Croatia, for example in Dvor and Gvozd, were considerably understaffed. On a positive note, amendments to the Law on Courts, discussed in the previous paragraph, provided for a mechanism to diminish the heavy backlog of cases by enabling the President of the Supreme Court to intervene administratively.

33. **Constitutional Court:** The November 2000 amendments to the Constitution strengthened the Constitutional Court by increasing the number of judges and empowering the Court to report directly to Parliament about situations endangering the rule of law. These amendments, however, necessitate changes in the Constitutional Law on the Constitutional Court, which the Government is preparing. Problems with the implementation of Constitutional Court decisions identified in previous Progress Reports persist. On several occasions in which the Constitutional Court recommended amendments to laws in order to replace provisions annulled for reasons of incompatibility with the Constitution, the Government has not acted to introduce new regulations or has asked for prolongation of deadlines set by the Court. Additional concerns include cases where the executive authorities continued to ignore Constitutional Court judgements, holding that

---

<sup>13</sup> Recommendation 1406/1999 of the Parliamentary Assembly of the Council of Europe.

<sup>14</sup> Including laws on bankruptcy, on inheritance, on civil procedure.



administrative bodies must give reasons for the decisions they take.

On a related topic, the Mission notes that in a decision in November 2000, the Constitutional Court held that the Administrative Court does not fulfil the criteria to be a court of full jurisdiction as prescribed in Article 6 of the European Convention on Human Rights. The decision is of utmost importance for the legal protection of property rights in cases in which only administrative procedure is available for individuals under Croatian law. In this regard, the Government must bring into compliance with the Convention a number of laws regulating procedures for compensation for restrictions imposed on property rights.

**34. Rule of Law:** Croatia's leadership has shown a strong commitment to the principles of rule of law and the separation of powers. The Prime Minister and the President made strong statements in support of the rule of law and the independence and impartiality of the judiciary in confronting protestors, who demonstrated in February 2001 against the war crimes investigation of a retired Croatian army general. Despite these positive examples in political leadership, the Mission notes that administrative authorities regrettably continue to introduce and implement instructions that contravene overarching laws, such as the Convalidation, the Reconstruction and the Citizenship Laws. The Mission reiterates its concerns with regard to the execution of court decisions, particularly in light of the authorities' failure to enforce eviction decisions in a large number of cases, some of which were finalized over seven years ago (see para 10).

## **VI. Local Governance and Elections**

**35. Decentralization:** In an effort to conduct comprehensive reform of the local self-government system, the Ministry of Justice initiated a series of wide-ranging debates by experts and professionals to discuss this issue, with a main focus on decentralization. In light of the upcoming local elections, the Government intends to initiate some immediate measures to amend the Law on Local Self-Government in order to address Council of Europe recommendations. Among issues that the Government plans to address is the separation of the self-government and state administrative functions of the county prefects. Furthermore, the Ministry created an independent expert group which will draft new legislation to improve the long-term efficiency and sustainability of the self-government system and to bring it into compliance with the November 2000 amendments to the Constitution and to the European Charter of Local Self-Government.

**36. Local Elections/Legislative Framework:** Since the last Progress Report, four extraordinary local elections were carried out in various areas of the country. As in other extraordinary local elections carried out last year, elections results varied widely. The Mission, along with domestic non-partisan election observers, noted with satisfaction that these local elections were conducted without serious controversy or complaints about the integrity of the voting process. However, the Government has still not addressed concerns raised by the Mission, OSCE/ODIHR and the Council of Europe expressed in the previous Progress Report to ensure that a fair electoral process is legally entrenched and that an atmosphere of legal certainty has been created. Although no serious practical problems were observed, the Law on the Election of Representatives of the Regional and Local Units of Government and Self-Government (Law on Local Election) still needs to address certain issues, including providing regulations for domestic election observers and the composition of the electoral commissions. In addition, a variety of problems in existing laws, including the Law on Voters Registers (see also paras 26 and 28), affecting elections remain unresolved and need to be amended in accordance with previous recommendations.

## Looking Ahead

37. Reflecting on the successful model of co-operative work with the Ministry of Interior when addressing the areas of police reform and security, the Mission hopes to see the development of similar working relations with other Government Ministries and institutions as the Government addresses the following:

38. **Return:** The Government must adopt a uniform and comprehensive legal regime governing the repossession of property in accordance with international standards. Additionally, the Government is obliged to undertake measures to address the outstanding issue of lost occupancy/tenancy rights and to ensure the non-discriminatory application of the Law on Reconstruction. The Government should also intensify efforts to foster return and build confidence among ethnic communities.

39. **Post-Conflict Normalization:** In light of the increase in arrests of alleged war criminals due to the review of pending cases initiated by the judiciary, the Mission reiterates the importance of impartial prosecution based on the principle of individual responsibility as well as the prompt processing of such cases. The Mission also encourages the Government to continue to improve the application of the Amnesty Law as well as to use unbiased criteria in the search for missing persons.

40. **Legislative Reform:** There is a need to adopt the Law on Local Self-Government and the Constitutional Law on Minorities expeditiously and in accordance with existing commitments. The Government still needs to address the residual discriminatory effects of legislation passed in relation to the armed conflict, which has been subsequently amended or abolished. In addition, the Mission also encourages the Government to continue its efforts in media reform and to speed up the passage of the Law on Telecommunications, taking into account the Council of Europe's recommendations designed to reinforce the independence of the media.

41. **Local Elections:** As stated earlier, reform of the existing legislative framework affecting local elections in accordance with past international recommendations should be a priority. The Mission looks forward to the proper implementation of the technical aspects of the electoral process and to the enabling of all eligible individuals to register and vote in the upcoming, nation-wide local elections.

42. **Administration of Justice:** The Government should continue its efforts in the reform of the legislative framework regulating the judicial institutions and should act to support the efficient, independent and impartial performance of the judiciary. Particular efforts are needed to amend legislation to ensure that all court decisions are implemented effectively.

43. **Policing:** The Mission looks forward to the Ministry of Interior's implementation of the restructuring and administrative changes at the field level, while continuing its efforts to build a professional and multi-ethnic police force. The Mission welcomes the Ministry's recent proposal to develop a code of ethics and supports the fulfillment of those duties and obligations therein.

44. **Regional Co-operation:** The Mission encourages constructive engagement on both the local and national levels with all neighbouring countries, particularly in the framework of the Dayton Agreement and the Stability Pact for South-East Europe, paying special attention to improving mechanisms for cross-border return in the region.