



CROATIA

# A Decade of Disappointment

Continuing Obstacles to the Reintegration of Serb Returnees

HUMAN  
RIGHTS  
WATCH



## **Croatia: A Decade of Disappointment Continuing Obstacles to the Reintegration of Serb Returnees**

Summary.....	1
Former Tenancy Right Holders Still Without Homes .....	4
Alternative Accommodation in “Areas of Special State Concern”.....	6
Alternative Accommodation in Other Areas.....	8
Ethnically Motivated Incidents .....	10
Incidents in 2005.....	10
Incidents During the First Half of 2006.....	12
Police Response .....	13
Changes in Legislation .....	15
Political Response .....	15
Employment Discrimination.....	17
Local Administration.....	19
Judiciary .....	21
Public Services and Government-owned Enterprises.....	21
Access to Electricity.....	24
Agricultural Land.....	27
Reconstruction and Repair of Property .....	30
Reconstruction of Houses Destroyed in the War – A Qualified Success .....	30
Slow and Incomplete Repair of Post-war Damage.....	30
An Effective Remedy before the Courts .....	33
Conclusion.....	35
Recommendations.....	37
To the Government of Croatia.....	37
On “housing care” for former tenancy right holders.....	37
On ethnic incidents .....	37
On employment.....	37
On infrastructure .....	38
On the illegal use of agricultural land.....	38
On repair and reconstruction .....	38
On legal services .....	39

To the European Union.....	39
To the Organization for Security and Cooperation in Europe (OSCE) .....	40
To the International Community .....	40
Acknowledgments.....	41

## Summary

Returnee Serb former refugees continue to face significant obstacles in Croatia to the full enjoyment of their human rights, despite a raft of government programs designed to promote their reintegration. Between 300,000 and 350,000 ethnic Serbs left their homes in Croatia during the 1991-1995 war in the former Yugoslavia.<sup>1</sup> Most fled in August 1995, when Croatian government forces overran the territories that had been occupied by rebel Serb forces. It is this area, known as the “Krajina,” to which most Serbs are returning.

Government figures from April 2006 suggest that 120,549 Serb refugees have returned to Croatia since 1995. The actual number is believed to be much lower—many of those who are registered as returnees make only occasional visits to Croatia while continuing to live in Serbia or in Bosnia and Herzegovina, and only 60-65 percent of the registered returnees are believed to remain permanently in Croatia.<sup>2</sup> Overall, within Croatia’s population of 4.4 million, Serbs made up 4.5 percent at the 2001 census.<sup>3</sup>

The rate of return has slowed significantly in recent years. In 2005, the government registered 4,745 refugee returns from Bosnia and from Serbia and Montenegro,<sup>4</sup> while in 2004 the respective figure was 12,478.<sup>5</sup> A recent Croatian government assessment suggests that only 20,000 to 25,000 Serb refugees remain interested in return to Croatia.<sup>6</sup> The figure is broadly similar to the results of a survey commissioned by the Organization for Security and Co-Operation in Europe (OSCE) in 2004, showing that 14 per cent of the interviewed sample of Croatian Serb refugees abroad manifested an intention to return to Croatia in the coming years.<sup>7</sup> International human rights law protects the right

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<sup>1</sup> Organization for Security and Co-Operation in Europe (OSCE), Mission to Croatia, “Report on Croatia’s Progress in Meeting International Commitments Since 2001,” June 9, 2006, p. 13.

<sup>2</sup> *Ibid.*, p. 14.

<sup>3</sup> Results of the 2001 census in Croatia are available on the website of the Central Bureau of Statistics of the Republic of Croatia, at [www.dzs.hr](http://www.dzs.hr) (accessed June 14, 2006).

<sup>4</sup> Ministry of Maritime Affairs, Traffic, Tourism and Development, “Povratak prognanika i izbjeglica u Hrvatskoj” (“Return of Expelled Persons and Refugees in Croatia”), April 12, 2006, [www.mmtpr.hr/UserDocsImages/04-06-uppi-HRV.pdf](http://www.mmtpr.hr/UserDocsImages/04-06-uppi-HRV.pdf) (accessed June 8, 2006).

<sup>5</sup> Ministry of Maritime Affairs, Traffic, Tourism and Development, “Povratak prognanika i izbjeglica u Hrvatskoj: napredak do kraja 2004. godine” (“Return of Expelled Persons and Refugees in Croatia: Progress by the End-2004”), <http://www.mmtpr.hr/UserDocsImages/050101-povratak-hr.pdf> (accessed June 8, 2006).

<sup>6</sup> Ministry of Maritime Affairs, Traffic, Tourism and Development, “Povratak prognanika i izbjeglica u Hrvatskoj” (“Return of Expelled Persons and Refugees in Croatia”), April 12, 2006, [www.mmtpr.hr/UserDocsImages/04-06-uppi-HRV.pdf](http://www.mmtpr.hr/UserDocsImages/04-06-uppi-HRV.pdf) (accessed June 8, 2006).

<sup>7</sup> OSCE Mission to Croatia, “Status Report No. 15 on Croatia’s Progress in Meeting International Commitments Since July 2004,” November 21, 2004, p. 3. Assuming a total pre-conflict Serb population of 350,000 and

of refugees and exiles to return to their homes. The right to return is most clearly enshrined in the International Covenant on Civil and Political Rights (ICCPR) under its provisions on the right to freedom of movement, including the right to enter one's own country.<sup>8</sup> As in the case of all displaced people, those unable to return to a former home because it is occupied or has been destroyed, or those who have lost property, are entitled to compensation.

Human Rights Watch has so far issued three reports about the return of Serb refugees to Croatia.<sup>9</sup> Eleven years after the war, with the prospect of large scale returns now unlikely, it is more important than ever to focus attention on the human rights situation of those Serbs who have already returned. There is, however, no sharp line separating the two sets of issues: The preconditions for reintegration are identical to the preconditions for return of the remaining refugees who are contemplating doing so.

Human Rights Watch is particularly concerned about the following obstacles to full respect of human rights of the Serbs who have returned to Croatia: the lack of progress in resolving the issue of tenancy rights stripped from Croatian Serbs during the war; increase in the number of incidents of ethnically motivated violence and harassment against Croatian Serbs; and the continuing under-representation of the Serb minority in the state administration, the judiciary, and the executive bodies and administration of self-government units. Other concerns include discrimination in the supply of electricity to Serb returnee communities, slow progress in repair and reconstruction of Serb houses damaged or destroyed in the war, and, in one part of the country, the continuing inability of the Serbs to have full access to their agricultural land.

Under the ICCPR, the International Covenant on Economic, Social and Cultural Rights,<sup>10</sup> and the International Convention on the Elimination of All Forms of Racial

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120,000 returns, 14 percent is equivalent to 32,200 persons; taking a lower estimate of a pre-conflict Serb population of 300,000 and 120,000 returns, 14 percent is equivalent to 25,200.

<sup>8</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), *entered into force* Mar. 23, 1976, article 12. Croatia became a party to the ICCPR in 1991.

<sup>9</sup> Human Rights Watch, "Second Class Citizens: The Serbs of Croatia," *A Human Rights Watch Report*, vol. 11, no. 3(D), March 1999, <http://www.hrw.org/reports/1999/croatia/>; "Broken Promises: Impediments to Refugee Return to Croatia," *A Human Rights Watch Report*, vol. 15, no. 6(D), September 2003, <http://www.hrw.org/reports/2003/croatia0903/>; "Croatia Returns Update," *A Human Rights Watch Briefing Paper*, May 13, 2004, <http://hrw.org/backgrounders/eca/croatia0504/>.

<sup>10</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), *entered into force* Jan. 3, 1976. Croatia became a party to the ICESCR in 1991.

Discrimination,<sup>11</sup> Croatia has committed itself to ending discrimination based on descent and ethnic origin, among other grounds. It must guarantee that basic rights, including the rights to the security of the person, to employment, to housing, and to a remedy when those rights are violated, can be exercised without discrimination. Croatia must take effective measures to review governmental policies, and to change any laws that have the effect of creating or perpetuating discrimination. And it must bring to an end, by all appropriate means, ethnic discrimination by any persons, groups or organizations.<sup>12</sup>

Since October 3, 2005, Croatia has been an official candidate for membership in the European Union (EU). That process creates a dual responsibility—on the authorities in Zagreb to ensure that the human rights of all persons living in Croatia are respected, and on the EU to ensure that Zagreb lives up to the human rights obligations befitting a candidate country.

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<sup>11</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969. Croatia became a party to the ICERD in 1992.

<sup>12</sup> ICERD, article 2.

## Former Tenancy Right Holders Still Without Homes

Successive Croatian governments have failed to resolve the situation of lost tenancy rights of displaced Croatian Serbs. This failure has had a significant impact on refugee return, effectively preventing the return of refugees to urban areas, where many Croatian Serbs lived prior to the war. As result, most return has been to rural areas, and much of the former urban Serb population has remained in the countries of refuge.

Before the war, tens of thousands of urban Serbs lived in apartments owned by the state or state enterprises, often referred to as “socially owned apartments.” The right to use a socially owned apartment—frequently referred to as the right of tenancy—was a real property right, and in most aspects it amounted to ownership, except that holders of tenancy rights could not sell the right and the state could terminate the right in certain narrow circumstances. During the war and immediately afterward, the government terminated tens of thousands of tenancy rights belonging to displaced Serbs. Ever since the end of the war, it has been virtually impossible for these persons to repossess their apartments, get other homes as a substitute, or to receive compensation for the past and current deprivation of the use of the tenancy right.

Some 23,700 tenancy rights held by Croatian Serbs were terminated in court proceedings during and after the war.<sup>13</sup> These apartments were located in the areas controlled by the Croatian government during the war. In addition, thousands of tenancy rights in the areas held by Serb rebel forces (the “Krajina”) ceased to exist by virtue of a law enacted in September 1995, when the government re-established control over those parts of the country.

In the areas controlled by the government during the war, the termination was usually based on article 99 of the pre-war Law on Housing Relations. Under that law, tenancy rights were terminated if the right holder was absent from the apartment for longer than six months “without a justified reason.” Although most of the displaced fled in the face of a real threat to their safety, Croatian courts rejected arguments that this justified any absence of more than six months. The emergence of evidence about the killings and torture of numerous Serb civilians in urban centers like Osijek,<sup>14</sup> Sisak,<sup>15</sup> and Split,<sup>16</sup> has

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<sup>13</sup> See Human Rights Watch, “Broken Promises.”

