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Minorities in Croatia



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Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples.

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Minorities in Croatia

Contents

Preface	2
Map	3
Introduction	4
Historical overview	6
Republic of Croatia: the first decade 1990–9	9
Demography of minorities	12
Rule of law	16
Political rights of minorities	19
Employment of minorities	23
Linguistic rights of minorities	24
Education rights of minorities	25
Religious rights	27
Tolerance	28
Returning refugees and displaced persons	31
Conclusions	34
Recommendations	36
Relevant international instruments	37
Notes	38

Preface

This report is published at a time when, after a decade of war, authoritarianism and repression, South-East Europe continues to face uncertainty and instability. It comes in the wake of the assassination of Serbian Prime Minister Zoran Djindjic, a leader widely commended for his dedication to reform and dialogue with the international community. While Slovenia has just voted overwhelmingly in support of joining the European Union (EU), the remaining countries of the former Yugoslavia have yet to face the arduous road of European integration based on a functioning market economy; adherence to the aims of political, economic and monetary union; and, perhaps most importantly in the light of the disastrous events which have marked the past decade, strong institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities.

The way in which Serbia and Montenegro will tackle its structural problems will be crucial for the future of the country and the region. Similarly, Croatia has been at a crossroads ever since the change of government in January 2000. Both countries play a major role in regional stability, yet their record on minority rights is poor. Although the electoral victory of the democratic coalition in Croatia was widely applauded, both within the country and internationally, critics of Prime Minister Ivica Racan's government argue that it has been largely unable, and at times even unwilling, to tackle the legacies of the decade of Tudjman's rule.

On 21 February 2003, the Government of the Republic of Croatia submitted its application for membership of the EU. After years of isolation because of Croatia's undemocratic practices and role in the war in Bosnia and Herzegovina, this is a welcome development. It has come, however, on the eve of new parliamentary elections, due by autumn 2004, and the outcome is far from certain. The rise of right-wing extremism has been steady in Croatia and enjoys visible public support. The government's relationship with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, moreover, has been characterized by a lack of commitment and is

ridden with misunderstandings. This cooperation, nevertheless, is essential to Croatia's progress in European integration.

In the area of minority rights, Croatia has recently adopted the Constitutional Law on the Rights of National Minorities (CLNM). It has come to regulate the rights of minorities, and minorities' situations have changed significantly. The sharp decrease in the number of persons belonging to minorities is a direct outcome of the 1991–5 war and of the post-war period. Minorities have not felt encouraged to return due to a precarious economy, societal discrimination, and legal and administrative obstacles. The CLNM was adopted after much quibbling and, although it has failed to incorporate all of the recommendations by the Council of Europe (CoE)'s Venice Commission on constitutional matters, its wording has been commended by Croatia's national minorities and the international community. It remains to be seen, however, whether the law will be applied with wisdom and political maturity.

Much work lies ahead in securing minority rights and inter-ethnic reconciliation: Croatia remains hugely scarred by the war. A poll on inter-ethnic tolerance in Croatia conducted in autumn 2002 revealed that one in four Croats would expel ethnic Serbs from Croatia.¹ Discrimination against minorities – Serbs and Roma in particular – is still widespread, and the sustainable return of Serb refugees and displaced persons is problematic. The ailing Croatian judiciary has failed to provide support and opportunities for redress.

This report describes the position of national minorities in Croatia, focusing on the most vulnerable ones – Roma and Serbs. It is a part of MRG's decades-long commitment to promoting minority rights in South-East Europe, as evidenced by MRG's wide-ranging activities and publications in this region. It is hoped that this report will contribute to public dialogue in Croatia, both between the majority and minorities, and between government and civil society. These dialogues are much needed in Croatia as it moves on its path towards the EU.

Mark Lattimer
Director
September 2003

REPUBLIC OF CROATIA 2000



Introduction

Inter-ethnic tensions, related armed conflicts and the consequent suffering have marked the recent historic developments of South-East Europe. Despite the millions of victims and the massive destruction in the region, many of these inter-ethnic conflicts have not been fully resolved, and continue to threaten Europe's peace and stability.

This report has been written to review the situation of ethnic minorities in Croatia. It explores the history of the area, which is often contested, the development of inter-ethnic relations and the current issues facing minorities in Croatia. The legacy of the war for Croatian independence (1991–5), the inter-ethnic fighting and the systemic ethnic discrimination will present major challenges for years to come. Public attitudes between ethnic Croats and ethnic Serbs remain largely polarized. The report explores the situation facing the new government following the death of President Tudjman in 1999, the changes the government has made and some of the key outstanding issues.

The report offers a critique of the situation of national minorities. It draws on a range of reports, including those of the Organization for Security and Cooperation in Europe (OSCE) Mission in Croatia, the Opinion of the Council of Europe (CoE)'s Advisory Committee on National Minorities, the International Crisis Group (ICG), as well as other governmental and non-governmental sources.

Croatia is on the eastern Adriatic coast facing Italy. It is in the north-west of the Balkans, bordered by Slovenia, Hungary, Serbia and Montenegro, and Bosnia and Herzegovina. It exercised its right to self-determination within the Yugoslav Federal Constitution and declared itself an independent state in 1991. Bloody battles erupted between Croatian forces and local Serbs backed by the Yugoslav National Army (JNA). Until December 1995 and the Dayton Agreement, its independence was not guaranteed. At one stage almost one-third of its territory was under the administration of the army of the self-proclaimed 'Republika Srpska Krajina'.

The twentieth century was one of immense turmoil and change for the people of Croatia. Some older people in Zagreb, born before the First World War, have lived in six different states: the Habsburg Empire; the Kingdom of

the Serbs, Slovenes and Croats; the Kingdom of Yugoslavia; the Independent State of Croatia (often known as the 'Ustasa' state); the Federal Republic of Yugoslavia (FRY) and the Republic of Croatia. Today, the Croatian government is attempting to redress the ethnic discrimination, and sometimes ethnic hatred, propagated during Tudjman's presidency (1990–9).

In 2001 Croatia had a recorded population of 4.4 million, with a land mass of 56,540 sq. km. In the 1991 census, many Croatian citizens declared themselves to be members of 23 nationalities, 22 of which enjoy the legal status of national minorities.

Croatian, Serbian and Hungarian are the most widely used languages. In 1990 Croatian, with its Latin script, and Serbian, with its Cyrillic script, were sufficiently similar to be called Serbo-Croatian. However, with the outbreak of the 1991 war, Croatian was given its specific identity as a language.

In the 2001 census the main minority groups, with populations of over 1,000, were registered as: Serbs 4.5 per cent, Bosniaks 0.47 per cent, Italians 0.4 per cent, Hungarians 0.37 per cent, Albanians 0.3 per cent, Slovenes 0.3 per cent, Czechs 0.24 per cent, Roma 0.21 per cent, Macedonians 0.1 per cent, Montenegrins 0.1 per cent, Germans 0.07 per cent, Ruthenians 0.05 per cent and Ukrainians 0.04 per cent² (see Table 1). The major religions are Roman Catholicism, Eastern Orthodox Christianity and (Sunni) Islam.

In 2001 the Gross Domestic Product (GDP) per head was recorded as US \$4,566 and the external debt was \$11,150 million.³ An estimated 14.8 per cent of the population is currently unemployed with inflation at 2.3 per cent a year.⁴ The economy suffered very badly during the 1990s but is returning to 1990 levels, as security has improved, and trade and tourism have resumed. Adult literacy is recorded as over 98 per cent, with similar levels for men and women, life expectancy is an average of 73.8 years and Croatia ranks 48 in the United Nations Development Programme (UNDP) global human development index (2001) and 43 in the UNDP gender-related development index (2001).⁵ Some 57.7 per cent of the population live in urban areas.

Table1: Ethnic structure of the population in Croatia, 1981–2001

Nationality	1981		1991		2001	
	No.	%	No.	%	No.	%
Albanians	6,006	0.1	12,032	0.3	15,082	0.3
Austrians	267	0.0	214	0.0	247	0.01
Bosniaks	–	–	–	–	20,755	0.47
Bulgarians	441	0.0	458	0.0	331	0.01
Croats	3,454,661	75.1	3,736,356	78.1	3,977,171	89.6
Czechs	15,061	0.3	13,086	0.3	10,510	0.24
Germans	2,175	0.1	2,635	0.1	2,902	0.07
Greeks	100	0.0	281	0.0	–	– ⁶
Hungarians	25,439	0.6	22,355	0.5	16,595	0.37
Italians	11,661	0.3	21,303	0.4	19,636	0.4
Jews	316	0.0	600	0.0	576	0.01
Macedonians	5,362	0.1	6,280	0.1	4,270	0.1
Montenegrins	9,818	0.2	9,724	0.2	4,926	0.1
Muslims	23,740	0.5	43,469	0.9	–	– ⁷
Polish	758	0.0	679	0.0	567	0.01
Roma	3,858	0.1	6,695	0.1	9,463	0.21
Romanians	609	0.0	810	0.0	475	0.01
Russians	758	0.0	706	0.0	906	0.02
Ruthenians	3,321	0.1	3,253	0.1	2,337	0.05
Serbs	531	11.5	581,663	12.2	201,631	4.5
Slovaks	–	–	5,606	0.1	4,712	0.11
Slovenes	25,136	0.6	22,376	0.5	13,171	0.3
Turks	320	0.0	320	0.0	300	0.01
Ukrainians	2,515	0.1	2,494	0.1	1,977	0.04
Vlachs	16	0.0	22	0.0	12	0
Yugoslavs	379,057	8.2	106,041	2.2	–	– ⁸
Others	1,553	0.0	3,012	0.1	21,801	0.49
Regional affiliation	8,657	0.2	45,493	0.9	9,302	0.2
Non-determined	17,133	0.4	73,376	1.5	89,130	2.61
Unknown	64,737	1.4	62,926	1.3	17,975	0.4
Total	4,601,467	100	4,784,265	100	4,437,460	100

SOURCES: STATISTICAL ALMANAC OF CROATIA, 1992, P. 64; CROATIAN GOVERNMENTAL OFFICE FOR STATISTICS CENSUS 2001, WWW.DZR.ORG.

Historical overview

Early history of the area (until 1918)

Croats entered the Balkans in the sixth and seventh centuries and established a kingdom that was incorporated within Hungary in 1102. During the Middle Ages many Croats were converted to Roman Catholicism. In the early sixteenth century, part of Croatia was taken over by the Turks and the remainder came under the Austrian Habsburgs. To help defend its borders with the Ottoman Empire the Habsburgs established the military border (Vojna Krajina) populated largely by peasant soldiers, many of whom were Serbs.

Serbs primarily began to migrate to what is now Croatia during the Ottoman Empire. Serbs' defence of Christianity during the Turkish occupation led the Habsburg rulers to award them privileges in Croatia that guaranteed certain national rights. In 1690, when Austria's unsuccessful war against Turkey ended, part of the Orthodox Christian clergy headed by the Patriarch Arsenije III Carnojevic, with as many as 35,000 Serbs, was forced to retreat to Vojna Krajina. Here, as border guards, Serbs enjoyed the status of free farmers excluded from Croatian parliamentary rule.⁹ The Austrian Emperor Leopold I issued five privileges granting the Serbs rights as

a community in Croatia and in other parts of the monarchy.¹⁰ In addition to being the foundation for their national-religious self-government and for educational autonomy, they led to new privileges which were confirmed by the royal heirs.¹¹

The Habsburgs tended to use the Serbs for their own needs. It was with the help of Serbs that the monarchy held the Croat and Hungarian feudal peasants in fear. Serb soldiers also fought for the Habsburgs in wars against Turkey or other European states. During wartime the Habsburgs issued declarations on the Serbs' privileges and minority rights protection. The leading Serbs in Croatia – mainly the clergy, landowners and traders – consistently opted for the Austrian policy believing that, of the two courts, the Austrians would protect their interests. Once this failed, they established links with Russia and later with Serbia.

Kingdom of Serbs, Croats and Slovenes 1918–29, and the Kingdom of Yugoslavia 1929–41

After the defeat of the Austro-Hungarian Empire in 1918, the new Kingdom of the Serbs, Croats and Slovenes (SHS) was established on 1 December, comprised of Bosnia Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. The state was ruled by King Alexander Karadjordjevic.

After 1918, the people of the former Empire were formally granted the right to decide their own future. The Serbs decided to continue to live with other Croat and Slovene people in the common state arranged in accordance with democratic principles. Representatives of the SHS held negotiations with the government of the Kingdom of Serbia. The SHS's primary goal was to establish a federal state and then gradually to form a confederation with the Kingdom of Serbia. During negotiations in Geneva in 1918, the delegation of the Kingdom of Serbia was forced to accept this.¹² However, the SHS was unable to defend its borders, and the federal arrangement never materialized; the SHS invited the Serb troops to cross the Sava River to help defend the SHS, and establish order. The Slovenes and Croats did not consider this to be a threat, and the Serbs saw this as the solution to their national interests, having a firm association with their kin state.¹³

The Serbian King and the state met with resistance from Croatia and Montenegro from the beginning. The





Croats felt that the new state was a ‘greater Serbia’ and did not feel that Croats were treated as equal citizens. The seeds of mistrust were sown with the growth of Serb and Croat nationalism. There was fierce ethnic competition for key official positions in the state apparatus. The Serbs were seen to hold the most prestigious positions and to control the economy. The culmination of ethnic tensions between the two major ethnic groups in the SHS – the Serbs and the Croats – was reached in the summer of 1928, when a Serbian MP, Punisa Racic, assassinated the



most influential Croatian politician, Stjepan Radic, his brother Pavao and the MP Djuro Basaricek.

King Alexander’s response to this crisis was to introduce a dictatorship, renaming the state the Kingdom of Yugoslavia. None of the ethnic groups were free under the dictatorship and in 1934 the King was assassinated. The assassination was allegedly planned by Croatian nationalists and the executor was a Macedonian nationalist.

