

## CROATIA

### IMPUNITY FOR ABUSES COMMITTED DURING “OPERATION STORM” AND THE DENIAL OF THE RIGHT OF REFUGEES TO RETURN TO THE KRAJINA

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## INTRODUCTION

One year ago, on August 4, 1995, the Croatian Army launched "Operation Storm," an offensive to retake the Krajina region, which had been controlled by separatist ethnic Serbs since early 1991. The offensive, which lasted a mere thirty-six hours, resulted in the death of an estimated 526 Serbs, 116 of whom were reportedly civilians, and in the displacement of an estimated 200,000 who fled in the immediate aftermath.<sup>1</sup> However, while the Croatian military committed violations of humanitarian law during the course of the offensive such as the bombardment of a column of retreating Serbian civilians and soldiers which caused deaths among the civilians, the vast majority of the abuses committed by Croatian forces occurred after the area had been captured. These abuses by Croatian government forces, which continued on a large scale even months after the area had been secured by Croatian authorities, included summary executions of elderly and infirm Serbs who remained behind and the wholesale burning and destruction of Serbian villages and property. In the months following the August offensive, at least 150 Serb civilians were summarily executed and another 110 persons forcibly disappeared.

In addition to those who fled during the offensive itself, those who remained in their homes or returned to their homes in the weeks after the offensive were ultimately forced to flee the area because of the widespread and systematic nature of abuses by Croatian government agents. The scope and time-frame of the abuses indicate that the Croatian government both was aware of the looting, burning and killing and allowed it to continue with impunity. High-ranking Croatian government officials, particularly those affiliated with the Croatian Defense Ministry, are complicit in these crimes because they did nothing to stop them. In particular, Gojko Susak, Croatia's defense minister; Zvonimir Cervenko, commander and chief of staff of the Croatian Army; and Gen. Ivan Cermak, commander of the Croatian Army's Knin corps, should be made to answer for having permitted such abuses to proceed unimpeded. President Tudjman, who despite his initial conciliatory rhetoric calling for Serbs to remain in the Krajina area allowed attacks against them to continue for months after the offensive, should also be held accountable for the conduct of Croatian troops. Local human rights monitors report that an estimated eighty elderly Serb civilians were executed in the months from November 1995 to April 1996, long after the Croatian government had asserted control over the region and promised it would guarantee the safety of the Serbs living in the Krajina area.

On August 4, 1995, President Tudjman issued a statement indicating the Croatian government's determination to "put an end to the suffering and uncertainty of Croatian displaced persons from the occupied areas, and to guarantee to the Croatian Serbs human and ethnic rights within the constitutional and legal order of democratic Croatia." Despite such statements, the Croatian government not only failed to prevent ongoing abuses against ethnic Serbs, but also created a series of unnecessary bureaucratic obstacles and delays that have prevented most ethnic Serbs from the Krajina from returning to their homes. Although President Tudjman's rhetoric would appear to support a multi-ethnic Croatia, his government has pursued and continues to pursue the policies of ethnic separatism that have been his goal throughout the war in the former Yugoslavia.

In the year since the offensive, the Croatian government has done little to hold accountable those responsible for the most serious abuses against ethnic Serbs during the offensive. Croatian police officers and members of the Croatian Army who committed summary executions, disappearances, torture and other physical mistreatment, arson, theft and destruction of whole villages have, with few exceptions, enjoyed complete impunity for their crimes. Human Rights Watch/Helsinki has no information that would support the Croatian government's claims that it has sought accountability for the crimes committed against Serbs since August 1995.

Although professing its commitment to the speedy return of Krajina refugees to their homes, the Croatian government has created numerous legal and practical impediments to that return. Most Serbs from the Krajina region have been denied Croatian citizenship because their only identity documents were issued by the Republika Srpska Krajina (RSK) authorities. Other documents that might prove their identity were left behind when they fled the Krajina

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<sup>1</sup> In addition, Croatian authorities reported that 211 Croatian soldiers and police officers and forty-two Croatian civilians were killed during "Operation Storm."

during the offensive, and they are unable to return home to obtain these documents. By April 1, 1996, only 3,000 of the estimated 200,000 Serb refugees from Croatia had returned to their homes.

The international community has a duty to insist that Croatia fulfill its human rights obligations to facilitate the repatriation of refugees. Especially countries with close diplomatic relations with Croatia, such as the United States and Germany, should use their influence -- both diplomatic and economic -- to insist on the right of ethnic Serbs from Krajina to return to their homes in safety and security.

To create a safe environment for repatriation, it is particularly important that those responsible for serious abuses in the Krajina region be punished for their deeds. Without such justice -- without the emergence of rudimentary rule of law -- few refugees will be willing to attempt to rebuild their lives in Croatia.

## RECOMMENDATIONS

### To the Croatian Government<sup>2</sup>

- Investigate and make known the fate of those who remain missing from the Krajina offensive of August 1995, and make the remains of those killed during the offensive available to independent forensic pathologists who can determine the cause of death. All those responsible for serious abuses of humanitarian or human rights law during and after the offensive must be prosecuted and punished.
- Guard possible or actual grave sites identified since the Krajina offensive to prevent tampering until proper exhumations can be conducted.
- Allow Serbs displaced from Croatia who wish to return to their homes to do so without unnecessary impediments, and without fear of persecution. To that end, the following steps should be taken:
  - Annul the "Decree on the Temporary Take-Over and Administration of Certain Property" and reverse the *de facto* expropriations of Serbian property by the Croatian government since the law's adoption in September 1995.
  - Simplify and expedite procedures related to the granting of citizenship and the issuance of other necessary documents related to property ownership, residency and welfare benefits for Serbs wishing to return to Croatia.
  - Arrest, prosecute and punish all those responsible for crimes committed during "Operation Storm," particularly members of the Croatian military and police force. These trials should be conducted in public according to due process norms.
  - Increase the number and effectiveness of civilian police patrols throughout the Krajina region to prevent inter-ethnic violence and harassment between returning or remaining Croats and Serbs.
  - Continue to allow international human rights and police monitors to maintain a presence and operate freely in areas formerly held by RSK forces and which have now been, or are scheduled to be, returned to Croatian government control.

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<sup>2</sup>These recommendations deal primarily with issues related to "Operation Storm." Other recommendations regarding violations of civil and political rights in Croatia and human rights violations in Bosnian Croat-controlled territory under Zagreb's *de facto* control are contained in Human Rights Watch/Helsinki, *Civil and Political Rights in Croatia*, (New York: Human Rights Watch, October 1995), pp. 103-10, and Letter to Niels Helveg Petersen, Chairman, Committee of Ministers, Council of Europe, from Holly Cartner, Executive Director, Human Rights Watch/Helsinki, April 22, 1996.

- In addressing abuses by Serb forces in the Krajina region before the reassertion of Croatian control, conduct investigations and prosecutions only in accordance with due process norms with all trials held in a public forum. Guilt should be determined exclusively on an individual basis. Collective blame must not be attributed to all Serbs in Croatia, nor used as an excuse to prevent their repatriation. Not all Serbs who remained in RSK territory can be considered “war criminals,” nor can all those who were members of the RSK military -- effectively every male between the ages of eighteen and fifty-five -- be tried for “war crimes.” Those Serbs who remain in detention as alleged “war criminals” and against whom no credible evidence exists must be released immediately.

### **To the United States Government and to Members of the European Union**

In 1994, the United States and Croatia signed a military cooperation agreement providing for increased contacts between the U.S. and Croatian armed forces, including access to a Defense Department training program.<sup>3</sup> Indeed, retired U.S. military officers had been training the Croatian military for months prior to the Krajina offensive, and U.S. military cooperation with Croatia continues. To a large extent, the U.S. has joined, or even replaced, Germany as Croatia’s major backer in international fora. It is therefore incumbent upon Washington to use its economic and political leverage to encourage President Tudjman and members of the Zagreb government to end abuses in Croatia and areas under *de facto* Croatian government control in Bosnia, as well as to underscore that the failure to do so will adversely affect Croatia’s full membership in regional military institutions, namely the Partnership for Peace, and future eligibility for reconstruction and economic aid.

To their credit, both the U.S. and the E.U. criticized the Croatian government for its “scorched earth” policy following “Operation Storm.” However, U.S. criticism of the abuses was somewhat belated, given the fact that, during the first days of the offensive, Washington was generally supportive of the Croatian government’s attempt to reclaim the Krajina region and lift the siege of Bihac. During a trip to Croatia in late September 1995, U.S. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck criticized the execution of Serbs and the destruction of their property during and after the Krajina offensive, calling for accountability for those guilty of war crimes and criticizing the law “temporarily” expropriating Serbian property.<sup>4</sup>

On August 4, 1995, almost as soon as the Croatian Army launched its offensive in the Krajina area, the European Union announced that it was suspending both negotiations on a trade and cooperation agreement with Croatia and the implementation of its PHARE programs for Croatia. The move appeared to be motivated by irritation with Croatia for having resorted to military means to regain control of its territory. The E.U. issued statements, both as a single block and as individual governments, condemning the abuses. Negotiations between the E.U. and Croatia on the trade and cooperation agreement, which according to its human rights clause is conditioned on full respect for human rights and democratic principles, remain suspended.

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<sup>3</sup>Alan Cowell, “U.S. Builds Influence in Croatia,” *The New York Times*, August 1, 1995.

<sup>4</sup>Statement to the Press by Assistant Secretary Shattuck, Zagreb, Croatia, September 30, 1995, as reported by the U.S. Department of State, Washington, D.C.

On March 15, 1996, Croatia signed a document formally committing itself to a series of twenty-one steps in order to qualify for admission to the Council of Europe. Among the commitments made by Zagreb are: signing and ratifying regional human rights and other instruments and conventions; protecting the rights of Serbs in the former U.N. Protected Areas (UNPAs) and facilitating their right to repatriation and recovery of their property or compensation for loss thereof; complying with the terms of the Dayton accords and with the United Nations Transitional Authority for Eastern Slavonia (UNTAES) mission; proceeding with democratic reform of the media so as to end the government's monopoly and guarantee that a variety of views have access to the media; and ending the government's refusal to allow a member of the opposition to become mayor of Zagreb.<sup>5</sup> The parliamentary assembly of the Council of Europe voted to admit Croatia as a member on April 24, 1996.<sup>6</sup> Although the Council's Committee of Ministers was expected to confirm the decision of the parliamentary assembly soon after, it decided to postpone Croatia's membership pending democratic reform on May 14 in response to the Tudjman government's summary dissolution of the Zagreb city council, dominated by the opposition. On May 29, 1996, the Parliamentary Assembly of the Council of Europe suggested that Croatia's membership into the Council be postponed indefinitely because of its blatant disregard for commitments it made in the March 15, 1996, document. In late May and early June 1996, the Council of Europe's Parliamentary Assembly and Committee of Ministers specified fourteen conditions that Croatia must meet before it can become a member of the Council of Europe. These conditions include unconditional cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), including the arrests and apprehension of indicted war criminals; the reunification of Mostar, which is being obstructed by Croatian government surrogates in the area; the return of Serb refugees from Krajina; and the holding of democratic elections for Zagreb mayor. Following the adoption of a law that effectively criminalizes speech "damaging to the reputation of" Croatia's president, prime minister, parliamentary president, and presidents of the constitutional and supreme courts, the Council of Europe also set respect for freedom of the press as a precondition to Croatian membership in the Council. On June 6, the European Parliament adopted a resolution which urged President Tudjman and the Croatian government to comply as soon as possible with the fundamental principles of human rights and democracy as laid down in the European Convention, and embraced the decision by the Council of Europe to make Croatia's accession dependant upon its compliance with certain obligations outlined above.

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<sup>5</sup>During elections in late 1995, a member of the opposition was elected mayor of Zagreb. President Tudjman and members of the ruling party refused to allow the mayor-elect to assume his post, claiming that a member of the ruling party should be mayor of Croatia's capitol. The city council was eventually dissolved for resisting Tudjman's efforts.

<sup>6</sup>See Council of Europe, Parliamentary Assembly, "Opinion No. 195 (1996) on Croatia's request for membership of [sic] the Council of Europe," EOPIN195.WP, 1403-24/4/96-15-E, April 24, 1996.

Croatia had applied for membership in the Council of Europe on September 11, 1992. Approval was postponed after the Croatian Army offensives in western Slavonia and the Krajina.

Both the E.U. and the U.S. should exert pressure on Zagreb to ensure that Croatia respects and upholds the human rights norms associated with democratic states and international law. Its membership in the Council of Europe should, indeed, continue to be linked to the Croatian government's fulfillment of the twenty-one point document to which its membership was initially linked and the fourteen conditions listed by the Committee of Ministers.<sup>7</sup> On October 30 - 31, the E.U. Council of Foreign Ministers concluded that "The granting of reconstruction assistance to Croatia should be linked to the creation of real return options by the Croat government for the Serbs ... and to strict respect for human and minority rights..." While the E.U. and the U.S. should support reconstruction of war-torn areas of Croatia, such aid should be disbursed so as to preclude its discriminatory use in a manner that favors one ethnic or political group over another. To these ends, the E.U. and the U.S. could take the following steps to improve respect for the rule of law and human rights, reconstruction of infrastructure and return of all displaced persons and refugees from Croatia:

- Provide technical assistance for demining and exhuming various graves sites in the Krajina area. Croatia is currently exhuming graves of persons -- mostly Croats -- killed or executed by Serbian agents when the latter controlled the Krajina area from mid-1990 to mid-1995. The identities of those killed should be made known and the victims' remains should be forwarded to their families. In addition to the exhumation of Croatian victims, efforts should be made to exhume sites identified by the U.N. and others where Serbs killed or executed during and after the Krajina offensive may be buried. Their identity should also be established and the remains forwarded to their family members.
- Grant aid in a manner that facilitates the repatriation of persons displaced from various parts of Croatia (including Sector East<sup>8</sup>) and the rebuilding of homes and infrastructure ravaged by the war. However, such aid should be disbursed in a way that ensures that the monies are used proportionately to assist both displaced Serbs and Croats from Croatia.

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<sup>7</sup>The attachment of preconditions to Croatia's membership in the Council of Europe and the ministerial council's refusal to accept the parliamentary assembly's approval of Croatia's membership, has been criticized by the Croatian government. The Croatian government is particularly angered by the fact that Russia was granted membership in the Council of Europe despite its widespread violations of humanitarian law in Chechnya while such membership was denied to Croatia.

Human Rights Watch/Helsinki believes that membership in international and regional political, financial and other institutions should be linked to a country's human rights record. We opposed Russia's membership into the Council of Europe due to its abusive campaign in Chechnya both in 1995 and 1996. Human Rights Watch/Helsinki also called for a delay in Croatia's admission into the Council of Europe, asking the Council to make admission conditional upon the Croatian government's correction of violations of civil and political rights in Croatia proper and in areas of Bosnia under *de facto* Croatian government control, its arrest and prosecution of Croats responsible for crimes committed during and after "Operation Storm," and its full respect of the rights of Serbs who were displaced from and wish to return to Croatia. See Letter to Niels Helveg Petersen, Chairman, Committee of Ministers, Council of Europe, from Holly Cartner, Human Rights Watch/Helsinki Executive Director, April 22, 1996.

<sup>8</sup> In 1992, the United Nations established three UNPAs in Croatia -- in eastern Slavonia, western Slavonia and in the so-called Krajina region. These were divided into four sectors. Sector East was comprised of the regions of eastern Slavonia, Baranja and western Srem/Srijem, which included the municipalities of Beli Manastir, Vukovar, the eastern suburbs of the municipality of Osijek, and the eastern-most part of the municipality of Vinkovci. Sector North comprised the northern part of the Krajina UNPA and incorporated the municipalities of Kostajnica, Petrinja, Dvor na Uni, Glina, Vrginmost, Vojnic and Slunj. The southern part of the Krajina UNPA was designated as Sector South and included the municipalities of Titova Korenica, Donji Lapac, Gracac, Obrovac, Benkovac and Knin. The western Slavonian region was designated as Sector West and included the municipalities of Daruvar, Grubisno Polje, Pakrac, the western part of Nova Gradiska and the eastern part of Novska. Sectors East, North and South and the southern part of Sector West were under the control of the RSK authorities while the northern part of Sector West was under Croatian government control. UNPROFOR "assumed responsibility" in Sector East on May 15, 1992, and in the other sectors in late June and early July of that same year.

Western Slavonia, or Sector West, was recaptured by the Croatian Army in May 1995. Sector South and North were recaptured by Croatian forces in August 1995 and are the focus of this report. Eastern Slavonia, or Sector East, remains under Serb control but, pursuant to the Dayton Peace agreement, it is to be turned over to Croat control by January 1997.