<sup>14</sup> A major theme in the Croatian media since the end of 2005 has been the possible role of a former high-ranked member of the Croatian Democratic Union, Branimir Glavas, in the killings of the Serbs civilians in Osijek in 1991.

underscored the very real threat faced by many who fled their homes, and hence the unfairness of the court decisions affirming the termination of their right to return to those homes after the conflict.<sup>17</sup> The court decisions reflect a proposition—wholly at odds with the civilian protection provisions of international humanitarian law and refugee law—that a displaced civilian must return to a war zone to preserve property rights. Even in cases where Serbs were forcibly expelled from their apartments, the fact of having been forcibly expelled did not help them to preserve the right over the apartment.<sup>18</sup>

The law adopted in September 1995 relating to formerly occupied territory stipulated that tenancy rights would be terminated if the tenants did not return to the apartment within ninety days after the law became effective.<sup>19</sup> Only a month earlier, hundreds of thousands of Serbs previously resident in these areas had fled from Croatia after Croatian forces regained control. Many elderly Serbs who remained were killed.<sup>20</sup> At the time of the law's adoption, it was obvious that genuine fear would prevent Serb refugees from returning within ninety days to repossess their apartments.

The fundamental injustice to the former tenancy right holders, done both through the court decisions and the September 1995 law, is often overlooked in the discussions in Croatia about how to address housing needs of the former tenancy right holders. The extent of the violation of the right to peaceful enjoyment of the tenancy right, and to protection from its deprivation, in the first half of the 1990s should be factored into the

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<sup>15</sup> See Amnesty International, "A shadow on Croatia's future: Continuing impunity for war Crimes and crimes against humanity," AI Index: EUR 64/005/2004, December 13, 2004.

<sup>16</sup> On March 2, 2006, in a retrial, the county court in Split sentenced eight former military police officers for the murder, beating and torture of Serb civilians in the Lora military prison in Split. See OSCE Mission to Croatia, "News in Brief: 22 February – 7 March 2006," [www.osce.org/documents/mc/2006/03/18502\\_en.pdf](http://www.osce.org/documents/mc/2006/03/18502_en.pdf) (accessed June 8, 2006).

<sup>17</sup> Forces of the Croatian Serbs, and the then-Yugoslav Army which supported them, also committed serious violations of human rights and international humanitarian law during the 1991-95 war. During that period, 220,000 ethnic Croats were displaced from parts of Croatian territory under the Serb forces' control. The return of internally displaced Croats is now essentially complete with 218,000 returns officially registered. OSCE Mission to Croatia, "Report on Croatia's Progress in Meeting International Commitments Since 2001," June 9, 2006, p. 13.

<sup>18</sup> "Circumstances and Consequences of the Tenancy Rights Termination," Legal Service Coalition press release, December 2000. The OSCE Mission to Croatia counts the cases of forcible expulsion into the "hundreds," see OSCE Mission to Croatia, "Prethodne informacije po pitanju izgubljenih stanarskih prava u Hrvatskoj" ("Background Information Concerning Lost Tenancy Rights in Croatia"), p. 2.

<sup>19</sup> Law on Lease of Apartments in Liberated Areas, *Narodne novine* (official gazette of the Republic of Croatia), no. 73/1995, September 27, 1995.

<sup>20</sup> Human Rights Watch, "Impunity For Abuses Committed During 'Operation Storm' And the Denial of the Right of Refugees to Return to Krajina," *A Human Rights Watch report*, vol. 8, no. 13(D), August 1996, <http://hrw.org/reports/1996/Croatia.htm>.



assessments of current and future government policies to address the issue of tenancy rights.

### ***Alternative Accommodation in “Areas of Special State Concern”***

In February 2004, the chief government official then in charge of return-related issues, Lovre Pejković, told Human Rights Watch that, by the end of 2005, the government would provide permanent alternative accommodation (*stambeno zbrinjavanje*, which roughly translates as “housing care”) to all former tenancy right holders in the areas that were under the control of Serb rebel forces during the war (legislation and common parlance in Croatia refer to these areas as “areas of special state concern”), providing they did not have other inhabitable property in Croatia or elsewhere in the territory of the former Yugoslavia.

Housing solutions for the former tenancy right holders in these areas consist of one of the following: provision of another state-owned apartment; allocation of an inhabitable state-owned house; allocation of a damaged house and construction material; donation of a state-owned land plot and construction material; or, simply the allocation of construction material (if the applicant already owns a piece of land).<sup>21</sup>

In mid-2006, more than six months after the deadline identified by Pejković for the government to provide housing care to all eligible former tenancy right holders in these areas, there has been little progress. Although government statistics show that, as of April 2006, 2,668 former tenancy right holders had benefited from a housing care program,<sup>22</sup> the vast majority of these cases refer to the Vukovar area, where Croatia’s legislation did not apply during the war and in the first two years afterwards, so local Serbs were able to retain physical possession and legal claims over the apartments. The United Nations Transitional Administration for Eastern Slavonia (UNTAES) administered the area in the immediate post-war period, and most of the Serbs did not flee the area. In recent years the government has repaired or reconstructed a number of apartments that were damaged or destroyed during the war and changed the status of those who lived in the apartments—both Croats and Serbs—from tenancy right holders to lease holders.<sup>23</sup>

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<sup>21</sup> Human Rights Watch interview with staff of the United Nations High Commissioner for Refugees (UNHCR), Zagreb, May 16, 2006.

<sup>22</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006.

<sup>23</sup> Human Rights Watch telephone interview with a UNHCR official, Zagreb, June 14, 2006.

According to government statistics from April 2006, there were 3,400 outstanding requests for housing care.<sup>24</sup> This figure mainly pertains to the Serbs in “areas of special state concern.” As of May 2006, only a handful had benefited from the housing care program. In Knin, for example, five such cases had been resolved. The remaining forty-five cases in Knin that appear in official statistics, according to an international official familiar with the local situation, pertain to Croats and a few Serbs. The individuals concerned never possessed tenancy rights and were occupying abandoned apartments.<sup>25</sup>

The OSCE field officer in Sisak told Human Rights Watch that the government’s list of eighty-eight individuals who received housing care in Sisak-Moslavina county in the past twelve months includes non-Serbs, in addition to returning Serbs.<sup>26</sup> The nongovernmental organization Serb Democratic Forum in Vojnić, which monitors return in seven municipalities in the areas of special state concern in central Croatia (Plaski, Vojnić, Gvozd, Glina, Petrinja, Dvor, and Kostajnica) as implementing partner for the United Nations High Commissioner for Refugees (UNHCR), had registered provision of housing care to only one former tenancy right holder in those seven municipalities as of May 2006.<sup>27</sup> In Senjsko-Lička county, covering a number of municipalities in which Serbs made up an overwhelming majority of the population before the war, only four Serb returnees had received housing care by the same date.<sup>28</sup>

The authorities have yet to issue decisions—either approving or denying the right to housing care—to most of the applicants. In Zadar county, as of May 2006, ten applicants had received housing care consents from the Directorate for Expellees, Returnees and Refugees, while an additional 436 requests were still awaiting government response.<sup>29</sup> In five counties covering wide swaths of territory in central Croatia—Sisak-Moslavina, Virovitica-Podravina, Bjelovar-Bilogora, Brod-Posavina, and Požega-Slavonia—688 out of 840 requests awaited a government response as of the beginning of June 2006.<sup>30</sup>

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<sup>24</sup> Ministry of Maritime Affairs, Traffic, Tourism and Development, “Povratak prognanika i izbjeglica u Hrvatskoj” (“Return of Expelled Persons and Refugees in Croatia”), April 12, 2006.

<sup>25</sup> Human Rights Watch interview with an officer in the OSCE Field Office Knin, May 12, 2006.

<sup>26</sup> Human Rights Watch telephone interview with an officer in the OSCE Field Office Sisak, June 7, 2006.

<sup>27</sup> Human Rights Watch interview with Dragić Popović, head of the office of the Serb Democratic Forum, Vojnić, May 17, 2006.

<sup>28</sup> Human Rights Watch interview with an officer in the OSCE Field Office Gospić, May 19, 2006.

<sup>29</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

<sup>30</sup> Applications for Housing Care from ex TR [Tenancy Rights] Holders Inside ASSC [Areas of Special State Concern] - April 2006, table provided by the OSCE Field Office Knin (on file with Human Rights Watch).

The insignificant numbers of cases in areas of special state concern that have been resolved reflects the fact that former tenancy rights holders are on the bottom of the list of priority groups for housing care in those areas. The relevant legislation, as amended in 2002, gives highest priority to the (predominantly ethnic Croat) temporary occupants of private Serb properties, followed by a heterogeneous group of “other housing care applicants,” to which former tenancy right holders belong.<sup>31</sup> In a separate document (the “Rulebook”), the government established priorities among the “other housing care applicants” in the law. The Rulebook explicitly places former tenancy right holders at the bottom of the list, after the inhabitants of collective centers (mainly Croat refugees from Bosnia and Herzegovina) and persons settling in those areas for the first time.<sup>32</sup> These other groups consist almost exclusively of ethnic Croats.

### ***Alternative Accommodation in Other Areas***

In June 2003, the Croatian cabinet adopted a set of measures to enable former tenancy right holders in Zagreb and other big cities to rent or purchase government-built apartments at below-market rates. The program is designed to benefit only those persons who do not own a house or apartment in Croatia or another part of the former Yugoslavia. In early 2004, the Croatian government committed to provide by the end of 2006 permanent alternative accommodation for all tenancy right holders who meet these requirements.<sup>33</sup>

However as of mid-2006, fewer than forty former tenancy right holders, out of the 4,466 who applied, had benefited from the government-subsidized housing program. Government statistics from April 2006 indicate that forty-one apartments “have been bought for former tenancy right holders,”<sup>34</sup> but it is unclear how many former tenancy right holders moved into these apartments; evidently not all listed beneficiaries have done so. Human Rights Watch met in May with two women in Karlovac who appeared on the government’s list of intended beneficiaries of the purchased apartments, and it

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<sup>31</sup> Law on Areas of Special State Concern (amended and consolidated version), *Narodne novine*, no. 26/2003, January 28, 2003, article 9.

<sup>32</sup> Rulebook on the Housing Care Priorities in the Areas of Special State Concern, *Narodne novine*, no. 116/2002, October 3, 2002, article 3.

<sup>33</sup> “Return of Refugees and Displaced Persons in Croatia: Progress achieved since the beginning of 2003,” statistical overview, February 17, 2004 (obtained by Human Rights Watch from the Croatian Directorate for Expellees, Returnees, and Refugees).

