



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

13 November 2000

Introduction

1. The purpose of this report, the seventh issued by the Mission since May 1998, is to assess the progress made by the Government of the Republic of Croatia since July 2000 in fulfilling its international obligations and commitments. As previously, the terms of reference are the commitments undertaken by Croatia in order to move closer to European and Euro-Atlantic institutions.
2. The Government has recently answered the Mission's repeated calls for urgent reform of property laws and improvements in the process of repossession of property by committing itself to take practical steps to address these issues. However, progress in the field measured in the number of properties returned to rightful owners, especially in cases of multiple and illegal occupancy, was no more than incremental. While an increased rate of refugee return to Croatia was recorded this year compared to the disappointingly low return figures in 1999, the sustainability of return has not improved significantly in the war-affected areas in spite of the Government's efforts. The unreformed legal regime on repossession of property, including the issue of lost occupancy/tenancy rights, remains a significant obstacle.
3. The passivity or obstructionism of many local authorities continues to hamper implementation of well-intentioned Government policies. Given the varied results of a number of early local elections this year, the outcome of the nation-wide local elections to be held by spring 2001 cannot be assumed to guarantee far reaching changes throughout the war-affected areas. In this regard, based on the record of the Mission's field monitoring, Government efforts to foster return, implement legislation affecting return, and build confidence among ethnic communities still need to be increased.
4. The security situation in most of the war-affected areas remains generally satisfactory. In recognition of the progress made by the Ministry of Interior this year, the Police Monitoring Group in the Danube Region was eliminated as a separate component within the Mission and police monitoring in eastern Croatia was reduced.
5. The Mission is concerned about renewed politicization of war crimes issues following the appearance of lists of alleged Serb war criminals and a recent increase in arrests of returnees. The detention of a group of Serbs in the Baranja area of the Danube Region in October 2000 on the basis of a list dating from 1995 added to this concern. This detention came on the heels of an anti-Government campaign by war veterans and other groups provoked by the arrest in September 2000 of a number of Croats suspected of war crimes. The backlash included demands for revocation of the Amnesty Law and more vigorous prosecution of Serbs for war crimes. As a result of these developments, and the slow progress on other issues of concern to the Serb community, the Government's established dialogue with this community has suffered.
6. The six-party coalition Government has continued to tackle with determination economic and social reforms, changes to the constitutional order, and democratization of the military, police and

intelligence services. The pace of progress in legislative reform related to international commitments, however, has been slower than anticipated. Outstanding obligations remain in the fields of media, minority rights, local government and the judiciary. Reform of the existing legislative framework affecting elections, including the problematic citizenship law, is of particular importance.

7. Croatia's uneven progress on issues of concern to the Mission since July bears out the contention that the country is still confronted with a complicated legacy of material, psychological and legal problems stemming from the consequences of the 1991-95 conflict. As a result, Croatia and its government require significant international support to successfully manage both the transition to democracy and the difficult process of post-conflict normalization, and serve as a model for the region.

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Post-Conflict Normalization

I. Return

8. **Legal Regime Relating to Return:** The Government recently issued a decision envisaging reform of the property repossession regime (see para 11). For the time being, there is still no legislation providing means through which individuals whose property has been taken away and allocated to others can either repossess those properties or obtain compensation in lieu of repossession. Therefore, the main problems affecting sustainable return identified in previous Progress Reports remain. The cumulative effects of extensive legislation, especially related to property, still militate against return. A number of laws negatively affect the return process directly or indirectly (see paras 31, 32, 33) whilst the negative effects of other amended or abolished laws are still felt (see paras 24, 25, 26). The Government's June 1998 Return Programme, which itself has questionable legal status, has proved to be an ineffective and incomplete response to these issues. In fact, it has further burdened the return process by introducing complicated bureaucratic structures and procedures that often conflict with normal law and practice (see para 10).