- Provide special protection to the elderly and the physically and mentally handicapped who have remained in the Krajina region, as well as in former Sector West and Sector East, during transfers of territory in the past five years. Because of their physical or mental impairments, such persons have not been able to flee the fighting and persecution and have consistently been harassed, attacked and abused by the controlling powers. Under the current circumstances, it is highly likely that such persons will be attacked by refugees returning to their homes or by bandits and criminals.
- Monitor and assist the repatriation of all persons returning to their homes in the former UNPAs.
- Provide material and technical assistance to independent lawyers defending persons accused of “war crimes,” “crimes against the state” and other crimes that could be labeled as “political.” Respected lawyers in various parts of Croatia have been trying to form an independent “legal aid society” that would provide legal counsel to Serbs, journalists and others charged with “crimes against the state,” libel and slander against government officials, and other politically charged “crimes.” Support for such efforts would greatly contribute to maintaining an independent bar and judiciary and the protection of civil rights in Croatia.
- The OSCE Mission to Croatia established on April 18 should be actively engaged in facilitating the safe return of displaced persons and refugees to Krajina.<sup>9</sup> The OSCE Mission should without any further delay present a public report identifying current obstacles to the return of Serbs to Krajina, as well as outlining the specific steps the Croatian authorities must undertake within a suggested timeframe. The E.U. and the U.S. should send a clear message that a failure by the Croatian government to undertake such measures would trigger reduction or termination of non-humanitarian assistance to the government.
- Link membership in international and regional institutions to fulfillment of the recommendations listed above. In addition to correcting the abuses that most directly affect Serbs and that are associated with the Krajina offensive, Human Rights Watch/Helsinki believes that Croatia’s membership in multilateral and regional institutions should be linked to a general improvement of civil rights in Croatia and Bosnian Croat-controlled areas of Bosnia-Herzegovina, and to the extradition of Bosnian Croats indicted by the International Criminal Tribunal for the Former Yugoslavia.<sup>10</sup>

## **THE AUGUST 1995 KRAJINA OFFENSIVE AND ITS AFTERMATH: CROATIAN GOVERNMENT ABUSES**

### **The Offensive**

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<sup>9</sup>Organization for Security and Co-operation in Europe. Permanent Council, 65th Plenary Meeting, PC Journal No. 65, Agenda item 1, Decision No. 112, April 18, 1996

<sup>10</sup>On April 19, 1996, the Croatian parliament passed the “Constitutional Act on Cooperation with the International Criminal Tribunal for the former Yugoslavia,” which specifies conditions for deferring local criminal proceedings in favor of the ICTY, restrictions on ICTY activities in Croatia, and rules governing the extradition of Croatian citizens to the ICTY. (See European Action Council, “Dayton Implementation Review No. 4,” April 30, 1996.)

At dawn on August 4, 1995, Croatian Army units and special units of the police force often used in military operations launched an attack on Knin and other areas in Serbian-controlled parts of Croatia. Approximately 100,000 Croatian government troops were involved in the operation, labeled "Operation Storm" (*Oluja*). Without the assistance of forces from Bosnia or Serbia, the outgunned and under-manned Krajina Serbs provided little resistance and quickly withdrew, allowing Croatian government forces to re-capture the region by August 7. On August 30, 1995, Croatian authorities indicated that 211 Croatian soldiers and police officers and forty-two Croatian civilians had been killed during "Operation Storm."<sup>11</sup> According to Croatian authorities, 526 Serbs reportedly were killed, 116 of whom were civilians.<sup>12</sup> Human Rights Watch/Helsinki is not aware of any Serbian source that gave figures for Serbian casualties.

During the offensive, Croatian forces restricted the movement of most of the approximately 10,000 U.N. troops stationed in the Krajina area. They also attacked sixty-five U.N. posts, killing three and wounding eight peacekeepers during the offensive.<sup>13</sup> NATO threatened to attack Croatian forces in retaliation for their assault on U.N. positions. However, the only NATO attack during the operation was against a Serbian surface-to-air missile site near Knin that had locked onto two NATO planes dispatched in response to U.N. calls for support.<sup>14</sup>

The town of Knin -- the rebel Serb stronghold for five years -- was re-taken by Croatian government troops within two days. On August 6, 1995, U.N. officials charged that Knin had been "indiscriminately" shelled for more than twenty-four hours, with shells landing on the rail yard, hospital and residential areas.<sup>15</sup> One shell exploded one hundred yards from the U.N. base in Knin, killing seven civilians and wounding dozens.<sup>16</sup> U.N. officials based in Knin stated that there were "quite significant numbers of bodies in the streets' and that many of them were women and children"<sup>17</sup> and that there had been "a serious loss of human life."<sup>18</sup> U.N. officials claimed that the Croats had met with "stiff resistance."<sup>19</sup>

However, later press reports indicated that the hospital had not been shelled and that the number of civilian deaths in the town of Knin had been lower than previously reported by the U.N.<sup>20</sup> It also became clear that Serbian

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<sup>11</sup>United Nations General Assembly/Security Council, "Human Rights Questions: Human Rights Situations and Reports of Special Rapporteurs and Representatives, Situation of Human Rights in the former Yugoslavia, Note by the Secretary General," including appended Annex, "Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mrs. [sic] Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1995/89 and Economic and Social Council decision 1995/290," A/50/727 and S/1995/933, November 7, 1995, p. 8 [hereafter "Rehn Report (1995)"]. In early August, Croatian Defense Minister Gojko Susak had announced that 118 Croatian troops had been killed and 620 wounded in the Krajina offensive. See Emma Daly, "Refugee Column Hit From the Air," *The Independent*, August 8, 1995.

<sup>12</sup>*Ibid.*

<sup>13</sup>Raymond Bonner, "Croatia Declares Victory in Rebel Areas," *The New York Times*, August 7, 1995.

<sup>14</sup>Raymond Bonner, "In Broad Attack, Croatia is Trying to Dislodge Serbs," *The New York Times*, August 5, 1995.

<sup>15</sup>Raymond Bonner, "Croat Army Takes Rebel Stronghold in Rapid Advance," *The New York Times*, August 6, 1995.

<sup>16</sup>*Ibid.*

<sup>17</sup>*Ibid.*

<sup>18</sup>Raymond Bonner, "In Broad Attack, Croatia is Trying to Dislodge Serbs," *The New York Times*, August 5, 1995.

<sup>19</sup>*Ibid.*

<sup>20</sup>Raymond Bonner, "Croats Celebrate Capturing Capital of Serbian Rebels," *The New York Times*, August 8, 1995, and Roy Gutman, "In Krajina, Disorder Reigns," *New York Newsday*, August 8, 1995.



forces had offered little resistance to the Croatian offensive and had fled almost immediately. Some of the U.N. confusion may have been due to the fact that U.N. military and civilian personnel had been confined to their barracks or bases by Croatian soldiers and thus were unable to witness many events directly. Similarly, foreign reporters and U.N. officials were denied access to the battlefield during the fighting and were only allowed into the area after the Croatian troops had fully assumed control of the region. Further investigation into whether shelling had been indiscriminate should focus on the area between the towns of Drnis and Knin, which appear to have suffered most from the shelling.

Later, it became clear that at least some of the attacks on U.N. soldiers had been deliberate. On August 7, Croatian Defense Minister Gojko Susak admitted what his Ministry's spokesperson had repeatedly denied -- that Croatian troops had used seven Danish U.N. soldiers and six Serbian prisoners as human shields during the fighting.<sup>21</sup> The Danes and Serbs had been forced to walk in front of an advancing Croatian battalion for two hours before being released unharmed.<sup>22</sup> Defense Minister Susak claimed that a Croatian Army soldier had been arrested in connection with the episode.<sup>23</sup>

In Knin, Croatian forces reportedly escorted 400 Serbian refugees to the U.N. base,<sup>24</sup> while others fled there of their own accord. Approximately 700 persons -- mostly Serbs but also between sixty and one hundred Croats who had remained in the Knin area since 1990 -- eventually sought refuge in the U.N.'s Knin compound, where they remained until most were transported to Serbia in early September. Croatian soldiers also escorted other civilians -- sometimes against their wishes -- to other refugee collection sites. By August 10, 1995, 250 persons had been placed in the Knin school and 117 mostly elderly people had been transferred to an accommodations center on a coastal island. The displaced persons were then given the option of remaining in Croatia or leaving for Serbian-controlled territory. Most chose to leave and were eventually transported with the assistance of the U.N. Although some Croatian Army soldiers behaved correctly toward the Serbs they encountered during the offensive, others appear to have summarily executed Serbs who had not managed to flee the area, particularly in the villages.<sup>25</sup> Moreover, those who had initially sought shelter at the U.N. base in Knin during the offensive but who returned to their homes shortly thereafter were beaten and otherwise abused, forcing some to seek refuge at the U.N. base once again.

During the offensive, Croatian authorities promised safe passage to those who wished to leave, opening two corridors to Bosnian Serb-held territory through the towns of Dvor and Srb, in the northern and central parts of Krajina. However, the fleeing refugees were attacked, shelled or bombed at various points during their exodus.

On August 4, 1995, Milan Martić, the "president" of the RSK authorities, issued an order<sup>26</sup> calling for the evacuation of all persons incapable of military service from the Knin, Benkovac, Obrovac, Drnis and Gracac municipalities. The decision indicated that the civilians should be evacuated toward Srb and Donji Lapac, with the U.N. base in Knin enlisted to assist with the evacuation. Segments of the Serbian press attacked Martić for ordering the

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<sup>21</sup>Raymond Bonner, "Croatia Declares Victory in Rebel Area," *The New York Times*, August 7, 1995. See also Raymond Bonner, "Croats Celebrate Capturing Capital of Serbian Rebels," *The New York Times*, August 8, 1992.

<sup>22</sup>Raymond Bonner, "Croatia Declares Victory in Rebel Area," *The New York Times*, August 7, 1995.

<sup>23</sup>Raymond Bonner, "Croats Celebrate Capturing Capital of Serbian Rebels," *The New York Times*, August 8, 1992.

<sup>24</sup>Charlotte Eagar and Peter Beaumont, "Croat Onslaught Crushes Serbs," *The Observer* (London), August 7, 1995.

<sup>25</sup>See following section for an account of these abuses.

<sup>26</sup>Republika Srpska Krajina, Vrhovni Savjet Odbrane, Knin, August 4, 1995, 16:45 hours, number 2-3113-1/95, as reprinted and reported in "Bezaniju Naredio - Martić," *Vecernji Novosti*, August 23, 1995; "Narod je iz Knina Poveo Vrhovni Savet Odbrane RSK," *Politika*, August 23, 1995; and "Odluku o Povlacenju su Doneli Martić i Mrksić," *Nasa Borba*, August 23, 1995.

evacuation and surrendering to Croatian forces without a fight. Others surmised that the RSK, Croatian and Serbian government authorities had reached an *a priori* agreement to surrender the area to Croatian government control. Whatever the motivation, the order probably helped to spare many civilians from the danger of being caught in the fighting.

Serbian resistance to the Croatian attack continued in the Petrinja, Topusko and Dvor areas until August 8. The Serbian soldiers continued fighting although they were encircled and Serbian civilians were caught in the middle, stranded in pockets and encircled by Croatian forces or by Bosnian troops that had broken through the siege of Bihac and had joined up with Croatian troops. Approximately 10,000 Serbs were trapped in the Petrinja/Glina area, another 30,000 near Topusko, and 15,000 close to Dvor. Serbian forces in these pockets battled with Croatian and Bosnian forces, resulting in the deaths of at least some civilians trapped there.<sup>27</sup> Safe passage was eventually negotiated by the U.N. for the Serbian civilians and combatants, provided the latter relinquished their arms. After first refusing to surrender their weapons, Serbian combatants agreed to these terms on August 8, and the tens of thousands of refugees who had been trapped in various pockets in the Krajina area were allowed to leave for Serbia.<sup>28</sup>

On August 9 and for several days thereafter, Serbian civilians who had been trapped in the various pockets (primarily in the Petrinja/Glina and Topusko areas) were transported to Sector East (which remains under Serb control) and Belgrade under U.N. escort via Croatian government-controlled territory. At various points along the route, the Serbian convoy was attacked by Croatian civilians, who threw stones and other objects while Croatian police officers stood by and did nothing to stop them.<sup>29</sup> Serbs were dragged from their vehicles and beaten; at least two are reported to have died.<sup>30</sup>

M.M., a fifty-four-year-old man from Vrgin Most,<sup>31</sup> left his home on August 6 and reached Batinova Kosa, near Glina, only to become entrapped in one of the pockets. When the RSK soldiers relinquished their weapons, they were allowed to leave the pocket via Glina on August 10. M.M. described how, when the column reached Glina, Croatian soldiers and civilians threw stones and threatened those traveling as part of the convoy. According to M.M.:

We started from Batinova Kosa on August 10 and entered Glina. There we were stoned by both civilians and military, despite the presence of United Nations Protection Force (UNPROFOR) soldiers.<sup>32</sup> Croatian soldiers intensified their humiliation of us each time the convoy stopped. At one such ... stop, a Croatian soldier walked up to me, pointed a gun to my head and asked, "Why aren't you shaved?"<sup>33</sup> Someone was badly hit in the head with a stone just in front of my eyes.

Later, on the road toward Petrinja, civilians and soldiers also yelled at us, and threw stones and bottles. Just before you reach Sisak, you approach a bridge and that is where the Croats were standing on the

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<sup>27</sup>Emma Daly, "100,000 Fleeing Serbs Trapped Between Armies," *The Independent*, August 9, 1995. See also Ian Traynor, "Last Diehard Serbs Start to Surrender," *The Guardian*, August 9, 1995.

<sup>28</sup>Stacy Sullivan, "Encircled Serbs Wait for a Road to Safety," *The Times* (London), August 9, 1995.

<sup>29</sup>Raymond Bonner, "Frightened and Jeered At, Serbs Flee From Croatia," *The New York Times*, August 10, 1995.

<sup>30</sup>In an important protective move, Peter Galbraith, the U.S. Ambassador to Croatia, joined the convoy of Serbian refugees as "an act of solidarity and a warning that the international community was watching." Raymond Bonner, "The Serbs' Caravan of Fear," *The New York Times*, August 13, 1995.

<sup>31</sup>Human Rights Watch/Helsinki interview, Backi Jarak, Vojvodina, Serbia, September 5, 1995.

<sup>32</sup>The witness claims that the attack took place on August 10, although the convoy appears to have been attacked one day earlier.

<sup>33</sup>The witness wore a beard, which is at times associated with so-called *Cetniks*, especially if it is a long beard.

height [a small mound along the road] and throwing [stones] at us as we passed. In Sisak, there were many people who threw stones at us. When we reached the highway [linking Zagreb and Belgrade], it was almost dark. Croatian soldiers were standing on both sides of the highway.

The soldiers appeared not to have been standing along the road to ensure the safety of the convoy. Rather, they were there to ensure that arms were not hidden in the Serbs' vehicles. At a site near the beginning of the highway -- a little further than where the convoy initially reached the highway -- the Croatian Army searched and "confiscated" some vehicles belonging to the fleeing Serbs. Some people were also taken from the convoy; while some chose to remain in Croatia -- usually due to family ties -- others were taken to detention facilities.

M.B., a forty-seven-year-old woman from Vojnic, also became entrapped in the pocket near Topusko, where she remained until August 13, when passage was negotiated for the Serbs' departure to Serbia. According to M.B., U.N. troops remained with the entrapped Serbs while they were in Topusko but refused to accompany them out of the former UNPA. According to M.B.:

We left Topusko around noon [on August 13]. We reached Glina, but then UNPROFOR left us in the hands of the Croatian Army and police. ...Croats were standing on the sidewalks and shouting at us, spitting at us and laughing. ... We were not stoned there in Glina. ... We got out of Glina at about 2:30 p.m.. No UNPROFOR [soldier] was [to be] seen. I saw UNPROFOR only at Slavonski Brod for the first time [since our journey from Glina commenced].

M.B. reported having been accosted by women and children in Petrinja, who threw stones at them. The women had blocked the road with wooden crosses, apparently bearing the names of Croats who had been killed by Serbian forces since 1991. M.B. reported that the women rushed toward the convoy of fleeing Serbs and banged on their car windows with the crosses. A Catholic priest also reportedly verbally abused the retreating Serbs. M.B. reported witnessing the murder of two Serbian women by two youths. According to M.B.:

I witnessed a horrible scene just outside Sisak. Two old women went out of the convoy, to go use a bathroom. It was already dusk, but I clearly saw this murder; it happened five cars in front of me. There were children there, beside the road, holding metal bars. They jumped on the women and hit them on their heads with the metal bars. I saw the head of one of the women split in two, and her brains burst out. They killed them both on the spot. These were very young children. I am not sure about the exact site [of the murder], but it [took place] just outside of Sisak, at what appeared to have been a crossroad.

M.B. claimed that the Croatian police stopped the convoy and examined the papers of the fleeing Serbs and their vehicles. She reported that approximately fifty people were taken from the convoy, and she believes, brought to Zagreb. The convoy continued, apparently along the Zagreb-Belgrade highway, until it reached Slavonski Brod, where the Serbs were met by Croats once again. This time, however, M.B. reported that the Croats met them with food and flowers, rather than rocks, with Croatian television cameras waiting to film the scene. The Croatian police also stopped the convoy at this stage and went "from car to car, trying to convince people to go back to their homes," if they were Croatian citizens. But, M.B. reported, she and many others could not prove their citizenship, even if they had wanted to return, because the only documents they retained had been issued by the RSK authorities, not the Republic of Croatia, and many had left even those documents behind in their homes.<sup>34</sup>

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<sup>34</sup>See section below for a description of legal and bureaucratic impediments faced by Serbs wishing to, or considering, return to Croatia.

G.U., a forty-four-year-old man from the village of Zimic, near Vojnic,<sup>35</sup> reported that Croatian police officers confiscated cars belonging to Serbs in the fleeing convoy. According to G.U.:

Soon after [we left] Sisak, I witnessed how [Croatian] police officers stole the third car behind our truck in the column. At that moment, the convoy was stopped and we were waiting. Two police officers approached this car, which looked very new. They pointed their guns at the people in the car and ordered them to get out. When they got out of the car, one of the policemen got into the car and drove it away. The people [who had been thrown out of their car] were then accommodated in other vehicles. We accommodated two men in our truck because their car had also been stolen. The stealing of cars began after [we had left] Glina. I saw two other cases in which people in military uniforms were taking away cars from the convoy.

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<sup>35</sup>Human Rights Watch/Helsinki interview. Backi Petrovac, Vojvodina, Serbia, September 10, 1995.

Following the stoning of the convoy on August 9, the Croatian government informed U.N. officials that “all efforts would be made to prevent a repetition of the ... incident.”<sup>36</sup> U.N. officials reported a significant Croatian police presence along the route which the refugees continued to travel in the following days. According to the U.N., the Croatian authorities “appeared ready to intervene should there be additional threats against the displaced persons” and did, in fact, take action after a stone was thrown at the convoy, apparently on August 10.<sup>37</sup>

On what appears to have been three separate occasions, Croatian aircraft bombed a column of fleeing refugees among which armed combatants were dispersed. The attacks took place adjacent to the village of Klenovac, near Bosanski Petrovac in Bosnian Serb-controlled territory, and near Dvor in Croatia. Bosnian forces may also have been involved in the attack in the Dvor area. A third aerial attack appears to have taken place at or near the village of Dragotina, near Dvor.