<sup>34</sup> Ministry of Maritime Affairs, Traffic, Tourism and Development, “Povratak prognanika i izbjeglica u Hrvatskoj” (“Return of Expelled Persons and Refugees in Croatia”), April 12, 2006.

became apparent that one of them still lived in a collective center and the other in her relatives' house.<sup>35</sup>

The poor implementation reflects misallocation of funds as well as operational difficulties.<sup>36</sup> In the state budget for 2004, 23 million Croatian kuna (U.S.\$4 million) were allegedly allocated for the implementation of the program. But the money was spent for purposes other than the program.<sup>37</sup> The 43 million Croatian kuna (U.S.\$7.5 million) allocated for housing care in 2005 were not used during the year, although the government used 17 million kuna from that sum in February 2006 to purchase the first apartments for former tenancy right holders.<sup>38</sup>

Assuming that the government is able to offer apartments to former tenancy right holders, most beneficiaries could realistically opt only for renting (paying an equivalent of U.S.\$15 a month on average), because the purchase price (up to U.S.\$1,050 per square meter) exceeds their financial means.<sup>39</sup> Those who decide to rent the apartments should be given an opportunity at a later stage to purchase those apartments at a favorable rate. That would mirror the arrangement for other former tenancy right holders who were given the opportunity to purchase their apartments after the war at a price not exceeding one-third of the market value.<sup>40</sup>

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<sup>35</sup> Human Rights Watch interview with Jeka Bijelić, Karlovac, May 6, 2006; Human Rights Watch interview with Zagorka Vukelić, Karlovac, May 6, 2006.

<sup>36</sup> Human Rights Watch telephone interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, June 23, 2006.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> See Human Rights Watch, "Broken Promises," p. 39.

## Ethnically Motivated Incidents

In the past year-and-a-half, there has been an upsurge of violence and intimidation against members of the Serb minority in Croatia. The Interior Ministry registered forty-eight such incidents with clear or possible ethnic motivation in the first eleven months of 2005.<sup>41</sup> Frequent incidents have continued in 2006, particularly in the Zadar area, where seventeen incidents were reported in the first half of the year.

An incident involving people from different ethnic groups can be motivated by factors other than ethnicity. In the rash of recent cases, however, the ethnic motivation is often obvious. Graffiti calling for violence against Serbs, and bomb explosions at municipal assembly buildings in majority Serb villages, for example, are difficult to explain otherwise.

The incidents have caused understandable concern among the Serb minority. They also led to an assessment by Croatia's leading human rights group, the Helsinki Committee for Human Rights, that the human rights situation in 2005 had seriously deteriorated compared to the previous year.<sup>42</sup>

### ***Incidents in 2005***

In 2005, there were two murders of elderly Serbs that bore the hallmarks of ethnic hatred. On March 30, a former Croatian policeman killed seventy-one-year-old Mileva Domjaković in her family house in the village of Greda, near Sisak. During the investigation and at the trial the perpetrator reportedly admitted that the motive for the crime was ethnic hatred.<sup>43</sup> In the morning of May 18, unknown perpetrators killed eighty-one-year-old Dušan Vidić from the village of Donji Karin, near Benkovac. Although the perpetrators of the crime have not been found, the absence of an obvious

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<sup>41</sup> Ministry of Interior of the Republic of Croatia, "Incidents Involving Members of the Serb National Minority," report submitted to the Committee for Human Rights and the Rights of National Minorities in the Croatian Parliament, December 12, 2005 (English translation, on file with Human Rights Watch).

<sup>42</sup> See International Helsinki Federation for Human Rights, "Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005)," [www.ihf-hr.org/viewbinary/viewdocument.php?doc\\_id=6842](http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=6842) (accessed June 14, 2006), p. 119.

<sup>43</sup> S.Ab., "U smrt zbog: 'Nisu samo Srbi krivi za rat'" ("To Death Because of: 'The War Was Not Only Serbs' Fault"), *Novi List* (Rijeka), April 2, 2005; "Zbog Oluje susjedu zadavio telefonskom žicom" ("Strangled His Neighbor with a Telephone Cord Because of [Operation] Storm" *Index.hr*, December 3, 2005, [www.financije.index.hr/clanak.aspx?id=294773](http://www.financije.index.hr/clanak.aspx?id=294773) (accessed June 13, 2006).

criminal motivation for the killing—he had little money on him and had not been involved in any disputes with his neighbors—raised concerns of ethnic motivation.<sup>44</sup>

Two other cases in 2005 remain unsolved. On October 11 and November 13, respectively, fifty-five-year-old Milan Paunović and sixty-year-old Bogdo Stanković died in explosions near the Serb village of Jagma, in Slavonia region.<sup>45</sup> Local residents told the media that the area in which Paunović and Stanković died had been safely frequented by various persons in the past, and there was nothing to indicate that it had been mined during the war.<sup>46</sup> If the explosions were deliberate, it is likely that Serbs were the target.

Other incidents in 2005 included: the beating of Serb returnees in Benkovac and its surroundings, and in villages around Kistanje; windows of Serb houses broken and threatening messages daubed on their facades; damage to vehicles owned by Croatian Serbs or vehicles with Serbian registration plates in various parts of the country; graffiti calling for violence against Serbs; broken windows at the entrance of Serb cultural and religious objects in Split and Drniš; and two bomb explosions at the municipal assembly buildings in the majority Serb villages of Borovo selo and Trpinja, near Vukovar.<sup>47</sup>

An incident that occurred in the evening of January 6, 2005, in Đevrske, a Serb village between Knin and Benkovac, is illustrative. Around sixty Serbs had gathered in the café “Engel” that evening to celebrate the Orthodox Christmas Eve. Three young Croats from the nearby village of Velika Čista entered the café, and, according to a witness, began to provoke the Serbs:

They chanted “Long live Ante Pavelić!” [head of the pro-Nazi Ustasha movement in World War II, responsible for the deaths of hundreds of

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<sup>44</sup> Marina Biluš, “Naš otac nije imao neprijatelje i volio je ovu zemlju” (“Our Father Had No Enemy and Loved This Country”), *Nacional* (Zagreb), May 24, 2005, [www.nacional.hr/articles/view/18570/3](http://www.nacional.hr/articles/view/18570/3) (accessed June 23, 2006); Ante Vidović, “Dušan Vidić ubijen na putu prema pekari” (“Dušan Vidić Killed on the Way to the Bakery”), *Novi List* (Rijeka), May 20, 2005. See also International Helsinki Federation for Human Rights, “Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005),” [www.ihf-hr.org/viewbinary/viewdocument.php?doc\\_id=6842](http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=6842) (accessed June 14, 2006), p. 124.

<sup>45</sup> Ministry of Interior of the Republic of Croatia, “Incidents Involving Members of the Serb National Minority,” report submitted to the Committee for Human Rights and the Rights of National Minorities in the Croatian Parliament, December 12, 2005.

<sup>46</sup> Vesna Milković, “Povratnik poginuo od podmetnute naprave” (“Returnee Killed by Planted Device”), *Večernji List* (Zagreb), November 14, 2005, <http://www.vecernji-list.hr/newsroom/blackchronicle/417612/index.do> (accessed June 8, 2006).

<sup>47</sup> Human Rights Watch, *World Report 2006* (New York: Human Rights Watch, 2006), chapter on Croatia; Ministry of Interior of the Republic of Croatia, “Incidents Involving Members of the Serb National Minority,” report submitted to the Committee for Human Rights and the Rights of National Minorities in the Croatian Parliament, December 12, 2005.

thousands of Croatian Serbs]. They were tipsy. We knew one of them, Ante Pešić, as a troublemaker. He has the status of the defender from the last war, although he is very young. He has an artificial leg. At one moment, he put the leg on the bar and said: “This is what Serbs did to me.” The people in the café did not want any trouble. They even bought drinks for the three. We know that if we beat them, the media would write tomorrow: “Serbs beat a Croatian defender!” Pešić is very strong, although he doesn’t have that leg. At one moment Pešić started beating a Serb, with the last name Bajalica. I don’t know why he picked Bajalica. Pešić even took a knife from the bar and started chasing Bajalica, who ran away.<sup>48</sup>

The police filed charges against Ante Pešić under article 129(2) of the Croatian Penal Code for threat, a minor criminal offense punishable by up to one year’s imprisonment or by a fine.<sup>49</sup> The case was never brought to court.

### ***Incidents During the First Half of 2006***

Most alleged ethnically motivated incidents in 2006 have occurred in Zadar county, especially in the villages around the town of Benkovac. During the war, Serb forces killed dozens of civilians in Croat villages in the area, including the villages of Škabrnja, Nadin, and Bruška. The crimes remain largely unpunished, which may account for the continuing tensions in the area. In 2005, the OSCE field office for Zadar county registered twenty-two incidents with Serb victims in its area of responsibility. By May 2006, the same office had registered seventeen incidents for the year so far.<sup>50</sup>

The Ministry of Interior in early 2006 appointed “regional focal points” in three areas in Croatia to systematize collection of information about ethnically motivated incidents and to monitor the response of the local police. Ilija Krneta, the focal point for Zadar (Benkovac) and Knin, described some of the incidents to Human Rights Watch:

- On March 2, 2006, unknown perpetrators smashed eleven windows of the house of Miloš Maljković, a Serb, in Knin;
- On May 2, during a “friendly” soccer match in Knin between the local team and the Croatian soccer champions “Dinamo” Zagreb, some of the crowd chanted,

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<sup>48</sup> Human Rights Watch interview with D.V., Đevrske, May 11, 2006.

<sup>49</sup> Ministry of Interior of the Republic of Croatia, “Incidents Involving Members of the Serb National Minority,” report submitted to the Committee for Human Rights and the Rights of National Minorities in the Croatian Parliament, December 12, 2005, incident no. 2.