9. **Repossession of Private Property:** According to the Government, approximately 18,000 private properties were allocated for temporary use during and after the conflict. Official figures published on 5 November 2000 show that there have been more than 11,000 requests for

repossession of property, with 3,708 properties reposessed by their legal owners.¹ The performance of the municipal Housing Commissions, which administer the property repossession procedures under the Return Programme, is still uneven and inadequate, and has slowed further in the last four months. Most Housing Commissions have assumed a passive stance and, in breach of the existing administrative rules, avoid making and/or implementing unpopular decisions affecting temporary occupants of other people's property, often pointing to the lack of alternative accommodation. Although the Return Programme stipulates the obligation of the Government to provide alternative accommodation for temporary occupants regardless of their ability to secure their own accommodation, there is in fact no legal obligation to do so. In September 2000, the Mission suggested that the Government consider approaching the matter from the perspective of existing Croatian social welfare standards, meaning that the Government would be obliged to offer accommodation only to those who are eligible for social welfare benefits.

10. Conflicting Jurisdictions of Courts and Housing Commissions: Repossession of property is rarely successful through the Housing Commissions. In general, the property repossession procedures in the Return Programme are ineffective because the Return Programme itself contradicts existing laws. Decisions taken under the Programme cannot be enforced without prior court decisions. Yet access to the court system is arbitrarily limited for those owners wishing to repossess their occupied properties, in contradiction of international standards as well as the Croatian Constitution and ownership legislation. In many areas of the country, the courts do not accept lawsuits brought by individuals trying to repossess their property. Even in cases in which courts rule in favour of Serb returnees and issue eviction orders against temporary occupants, usually Croats from Bosnia and Herzegovina (BiH) or Kosovo, there are unacceptable and unreasonable delays in carrying out evictions. Court-ordered eviction attempts against evictees of Croat ethnicity often fail because of physical obstruction by the temporary occupant or by the ethnic community of the potential evictee. In such instances, court bailiffs are reluctant to risk confrontation by asking for police action. In most of these cases, the temporary occupant refuses to vacate the property unless alternative accommodation is provided, which is not in fact the Government's obligation under the law.

11. New Government Commitment: The Mission welcomes the decision taken by the Government on 26 October 2000 to address important aspects of the property repossession regime. It is the Mission's understanding that the Government's intention is to put into place a clear-cut and transparent administrative procedure that will allow the interests of the legal owner to prevail over those of the occupant, while at the same time not limiting the access of the legal owners to the courts. The Government has invited the Zagreb-based international community to provide its legal expertise and assistance. The Mission is looking forward to receiving more detailed information from the Government in order to provide its constructive input. It is still important for the Government to address property repossession issues throughout the country, including those related to agricultural land and such movable property as tractors and agricultural equipment.

12. Little Progress on Illegal and Multiple Occupancy: On 22 August 2000, the Mission and UNHCR sent a joint letter to the Government recommending the expeditious solution of 88 clear-cut cases of illegal or multiple occupancy. Few cases from the list have been resolved to date. The resolution of a number of other cases, not included in this list, has been reported. The Government's 26 October 2000 decision also tasked the Ministry for Public Works, Reconstruction and Construction to take practical steps to resolve this problem. Furthermore, the lack of bilateral agreements between Croatia and BiH on return-related matters hinders *inter alia* practical resolution of cross-border multiple occupancy cases.

13. Reconstruction: The Mission was encouraged to learn that the Government has begun – in at least a handful of cases – to reconstruct houses of Serb returnees. According to data provided by the

¹ Ministry for Public Works, Reconstruction and Construction, Department for Expellees, Returnees and Refugees (still referred to as ODPB): Housing Commission Statistics, 5 November 2000.

Government, of the approximately 8,000 housing units scheduled for cash compensation or reconstruction from this year's budget, up to 650 units belong to beneficiaries of Serb ethnicity. However, equitable access to reconstruction assistance is still an area of concern (see paras 24, 25). In addition, some county offices for reconstruction, referring to the lack of instructions from the Government, consider damages which occurred as a result of deliberate destruction of houses as "terrorist activities", rather than war damages. In such cases, applicants are considered ineligible for reconstruction assistance, which contradicts the amended Law on Reconstruction. It should be noted that many Serb-owned homes requiring reconstruction are affected by this practice. The Minister for Public Works, Reconstruction and Construction has stated that the Government will complete reconstruction within the next three years. This seems unlikely given the almost 40,000 pending applications, the current pace of reconstruction and the likelihood that a number of Serb returnees may file applications for reconstruction assistance in the future.