The attack that took place near the town of Bosanski Petrovac appears to have involved one or two Croatian aircraft. Witnesses reportedly described rockets fired from a MiG-21 shortly after noon on August 7 which hit two trucks and several passenger cars, killing at least five and wounding fifteen.<sup>38</sup> According to N.N., a twenty-one-year-old RSK soldier,<sup>39</sup> Croatian planes bombed a refugee column behind him, as he was fleeing in a tank from the Benkovac area toward Bosnian Serb-controlled territory. He also claims that the refugee and military column was bombed six kilometers outside of Bosanski Petrovac, en route to Kljuc in Bosnian Serb-controlled territory. According to N.N.:

We [the RSK military] joined the column and went toward Kljuc. Six kilometers past Bosanski Petrovac on the way to Kljuc, we heard bombing again. We saw the Croatian planes at 10:00 a.m. on August 7 over Bosanski Petrovac. The plane bombed the column in front of us. I saw at least five cars burning, as well as a truck. There must have been many wounded and probably killed. As we passed, an ambulance was heading back toward Bosanski Petrovac to take the wounded to the hospital.

S.C., a forty-three-year-old woman from the village of Doljni Biljani (near Benkovac),<sup>40</sup> also stated that the column had been attacked by Croatian aircraft. According to S.C.:

On August 12, we started for Banja Luka [from Bosanski Petrovac]. About fifteen kilometers from Bosanski Petrovac in the direction of Sanski Most, our convoy was bombed. Shortly before noon, I personally saw one plane, dark in color. A truck was hit by a bomb -- and a Mercedes and a Renault. Two men were killed in the Mercedes, which burned entirely. I was about 200 or 300 meters behind the place they bombed. Branko Stjelja, born in 1923, and his son Mirko, born in 1963, were killed in the Mercedes. They are from Nadin, which is my village of birth, and I knew them personally.

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<sup>36</sup> United Nations Peace Force (UNPF) Humanitarian Crisis Situation Report, August 11, 1995, 1200 hours.

<sup>37</sup> *Ibid.*

<sup>38</sup> Emma Daly, “Refugee Column Hit From the Air,” *The Independent*, August 8, 1995. See also Bruce Clark and Laura Silber, “Croats Strengthen Their Grip on Krajina,” *The Financial Times*, August 8, 1995, and Stacy Sullivan and Eve-Ann Prentice, “Renegade Bosnians Slaughter Old Men,” *The Times* (London), August 10, 1995.

<sup>39</sup> Human Rights Watch/Helsinki interview, Novi Sad, Vojvodina, Serbia, September 5, 1995.

<sup>40</sup> Human Rights Watch/Helsinki interview, Backi Jarak, Vojvodina, Serbia, September 8, 1995.

As indicated by the witnesses, Serbian soldiers and heavy artillery, including tanks, were reported to have been part of, or near, the refugee columns. Moreover, Serbian combatants interviewed by Human Rights Watch/Helsinki confirmed that they transported large quantities of ammunition and weaponry from the Krajina and that they transferred these weapons to the Bosnian Serb authorities upon arrival in territory under the latter's control. The materiel was transported within vehicles manned by RSK military forces that were intermingled among the columns of fleeing refugees. According to a RSK soldier interviewed by Human Rights Watch/Helsinki representatives:<sup>41</sup>

At about noon on August 5, I left Bosanski Petrovac. I traveled in a military truck that was loaded with ammunition ... In Bosanski Petrovac, we delivered the largest part of the ammunition and heavy weapons. We took some children and women on the truck. In Prijedor, we handed over our personal guns.

If Croatian soldiers directly attacked fleeing civilians near Bosanski Petrovac, Dvor or elsewhere, such an act would constitute not only a serious violation of international humanitarian law but also a "grave breach" or war crime. However, if military personnel and material were interspersed with the refugee column or in one of the aforementioned pockets, and if civilian casualties were incidental to fighting between Serbian and Croatian forces -- as appears to have been the case in some of the encircled pockets in Sector North -- the death of civilians may not have been a violation of the laws of war, but "collateral" or "incidental" to an attack on an otherwise legitimate target. However, even under those circumstances, further investigation is required to determine whether attacking forces fulfilled their obligation to take all feasible precautions to minimize civilian harm.<sup>42</sup>

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<sup>41</sup> Human Rights Watch/Helsinki interview, Serbia, September 10, 1995. Additional details regarding the soldier's original place of residence and the place of the interview are withheld to protect the witness's identity.

<sup>42</sup> An elaborate legal regime governs the use of force affecting noncombatants in times of war. For a detailed explanation of the relevant laws, refer to Human Rights Watch/Helsinki, *War Crimes in Bosnia-Herzegovina, Volume I* (New York: Human Rights Watch, August 1992), pp. 203-29. Customary international law and the 1949 Geneva Conventions and their 1977 Protocols expressly recognize that civilians and civilian objects may not be the direct object of attack, notwithstanding that damage may occur among civilians and civilian objects collateral to a legitimate attack against military targets. (See *Respect for Human Rights in Armed Conflicts*, United Nations General Assembly Resolution 2444, 23 U.N. GAOR Supp. (No.18), p. 164; U.N. Doc.A/7433 (1968); and Articles 48, 50, 51(2), 52, and 53 of Protocol I, which prohibit attacks against civilians and define the principle of proportionality.) According to Article 51(5)(b) of Protocol I:

Among others, the following types of attacks are to be considered as indiscriminate:

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

A second bombing incident by the Croatian, and possibly the Bosnian, army appears to have taken place against fleeing refugees and a medical vehicle belonging to the RSK military between the towns of Glina and Dvor, but closer to Dvor. All attacks on humanitarian vehicles -- irrespective of whether they belong to a civilian or a military humanitarian entity -- are strictly forbidden under the Geneva Conventions.<sup>43</sup> B.N., a thirty-five-year-old woman from Petrinja,<sup>44</sup> fled toward Dvor in her car on August 4 at approximately 10:00 a.m. with her two children, her godmother, and the godmother's two children. According to B.N.:

Shells were falling all over as we were leaving. ... Around 11:00 a.m., we had already arrived in [the village of] Dragotina [between Glina and Dvor.] A large military truck, dark green in color, marked with a red cross, was coming from the opposite direction. When the truck was about fifty meters away from my car, two planes flying on the right side dove down sharply toward the road at ninety degree angles. [The planes] crossed the road and dropped a bomb -- or maybe more than one bomb -- which hit the Red Cross truck. The vehicle exploded; there were big flames. The car in front of me almost drove into the flames.

The witness identified the planes as belonging to the Croatian Army.

B.N. stopped her car and she and the other passengers in the car jumped out and lay on the side of the road. According to the witness, the planes did not return and only the truck appears to have been targeted. Although one could make the claim that the truck was painted a military color and had been mistaken as a military rather than a humanitarian vehicle, B.N. claims that the red cross sign had been prominently displayed. According to B.N.:

I am sure I saw the red cross sign -- a very big one -- on the right side of the military vehicle. The pilots must have also seen it; they flew very low and it was an open space [i.e., nothing appears to have blocked their view]. I am convinced that the Red Cross vehicle was intentionally targeted.

While B.N. claims that the Croatian military was responsible for the attack on the ambulance in the vicinity of Dvor, two other women (Q. and E.M.) interviewed by Human Rights Watch/Helsinki representatives reported being shelled by the Bosnian Army in the same area. Q. was also attacked in the Dvor area while fleeing from a village in the Vrgin Most municipality. According to Q.:<sup>45</sup>

Early in the morning of August 6, my entire family -- I, my husband, my daughter, my mother and my father-in-law -- started to flee. We ran because we were told to run by the RSK authorities. We drove in the convoy in our tractor, passing Vojnic, Vrgin Most and Glina. At about 11:00 a.m., our part of the convoy reached Zirovac. At that moment, the fifth corps [of the Bosnian Army] from the Muslim-held territories [i.e., the Bihac pocket] started to shell the convoy. The shelling came from the direction of Dvor. We rushed out of the tractor and hid nearby. The shelling continued for about five or ten minutes. My twenty-two-year-old daughter was injured by shrapnel in her back. I don't know how many people were killed or injured during this attack because we were all hiding and I could not see what was going on. ... We hid for the remainder of the day on August 6 and throughout the night. We decided to surrender to the Croatian Army the following day..

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<sup>43</sup>Articles 12 and 13 of Protocol I prohibit attacks against medical units and personnel.

<sup>44</sup> Human Rights Watch/Helsinki interview, Backi Jarak, Vojvodina, Serbia, September 5, 1995.

<sup>45</sup> Human Rights Watch/Helsinki interview, Croatia, December 17, 1995. Because the woman remains in Croatia, her name, place of origin and current residence will not be disclosed to protect her safety.

According to E.M., a Serbian woman in her late 60s:<sup>46</sup>

I am from [a village near] Vojnic. I left my house because we were all told by the [RSK] military to leave our houses, but there were no specific instructions [informing us] where to go. I left on August 6 with my family. We were driving a car. The next day -- on August 7, at about 11:00 a.m. -- the convoy reached Zirovac, which is on the road to Dvor. Then the fifth corps of Muslims [i.e., the Bosnian Army] started to shell us. All those who could walk left their vehicles and hid. During the shelling, I remained in the car because I cannot move on my own.

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<sup>46</sup>Human Rights Watch/Helsinki interview, Croatia, late December 1995.



Q. and E.M. reported being well-treated by the Croatian military after their surrender but Q.'s husband was arrested and taken to prison, where he remained at the time of our interview in December.<sup>47</sup> C.,<sup>48</sup> an elderly Serbian woman who was in the same convoy as Q. and who also surrendered to Croatian troops, claimed that a soldier threatened to kill her and her handicapped daughter after they surrendered. C. claimed the soldier was reprimanded by a senior officer and that she and her daughter were then offered some food. Those women, children and elderly persons who were captured or surrendered to the Croatian Army in the Dvor area were taken to a collection center in Sisak, where they reported having been well-treated. They were held there for approximately two weeks, at which point they were returned to abandoned homes in Krajina. Some of the elderly were taken to the Petrinja hospital. According to Q.:

They gave us food and told us that nothing bad would happen to us. The next day -- on August 8 -- the Croats sent us to a collection center in Sisak. The tractor remained on the road. There [presumably in Sisak] my husband and I were separated. He was sent to the prison in Sisak and was transferred to the prison in Zagreb three days later. My daughter was first taken to the hospital in Sisak and soon thereafter she was taken to a hospital in Zagreb. She had surgery and was treated well.

D.M., a fifty-five-year-old man,<sup>49</sup> hid in his basement during the shelling where he learned of the RSK order to evacuate, apparently during the evening of August 4. According to D.M.:

A Serb was going from house to house saying, "Evacuation!" We were instructed to go to the shelter near [the town of] Slunj. I took several people on my tractor and we drove -- together with many others -- toward that shelter. There was shooting all around us. As we approached the shelter, we were told by our soldiers that it was not safe [there] and that if we went in [to the shelter], the Croats would have no mercy on us and kill us all. So all the women, children and old men headed toward Batnoga; the soldiers joined the convoy later.

V.J., a sixty-five-year-old man from Vrgin Most,<sup>50</sup> also stated that the order to evacuate was given at 11:00 a.m. on August 6. According to V.J.:

On the evening of August 5, there was a meeting between the Vrgin Most municipality and representatives of the twenty-first corps of the Krajina army, which covered the Glina and Vrgin Most areas. I attended [the meeting] and we discussed the situation until 1:00 in the morning. We decided to remain in the town and fight. However, by the morning, both the civilian and military leaders had decided to evacuate. The civilians were to leave first, and the army was to follow.

D.M. claims that the fleeing Serbs reached the village of Batnoga in the morning of August 5 and that they had no intention of moving farther. However, when they were told by RSK soldiers that Croatian forces planned to bomb them, the fleeing civilians agreed to move toward Topusko, which they reached on the evening of August 5. D.M. reported that the Serbian civilians remained in Topusko until midnight, but that an order arrived urging them to move forward toward Glina because of the risk of bombing. D.M. reported reaching Glina at 3:00 a.m. on August 6, when he heard the sound of artillery coming from the direction of Topusko. D.M. managed to reach Bosnian Serb-held territory, while other fleeing civilians became encircled in one of the pockets.

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<sup>47</sup>See section concerning detentions below for an account of her husband's arrest and detention.

<sup>48</sup> Human Rights Watch/Helsinki interview, Croatia, December 17, 1995. Because the woman remains in Croatia, her name, place of origin and current residence will not be disclosed to protect her safety.

<sup>49</sup> Human Rights Watch/Helsinki interview, Backi Jarak, Vojvodina, Serbia, September 7, 1995.

<sup>50</sup> Human Rights Watch/Helsinki interview, Backi Jarak, Vojvodina, Serbia, September 8, 1995.

By August 5, the Croatian Army had taken most of Sector North, and on August 6, Croatian government troops linked up with Bosnian government forces which had broken through the siege of the Bihac "safe area." By August 8, Bosnian government forces had also captured the town of Velika Kladusa in the northern part of the Bihac enclave, the stronghold of Fikret Abdic, a renegade Muslim leader who had aligned himself with Serbian forces in Croatia and Bosnia against the Bosnian government. Abdic's supporters fled to Croatia, where months after their defeat, many were still living in squalid conditions.<sup>51</sup> Troops belonging to either the Croatian or Bosnian armies are reported to have burned Serbian villages in newly recaptured territory in former Sector North and to have killed five elderly Serbs -- most of them either mentally or physically handicapped -- in or near the town of Dvor, on the Croatian side of the Bosnian-Croat border.

During the offensive, the Croatian government-controlled media broadcast called for Serbs in Krajina to remain in Croatia and promised protection of their civil and cultural rights and amnesty to Serbian soldiers not guilty of "war crimes." On August 4, President Tudjman issued a statement in which he reiterated these points and stated that the Croatian government was "determined to put an end to the suffering and uncertainty of Croatian displaced persons from the occupied areas, and to guarantee to the Croatian Serbs human and ethnic rights within the constitutional and legal order of democratic Croatia."<sup>52</sup> Also, on August 6, 1995, an agreement between the Croatian government and U.N. representatives stated "[t]hat Croatia expresses its complete and unequivocal commitment to the full respect for the human rights of all individuals in the Areas concerned [i.e., former Sectors North and South], and guarantees that those rights will be respected by all Croatian authorities."<sup>53</sup> Despite such proclamations, gross violations of human rights took place in former Sectors North and South following the Croatian Army offensive.

### **The Aftermath of Battle: Abuses by Croatian Forces**

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<sup>51</sup> See relevant section below for an account of the fate of Abdic's supporters and refugees from Velika Kladusa.

<sup>52</sup>The text of President Tudjman's statement was distributed by Croatian embassies in North America and Europe and in the Croatian press. See newsletter of the Croatian Embassy in the U.S., No. 8, August 1995, p. 3, and HINA (Croatian news service) broadcast, August 4, 1995, 13:16 hours.

<sup>53</sup>"Agreement Between the Government of the Republic of Croatia and the United Nations Peace Force-United Nations Confidence Restoration Operation (UNCRO) on Temporary Measures in the Areas Formerly Known as 'Sector North' and 'Sector South.'" Zagreb, August 6, 1995.

As soon as Croatian troops assumed control of the Krajina area, widescale and systematic looting and burning of Serbian property began and continued for months after the offensive. In some instances, Bosnian Army soldiers from the Bihac pocket crossed into the southern part of what had been Sector North and joined in the looting of Serbian homes and property. U.N. monitors, Croatian and international human rights groups, and others reported a vast array of human rights abuses that occurred after the offensive.<sup>54</sup> No serious effort was made by the Croatian civilian or military authorities to prevent such abuses despite the fact that most of the destruction and serious crimes were at the hands of Croatian Army soldiers, not individual civilian extremists as alleged by the Croatian government. In mid-August, Croatia's Cardinal Franjo Kuharic appealed for moderation and warned against more violence in the Krajina region<sup>55</sup> but his calls fell on deaf ears. On August 6, the first trickle of outside observers were given access to the area but their movements were severely restricted to main roads or to areas where they were accompanied by Croatian military escorts. Nevertheless, it was clear that looting and the burning of Serbian houses in the surrounding villages occurred as soon as Knin was placed under Croatian control. Much of the destruction took place in August and early September 1995 but arson and looting were frequent through November, only to subside somewhat in December after virtually everything had been burned, looted or otherwise destroyed or confiscated. As late as April 1996, local human rights monitors reported cases of arson and looting of Serb property.

In August and September 1995, Croatian authorities in former Sector South generally protected Orthodox religious sites from attack,<sup>56</sup> but damage to church property occurred thereafter and the burning and looting of Serbian homes and villages was allowed to continue with impunity for months. The U.N. Special Rapporteur for the Former Yugoslavia Elisabeth Rehn reported that the villages of Kistanje, Dervske, Vrbnik, Golubic, Biovicino Selo, Otric and Srb (all in former Sector South) were almost entirely destroyed by arson during the weeks following the completion of "Operation Storm."<sup>57</sup> According to the special rapporteur:

It is impossible to give the exact number of houses [that] have been destroyed by fire [during and after "Operation Storm"] in former Sectors North and South, although the total is certainly in excess of 5,000. Reliable U.N. estimates put the minimum number of homes burnt in former Sector South at 60 percent of the total while the number in former Sector North is about 30 percent. In innumerable cases personally observed by U.N. and other international personnel, Croatian soldiers and civilian police were in direct proximity to burning buildings, in no case taking action against the fires, and in some cases evidently setting them.<sup>58</sup>

According to an international aid worker who had traveled throughout former Sectors North and South in mid-August 1995:<sup>59</sup>

I first went to the Glina region in the second week of August, when the Serbs had just left. ... At that time I did not see any buildings burning. But when we visited the area four days later, I saw burned

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<sup>54</sup>Daily accounts of the violence in former Sectors North and South, or reports indicating that such abuses had taken place, following the completion of "Operation Storm," are contained in the UNPF's Humanitarian Crisis Cell Situation Reports.