Ethnic inequality had been inherent in the SHS. This was reflected not only in ethnic majority–minority relations, but also between the minorities. For example, contrary to economically-developed and well-organized German, Hungarian or Italian minorities, the Albanian and Turkish minorities lived in miserable conditions; further, some minority groups, such as the Bulgarians and Macedonians, were not recognized by the state. The Albanian, Macedonian and Turkish minorities were subject to severe oppression and to displacement.¹⁴

The Independent State of Croatia (Ustasa state) 1941–5

Germany invaded the Kingdom of Yugoslavia in 1941. The Kingdom’s territory was later divided by the Axis forces and their allies. The independent Croatian state was proclaimed, including a large part of Bosnia Herzegovina, with Nazi blessing. In this Ustasa (fascist) state under Ante Pavelic, Jews, Roma and Serbs were systematically killed and displaced. This was part of a campaign to ‘purge Croatia of foreign elements’. The Eastern Orthodox Serb minority living in Croatia were despised by the Roman Catholic Ustasa. More than 500,000 Serbs were murdered (mostly in the summer of 1941), 250,000 were expelled and another 200,000 were forced to convert to Roman Catholicism.¹⁵

By the end of 1941, two-thirds of Croatia’s 25,000 Jews had been deported to concentration camps. Most were killed on arrival at the Ustasa government’s own concentration camps.¹⁶ Additionally, most of the republic’s Roma were sent to concentration camps; some 26,000–28,000 Roma are believed to have been killed.¹⁷

Socialist Federal Republic of Yugoslavia (SFRY) 1945–90

After the Second World War, the Communist partisan Tito, who had resisted the fascists, came to power. He and the Communist Party recognized the persecution that Serbs had suffered under the Nazis, and attempted to placate ethnic tensions with a complex state structure based on national and historical ethnic group characteristics.

The Constitution of Croatia (Article 1) defined this state as ‘the national state of Croats, Serbs in Croatia and

other nationalities'.¹⁸ Apart from Articles on national equality, 'brotherhood' and unity, this Constitution does not provide further details on the implementation of the Serbs' ethnic rights in Croatia, but determines the exercise of their civil rights through the rights of 'the working class and working people'. Within such a constitutional and socialist-based system the Serbs in Croatia felt secure.

Power was devolved and Tito attempted to suppress nationalism by means of the one-party state. A policy of full ethnic equality was proclaimed and to some extent successfully implemented, and a minority of the population wanted to be called Yugoslavs rather than be identified with any ethnic group. Some political and cultural rights of ethnic minorities were respected, especially in education, the media, with the official use of languages and alphabets in the administration and the judicial system, and the equal participation of ethnic minorities in public services and political institutions. SFRY was in the forefront of promoting a United Nations (UN) Declaration on the Rights of Minorities and even as late as 1990 its Foreign Ministry was strongly supporting minority rights in the Commission on Security and Cooperation in Europe (CSCE) Copenhagen Human Dimension meeting.

The Constitution of the Socialist Republic of Croatia (SRC)¹⁹ contained provisions explicitly regulating the status of ethnic minorities and the realization of their rights. They determined free and equal use of minority languages, the right to education in the first language ('mother tongue'), to cherish cultural identity, to establish minority organizations, to proportional representation in government bodies, to official use of minority languages before the court and administrative bodies, etc.²⁰ This

Constitution specified resources for the exercise of these rights, and identified the bodies that would be responsible for monitoring their implementation.

Constitutional provisions regulating minority rights, were incorporated in the statutes of 26 multi-ethnic municipalities and in three regional communities.²¹ Municipalities had different approaches to the scope of minority rights. In addition to general provisions and principles, some municipal statutes defined the list of minority groups entitled to these rights and determined the territory, the respective areas and the resources needed to exercise minority rights.

Minorities had the right to direct participation in representative bodies and in state administration at all levels. The proportional representation of ethnic minorities was consistently implemented in the state administration and in almost all spheres of social, political and cultural life.²²

The bilingual education system implemented in schools in Croatia provided for: education in the first language and extensive learning of the second language (language of the social environment) throughout primary and secondary education (with information on cultural heritage in both languages); if first language instruction was not feasible (for organizational or linguistic reasons), the minority language could be learned according to the programme for cherishing minority language and culture; general curricula for primary and secondary education contained regional specificities reflecting the cultural diversity of areas where bilingualism was not officially introduced; and cooperation with schools in kin states was supported.²³

Education in minority languages in Croatia was organized for members of the Czech, Hungarian, Italian, Slovak, Ruthenian and Ukrainian minorities. The Roma minority could not use this legal provision due to the lack of a standard Roma language, the lack of Roma teachers and teaching resources, and their poverty and social exclusion.

Almost all the minorities in the SRC followed diversified cultural activities, with a wide scope of programmes, including choirs, folk groups, literature events and professional theatre groups.

Despite these areas of minority provision, under Tito and his successors, the state was neither democratic nor governed by the rule of law – and the fundamental ethnic cleavages were not resolved. Civil society was weak or non-existent, and there was no independent social or intellectual group that could effectively resist the growth of extreme nationalism.



Republic of Croatia: the first decade 1990–9

The declaration of independence

Following the first multi-party elections for more than 50 years, held on 22 April and 6 May 1990, Croatia began the transformation to a parliamentary democracy and market economy. Along with other republics of the former SFRY, Croatia also began a political struggle for equality within the federation. According to the then SFRY Constitution (1974) the Croatian Republic had all the prerogatives of a state, including the right of self-determination and secession.

After the formation of the new, democratically elected government, the Croatian parliament adopted Croatia's first civil Constitution on 22 December 1990. According to the Constitution, Croatia was declared a republic with a semi-presidential system of government. Franjo Tudjman's nationalist, conservative Croat Democratic Union (HDZ) came to power with Tudjman elected President in 1992.

During talks held in Ohrid on 19 April 1991, it was agreed that a referendum would be called to decide whether the SFRY would be preserved as a federation or transformed into a confederation of sovereign states. The referendum, held in Croatia in May 1991, had a 94 per cent vote in favour of an independent and sovereign Croatia. Consequently, on 25 June 1991, the Croatian parliament passed a Constitutional Act on Independence and Sovereignty of the Republic of Croatia, formally severing its ties with the SFRY. Slovenia declared its independence and sovereignty on the same day.

War and peace

Slobodan Milosevic's government in Belgrade refused to accept the results of the referendum and, supported by the JNA, began a military intervention with the stated aim of protecting the Serbian minority in the Republic of Croatia. Milosevic's aggression towards Croatia coupled with the mobilization of a part of the Serb minority in Croatia, and compounded by the nationalistic policy instigated by the HDZ against the Serbs in Croatia, led to a bloody war.

Fighting was heaviest in Baranja, Eastern Slavonia. Local Serb forces backed by the JNA seized the area. Croat forces in Vukovar held out for over 100 days before surrendering in November 1991 but the city was devastat-

ed by some of the worst fighting in Europe since the Second World War.²⁴ Neighbours fought neighbours in brutal inter-ethnic warfare with tens of thousands displaced in many parts of Croatia. Thousands more fled to Hungary and the Federal Republic of Yugoslavia (FRY). By the end of 1991 close to a third of Croatian territory was under Serb control.²⁵

On 21 February 1992 the United Nations Protection Force was established (UNPROFOR), initially for 12 months, to provide peace and security while negotiations were taking place. Negotiations had already started due to the risk of the conflict spreading and the suffering of the civilian population. This led to the representatives of the European Community (EC), now European Union (EU), member states calling for a halt to all armed conflict, the setting up of a permanent monitoring mission in Croatia and the organization of a peace conference.

The Peace Conference on Former Yugoslavia begun its work on 3 September 1991 in The Hague, but the talks failed. According to the EC Badinter Commission, recognition of the independence of the new republics was the sole means of ending the military operations and preventing their escalation in other territories of the former Yugoslavia.

The EC and its member states granted diplomatic recognition to the independent and sovereign Republic of Croatia on 15 January 1992. This recognition, supported by the Peace Conference on Former Yugoslavia, opened the way for the adoption of the Vance peace plan for the temporarily occupied territories of Croatia. The process of international recognition was completed with Croatia's admission into the UN on 22 May 1992. As one of the legal successor states of the former SFRY, Croatia took over its responsibilities in various international treaties, including the International Convention for the Abolition of All Forms of Racial Discrimination.

Republika Srpska Krajina

With the support and encouragement of Milosevic's government, part of the Serb minority established the so-called 'Republika Srpska Krajina', refusing to accept the integration of this region into the Republic of Croatia. Intensive mediation took place by the international community, linked to the peacekeeping operation UNPROFOR. This resulted in the political solution named 'Z4'. However this peace plan did not bring about a durable solution.

In May 1995, the Croatian army launched major offensives in the Serb-populated 'UN Protected Areas'. Territorial losses were suffered by the nationalist Serbs (or Krajina Serbs as they were commonly known), who had occupied some 30 per cent of Croatia's land mass. The Croatian army took Western Slavonia after a three-day offensive. In August, the Croatian army launched another attack, defeating yet more of the 'Krajina' Serb forces. This led to the exodus of more than 170,000 Serbs into Bosnia and Herzegovina, and then FRY.

The international community's only major success was the Erdut Agreement, in November 1995, which enabled the beginning of the peaceful integration of Eastern Slavonia into the Republic of Croatia.

Throughout the war, and for some years afterwards, members of ethnic minorities, particularly Serbs, were threatened, many were killed and many sought refuge in neighbouring countries. Additionally, many ethnic Croats fled during the initial fighting, becoming internally displaced and adding to the enmity that grew between communities.

A community of blood and soil (or kinship) was promoted by Tudjman who considered himself the 'President of all Croats'. He would address the people as 'the Croat brothers and sisters and others'.²⁶ Instead of protecting rights and liberties, the government policies of both Croatia and Serbia were characterized by discrimination and the persecution of minority communities. This fuelled the conflict, and the influence of the international community was limited.

However, the difficulties of some ethnic minority groups in Croatia were of major concern to several European institutions (Council of Europe [CoE], EU, Organization for Security and Cooperation in Europe [OSCE]), and they pressed the Croatian government to comply with domestic and international human rights standards, with some success.

The legal regulation and practical implementation of ethnic minorities' rights became not only an important test for Croatia, but also a criterion of its democratic achievements – and an essential precondition of closer economic and political integration with Europe. The ratification and implementation of the CoE Framework Convention for the Protection of National Minorities (FCNM) was a precondition for Croatia's entry into the CoE on 6 November 1996.

The 1991–5 conflict resulted in many terrible consequences and much suffering among the Serbian and Croatian communities. Yet amid this tragedy there were rays of hope, and examples of good practice and of peaceful coexistence between Serb and Croat communities. For example, in Gorski Kotar (between Zagreb and Rijeka) the people followed a path of mutual respect and coexistence.²⁷

Erdut Agreement for Eastern Slavonia

At the end of 1995, Eastern Slavonia was devastated. It was populated by an estimated 150,000 people, 85 per cent Serbs and 8 per cent Croats, including about 60,000 Serb refugees from other parts of FRY,²⁸ who lived in the ruins of the towns and villages. The Krajina Serb government was in a state of collapse after its flight from Knin in August. Every able-bodied male over 18 was serving in the 'Krajina' army.

The Serbs living in Eastern Slavonia avoided the tragic consequences of those living in other parts of 'Republika Srpska Krajina', by accepting the Erdut Agreement. Following considerable efforts and substantial guarantees by the international community, the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium, a bilateral agreement between the Croatian government and the local Serb authorities in Eastern Slavonia (the Erdut Agreement), was signed in November 1995.²⁹

According to the Agreement, demilitarization was to be carried out under the Serbs' control, while a two-year transitional period, under UN auspices, initiated the process of the peaceful reintegration of Baranja, Eastern Slavonia and Western Sirmium into the Republic of Croatia. This Agreement was elaborated simultaneously with the Dayton Accord on Bosnia and Herzegovina, and was closely related to it. The Erdut Agreement's brevity was an advantage in that it made the mandate clear, yet it was also a disadvantage because it did not spell out how the mandate was to be implemented.³⁰

Based on the Erdut Agreement's provisions, the UN Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES) was established on 15 January 1996. The UNTAES mandate was primarily to supervise and facilitate the demilitarization of the region within 30 days; to monitor the voluntary return of refugees and displaced persons; to contribute, by its presence, to the maintenance of peace and security in the region; to establish and train a transitional police force; to organize elections; and to monitor and facilitate the determining of territory within the region. The UNTAES mandate ended on 15 January 1998.³¹

The 1991 census showed the population to be 45 per cent Croat, 25 per cent Serb and 30 per cent others – mainly Hungarian. At the end of 1997 the ethnic landscape had been transformed, the population was 84 per cent Serb, 7 per cent Croat and 9 per cent others.³²

The Erdut Agreement has three parts. First, the provisions for the establishment of a Transitional Administration by the UN Security Council to govern the region during a transitional period of 12 months (with provision

to be extended by a further 12 months) in the interest of all those resident in or returning to the region (Articles 1–5 and 12). Second, the provisions for the protection of human and civil rights (Articles 6–9) and third, provisions for the monitoring of human rights in the area by the international community after the transition period (Articles 10 and 11).

The Government of Croatia, in a letter to the UN Security Council,³³ agreed to ensure the proportional representation of Serbs in municipal life. Following this, the Parliamentary Assembly of the Council of Europe (PACE) recommended Croatia's full membership of the CoE.

The Erdut Agreement greatly contributed to peace and the (re)integrating of the region of Eastern Slavonia, Baranja and Western Sirmium into the legal and political system of the Republic of Croatia. It also led to new,

hitherto inconceivable, rights for Serbs, including autonomous organizations, and their representation in the Chamber of Counties. Further, this led to the foundation of the Joint Council of Municipalities, and the Serb National Council as a main body representing Serbs in Croatia. The latter Council was designed as a consultative body to make representations on the situation of the Serb minority in Croatia.

The Croatian authorities and public bodies often ignore or manipulate the provisions of the Agreement. This has resulted in much disappointment locally and among international organizations, including the UNHCR and OSCE, particularly regarding human rights, property rights, the return of internally displaced persons, discrimination against people who lived in the region during the war, and the position and proportional representation of the local Serbian community.

Demography of minorities

Locations and populations

Minorities are dispersed across Croatia with sizeable communities concentrated in areas of Banija, Baranja, northern Dalmatia, Istria, Kordun, Lika, and Eastern and Western Slavonia. Minorities' migration to Croatia took place in various periods and under various conditions.

Traditionally, the most sizeable ethnic minority group in Croatia is the Serbian minority. Serbs live predominantly around the Danube and Sava rivers, and in major cities and ports including Rijeka and Zagreb.

Comparing the 1991 census with the data of the recent censuses, the size of the minority population – with the exception of the Roma and Slovaks – has decreased. The most drastic decrease is among the largest minorities: Czechs, Hungarians, Italians and Serbs. The reasons behind this decrease include:

- the nationalist policy mainly targeting Serbs, with Serbs exposed to denunciation, harassment, threats and killings, both inside and outside of the war zones;
- migration towards urban areas which resulted in the weakening of rural communities, discontinuing traditional trades and links with the minority cultural heritage;
- migration within the regions and overseas, particularly during and after the 1991–5 Croatian war;
- improved education resulting in greater social mobility for members of ethnic minorities;
- a rise in ethnically-mixed marriages;
- the weakening of cohesive elements of ethnicity, which are being replaced by professional or social group identity, or even by regional identities.