14. Return of Croatian Serbs: The most recent official figures on registered returns state that there have been more than 13,000 returns by the end of September 2000, and a total of 76,073 minority returns since the end of the conflict. Of the 76,073 returnees, 49,798 returned from the Federal Republic of Yugoslavia (FRY) and 3,590 from BiH, while 22,685 were 'internally displaced persons' from the Danube Region.² However, earlier this year upon the request of UNHCR, the Mission carried out a survey of returns to selected municipalities in order to verify return statistics. The results of this exercise indicated that return statistics are not only somewhat lower than reported, but that in many cases return is not sustainable. Major obstacles to sustainable return include damaged, destroyed or occupied housing, lost occupancy/tenancy rights, lack of community infrastructure, jobs and economic opportunities, problems with convalidation of documents needed to obtain social benefits (see para 32) and with implementation of the Amnesty Law (see para 16).

15. Return of BiH Croats: According to Government data, approximately 60,000 Croats have returned to the Federation of BiH since 1995. At the same time, figures on return from Croatia to the Republika Srpska (RS) entity in BiH are still extremely low. The Government refers to UNHCR BiH data stating that only 223 organized, individual returns have occurred since 1995, of which 154 took place in 2000. This year alone, by comparison, 1,261 Serbs have returned to Croatia from BiH.³ Continuing impediments to return to BiH include occupied or destroyed properties, security and economic concerns, as well as the political situation in the RS. With regard to BiH Croat integration into Croatia, it is estimated that there are still 140,000 persons from BiH throughout Croatia, of whom 22,259⁴ have retained their refugee status. The majority of Croats from BiH have acquired Croatian citizenship and reportedly prefer to remain in Croatia rather than return to BiH.

II. Amnesty, War Crimes and Missing Persons

16. Implementation of the Law on Amnesty: Some progress has been made in increasing the level of transparency in amnesty cases. According to Government figures, 20,612 persons have been amnestied. In September 2000, the 1996 Law on General Amnesty was applied by courts in the cases of two Serb returnees who had been arrested for conflict-related crimes after their return to Croatia. Nevertheless, the Mission notes that the working group on amnesty established by the Government in May 2000 has not addressed difficult amnesty-related issues, such as cases that were re-classified as war crimes following earlier amnesty decisions.⁵ In addition, a mechanism needs to be established to re-examine the cases of ethnic Serbs already incarcerated, many of whom were convicted in a politicized judicial environment. In order to encourage return and reconciliation, the

² ODPB statistics, 6 November 2000.

³ ODPB statistics, 3 October 2000.

⁴ ODPB statistics, 9 October 2000. Of these, 64 per cent are ethnic Croats; 29,5 per cent Bosniaks; and 1,5 per cent ethnic Serbs.

⁵ An example is the case of Dragan Pavic and two co-defendants. Although amnestied by the Supreme Court in 1996, subsequent convictions for war crimes were upheld based on the same factual evidence. A complaint is pending with the Constitutional Court for one of the co-defendants, Goran Pasic.

Mission believes that there remains a need for the authorities to clearly and publicly distinguish between criminal acts subject to amnesty and war crimes.⁶

17. Domestic War Crimes Prosecution: In September 2000, the Minister of Justice presented previously unknown statistics on war crimes prosecutions in Croatia, reporting at a press conference that 554 persons were sentenced between 1991 and 1999 for war crimes or violations of the laws and customs of war, with approximately 380 cases having been tried *in absentia*. With the exception of two persons, according to the Minister, all those sentenced for war crimes were Serbs. Since the July 2000 Progress Report, Croatian authorities have arrested suspected Croat war criminals in two separate, high profile cases. Five Croat suspects were arrested in September for alleged war crimes against civilians in 1991 in Gospic. Two Croat suspects alleged to have been involved in the Ahmici massacre of civilians in BiH in 1993 were also arrested in September in Zadar. Criminal investigations in all these cases are ongoing.