<sup>55</sup>Sarah Helm, "Bitter Homecoming for Croat Catholics," *The Independent*, August 16, 1995.

<sup>56</sup>"Among the few exceptions were the Orthodox church at the entrance to Cetina valley, and memorials to Second World War victims at Kistanje and Udbina, all of which suffered major vandalism." Rehn Report (1995), p. 11. Also, "on October 10, U.N. sources visiting the village of Buzeta saw that the Orthodox church there had been completely burned and destroyed." (UNPF Humanitarian Crisis Cell Situation Report, "October 11, 1995, 1300 hours.)

<sup>57</sup>*Ibid.*, p. 10.

<sup>58</sup>*Ibid.*, p. 11.

<sup>59</sup>Human Rights Watch/Helsinki interview, December 16 and 21, 1995. Human Rights Watch/Helsinki will not disclose the aid worker's name or affiliation in order to protect his/her safety and access.

houses that had not been burned before. Also, livestock had been burned alive in the barns. ... In the Knin area, we visited villages which were burned as well. ... In the Knin area, as you drive into the villages, there were signs on the road with the name of the village and "To be 100 percent destroyed" was written on the road sign. ... Many houses were burning. There was smoke coming from the surrounding villages. In one place, I saw a car full of soldiers driving away from a house that had just been set on fire. I didn't see them light the match, but there was no one else around. There was looting everywhere. A car loaded with a washing machine and furniture and other stuff was driving in front of us. It passed a police checkpoint but was not stopped. The police didn't check their documents, or ask them where they got that stuff. The claims that the police stopped and checked looters are just untrue. There were many checkpoints.

Human Rights Watch/Helsinki representatives drove through the Knin area in mid-August and saw the same sort of destruction as described.

On August 16, N.O., a twenty-five-year-old Croatian woman, went to visit an aunt who had remained in Serbian-occupied Petrinja during the war. N.O. told Human Rights Watch/Helsinki representatives:<sup>60</sup>

Almost all the houses along the road had been looted and looting was openly going on. A week later, I went back to the Petrinja-Glina area and Croatian soldiers were moving into some of the houses. There was more traffic [than there had been during my previous visit] and the road had been cleaned. As I traveled in Sector North, [I saw that] all the villages were half-destroyed. Vrgin Most was not entirely destroyed because they had started accommodating Croats from Bosnia two weeks after Operation Storm. But all the villages around the town were destroyed.

N.N., an elderly man originally from near Vojnic,<sup>61</sup> is partially paralyzed and remained in his home during and after the Croatian Army offensive. When the area was recaptured by the Croatian military, soldiers entered N.N.'s home and began looting. According to N.N.:

They threatened to kill me and just threw me out of the house. There was no one around to help me. I was later brought to Vojnic, where I complained to the authorities, but they told me that there was not much they could do to help me. I gave them a list of the property that is missing. Now my house is completely empty. There is nothing in it and I cannot return.

People such as N.N. who remained in their homes and others who were returned to their homes after they were captured by or surrendered to the Croatian authorities reported having their houses looted and rendered uninhabitable.

When Human Rights Watch/Helsinki representatives visited Sector North in late December 1995, most of the houses had been stripped of everything. The tiled roofs of most houses had been removed, and the houses did not appear to have been destroyed by explosion but, rather, to have been dismantled. Indeed, the buildings in Sector North could be mistaken for unfinished construction sites until one looked closer. Even during our visit in late December -- almost five months after the fighting had subsided -- the Croatian police and military were heavily present in the area. The police and soldiers regularly stopped and checked most vehicles and clearly retained control of the area. Given the unlikelihood that any lesser police or military presence would have been deployed in the months immediately following "Operation Storm," it is highly improbable that the police and military did not witness the widespread looting and destruction of property or that they were powerless to stop it. Indeed, much of the looting -- even as late as December 1995 -- was conducted by Croatian military personnel, although civilians -- most probably Croats who had been displaced from the area since 1990-91 or those displaced from Bosnian Serb-held areas who had since returned to or been resettled there -- also took part.

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<sup>60</sup>Human Rights Watch/Helsinki interview, Zagreb, December 16, 1995.

<sup>61</sup>Human Rights Watch/Helsinki interview, Vojnic, December 1995.

Few Serbs remained in the Krajina area at the time of our visit. Only those whose sons were in the Croatian Army, who were married to a Croat, or who were too old or handicapped to flee remained. According to the U.N. special rapporteur for the former Yugoslavia, "no more than 5,000 Serbs" remained in the area as of late October or early November 1995.<sup>62</sup> A survey of villages in each municipality in the Krajina area conducted by an independent international organization revealed that, by late November, 4,363 people remained in former Sector North and 4,051 in former Sector South. While some reported not having been disturbed, many Serbs who had remained in former Sectors South and North had been intimidated, threatened, robbed or physically abused, usually by Croatian Army soldiers and later by civilians, again most probably by Croats displaced by Serbian forces in Croatia or by Bosnian Croat refugees from the Banja Luka area who had been resettled in the Krajina area in the latter part of 1995.

Q., a Serbian woman, surrendered to Croatian forces during the offensive and was housed for four days in a collection center in Sisak. A relative came for her there and she returned to her home on or about August 12 in the Vrgin Most area to find that it had been looted. She reported:<sup>63</sup>

I cannot return to my house because it has been looted. I visited my house [in the village where I lived] about one week ago [i.e., on or about December 10, 1995]. The house is completely empty -- there isn't one piece of furniture in it. The window frames, the doors, the tiles from the roof were all stolen. There were no Serbs remaining in the village.

Q. lives in a house with nine other Serbs who were given shelter by the owner. Q. did not report having been harassed by Croatian military or police officers. She said that four of the nine Serbs with whom she shared the house had been granted Croatian passports. However, she reported difficulty in obtaining humanitarian aid. Q.'s concerns were voiced by other elderly and handicapped persons who remained in Krajina and who were interviewed by Human Rights Watch/Helsinki representatives in December 1995. According to Q.:

We get some [humanitarian aid] products -- bread, flour, oil, etc. -- but everyone has to go to Vojnic to pick it up personally and we don't have a car. There are many old and disabled people who can't travel to Vojnic to collect the aid. I got 200 Kunas [approximately US \$40] from the [Croatian] government in August, but I haven't received anything since then.

Q. and many other Serbs who remained in the Krajina area and were interviewed by Human Rights Watch/Helsinki representatives in mid-December 1995 were unfamiliar with the Croatian "law concerning the temporary take-over and management of certain property."<sup>64</sup> Unless these Serbs claimed their property by December 27, 1995, it was to have been effectively expropriated by the Croatian government.

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<sup>62</sup> Rehn Report (1995), p.7.

<sup>63</sup> Human Rights Watch/Helsinki interview, Croatia, December 17, 1995. The woman's name, place of origin and current residence will not be disclosed so as to protect her safety.

<sup>64</sup> For a description of this law, see relevant section below.

Some Serbs who had not managed to flee the Krajina area were summarily executed, although the full extent of these executions during and immediately after the battle has not been established conclusively. Nevertheless, U.N. investigators report that at least 150 persons were executed during and after "Operation Storm" in situations unrelated to combat.<sup>65</sup> Estimates by local NGOs of the number of Serbs executed run much higher -- to as high as 700 victims.<sup>66</sup> Moreover, the Croatian Helsinki Committee for Human Rights has been approached by family members of 110 persons who forcibly disappeared during or after the offensive and whose whereabouts remained unknown as of early November 1995.<sup>67</sup> The full extent of the executions could not be immediately confirmed due, in large part, to restrictions of movement placed on outside observers by the Croatian government. A reliable count of executed civilians cannot be made until the bodies of all those missing are recovered and, if buried, exhumed. Autopsies by independent forensic pathologists should also be performed to determine the cause of death. Although Croatian officials have been exhuming the remains of Croats killed in the Krajina area while it was under RSK control, similar efforts should be made to exhume suspected grave sites of possible Serbian victims killed during or after the August 1995 offensive.

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<sup>65</sup> Security Council Report II, para. 13.

<sup>66</sup> Croatian Helsinki Committee for Human Rights, "Statement No. 29," Zagreb, November 2, 1995.

<sup>67</sup> *Ibid.*

One site that should be exhumed is in Knin, where U.N. officials have identified a possible mass grave, marked by ninety-six crosses, only twenty of which bear names.<sup>68</sup> A Croatian civil defense/*civilna zastita* representative reportedly informed U.N. representatives that this grave site at the Knin cemetery contained the remains of civilians who had been killed during the shelling of Knin, that photographs, videos and fingerprints had been taken of all the dead, and that "the bodies had been buried in conformity with international standards, each in a body bag, 1.1 m[eters] deep and ten centimeters apart."<sup>69</sup> By November 20, 1995, a total of 259 crosses had been erected in the cemetery, with approximately 106 bearing names.<sup>70</sup> Another suspected burial site was identified by U.N. police monitors in the nearby village of Zvjerinac, where twenty-two new graves, some marked with crosses but only five bearing names, were located.<sup>71</sup> The U.N. police officers who tried to examine the site were forced to abandon their investigation when they came under sniper fire.<sup>72</sup> International observers interviewed by Human Rights Watch/Helsinki also suspect that graves containing the remains of persons killed during and after the offensive may be located in various cemeteries and burial sites in Dvor, Korenica, Gracac and Petrinja. By mid-September, seventy-seven crosses marked newly dug graves in Dvor.<sup>73</sup> By November 20, 158 graves -- only twenty-nine of which bore names -- had been identified in the Gracac cemetery.<sup>74</sup> Six or more bodies may also be interred in a graveyard in the village of Vodotec, and in front of a house in the village of Brezovac, both in former Sector South.<sup>75</sup> Other suspected burial sites have been identified by U.N. officials in Sectors North and South and require further investigation.

U.N. human rights monitors<sup>76</sup> declare they have found 150 corpses since the Krajina offensive and have received "credible reports" concerning an additional 120 bodies. They also have identified over 750 "suspicious graves" but have not been able to confirm how many bodies are contained in each grave and the cause of death of those interred. According to the Croatian Interior Ministry, as of late November 1995, the civilian defense/*civilna zastita* workers had buried 903 bodies in former Sectors North and South since "Operation Storm."<sup>77</sup> Of the 903 bodies, allegedly 456 were civilians, 402 were soldiers and forty-five corpses "were found in conditions from which the

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<sup>68</sup>Julian Borger, "Victorious Croats 'Burned Villages,'" *The Guardian*, August 19, 1995. See also Sarah Helm, "U.N. Accuses Croats Over Mass Graves," *The Independent*, August 19, 1995.

<sup>69</sup>UNPF Human Rights Action Team-Knin, Daily Report, August 15, 1995. The U.N. representatives were told that the documentation concerning the dead could be obtained from the police in the city of Zadar.

<sup>70</sup>UNPF Humanitarian Crisis Cell Situation Report, October 17, 1995, 1300 hours, and November 23, 1995, 1300 hours. See also UNPF Humanitarian Crisis Cell Situation Report Concerning Knin Cemetery - Update, August 25, 1995, 1300 hours.

<sup>71</sup>UNPF Human Rights Action Team-Knin, Daily Report, August 15, 1995.

<sup>72</sup>*Ibid.*

<sup>73</sup>UNPF Humanitarian Crisis Cell Situation Reports, Compilation of Human Rights Reporting, August 31, 1995, 1400 hours, September 7, 1995, 1300 hours, September 11, 1995, 1300 hours, September 12, 1995, 1300 hours, September 20, 1995, 1300 hours, and September 26, 1300 hours.

<sup>74</sup>UNPF Humanitarian Crisis Cell Situation Report, November 23, 1995, 1300 hours.

<sup>75</sup>UNPF Humanitarian Crisis Cell Situation Reports, Compilation of Human Rights Reporting, September 4, 1995, 1300 hours, and September 6, 1995, 1300 hours.

<sup>76</sup> Human Rights Watch/Helsinki interview, Zagreb, December 19, 1995.

<sup>77</sup>"Prilog uz Odgovor MUP-a na Prvo Izvjesce Posebne Izvjestiteljice Komisije za Ljudska Prava U.N. Gospodje Elizabeth [sic] Rehn," Zagreb, November 30, 1995.

affiliation of the deceased could not be determined.”<sup>78</sup> U.N. human rights workers have sought access to burial records from the Croatian government but have received either partial or no response to their queries.

Despite the lack of conclusive evidence of the exact number of executions and deaths, it is clear that many execution-style killings took place during and after the Krajina offensive. Numerous bodies of Serbs -- many of whom were elderly or handicapped -- were found with bullet holes in the back of their heads after the Krajina area was placed under Croatian government control. Some bodies were also burned, particularly those who remained in houses that were set alight during or after the offensive; some of the victims may have been burned alive while others may have been shot before their houses were burned. A handful of bodies found by U.N. observers were reportedly mutilated. For example, a body found in one village reportedly had been decapitated and the head was later found in a pigsty.<sup>79</sup> The cause of death in these cases, in addition to the fact that most deaths occurred long after the region was firmly under the control of the Croatian Army, indicate that these were executions and not civilian deaths that were incidental to the pursuit of a legitimate military goal.

The execution, on or about September 28, 1995, of at least nine Serbs in the village of Varivode (in former Sector South) is the most publicized of the reported executions. The nine victims were between sixty-five and eighty-four years of age. The victims' bodies were apparently removed from the scene of the crime and buried in the Knin cemetery, where U.N. monitors found nine freshly dug graves.<sup>80</sup> Bullet holes, blood stains and other physical evidence were also found in the homes of the victims by U.N. monitors. Croatian authorities launched an investigation into the murders.

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<sup>78</sup>*Ibid.*

<sup>79</sup>UNPF Humanitarian Crisis Cell Situation Reports, Compilation of Human Rights Reporting, September 4, 1995, 1300 hours.

<sup>80</sup>UNPF Humanitarian Crisis Cell Situation Report, October 3, 1995, 1300 hours. See also Croatian Helsinki Committee for Human Rights, “Statement No. 27,” Zagreb, October 2, 1995.



In addition to the Varivode murders, other summary executions took place throughout the Krajina, especially in and around the town of Knin. Probably in late August, approximately eight persons were killed in the village of Gosic (in former Sector South).<sup>81</sup> In late October, U.N. human rights workers matched the names of five of the alleged victims to names on crosses in the Knin cemetery.<sup>82</sup> The Croatian authorities publicly acknowledged the murders following the disclosure of the Varivode murders.<sup>83</sup> According to the U.N. special rapporteur for the former Yugoslavia, the bodies of Serbs had been discovered in or around the following towns, villages and hamlets in August and September 1995: Benkovac, Knin, Komic, Orlic, Zagrovic, Kakanj, Grubori, Mala Polaca, Brgud (near Devrske), and Gudura, all in former Sector South; and Bijeli Klanac and Radasnica/Gornji Zirovac in former Sector North.<sup>84</sup> Murders were also reported in the area near the villages of Golubic and Strmica (in former Sector South) on October 7-8<sup>85</sup>, in the Zrmanja valley (in the Gracac municipality) on September 29,<sup>86</sup> and in the villages of Luvtacic and Bajlovići (in former Sector North) in August.<sup>87</sup>

Most of the murders committed during or after "Operation Storm" were of one or a handful of persons at a given site. Representatives of the U.N. Centre for Human Rights who have traveled in the Krajina area on numerous occasions since its recapture by Croatian government forces, estimate that, as of mid-December 1995, at least 180 persons had been killed since the offensive.<sup>88</sup> Although the vast majority of executions of Serbs occurred during the weeks immediately following the August offensive, there continue to be sporadic reports of executions of elderly Serbs. "On February 26, 1996, an elderly Serb couple was murdered in the village of Jezerce, near Plitvice. In another recent case, two elderly Serb women were shot dead in their homes in separate incidents, in the villages of Ljubotic and Bilisani, former Sector South, in the first week of February 1996."<sup>89</sup>

There also continue to be reports of arson, looting and bombing of Serb homes and property in the Krajina region. According to an April 1996 report by the U.N. special rapporteur for the former Yugoslavia:

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<sup>81</sup>Croatian Helsinki Committee for Human Rights, "Statement No. 29," Zagreb, November 2, 1995.

<sup>82</sup>UNPF Humanitarian Crisis Cell Situation Report, October 30, 1995, 1300 hours.

<sup>83</sup>*Ibid.*

<sup>84</sup> Rehn Report (1995), pp. 9-10.

<sup>85</sup>UNPF Humanitarian Crisis Cell Situation Report, October 9, 1995, 1300 hours.

<sup>86</sup>UNPF Humanitarian Crisis Cell Situation Report, October 10, 1995, 1300 hours. The Croatian police reportedly arrested three men in connection with the murder.

<sup>87</sup>UNPF Humanitarian Crisis Cell Situation Report, October 18, 1995, 1300 hours. Also, the Croatian Helsinki Committee for Human Rights has published the names and other biographical data of some of the victims in the aforementioned areas and has identified alleged burial sites and the number of graves at each site. See Croatian Helsinki Committee for Human Rights, "Statement No. 29," Zagreb, November 2, 1995.

<sup>88</sup> Human Rights Watch/Helsinki interview, Zagreb, December 14, 1995.

<sup>89</sup> "Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mrs. [sic] Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1995/89 and Economic and Social Council decision 1995/290." E/CN.4/1996/63, para. 65 [hereafter "Rehn Report (1996)"].