The pre-1991 war minority population in Croatia has fallen from 22 per cent to under 8 per cent.³⁴ Such a significant change in the demographic structure has resulted in other changes which are relevant for minority issues in Croatia today. Croatia is now a state in which ethnic minorities are dispersed – there are no territorially homogeneous ethnic minorities. No minority is able to demand power-sharing as a form of regulating their status. Minorities that enjoy a certain level of territorial autonomy, including the Serbian community in Eastern Slavonia, insist on their rights, preferring identity protection rather than power-sharing.³⁵

Larger minority communities

The following are minorities with over 10,000 members, according to the 2001 census. Exceptionally, the Roma have been included as their numbers are understated throughout Europe.

Albanians – 15,082

Albanians in the Republic of Croatia mainly originate from Kosovo/a and Macedonia, and speak Albanian. They established their first association in 1991, the Union of Albanian Associations in Croatia, operating in several cities. In the last decade, members of the Albanian community have tried to support an independent Kosovo/a and to resolve problems of citizenship. Albanian organizations publish in Albanian and Croat, maintain a central library and promote traditional Albanian folk dances. Optional classes of the Albanian language are attended by pupils at the Isidor Krsnjavi school in Zagreb and preparations for similar classes are in progress in Rijeka and Osijek.³⁶

Bosniaks – 20,755

Bosniaks are the second largest ethnic minority group in Croatia, but they are still in the process of constituting their identity and organizations. Cultural groups publish magazines for children and for adults on cultural affairs and religion. They organize cultural and religious events, traditional holiday reunions and art exhibitions, have an active women's choir and a Bosniak library.³⁷

Czechs – 10,510

The Czech minority mainly inhabits the urban areas of Bjelovar, Daruvar, Garesnica, Grubisno Polje, Kutina, Novska, Pakrac, Pozega, Vrbovec and Zagreb. The large-scale migration to Croatia started in the nineteenth century as part of the usual migrations taking place inside the Austro-Hungarian monarchy. The Czech population generally arrived in well-organized groups in the rural areas, and individually in urban areas.

The Czech minority speaks various dialects of the Czech language. Some areas have a strong Croat linguistic influence. The Czech standardized language is used in education institutions, publishing and in local administration.

The Czech community has a publishing house producing a range of publications, and maintains a central library with sub-branches. There are weekly local radio

broadcasts in Czech, and a wide range of cultural activities from drama to song festivals.

Two kindergartens have been established in Daruvar and Koncanica, with 14 pre-school teachers. Instruction in Czech takes place in four home primary schools and seven regional ones, while six primary schools have classes of Czech as a first language. The Daruvar grammar school has classes of Czech language, culture and history. In total, 1,013 pupils receive some instruction in Czech, from 69 teachers.³⁸

Hungarians – 16,595

Traditionally, members of the Hungarian minority lived in Bjelovar, Osijek and Zagreb, with most now living in Baranj.

The Hungarian ethnic minority uses its standard first language in education, the media and publishing. However, in multi-ethnic communities the Croat language has a strong influence.

The Hungarian community has a wide range of cultural activities, including: a publishing house, a central library, daily 25-minute local radio broadcasts in Hungarian, and amateur cultural associations that promote frequent visits and exchanges with neighbouring Hungary.

The Potocnica kindergarten in Zagreb and the Krijesnica kindergarten in Osijek organize bilingual tuition. The Hungarian language and culture are taught in 18 primary schools in Osijek, one of which has bilingual instruction. The Mladost primary school in Osijek also has bilingual classes, and in Osijek/Baranja there are 18 schools offering additional classes in the Hungarian language and culture. Further, there are three secondary schools in Beli Manastir where all classes are held in Hungarian.³⁹ In total in Croatia, 350 pupils attend classes of Hungarian language, culture and history. Hungarian is taught by teachers and members of the ethnic Hungarian minority, while the other subjects are taught in Croatian. In 1996–7 in the Zagreb primary school Ivan Gundulić, bilingual instruction was introduced for first grade pupils. In 1997 a similar school was established in Zmajevac.

Interestingly, not all of the pupils attending these classes are ethnic Hungarians. For example, classes of Hungarian language and culture are also organized in primary schools in Legrad and Zdala. Most of the pupils attending these classes are not ethnic Hungarians, but due to the proximity of Hungary, they want to learn Hungarian.

Italians – 19,636

The Italian minority is based in Istria (85 per cent of the Italian minority), with far smaller populations in Lipik, Split and Zagreb.

Standard Italian is spoken by the Italian minority. It is used in educational institutions, the media, publishing

activities and in institutions where Italian is in official use.⁴⁰ The Istria–Roman and Veneto dialects are also spoken. The Italian Union is the main association of the Italian minority of c. 40 communities.

Despite its size, the Italian community is highly active with many community associations. There is a wide range of publications for children and adults, and three daily short radio broadcasts. There are numerous ballets, choirs, concerts, operas and plays. There are many libraries and the Centre for Historic Research in Rovinj has its own library containing 87,000 books.

The Italian minority in Istria and Rijeka has 24 kindergartens with 31 pre-school teachers. Similar kindergartens have been established in Buje, Bujstina, Novigrad, Porec, Pula, Rovinj and Umag. Ten primary schools throughout Croatia have Italian as the language of instruction, with 166 teachers. These schools are in Buje, Novigrad, Pula, Porec, Rijeka, Rovinj and Umag. Four secondary schools with Italian as the language of instruction are in Buje, Pula, Rijeka and Rovinj. They have 83 full-time teachers and 26 associates. In addition, the Teachers' Academy has a department for pre-school and school teachers in which instruction is held in Italian.⁴¹

Roma – 9,463

According to the 1991 census, the largest Roma concentration is in the urban areas of Beli Manastir, Cakovec, Varazdin and Zagreb. Due to fear of discrimination, Roma tend to hide their identity. The government is encouraging the Roma's integration through communal, educational and social programmes, which may help them express their ethnic identity. However, the Roma community in Croatia is considered to be at the bottom of society. The Roma have a large number of organizations, yet there is little coordination between them. The Roma minority is far from homogeneous, with a variety of religious affiliations (Roman Catholic, Islam and Orthodox), different countries of origin; numerous regions in which they live and variations in their years of settlement in Croatia.

The CoE's Advisory Committee remains concerned about the education, employment and housing of many Roma. It has called for more vigour in the promotion of sectoral projects, and for comprehensive programmes and strategies to address the Roma's concerns.⁴² Since this Opinion was given in March 2001, progress has been slow.

At the beginning of 2002, the government produced a draft strategy for discussion. The publication of this strategy after three years of preparation was welcomed by the Roma. However, the strategy was criticized as a set of modest, short-term projects by a group of individual ministries, without the effective participation by Roma in its design or implementation. The strategy fails to draw on the wide expertise in drafting such policies and was seen

to be an incomplete document with inadequate commitments. It lacked a clear human rights approach or specific anti-discrimination initiatives. On the positive side, the Deputy Prime Minister, Dr Ante Simonic, is involved and is encouraging a constructive debate to achieve progress before the parliamentary elections are held.

The main Roma associations are the Alliance of the Roma Associations in Croatia, which publishes the newspaper *Romano Akhtaripe*, and the Roma Union in Croatia, which publishes *Romengo Cacipi*. The Ministry of Education and Sport, the Roman Catholic Church and a number of Roma associations jointly organize a summer school for Roma children. In 1997 an education centre was established in Zagreb offering education programmes for pre-school and other Roma. In Medjumurje, over 700 Roma children attend primary school, although this is something of an exception. Illiteracy is widespread (particularly among Roma women).

Serbs – 201,631

The Serbian language in Croatia has traditionally been open to different linguistic influences. Both the Cyrillic and Latin alphabet are in use.⁴³

There are many Serbian associations organizing concerts, film showings, study groups, plays, etc, with special celebrations on Serbian holidays. There is a variety of Serbian publications, with a central library and several branch libraries. In 1997, the local radio stations in Beli Manastir, Borovo, Mirkovci, and Vukovar began daily 12-hour broadcasts.

The Serbian communities have been deeply affected by the recent conflicts. The Serb Democratic Forum was established in 1991 to help resolve issues regarding the status of the Serb minority in Croatia. Today it mainly focuses on issues facing returnees, reconstruction and the restitution of returnees' property; and the renewal of communities in war-affected areas. Several branch offices monitor human rights and distribute humanitarian aid, and branches in Bosnia and Herzegovina and Serbia also help non-Serb returnees. As an umbrella organization, the Serb National Council, with the Joint Council of Local Municipalities in Vukovar, represents ethnic Serbs' interests before government agencies and the international community. There are several other Serb organizations, including the Community of Serbs in Croatia, the Community of Serbs in Rijeka, and two political parties: the Serb National Party and Serb Independent Democratic Party.

All schools in Eastern Slavonia which teach the Serb minority have been included in Croatia's unified education system so that their curricula are in accordance with the regulations. Serb schools in Eastern Slavonia have all their teaching in Serbian. In other parts of Croatia, Serb pupils attend classes held in Croat, and where there is sufficient

interest, additional classes of Serb language, culture and history are held. This instruction has been organized in 10 schools, and the number of pupils is rising. Additional curricula and textbooks have been designed and the latter have been funded by the Ministry of Education and Sports.

The Serb community is a new ethnic minority and was not able to develop minority institutions during the SRC. Almost all the Serb minority institutions are being reconstructed or established, including the Serb Orthodox Church parishes (these require the return of clergy, cultural, educational and media institutions).

Slovenes – 13,171

Apart from the border regions near Slovenia, Slovenes live mainly in Split and Zagreb. They mainly speak Slovenian but also use Croat.

The Slovene minority association publishes newspapers and a monthly review. Cultural associations organize choirs, concerts, exhibitions, festivities, folk dances and lectures.

Census results

It was hoped that the census would result in as accurate statistics on the minority population as possible, particularly as there had been such large population movements as a result of the 1991–5 conflict. When the census results were published on 17 June 2001, it was obvious that there had been a significant change from the census of 10 years earlier. The total population had dropped by 6 per cent, while the ethnic Croat population had grown by 12 per cent to 90 per cent of the total. The minority population had almost halved at 7.47 per cent. The most notable change was the fall in the Serb minority whose numbers had dropped by almost two-thirds since 1991 to 4.54 per cent. It was also apparent that Croatian Serbs who were outside Croatia during the census were not officially registered and included.⁴⁴

Representatives of various minorities and human rights organizations commented on the results. Milorad Pupovac, President of the Serbian People's Council (SNV), publicly refused to accept the census result and demanded a review to include all Croatian Serbian refugees who registered for the census in Bosnia and Herzegovina and FRY, as well as those who returned after the census. The SNV believed a further 68,000 Croatian Serbs should be considered in this regard. Pupovac also questioned the number of Serbs in Croatia. 'Where did 400,000 people go?' he asked. He thinks many ethnic Serbs did not declare their ethnicity, fearing lingering hostility. He also accused the government's statistical office of deliberately underestimating the ethnic Serb population by excluding about 130,000 refugees who, he claimed, still lived in Serbia.⁴⁵ According to human rights groups,

most Serbs left Croatia in two big waves. The first, in 1991, consisted of Serbs who opposed Croatia's independence. The second was in 1995, when breakaway Serbian enclaves were recaptured by Croatian armed forces.

The Chair of the Parliamentary Committee for Human Rights and the Rights of National Minorities, Furio Radin, demanded a further explanation of the census results and the reasons for the reductions, and advocated a new programme for the development and protection of minority rights.

The President of the Croatian Helsinki Committee, Zarko Puhovski, said the results of the census were 'correct and expected'. Still, he said:

'when an ethnic group shrinks to almost one third in a decade, it cannot be the result of natural migra-

tions, but movement under pressure, which we usually call ethnic cleansing'.⁴⁶

He added that the census results confirmed the need to prevent the assimilation and emigration of Croatia's national minorities.⁴⁷

There was a desire for the census to respect a person's subjective choice of their identity. However, it was agreed that in interpreting the census results, the authorities should take into account some minorities' reluctance to identify themselves as such, for fear of discrimination. This is particularly true for the Roma but in conflict areas people who may have a choice of identity (e.g. due to intermarriage) will often opt to be classified as a member of the majority community or some regional or 'less problematic' identity.

Rule of law

Citizenship

Ethnic minorities have had major difficulties in obtaining citizenship in Croatia since its establishment as a state. In 2002, the UN expressed its concern that:

*'many former long term residents of Croatia, particularly persons of Serb origin and other minorities have been unable to gain residency status despite their pre-conflict attachment to Croatia.'*⁴⁸

The Citizenship Law distinguishes between those who have a claim to Croatian ethnicity and those who do not. Ethnic Croats are eligible to become citizens, even if they were not citizens of the former SRC. They must submit a written statement that they consider themselves Croatian citizens. However, non-ethnic Croats need to satisfy more stringent requirements to obtain citizenship. Those who previously were lawful residents of the former SRC are obliged to provide proof of previous residence and citizenship; this is not required for ethnic Croats.

These double standards have often led to discrimination in other areas,⁴⁹ particularly over the right to vote. While an application for citizenship is being considered, the applicant is denied the right to social and health care, retirement benefits, free education and employment in the state administration.⁵⁰ Deprivation of these rights are usually justified under Article 26 of the Law on Citizenship, on the grounds of 'national interests/security'.

Under Article 8 of this Law, the applicants are obliged to prove their 'commitment to the legal system and customs of Croatia' and that they had been permanently residing in Croatia for five years prior to submitting their application for citizenship. Consequently, even under the government's return programme, returning refugees were denied Croatian citizenship and the corresponding rights – including access to social benefits. This denial of the right to citizenship affected members of certain ethnic minorities – generally Serbs or Bosniaks. The European Roma Rights Center (ERRC) asserts that the Citizenship Law contains discriminatory provisions and has a discriminatory effect on Roma and others who are not ethnic Croats.⁵¹

Justice and the judiciary

At the end of 2001, the UN Committee on Economic, Social and Cultural Rights was alarmed at the backlog of over 1 million cases before the Croatian courts.⁵² It believed that this was impeding access to justice. Further, it recorded its concern that many of the court cases that were favourable to minorities, particularly to ethnic Serbs, were not being implemented by the responsible enforcement agencies. It linked this to the problems that many returning ethnic Serbs have in reclaiming property, and recommended that the burden on the court system could be significantly reduced by 'adopting non-discriminatory laws and by streamlining legal and administrative procedures accordingly'.⁵³

The government subsequently recognized the links between the effectiveness of the judiciary and the sustainable return of refugees and displaced persons. Late in 2002, the government adopted a plan for judicial reform as proposed by the Ministry of Justice, Administration and Local Self-Government. The plan proposes dividing the Ministry into the Ministry of Justice, and the State Directorate for Administration and Local Self-Government, and implementing new legislation.