However, the arrests in October 2000 of 13 domiciled Serbs from an old war crime list in Baranja again exposed the sensitive nature of war crimes prosecution in the Danube Region and raised the question of the independence of the judiciary. The Mission notes that these arrests were not based on any new evidence, that the original investigations were launched in 1995, and that the suspects have been available to the court ever since. Furthermore, one of the suspects in question is a serving police officer who, upon signing his contract, received assurances from the Ministry of Interior that no criminal investigations were pending against him. In connection with these arrests, Government officials have stated that they do not feel bound by the previous Government's agreement with UNTAES only to prosecute Serbs from a list of 25 suspected war criminals unless new evidence surfaced, arguing the lack of any legal obligation and the need to maintain an independent judiciary. The Mission views the Baranja arrests as a litmus test for the judiciary's ability to apply the principle of individual criminal accountability. The Mission notes that the President, the Prime Minister and relevant Ministers, as well as Parliament in a special declaration on the 'Homeland War' in October 2000, have stressed the principle of individual criminal accountability with respect to war crimes prosecutions. In this regard, in July 2000 the Osijek County Court released five suspects of the so-called 'Sodolovci group', part of the above-mentioned list of 25, for lack of evidence.

18. Missing Persons: The Government upgraded the status of the National Commission for Missing and Detained Persons to a Government Office on 21 September 2000, providing additional financing and a dedicated budget. Its President will now report directly to the Deputy Prime Minister. The Danube Region Sub-Commission for Missing and Detained Persons, established in November 1999 to search for missing persons in the Vukovar area, will become one of three working groups established under the Office. However, the Danube Region Sub-Commission has not met since March 2000. Its members, including minority representatives and the Mission, have been invited to only two of the exhumations conducted this year.

The National Commission and its Yugoslav counterpart met for the first time in almost two years on 19-20 July, but additional co-operation between these two bodies is still required to determine the actual number of those missing and to facilitate the sharing of information. The Government states that approximately 1,580 persons are still missing, with over 700 unaccounted for in the Vukovar area alone. However, according to the Government, two-thirds of those recently exhumed are not on the official missing persons' lists. For a variety of political reasons, the National Commission has not been active in the search for Serb missing persons throughout Croatia. The Mission calls on the new Office to apply unbiased search criteria as required by the 1949 Geneva Conventions and their additional Protocols of 1997.

⁶ 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".

III. Policing and Security

19. Ministry of Interior: In the wake of continuing management changes by the Minister of Interior, the Mission has assessed new personnel as unbiased, professional and committed to addressing misconduct. In addition, these changes have had a positive effect on police performance, the security situation and co-operation with the Mission. Moreover, the Ministry continues to act as a corrective mechanism on its officers by identifying problems and acting to resolve them. However, internal incidents of discrimination against and intimidation of officers in the multi-ethnic police force in the Danube Region, particularly if related to ethnicity, are sometimes not properly addressed by middle and lower level management or internal investigators, in contravention of the Ministry's policy.

20. Impact of Police Re-structuring: The police re-structuring mentioned in the previous Progress Report has not affected the security situation adversely. In southern Croatia, the restructuring has had a positive effect on the conduct and performance of the police, who now take a more active and impartial role in community policing. Residents in the Darda area in the Danube Region have reported that the police are actually more visible within the community since the local police sub-station was closed. However, Serb officers transferred to the Osijek 2nd Police Station upon closure of the sub-station in nearby Tenja were exposed to incidents of ethnic harassment from their Croat colleagues, who are required for the first time to work with Serb officers. In order to monitor the working relationship of the officers, police monitors will continue to work inside this station beyond the 31 October 2000 closure of the Police Monitoring Group in the Danube Region.

21. Security: The security situation in Croatia is assessed as being satisfactory. The most notable incident occurred on 28 August 2000 in Gospić in southern Croatia, when an individual of Croat ethnicity was murdered in an explosion on his property. The victim was well known for his co-operation with ICTY during its investigation into alleged war crimes committed against the Serb population in the area. In central Croatia, the situation in Glina, Petrinja, Gvozd and Karlovac remains tense, while Djulovac, Hrvatska Kostajnica and Donji Kukuruzari are recently reported to be tense. Since the assignment of a new police commander in the town of Benkovac in southern Croatia, the tense situation there is gradually improving. In both central and southern Croatia unresolved property issues are the most commonly identified factor causing inter-ethnic incidents. Tensions are also noted in the Baranja area in the Danube Region.

