



JANUARY 2007

COUNTRY SUMMARY

Croatia

In 2006 sustained international pressure combined with a maturing democratic process led to some progress on human rights in Croatia. The key concerns continued to stem from the 1991-95 war, particularly the return and reintegration of Croatian Serb refugees and the rights of the Serb minority generally, together with accountability for war crimes.

Return and Reintegration of Serbs

With the qualified exception of housing, the Croatian authorities continue to make inadequate progress to facilitate the return of refugee Serbs or to address the obstacles to their reintegration into Croatian society.

Of the estimated 300,000 to 350,000 Croatian Serbs who left their homes during the 1991-95 war, mainly for Serbia, Montenegro, and Bosnia and Herzegovina, over 120,000 had registered their return to Croatia by August 2006. But international and local organizations estimate that only 60 to 65 percent remain permanently in Croatia, with many leaving after a short stay.

Resolving lost housing rights for returning Serbs remains a qualified success. Most Serbs have been able to repossess privately owned homes, and reconstruction assistance for wartime damage is available (although many applications for it are refused on minor procedural grounds, and there is a backlog in appeals). Owners are sometimes required to compensate temporary occupants for improvements the occupants made to the property. At the same time, a program designed to facilitate repair of post-war damage to Serb homes caused by temporary occupants is overly narrow, excluding many potential beneficiaries. Access to occupied agricultural land remains a problem in the Benkovac area.

There has been only limited progress in restoration of lost rights to occupy socially-owned property (tenancy rights) stripped from Serbs during the war. The government

announced in August 2006 that it would implement a 2003 plan to provide housing to Serb former tenancy-right holders in urban areas. The proposal came in for criticism from Serb representatives and the European Union for limiting the right to purchase flats and delaying until 2011 the completion date for the program (which could be as many as 20 years after the right was originally terminated).

In the former “Areas of Special State Concern” (mainly rural territory held by Serb rebels during the war), there was no progress on resolving lost tenancy rights for Serbs, who remain at the bottom of the list for assistance with housing—even below people moving to the area for the first time—according to the official rulebook.

Access to public sector employment for Serb returnees remains a problem, despite 2005 legislation to implement the 2002 Constitutional Law on the Rights of National Minorities, which requires proportionate Serb employment in national and local government and the courts (the rules do not apply to state enterprises, schools, and hospitals). The limited progress contrasted with the private sector, which employs Serbs in areas of return in greater numbers, despite the absence of any legislative requirement to do so, suggesting that in the public sector discrimination may be an obstacle to greater employment for Serbs in return areas.

The upsurge of violence against Serbs that began in 2005 continued in 2006, including the vicious beating of an elderly Serb man, Svetozar Djordjevic, in January; the case remained unresolved at this writing. There were signs, however, in 2006 that the government has begun to take the issue more seriously. Early in the year the Interior Ministry established focal points in three return areas to monitor the response of the police to incidents against minorities. Following an attack on a Serb returnee property in July in Biljani Donji, a village in the Zadar area (where intimidation of Serbs has been particularly pronounced), senior government officials publicly condemned the attack, including President Stjepan Mesic (who visited the area together with the deputy prime minister) and Prime Minister Ivo Sanader. The alleged perpetrators were immediately apprehended and charged by police. Nevertheless, the overall clear-up rate for such incidents remains low.

In June 2006 new offenses proscribing “hate crimes” were added to the Croatian penal code, following parliamentary approval of a proposal by Serb parliamentarians the same month. In July, the government added training on the new offenses to the existing police training programme, with support from the Organization for Security and Co-operation in Europe (OSCE).

War Crimes Accountability

With the December 2005 transfer to the Hague of Gen. Ante Gotovina, indicted for war crimes by the International Criminal Tribunal for the former Yugoslavia (ICTY), Croatia’s obligations toward the court in 2006 consisted largely of ensuring the proper trial of the first case referred to it by the ICTY—that of Gens. Mirko Norac and Rahim Ademi, indicted for war crimes committed against Serbs in the Medak Pocket. The OSCE recommended that Croatia’s judiciary was up to the task and said it would monitor the trial when it begins.

In September, the Croatian government sought the status of *amicus curiae* in the adjoined cases of Gotovina and Gens. Ivan Cermak and Mladen Markac at the ICTY in order to “correct historical and political inaccuracies” in the indictment against them for crimes committed against Serbs during the 1995 Croatian Army action “Operation Storm.” The government’s efforts were opposed by the ICTY chief prosecutor, who said that Croatia was seeking to influence the outcome of the proceedings. The court rejected the application in October, reasoning that allowing Croatia to intervene would not be in the interests of justice.

The Croatian judicial system continues to try war crimes cases based on domestic indictments. In a welcome development, the courts took up several important cases during 2006 involving war crimes against Serbs. But Serbs still form the vast majority of those prosecuted and convicted on war crimes charges in Croatian courts, a disproportion so large that it suggests that bias was a factor. Monitoring of war crimes cases by the OSCE mission demonstrates an inconsistent approach toward Croat and Serb defendants in relation to indictment, prosecution, conviction, and sentencing.

The opening in May 2006 of proceedings against Branimir Glavas was a significant development towards accountability for war time abuses against Serbs. Glavas, a prominent Croatian politician, is accused of ordering killings and beatings of Serb civilians in the town of Osijek during the war. But the case illustrates many of the problems that affect domestic war crimes prosecutions in Croatia, including the intimidation of witnesses and the publication of privileged information in the media.

Wartime deaths of Serbs still await investigation in other towns, including Paulin Dvor and Sisak. In the latter case, the families of over 100 wartime victims may never see justice, as the deaths have yet to be classified as war crimes (despite assurances from the State Prosecutor), leaving them subject to a fast-approaching 15-year statute of limitations for trying ordinary murders.

Prosecutors in Croatia and Serbia agreed to cooperate on exchange of information and evidence to facilitate the prosecution of war crimes suspects no longer present in the country where the alleged crimes took place. Both countries have constitutional bars on the extradition of citizens, and a number of suspects who fled from one to the other have since acquired citizenship, making extradition impossible.

Human Rights Defenders

Human rights groups continue to be viewed with suspicion, but remain largely free to operate. The reduction in funding from international donors increased the importance of national funding sources. The main local source of nongovernmental organizations' (NGOs) funding remained the National Foundation for the Development of Civil Society. Established by parliament in 2003, the foundation has been criticised by NGOs in previous years over problems with impartiality and transparency. The Civil Society Forum, which represents many NGOs in Croatia, noted some progress on those concerns in 2006.

Key International Actors

The European Union continued during 2006 to emphasise the fulfilment of political criteria—including the protection of minorities—as a prerequisite for Croatia's progress

towards EU membership, although domestic war crimes were given insufficient priority. The December 2005 arrest of General Gotovina followed significant EU pressure.

The OSCE mission to Croatia remains the strongest international voice calling for fair treatment of Serbs in Croatia. It actively engages with the government on policy in this area, but is more inclined to dialogue than pressure. However, it does act as a catalyst for positive developments and a safeguard mechanism to make sure human rights in Croatia remain on the agenda of international partners. The mission's most recent report, published in June 2006, made concrete proposals for action in the fields of refugee return, the rights of Serbs, and war crimes accountability, but also indicated that the mission is drawing to a close, which increases the importance of continued EU focus on those issues.