Considerable emphasis is placed on the recruitment of more judges. Tudjman dismissed judges who did not support the nationalist HDZ or who were Serbs, and inexperienced but 'politically acceptable' judges were appointed. This has contributed to the crisis today.

In 2002, the International Helsinki Federation (IHF) noted that:

*'the judiciary was still not able to escape strong political influence [...] the problem could be attributed to the fact that in the past judges were often appointed on the basis of political rather than professional criteria. Some of these judges still had difficulties working in a manner that was not politically motivated. Furthermore, the public perception of political influence on the work of the police, the public prosecutors and the financial police was extremely high.'*⁵⁴

The IHF reported that the professional level of the judiciary has not significantly improved during the last two decades, and questioned the efficiency and quality of the work of the courts. Other plans to improve the system include raising the salaries of judicial officials,

introducing information technology to court management, strengthening judicial education, establishing effective disciplinary procedures for judges and improving court buildings.

Progress has begun with the disciplining of judges and the employment of new ones. Between November 2001 and September 2002, about 110 judges were appointed, with plans to fill the remaining vacancies by mid-2003.⁵⁵ These new developments should have a positive impact on the performance of the judiciary. The political dismissals of judges led to there being few national minorities, particularly Serbs, in the judiciary. The participation of national minorities in the judiciary at the municipal and county level is provided for in the new Constitutional Law on the Rights of National Minorities (CLNM). However, by May 2003 this aspect of the Constitutional Law still required implementing.

It is essential that the state's judiciary and legal functioning is seen to be fair and independent. For all of Croatia's peoples to have faith in the rule of law and the legal process, it is imperative that judges broadly reflect the ethnic make-up of the state, in addition to there being a balance of male and female judges, and that all are seen to act without discrimination.

Policing

The OSCE has noted that in the Danube region, the Ministry of the Interior has fulfilled its commitment to the 1995 Erdut Agreement and 1997 Letter of Intent.⁵⁶ It has redeployed additional Serb police officers and supervisors to reflect the current size of the Serb population. A commitment by the Ministry to provide additional training and proactive recruitment will support this process, and it is hoped that this will also include a commitment to gender equality within the police force.

The Ministry has recognized the importance of community policing and is introducing this throughout the country. Further, local campaigns include landmine and weapons awareness projects in cooperation with the media, schools and war veterans' associations. Work will also be required to respond appropriately to the extremely high levels of domestic and other forms of violence against women. The World Organization against Torture in July 2003 revealed that as much as 98 per cent of all violence against women is 'family violence'.⁵⁷

Police work in central Croatia has led to a reduction of ethnically-motivated assaults and vandalism. However, much remains to be done as serious incidents still occur and there are a range of reports of the police failing to stop 'race hate' crimes. The US State Department Annual Report 2002 notes:

'Incidents largely occurred in the areas of return in central Dalmatia. In February Serb returnee Jovan Bosta was beaten to death in Benkovac near Knin; contradictory police reports were published and no arrests were made. Also in February, two grenades were thrown into the yard of a house owned by a Serb family in the Dnris area. Police responded appropriately and an investigation was ongoing. In April a returnee's house in the Benkovac area and a local school were burned. In Glina a Serb returnee's shop was attacked after a screening of a war-related film in which the perpetrators allegedly recognized the owner as a former soldier. Returnee Serbs in the village of Donji Karin reported continuous destruction of crops and vineyards by a Bosnian Croat settler; despite repeated reports to local police, no action was taken against the suspect.'

The same report refers to widespread ethnic tension between ethnic Serb and Croat police officers, particularly in the Danube region. It notes how the government appeared to fulfil its obligation to maintain 'proportionality' in the numbers of ethnic Serb and Croat police officers in Eastern Slavonia. However, it also notes that problems in the police force included poor investigative techniques, insensitivity to ethnic issues, indecisive middle management, and pressure from hardline local politicians.

The ERRC argues that Roma do not enjoy equal protection before the law.⁵⁸ It is stated that Roma in Croatia suffer widespread discrimination in the justice system, and are the victims of an unchecked wave of violence – including at the hands of law enforcement authorities.

War crimes

The OSCE reports⁵⁹ that the Chief State Prosecutor has speeded up the review of pending war crimes cases to determine whether there is sufficient evidence, particularly in cases with a large number of defendants. Local prosecutors have been instructed to work closely with the police in order to avoid the unfounded detention of suspects. He has also advised against *in absentia* prosecutions without his explicit approval, yet courts in Eastern Slavonia are conducting *in absentia* group trials, where none of the defendants is present.

The Chief State Prosecutor anticipates that the review will greatly reduce the number of pending cases, currently estimated at 1,850, and allow for new investigations.⁶⁰ The OSCE report that in 2002, there were 34 arrests for domestic war crimes (28 Serbs, three Croats); additionally, 18 Serbs and three Croats were convicted, and three Serbs and 14 Croats were acquitted.⁶¹ The OSCE suggests that this may indicate a different weighing of the evidence, or

may simply result from the higher number of proceedings initiated against Serbs.⁶² At the beginning of 2003, a significant number of Serb police officers in the Danube region were arrested for alleged war crimes.

Cooperation with the International Criminal Tribunal for former Yugoslavia (ICTY) has generally been good.⁶³

However, the ICTY Chief Prosecutor has expressed concern at the Croatian authorities' failure to arrest and extradite General Ante Gotovina and General Janko Bobetko. On 29 April 2003 Bobetko died of heart failure and was buried with the highest military honours. General Gotovina is still at large as at June 2003.

Political rights of minorities

The political situation changed after Tudjman's death and the ruling HDZ was defeated in the election held on 3 January 2000. In accordance with the constitutional changes launched at the end of 2000, the parliamentary system has been strengthened and the presidential powers reduced. According to the Constitution, the Republic of Croatia is a unified, democratic state in which the government is performed by and belongs to the people as a community of free and equal citizens. This right is exercised through the election of representatives via a direct vote.⁶⁴

The Croatian Parliament has 151 members (MPs) in its Chamber of Representatives. The Chamber of Counties was abolished in 2001. MPs are elected for four years, while the President is elected for five years. Minorities currently hold 11 of the 151 seats and women hold 33 of the seats.⁶⁵

Administratively, Croatia consists of 21 regions (counties) and the capital city of Zagreb. So far, the competences of the local self-governments have been restricted. The Law on Local and Regional Self-Government was adopted by the Croatian Parliament in April 2001. Local self-governments are entitled to decide upon the running of local public services. The Law also provides for possible cooperation with foreign local self-governments. The CLNM has substantial provision for the representation of national minorities in local and regional governments, and in minority councils (see below).

Laws and national minorities

Legislation and the practical implementation of ethnic minorities' rights became not only an important test for Croatia, but also a benchmark by which to measure its democratic achievements; it was also an essential precondition of economic and political integration into Europe. The new Croatian government soon became aware of this.

The Republic of Croatia inherited from the SFRY a regime for minority rights protection that only covered some minorities. Croatia immediately recognized these inherited rights, but problems remained. How could the status of non-Croat citizens be defined for those who had newly become ethnic minorities in a different state, i.e. in Croatia rather than SFRY? No adequate response was made and Croatia was criticized by the international community. One of the preconditions for Croatia's international recognition was legislation to protect all ethnic

minorities, particularly the large Serb minority whose members had formerly enjoyed the status of constituent nation.

In December 1991, Parliament adopted the Constitutional Law on Human Rights and Freedoms of National and Ethnic Communities, as this was a precondition of Croatia's recognition as an independent state in January 1992. By accepting international standards, Croatia had achieved a high level of protection for minorities in its legislation. However, this was not a reflection of a genuine internal political will to resolve minority issues, but the consequence of international pressures. There was little motivation or further incentive to ensure that these laws were implemented. Although a number of international documents related to ethnic minority issues were ratified⁶⁶ and many legal regulations were adopted,⁶⁷ until democratic changes in 2000, the lack of political will was the main impediment to their implementation.

In late September 1995, in the aftermath of the military operations through which the government gained control of all the former Serb-held territory, except Eastern Slavonia (Eastern Slavonia then came under a temporary UN administration), Parliament suspended application of most of the 1991 Law, particularly those provisions that related to the Serb minority. General provisions and those representational provisions related to the smaller minority communities remained in force.

Croatia signed and ratified the CoE's European Charter on Regional and Minority Languages (ECRML) and adopted the FCNM in 1998, when it came into force. Croatia presented its report on the implementation of the FCNM in January 1999, detailing the legislation in place in Croatia. However, there were major discrepancies between the legislation that was in place and the reality on the ground. Civil society organizations, including the Croatian Helsinki Committee and the Association of Serbs in Rijeka, produced their own reports, showing the divergence between the legal theory and the reality in Croatia, highlighting the widespread institutional obstruction of minority rights.

However, the Government Office for National Minorities, even in a very difficult political environment, undertook important work in supporting ethnic minority organizations. Further, Croatia was among the few countries in the region to recognize the identity and cultural heritage of ethnic minorities, and to allocate seats in Parliament to representatives of ethnic minorities.

Constitutional Law on the Rights of National Minorities

In May 2000, the Parliament amended the 1991 Constitutional Law, reintroducing some of the suspended provisions regarding the Serb minority, but repealing the vast majority related to Serb minority self-government. Two related laws, one on the official use of minority languages and scripts, and the other on education in national minority languages, were adopted. Given that the amended law failed to include numerous features recommended by the CoE's Venice Commission, the Parliament also adopted on the same date a 'Conclusion' instructing the government to prepare a new Constitutional Law that could be introduced to Parliament in six months (by November 2000). However, this did not happen. A renewed effort by the government to introduce a draft law into Parliament was abandoned in February 2002, when a proposal – which was negatively reviewed by the Venice Commission – was withdrawn. The government provided the OSCE with a much-modified draft proposal on 17 July and introduced this into Parliament on 22 July. The OSCE High Commissioner on National Minorities gave his comments on 26 July.

There was a considerable debate in Parliament, and amendments were adopted that weakened some of the rights in the original proposal. This led to opposition by minority leaders. Furio Radin, the Chair of the Parliamentary Committee for the Protection of Human Rights and the Rights of National Minorities, who also represents the Italian minority in Parliament, commented that the draft law was 'diluted'. There were three particularly important amendments proposed by Radin and supported by the Committee:

- that the standard contained in Article 15.3 of the Croatian Constitution that permits the Parliament to adopt legislation giving minorities the right to elect representatives to Parliament should be written into the Constitutional Law;
- there should be proportional representation in executive bodies at all levels of government; and
- there should be greater specificity of the cultural autonomy granted to national minorities.

The OSCE had concerns over the methods used to ensure minority representation in Parliament, and the degree of proportional representation of minorities in local executive, state administrative and judicial bodies. Additionally, clarifications of competences were needed in the regional and local minority self-government; the Council of National Minorities; provisions for how the

government would respond to concerns; and safeguards for financing.

In the last two months of 2002 substantial progress was made in this legislation and the final Constitutional Law sought to cover all these concerns. Its key elements included protection against direct and indirect discrimination, and the promotion of the following minority rights:

- the use of minorities' language and script, privately and in public and official use;
- education in the minority language and script;
- the use of minorities' signs and symbols;
- cultural autonomy to preserve, develop and express one's own culture, and the preservation and protection of one's cultural assets and traditions;
- the right to profess one's religion and to establish religious communities together with other members of that religion;
- access to the media and to receive and forward information in minorities' language and script;
- self-organizing and association for the purpose of exercising mutual interests;
- representation in the representative bodies at the state and local level, and in administrative and judicial bodies;
- participation in public life and in management of local affairs through the councils and through representatives of national minorities; and
- protection from any activity which endangers or may endanger minorities' existence, and the exercise of rights and freedoms.

There are specific references to this Law being in accordance with human rights standards, including the far-reaching OSCE High Commissioner on National Minorities-inspired Lund Recommendation on the Effective Participation of National Minorities in Public Life.

On 13 December 2002, the Head of the OSCE Mission, Ambassador Peter Semneby, welcomed Croatia's new Constitutional Law on the Rights of National Minorities (CLNM), noting that its full implementation throughout the country was essential. He said that it appeared that a largely acceptable solution had been found to the key question of minority representation in Parliament.⁶⁸

The Mission observed that other important elements of the CLNM are those that provide conditions for minority participation in public life at the local and regional level. In its press release it noted that the next step will be to ensure that the CLNM's provisions are reflected in the Election Law in a manner that ensures fair procedures for minority representation in Parliament.⁶⁹

On 16 December 2002, the OSCE High Commissioner on National Minorities, Rolf Ekeus, also welcomed

the CLNM's adoption. He hoped that it would make a positive contribution to inter-ethnic relations in Croatia and in the region, and to the comprehensive protection of national minorities in Croatia. He called on the Croatian authorities to ensure its full implementation, adding that he would be willing to assist the Croatian authorities in this process. He also noted that the adoption of the new Constitutional Law was one of Croatia's international obligations upon entry to the CoE, as well as being important for EU accession.

In the first half of 2003, there were several developments that furthered the CLNM's implementation. In March, amendments to the Local Election Law were adopted to ensure minority representation in self-government units. The Election Law for MPs was also amended on 2 April, with the Serb minority granted three seats in Parliament. The government also appointed five members to the nationwide Council of National Minorities; however, the call for nominations for elections of minorities were published on 16 April with nominations closing on 28 April. Consequently, minorities nominated less than half the number of candidates.⁷⁰ The important issues of how minorities will be represented in state administrative, executive and judicial bodies still need to be confirmed.⁷¹

Minority representation

The new Constitutional Law and recent bilateral agreements with neighbouring states support links between minority groups and their 'kin state' in order to ensure the promotion of their common ethnic, cultural and linguistic heritage. Minority communities enjoy the right to form their own associations, and a range of autonomously-established associations and institutions have been set up. Some of their work is described elsewhere in this report.

Representation in Parliament

The Republic of Croatia at the outset provided for the representation of minorities in Parliament; however, the demographic changes that took place in the war have threatened the minorities' effective representation – particularly of Serbs. Minorities' political representation is important for democratic development, although there is a limited number of representatives and they have a largely symbolic influence over state policy. When all political parties in Croatia are prepared to advocate and safeguard minority interests, the need for the separate representation of ethnic minorities in Parliament may greatly diminish.