On a number of occasions since July 2000, lists and posters accusing Serbs of war crimes were publicly displayed in the Danube Region and in central Croatia. In addition, old war crimes lists were circulated throughout the Danube Region in September and October and other lists have even been posted on the Internet. Furthermore, a pamphlet appeared in Baranja in October with 237 names of supposed "war criminals". While no incidents were directly linked to these events, they have created a sense of insecurity within the Serb community. Moreover, the Mission noted with concern the failure of the Government to publicly condemn these acts, which have the potential to undermine the integration and reconciliation processes if not properly addressed.

22. Police Performance: The overall performance of the local police in central and southern Croatia is good and police generally act in a professional and unbiased manner. The ongoing investigation into the August 2000 murder of the potential ICTY witness has received the highest priority from the Ministry and, although no arrests have been made, the investigation has been assessed as reasonably professional. The performance of the local police in the Danube Region is satisfactory, although the local police continue to be reluctant to recognize ethnic factors when forwarding reports to the State Prosecutor. In addition, housing disputes and evictions continue to be addressed in an inconsistent and sometimes ethnically biased manner by the local police.

Human Rights and Democratization

IV. Legislative Reform

23. The Government has announced an ambitious programme of legislative reforms, with a plan to introduce more than 200 pieces of legislation into parliamentary procedure before the end of the year. According to the Government's own schedule, much remains to be done in the coming months. Therefore, progress in the areas of concern to the Mission has been modest since the July 2000 Progress Report. The Government has, however, continued its co-operation with the Mission and improved co-operation with the Council of Europe with regard to relevant commitments.

24. Amendments to Discriminatory Laws: Amendments to the Law on Areas of Special State Concern adopted in July 2000 eliminated discriminatory categories of beneficiaries of economic incentives aimed at revitalizing war-affected areas and provided a reasonable foundation for the resolution of some housing issues in these areas. This Law also includes a procedure for repossession of those properties taken over by the Government and allocated to temporary occupants under its provisions. However, this procedure has not been implemented yet, and would in any event address only a limited number of property repossession cases.

25. In June 2000, Parliament passed an amended Law on Reconstruction. This Law as introduced into parliamentary procedure by the Government was non-discriminatory. However, one of two new amendments later inserted by the Government delegated power to the Minister for Public Works, Reconstruction and Construction to issue regulations establishing priorities of eligibility for reconstruction in accordance with both the new Law and the Law on the Rights of Croatian Homeland War Defenders and Members of Their Families. The resulting 'Rulebook' on implementation of the amended Reconstruction Law issued by the Ministry in July re-introduced discriminatory elements previously removed from the draft law in consultations with the Mission and UNHCR. In all four categories of beneficiaries introduced, priority is given to 'Croatian Homeland War Defenders', a status acquired by everyone who has spent at least three months in a military formation during the period of conflict. Given a much reduced reconstruction budget for this year, the implementation of the amended Reconstruction Law according to this Rulebook will hardly favour minority returns.

26. Residual Discriminatory Effects of Amended Legislation: Although the previous Government abolished two discriminatory property laws in 1998⁷, individuals who accrued rights under these 1995 laws retained these rights and those who were dispossessed of the properties under these laws remain unable to repossess them or to obtain compensation for their continued loss. The Law on the Status of Expelled Persons and Refugees, a third law identified by the international community as discriminatory in 1998, has not been further amended to eliminate its residual discriminatory effects. Finally, the Government has not taken action to annul the Decree on the Allocation and Administration of Flats in Areas of Special State Concern, which if implemented would reinforce discriminatory effects of laws with respect to lost occupancy/tenancy rights (see para 33).