<sup>50</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

“We do not drink wine, we drink Serb’s blood!” (a witness who attended the match told Human Rights Watch that the crowd also shouted “Kill the Serb, kill the donkey!”<sup>51</sup>);

- On May 9, in Benkovac, around 7.40 p.m., a Croat man verbally abused Jovica Ćirilović in a café (“Fuck your Serb mother, you are the youngest Serb in Benkovac, get out of the Croatian rain!”). The police filed misdemeanor charges against the Croat offender.
- On May 13, at 9.30 a.m., in Biograd (near Zadar), an ethnic Croat used ethnic slurs (“You Chetnik [derogatory term for ethnic Serbs], fuck your mother!”) against Marko Gagić, a thirty-year-old Serb, and then punched him in his neck. The police filed misdemeanor charges against the offender.<sup>52</sup>

Incidents have occurred in other parts of Croatia. Among the most serious was the detonation in April of an explosive device in the orchard of Duško Narančić, a Serb returnee living in the village of Gaj, near Gospić. Narančić suffered light injuries on his face and body as a result. The police identified the likely perpetrator, a Croat neighbor of Narančić, but the public prosecutor in Gospić decided not to pursue the case because of insufficient evidence.<sup>53</sup>

Many of the incidents during 2006 have been acts designed to intimidate, such as verbal insults and threats. Other incidents include deliberate damage to property, beatings, and painting graffiti containing hate messages.<sup>54</sup>

### ***Police Response***

In most cases, the police failed to apprehend the perpetrators of ethnically related incidents. Our review of the Ministry of Interior report reveals that in thirty-three of the forty-eight incidents reported in 2005 with Serb victims, the perpetrators remained unknown. Among the fifteen cases in which the alleged perpetrators were identified, circumstances in at least six strongly suggest that there was an ethnic motivation, and three of those cases include serious misconduct. In all three serious cases, the police filed criminal charges. The former policeman who murdered Mileva Domjaković on March

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<sup>51</sup> Human Rights Watch interview with Dragan Jerković, president of the Council of the Serb National Minority in Knin, May 12, 2006.

<sup>52</sup> Human Rights Watch interview with Ilija Krneta, advisor in the Ministry of Interior, Zadar, May 15, 2006.

<sup>53</sup> Human Rights Watch interview with an officer in the OSCE Field Office Gospić, May 19, 2006.

<sup>54</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.



30, 2005, was sentenced to eleven years' imprisonment in November 2005.<sup>55</sup> In the remaining case, Stipan Boto, a Croat from the village of Stari Jankovci, near Vukovar, received a suspended 3-month prison sentence in June 2006 (which he will not have to serve unless he commits another offense in the next year) because of an incident on May 21, 2005, in which he used a pickaxe to break the windscreen, back window and front side window of the car owned by a Serb woman.<sup>56</sup> According to the Serb Democratic Forum, the woman and her mother were present during the incident, and the offender threatened both women with the words "I am Ustasha... I will kill you all... Go back to Chetniks!"<sup>57</sup> The one-page judgment makes no reference to this aspect of the event.

It has proved particularly difficult to identify perpetrators of violence targeting properties in barely populated villages, or attacks against the buildings of Serb cultural associations or the Orthodox Church. It is troubling, however, that aside from the incident in Gaj, where the case was discontinued for lack of sufficient evidence, the police have failed to identify the perpetrators of the four other explosions on Serb-owned land or at public buildings in Serb communities during 2005-06.

There have been mixed signals about the attitude of the police toward incidents against Serbs. In some cases, it appears that the attitude bordered on indifference, or that the primary concern of the police consisted in something other than resolving the case. In one of the incidents described above, the Serb returnee affected told Human Rights Watch that the team of police inspectors who paid him a visit to take a statement spent most of the time focusing on a different matter. He claims that they were primarily interested in the names of Serbs who had fought with rebel Serb forces on the local frontline during the war, when Serbs forces killed some Croat civilians in the area.<sup>58</sup> The policemen present at the May 2, 2006, soccer match in Knin told their superiors that they did not hear any songs and slogans exalting violence against Serbs, which is highly improbable in light of the testimonies of other persons who were present.<sup>59</sup>

On the positive side, police patrolling intensified in those areas in which incidents occurred. After the January 6, 2005 incident in the "Engel" café in Đevrske, the police patrolled every evening for several months. As of mid-May 2006, they continued to pass by every other evening.<sup>60</sup> The OSCE field office in Zadar, whose area of responsibility

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<sup>55</sup> "Croatian Sentenced to 11 Years in Prison for Murdering Serb Woman," *BBC Monitoring International Reports*, December 4, 2005 (text of report by Bosnia-Herzegovina Federation News Agency FENA).

<sup>56</sup> Municipal court in Vinkovci, Judgment no K-305/05 (June 9, 2006).

<sup>57</sup> Serb Democratic Forum, "Incidents with Ethnic Background: The Republic of Croatia 2005," (undated), [www.sdf.hr/eng/news/2005\\_incident.html](http://www.sdf.hr/eng/news/2005_incident.html) (accessed June 23, 2006).

<sup>58</sup> Human Rights Watch interview, Croatia, May 19, 2006. Name and location withheld.

<sup>59</sup> Human Rights Watch interview with Ilija Krneta, advisor in the Ministry of Interior, Zadar, May 15, 2006.

<sup>60</sup> Human Rights Watch interview with "T.A.," waitress in the café "Engel," Đevrske, May 11, 2006.

includes Benkovac and its environs, told Human Rights Watch that police patrolling in that area has become more frequent.<sup>61</sup> It is also significant that the Ministry of Interior created a report documenting incidents in 2005, as a sign of willingness to openly confront the issue. The appointment of the regional focal points is also a step in the right direction.

### **Changes in Legislation**

During the period in which the incidents referred to in this report occurred, Croatian criminal law lacked “hate crime” provisions, that would permit the imposition of greater sentences for ethnically aggravated forms of offenses against the person, property, public order, and similar offenses. On June 9, 2006, the Croatian parliament adopted amendments to the Penal Code that include a provision on hate crimes.<sup>62</sup> The new provision offers an opportunity to the judiciary to impose higher sentences on the perpetrators of ethnic violence, and to signal more generally to the police and society as a whole that such offenses are regarded with the utmost seriousness by the Croatian authorities.

### **Political Response**

While there have been some positive developments in the area of policy, the authorities in Croatia could do more to send an unequivocal public message that recent ethnic violence is unacceptable and damaging to Croatia. Prime Minister Ivo Sanader condemned the killing of Dušan Vidić on May 18, 2005,<sup>63</sup> as well as the stoning of four homes belonging to Serb returnees in the village of Biljane Donje, near Benkovac, on July 25, 2006, by four Croat suspects.<sup>64</sup> The Committee for Human Rights and Minority Rights of the Croatian parliament condemned ethnic violence at the session of January 26, 2006.<sup>65</sup> However, it was only after the July 25, 2006, incident in Biljane Donje that the Croatian deputy prime minister and the Croatian president paid visits to the area

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<sup>61</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

<sup>62</sup> Amendments to the Penal Code, *Narodne novine*, no. 71/2006, June 28, 2006, article 14 (amending article 89).

<sup>63</sup> J.Ma, “Sanader traži hitnu istragu” (“Sanader Requests Urgent Investigation”), *Novi List* (Rijeka), May 20, 2005.

<sup>64</sup> Hina-Croatian News Agency, “Vlada najoštrije osuđuje napad na kuće srpskih povratnika” (“The Government Categorically Condemns the Attack on the Serb Returnees’ Houses”), *Index.hr*, July 25, 2006, [www.index.hr/clanak.aspx?id=323056](http://www.index.hr/clanak.aspx?id=323056) (accessed July 25, 2006).

<sup>65</sup> “Parliamentary Committee Voices Concern about Ethnically Motivated Incidents,” HINA-Croatian News Agency, January 26, 2006.

most affected by ethnic incidents to publicly condemn the violence and call for ethnic tolerance.<sup>66</sup>

The response from local government authorities has been muted. For example, despite the intervention of the OSCE, the authorities in Sisak have not painted over the message “Leave While You Still Have Time — U,” written on the facade of a reconstructed Serb house at the beginning of 2006. The “U” stands for Ustasha, the World War II Croatian fascists. The mayor of Sisak told the OSCE two weeks after the message appeared that the town authorities would paint it over, but the graffiti was still there as of early June.<sup>67</sup> Local officials in Knin have never condemned the May 2, 2006 incident when part of the crowd at the soccer match chanted anti-Serb slogans.<sup>68</sup>

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<sup>66</sup> Hina-Croatian News Agency, “Mesić posjetio napadnute obitelji u Biljanima Donjim” (“Mesić Visited the Families Attacked in Biljane Donje”), Index.hr, July 26, 2006, [www.index.hr/clanak.aspx?id=323159](http://www.index.hr/clanak.aspx?id=323159) (accessed July 26, 2006).

<sup>67</sup> Human Rights Watch telephone interview with an officer in the OSCE Field Sisak, June 6, 2006.

<sup>68</sup> Human Rights Watch interview with Dragan Jerković, president of the Council of the Serb National Minority in Knin, May 12, 2006.

## Employment Discrimination

Widespread unemployment continues to thwart integration of returning Serbs in Croatia. Although there are no statistics available on the unemployment rate among them, interviews with returnees, and other information, indicate that their access to work is limited, particularly in public services and in the local administration. Employment discrimination on ethnic grounds is difficult to prove, particularly in areas of high unemployment, but some elements give rise to concern about denial of equal opportunities for employment to the returning Serbs.

Beyond discrimination, Serbs have difficulty getting government jobs because of Croatian laws that give priority to “defenders,” that is, those who were members of the Croatian armed forces during the war. The preference for defenders encompasses not only state administration, the judiciary, and executive bodies and administration of self-government units, but extends to public services and enterprises owned exclusively or predominantly by the state.<sup>69</sup> During the war years, large numbers of Croatian men were in the armed forces and now have the status of defenders.

In December 2002 parliament enacted the Constitutional Law on National Minorities, which obliges the state to ensure proportionate representation of minorities in the state (national government) administration and the judiciary, as well as the executive bodies and administration of municipalities, towns, and counties.<sup>70</sup> The law does not cover employment in the public services or state-owned enterprises. For over two years the law was little more than a political proclamation, because of the absence of implementing legislation, but in 2005 parliament adopted several laws requiring that the provisions of the Constitutional Law on National Minorities on the representation of national minorities be taken into consideration in the decisions on employment. These laws are:

- Law on Civil Service<sup>71</sup>
- Law on Amendments to the Law on Local and Regional Self-government<sup>72</sup>
- Law on Courts<sup>73</sup>

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<sup>69</sup> Law on the Rights of Croatian Defenders from the Homeland War and the Members of Their Families, *Narodne novine*, no. 174/2004, December 10, 2004, article 35.

<sup>70</sup> Constitutional Law on National Minorities (CLNM), articles 19-22.

<sup>71</sup> Law on State Employees, *Narodne novine*, no. 92/2005, July 27, 2005, article 42 (2).

<sup>72</sup> Law on Amendments to the Law on Local and Regional Self-Government, *Narodne novine*, no. 129/2005, October 31, 2005, article 20 (introducing article 56a in the Law on Local and Regional Self-Government).

In July 2003, Croatian parliament adopted amendments to the Labor Law, which prohibit discrimination on the basis of ethnic origin, among other grounds.<sup>74</sup> However, Human Rights Watch has not received any information during the research for this report that would indicate that Serb returnees are making use of the provision, or even have knowledge of its existence.