. . . A ninety-three-year-old woman and her daughter in Kistanje, former Sector South, reported the theft of their pigs and cattle on 1 December 1995 and additional looting later in the month of poultry, linen, food-aid parcels and money. On 9 February 1996 in Biskupija, near Knin, several men in military uniforms were observed removing bricks from an abandoned house and loading them onto vehicles. An elderly Serb woman in the village of Ervenik reported in February that her property has been frequently looted, and that she was accosted in her home one night by intruders demanding food-aid parcels. There is little evidence of reinforced police presence in the former sectors.<sup>90</sup>

Contrary to Croatian government assertions, “individual extremists” and individual Croats whom Serbs earlier had expelled from their homes appear not to have been responsible for the bulk of the killings. Rather, all available evidence indicates that Croatian Army soldiers and, in some cases, Croatian police were responsible. Many of those killed had been seen in or outside their homes in the presence of Croatian Army soldiers. The soldiers often were also seen looting homes or walking away from a burning house.

Local human rights organizations continue to report instances of police and/or soldier complicity in abuses against Serbs. These abuses, conducted with the tolerance, if not the active participation of Croatian state authorities, not only serve to cause additional Serbs to flee the area, but also maintain a state of fear that is not conducive to the return of Serb refugees. Describing the case of a recently bombed Serb home, the Croatian Helsinki Committee reported on April 1, 1996 that:

It is the Committee’s opinion that the mining of this particular house was done in retaliation and in order to prevent normalization of the situation in the recently liberated territories, as a precondition for the return of the Croatian citizens of Serbian nationality to their homes. And not only that. The Committee considers this case to be an example of pressure put on the remaining residents of Serbian nationality living in the region to leave the area. The Committee reported various incidents of mining of houses in the entire recently liberated region of the former sectors North and South, assaults against the citizens, physical abuses, plundering, not only with tacit approval of uniformed men, but with the active involvement of the officials of the Ministry of the Interior in stealing of livestock.<sup>91</sup>

The Croatian government claims that it has arrested some of those responsible for crimes during and after “Operation Storm,” but arrests and prosecutions of Croatian Army soldiers, who appear most responsible for these crimes have been rare. A September 10, 1995, statement by the Croatian Defense Ministry announced that an investigation by the civilian and military police had “revealed that criminal acts [including break-ins, looting, arson and unlawful occupation of houses] in the wider Knin area had been committed by civilians dressed in military uniform” and that legal proceedings would be brought against the perpetrators.<sup>92</sup> On October 18, 1995, the Croatian Interior Minister announced that the police had resolved twenty-five of forty-one registered cases of murder, and that they had arrested thirteen persons suspected of having committed crimes in the villages of Gosic and Varivode.<sup>93</sup> The Croatian government also stated that it had received reports of 844 cases of looting, that it had resolved 619 of those cases, and that it had reported 751 suspects to state attorneys,<sup>94</sup> who would decide whether to proceed with prosecution.

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<sup>90</sup> *Ibid.*, para. 68.

<sup>91</sup> Statement by the Croatian Helsinki Committee for Human Rights, Zagreb, April 1, 1996.

<sup>92</sup>As reported in UNPF Humanitarian Crises Cell Situation report, Compilation of Human Rights Reporting, September 12, 1995, 1300 hours.

<sup>93</sup> Rehn Report (1995), p.14.

<sup>94</sup>*Ibid.*

On November 30, 1995, the Croatian Interior Ministry issued a statement in which it claimed that it had done all in its power to protect lives and property in the Krajina region and that it had stationed 3,500 police officers in the area following the establishment of Croatian government control over the region.<sup>95</sup> According to the Croatian Interior Ministry, the police had investigated twenty-six murders between August 4 and November 27, 1995, recorded 757 cases of destroyed property since the Krajina offensive, and received reports of 1,331 cases of robbery, of which it had solved 961 cases.<sup>96</sup> Despite underestimating the number of crimes and downplaying the responsibility of Croatia's police force for abuses during and after "Operation Storm," the Croatian Interior Ministry has at least made an effort to answer allegations of abuse and in some instances to respond to individual abuses. In contrast to the Interior Ministry's willingness to at least discuss cases of abuse, the Croatian Defense Ministry has remained virtually silent about the commission of such crimes, despite the fact that members of the Croatian Army were responsible for the majority of abuses committed during and after "Operation Storm."

Despite the Croatian government's claim that it has taken all steps necessary to solve crimes committed during and after the Krajina offensive, there is little evidence to indicate a serious effort to bring to justice police officers and soldiers reported to have committed the vast majority of the crimes against Serb civilians. In her report to the U.N. in April 1996, Elisabeth Rehn stated:

The Special Rapporteur notes that, while the authorities have pursued criminal proceedings in some cases described in her previous report, there is little evidence of progress concerning many other reported killings. Among these is the Grubori case, in which five civilians were found dead shortly after Croatian Special Forces were seen moving toward the hamlet on 25 August 1995. The Special Rapporteur has written to the Croatian Government requesting clarification of the Grubori case. United Nations investigators monitoring the situation in the former Sectors after last summer's military operations had recorded at least 150 apparent violations of the right to life occurring at that time.

... Concerning the campaign of arson and looting conducted in former Sectors North and South last year, described *in extenso* by the Special Rapporteur in her last report, information recently received from the authorities alleges that a total of 757 houses were partly or totally destroyed by arson in the summer of 1995. This figure differs drastically from the total of 5,000 structures estimated by United Nations observers to have been destroyed by fire in the former Sectors. The Government reports that charges of arson have been brought against only eleven persons and offers no indication of whether any convictions have been recorded in these cases. The authorities further advise that 1,600 cases of grand larceny have been reported since last summer's military operation, of which 1,151 have been solved, and 935 persons have been charged with the crime of aggravated larceny and brought to trial.<sup>97</sup>

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<sup>95</sup>"Prilog uz Odgovor MUP-a na Prvo Izvješće Posebne Izvjestiteljice Komisije za Ljudska Prava U.N. Gospodje Elisabeth [sic] Rehn," Zagreb, November 30, 1995.

<sup>96</sup>*Ibid.*

<sup>97</sup> Rehn Report (1996), para. 67 and 69.

As this report went to press, a Croatian court issued its verdict in the case of eight Croats accused of killing eighteen Serb civilians in three separate incidents (Varivode, Gosic and Zrmanja) in August and September 1995. On July 15, 1996, following three months of trial, the court announced its verdict: the six former Croatian Army officers were found not guilty; Ivica Petric, a former soldier, was found guilty of the murder of Durada Canak and sentenced to six years in prison; another former soldier, Nikola Rasic, was found guilty of attempted murder and sentenced to eighteen months. Rasic was released conditionally, "based on the fact that he was a 'family man' and had already served nine months in jail."<sup>98</sup>

Defendants during the trial reported that they had been members of the Croatian military at the time they were alleged to have committed crimes in the Krajina region. However, they reported, "they were given demobilization papers which were back-dated to before the crimes were committed."<sup>99</sup> Most human rights monitors in the region do not view the trial as a serious attempt by the Croatian government to determine the responsibility for crimes against Serbs. Instead, one human rights group concluded:

For many of the human rights groups working in former Sector South, this trial was a trial not of the eight men accused, but rather the policy of the Croatian government with respect to their "policy" towards former Sector South. The lack of investigation and the inconclusive reports of the pathologist and ballistics expert, coupled with the retro-active demobilisation of the accused has left them with little doubt that the trial was stage-managed to appease the international community and others concerned about Croatia's human rights record.<sup>100</sup>

In a February 1996 interview in the Croatian press, Croatian Justice Minister Miroslav Separovic reported that 1,005 criminal cases had been brought against persons suspected of having committed crimes following "Operation Storm."<sup>101</sup> Of these 1,005 cases, 352 were still in stages of investigation and 653 had gone to court; the number of convictions and acquittals were not given. Of the 1,005 persons accused of crimes, 868 were reportedly Croats, thirty-nine were Serbs, and ninety-eight were listed as others. Most of the cases were being investigated or tried in county (*zupanijski*) courts while 208 cases were being considered by military courts.

Soon after the Croatian government established its authority in the regions, Croats who had fled the Krajina and western Slavonia areas or had been expelled by Serbian forces (approximately 40,000 persons) began returning to their homes. Because most of their property had been pillaged, burned or otherwise destroyed by Serbian forces since 1990 or 1991, returning Croats took over abandoned Serbian homes, using furniture and other items from Serbian homes to furnish their newly appropriated dwellings.

Following the takeover of the region and the effective disappearance of two UNPAs, the Croatian government declared that it would allow UNCRO, the United Nations High Commissioner for Refugees (UNHCR) and the ICRC to remain in the region as human rights monitors and humanitarian aid workers. An agreement to that effect was signed between Yasushi Akashi, then Special Representative of the U.N. Secretary-General, and Hrvoje Sarinic, the Croatian government representative, on August 6, 1995.<sup>102</sup> On August 6, Croatian authorities began to allow U.N. agencies and

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<sup>98</sup> Otvorene Oci, "The Trial for the Killing of Eighteen Serb Civilians," July 19, 1996, p. 2.

<sup>99</sup> *Ibid.*, p. 3.

<sup>100</sup> *Ibid.*

<sup>101</sup> See *Globus*, No. 269, February 2, 1996.

<sup>102</sup> Sarah Helm and Emma Daly, "Croat Forces 'Just Hours' from Victory," *The Independent*, August 7, 1995. See also "Agreement Between the Government of the Republic of Croatia and the United Nations Peace Force-UNCRO on Temporary Measures in the Areas Formerly Known as 'Sector North' and 'Sector South,'" Zagreb, August 6, 1995.

the ICRC to monitor the human rights situation in the area<sup>103</sup> but restricted access, to varying degrees, throughout the month of August and until mid-September.

**Bureaucratic "Ethnic Cleansing:" Croatian Government Infringements on the Rights of Krajina Serbs to Return to Their Homes**

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<sup>103</sup> Raymond Bonner, "Croatia Declares Victory in Rebel Areas," *The New York Times*, August 7, 1995.  
Human Rights Watch/Helsinki 29 August 1996, Vol. 8, No. 13 (D)

Some Serbs who fled during the Krajina offensive have expressed a wish to return to Croatia. The number of those seeking to return is disputed. Human rights organizations in Serbia and Croatia reported that between 800 and 1,000 Serbs asked their organizations for assistance with repatriation during the first weeks following the offensive. Representatives of the Croatian government liaison office in Belgrade told Human Rights Watch/Helsinki representatives that approximately 4,000 Serbs had indicated their willingness to return to Croatia during a three-week period from mid-August to mid-September.<sup>104</sup>

The Croatian government has consistently insisted that Serbian civilians were urged to remain in their homes during the Krajina offensive, and that they are welcome to return to Croatia, provided they are not guilty of "war crimes." The Croatian government has also argued that "Operation Storm" did not constitute -- nor can it be compared to -- the abuses associated with the policy of "ethnic cleansing" of non-Serbs as practiced in Serbian-controlled territories in Croatia and Bosnia since 1991 and 1992. Croatian government officials vehemently reject comparisons between the July 1995 Bosnian Serb take-over of the U.N.-declared "safe area" of Srebrenica and the August 1995 Croatian Army offensive against the Krajina area. However, the Croatian government ultimately will be judged by its willingness to accept the return, and assure the safety of Serbs who fled from the Krajina region during the offensive.

To date, although Croatian authorities claim that Serbs are welcome to return to their homes, their actions indicate otherwise, including the refusal to recognize the citizenship of Serbs from the Krajina region; the expropriation, systematic burning and destruction of Serbian property; and the unwillingness of the Croatian authorities to provide for the safety of Serbs who remained in the Krajina region following the offensive. Despite rhetoric to the contrary, the Croatian government appears intent on eliminating or substantially decreasing the presence of Serbs in post-war Croatia. Although using the methods that often are less brutal than those of Serbian authorities, the Croatian government's policies and practices nevertheless demonstrate an intent to create an "ethnically pure" state. Unless the Croatian government reverses its recent actions -- by allowing the safe return of Serbian civilians to the Krajina area, holding accountable those responsible for war crimes against both Croats and Serbs, and genuinely promoting inter-ethnic coexistence and reconciliation -- it will also have to answer to the charge of "ethnic cleansing" that is often levied against Serbian forces.

When asked by a Human Rights Watch/Helsinki representative what conditions a Serb who fled to Serbia but who wished to return to Croatia would need to meet before being allowed to repatriate, Croatian government representatives in Belgrade responded that three criteria would need to be met. First, the Serbian petitioner would need "permission" to visit Croatia (i.e., a visa); second, he/she would need to obtain permission from Yugoslav authorities to leave the country; and third, he/she would need a transit visa for Hungary, from where he/she would obtain the Croatian authorization to enter Croatia. Upon arrival in Croatia, they explained, a claim for the return of property would have to be made. The property would be returned, provided a Croatian displaced person or refugee was not living there. If the property was occupied, the Serbian owner would be accommodated elsewhere at the expense of the Croatian government, while alternative accommodations were found for the occupying Croat(s).

However, for a Serbian refugee to be granted a visa for Croatia, he/she would have to prove that he/she was a citizen of Croatia, usually by presenting a certificate of citizenship (known as a *domovnica*) that had been issued by the current Croatian government, or similar proof that had been issued by the former Socialist Federal Republic of Yugoslavia (SFRY) government. According to these Croatian officials, a document that would constitute proof of Croatian citizenship must display the official number under which the person in question had been registered as a citizen in the past. However, most Serbs who fled the Krajina during the August 1995 offensive had lived there when rebel Serbian authorities assumed control of the area between August 1990 and December 1992. Their official documents issued by the former SFRY had been replaced by documents of the so-called "Republic of Serbian Krajina" (RSK). But the current Croatian authorities refuse to accept the RSK documents as proof of Croatian citizenship, despite acknowledging that the Serbs from Krajina have no other form of identification. Existing Croatian government guidelines thus effectively bar the return of Serbs to Croatia and render them "stateless."

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<sup>104</sup>Human Rights Watch/Helsinki interview with Ivo Kujundzic, Counsellor for Humanitarian Affairs, and Davor Vidis, Spokesperson, Office of the Government of the Republic of Croatia, Belgrade, Serbia, September 11, 1995.

According to UNHCR representatives, Serbs from Krajina can return to Croatia most easily if they have family members still living in Croatia who will assume responsibility for them. While the Croatian government claims that over 10,000 Serbs have returned to Croatia, UNHCR representatives estimate that, by April 1, 1996, 5,000 persons who had fled during the 1995 offensive had obtained permission to return to Croatia, and 3,000 persons had actually returned. UNHCR representatives have requested detailed information on those authorized to return and the number who have actually returned, but have not received a response from the Croatian government.<sup>105</sup> More than 200,000 Serbs from Croatia remain refugees.

### **The 1995 "Law on the Temporary Take-Over and Administration of Certain Property"**

On August 31, 1995, the Croatian government issued a "Decree on the Temporary Take-Over and Administration of Certain Property."<sup>106</sup> The decree -- published on September 4, 1995, and adopted into law by the Croatian parliament on September 27, 1995<sup>107</sup> -- effectively placed most Serbian-owned property and possessions in Croatia under Croatian government control. This included land, buildings used for domiciles and businesses, cattle and other farm animals, and farming equipment. The law targets: a) all property "abandoned" by displaced persons from the Krajina and western Slavonia areas; b) property owned but "abandoned" by individuals who left Croatia since August 17, 1990 (the day the Serbian rebellion in Croatia began); c) property owned but "not used" by individuals residing in the Federal Republic of Yugoslavia (FRY) and Serbian-controlled areas of eastern Slavonia and Bosnia-Herzegovina, and d) property owned but "not used" by citizens of the FRY. Only Serbs who remained in Croatian government-controlled areas throughout the entire war and hold title to their property are not affected by the decree.

Although the law states that the expropriation of the Serbs' property is "temporary," it does not specify the duration of the government's control over such property. The law allows for appeal of a decision to confiscate property before the Ministry of Justice, but the submission of an appeal does not prevent the expropriation. The law allows expropriated property to be allocated for use by refugees, displaced persons, disabled veterans, families of those killed or disappeared during the war, and persons who performed duties "necessary for the security, reconstruction and development of the formerly occupied territories," but it does not grant ownership of the property to the designated occupants. Only Croatian government agencies or entities retain "ownership" of such property.

The law contains misleading language in that it claims to expropriate property belonging to persons who "abandoned" their property. Most of the Krajina Serbs fled their homes because of the fighting, fearing for their lives. According to the original August 31, 1995, decree, those who returned to Croatia within thirty days after the decree took effect (i.e., before October 5, 1995) could claim title to their property and have it restored to them. When the decree was adopted into law on September 27, 1995, the period of time in which Serbs could claim ownership of their property was extended from thirty to ninety days from the law's initial adoption (i.e., until December 27, 1995). Thereafter, if the property was not claimed, a special law was to regulate ownership of the property in question. However, thousands of Serbs who have applied for return to Croatia at the Croatian liaison office in Belgrade or the Croatian embassy in Budapest have faced unnecessary bureaucratic obstacles and delays regarding receipt of Croatian citizenship papers, or their entry into Croatia has been obstructed by Croatian authorities at the Croatian-Hungarian border. Under these circumstances, it is unrealistic to expect Serbs from Krajina to return to their homes in Croatia even within ninety days.

Article 1 of the law states that the aforementioned property is being placed under Croatian government control "in order to protect and secure the creditor's claims to the property." Although part of the property used by Serbs in Krajina had earlier belonged to Croats who had been expelled from the region and should, indeed, be returned to its

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<sup>105</sup> Human Rights Watch/Helsinki interview with UNHCR representatives, Zagreb, July 30, 1996.

<sup>106</sup> *Uredba o Privremenom Preuzimanju i Upravljanju Odredjenom Imovinom*, enacted August 31, 1995.