27. Law on Croatian Radio-Television (HRT): The Government's draft Law on HRT, which visiting experts from the Council of Europe assessed in June 2000 as a significant step forward in transforming HRT from a state to a public service broadcaster, remains mired in parliamentary procedure. Five months after its first reading, the draft Law has yet to be presented to Parliament for its second reading, leading to some public criticism of the Government's slowness in advancing its media reform agenda. On 12 September, the Council of Europe sent the Government a list of recommendations designed to ensure that the Law on HRT (once adopted) would be in line with European standards. In particular, it recommended that provisions that could give rise to political interference in the operation of HRT should be changed so as to ensure its independence. As a

⁷ Law on Temporary Take-Over and Administration of Specified Properties and Law on Allocation of Apartments in the Liberated Areas.

prime example, the Council of Europe recommended that the HRT Council be an independent body whose powers are restricted to purely advisory and supervisory functions. Finally, it suggested that the decision-making power concerning licence fee revenues be entrusted to a body or organization independent from HRT.

28. Law on Telecommunications: In September 2000, the Ministry for Maritime Affairs, Traffic and Communication presented the Mission with a draft Law on Telecommunications. At the request of the Government, and with the assistance of the Mission, a Council of Europe media experts' delegation visited Croatia on 24-25 October to comment on the draft Law. The experts assessed that the draft Law meets several of the recommendations made in the past by the Council of Europe and constitutes a significant improvement over past drafts. However, they remarked that the draft Law has a fundamental flaw, as it is still far from guaranteeing the independence of the Telecommunications Council from political influence. The Mission, in consultation with the Council of Europe, assesses that the draft Law does not provide for a strong broadcasting regulator, separate from the telecommunications regulator, with independent responsibility for issuing licenses and monitoring compliance with regulations. The Council of Europe has issued a set of written recommendations regarding the Law on Telecommunications in November.

29. Constitutional Law on Minorities: The Mission expressed concerns in its previous Progress Report about the amendments introduced by Parliament in May 2000 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). These concerns continue to be valid. In May, Parliament also called on the Government to draft a new, integral Constitutional Law on Minorities within six months. The working group created by the Government, including minority representatives, forwarded a draft to the Council of Europe's Venice Commission for consultations in July. If the Constitutional Law on Minorities is to address the issue of representation of minorities at the levels of regional and local government and self-government, as well as other issues like minority self-administration (as provided for in the draft), it will be of utmost importance that the Constitutional Law is adopted well before the local elections expected in the spring of 2001 (see para 40).

30. Census Law: The new Law on Census of Population, Households and Apartments 2001 (Census Law) entered into force in July 2000, raising the question of whether an accurate count of the population can be made given the difficulties in return and repossession of property. This is important because the recently amended 1991 Constitutional Law on Minorities suspends the implementation of provisions concerning representation of minorities until the completion of the census, which will most likely serve as the legal basis for determining representation of minorities at all levels. Unless a major breakthrough in return of Croatian Serbs occurs before the census in 2001, the results will reflect the present ethnic composition of the population, which is an outcome of the 1991-95 conflict and the policies of the previous Government. The 2001 census will therefore likely serve to perpetuate a relatively low level of representation of the Serb minority in the legislature and other representative bodies for the coming decade, that is until the next census, likely to take place in 2011. The Census Law is also expected to help clarify the status, ownership and physical condition of apartments and agricultural land.⁸

31. Citizenship Law: The concerns raised in previous Progress Reports regarding the Citizenship Law remain. However, the Ministry of Interior has introduced regulations for simplifying acquisition of citizenship by returnees through naturalization. The application of these provisions may affect only a small number of people due to the requirement for the individuals to be in Croatia in order to apply to local offices of the Ministry of Interior. At the same time, the Return

⁸ Provisions in the Census Law will allow data collected on agricultural households active in the period 31 March 2000 to 31 March 2001 to be used in order to compile a special register of such households. The register would exclude those who were unable to return to their homes and property to date, especially Serb refugees given their relatively low rate of return. It also appears that individuals who could not start active farming because their properties were allocated to others may not be included in the register.

Programme and a variety of sub-legal acts of the Ministry of Interior raise serious impediments for non-citizens (including stateless individuals) to enter Croatia.