Article 19 of the CLNM guarantees members of national minorities 'the right to representation in the Croatian parliament'. It provides for: Serbs to elect three MPs; Italians to elect one MP; Czechs and Slovaks to elect one MP; Albanians, Bosniaks, Macedonians, Montene-

grins and Slovenes to elect one MP; and Austrians and other small minorities to elect one MP.⁷²

Parliamentary committees

Parliament has appointed the Human Rights Committee, within which the Sub-Committee for Ethnic Minority Rights operates. The Committee's mandate is to determine and monitor the implementation of ethnic minority policy, and to participate in the Chamber of Representative's procedure of adopting new laws. The Committee is also an authorized working body regarding the implementation of international legal provisions regulating human rights protection, inter-state agreements, minorities' rights and programmes of international cultural cooperation for minority groups.

Participation and local government

It is crucial that minorities are effectively represented at all levels. However, unless sensitive policies are devised, this can reinforce ethnic divisions between communities.

The new Constitutional Law also provides for an allocation of seats on a proportional basis at regional and local government levels. The census and any recent electoral registers are used to calculate this allocation. Additionally, the CLNM establishes Councils of National Minorities at local, regional and state level. They will be consultative bodies that provide opinions and proposals on the media and on other relevant national minority issues. They are intended to improve contacts between minority groups and government agencies at all levels, and will be funded by local or regional authorities.

Council of Ethnic Minorities/Council for National Minorities

The Council of Ethnic Minorities was established in January 1998 as a non-governmental, coordination and consultative body consisting of representatives of all the registered ethnic minorities in Croatia. It was established to promote the collective views of minority communities. The Council is constituted of one member from each ethnic minority, irrespective of its size or internal structure. It provides a forum for dialogue and coordination between minorities, cooperating with the minority representatives in Parliament, and plays a supplementary role. This body monitors the implementation and promotion of minority rights; discusses and takes positions on legal proposals regulating ethnic minority issues; delivers its views and requests to Parliament, the government and governmental bodies, in order to resolve specific problems, and also cooperates with government agencies and international institutions, especially with the Venice Commission.⁷³

This Council will be superseded by the new Council for National Minorities, whose role is defined in the CLNM. It is broadly similar, with some increased powers.

The government can appoint seven members of national minorities for a four-year term from among those proposed by Councils of National Minorities; and five members of national minorities from those in distinguished cultural, expert, religious and scientific fields, as proposed by minority organizations, religious communities, etc.

There will be an Expert Office to help service this Council under the new Constitutional Law. It will be important to see how the relationship with the Government Office for Ethnic Minorities develops.

The members of the Council for National Minorities shall also be representatives of national minorities in the Croatian Parliament.

Government Office for Ethnic Minorities

The Government Office for Ethnic Minorities (formerly the Government Office for Inter-ethnic Relations) is responsible for the implementation of the Constitutional Law and for supporting the adoption of legislation regulating minority concerns. The Office performs a range of

duties including analysing international Conventions regulating minorities' rights, monitoring the situation of minorities in Croatia, and promoting the implementation of new policies and programmes. It distributes state resources for minority associations and institutions.⁷⁴ In 2001 the government gave financial support to 23 minority organizations providing 18,000,000 kuna (2,250,000 euro).⁷⁵ Priority has been given to amateur and cultural institutions, libraries, the media and publishing, research and theatres. These activities attract additional funding from local self-government budgets.⁷⁶

That Croatia had established bodies dealing specifically with issues concerning national minorities, in particular the Government Office for Ethnic Minorities and the Council of National Minorities, was welcomed by the CoE. It also welcomed the funding of minority organizations. However, it was 'concerned that there was a lack of co-ordination and complementarity between them and that this had a negative impact on their effectiveness'.⁷⁷ It supported initiatives to review these bodies' appointment procedures, structures and methods, to improve their effectiveness and ensure that minorities are central to organizational structures.

Employment of minorities

Throughout the 1990s President Tudjman and the HDZ systematically discriminated against their opponents, excluding competent people in a variety of professions. This included liberal-minded Croats; but all ethnic Serbs were considered to be opponents. These purges severely damaged the civil service, legal system and the rule of law – even doctors and teachers were targeted.⁷⁸ To date, with the exception of recent movements regarding judges, there has been no programme to address this abuse of human rights.

As early as 1992, the UN Human Rights Committee expressed its concern at the ‘longstanding discrimination against and harassment of ethnic Serbs, residing within Croatia’.⁷⁹ It noted how Serbs had been removed from their jobs in the press, and noted the widespread arrests and disappearances.

In 1993 the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD) expressed its concern over: ‘The circulation in Croatia of ethnic lists of persons considered non-Croatian in origin, which were used for discriminatory purposes, particularly concerning employment opportunities.’ In the same paragraph the Committee stated its deep concern over the reported use of Nazi insignia, particularly by elements of the Croatian army.⁸⁰

Further, the UNHCR has commented that the poor economic conditions and prospects for returnees to Croatia have hindered sustainable returns. It called upon the Croatian government to develop comprehensive approach to economic regeneration, to be supported by international development agencies.⁸¹

The CoE’s Advisory Committee has argued that one method of reaching full and effective equality would be to launch additional positive measures in employment, and it supports efforts to seek financing for this. It highlighted the positions of Serbs:

*‘taking into account the past discriminatory measures, stirred by the 1991–1995 conflict, aimed at curtailing their number in various fields of employment, ranging from law-enforcement to education’.*⁸²

The Advisory Committee also found that Croatia had not secured full and effective equality between the majori-

ty population and the Roma. It stated that the situation of the Roma remains problematic in education, employment and housing. It also noted problems regarding several other minorities.

Subsequently, in May 2002, CERD expressed its concern at the continued practice of segregating the Roma in the education system, and at reports of discrimination against Roma in citizenship rights, employment, health and political representation. CERD called for remedial actions.⁸³

Government statistics in July 2000 showed that only 2.8 per cent of state administration employees (excluding the Ministry of Interior and the Ministry of Defence) belonged to the Serb minority and that there were only two Roma employed in all of these bodies.⁸⁴

The Advisory Committee noted:

*‘the extraordinarily low representation of national minorities within the executive and in the judiciary is partially a result of past discriminatory measures (often related to the conflict of 1991–1995) aimed at curtailing, in particular, the number of persons belonging to the Serb minority in various bodies, including in courts’.*⁸⁵

It also called on the government not only to closely monitor the situation in all sectors to ensure that such practices are not repeated; but also to provide effective remedies to victims and to introduce additional positive measures to eradicate the persisting negative consequences of past practices.⁸⁶

Unemployment is a serious problem throughout Croatia, especially for women. It is not easy to establish whether there has been systematic discrimination against returnees in employment. However, cases of employment discrimination against minorities were found in 2002 in Knin and Vukovar.⁸⁷

Clearly this is an area that needs further investigation and monitoring. As stressed elsewhere in this report, equal access to employment opportunities for all minorities – including returnees – is essential if Croatia is serious about an effective return programme that is sustainable and democratic.

Linguistic rights of minorities

The Law on the Use of Language and Scripts of National Minorities was adopted in May 2000. However, uncertainties exist on key aspects of the Law especially on how the 'equal official use of the minority language' is applied by local authorities. There are two possible interpretations: the first is that municipalities and towns must use minority languages in official life when the minority constitutes an absolute majority; second, it may be interpreted that this should happen when the minority constitutes a relative majority. Whichever interpretation is given, the threshold is high, with a lower figure of between 10 and 20 per cent being considered reasonable by bodies such as the CoE Advisory Committee (although no specific percentages are referred to in the minimum standards agreed by the Copenhagen Human Dimension Meeting⁸⁸ or in the FCNM).

The CLNM clarifies and improves the situation, although it does not reach the highest standards. Article 12 states that:

'The equal official use of language and script used by members of a national minority shall be exercised in the area of local self-government unit [sic], when members of a particular national minority comprise at least one third of the population of such a unit.'

Of course, this does not prohibit the use of minority languages when the percentages are lower.

The new Constitutional Law also sets a framework for further legislation and for the statutes of local self-

government units. Article 13 states that they must stipulate the measures:

'providing for the preservation of traditional names and signs and giving the names of persons and significant events for the history and culture of a national minority in the Republic of Croatia to settlements, streets and squares in the areas traditionally, or to a considerable number, populated by members of national minorities.'

While Article 14 recognizes the use of national minorities' signs and symbols and the celebration of national minorities' holidays, it says that these signs and symbols are to be used along with the Republic of Croatia's official use of signs and symbols. When the national anthem and/or a solemn song of a national minority is performed, the Republic of Croatia's national anthem must be performed beforehand. Finally, this Article specifies that local and regional self-government units must stipulate by statute the official use and the manner of use of the flag and symbols of national minorities.

There is already considerable experience in Croatia on the use of minority languages and it should be possible to implement these measures soon if there is a climate of goodwill. It has been noted by the Advisory Committee that the Italian minority is able to use its language in contacts with authorities in a number of towns and municipalities in Istria, and that this experience could be useful elsewhere.

Education rights of minorities

Education in minority languages

Croatian law permits national minorities to request education in minority languages and scripts, and with a curriculum that reflects minority culture, history and literature. Minorities, individually and collectively, also retain the right to be educated in the majority language and curriculum. Full rights with respect to educational autonomy for ethnic Serbs and other national minorities in Eastern Slavonia are promoted by the 1995 Erdut Agreement.⁸⁹

The contents of the curricula intended for minorities is defined by the Ministry of Education and Sports, according to the proposal submitted by the Government Office for Minorities. In areas where minorities constitute a relative majority of the population and where there is a demand, separate schools or classes should be established in which instruction is held in the minority language. Where there are insufficient pupils, parents may request separate classes for their children to learn about minority culture, history and literature.

All the organizational costs of instruction in minority languages (maintenance, material costs, salaries, school construction) are financed by the Ministry of Education and Sports, following the same standards as those applied to Croat-language schools. To cover the increased costs of publishing textbooks in minority languages and to ensure the books are not too expensive, the government provides additional funds. Some problems have been reported in obtaining textbooks in minority languages in secondary schools and the government is addressing this. Educational records are kept in the respective minority language or in both languages. Additionally, minorities can set up their own private schools.

Besides the usual subjects, minority-language schools have a wider curriculum to protect and promote their communities' identity including: culture, first language education, geography, history and literature.⁹⁰ Members of minority groups and the local authorities decide on the programme and content of specific curricula.

The number of pupils in minority-language classes is significantly lower than in Croat-language schools, thus making this form of education more expensive per child. The Serb cultural association Prosvjeta promoted instruction in Serbian in 1995, when work on the additional curricula for the Serb language and culture began. In 1996, summer and winter schools for the Serb minority were launched and preparations began (e.g. developing

the curriculum and textbooks) for the school year.⁹¹ However, due to fears resulting from the recent war, lessons only started in Gorski Kotar.

Serb representatives in Eastern Slavonia also sought to establish separate primary schools with education provided in the Serb language and Cyrillic script. The option of separate schools is available to all national minorities, with a Hungarian-language school in Eastern Slavonia and Italian language schools in Istria, for example. However, the OSCE notes that a request in September 2002 to formally register schools that conduct Serb-language education provoked a strong reaction from Deputy Prime Minister Dr Goran Granic. He stated that this request would result in the segregation of Serb schoolchildren,⁹² even though this view is contrary to the Croatian Law on Education in the Language and Script of the National Minorities.

For the Serb community, the essential minority education issues include the employment of qualified Serb teachers, a national curriculum that includes the contributions of national minorities (including geography, history, literature, etc), as well as additional classes in their language and script.⁹³

A wider review of the curriculum is needed for all pupils in Croatia to ensure that intercultural education is introduced which promotes tolerance and intercommunity understanding, and helps to strengthen inter-ethnic relations.

Roma education

The separation of Roma children within the education system is not as widespread as it is in certain other countries,⁹⁴ yet it does exist. In certain schools, Roma children are placed in separate classes, and school facilities are organized and operated in a manner that many believe stigmatizes Roma children. The efforts of local Roma and the ERRC have led to both the OSCE Mission and the ombudsperson's office reviewing this situation, and helping the government address these problems.

Some Roma have reservations about the integration of Roma pupils in mainstream classes, consequently it is particularly important to involve Roma parents, children and Roma organizations in the processes aimed at remedying these problems. Further, the education system needs to reflect and respond to the language and specific cultures of minorities.

Several events in 2002 have intensified the attention being given to the separation of Roma children in education. One such case in October concerned a municipal court's rejection of a landmark lawsuit by Roma parents in northern Croatia, alleging racial discrimination and segregation in education. Another was the government's roundtable in September on the education of the Roma, followed by a high-ranking government delegation's visit in November, which was intended to produce a first version of the National Strategy for Roma in Croatia by the end of 2002, which has since been done, although it is being reworked after receiving substantial criticism.⁹⁵

The government has asked the OSCE to become engaged in this issue to ensure that minority education rights do not result in the minority's exclusion or isolation.⁹⁶ These issues are crucial if Croatia is to meet its commitments to provide education for Roma, Serbs and other minorities.⁹⁷

Religious education

Classes of religious education have been held as an optional subject since the 1991–2 school year in primary and secondary schools. Religious instruction is held according to programmes suggested by religious communities, while the Ministry of Education and Sport is responsible for the broad curriculum. In addition, classes are held in the minority language that best suits their pupils. The organizational costs are covered by the Ministry. There is also some concern that religious education should be organized and in a way that it is sensitive to those who do not wish to attend. The Advisory Committee has noted such concerns expressed to it over children who follow different religions.⁹⁸ The schools can introduce religious education for smaller religious groups only if a quota is reached. However, the lack of financial resources, the limited number of pupils belonging to small religious communities and the lack of qualified teachers has meant that Roman Catholic religious education prevails.⁹⁹

Religious rights

The Constitution determines the right to free religious affiliation and public religious practice, and in general the government respects these. Although there is no 'official religion', some 76 per cent of the population are Roman Catholics.¹⁰⁰ Religious and ethnic identities remain closely linked and over the last decade, religious institutions have been attacked. Some attacks still occur, particularly in Eastern Slavonia, with Serb Orthodox and Jewish buildings and cemeteries being targeted.¹⁰¹ In 2002 there were no serious discrimination incidents reported by Muslim leaders. However, Orthodox churches and properties in Osijek and Slavonski Brod were attacked in 2002, Orthodox monks were harassed and icons were stolen from the Krka monastery.¹⁰² There were reports of damaged cemeteries and desecrated graves, and in Osijek one church was set on fire and another vandalized. There were other cases of harassment of Orthodox clergy where police did intervene but no charges were brought against those who were apprehended.