<sup>107</sup> *Zakon o Privremenom Preuzimanju i Upravljanju Odjedjenom Imovinom*, *Narodne Novine*, No. 73, September 27, 1995. Despite minor organizational differences, the content of the decree and the law is virtually identical.

rightful owner(s), much of the property in Krajina legally belonged to Serbs. Moreover, the Croatian government's stated interest in securing the Serbian owners' property claims is further called into question in light of its tacit condoning of the burning and destruction of Serbian property throughout Krajina since its recapture by Croatian forces in early August 1995.

The effect of the law is thus to revoke a person's right to ownership, and effectively confiscate his or her property, without due process. It effectively punishes all Serbs who remained in "enemy" territory during the war --not through individual proof of a crime in court, but through an administrative measure that amounts to collective punishment.

Similar due process problems arise even as the law relates to property owned by current citizens of the FRY. Some of this property had been allocated to them because of their membership in the Yugoslav People's Army (Jugoslavenska Narodna Armija or JNA) or the communist party or state organs. Insofar as this is the case, an impartial legal body should determine ownership of "public" property whose specific ownership is in dispute.<sup>108</sup> However, in some cases, FRY citizens legitimately purchased and hold legal title to property in Croatia which should either be recognized or its expropriation compensated.

### **"Temporary" Revocation of Certain Minority Rights**

Just prior to its secession from the SFRY, Croatia adopted a "Charter on the Rights of Serbs and Other Nationalities in the Republic of Croatia."<sup>109</sup> The charter stated that "all nationalities in Croatia ... shall have the right to be respected, the right to self-preservation and to cultural autonomy" and that "Serbs and other nationalities in Croatia shall have the right to participate proportionally in the bodies of local self-government and in adequate bodies of government authorities." Thereafter, the Croatian parliament adopted a "Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia."<sup>110</sup> The law guaranteed the political and civil rights of Croatia's minorities, primarily Croatia's Serbs. The law also provided for cultural autonomy, proportional representation in the Croatian parliament and government (provided the ethnic group in question constituted at least 8 percent of the country's population), and granted a level of self-governance and political autonomy to districts in which Serbs comprised a significant majority.

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<sup>108</sup>For a discussion of such property disputes in Croatia and suggested standards through which to resolve such questions related to ownership, see Human Rights Watch/Helsinki, *Civil and Political Rights in Croatia*, (New York: Human Rights Watch, October 1995), pp. 22-46 and 107-08.

<sup>109</sup> Adopted on June 25, 1991, and published in, No. 31/91.

<sup>110</sup>"Ustavni zakon o ljudskim pravima i slobodama i o pravima etnickih i nacionalnih zajednica ili manjina u Republici Hrvatskoj," *Narodne Novine*, No. 34/92.



On September 20, 1995, the Croatian parliament adopted a law "temporarily" suspending or amending sections of this law regulating the rights of ethnic/national groups in Croatia.<sup>111</sup> The 1995 "suspension" revokes: "special status" and regional self-governance for districts where non-Croats form a majority; proportional representation in the Croatian parliament and government for ethnic groups that constituted at least 8 percent of the country's population; local ownership of property and goods and allocation of local revenues in districts where non-Croats form a majority; permission for international bodies to monitor compliance with the 1992 law; and the right to bring complaints concerning violations of the 1992 law before the Croatian constitutional court or a Croatian Court of Human Rights, the latter never having been constituted.<sup>112</sup> The 1995 law effectively revokes political autonomy granted to Serbs in the 1992 law, and allows them to maintain a decreased level of cultural autonomy and guarantees their basic human rights, most of which are set forth in the International Covenant on Civil and Political Rights (ICCPR). This revocation adds to the sense of insecurity that prevents many Serb refugees from the Krajina from returning to Croatia.

### **Detention and Trial of Alleged "War Criminals," Prisoners of War and Others**

During and after the Croatian Army offensives in western Slavonia and Krajina in May and August 1995, the Croatian government captured prisoners of war and others who remained in the area. Many of these persons were detained pending investigation of possible war crimes or crimes against the state. Many remained in detention for prolonged periods in collection centers and later in prisons in Pozega, Split, Zadar, Bjelovar, Zagreb, Osijek, Varazdin, and elsewhere. Many of the detainees were eventually transferred to Zagreb, where the conditions of their detention appeared to be satisfactory.

Nevertheless, Human Rights Watch/Helsinki has received reports of mistreatment of those detained during and after the Krajina offensive, usually during the initial stage of detention. Relatives of persons held in Sisak and Karlovac reported that their family members claimed to have been poorly treated before being transferred to the Zagreb prison. Mistreatment in the Pozega facility has also been reported by former detainees.<sup>113</sup> Reportedly 1,043 or 1,047 persons<sup>114</sup> -- almost all men -- were detained during and after the Krajina offensive; as of mid-December, 820 remained in prison. Most of those released were freed due to lack of evidence of criminal behavior but some may have been charged, released on bail and ordered to stand trial at a future date. These men are not permitted to leave the country until after their trial. According to representatives of the U.N. humanitarian crisis cells,<sup>115</sup> over one hundred persons had been sentenced by mid-December 1995.

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<sup>111</sup>"Ustavni zakon o privremenom neprimjenjivanju pojedinih odredbi Ustavnog zakona o ljudskim pravima i slobodama i o pravima etnickih i nacionalnih zajednica ili manjina u Republici Hrvatskoj," *Narodna Novine*, No. 68, September 21, 1995. *Narodne Novine*

<sup>112</sup>The 1995 law suspends Articles 13, 18(1) and (5), 21 to 51, 52 to 57, 58, 60 and 61 of the 1992 law and amends Articles 15 (1), (3) and (4), and 18 (4), and 20 (2) of the 1992.

<sup>113</sup>UNPF Humanitarian Crisis Cell Situation Report, November 30, 1995, 1300 hours.

<sup>114</sup>While some international aid workers claim that 1,043 persons were detained, representatives of the U.N. humanitarian crisis cells reported 1,047 detentions. (Human Rights Watch/Helsinki interviews in Croatia in December 1995.)

<sup>115</sup> Human Rights Watch/Helsinki interview, Zagreb, December 19, 1995.

Only the ICRC appears to have had access to the prisoners during their initial stage of detention, but U.N. workers appear to have had access to the detainees thereafter. Human Rights Watch/Helsinki representatives requested permission to visit prisoners detained in various parts of Croatia as a result of the Krajina offensive. We were refused permission by the Ministry of Justice, claiming that the ICRC, European Community Monitoring Mission (ECMM), UNCRO and UNHCR had been granted such permission and were regularly visiting the prisoners.<sup>116</sup>

Human Rights Watch/Helsinki representatives interviewed Q.,<sup>117</sup> whose husband had been taken to a prison in Sisak after he surrendered to the Croatian authorities during the offensive. Q.'s husband spent three days in the Sisak prison before being transferred to a prison in Zagreb, where he remained in detention at the time of our interview in December 1995. Q. reported visiting her husband regularly in the Zagreb prison. She also stated that he had been appointed a lawyer. According to Q.:

[My husband] is in the Zagreb prison. The conditions there are good and he does not complain about them. He told me that the prison in Sisak -- where he was kept for three days -- was very bad. ... I do not know with what my husband has been charged. I think he has been charged with armed revolt against the Croatian state but I am not sure.

Indeed, while some of the detained appear to have been charged with "war crimes," the majority of those captured as a result of the Krajina offensive are charged with "armed rebellion against Croatia"<sup>118</sup> simply by virtue of their affiliation with the RSK military, which drafted all eligible men.<sup>119</sup> Some of those charged with "war crimes" were accused of having participated in massacres, murder or mistreatment of Croats in 1991, and/or ordering, commanding, or participating in the shelling of Croatian government-controlled territory during the war. The evidentiary bases on which some of the defendants are charged and tried is often weak. In some cases, the court failed to convict defendants due to lack of evidence, while in other instances, persons were convicted despite the paucity of evidence.

In late October 1995, twelve Serbs and two Croats were arrested and charged with "espionage," i.e., spying for the RSK.<sup>120</sup> Among those charged was Radovan Jovic, a judge from the former Serbian-controlled town of Glina (in former sector North) who had reportedly fallen out of favor with the RSK authorities because he opposed the war. Jovic was part of a delegation that traveled to Tuzla, Bosnia, for a meeting organized by the Helsinki Citizens Assembly, an international peace and human rights group based in Prague. Jovic and other Serbs and Montenegrins traveled from Belgrade to Tuzla via Croatia and were granted transit visas from the Croatian government. On October 24, 1995, upon his return to Croatia from Tuzla, Jovic was arrested in his hotel room in Split on October 24, 1995 and charged with espionage.

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<sup>116</sup>Letter from Miroslav Separovic, Justice Minister, Ministry of Justice, Republic of Croatia, to Holly Cartner, Executive Director, Human Rights Watch/Helsinki, No. 514-07-95-3, November 28, 1995.

<sup>117</sup>Human Rights Watch/Helsinki interview, Croatia, December 17, 1995. Because the woman remains in Croatia, her name, place of origin and current residence will not be disclosed to protect her safety.

<sup>118</sup>They are usually charged under Article 235 (1) of the Croatian Criminal Code, which reads:

Whoever takes part in an armed rebellion aimed at endangering the constitutionally established state and social order or safety of the Republic of Croatia, will be punished by imprisonment of at least three years.

See Vojnovic, Ksenija, Scirkovic, Zrinjka, and Vidakovic-Mukic, Marta, eds., *Zbirka Zakona Kaznenog Prava Republike Hrvatske (procisceni tekstovi)*, (Zagreb: Informator, 1993), p. 164.

<sup>119</sup>Because court proceedings associated with those captured during and after the western Slavonia and Krajina offensives resemble cases examined in a previous Human Rights Watch/Helsinki report on local "war crimes" trials in the former SFRY, they will not be discussed in depth here. See Human Rights Watch/Helsinki, "Former Yugoslavia: War Crimes Trials in the former Yugoslavia," (New York: Human Rights Watch, June 1995).

<sup>120</sup>See Press Conference given by Smiljan Rejic, Deputy Interior Minister, Croatian Interior Minister, as reported in *Slobodna Dalmacija*, October 25, 1995.

According to the Serbian Democratic Forum in Croatia, those charged with an offense that carried a sentence of less than five years' imprisonment were not always appointed legal counsel, while state-appointed counsel was generally provided to those charged with crimes carrying a penalty of five or more years' imprisonment. Some accused did not meet with their lawyers until the day of their trial or court hearing, and in other cases, lawyers were not allowed to meet with their clients in private. In still other instances, one lawyer was appointed by the state to represent several clients, often precluding the possibility of proper individual preparation. The U.N. humanitarian crisis cells, the European Union Monitoring Mission (formerly ECMM) and local human rights activists are trying to monitor the trials of those detained during and after the Krajina offensive but do not have the resources to monitor the large number of trials.

As mentioned, between 670 and 1,000 persons<sup>121</sup> sought refuge in the U.N. compound in Knin during and soon after the Krajina offensive. Most were eventually taken to Serbia on September 16, 1995. However, before they were evacuated, the Croatian authorities presented the U.N. with a list of sixty-two persons within the camp who were alleged to have committed "crimes against the state" or "war crimes" against Croats between 1991 and 1995. Because no evidence implicating their guilt was produced at the time, the U.N. refused to surrender them. However, the Croatian government then came back with a shorter list of forty people alleged to have committed crimes. One of those accused could not be found and another person had been incorrectly identified but thirty-eight persons were eventually surrendered, reportedly after a U.N. legal team examined evidence that would support the arrest warrants.<sup>122</sup> In addition, the Croatian authorities

agreed to take the following measures: to guarantee compliance with the minimum international standards for the treatment of detainees; to afford due process of law as defined under international fair trial standards; to permit the International Committee of the Red Cross (ICRC) to visit the detainees and to monitor the conditions of detention; to afford the United Nations regular access to the detainees; and to allow the United Nations to monitor and observe the legal proceedings against the detainees.

Human Rights Watch/Helsinki has not been able to confirm the extent to which these guarantees have been respected by the Croatian government, insofar as they relate to the thirty-eight persons surrendered by the U.N. However, as stated above, similar guarantees have not always been provided to others detained as a result of the Krajina offensive. President Tudjman has pardoned prisoners on two occasions since Operation Storm. In early April, seventy-one Serbs who had been pardoned by President Tudjman were released from prison. Approximately 300 Serbs captured during the Croatian Army offensives in western Slavonia and Krajina remained in prison in Croatia as of early April 1996.

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<sup>121</sup>UNPF officials report that 793 took shelter at the UNCRO base in Knin during and immediately after the offensive. According to the U.N., fifty-three left the UNCRO base in Knin on August 14, 1995, reducing the total number of displaced persons at the Knin U.N. base to 740 and in other locations throughout Sector South to 785. See UNPF-HQ Zagreb, Humanitarian Crisis Cell Sitrep, Compilation of Human Rights Reporting, August 14, 1995, 1700 hours.

<sup>122</sup>Rehn Report (1995), p. 8.

In May 1996, the Croatian parliament adopted an amnesty law that would apply to those charged with having committed acts of rebellion against the state -- but not war crimes -- between August 17, 1990, and June 1, 1996. However, this recent amnesty law would only apply to those Serbs still living in Sector East, which is due to revert to Croatian government control in January 1997. An earlier amnesty had been signed into law by President Tudjman on September 25, 1992, pardoning those accused of having committed crimes against the state -- but, again, not war crimes -- between August 17, 1990, and September 25, 1992.<sup>123</sup> However, this 1992 law has not been consistently applied, and Serbs continued to be charged with the commission of crimes against the state during the period covered by the 1992 law. Moreover, because the May 1996 amnesty law applies only to those living in Sector East, Serbs who had been part of the RSK forces in the Krajina and western Slavonia regions from September 25, 1992 to August, 1995 are still subject to prosecution for crimes against the state in Croatia. Because almost all men living in those territories were conscripted into the RSK forces from August 1990 to August 1995, male refugees who fled during the Krajina offensive and sought to return to Croatia could be arrested and prosecuted. This risk of arrest discourages the return of many Serbs and their families to Croatia.

## **ADDITIONAL ABUSES RESULTING FROM THE KRAJINA OFFENSIVE**

### **The Situation of Bosnian Muslims Loyal to Fikret Abdic**

The Bosnian Army's defeat of forces loyal to Fikret Abdic during the Krajina offensive led to the influx of approximately 25,000 Abdic supporters -- almost exclusively Muslims, many of them armed -- into Croatia. The refugees fled their former stronghold in Velika Kladusa in northern Bosnia and encamped in the village of Kupljensko, in the municipality of Vojnic in Croatia. The camp was initially under the control of the Croatian Army, then the Ministry of Interior and, on October 17, 1995, special units of the police force took control of the camp, and access was restricted. Human Rights Watch/Helsinki representatives applied to the Croatian Interior Ministry for permission to enter the Kupljensko refugee camp in December 1995 and were told that such permission was not necessary. Soon thereafter, we tried to visit the camp on two separate occasions but were turned back by what appeared to be Croatian soldiers.

The Croatian government insisted that the Abdic supporters return to Bosnia. However, the refugees were concerned about their safety should they return to an area where they are widely viewed as traitors. On August 8, 1995, members of the Croatian and Bosnian governments, representatives of the Muslim-Croat Federation, and representatives of the Abdic supporters met to discuss the conditions of the refugees' repatriation. An agreement was signed in the town of Vojnic, in Croatia, stating that armed Abdic supporters arriving in Croatia from Velika Kladusa could join the Bosnian Army or the Bosnian Croat militia (HVO); those not wishing to join the military were to surrender their arms to the Croatian Army or the Croatian police, after which they would be treated as civilians. According to the agreement, all civilians were then to be returned to the municipality of their past residency. Soldiers and civilians who had been supporters of Abdic would be granted amnesty from prosecution, and their safety, civil rights and property were to be guaranteed and protected. UNPROFOR/UNPF, UNHCR, the ICRC and other groups would be allowed to monitor the human rights aspects of the agreement. An office consisting of representatives of the Bosnian and Croatian governments and the Ombudsman's office of the Muslim-Croat Federation<sup>124</sup> was to be established in Velika Kladusa. Those refugees deciding to return to the Velika Kladusa area were also provided with a statement declaring that they were returning to their homes and that they were to be afforded the protections set forth in the August 8, 1995, agreement. Although most of the Abdic refugees were disarmed about one month after their arrival at the Kupljensko camp and an ombudsman's office was established in Velika Kladusa on November 22, 1995, the human rights of refugees remaining in the camp and those returning to the Velika Kladusa area were not respected.

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<sup>123</sup>For a discussion of this law and other issues related to amnesty in Croatia, see Human Rights Watch/Helsinki, *Civil and Political Rights in Croatia*, (New York: Human Rights Watch, October 1995), pp. 77-89.

<sup>124</sup>The Washington Agreement that created the Muslim-Croat Federation in Bosnia-Herzegovina (signed on February 28-March 1, 1994) established an ombudsman's office that was charged with protecting human rights in the federation.

The refugees remaining in the Kupljensko camp lived in squalid conditions and, in August 1995, Croatian authorities obstructed access to the refugees by international aid workers and refused to allow food and other supplies to be sent to the refugees, citing "security concerns."<sup>125</sup> Croatian authorities then used the denial of aid to the Abdic refugees as a reason to force their return to Bosnia. Threats, intimidation and shows of military power (such as the stationing of tanks around the camp) also were used by Croatian authorities to pressure the refugees to return home. For their part, refugees loyal to Abdic refused to return to the Velika Kladusa area, fearing retribution in Bosnian-government controlled territory, where they are viewed as traitors for their former alliance with Serbian forces. The Croatian government refused to grant the Abdic supporters refugee status or to consider granting them political asylum refugees despite their well-founded fear of persecution should they return to their homes in Bosnia.