As discussed below, the limited number of Serbs employed in local government and the judiciary suggests that further efforts are necessary to ensure greater employment opportunities for Serbs in state employment.

In contrast to the poor record of employing Serbs in public agencies, local government and the judiciary, the private sector has taken initiatives to bring Serbs into the workforce:

- About fifteen Serb returnees have gotten jobs in recent years at the hotel “Mazzola” in Korenica and in a restaurant with the same name, both owned by a local Croatian businessman.<sup>75</sup>
- In May 2006, when Human Rights Watch interviewed Danica Kovačević, a university-educated woman who had tried unsuccessfully to find a job in her profession (tourism) in the state-run national park Plitvička Jezera, she was working in a Croat-owned sawmill in Mazin, in Udbina municipality, which employs nine Serbs and one Croat.<sup>76</sup>
- Croat owners of restaurants and shops in Knin are also open to employing workers regardless of their ethnicity.<sup>77</sup>
- A number of Serbs are employed in the three main factories in Vojnić: “Keramika,” “Kaplast,” and “Drvoproizvod.”<sup>78</sup>
- “Auto-transport,” a shareholding company in Karlovac, employs a dozen Serb returnees as bus drivers, in addition to eight Serb drivers who stayed in Croatia after the war, and forty Croat drivers.<sup>79</sup>

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<sup>73</sup> Law on Courts, *Narodne novine*, no. 150/2005, December 21, 2005, article 74 (7) and (8).

<sup>74</sup> Organization for Security and Co-operation in Europe, Mission to Croatia, *Status Report No. 13*, December 2003, p. 9.

<sup>75</sup> Human Rights Watch interview with an officer in the OSCE Field Office Gospić, May 19, 2006; Human Rights Watch telephone interview with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7, 2006.

<sup>76</sup> Human Rights Watch interview with Danica Kovačević, Bruvno, May 19, 2006.

<sup>77</sup> Human Rights Watch interview with Jovan Tišma, head of the office of the Serb Democratic Forum in Knin, May 10, 2006.

<sup>78</sup> Human Rights Watch interview with Dragić Popović, head of the office of the Serb Democratic Forum in Vojnić, May 17, 2006.

## **Local Administration**

In the municipalities, towns, and counties to which most returns have taken place, few Serb returnees are employed in local government. Allegations about employment discrimination in the administration are difficult to corroborate, because of the scarcity of available jobs and sparse information on Serb applicants. It is telling, however, that in the areas in which Serbs form a substantial part of the population they are usually not employed in local government where ethnic Croat parties dominate. By contrast, in the municipalities in which Serb parties rule or are the major partners in the ruling coalitions, both Serbs and Croats work in the administration. While this is not conclusive evidence that the Croat-dominated authorities stifle access of Serbs to work in the municipal or county administration, it raises legitimate concerns that it may be the case.

In Knin, none of the thirty-three employees in the town's administrative bodies is a Serb, although 21 percent of the population at the time of the 2001 census was Serb.<sup>80</sup> The situation is identical in the towns of Glina (29 percent of the population of Serb ethnicity)<sup>81</sup> and Pakrac (17 percent),<sup>82</sup> as well as in Ličko-Senjska county (12 percent).<sup>83</sup> In the municipality of Plitvička Jezera, where Serbs make up 31 percent of the population, there are no Serb returnees among the thirteen persons employed in the municipal administration.<sup>84</sup> In contrast, in the municipality of Gvozd, in which a Serb party dominates the ruling coalition, six out of eight employees in the local administration are ethnic Serbs.<sup>85</sup> In Udbina, where a Serb party rules alone, six Serbs and three Croats work in the municipal administration.<sup>86</sup> In the neighboring municipality

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<sup>79</sup> Human Rights Watch interview with Petar Linta, bus driver in "Auto-transport," Gornji Sjeničak (near Karlovac), May 6, 2006.

<sup>80</sup> Human Rights Watch interview with an officer in the OSCE Field Office Knin, May 12, 2006; Human Rights Watch interview with Dragan Jerković, president of the Council of the Serb National Minority in Knin, May 12, 2006.

<sup>81</sup> Human Rights Watch telephone interview with Jelena Sužnjević, head of the office of the Serb Democratic Forum in Glina, June 14, 2006.

<sup>82</sup> Human Rights Watch telephone interview with Obrad Ivanović, head of the office of the Serb Democratic Forum in Pakrac, June 14, 2006.

<sup>83</sup> Human Rights Watch interview with an officer in the OSCE Field Office Gospić, May 19, 2006.

<sup>84</sup> Human Rights Watch telephone interview with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7, 2006.

<sup>85</sup> Human Rights Watch telephone interview with Jelena Sužnjević, head of the office of the Serb Democratic Forum in Gvozd, June 14, 2006.

<sup>86</sup> Human Rights Watch telephone interview with Stanko Momčilović, mayor of Udbina, June 6, 2006. According to the mayor of Udbina, it was relatively simple to ensure a greater participation of Serbs: "We first won municipal elections in 2001, and then again in 2005. In 2001, there were four persons working in the municipality, all ethnic Croats. In the meantime, some posts got vacated. Also, because of the return of Serbs, the overall number of people in Udbina municipality has increased compared to 2001, so there has been a need to employ additional persons."

of Donji Lapac, eight Serbs and five Croats are employed in the administrative apparatus, in addition to the head and deputy head of the municipality (both are Serbs).<sup>87</sup>

In some instances where administrative positions in majority-Croat municipalities become available and Serb returnees learn about them, there are discrimination concerns. In May 2006, the head of the local Council of the Serb National Minority in Knin told Human Rights Watch that two posts were available at the town's administration—one in the Department of Economics and the other in the office of the mayor, dealing with issues of infrastructure—and the Serb community proposed two experienced candidates for the posts. According to the head of the local Serb council, some parties in the town's all-Croat ruling coalition blocked the appointment of these candidates.<sup>88</sup> In Plitvička Jezera, the local authorities allegedly intended in 2005 to open a position for a person whose task would be to create economic projects to be submitted for funding to the European Commission under the so-called Regional Operative Programs. After the Serb party that acts as the junior partner in the ruling coalition insisted that a Serb be appointed to the post, the Croat party in the coalition abandoned the plan to create the post.<sup>89</sup>

It appears that in some areas in which Croat parties hold local power Serbs rarely learn about the available administrative positions. Vacancy notices are usually made in the Official Gazette or local newspapers, which are not widely read by Serbs or Croats. The key to learning about a vacancy is to receive the information directly from someone working in the administration. The mayor of Udbina, a majority-Serb municipality which belongs to Ličko-Senjska county, told Human Rights Watch:

When we asked the county authorities in Gospić why there were no Serbs in the county administration, they responded that Serbs didn't apply for positions. That may be so, because our people don't learn about vacancy announcements.<sup>90</sup>

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<sup>87</sup> Human Rights Watch telephone interview with Milan Đukić, deputy mayor of Donji Lapac, June 7, 2006.

<sup>88</sup> Human Rights Watch interview with Dragan Jerković, president of the Council of the Serb National Minority in Knin, May 12, 2006.

<sup>89</sup> Human Rights Watch telephone interview with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7, 2006.

<sup>90</sup> Human Rights Watch telephone interview with Stanko Momčilović, mayor of Udbina, June 6, 2006.

Similarly, a Serb member of the town council in Glina told Human Rights Watch that it would be very difficult for Serbs to learn about vacancies in the town's administration.<sup>91</sup>

Encouraging greater numbers of Serb applicants is an essential precondition to increased representation of Serbs in local government employment. Local authorities should therefore ensure that local Serbs are notified of job openings in the offices of county and municipal administration. For that purpose, local authorities should establish communication with the elected councils of the Serb national minority, which have been established in recent years on the basis of the December 2002 Constitutional Law on National Minorities, and with the offices of the Serb Democratic Forum, a respected nongovernmental group with years of experience in direct communication with the returnee population.

### ***Judiciary***

Only thirty-four of Croatia's nearly fifteen hundred judges are ethnic Serbs.<sup>92</sup> The figure amounts to 2.3 percent of all judges in the country. Serbs made up 4.5 percent of the population at the last census. While that level of overall representation may not therefore appear especially problematic, in areas of return there are almost no Serbs sitting as judges.

A group of experienced middle-aged Serb judges have for years tried to find jobs as judges in Kordun and Banija, returnee areas, without success. Each of them had worked as a judge in the self-declared Croatian Serb entity during the war. They include Ninko Mirić, former president of the court in Vojnić and (after his return to Croatia), a lawyer with the Norwegian Refugee Council, and Radovan Jović, a former judge in Croatia and international judge in Kosovo. Given their professional qualifications, the inability of Mirić, Jović, and other qualified Serb judges to obtain appointments suggests that other factors are being taken into account.

### ***Public Services and Government-owned Enterprises***

Schools, hospitals, post offices, forestry enterprises, national parks, and kindergartens in Croatia employ very few Serbs. With very sporadic exceptions, the situation is virtually the same in most areas of return: Pakrac, Glina, Gvozd, Vojnić, Krnjak, Plaški, Plitvička

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<sup>91</sup> Human Rights Watch telephone interview with Nikola Sužnjević, member of the town council in Glina, June 14, 2006.

<sup>92</sup> The total number of judges is 1,492. Government of the Republic of Croatia, "Izvešće o provedbi Ustavnog zakona o pravima nacionalnih manjina u Republici Hrvatskoj za 2003. i 2004. godinu" ("Report on the Implementation of the Constitutional Law on the Rights of National Minorities in the Republic of Croatia in 2003 and 2004"), February 2006, p. 40 (table).



Jezerca, and Knin.<sup>93</sup> The relatively high number of jobs available in those services and enterprises, and the accounts of Serbs who unsuccessfully applied, give rise to credible concerns about discrimination in hiring decisions.

Public education is a characteristic branch in which Serb returnees have little access to employment. In the two primary schools in Knin, there are no Serbs among the tenured teaching staff.<sup>94</sup> The situation is similar in most schools in other return areas, such as Krnjak, Vojnić, Plitvička Jezera, and Donji Lapac.<sup>95</sup> A few Serbs work in those schools on a part-time basis, in the supplementary courses in Serb literature and history.

Human Rights Watch interviewed two Serb schoolteachers who have for a number of years tried without success to get a job in their profession. Forty-nine-year old Branko Vasiljević, from Knin, has failed to find a job as a gym teacher since 1996, despite having teaching experience in pre-war Croatia and a university degree. He told Human Rights Watch that he has applied for teaching posts around fifteen times, in Knin and elsewhere in Croatia, but has never even been called to a job interview.<sup>96</sup> The circumstances strongly suggest that his Serb ethnicity was a factor.