Since 1997, when the Archbishop of Zagreb, Josip Bozanic, was appointed, the Roman Catholic Church has insisted on its independence and occasionally shown clear signs of disagreement with the former government. In November 1999, the Croat Catholic Bishops Conference refused to support the CDU (HDZ) at the 2000 general election, and called for a free vote to overcome an 'old, unbearable one-party mentality'. Although a number of religious leaders expressed their hope for some new legislation, so far no law has been adopted on religious communities establishing common and equal criteria for all. Religious communities are currently free to hold public religious services, as well as establishing and managing social and charity institutions.

Representatives of religious communities claim that the recent election victory of the six-party coalition was a

positive step towards a more comprehensive respect for religious rights. The new government officials have promised to pay greater attention to human rights. However, this is an *ad hoc* approach and indicates resolving issues with certain religious communities, instead of introducing non-discriminating criteria for all religious communities.

Until recently, only the Roman Catholic Church received state grants for health insurance and pensions for retired priests and nuns. Orthodox Church priests and Muslim *imams* had to pay for health insurance and pensions themselves. This inequality was also reflected in some government institutions. The Ministry of Defence, for example, employed a number of Roman Catholic priests to administer to Roman Catholics in the armed forces, but no Orthodox or Muslim clergy were employed. The FCNM Advisory Committee's Opinion noted that it was also important to respect the rights of national minorities in these circumstances.¹⁰³ The agreements reached on 20 December 2002 allowed the military to add one Muslim and five Orthodox clergy as chaplains. The Croatian government signed contracts with the Serbian Orthodox Church and the Islamic community in Croatia. These followed the same principles adopted between the government and the Roman Catholic Church, and define activities inside institutions such as the armed forces, prisons and schools, ensuring that there is no discrimination between members of different religions in their relations with state institutions and the distribution of state funds. The Serbian Orthodox Church will receive 7.5 million kuna and the Islamic community 2.1 million kuna from the state budget annually. However, these contracts do not regulate the repossession of property, with the exception of buildings needed for religious services.¹⁰⁴

Tolerance

Public media broadcasts

National television (HRT) broadcasts some special programmes for ethnic minorities, while a separate editorial staff produces *Prism*, a weekly 50-minute information programme on minorities. Regional television also broadcasts programmes for minorities. Regular documentary, music and news programmes present information on ethnic minorities' anniversaries, culture and institutions.

The Croatian radio, Radio Zagreb, regularly broadcasts news in minority languages. Croatian radio's first programme broadcasts *From our Minorities' Life*, a weekly 30-minute programme on cultural events, etc. In areas with a sizeable minority population local radio and television stations broadcast in minority languages. However, minority communities are generally dissatisfied with the media's output. For example, HRT considers the 15-minute weekly news on minorities is sufficient coverage for all the minority groups in Croatia. Further, the crucial issue of making a wider public aware of minority problems remains unresolved. Croatia has not followed the examples of good practice from other countries, by integrating minority issues into prime-time mainstream broadcasting, and enabling a wider public to have an insight into important issues and achievements of members of minority groups.

Article 18 of the CLNM covers the way in which members of national minorities can use their language in the media, and the allocation of state, regional and local budgets for co-financing radio and television programmes. It also has the following sentence, at the beginning of this Article:

'Radio and television stations at the national, regional and local level shall have the task of promoting understanding for the members of a national minority, to produce and/or broadcast programmes intended for the information of members of national minorities in the languages of national minorities, the production and broadcast of programmes which stimulate and improve the preservation, development and expression of cultural, religious and other identity of national minorities, the preservation and protection of their cultural assets and tradition and the production and broadcast of programmes by which members of a national minority in that area get acquainted with the work and tasks of their council of national

minority and of the representative of national minorities.'

As ever, the important issue will be how this Constitutional Law is implemented in practice.

Intolerance in the media

As early as 1995 the UN expressed its concern over the way in which the mass media were aggravating ethnic tensions, and over the state's failure to take action against the print media for promoting ethnic hatred against Serbs.¹⁰⁵

The Law on Telecommunications calls on broadcasters to promote inter-ethnic understanding; however, much of the print and electronic media use negative stereotypes of some minorities. For example, war crime cases have been reported prejudicially, emphasizing selected atrocities and giving a false impression that only ethnic Serbs committed such crimes.

The IHF commented in 2002¹⁰⁶ that in the broadcast media, hate speech was often heard on radio stations such as Radio Rijeka and Plavi Radio. Further, they noted that HRT's prime-time news focused on demonstrations in which hate speech and threats dominated. However, the most contentious fact about state television broadcasting was its uncritical promotion of radical right-wing policies, especially in the prime-time *Dnevnik* news programme. Considering that *Dnevnik* was HRT's most frequently viewed programme, it was significant that the political views of the electorate turned to the right during 2001. (This is according to all public opinion surveys.) One of the chief editors of the main news programmes of the past decade, Branimir Dopuda, reportedly warned journalists at their weekly staff meeting to be careful about how they reported on General Ante Gotovina having been indicted for war crimes. Mr Dopuda allegedly explained that 'he is, after all, our hero'. As a result, the state television continued to present General Gotovina in a favourable light. In contrast, news concerning the liberally-minded President of Croatia was usually broadcast at the end of the programme.¹⁰⁷

The OSCE funded a study in early 2003 on Croatia's state television. Its conclusions showed that although it was free of political bias, it was biased in what it covered, failing to deal sensitively with refugee returns, human rights and minority rights. It noted that sometimes presenters allowed hate speech, although it was not a general feature of broadcasting. The OSCE also found that ICTY suspects of Croat

ethnicity were often represented in the local media as national heroes, with little mention of the severity of their alleged war crimes. Further, the issue of property repossession was often presented from the perspective of Bosnian Croat occupants, while the plight of Serb returnees attempting to repossess their private properties was often either ignored or challenged.¹⁰⁸ In addition, the ERRC states that anti-Roma speeches by public officials in Croatia have frequently been reported and no legal action against those disseminating these speeches is taken.¹⁰⁹

Measures to promote inter-ethnic tolerance should be an important consideration when private broadcast licences are being issued. Private broadcasting is growing and it will be increasingly important to ensure that these stations are not only non-discriminatory but also that they broadcast in minority languages.

Leaders in the Roman Catholic Church have a crucial role in leading their congregation and promoting harmony between ethnic Croats, who are largely Roman Catholic, and other communities. This can happen in the pulpit but also in religious broadcasts and in other commentaries in the media. For example, they could unite with other religious leaders to condemn any attacks on Serbian Orthodox and Jewish cemeteries and buildings.

Intolerance in society

This report has already described many aspects of intolerance in society particularly towards ethnic Serbs and Roma. This manifests itself in obtaining citizenship, in education, in public and private employment, in housing, the media and in the legal system. President Mesic has a fine reputation inside and outside of Croatia for challenging intolerance, but his is often a lone voice in public life.

In 2002 CERD expressed its concern about the lack of legislative measures prohibiting the incitement to racial discrimination and violence. It was also concerned about the inadequate efforts to investigate and prosecute those responsible for fomenting ethnic hatred, particularly in the war-affected regions. CERD pointed out that there had been no convictions for incitement to racial discrimination and violence, 'despite the significant number of such allegations'.¹¹⁰

There were many reports in 2002 of intimidation and violence against ethnic Serbs in war-affected areas, often using weapons left over from the conflict. An ethnic Serb returnee was beaten to death in February, two grenades were thrown into the yard of a Serb's house in the Dnris area, a house and a school were burnt down in the Benkovac area, while crops and vineyards were destroyed elsewhere. There were also reports of death threats, intimidation and even threats against the media.¹¹¹ The US State Department found that:

*'Property destruction and other forms of harassment often arose from disputes between home occupiers of one ethnicity and returning homeowners of another. Verbal and legal harassment, forcible evictions, and assaults continued to occur regularly.'*¹¹²

The ERRC has reported that high levels of discrimination and violence against the Roma remain a serious problem in Croatia,¹¹³ and the IHF emphasized the intolerance in Croatian society in its *2002 Annual Report*. The IHF reported that Gordana Dumbovic, a teacher, who is also the Deputy Mayor of Petrinja and President of the Croatian Party of Rights local organization, stated that Serbs were not human beings and were inferior to animals, and appealed to Croats to prepare their weapons.¹¹⁴

The IHF stated that in 2001 many demonstrations were held in support of the Generals accused of war crimes. The organizers were mostly veterans' associations, the Central National Coalition for the 'Dignity' of the 'Homeland War' and right-wing extremist parties. These events provided a platform for some of the worst outbursts of hate speech, which was often directed against President Mesic, the authorities, and especially the Roma and Serbs. The demonstrators abused these communities, and demanded that the current 'anti-national government' be overthrown. Vesna Pusic, an ethnic Serb MP, was called a 'whore' and was subjected to other sexist attacks.¹¹⁵

Further, the IHF gave details of skinhead attacks on Bangladeshis and Iraqis at Zagreb's central train station, where the immediate intervention of the police, who arrested the attackers, prevented more casualties.¹¹⁶ The IHF also document a range of violent attacks on Roma. However, such intolerance towards Roma is not confined to skinheads. A Roma baby died in Medimurje county while being delivered in a Roma settlement. There was no ambulance despite numerous telephone calls. This is just one example of the negligence displayed by state institutions towards the Roma. The Croatian Helsinki Committee report that during a meeting, the County Prefect of Medimurje did not hide his animosity towards the Roma population and failed to show any willingness to deal with such cases.¹¹⁷

In July 2003 in Vukovar, an ethnic Serb boy was banned from playing in a football match at a local tournament organized in honour of 'patriotic war veterans'.¹¹⁸ Prime Minister Ivaca Racan and others in the government condemned this ban in the strongest terms.

According to a public opinion poll in October 2002, one in four Croatian adults would expel ethnic Serbs from Croatia. One in seven said they would also expel Bosniaks and Montenegrins, and one in 10 would expel Slovenes. Areas where intolerance was highest were Dalmatia and Slavonia, areas heavily affected by the war,

where 44 and 35 per cent respectively said that they would expel Serbs.¹¹⁹ In another 2002 poll, 75 per cent of respondents said that the government should not accelerate the return of Serbs.¹²⁰

The government's position is being strongly influenced by its application for EU membership, which is likely to play a significant role in the general election expected at

the end of 2003. Consequently, the government is likely to emphasize tolerance and reconciliation, arguing that its advocacy of such policies and its re-election would significantly enhance Croatia's prospects for EU membership. Whatever the motivations, the need for greater tolerance and understanding among communities in Croatia remains at a premium.

Returning refugees and displaced persons

The background to returns

The 1991–5 war had a devastating effect on the lives of many people in Croatia, particularly those in Eastern Slavonia and Krajina. Hundreds of thousands of ethnic Serbs were driven from their homes during fighting, others were intimidated into leaving, and others anticipated the danger and sought refuge in Serbia and Bosnia Herzegovina. Similarly, many ethnic Croats had to leave their homes for similar reasons in Croatia and Bosnia Herzegovina, seeking refuge elsewhere in Croatia.

Once the war was over, following the signing of the Dayton Agreement in December 1995, Croatia faced an immense problem in responding to the needs of those who had been internally and externally displaced. The HDZ government, under President Tudjman, developed a simple but effective strategy. The resettlement programme, aided by the international community, had fast-track procedures for ethnic Croats to obtain citizenship, legal routes for reclaiming property, and for many, the possibility of living in homes vacated by ethnic Serbs. This option also existed for ethnic Croats who already had homes elsewhere in Croatia. In contrast, substantial obstacles were put in the way of ethnic Serbs returning. In 2002, CERD reported that return was still hindered by legal and administrative impediments, and by the hostile attitudes of some central and local officials. It went on to criticize inconsistencies and the lack of transparency in the National Programme for Return and stated its particular concern about:

*'The insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter related issues of residency and citizenship rights.'*¹²¹

Despite continued heavy criticism from local and international human rights monitors the government has been reluctant to effectively support the return of ethnic Serb refugees.¹²² The US State Department reported in March 2003 that Croatia has continued to allow administrative obstacles, such as delays in the 'covalidation' of legal and administrative documents that date back to the war period, to make it difficult for ethnic Serbs both to return and to remain.¹²³

Attitudes towards returns

The International Crisis Group (ICG) cites a 'reluctance to provoke the nationalist right' as a reason for the lack of action over refugee return. The government's appeasement of the right can also be seen 'in the authorities' approach to the issue of war crimes, and especially cooperation with the...ICTY in the Hague'.¹²⁴

President Mesic has adopted a bolder stance towards the nationalist right than the government over a range of human rights issues, including refugee return. In November 2002, Mesic said that:

*'The notion of threat posed by national minorities to Croatia was groundless. Asserting that the maturity of a democracy could be measured by the degree of protection for minorities and vulnerable groups, he urged action to facilitate property repossession and refugee return.'*¹²⁵

However, the government does not want to be seen to be opposing refugee return, as this would lead to international pressure and/or condemnation. Yet it has shown little real will to resolve problems facing returnees, except under sustained international pressure.¹²⁶ The most recent emphasis on this issue by the EU will have caused some alarm in Zagreb as the returns issue is being linked to Croatia's accession agreement.¹²⁷ This can be seen as a rebuke to Prime Minister Racan who, in December 2002, declared that the mass return of Serb refugees to Croatia, or of Bosnian Croats to Bosnia's Republika Srpska, was unrealistic.¹²⁸

Political parties of the nationalist right are broadly hostile to Serb return. They have considerable support, especially in the war-affected areas to which many Serbs would return, and have influence or control over many of the local authorities and officials, who may have owed their positions to the Tudjman government. In thousands of cases displaced Croats occupy the homes of potential Serb returnees, the majority of them from Bosnia and Herzegovina.

MRG believes that return is an important way for people to deal with the war on a personal level and is a vital step towards reconciliation between different communities at local, national and international levels. It is also an important test of the democratic nature of the Croatian state. Sustainable return requires, among other

issues, the protection and security of returnees; the restitution of property and property rights; and non-discrimination and the participation of minorities, including returnees, in public, economic and social life.