32. Convalidation Law: Problems with the implementation of the Law persist. In particular, the implementing instructions issued by the previous Government, which contradict the Law in matters of procedure and eligibility criteria, remain in force. Areas of concern to the Mission are the expiration of application deadlines set in Government decrees but not found in the Law, and the inconsistent application of instructions denying convalidation of working years on the grounds of “participation in paramilitary formations.” As an example, the pension offices have yet to act on thousands of applications for convalidation of working years and pensions, ignoring the time limits set by the Law on Administrative Procedure.

33. Occupancy/Tenancy Rights: As noted in previous Progress Reports, the Government is under an obligation to resolve issues surrounding the loss of occupancy/tenancy rights to formerly socially-owned apartments under the terms of discriminatory laws and practices introduced during the conflict. The international community has again urged the Government to adopt a comprehensive legal regime for restitution (or adequate compensation in lieu of restitution) of these property rights based on principles of international law. A proposal to address the issue of lost occupancy/tenancy rights made in July 2000 within the draft amendments to the Law on Areas of Special State Concern was withdrawn after severe objections in Parliament, despite the Law’s limited territorial applicability. The Mission has reiterated possible solutions to the Government based on applicable international human rights standards.

34. Constitutional Amendments: Amendments to the Constitution adopted on 9 November 2000 focus primarily on redistribution of powers among the Presidency, Government and Parliament, introduce improvements with regard to the separation of powers and entrench in the Constitution the most important principles contained in the European Charter of Local Self-Government (see para 38). On the other hand, the recommendations by the Council of Europe and the Mission to bring important provisions into compliance with the European Convention on Human Rights were not taken into consideration. This applies particularly to the recommendation to extend to all individuals in Croatia certain rights currently guaranteed only to its citizens.

V. Administration of Justice

35. Many of the problems in the judiciary noted in previous Progress Reports remain. The Government has set as priorities improvement in the efficiency of the judiciary, the reduction of the number of pending court cases, and the fight against corruption. The steps taken by the Government to address the situation include the establishment of a working group within the Ministry of Justice to draft necessary changes to the legislative framework, including the Law on Courts, the Law on Civil Procedure and the Bankruptcy Act. The judicial system remains burdened by an extremely heavy backlog of cases. The situation is further aggravated by a large number of judicial vacancies and is especially acute in rural war-affected areas.⁹ The Mission recognizes that increasing the efficiency of the judiciary also depends on available budgets, but notes that further efforts are necessary in order to improve its performance.

36. Constitutional Court: In its July 2000 Progress Report, the Mission praised the Constitutional Court for its recent record of human rights protection. Problems with 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.

⁹ Many municipal courts, especially in areas of return, continue to work under inadequate, provisional arrangements, in which ‘visiting judges’ work one or two days of the week despite the fact that three or four permanent judges are required (Korenica, Glina). Other courts are considerably understaffed (Dvor, Gvozd).

37. Rule of Law: The Mission reiterates previously expressed concerns with regard to execution of court decisions, particularly in light of the authorities' inability to enforce eviction decisions in a number of cases in the last several months (see para 10). It is the Government's responsibility to ensure enforcement of court decisions even when they are unpopular. In addition, the Mission notes that administrative authorities continue to introduce and operate under instructions that contravene overarching laws, for example those related to the implementation of the Convalidation and Citizenship Laws.

VI. Local Governance and Elections

38. The Government has declared its intention to undertake a comprehensive reform of the system of local governance, including extensive decentralization and strengthening of the independence of local and regional government. Recently-passed constitutional amendments entrenched the most important principles contained in the European Charter of Local Self-Government in the Constitution. However, with nation-wide local elections anticipated in spring 2001, a number of important legislative reforms related to local governance and elections are still necessary.