Forty-five-year-old Nada Plećaš returned in 2001 to Krnjak, a municipality twenty-five kilometers south of Karlovac. Before the war she had taught children in the Krnjak primary school for ten years. She has a degree from the Pedagogy Academy in Zagreb.

I applied five times for job openings in the school. Only once, in autumn 2004, they invited me to an interview. The director of the school told me that I had been absent from the Croatian educational system for too long. So they chose a Croat woman who had the same

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<sup>93</sup> Human Rights Watch interviews with Rade Kosanović, head of Krnjak municipality, Krnjak, May 4 (Krnjak has a 70 percent Serb (returnee) population); Radmila Medaković, former mayor of Plaški, currently head of the local branch of the Independent Democratic Serb Party, Plaški, May 5; Jovan Tišma, head of the office of the Serb Democratic Forum in Knin, May 10; and Dragić Popović, head of the office of the Serb Democratic Forum, Vojnić, May 17, 2006. Human Rights Watch telephone interviews with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7; Obrad Ivanović, head of the office of the Serb Democratic Forum in Pakrac, June 14; and Jelena Sužnjević, head of the office of the Serb Democratic Forum in Glina, June 14, 2006.

<sup>94</sup> Human Rights Watch interview with Jovan Tišma, head of the office of the Serb Democratic Forum in Knin, May 10, 2006.

<sup>95</sup> Human Rights Watch interviews with Rade Kosanović, head of Krnjak municipality, Krnjak, May 4; and Dragić Popović, head of the office of the Serb Democratic Forum in Vojnić, May 17, 2006. Human Rights Watch telephone interviews with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7; and Milan Đukić, deputy mayor of Donji Lapac, June 7, 2006 (Donji Lapaca has a 90 percent returnee population).

<sup>96</sup> Human Rights Watch telephone interview with Branko Vasiljević, Knin, May 14, 2006.

qualifications as me, but the school has to pay her travel expenses because she comes here every day from Karlovac. I had also applied in four other schools, in Karlovac and the surrounding villages. But now I've given up, although I don't know what I'm going to live on.<sup>97</sup>

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<sup>97</sup> Human Rights Watch telephone interview with Nada Plečaš, Krnjak, May 9, 2006.

## Access to Electricity

In some areas of return, including Kordun, Banija, and the surroundings of Benkovac, numerous traditionally Serb villages lack access to electricity, in contrast to the Croat majority villages in the same area. The electricity grid in the villages was destroyed during the war. Serb villages are often poorly inhabited, so it may not always appear warranted to invest in their infrastructure. However, the small number of inhabitants in many Serb villages is to a significant extent a result of the poor infrastructure. There is evidence that the differing treatment of Serb and Croat villages has in some instances reflected discrimination on the grounds of ethnicity.

A report prepared by the Croatian Electrical Company (HEP) in April 2006 lists 137 (predominantly Serb) villages in Croatia without electricity.<sup>98</sup> These villages are often close to Croat villages with electricity.

In the Benkovac area, the Croat village of Polača, for example, is a vibrant place with hundreds of newly built houses. Two kilometers away, two Serb villages belonging to the same municipality, Lišane Tinjske and Jagodnja Gornja, stand in stark contrast. Although the government has recently reconstructed some forty houses in Lišane Tinjske (there were 120 homes prior to the war), fewer than a dozen persons currently live in the village.<sup>99</sup> Lišane Tinjske does not have electricity, and half of the village does not have running water. The village is also littered with rubble from bricks, concrete, and other material from the houses destroyed in Polača during the war, which was transported to Lišane Tinjske during Polača's reconstruction in the second half of the 1990s.<sup>100</sup>

In Jagodnja Gornja, two-thirds of the village does not have electricity, although returns to the village began in 1998 and more than twenty households are inhabited in the parts of the village without electricity.<sup>101</sup> In the words of one resident:

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<sup>98</sup> On file with Human Rights Watch.

<sup>99</sup> Human Rights Watch interview with M.L., Lišane Tinjske, May 11, 2006. Another man, originally from Lišanje Tinjske, is renting a house in the nearby regional center Zadar and occasionally visits his house in the village. He told Human Rights Watch that he would immediately return if the village was connected to the water supply system. He added, "But without water, how could I live here?" Human Rights Watch interview with S.D., Lišane Tinjske, May 11, 2006.

<sup>100</sup> Human Rights Watch interview with Glišo Kolundžić, head of the office of the Serb Democratic Forum in Benkovac, May 11, 2006.

<sup>101</sup> Human Rights Watch interview with S.G., Benkovac, May 11, 2006.

If there were electricity, younger people would return, because they are struggling where they live now. The president of the municipality told us in 2004 that the money for the electrification had been approved, but nothing happened afterwards.<sup>102</sup>

The Croat hamlet of Ivkovići, in the village of Dobropoljci (near Benkovac) was connected to the electrical grid in 2002. The hamlet lies in the municipality of Lišane Benkovačke. Connecting the hamlet involved extending the grid from the village of Brgud, some ten kilometers away.<sup>103</sup> Yet the extension failed to connect the Serb-inhabited hamlets of Dobrići and Ponoša in the same village, where nine families live. Dobrići and Ponoša also lack a mains water supply.<sup>104</sup>

In the area of Plitvička Jezera, in the ethnically mixed village of Donji Vaganac, the Croat part of the village has electricity and water. The Serb part, located a few hundred meters away, lacks both, although eight or nine Serb households live there.<sup>105</sup>

Human Rights Watch inquired with the Croatian government as to the reason for the failure to connect Lišane Tinjske, Jagodnja Gornja, Dobropoljci, and Donji Vaganac to the power grid. In a written response, the Ministry of Maritime Affairs, Traffic, Tourism and Development explained that the Croatian Electrical Company had not considered these villages a priority because of the high cost of connecting the households in these villages to the power grid. Jagodnja Gornja and Donji Vaganac figure among the villages to be connected to the grid during 2006, while electrification of Lišane Tinjske and Dobropoljci is envisaged for 2007.<sup>106</sup>

Poor infrastructure affects the security situation. A number of incidents in 2005 (as the Ministry of Interior report for 2005 indicates) and 2006 occurred in the villages without electricity, where perpetrators, acting under cover of darkness, damaged the facades or windows of Serb houses, or broke in. Even where the primary motive is to steal rather than to intimidate, these incidents create a sense of insecurity among the Serb

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<sup>102</sup> Ibid.

<sup>103</sup> Human Rights Watch email communication with OSCE Field Office Zadar, June 6, 2006; Human Rights Watch interview with Slobodan Ležajić, activist of the Serb Democratic Forum, Dobropoljci, May 11, 2006.

<sup>104</sup> Human Rights Watch interview with Nenad Dobrić, local resident, Dobropoljci, May 11, 2006.

<sup>105</sup> Human Rights Watch telephone interview with Nikola Lalić, head of the office of the Serb Democratic Forum in Korenica, June 7, 2006.

<sup>106</sup> Email communication with a spokesperson from the Ministry of Maritime Affairs, Traffic, Tourism and Development, July 13, 2006.

community. Places with electricity are usually more populated, which might also serve to deter perpetrators.

Up until 2004, the selection of the specific villages to be connected to the electricity grid in the respective year was made by the county offices of the state-owned HEP. Decisions were based on lists of priorities submitted by the local government,<sup>107</sup> which is largely controlled by Croat parties. Since 2004, information from the Ministry of Maritime Affairs, Traffic, Tourism and Development on the number of houses reconstructed and envisaged for reconstruction in a given settlement has played a significant role in determining HEP priorities.<sup>108</sup>

With the current pace of electrification, it would take an additional six years to restore electricity to all settlements in areas of return.<sup>109</sup> Stanko Janić, assistant minister in the Ministry of Maritime Affairs, Traffic, Tourism and Development told Human Rights Watch in May 2006 that HEP had twice as much funds available than in the previous years, and that the government has decided to invest its part of the profit from HEP's activities into intensified electrification efforts. He said that in light of these changes the process might take two years to complete, instead of six.<sup>110</sup> It is important that the Croatian government abide to such an expedited timetable.

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<sup>107</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

<sup>108</sup> Human Rights Watch interview with Stanko Janić, assistant minister of maritime affairs, traffic, tourism and development, Zagreb, May 8, 2006.

<sup>109</sup> Electrification of the remaining villages would require 300 million kuna (U.S.\$52.1 million), and the average annual expenditure in the past years was 50 million. Human Rights Watch interview with Stanko Janić.

<sup>110</sup> *Ibid.*

## Agricultural Land

After the war, a local government commission for temporary takeover and administration of abandoned properties in Benkovac municipality authorized ethnic Croats to use the land of ethnic Serbs who had fled the area. In dozens of additional cases, Croats took over use of the land of local Serbs in the wider Benkovac area without having ever received authorization from the authorities. The land in the area contains exceptionally fertile soil, which partly explains why land occupation occurred in Benkovac, and Serbs were hesitant for a long time after the war to return there because of the precarious security situation, which made it easy for the Croat occupants to use the land. However, dozens of Serb owners of the occupied land have now returned to the Benkovac area, but they are unable to use their land. According to the Serb Democratic Forum, at least 127 plots of land in the area continue to be used by persons other than the owners.<sup>111</sup>

The land used on the basis of commission authorizations is mainly located in the area of Buković, a village between Benkovac and the Adriatic coast. Land owners and the OSCE do not know the precise number and identity of the persons using the land.<sup>112</sup> The OSCE has copies of four 1996 allocation authorizations, each concerning a number of properties. However, local authorities have told the OSCE that eight such authorizations actually exist.<sup>113</sup>

The authorizations to use the land were issued to Croat settlers or refugees from the province of Vojvodina (in Serbia), for a period of eight years.<sup>114</sup> A clause in the authorizations prohibited changing the crop grown in the particular land plot.<sup>115</sup> The eight-year periods expired in 2003 and 2004. The individuals nevertheless continue to use the plots. Some occupants have transformed the plots into major agricultural enterprises where they grow fruits or vegetables other than those cultivated previously by the owners.<sup>116</sup>

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<sup>111</sup> "Dok država proklamira toleranciju prema manjinama, Srbima povratnicima se krše elementarna ljudska prava" ("While The State Proclaims Tolerance toward Minorities, Basic Human Rights of Serb Returnees Are Being Violated"), Serb Democratic Forum press release, June 4, 2006, [www.sdf.hr/news/zadar.html](http://www.sdf.hr/news/zadar.html) (accessed June 14, 2006).

<sup>112</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

<sup>113</sup> Human Rights Watch email communication with OSCE Field Office Zadar, June 6, 2006.