Human Rights Watch/Helsinki representatives were told by international aid workers that, in some cases, men in the camp tried to escape and flee, only to be shot at by the Croatian police as they fled. Most of those shot were wounded rather than killed and were taken to the Karlovac hospital, where they were treated. They were forcibly repatriated.

Some Abdic supporters were forcibly repatriated by Croatian or Bosnian authorities. International aid workers interviewed by Human Rights Watch/Helsinki representatives<sup>126</sup> reported that the fifth corps of the Bosnian Army had crossed the border into Croatia, traveled to the Kupljensko camp and abducted men of draft age. The Croatian police stationed at the camp -- ostensibly to prevent "disorder" and "to ensure security" -- did not interfere with the abductions. International aid workers also reported that the Croatian police took men of draft age from the camp to the Bosnian border and delivered them to members of the fifth corps. Because the camp boundaries were not defined by flags, wire or other markers, many of the refugee men were arrested by the Croatian police while chopping wood in the forest around the camp, taken to the town of Vojnic for questioning and then delivered to the Bosnian authorities.<sup>127</sup> According to one witness,<sup>128</sup> "[In late November], my brother and I saw the Croatian police arrest three men [from the camp.] ... The men were chopping wood and were approached by the police and handcuffed. Then they were driven away from the camp." International aid workers estimate that some 600 men were forcibly repatriated by the Croatian police between mid-August to mid-December 1995.

Some of those repatriated were sent to the frontlines in Bosnia, where some were killed. Others were assigned to "work duty," usually in the Sanski Most area. Bosnian soldiers also reportedly removed men from buses filled with refugees returning to Velika Kladusa from the Kupljensko refugee camp in Croatia. These men are arbitrarily accused of having committed "war crimes" or are labeled draft-dodgers and immediately sent to the front lines.

Many Abdic supporters who returned to or remained in the Velika Kladusa area were harassed, beaten, and raped. Two international aid workers interviewed by Human Rights Watch/Helsinki representatives in September and December 1995 reported having interviewed women who had been assaulted and raped since the area returned to Bosnian government control. International aid workers reported that Velika Kladusa and especially the surrounding villages were "unsafe" in late 1995. Abdic supporters and international aid workers both claimed that Bosnian government-controlled radio in the Velika Kladusa area frequently issued inflammatory statements about the Abdic supporters, encouraging attacks against those returning to the area from the Kupljensko camp. Those responsible for

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<sup>125</sup>Raymond Bonner, "Aid For Trapped Muslims Is Blocked by Croats," *The New York Times*, August 12, 1995. See also Raymond Bonner, "Bosnian Splinter Group Is Exiled and Unwanted," *The New York Times*, August 22, 1995.

<sup>126</sup>Human Rights Watch/Helsinki interview, December 1995.

<sup>127</sup>UNHCR trucks carrying wood for the refugees reportedly were turned back by the Croatian police in November 1995, under the pretext that the pieces of wood were too large and would be used by the refugees to build houses, and thus lead to the establishment of a permanent settlement unacceptable to the Croatian government. Most of the refugees lived in tents and the burning of wood was their primary source of heat.

<sup>128</sup>Human Rights Watch/Helsinki interview, Croatia, December 18, 1995. The name of the witness and the place of the interview are withheld to protect the safety of the witness.

crimes against Abdic supporters in the Velika Kladusa area appear to be members of the fifth corps of the Bosnian Army, possibly members of the 506th brigade which was never fully withdrawn from the area. Indeed, soldiers who identified themselves as members of the 506th brigade of the Bosnian Army to Human Rights Watch/Helsinki representatives during their visit to Velika Kladusa in late December 1995 were widely seen in the area.

A meeting of government representatives from Bosnia-Herzegovina, Croatia and Turkey was held in New York on October 23, 1995, with the aim of securing conditions for safe and voluntary return of refugees to the Velika Kladusa area. The meeting established a tripartite police force, comprised of police officers from the three governments to patrol the Velika Kladusa area. A subsequent protocol signed by the Interior Ministers of Bosnia, Croatia and Turkey on November 24, 1995, provides the operational details of the tripartite police force, which would be composed of fifty officers from Croatia, fifty from Turkey, and one-hundred from Bosnia.<sup>129</sup> The protocol also requires "that there 'shall be no operations of military units or members of the Army of the Republic of Bosnia and Herzegovina' within the zone of operations of the tripartite force, requiring the withdrawal of the fifth corps" of the Bosnian Army from the area.<sup>130</sup> The tripartite police force is to remain in the Velika Kladusa area until the majority of the refugees have been returned or within six months from the protocol's signing, although the parties may agree to prolong the force's deployment.<sup>131</sup>

The tripartite police force was deployed in the Velika Kladusa area between December 1 and 5, 1995, but, with only 200 officers, its presence is concentrated in the town of Velika Kladusa and along the main roads. The presence of police officers in the approximately sixty villages and hamlets around the town is minimal, even though most abuses take place in the surrounding villages rather than in the town itself. The extent to which threatened Abdic supporters approach the trilateral police with reports of abuse remains unclear, many fear reporting abuse for fear of retribution.

At the Dayton peace talks in November 1995, representatives of the Croatian and Bosnian governments signed another agreement calling for the repatriation of refugees from the Velika Kladusa and Cazin areas of northwestern Bosnia.<sup>132</sup> Approximately 15,000 refugees returned to Bosnia following completion of the talks. Although the Dayton agreement "notes that 'the dignity and safety of the refugees' [would] be respected during the return, it [did] not include a requirement that returns be 'voluntary' [nor did the agreement] establish a process for determining an individual's wishes regarding return."<sup>133</sup>

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<sup>129</sup>UNPF Humanitarian Crisis Cell Situation Report, November 30, 1995, 1300 hours.

<sup>130</sup>*Ibid.*

<sup>131</sup>*Ibid.*

<sup>132</sup>Group for the Direct Protection of Human Rights, Member of the Anti-War Campaign Croatia and Coordination of Organizations for Human Rights in Croatia [sic], "Report from Refugee Camp Kuplensko [sic], Near Vojnic," Zagreb, September/December 1995, p. 9.

<sup>133</sup>UNPF Humanitarian Crisis Cell Situation Report, November 28, 1995, 1300 hours.

Ahmet Sarajlija, the Bosnian ombudsman in Velika Kladusa,<sup>134</sup> told Human Rights Watch/Helsinki representatives that, as of December 21, 10,200 Abdic supporters had returned to Velika Kladusa area. He claimed that since August 1995, 43 individuals had sought help from the ombudsman's office and that thirty of the cases had been resolved following the ombudsman's intervention. Mr. Sarajlija claimed that most of the problems with which he has been confronted included problems related to personal security (threats and beatings), freedom of movement, property disputes, and access to medical care and housing.

Although Mr. Sarajlija claims that the human rights situation in Velika Kladusa was favorable at the time of our visit, Human Rights Watch and many aid workers stationed in the area found the human rights conditions to be poor. Mr. Sarajlija stated that there were no Bosnian Army troops stationed in Velika Kladusa, despite the clear presence of soldiers at the time of our visit. Mr. Sarajlija claimed that the uniformed men seen about town were either members of the military police, soldiers who live in the area, or members of the 506th brigade of the fifth corps, which allegedly was a logistics unit.

As of late February 1996, approximately 7,000 Abdic supporters remained in squalid conditions in Croatia, fearful of returning home.<sup>135</sup> During a visit to the Velika Kladusa region by Human Rights Watch/Helsinki representatives in late December, it was readily apparent that the agreements providing for the safety of the Abdic supporters were being ignored and that those who had returned or been repatriated to the area faced a precarious future. The Kupljensko camp was slated for closure, and the Abdic refugees were to be returned to the Velika Kladusa area, in May 1996.

### **The Exodus of Krajina Serbs and their Arrival in Bosnian Serb-Held Areas and the Federal Republic of Yugoslavia**

Approximately 150,000 Serbs fled the Krajina area during the Croatian Army offensive, creating the largest single movement of refugees since the beginning of the war in the former Yugoslavia in 1991. Neither Serbian President Slobodan Milosevic nor the Serb-dominated Yugoslav Army came to the aid of the Krajina Serbs during the offensive. Although President Milosevic condemned the Croatian military assault, the Serbian government-controlled press also attacked the Krajina Serb leaders, claiming they were unfit to hold office.<sup>136</sup> Most Serbs fleeing the Krajina region went to Banja Luka or to Serbia proper. The majority of the refugees were resettled in the northern Serbian province of Vojvodina, and a smaller number were resettled in the predominantly Albanian-populated province of Kosovo in southern Serbia.

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<sup>134</sup> Human Rights Watch/Helsinki interview, Velika Kladusa, Bosnia-Herzegovina, December 21, 1995.

<sup>135</sup> Barbara Francis, UNHCR Spokesperson, Interview, *Cable News Network (CNN) International*, February 25, 1996.

<sup>136</sup> Michael Sheridan, "Serbia Demands International Action," *The Independent*, August 5, 1995.

During the first days after the offensive, Serbia opened its doors to arriving refugees from the Krajina area. However, during the weekend of August 12-13, Belgrade forcibly took approximately 500 able-bodied men who had recently come from the Krajina area and sent them to Serb-controlled territory in Bosnia and to eastern Slavonia, the last swath of Serbian-controlled territory in Croatia, claiming that they would be conscripted into Serbian armed forces in those areas.<sup>137</sup> On August 12, Serbia also announced that men of military age would no longer be allowed to cross from Bosnian Serb-controlled territory into Serbia proper, claiming that it had accepted 107,000 refugees from Krajina since August 4.<sup>138</sup> Some in the political opposition in Serbia believe that the forced conscription of Krajina refugees was used to prevent widespread opposition and demonstrations to what is widely perceived as Milosevic's "abandonment" of the Krajina Serbs.<sup>139</sup>

Many of the RSK refugees who had not been registered as refugees upon their arrival or men who came to the FRY after August 12 remain without refugee status and, therefore, can be considered "illegal" migrants by FRY authorities. As "illegals," they are subject to deportation, usually to Bosnian Serb-held territory or to the Serbian-controlled area of eastern Slavonia in Croatia. The Serbian Interior Ministry is responsible for checking persons to determine whether their presence in the FRY is "illegal"; document checks of men in cafes and other public gathering areas in Serbia have taken place. Many of the RSK men deemed to have entered the FRY as "illegal" were reportedly turned over by the Serbian police to paramilitary units of Zeljko Raznjatovic, a.k.a. Arkan, in the latter's base in the village of Erdut in eastern Slavonia. Some refugees who had been taken to eastern Slavonia as conscripts but who had managed to return to Serbia proper reported having been mistreated by Arkan's men. Reportedly, conscripted refugees taken to eastern Slavonia had been beaten and humiliated in public because they "surrendered Krajina to the enemy."<sup>140</sup>

Under international refugee law, each individual should be allowed to apply for refugee status and be given a fair hearing in the FRY before being forcibly sent to any territory where he or she might face persecution.<sup>141</sup> The FRY government, even if it considers the men draft evaders, nevertheless has an obligation to allow them a fair opportunity to claim asylum.

Insofar as potential or existing opponents to the regime are being singled out for conscription and "removal" to the battlefields, such a practice would violate the right to freedom of speech, expression, and assembly. Because Milosevic's government has conscripted political opponents in the past -- most notably from the province of Vojvodina and the city of Belgrade to fight in the war in 1991 -- Human Rights Watch/Helsinki is concerned that the conscription of Krajina refugees is motivated by political, rather than legitimate military, considerations.

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<sup>137</sup>Tim Judah, "Able-Bodied Refugees Are Forced Back to the Fight," *The Daily Telegraph*, August 18, 1995.

<sup>138</sup>*Ibid.*

<sup>139</sup> Many observers believe that a "deal" was struck between Serbian President Slobodan Milosevic and Croatian President Franjo Tudjman to return the Krajina area to Croatian government control. The speed with which the Croatian Army regained control over the Krajina area, the near absence of resistance by the RSK military, and the generally orderly and swift evacuation of Serbs from the area by the RSK authorities has been cited to support this claim. Moreover, U.N. officials stationed in the Krajina area before the offensive told Human Rights Watch/Helsinki representatives who visited the Knin area in mid-August 1995 that high-ranking RSK military officers had taken their families from the Krajina area about one week before the offensive.

<sup>140</sup>See the Humanitarian Law Center/Humanitarian Law Fund, "Spotlight Report No. 20: Violations of Refugees Rights in Serbia and Montenegro," Belgrade, October 1995, p.11. Article 33 of the U.N. Convention on the Status of Refugees. The principle of non-*refoulement* also is accepted as customary international law and is therefore binding on all states.

<sup>141</sup>See also Human Rights Watch/Helsinki, *Civil and Political Rights in Croatia*, (New York: Human Rights Watch, October 1995, pp. 50-57.



According to UNHCR officials,<sup>142</sup> 15,000 Krajina refugees were resettled by the FRY authorities in the southern Serbian province of Kosovo by early July 1996. However, many of these Krajina refugees reportedly were not told where they were being resettled, and many apparently did not want to go to the poorest and most politically volatile area of Serbia.<sup>143</sup> Moreover, Belgrade's decade-long repression of Kosovo's Albanians<sup>144</sup> raised concerns of possible tension between Serbs and Albanians in the province, although to date, neither significant disturbances nor discrimination related to the influx of RSK refugees has been reported.

### **Displacement of Non-Serbs by Krajina Refugees in Banja Luka and Vojvodina**

Approximately 50,000 refugees from Krajina remained in Bosnian Serb-controlled territory, largely in the Banja Luka area, after the Krajina offensive. In retaliation for their own displacement by Croatian forces, some Krajina refugees -- with the assistance of Serbian paramilitary groups and extremists -- forcibly evicted thousands of Croats and Muslims from their homes in the Banja Luka area. Other abuses -- including the summary execution and disappearance of non-Serbs -- also intensified in the Bosanska Krajina area after the August 1995 offensive in Croatia. Local and regional Bosnian Serb authorities encouraged the expulsion of Croats and Muslims from the region, particularly in September and October 1995. Because abuses in the Banja Luka area during this period have been reported in another Human Rights Watch/Helsinki report,<sup>145</sup> this section will focus on retaliatory attacks against and expulsions of non-Serbs in the province of Vojvodina in northern Serbia.<sup>146</sup>

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<sup>142</sup>Human Rights Watch/Helsinki interview with UNHCR representatives, Kosovo, July 1996.

<sup>143</sup>Marcus Tanner, "Serb Refugees Forced Back Into the Cradle," *The Independent on Sunday*, August 20, 1995.

<sup>144</sup>For an account of abuses in the Kosovo region, see Helsinki Watch, *Yugoslavia: Human Rights Abuses in Kosovo*. (New York: Human Rights Watch, October 1992), and Human Rights Watch/Helsinki, *Open Wounds: Human Rights Abuses in Kosovo*, (New York: Human Rights Watch, March 1993).

<sup>145</sup>See Human Rights Watch/Helsinki, "Northwestern Bosnia: Human Rights Abuses during a Cease-Fire and Peace Negotiations," (A Human Rights Watch Short Report, vol. 8, no. 1, February 1996). See also Jane Perlez, "Ousted Serbs Said to Oust Others in Turn," *The New York Times*, August 13, 1995, and Emma Daly, "U.N. Fury at 'Final Solution' Expulsions," *The Independent*, August 15, 1995.

<sup>146</sup>Since 1991, Serbian paramilitaries, refugees and individual extremists have terrorized and forced the expulsion of a large portion of Vojvodina's Croatian and Hungarian populations. It should be noted that many Serbs indigenous to Vojvodina often tried to protect their non-Serbian neighbors. Moreover, in the late 1980s and 1990-1991, Vojvodina's youth, political parties and media were vocally opposed to Belgrade's domestic policies and the war in the former Yugoslavia. In an effort to quell this opposition, Milosevic revoked the political autonomy that the province had enjoyed for decades and purged the then-liberal provincial media, placing it firmly under his control. Young men from Vojvodina were conscripted into the Yugoslav Army and were taken to the battlefields in Croatia in 1991, particularly in the town of Vukovar, where many were killed. The resettlement of Serbian refugees from Croatia and Bosnia in Vojvodina, the flight of non-Serbs, and political repression from Belgrade have altered the demography, the tradition of inter-ethnic co-existence, and the pace of political democratization in Vojvodina. Leaders of the political opposition estimate that the current population of Vojvodina consists of 60 percent Serbs, 15 percent Hungarians, 8 percent Croats, 6 percent Slovaks, and smaller percentages of Ruthenians, Romanians and others.

According to Croatian government representatives in Belgrade, 850 Croats left Vojvodina between August 10 and early September 1995.<sup>147</sup> Similarly, liberal opposition leaders in Vojvodina indicate that between 800 and 1,000 Croats left the province in August 1995.<sup>148</sup> Some of the Croats -- and some Hungarians -- who have decided to leave Vojvodina since August 1995 have done so because of harassment and threats. Others have been targeted for eviction.<sup>149</sup> Catholic priests throughout Vojvodina reported to Human Rights Watch/Helsinki representatives that, pursuant to their parishioner's requests, they were issuing certificates confirming that the person was a Catholic and/or a member of the local congregation.<sup>150</sup> According to the priests, Vovojdina's Croats asked for these certificates in case they were expelled from their homes by refugees from Krajina and needed to travel to Croatia. The certificates would confirm their status as ethnic Croats and facilitate their acceptance by the Croatian authorities.

In some cases, RSK refugees asked Croats whether they were willing to exchange their homes in Vojvodina for the refugees' homes in Krajina. Some Croats accepted the offer without coercion of any kind. Others have refused such offers without repercussion. In other cases, however, Croats were threatened -- either in person or by telephone -- that they or their property in Vojvodina would be harmed if they did not leave or exchange their houses.