In a statement made on World Refugee Day in 2003, well-informed Croatian NGOs issued the following statement:

*'We welcome the invitation by premier Racan to exiled citizens of the Republic of Croatia, about 250,000 of them, to return, but we also consider it insincere and frivolous considering missing return precondition[s]. We emphasize that certain number of those whom have returned could not realize their gained rights, and warn about lack of real political will, [...] discriminatory legal provisions, nonfunctioning of legal state, [and the] disaster work of the Administration for Expellees, Returnees and Refugees and its regional offices that we consider to be [the] main obstacles for the return.'*¹²⁹

Attitudes of refugees and returnees

Less than one-third of 'minority refugees' had returned to Croatia by the end of 2002. A total of 96,534 minority returns were registered, 68,150 from the FRY, 5,716 from Bosnia and Herzegovina, and 22,668, who were internally displaced in the Danube area.¹³⁰ Even those who do return often come back for a short period to assess the situation or to sell their property at a much-reduced value before leaving again. In 2003 UNHCR conducted a study in certain areas of Knin, where it showed that only 62 per cent of the returns could be considered as sustainable, while 27 per cent were 'commuters' moving between their place of exile and place of origin. Further, the rate of returns in the first five months of 2003 was 3,070 compared to 6,026 for the first six months of 2002.¹³¹

The position of the ethnic Croats provides a sharp contrast; 205,294 (95 per cent) have been registered as returning, while 128,000 people from Bosnia and Herzegovina remain in Croatia.¹³²

It appears that only a relatively small number of the Serbs, who have not so far returned to Croatia, intend to return. Official Croatian data show that in October 2002 only 13,000 refugees in the FRY and Bosnia and Herzegovina had officially applied to return to Croatia. Effective resettlement programmes might affect attitudes as more than 25 per cent of Croatian Serb refugees in Serbia remained undecided as to whether to return.¹³³

An effective resettlement programme must guarantee in practice the right to education, health care, housing, social benefits, training and, most importantly, employment.

UNHCR can do little to raise the hopes of returnees after many years of negotiation with the Croatian government. In its *2002 Global Report* it notes that poor economic conditions and what it describes as inadequate local services 'discourage potential returnees and could in time cause returnees to flee once more'. UNHCR goes on to call for the economic revitalization of the return areas, supported by international development agencies.¹³⁴ Such investment is unlikely, however, until there is a genuine desire of the part on the Croatian government to welcome back ethnic Serbs.

Repossession of property

There are double standards regulating the repossession of property, depending on the status and ethnicity of the property owners. Additionally, there are particular social problems for former tenancy rights-holders who are displaced persons or refugees (mostly ethnic Serbs). Their position contrasts with that of former tenancy rights-holders with returnee status (largely ethnic Croats returning to the former UNTAES region), who can repossess their flats through court procedures. In such cases, the courts in the former UNTAES region accept tenancy rights as a valid legal category. Refugees and displaced persons were excluded from the government's privatization process and their rights as tenants, regarding the privatization of publicly-owned flats have been denied – as well as any opportunities to own stock in the privatization of publicly-owned companies.

The Law on Amendments to the 1996 Law on Areas of Special State Concern was adopted on 12 July 2002, repealing the property repossession regime regulated in the 1998 return programme. Private properties were taken under government administration almost exclusively from Serb owners and assigned to Croats.¹³⁵ If properly implemented, the Law on Amendments should accelerate the property restitution process to aid Serb return.¹³⁶

As the OSCE details, the underlying principle for property repossession is that, prior to the repossession of property by owners, the temporary occupants must be provided accommodation, regardless of whether the occupants have sufficient financial means to care for themselves. However, as there is a severe housing shortage, this policy impedes property repossessions, and the right to ownership is effectively denied.¹³⁷ The transfer of responsibility to central government and away from obstructive local housing commissions, who often obstructed ethnic Serbs returning, may help the situation.

The Amendments recognize the owners' right to bring a case for repossession of their property, independent of legal action by the State Prosecutor and provisions for compensation to the owners.

However, there are many ways – direct and indirect – to halt the returns if there is no clear direction from the state. Power supplies can be denied, basic services not provided etc, in addition to the presence of a climate of fear and intimidation.

Tenancy rights

Many ethnic Serb refugees, who were tenants in public authority housing, are still unable to claim their former homes or secure alternative housing. In August 1995 the Law on the Lease of Flats terminated these tenancy rights within 90 days of a property being vacant. Individuals' tenancy rights were terminated, via *in absentia* court cases, and it was impossible for most to return or appear in court. The government continues to argue that no redress or compensation for terminated occupancy/tenancy rights should be provided since these rights no longer legally exist in Croatia.¹³⁸

The Deputy Prime Minister, Zeljka Antunovic, stated at the end of 2001 that during the war the Serbs had left their apartments voluntarily, and accordingly, as a matter of law, had lost their tenancy rights. The head of the government's Directorate for Expelled Persons, Returnees, and Refugees stated in March 2002 that the government had no obligations to former tenancy right holders.¹³⁹

Some very limited and unattractive possibilities for accommodation have recently been introduced. In October 2002, the Minister for Public Works, Reconstruction and Construction stated that former occupancy/tenancy rights-holders who return to the Areas of Special State Concern can receive temporary accommodation in collective centres, before being offered alternative solutions at a later date.¹⁴⁰

A major campaign is needed by the government to change public attitudes and legal practice. However, recent history has shown that for the time being this seems an unlikely development.

Status rights

Status rights include the rights to citizenship and to permanent residence (as discussed earlier in this report). These rights, and the documentation to prove that the holder is entitled to these rights, are essential for obtaining services and support from central, regional and local government. Additionally, some people (displaced persons, former tenancy rights-holders who were originally from the areas outside of the former UNTAES region)

issued with personal documentation, including Croatian identity cards and passports during the UNTAES mandate, are facing problems in renewing them. These documents give them the right to stay in the region and the right to permanent residence in Croatia. Although the Joint Working Group on Legislation¹⁴¹ has successfully promoted the case of 380 Croatian Serb refugees, even they experienced considerable delay in obtaining this essential documentation.

To avoid a recurrence of these problems the Joint Working Group on Legislation has recommended the incorporation of lesser requirements for the reinstatement of permanent residence for returnees into the draft Law on Foreigners, currently pending before the Parliament.

Many ethnic Serbs who are returning are those who cannot restart their lives elsewhere and many are older people for whom pensions are crucial. Irrespective of ethnicity, decisions relating to property and other court cases suffer many delays. There are specific problems regarding the back-payment of pensions due from 1991–7. People injured in the former UNTAES region continue to face problems over the recognition of their status as injured war victims and in receiving financial compensation.

Reconstruction assistance

State reconstruction assistance was given to returning Croatian Serbs for the first time in 2002. Additionally, a significant number of decisions on the eligibility of Croatian Serbs for state housing reconstruction assistance were issued in 2002. According to government officials, an unspecified number of these houses are under reconstruction. This contrast with a few years earlier, when the OSCE failed to find even a handful of reconstructed Serb houses facilitated by the government.¹⁴²

In addition to the situation in central Croatia, reconstruction is progressing in Western Slavonia, where two-thirds of reconstruction beneficiaries are now Serbs. Additionally, authorities in most other regions of Croatia have worked hard to speed up the processing of requests for reconstruction assistance. However, the reconstruction process is likely to take many years.¹⁴³

Reconstruction and the return programme should be placed in a regional context, where confidence-building is crucial and all states see the advantage of working together – both to build peace and security but also to advance their prospects of economic stability and a closer relationship with the EU.

Conclusions

The difficulties of reconstructing relationships between communities after an inter-ethnic war are immense. Many hundreds of thousands of people from all communities became refugees or internally displaced, thousands were killed and many more carry deep physical and psychological wounds. Time can help to heal these wounds, but this needs to be supported by strong moral leadership in the country; programmes to bring about full and effective equality; and unambiguous support by the international community for reconciliation. International standards and monitoring mechanisms, including the OSCE Mission in Zagreb and the CoE Advisory Committee, are crucial and they have been cited widely in this report.

That the OSCE Mission existed in Croatia until 2003 makes it very clear that all is not well and its frustration at the delays in the returns process, for example, is obvious. Similarly, the Advisory Committee has made strong criticisms of the treatment of Roma and Serbian minorities. The main concern of the Advisory Committee was that the implementation of the FCNM had been regrettably slow. At the local level, certain authorities were reluctant both to remedy the negative consequences of past discriminatory practices and other minority-related problems, and to ensure that such problems do not recur.

The Advisory Committee stressed that while these problems are particularly prevalent in the return process, they are also severe elsewhere. It called for urgent action to protect Roma and Serbian minorities in employment, and for a fair portrayal of national minorities in the media, as well as their improved access to the media. This report endorses those conclusions. In Croatia justice is often circumvented through delays – in the enactment of laws, in the decisions of courts and in the administration of government. It is all too apparent that justice delayed is justice denied.

In recent years, the government has faced pressure from national minorities and the international community to ensure that they can effectively enjoy the rights that were recognized when the Republic of Croatia was accepted as a state by the international community. Many devices were used by President Tudjman, with the support of his extreme nationalist followers, to restrict these rights. Today, some of his supporters owe their positions in the administration of justice and the civil service to these methods, and they have no desire to implement the changes called for under international human rights standards. Rather than oppose these measures, their methods have been to create delays and to obscure responsibilities.

New laws have been agreed but often these enactments are followed by a failure of implementation, despite the promotion of minority rights and the effective rule of law being crucial for membership of the EU under the 1993 Copenhagen criteria.

Several key indicators lie ahead. Will Croatia arrest indicted war criminals and send them to the ICTY? This was an essential requirement for Serbia and Montenegro's membership of the CoE. Will Croatia effectively implement the new and highly praised CLNM, and will there be a major change in the number of Croatian Serbs returning to Croatia?

The government has faced pressure from the international community to end discrimination and facilitate refugee return, while domestically it has felt constrained by pressure from the nationalist right. Its response to this dilemma has been to adopt half-measures designed to appease both the international community and the right-wing opposition parties.

While the atmosphere for return has, for the most part, improved considerably, the government has been unwilling to take all the steps needed to end discrimination against returning Serbs, particularly over occupancy, property and status rights. A major change in approach has been demanded by the international community, as eight years after the war, most ethnic Serbs from Croatia remain outside the country as refugees.

These issues may fester for years to come and will damage good regional relations if they are not effectively and harmoniously resolved during the EU pre-accession stage. The HDZ and President Tudjman were rewarded for their opposition to President Milosevic by their entry into the CoE. However, they did not have to confront these issues and Croatia continues to be a member of the CoE, without properly tackling the important and symbolic issue of arresting those indicted by the ICTY.

It may be the hope of some politicians that the crucial issues within the Copenhagen criteria for EU accession can be met by constant debate on new laws. They may hope that with the support of some neighbouring states, they can avoid the lack of effective realization of human rights and more specifically minority rights of ethnic Serbs. They may also hope that by developing strategies for the Roma's integration, these will be seen as substitutes for measurable achievement towards full and effective equality. They may be right.

The EU has a mixed record of tackling minority rights issues effectively in the accession process. Further, donors are often concerned to promote economic measures for transition, while neglecting the more controversial issues of putting substantial funding into targeted programmes to promote the realization of minority rights.

However, this is a high-risk strategy. Croatia stands to lose a great deal with its short-term political procrastination. If the strategy were to succeed, the long-lasting regional animosities would continue, the position of the extremist HDZ would be reinforced and those promot-

ing human rights within Croatia, like President Mesic, would be undermined. If this strategy were to fail, Croatia's application for EU membership could be delayed significantly and the crucial investments for post-war recovery might not come.

Croatia can choose either to continue with *de facto* discriminatory practices or finally break with Tudjman's HDZ legacy, following the principles of human rights, minority rights and the effective rule of law. The implementation of the commended Constitutional Law on the Rights of National Minorities will be one key indicator of how ready Croatia is to promote minority rights.

Recommendations

1. National standards of minority protection

The Croatian government should support and monitor the implementation of the Constitutional Law on the Rights of National Minorities. Implementation should also be monitored by international actors, particularly by the EU, as it takes over responsibility for monitoring minority protection from the OSCE Mission. It is essential to ensure that adequate resources are provided for implementation of the Constitutional Law.

2. International Criminal Tribunal for the former Yugoslavia

The Croatian government should strive to meet its responsibility to ensure that all those indicted by the ICTY be arrested and taken to The Hague, irrespective of their ethnicity.

3. Inter-ethnic cooperation

A government strategy is urgently needed to promote inter-ethnic harmony. This should include major public education and information initiatives to address prejudice and animosities. For example, the Ministry of Education should ensure that school curricula include teaching on minority rights.

4. Measures for promoting the rights of the Roma

The Croatian government should seek to effectively implement measures designed to ameliorate the situation of the Roma minority, including the measures from its developing National Strategy for Roma. Targets, priorities and the resources available should be clearly established from the start. The EU should monitor progress and provide financial support for implementation of these measures.

5. Returns

The Croatian government should devise a well-financed programme, with clear, measurable targets, for the return of minority communities to Croatia. This should be done in consultation with the relevant communities. To render the returns programme more effective, the government should guarantee returnees' safety, the restitution of their property, their participation in public life and equitable employment opportunities for returnees.

The rights of those who do not wish to return should also be respected, where possible through amicable bilateral agreements.

6. Opinions of the Council of Europe's Advisory Committee on National Minorities

The government should act on the recommendations set out in the various Opinions, particularly on the need to redress the systematic discrimination against ethnic Serbs and Roma in public service employment.

7. International donors

International donors should target their assistance at measures to promote tolerance and cooperation, and ensure that all aid or loans include a needs assessment for all communities. Assistance should be linked to demonstrable progress in the protection of minority rights.

8. European Union accession

The EU should ensure that minority rights are an integral part of the partnership agreement signed with Croatia. It should be made clear that one of the long-term goals of the Croatian government should be adherence to the Copenhagen criteria on minority protection, highlighting the need for implementation as well as the adoption of its provisions.

Relevant international instruments

Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Adopted by the UN General Assembly; Resolution 47/135 of 18 December 1992)

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
- ...
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group, with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights including those as set forth in this Declaration individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights as set forth in this Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
-
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

International Covenant on Civil and Political Rights (Adopted by the UN General Assembly; Resolution 2200A [XXI] of 16 December 1966)

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Convention on the Elimination of all Forms of Racial Discrimination (Adopted by the UN General Assembly; Resolution 2106 [XX] of 21 December 1965)

Article 2

2. States parties shall, when the circumstances so warrant, take, in the social, economic cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Framework Convention for the Protection of National Minorities (Council of Europe, February 1995, H[1995]010)

...