<sup>114</sup> Human Rights Watch interview with an officer in the OSCE Field Office Zadar, May 15, 2006.

<sup>115</sup> Human Rights Watch interview with the staff of the Dalmatian Committee of Solidarity, Zadar, May 15, 2006.

<sup>116</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006.

Additional plots in villages in the wider Benkovac area are also used by persons other than the Serb returnees, although the authorities never allocated the land for temporary use. In one of the villages, Jagodnja Gornja, most landowners do not know who is using the land. Many are afraid to make inquiries by themselves, because of threatening responses on the part of the illegal users in the few instances in which the owners tried to establish contact with them, and because of the generally unfavorable security environment for the returnees in the area.<sup>117</sup>

In those instances in which returnees know who is using the land, they are unable to put an end to the practice. Most are elderly and impoverished and unable to engage in complicated legal proceedings, which would require the assistance of an attorney.

One couple, J.Z. and S.Z., both in their late seventies, returned to Jagodnja Gornja in 2001 and have since been unable to use their land (one plot of 2.5 hectares and two smaller plots of 0.6 hectares and 0.4 hectares). The couple told Human Rights Watch that the land is being used by several members of an ethnic Croat family:

We cannot even talk to them; one of the... sons was here once and threatened that he would kill us if we didn't keep our mouths shut. More recently,...[the] twenty-year-old granddaughter brought sheep here at our fence, and when I complained she said, "Shut up you *četnikuša* [female Chetnik], I'll push this stick through your neck." I went to the police but they said there is nothing they could do, because [they] are difficult people. We cannot sue them, because we don't have money. It would be costly and it would take too long.<sup>118</sup>

In 2005, ten landowners in the village sent a written request to the police in Benkovac to look into the issue of the use of their properties by other persons. The police interviewed the owners at the end of 2005, but the owners have heard nothing since then.<sup>119</sup>

The government of Croatia should tackle these serious property rights issues. Government authorities must make the resolution of these cases a priority, speak out publicly on the issue, and ensure that local police are enforcing the law.

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<sup>117</sup> Human Rights Watch interview with S.G., Benkovac, May 11, 2006; Human Rights Watch interview with Glišo Kolundžić, head of the office of the Serb Democratic Forum in Benkovac, May 11, 2006.

<sup>118</sup> Human Rights Watch interview with S.Z., Jagodnja Gornja, May 11, 2006.

<sup>119</sup> Human Rights Watch interview with S.G., Benkovac, May 11, 2006.

In those cases in which the local government issued the allocation authorizations, the national government should take responsibility for resolving the issue. The local government allocated the land on the basis of the national Law on Takeover of Specified Property (1995) in the same way in which abandoned Serb houses were allocated to temporary occupants. The national government eventually took responsibility for returning the houses to the owners, and it should do the same with the allocated land. If the temporary users of the land made investments enhancing the value of the land, any compensation requests should also be directed to the government.



## Reconstruction and Repair of Property

### ***Reconstruction of Houses Destroyed in the War – A Qualified Success***

In the context of refugee return in Croatia, the reconstruction of houses damaged or destroyed during the war has been a relative success story in recent years. Although reconstruction assistance to returning Serbs began only at the end of 2002, there has been real progress since that date. Between January 2004 and January 2006, the government reconstructed 4,139 houses,<sup>120</sup> most of them owned by ethnic Serbs.

Reconstruction has not been an unqualified success, however. As of February 2006, more than three thousand applications for reconstruction were still awaiting first-instance decisions by the local offices of the Ministry of Maritime Affairs, Traffic, Tourism, and Development, although the deadline for the submission of the applications had expired on September 30, 2004.<sup>121</sup> The appeals process for those whose applications have been refused is also “painfully slow,” in the words of an international official.<sup>122</sup> Between January 2004 and January 2006, offices of the ministry issued negative decisions concerning 22,528 requests, compared to 12,830 positive ones.<sup>123</sup> The main office of the ministry, in Zagreb, is deciding on the appeals, and this has created a huge bottleneck. Fewer than five ministry officers are handling the appeals.<sup>124</sup> In practical terms, a prospective returnee may have to wait for years to receive the final decision approving the reconstruction of his or her house.

### ***Slow and Incomplete Repair of Post-war Damage***

After the war and the departure of Serbs, up to twenty thousand Serb houses were occupied by Croat refugees from Bosnia and Herzegovina and Serbia and Montenegro, Croats displaced from other parts of Croatia during the war, and Croats who had housing elsewhere in Croatia but were given abandoned Serb property for temporary use. Almost all of the properties have now been formally repossessed by their Serb owners.

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<sup>120</sup> Nenad Jovanović, “Elektrifikacija će trajati još pet do šest godina” (“Electrification Will Take Additional Five to Six Years”) (interview with Stanko Janić, assistant minister for maritime affairs, traffic, tourism and development), *Novosti* (Zagreb), February 24, 2006.

<sup>121</sup> *Ibid.*

<sup>122</sup> Human Rights Watch interview with UNHCR staff, Zagreb, May 16, 2006.

<sup>123</sup> Nenad Jovanović, “Elektrifikacija će trajati još pet do šest godina” (“Electrification Will Take Additional Five to Six Years”), *Novosti*.

<sup>124</sup> Human Rights Watch telephone interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, June 23, 2006.

Temporary occupants who vacated the houses frequently looted or damaged them prior to their departure.<sup>125</sup> Where there is significant damage, owners are unable to inhabit the house before it is repaired. Although state prosecutors were mandated under the law to sue temporary occupants who intentionally damaged or looted the property allocated to them, few prosecutions have taken place.<sup>126</sup>

In 2005 the government announced that it would repair the damage and adopted a written “conclusion” to that effect.<sup>127</sup> The implementation of the new policy has had a characteristically slow start. Regional offices of the Directorate for Expellees, Returnees, and Refugees have compiled lists of the beneficiaries of the program, and technical teams have most recently started damage assessment. Based on their evaluations, the Ministry of Maritime Affairs, Traffic, Tourism, and Development will provide the fixtures and other material.

The Directorate for Expellees, Returnees and Refugees has compiled a list of 395 beneficiaries.<sup>128</sup> It has been unclear whether the government considers this to be a final list.<sup>129</sup> The government has indicated that it intends only to repair damage that was registered at the time of repossession, in the so-called “PP-11” forms completed by state officials and signed by the owner.<sup>130</sup> If adhered to in practice, this limitation would prevent numerous individuals whose houses had been damaged from receiving the assistance. The forms often underestimated the actual extent of destruction, and in some cases the officials failed to fill out the form at all.<sup>131</sup> In other cases, returnees signed the form despite the fact that it underestimated the extent of the damage, because, as one has put it, “we had waited for the repossession for years, and we were eager to get in. I had to sign or otherwise I wouldn’t have gotten the keys.”<sup>132</sup> In some instances, the

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<sup>125</sup> See Human Rights Watch, “Broken Promises,” pp. 30-32.

<sup>126</sup> Human Rights Watch, “Croatia Returns Update,” p. 7.

<sup>127</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006; Human Rights Watch interview with UNHCR staff, Zagreb, May 16, 2006.

<sup>128</sup> Ibid.

<sup>129</sup> Human Rights Watch telephone interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, June 23, 2006.

<sup>130</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006.

<sup>131</sup> OSCE Mission to Croatia, “Background Report on Property Repossession,” April 27, 2006, p. 3; Human Rights Watch telephone interview with an officer in the OSCE Field Office Sisak, June 6, 2006. Human Rights Watch telephone interview with Nikolina Novaković, lawyer in the Committee for Human Rights, Karlovac, June 6, 2006.

<sup>132</sup> Human Rights Watch interview with Slobodan and Slobodanka Čeko, Knin, May 10, 2006. The couple repossessed their house in Knin in July 2004.

returnees photographed the premises in the house upon reinstatement.<sup>133</sup> In those cases, they should be allowed to seek the corresponding compensation based on this evidence of destruction.

The OSCE estimates that between one thousand and fifteen hundred house owners should be entitled to compensation, because in many instances PP-11 forms did not adequately depict the damage or were not even issued.<sup>134</sup>

In addition, the government list of 395 beneficiaries apparently omitted a significant number of individuals who have PP-11 forms describing substantial damage to the property. Human Rights Watch talked to one married couple in Knin, who are not on the list, although the PP-11 form for their home registered significant damage.<sup>135</sup> Three persons with a similar problem have approached the Committee for Human Rights, a nongovernmental group in Karlovac.<sup>136</sup> The OSCE field office in Sisak has also registered such cases in its area of responsibility.<sup>137</sup>

These omissions speak in favor of establishing a procedure which would enable the house owners to apply directly for the new (2005) repair program, rather than waiting to be assessed for eligibility. They should also be allowed to prove that the damage differed from that indicated in the PP-11 forms. No such procedure existed as of June 2006.<sup>138</sup> One housing official told Human Rights Watch that “people don’t have to apply. We make the list of beneficiaries and let them know that they will receive the assistance.”<sup>139</sup> Given the problems identified above, however, it is necessary to create an additional mechanism to ensure that intended beneficiaries of the program are able to access it.

In those instances in which the returnees themselves made some or all repairs in order to make the house habitable after repossession, the government should provide financial compensation if the returnees have receipts proving the purchase of fixtures or materials used for the repair.

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<sup>133</sup> Human Rights Watch telephone interview with an officer in the OSCE Field Office Sisak, June 6, 2006.

<sup>134</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006.

<sup>135</sup> Human Rights Watch interview with Slobodan and Slobodanka Čeko, Knin, May 10, 2006.

<sup>136</sup> Human Rights Watch telephone interview with Nikolina Novaković, lawyer in the Committee for Human Rights, Karlovac, June 6, 2006.

<sup>137</sup> Human Rights Watch telephone interview with an officer in the OSCE Field Office Sisak, June 6, 2006.

<sup>138</sup> Human Rights Watch interview with an official in the OSCE Mission to Croatia headquarters, Zagreb, May 8, 2006.

<sup>139</sup> Human Rights Watch telephone interview with Željko Softić, head of the office of the Directorate for Expellees, Returnees and Refugees in Knin, June 2, 2006.

## An Effective Remedy before the Courts

Many Serb returnees in Croatia are elderly villagers who are unable to seek enforcement of their rights before the courts because they are often poorly educated and lack the resources to obtain professional assistance from lawyers.