39. Early Local Elections: Since the national elections in early 2000, extraordinary local elections have been conducted in municipalities and cities throughout the country, including Zagreb, without serious controversy or complaints about the integrity of the voting process. Domestic election observers have assessed these elections as generally satisfactory – despite flaws in the legislative framework and practical problems registered by international election observers from OSCE/ODIHR in national elections earlier this year. Political parties and interested local interlocutors consistently expressed to the Mission a high degree of confidence in the electoral process. The election authorities remained open toward international monitoring. Early local elections in the municipality of Donji Lapac in southern Croatia resulted in the first victory of a Croatian Serb party in an election outside the Danube Region, and led to the formation of the first local administration run by Serbs in a war-affected area outside the Danube Region. In this case, and in some others, the conscientious and unbiased work of Government-appointed commissioners was widely praised.

40. Problems with Legislative Framework: The Government needs to address the overarching legislative framework affecting elections well before the forthcoming nation-wide local elections in order to ensure that guarantees for a fair process are legally entrenched, and that an atmosphere of legal certainty has been created with regard to the electoral process. A variety of problems in existing laws affecting elections previously pointed out by the Mission, OSCE/ODIHR and the Council of Europe, remain unresolved (e.g. in the Law on Voters Registers) (see also paras 27, 28, 29, 31). In particular, amendments to the Law on Local Government and Self-Government adopted in November 1999, which took into account most of the suggestions of the Council of Europe's Congress of Local and Regional Authorities in Europe, have not been implemented as yet.¹⁰ Among other issues, the Law on Local Government and Self-Government as it now stands provides for a mixed system of election and appointment of county prefects that cannot guarantee compliance with election results according to the Council of Europe, and thus should be changed before nation-wide local elections. Legislation must be passed in order to establish a system of minority voting which will ensure minority representation at the local level without violating the principle of voter anonymity. The adoption of a new integral Constitutional Law on Minorities will necessitate amendments to electoral legislation (see para 29). Existing inadequacies in the Law on the Election of Representatives of the Regional and Local Units of Government and Self-Government (Law on Local Elections) finally should be resolved, in accordance with previous recommendations of the Council of Europe and OSCE/ODIHR.

¹⁰ The amended Law was suspended by the previous Government pending changes to the Law on the City of Zagreb and the Law on the System of Government, which have not yet been enacted.

Looking Ahead

41. In view of the modest progress registered in areas of concern in the recent months, the Mission encourages the Government to pay increased attention to the following:

42. **Post-Conflict Normalization:** In light of the recent arrests of alleged war criminals, the Mission stresses the importance of impartial prosecution based on the principle of individual responsibility. The Mission calls on the Government to condemn publicly the appearance of provocative posters and lists of alleged war criminals. The Government is encouraged to continue publicly to emphasize the clear distinction between offences subject to amnesty and war crimes, in addition to ensuring the transparent application of the Amnesty Law. The Mission also continues to call on the Government to apply unbiased criteria in the search for missing persons.

43. **Return:** The Mission reiterates its position that the comprehensive reform of the legal regime governing property, including occupancy/tenancy rights, should be a priority. The negative effects of legislation passed in relation to the armed conflict, but amended or abolished subsequently, ought to be eliminated. In addition, the Government must ensure non-discriminatory implementation of the amended Reconstruction Law, take decisive actions to overcome existing obstructions on the regional and local levels and undertake further measures to improve inter-ethnic relations by including representatives of different ethnicities in the advisory and decision-making process.

44. **Legislative Reform:** The Mission reiterates the need to adopt the Law on the State Judicial Council, the Law on Local Self-Government and the Constitutional Law on Minorities expeditiously and in accordance with existing commitments. The Mission also encourages the Government to speed up the passage of the Law on HRT and the Law on Telecommunications, taking into account the Council of Europe's recommendations designed to reinforce the independence of the media.

45. **Local Elections:** Reform of the existing legislative framework affecting elections in accordance with past international recommendations should also be a priority given the nation-wide local elections anticipated in spring 2001.

46. **Administration of Justice:** The Government should ensure that all court decisions are implemented effectively and should act to improve the efficiency of the operation of the judiciary.

47. **Regional Co-operation:** In light of recent developments in the FRY, the Mission encourages the Government to continue its constructive policy of engagement with all neighbouring countries, particularly in the framework of the Stability Pact for South-East Europe, and pay special attention to improving mechanisms for cross-border return in the region.