In mid-August 1995, the Serbian police attempted to protect Croats in Vojvodina from harassment and eviction by RSK refugees and political extremists, but such efforts were not particularly successful. Although special police units took active steps to prevent the expulsions, the local police and civilian leadership in parts of Vojvodina showed varying degrees of willingness to protect non-Serbs from eviction and attack by refugees. A Catholic priest in Vojvodina<sup>151</sup> who was sympathetic to the frustration of the Krajina refugees told Human Rights Watch/Helsinki representatives that the police tried to protect Croats. However, once the police left the area, angry refugees returned to harass them further. The priest reported that he had not been harassed but that other priests in Vojvodina had had their cars stolen and their local churches looted and ransacked, and that refugees had moved into a priest's home. The Serbian police behaved correctly and removed the refugees from the priest's home. They also recovered a stolen car.

In some instances, paramilitary groups assisted the RSK refugees in harassing and expelling Croats and Hungarians from their homes. According to persons interviewed by Human Rights Watch/Helsinki, Croats and Hungarians were harassed or expelled from their homes in the following towns and villages in Vojvodina after the August 1995 Krajina offensive: Kukujevcı, Gibarac, Ruma, Sid, Slankamen, Petrovaradin, Sremski Karlovci, Sot, Erdevik and Morovic.

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<sup>147</sup>Human Rights Watch/Helsinki interview with Ivo Kujundzic, Counsellor for Humanitarian Affairs, and Davor Vidis, Spokesperson, Office of the Government of the Republic of Croatia, Belgrade, Serbia, September 11, 1995.

<sup>148</sup>Human Rights Watch/Helsinki interview with Nenad Canak, President of the Social Democratic League of Vojvodina, Novi Sad, Vojvodina, Serbia, August 31, 1995.

<sup>149</sup>Human Rights Watch/Helsinki representatives received numerous reports that Krajina refugees arriving in Vojvodina had been given lists of names and addresses of Croats in the province, probably by leaders of the Serbian Radical Party, whose leader, Vojislav Seselj, and sympathizers have long harassed or terrorized non-Serbs in Vojvodina. In some cases, the names and addresses of Serbs opposed to Seselj's policies were also reportedly included on the lists. The persons distributing the lists to the refugees allegedly urged the refugees to evict persons whose names appeared on the list and to occupy their homes. In some cases, the refugees appear to have identified Croatian homes by looking through the telephone book and identifying names that appeared to be Croatian. Human Rights Watch/Helsinki also received reports that the refugees had been told when they were evacuating their own homes in the Krajina region-- apparently by RSK officials or by fellow refugees -- that empty houses awaited them in Vojvodina. Human Rights Watch/Helsinki has not been able to confirm these allegations.

<sup>150</sup> Human Rights Watch/Helsinki interviews, September 1995.

<sup>151</sup> Human Rights Watch/Helsinki interview, Vojvodina, Serbia, September 2, 1995. Further details regarding the priest and place of interview are withheld to protect the witness from possible reprisals.

M.A., a Croatian woman from a village in Vojvodina,<sup>152</sup> was evicted from her home by Krajina refugees on August 9, 1995. She and her mother had gone to the market that morning and rumors were circulating that Krajina refugees were evicting Croats from their homes in the area. Panic gripped the local population, and M.A. and her mother returned home from the market and locked their doors. According to M.A.:

We were very nervous. We went back home and didn't know whether to pack. At 5:00 p.m., a Croatian neighbor came to our house. ... She said the refugees were coming, that they were expelling Croats, and that they were not allowing the Croats to collect any luggage from their houses but that they had to leave everything behind. I immediately took all the money we had and some luggage and escaped in a car to [another town].

M.A.'s fifty-three-year-old mother and her grandmother remained in the house, where Krajina refugees arrived at 5:30 p.m. on the same day. M.A. reported that her mother went into the street and saw six or seven men, refugees from Krajina, dressed in camouflage and carrying guns. They were entering a house three doors away. M.A.'s mother ran back into her house but the men soon arrived at her door and ordered her to leave immediately. M.A. claims that her mother reported that the refugees found a hunting rifle and knife that belonged to M.A.'s deceased father. The men then reportedly put the knife to her mother's throat and asked, "Ustasa, who did you kill with this knife?" The men reportedly followed the mother at gunpoint from room to room as she collected her things. M.A.'s mother and grandmother were forced to leave their home and went to a neighbor's house, only to be evicted from that house later the same day. One of the armed men reportedly remained in M.A.'s home while the other two reportedly moved on to the next Croatian home. M.A. claims that one hour after her mother was evicted, a truckload of Krajina refugees arrived in the village. M.A. believes that the soldiers were sent to the village to evict the Croats and that the civilians arrived to occupy the newly confiscated homes. The eviction of Croats from the village and the arrival of Serbian refugees to take over their homes reportedly continued until midnight that day. M.A. claims that three men and a woman were beaten by the refugees because they refused to leave their homes or because they did not have money to give to refugees who demanded it.

M.A. and the other Croats who had been expelled from their village and whose houses had been occupied by the Krajina refugee went to the police station the following morning:

The police told us that those who had been among the first families to be expelled -- that included us -- could return to our homes, because a special unit police had arrived in our village and was removing the refugees from our houses. We then went back to our village and saw the special police removing the refugees but these special police units left at 3:00 [p.m.] and only the local police remained. But both the special units and the local police told us to collect our things and move away from the village. They said they could guarantee our safety only during the daytime but that, if someone wanted to return during the night, they could not protect us.

M.A. claims that she was threatened by the refugees and told to leave. She spent the afternoon packing and saw that the refugees were writing "occupied" on the doors of the Croats' houses they had claimed. After the special police units left the village, M.A. reports that armed refugees went from house to house, trying to prevent Croats from taking their belongings before leaving. The local police told her that she was not safe in the village and that she should leave. When M.A.'s mother returned to gather more belongings the following day, she found that the house had been occupied by twenty refugees. The new occupant told her not to return unless she agreed to exchange the rights to her home for his home in Petrinja, Croatia.

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<sup>152</sup> Human Rights Watch/Helsinki interview, Novi Sad, Vojvodina, Serbia, September 3, 1995. Further details about the witness and her place of residence are withheld pursuant to the witness's request.

S.G., a thirty-six year-old Croatian woman,<sup>153</sup> lives with her husband and children in Vojvodina. On August 9, refugees tried to expel them from their home but they resisted and the refugees eventually dispersed. However, the family was advised by friends to take in one refugee family so as to prevent further attempts at eviction. S.G. accommodated one such refugee family but when her husband went to the local town hall on August 11, he was instructed to sign a document stating that he would take care of the family in question as long as they held refugee status. Human Rights Watch/Helsinki obtained a blank copy of the form prepared by the local police that requires a person to insert his/her name and address, the names of refugees accommodated in the person's home, the place from where the refugees fled, and the person's signature. The statement also includes the following clause: "I [the signatory] declare that I will accommodate the aforementioned persons during the duration of their status as refugees." According to S.G., "This practice of making Croats sign statements went on for the following ten days. Now we have several families living in our house!" S.G. also reported that her mother-in-law was beaten by a refugee who had stopped her in the street to inquire about the whereabouts of another woman, who reportedly was also beaten by the refugees.

S.R., a thirty-four-year-old Croatian woman,<sup>154</sup> witnessed the beating of her neighbors by refugees. According to S.R.:

There was a large crowd of refugees in front of the house next to ours; the owner ... [a Croatian woman in his sixties] locked herself in the house. I saw a refugee -- a man -- jump over the fence and open the gate to the house from inside. The neighbor's daughter came out of the house and she tried to say something but they grabbed her and started hitting her in the face. The owner of the house then came out and she was grabbed and beaten. I [also] saw this old man get beaten.

S.R.'s husband tried to intervene to help the neighbors, but he, too, was beaten. When the witness and her daughter tried to come to his aid, they were kicked and slapped by the refugees. One of her daughters who told the refugees that they were not leaving their homes had a knife put to her throat by a man who threatened to kill her. The family eventually managed to return to their home and lock the door but the mob remained outside, calling them "Ustasa," ringing their bell and kicking their gate. Special police units arrived after about one hour and the situation was calmed. S.R. and her family decided to accommodate eight refugees in an old house they owned but did not occupy, but S.R. refused to sign the aforementioned statement signed by S.G.'s husband.

### **THE VESTIGES OF THE U.N. OPERATION IN CROATIA: EASTERN SLAVONIA**

Following the Croatian Army offensive in the Krajina area, Croatian and Serbian forces gathered along the line dividing the two forces in eastern Slavonia -- an area of Croatia captured by Serbian forces in 1991 and the only remaining swath of Serbian-controlled territory in Croatia. Yugoslav Army forces were sent to aid Serbian troops in eastern Slavonia. Unlike the increased and systematic human rights monitoring being conducted by U.N. personnel in former Sectors North, South and West, "effective human rights reporting in ... Sector [East was] virtually impossible given restrictions on movement" during the weeks following the Krajina offensive.<sup>155</sup> U.N. monitors were eventually granted greater freedom of movement by the local Serbian authorities, and tensions within Sector East and along the confrontation line separating Croatian and Serbian forces decreased.

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<sup>153</sup> Human Rights Watch/Helsinki interview, Vojvodina, Serbia, September 3, 1995. Further details about the witness's place of residence are withheld to protect her safety.

<sup>154</sup> Human Rights Watch/Helsinki interview, Vojvodina, Serbia, September 3, 1995. Further details about the witness's place of residence are withheld to protect her safety.

<sup>155</sup> UNPF Humanitarian Crisis Cell Situation Report, September 19, 1995, 1300 hours.

Fearing the opening of another battlefield in Croatia and the possible involvement of the Yugoslav Army, the international community intervened to calm tensions in eastern Slavonia and to resolve its status. Following talks co-chaired by Thorvald Stoltenberg, then U.N. negotiator for the former Yugoslavia, and Peter Galbraith, the U.S. Ambassador to Croatia, RSK Serbs agreed, in principle, to return eastern Slavonia to Croatian government control. For its part, the Croatian government agreed to a phased transfer of authority and to the maintenance of an international presence in the area during and after this transition period. Although disagreement over the duration of the transition period ensued, with Croatian authorities calling for an eighteen-month period and Serbian officials calling for a five-year period before the area returned to Croatian control, it was eventually agreed that the Croatian government would take full control of the region one year after the deployment of an international transitional force. Largely due to the U.S. refusal to join such a force, NATO declined to deploy forces in eastern Slavonia, and administration of the area during the transition period fell once again to the U.N.

A fourteen-point document was signed by RSK and Croatian government representatives on November 12, 1995. The document established a twelve-month transitional period in eastern Slavonia, during which a U.N.-created "transitional administration" would govern the region, "maintain peace and security in the [r]egion and otherwise assist in the implementation of" the November agreement.<sup>156</sup> This authority is required to demilitarize the area, ensure conditions for the return of those displaced from the region, and establish and train a temporary police force. The transitional authority is also required to organize elections for local governing bodies no later than thirty days prior to the expiration of the transition period, and international observers are requested to monitor the elections. The Serbian community is also given the right to appoint a "joint council of municipalities," which would presumably represent its interests once the area returns to Croatian government control. The agreement also calls for respect for "the highest levels of internationally recognized human rights and fundamental freedoms" in the area, restitution of or compensation for property taken from those displaced from the region, and disbursement of reconstruction assistance without prejudice to the recipient's ethnicity. The agreement states that after the expiration of the transition period, "the international community shall monitor and report on respect for human rights in the [r]egion on a long-term basis."

On November 30, 1995, the U.N. Security Council agreed to consider the establishment of "a transitional administration and a transitional peacekeeping force to implement the relevant provisions of" the November 12 agreement. It also requested that the U.N. Secretary-General submit a report specifying the details of such an operation, which he did on December 13, 1995.<sup>157</sup> On January 15, 1996, the U.N. Security Council established "for an initial period of twelve months" a revised peace-keeping operation for Sector East, which was named the "United Nations Transitional Administration for Eastern Slavonija, Baranja and Western Sirmium" (UNTAES).<sup>158</sup> A 5,000-member U.N. force is to be deployed in the area "to supervise and facilitate the demilitarization" of the area, to monitor the return of refugees and displaced persons, "to contribute, by its presence, to the maintenance of peace and security in the region," and "otherwise to assist in implementation of" the aforementioned November 12, 1995, agreement between the parties.<sup>159</sup> A civilian component was also established and was charged with establishing and training a temporary police force; assisting with the establishment of civil administration and of functioning public services and with the return of refugees; organizing elections; and "undertaking ...other activities ... including assistance in the coordination of plans for the development and economic reconstruction of the [r]egion."<sup>160</sup> UNTAES was also charged with monitoring the parties' respect for human rights in the region and mandated to cooperate with the ICTY.

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<sup>156</sup>See "Basic Agreement on the Region of Eastern Slavonia, Baranja, and Western Sirmium," November 12, 1995.

<sup>157</sup>United Nations Security Council Resolution 1025, November 30, 1995.

<sup>158</sup>United Nations Security Council Resolution 1037, January 15, 1996.

<sup>159</sup>*Ibid.*

<sup>160</sup>*Ibid.*

Jacques Klein was subsequently appointed “transitional administrator” of the Sector East area during the “transition period,” and was empowered to oversee the military and civilian aspects of UNTAES. On April 17, 1996, the first group of Croatian police officers began their training as part of what should be a 600-person police force. Demilitarization of eastern Slavonia began in late May 1996, following the full deployment of all 5,000 UNTAES troops. Militia belonging to the FRY had left the area and heavy weapons and other military equipment were also being withdrawn, but the extent to which the forces belonging to paramilitary leader Zeljko Raznjatovic (a.k.a., “Arkan”) had diminished their presence and their black market activities in the Erdut area remained unclear. Croatian customs officials were scheduled to take control along the area’s eastern border with the FRY, and the Belgrade-Zagreb highway was opened on May 7, 1996.

As stated above, in May 1996, the Croatian parliament adopted an amnesty for Serbs who were part of RSK forces in eastern Slavonia but who otherwise were not believed to be guilty of “war crimes.” There appears not to have been a major exodus of Serbs from the region for the time being, and local Serbian authorities are seeking political autonomy for the area. However, many Serbs from Sector East have declared their intention to leave the area rather than wait for its return to Croatian government control. As January 1997, the time at which Croatia will take over control of eastern Slavonia, approaches, there is a risk that Serbs who choose to leave the area may attack and damage the property of those who remain in the region.<sup>161</sup> The test of Croatian tolerance for Serbs who remain in the area will come if and when those Croats expelled by the RSK authorities return to their homes, and property disputes and other conflicts between the returning Croats and the local Serbs or Serbs resettled in the area ensue. Furthermore, despite agreements calling for the peaceful transfer of the area from Serbian to Croatian control, the possibility of a resumption of armed conflict should not be discounted, particularly if Serbian paramilitaries formerly based in Sector East or other forces intervene to prevent the transfer of power.

International pressure must be maintained on the Croatian and FRY governments and the RSK authorities in Sector East to ensure their compliance with prior agreements. In order to guarantee respect for the rights of the area’s various ethnic groups and displaced persons, an effective international human rights and police presence should remain in the region during and after the transfer of authority.

## CONCLUSION

In the four months between July 17 and November 15, 1995, close to half a million people were forcibly displaced from their homes in the former Yugoslavia. During the November 1995 negotiations at Dayton and the weeks prior to the December 1995 Paris signing of the agreement, the creation of three “ethnically pure” regions in Serbia, Croatia, and Bosnia had largely been accomplished.

During the 1991 war, Serbian forces had largely expelled the 85,000 Croats who had lived in the Krajina area. By mid-1992, these forces had appropriated, pillaged or burned Croatian property and cultural and religious institutions. By mid-August 1995, the 200,000 Serbs who lived in Krajina had been forced to flee, their villages and property had been burned, and what had not been destroyed by the Serbs during their five-year rule in the area was promptly reduced to rubble by Croatian forces that assumed control of the area. For its part, the U.N. did little to protect human rights during its four-year sojourn in the so-called “United Nations Protected Areas.” It did not prevent the Serbs from expelling Croats in the early 1990s and it did not protect the Serbs from attack by Croatian forces in 1995. As in Bosnia, the U.N. bore witness to atrocities but did little, if anything, to prevent or stop them. Although the U.N. claims not to have a mandate to protect human rights in Bosnia, it was expressly charged with that task in Croatia and failed.

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<sup>161</sup>Such incidents took place when Serbian-controlled parts of Sarajevo reverted to Bosnian government control. Serbian gangs attacked those who had expressed a wish to stay, and many Serbs stripped, burned or otherwise rendered unlivable their houses rather than allow them to be used by those coming from Bosnian government-controlled areas.

There is no question that the nationalist rhetoric and policies of individual leaders in Serbia, Croatia and Bosnia were the main reason for the war in the former Yugoslavia, the displacement of nearly 2.5 million people, and the deaths of tens of thousands of civilians. However, because of their indecision, indifference and ineptitude throughout the early 1990s, the E.U., the U.S. and the U.N. bear at least some of the responsibility for atrocities not seen in Europe since the Holocaust. Given that responsibility, the international community should remain engaged over the long-term in Croatia, Bosnia and the FRY to ensure that those wishing to return to their homes can do so in safety and dignity; that the civil rights of those who have become "second class" citizens in their own countries are reinstated and protected; and, to the extent possible, that inter-ethnic reconciliation can take place.

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The information contained in this report is based on a series of investigations and research conducted by Human Rights Watch/Helsinki representatives from August 1995 to May 1996. Sections of this report were researched by Ivana Nizich, former research associate for Human Rights Watch/Helsinki, and Dimitrina Petrova, former executive director of the Sofia-based Human Rights Project and currently executive director of the European Roma Rights Center. This report was written by Ivana Nizich and edited by Holly Cartner, executive director of Human Rights Watch/Helsinki. Anne Kuper and Emily Shaw provided invaluable production assistance.

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#### *Human Rights Watch/Helsinki*

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