Faced with the continued unauthorized use of Serb agricultural land in the Benkovac area, returnees are refraining from initiating legal proceedings against the occupants, partly because they cannot afford lawyers to assist them.<sup>140</sup> A returnee to his family house in Knin faced a similar problem:

When, in September 2004, the temporary occupant was leaving my house, a dozen people were helping him loading furniture—my furniture—onto a truck. I was standing there and watching how my things go. The police were there, but they asked me, “Are you sure these are your things?” I have not sued anybody, because I don’t have money for a lawyer.<sup>141</sup>

The Croatian government has drafted a law on legal aid, which is expected to be adopted by the end of 2006. Under the draft, any person in need of free legal aid is required to turn to a county office to get an authorization that the person is entitled to legal aid.<sup>142</sup> The expense of traveling to a county office and a complicated application procedure may discourage those in need of legal aid from requesting it.<sup>143</sup>

The draft law also provides that owners of property and immediate family members of the owners are not entitled to such aid.<sup>144</sup> As a result, many returnees may not qualify for free legal aid. Although most Serb returnees depend upon basic agricultural work or small pensions to survive, they usually own a house. The draft law does envisage free legal aid to persons not fulfilling the property requirements if “the reasons of justice so

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<sup>140</sup> See above, “Agricultural Land.”

<sup>141</sup> Human Rights Watch interview with D.M., Knin, May 14, 2006.

<sup>142</sup> Draft Law on Free Legal Aid, final version, June 21, 2005, articles 11 and 12 (on file with Human Rights Watch).

<sup>143</sup> Human Rights Watch interview with Duško Cvjetković, lawyer in the Knin office of the Serb Democratic Forum, May 10, 2006.

<sup>144</sup> Draft Law on Free Legal Aid, final version, June 21, 2005, article 21 (on file with Human Rights Watch).

demand.”<sup>145</sup> It is unclear, however, whether this general provision will be applied in such a way as to encompass returnees.

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<sup>145</sup> *Ibid.*, article 6.

## Conclusion

The Croatian central government in Zagreb has in recent years made welcome gestures toward the Serb minority and has used inclusive language when speaking on inter-ethnic issues.<sup>146</sup> The central government employs fifteen Serbs as advisors or assistant ministers, which helps relations with the Serb minority. In 2005, the government also enacted laws of some significance for the employment of minorities.

It is tempting to ascribe the problems regarding return and reintegration of Croatian Serbs to obstructionism at the local level, which the central government is allegedly unable to curb. It is increasingly apparent, however, that Zagreb's symbolic gestures and limited improvements in the law have been insufficient to address the dire problems facing Serb returnees. There is insufficient political will behind the government's policies to deliver major improvements in the security situation, housing, infrastructure, and employment of Serb returnees. There is little in the messages from Zagreb that would make local officials believe that facilitating Serb return and reintegration is genuinely important.

A Serb member of the local executive board (*poglavarstvo*) in a town in Senjsko-Lička county, where Serbs participate in the ruling coalition dominated by a Croat political party, described the attitude of his colleagues in the executive board as follows:

They are afraid that, if they support greater employment of Serbs in local administration and public services, they will be rebuked from their party hierarchy. If they take measures improving the status of the Serbs, they are taking a risk. If they take no such measures, they are not taking any risk. If they recognized a clear message from Zagreb that provisions of the constitutional law on national minorities about employment should be implemented, they would implement them.<sup>147</sup>

Examples illustrating the failure of the central government to overcome local inertia on improving human rights for Serbs include:

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<sup>146</sup> Prime Minister Ivo Sanader and the Speaker of Parliament Vladimir Šeks, both also the leading persons in the Croatian Democratic Union, have been regularly extending Christmas greetings to Orthodox Serbs since 2004. These symbolic gestures have been widely understood as a major change in the image of the formerly extreme nationalist party.

<sup>147</sup> Human Rights Watch telephone interview with "D.M.", June 6, 2006.

- The failure to consistently condemn ethnic incidents in strong and unequivocal terms;
- The failure to provide leadership to local, county, and state administration in improving the representation of Serbs in employment in the sectors specified by the Constitutional Law on National Minorities;
- The absence of unequivocal public statements about the illegal use of Serb-owned agricultural land in the Benkovac area.

Although Croatia has been making significant economic and political steps in the direction that leads to EU membership, it has yet to demonstrate its commitment to respect fully the human rights of all its citizens, regardless of their ethnicity. It is crucial that the EU use its influence through the accession process to ensure that Croatia makes progress in removing the remaining obstacles to return and reintegration of Serb refugees, and to ensure that all persons in Croatia enjoy equal treatment by the state, irrespective of their ethnicity or other characteristics.

## **Recommendations**

### ***To the Government of Croatia***

#### ***On “housing care” for former tenancy right holders***

- As an urgent matter, issue decisions on applications by former tenancy right holders for housing care in the areas of special state concern.
- Amend the priority list (the “Rulebook”) governing the provision of housing care in the areas of special state concern so that the former tenancy right holders are accorded the same status as the other groups.
- Implement the June 2003 housing care program that would enable former tenancy right holders outside the areas of special state concern to rent or purchase government-owned apartments at below-market rates.
- Enable those beneficiaries of the June 2003 housing care program who opt for renting apartments to purchase those apartments at a later stage, at a rate comparable to the rates at which other former tenancy right holders were given after the war.

#### ***On ethnic incidents***

- Take appropriate preventive measures to protect Serb communities from attack, such as increased patrols in vulnerable areas, and the establishment of telephone hotlines to report incidents for quick response.
- Investigate promptly and thoroughly all reports and incidents of ethnic violence and prosecute those responsible to the full extent of the law.
- Publicly and unequivocally condemn ethnically-motivated violence and express support to minorities at risk.

#### ***On employment***

- Make positive efforts to ensure that Serbs are aware of employment vacancies in government offices and public enterprises.
- Provide leadership to local, county, and state administration in developing strategies to improve the representation of Serbs in employment in the sectors specified by the Constitutional Law on National Minorities.



- Ensure a greater minority representation on recruitment panels in the public services and government-owned enterprises, as a means toward facilitating greater participation of the minorities in the workforce.
- Recruit qualified experienced ethnic Serb judges who seek positions in the Croatian judiciary.
- Make public the statistical data, broken down by geographical area, on the implementation of the legal provisions on the representation of minorities in all state agencies covered by the Constitutional Law on National Minorities.

### ***On infrastructure***

- Make good on the announcement to complete the electrification of majority-Serb villages by mid-2008.

### ***On the illegal use of agricultural land***

- Take responsibility for returning occupied agricultural land in the Benkovac area to its owners, where the occupation was authorized by the local commission on takeover of temporarily abandoned property on terms that have now expired.
- Publicly condemn the illegal use of agricultural land and take all necessary steps to ensure that local police enforce the law to remove illegal users of land owned by Serb returnees.

### ***On repair and reconstruction***

- Expedite the process of issuing first-instance decisions on reconstruction applications for post-war damage to property.
- Expedite the appellate procedure when the first-instance decisions on such reconstruction applications are negative, if necessary by increasing the number of staff working on the appeals in the headquarters of the Ministry of Maritime Affairs, Traffic, Tourism and Development.
- Establish a procedure that would enable the house owners of properties damaged in the pos-war period who are not on the list, compiled by the Directorate for Expellees, Returnees and Refugees, of beneficiaries of the repair program, to apply for and receive reconstruction assistance.
- Allow house owners to prove, where necessary, that the damage at the time of repossession differed from that indicated in the PP-11 forms, and authorize repair of the excess damage.

- In those instances in which the returnees made repairs themselves, provide financial compensation where the returnees have receipts proving the purchase of fixtures or materials used for the repair.

### ***On legal services***

- In the new law on free legal aid, specify that returnees are covered by the general provision that permits persons owning property to obtain qualified legal assistance where their financial status or reasons of justice so demand.
- Consider funding drop-in legal aid clinics to provide general advice on legal matters as a supplement to individual legal aid.

### ***To the European Union***

- Call on the Croatian authorities to take the following actions, and include the actions in the next European Partnership document for Croatia:
  - Expedite the implementation of the June 2003 program that would enable former tenancy right holders in the areas outside the areas of special state concern to rent or purchase government-built apartments at below-market rates.
  - Develop a strategy to address the housing needs of Serb returnees in the areas of special state concern, whose tenancy rights were abolished by the legislation in September 1995.
  - Take appropriate preventive measures to protect Serb communities from ethnically motivated violence, and promptly and thoroughly investigate all reports of ethnic violence.
  - Take positive steps to ensure greater minority representation in government employment.
  - Intensify efforts to ensure greater participation of minorities in the judiciary.
  - Resolve the unlawful occupation of Serb-owned agricultural land in the Benkovac area.
  - Ensure that all intended beneficiaries have access to the program designed to repair post-war damage to previously occupied properties.
- The European Commission should include progress on the above issues in its next regular report on Croatia.

***To the Organization for Security and Cooperation in Europe (OSCE)***

- The OSCE Mission to Croatia should continue regular and public reporting on conditions and policies related to refugee returns and non-discrimination, and the Permanent Council should ensure that its conclusions and recommendations receive adequate consideration and follow up.

***To the International Community***

- Take every opportunity to raise the concerns expressed in this report in bilateral and multilateral dialogues with the Croatian authorities, and press the authorities to take specific steps to address them.

## **Acknowledgments**

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H U M A N  
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## A Decade of Disappointment

### Continuing Obstacles to the Reintegration of Serb Returnees

As many as 350,000 ethnic Serbs fled their homes in Croatia during the 1991–1995 war. As of mid-2006, around 120,000 have returned. Those who return face significant obstacles to the full enjoyment of their human rights. Many leave after a short stay. Returns have been limited despite a raft of government programs designed to promote the return and reintegration of Serb refugees.

*A Decade of Disappointment—Continuing Obstacles to the Reintegration of Serb Returnees* focuses on the main human rights issues affecting Serb returnees. Key concerns identified in the report include: the failure to provide a meaningful solution to the issue of tenancy rights stripped from Croatian Serbs during wartime, a rise in ethnically motivated violence and harassment against Croatian Serbs in areas of return, and the continuing under-representation of Serbs in state employment. The report also describes discrimination in the supply of electricity to Serb returnee communities, slow progress in repair and reconstruction of Serb houses damaged or destroyed in the war, and, in one part of the country, the inability of the Serbs to gain full access to their agricultural land.

With the rate of return slowing significantly in recent years, and large scale returns now unlikely, it is vital to address the predicament of those Serbs who have returned to Croatia. It is especially important now that Croatia has become an official candidate for membership in the European Union.

The report contains concrete recommendations to the government of Croatia to address the housing, security, employment, infrastructure, and land issues identified in the report, as well as to the European Union.

*Croatian Serb returnees in a village near Zadar, Croatia, May 2004.*

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