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

Notes

- 1 *Vecernji list*, 30 October 2002.
- 2 Census figures have to be regarded with great caution because many members of minorities sought refuge abroad during the conflicts, further there is a continuing concern that a person identifying as an ethnic minority may put themselves or their family at a disadvantage, therefore the percentage of minorities may be underestimated.
- 3 See www.dzs.hr the website of the Government of Croatia's statistical office.
- 4 US State Government figures, see www.state.gov/r/pa/ei/bgn/3166.htm
- 5 See www.undp.org for further details.
- 6 Probably grouped under 'other' in 2001.
- 7 Muslims are now more likely to register as Bosniaks.
- 8 Probably grouped under 'other' in 2001.
- 9 Medakovic, D., *Baroque and the Serbs*, Prosvjeta, Zagreb, 1988, p. 15.
- 10 Appeal Manifest issued on 6 April 1690, and privilege issued on 21 August 1690, constituting the basis for the Serb religious-national self-government in the monarchy; Protection Certificate issued by the Hungarian Royal Office on 11 December 1690; Protection issued on 20 August 1690, according to which the rule of the Serbian Archbishop was extended to secular issues; Privilege issued on 4 March 1695 by the Hungarian Royal Office granting the spiritual organization of the Serbian Orthodox Church and by which the appointment of bishops and previous privileges were confirmed.
- 11 The most important privileges were issued by Josip I on 7 August 1706, by Karlo VI on 2 August and 8 October 1713, in addition to the Protection Certificate issued on 10 April 1715 and that by Maria Theresia issued on 24 April and 18 May 1743. Tatalovic, S., *Historic and Modern Establishment of Rights of the Serbs in Croatia*, SKD Prosvjeta, Zagreb, Srpski narodni kalendar, 1998, p. 108.
- 12 Petranovi, B., *Istorija Jugoslavije 1918–1978 (History of Yugoslavia 1918–1978)*, Belgrade, Nolit, 1980, p. 27.
- 13 The SHS gave up its previously declared conditions of unification and recognized the monarchy and the rule of Karadjordjević's dynasty. In response to the SHS delegation's address, the King declared the Kingdom of Serbia's unification with the countries of the SHS, and in this way the Kingdom of Serbs, Croats and Slovenes came into being on 1 December, 1918.
- 14 See Rehak, L., 'Manjine u Jugoslaviji, pravno politika studija' (Minorities in Yugoslavia – a legal-political study), (doctoral thesis), Novi Sad/Belgrade, 1965, pp. 224–8; 246–9; 276.
- 15 See Yad Vashem, www.yad-vashem.org.il
- 16 US Holocaust Memorial Museum, www.ushmm.org/w/c/en
- 17 The testimonies of witnesses to atrocities committed by the Ustasa against Roma can be found in Kenrick, D., and Gratian, P., *The Destiny of Europe's Gypsies*, New York, Basic Books, 1972.
- 18 The Constitution of Croatia, Zagreb, Radnicke novine, 1981, p. 214.
- 19 The SRC was one of six constituents republics within the SFRY.
- 20 The Constitution of Croatia, *op. cit.*, Articles 137 and 138.
- 21 Dominim, M., *Manjine u Alpsko-Jadranskom prostoru*, (Minorities in Alpe/Adriatic region [Croatia]), Zagreb, Institute for Migrations and Nationalities, University of Zagreb, 1990, p. 97.
- 22 Articles 219 and 380 of the Constitution defined the formation of special bodies within the parliamentary system. In municipalities with a sizeable minority population, Committees for Nationalities were formed by the local assemblies, while at the state level it was the Parliamentary Commission for Inter-ethnic Relations. It was composed of majority nations representatives (Croats, Serbs) and of elected ethnic minorities' representatives. Respective commissions were mainly responsible for monitoring the practical implementation of legal rights and for suggesting measures in accordance with legal provisions.
- 23 Dominim, *op. cit.*, p. 100.
- 24 *Lessons Learned*, UN Department of Peacekeeping Operations, July 1998.
- 25 'Timeline: Croatia a chronology of events', www.bbb.co.uk
- 26 Miric, J., *Demokracija i ekskomunikacija (Democracy and Excommunication)*, Zagreb, Prosvjeta, 1999, pp. 98–9.
- 27 Tatalovic, S., 'Peaceful solution of conflicts in Croatia: case study of Gorski Kotar', *Peace and Sciences*, vol. 27, no. 6, 1996, pp. 38–46.
- 28 *Lessons Learned*, *op. cit.*
- 29 The Erdut Agreement was circulated as a document of the UN General Assembly and Security Council (S/1995/951) at the Croatian government's request.
- 30 See *Report on Informal Discussions on Erdut Agreement*, Centre for Peace, Legal Advice and Psychological Assistance, Vukovar, November 2002.
- 31 *Lessons Learned*, *op. cit.*
- 32 *The Months After the Departure of the UN Transitional Authority of Eastern Slavonia*, spring 1988, Octovorene Oci, Balkans Peace Team International.
- 33 Letter of intent dated 13 January 1997 from the Government of Croatia to the President of the Security Council (S/1997/27).
- 34 See 2001 census data.
- 35 *Ibid.*, p. 172.
- 36 Members of the Albanian minority use Albanian textbooks intended for the diaspora.
- 37 Simic, M., *Cultural Autonomy of Ethnic Minorities in the Republic of Croatia*, the Government of the Republic of Croatia, Zagreb, 1998, p. 34.
- 38 *Ibid.*, pp. 43–4.
- 39 Ethnic Hungarians attending bilingual classes in Mladost and Ivan Gundulić primary schools in Zagreb learn from textbooks in Croat, whereas Hungarian is learnt from textbooks imported from Hungary. In schools where the Hungarian language is promoted, the teachers use textbooks from Hungary for the language instruction, partly also for history and geography. Other subjects are taught from textbooks in Croatian.
- 40 As determined by the statutes of local self-government, the Italian language is in official use in Istria and almost all towns in the region, *Initial Report on Implementation of the European Charter on Regional or Minority Languages*, Zagreb, the Government of the Republic of Croatia, 1999, pp. 28–30.
- 41 Simic, *op. cit.*
- 42 See FCNM Advisory Committee Opinion Croatia, www.coe.int/T/E/Human_Rights/Minorities
- 43 Pupovac, M., *Guardians of Names*, Zagreb, SKD, Prosvjeta, 1999, pp. 49–51.
- 44 See FCNM Advisory Committee Opinion, *op. cit.*, para. 20.
- 45 See Institute for War and Peace Reporting, 14 June 2002.

- 46 *Ibid.*
- 47 www.osce.org/croatia/news_in_brief/archive/180602.pdf
- 48 Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination; Croatia, 21 May 2002, para 14.
- 49 See *US State Department Country Report on Human Rights Practice Croatia 2002*, www.state.gov/g/drl/rls/hrrpt/2002/18359.htm
- 50 Report on Human Rights Violation in Croatia, Government of USA, 1999, <http://www.usembassy.hr/issues/rights99/hrhrv99.htm>
- 51 See ERRC written comment for the UN Committee for the Elimination of Racial Discrimination, March 2002, www.errc.org
- 52 Cited in *OSCE Mission to Croatia Status Report no. 11*, 18 November 2002, p. 6.
- 53 Concluding Observations of the United Nations Committee on Economic, Social and Cultural Rights, Croatia, 30 November 2001, E/C.12/1/Add.73.
- 54 See www.ihf-hr.org/reports
- 55 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 6.
- 56 *Ibid.*, p. 18, see also p. 19.
- 57 See *Women's Asylum News*, issue 34, July 2003, p. 10.
- 58 ERRC, *op. cit.*, p. 40.
- 59 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 10.
- 60 *Ibid.*
- 61 *Ibid.*
- 62 *Ibid.*, and also see the OSCE report for 2003 for more details.
- 63 See US State Department, *Country Report on Human Rights Practice in Croatia 2002, op. cit.*
- 64 The Constitution of the Republic of Croatia, Article 1.
- 65 See www.state.gov/g/drl/rls/hrrpt/2002/18359.htm
- 66 Including the FCNM and the European Charter for Regional or Minority Languages (ECRML).
- 67 There were exceptions, for example, the Law on Linguistic Rights and the Law on Education in Minority Languages were not adopted.
- 68 See www.osce.org/news/show_news.php?id=2959
- 69 *Ibid.*
- 70 Sixteen national minorities nominated lists for 220 of the 470 Councils and 40 of the 140 individual representatives. For details see OSCE, *Croatia Mission Report*, July 2003, www.osce.org/croatia
- 71 *OSCE Croatia Report on the Implementation of the CLMN and Related Legislation*, 2 May 2003.
- 72 See www.osce.org/croatia
- 73 Simic, *op. cit.*, p. 9.
- 74 Tatalovic S., *National and Ethnic Minorities*, Zagreb, Prosvjeta, 1997, p. 101.
- 75 *The Decision on Distribution of the Financial Resources Provided by the State Budget in 2001 – Transfers to Ethnic Minority Groups*, the Government of the Republic of Croatia, Klasa: 400-06-/01-01/04, Zagreb, 22 February 2001.
- 76 *Model of Realization of Ethnic Rights of National Minorities in the Republic of Croatia*, the Government of the Republic of Croatia, Klasa: 007-01/01-02/01, Zagreb, 22 February 2001.
- 77 See the Opinion of the Advisory Committee of the FCNM, *op. cit.*
- 78 See the UN Human Rights Committee on Croatia, UN Doc. CCPR/C/79/add.15, para. 7, 28 December 1992.
- 79 *Ibid.*
- 80 CERD Conclusions, 15 September 1993.
- 81 *UNHCR Global Report 2002*, p. 394.
- 82 See the Opinion of the Advisory Committee of the FCNM, *op. cit.*
- 83 CERD Concluding Observations on Croatia, 21 May 2002, CERD/C/60/CO/4.
- 84 www.coe.int/T/e/human_rights/Minorities/2, or see the Croatian government report on the implementation of the FCNM to the CoE, 1998.
- 85 See www.coe.int.
- 86 The OSCE Croatia Mission report that in May 2003, the Ministry of Justice was not able to provide current statistics about minority employment in state administration. Consequently, there are no clear measures of improvements.
- 87 International Helsinki Committee, *Annual Report on Croatia, 2002*.
- 88 See the Oslo Recommendations regarding the Linguistic Rights of National Minorities and Explanatory Note, OSCE High Commissioner on National Minorities, February 1998.
- 89 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 9.
- 90 The Law on Educational Rights of Ethnic Minorities, Narodne Novine, no. 51, 2000, Article 6.
- 91 Tatalovic, S., and Uzelac, S., *Educational Autonomy of the Serbs in Croatia*, Zagreb, SKD Prosvjeta, 1996.
- 92 See *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 9.
- 93 *Ibid.*
- 94 See FCNM Advisory Committee Opinions on the Czech, Hungary and Slovak Republics.
- 95 Personal communication to MRG, 2003.
- 96 See *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 9.
- 97 For further information on education in Croatia and the region, see MRG, *Minority Rights and Education in South-East Europe*, London, MRG, 2003.
- 98 See FCNM Advisory Committee Opinion on Croatia, *op. cit.*
- 99 *Report on Human Rights Violation in Croatia, op. cit.*
- 100 See *The World Guide 2001/2002*, Oxford, Instituto del Tercer Mundo, 2001; or the *CIA World Factbook 2002*.
- 101 *Report on Religious Rights in the Republic of Croatia*, Government of USA, 1999, www.usembassy.hr/issues/relrephr.htm
- 102 US State Department, *Human Rights Report 2002*.
- 103 See Article 8 of the Opinion of the FCNM Advisory Committee.
- 104 See www.slobodnadalmacija.hr/20021221/novosti04_12 December 2002 – text available in Croatian only.
- 105 CERD Conclusions, 22 September 1995.
- 106 See www.ihf-hr.org/reports
- 107 *Ibid.*
- 108 *Ibid.*
- 109 *Ibid.*
- 110 CERD Concluding Observations, 21 May 2002, *op. cit.*
- 111 *US State Department Country Report on Human Rights Practice Croatia 2002, op. cit.*
- 112 *Ibid.*
- 113 See *OSCE Mission to Croatia Status Report, no. 11, op. cit.*
- 114 See www.ihf-hr.org/reports
- 115 *Ibid.*
- 116 *Ibid.*
- 117 *Ibid.*
- 118 See reports on *Dnevnik* and in local newspapers on 3 July 2003.
- 119 *Vecernji list*, 30 October 2002.
- 120 *Jutarnji list*, 22 November 2002.
- 121 CERD Concluding Observations, 21 May 2002, *op. cit.*
- 122 *Human Rights Watch World Report 2003*, www.hrw.org/wr2K3/europe6.html
- 123 *US State Department Country Report on Human Rights Practice Croatia 2002, op. cit.*
- 124 *A Half-Hearted Welcome: Refugee Returns to Croatia*, ICG Balkans report 138, Zagreb/Brussels, 13 December 2002.
- 125 *Ibid.*
- 126 *Ibid.*
- 127 See Dempsey, J., 'Balkan leaders face warning over accession', *The Financial Times*, 18 June 2003.
- 128 See *A Half-Hearted Welcome, op. cit.*
- 129 Members of the Coalition for Promotion and Protection of Human Rights in the Republic of Croatia – Centre for Peace, Legal Advice and Psychosocial Assistance – Vukovar, Human

- Rights Committee Karlovac, ALTRUST from Split, and HOMO Pula, 20 June 2003.
- 130 Data from The Croatian Ministry for Public Works and Reconstruction (ODPR).
- 131 See endnote 2 of *OSCE Croatia Status Report, July 2003, op. cit.*
- 132 *OSCE Croatia Status Report no. 11, op. cit.*
- 133 Keserovic, D., Serbian Deputy Commissioner for Refugees, *Jutarnji list*, 20 July 2002.
- 134 *UNHCR Global Report 2002, Croatia, op. cit.*, p. 374.
- 135 Pursuant to the 1995 Law on Temporary Take-Over and Administration of Specified Property.
- 136 For further information see *A Half-Hearted Welcome, op. cit.*
- 137 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 14.
- 138 *Ibid.*, p. 15.
- 139 Human Rights Watch, *World Report 2003, Croatia.*
- 140 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 16.
- 141 The Joint Working Group on Legislation was established by the government and the international community in June 2001 to address return-related legislative issues. Its proposals did not receive the attention required and following representations by the international community in October, Prime Minister Racan committed the government to reinvigorating the Working Group.
- 142 *OSCE Mission to Croatia Status Report no. 11, op. cit.*, p. 16.
- 143 *Ibid.*

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Further reading from MRG

MRG has published a series of South-East Europe workshop reports in 2003. The aim of these workshops was to create platforms for public debate on key areas of minority concern in the region, and to identify measures to practically improve the situation of minority communities. You can access these workshop reports free of charge from MRG's website at: www.minorityrights.org or alternatively contact MRG to obtain printed copies.

Workshop – Minority Rights and Development Processes in South-East Europe

In South-East Europe, poverty among minorities is typically widespread and they experience exclusion from the social and economic life of their countries. A workshop held in Sofia, Bulgaria, had among its aims the development of strategies to address practical problems regarding participation of minority communities in all stages of development projects.

Workshop – Emerging Frameworks of Power-sharing in South-East Europe: Strengths and Weaknesses

Power-sharing agreements include the 1995 Dayton Accord and the 2001 UNMIK (United Nations Mission in Kosovo) Constitutional Framework for Provisional Self-government in Kosovo. This report identifies the key problem areas regarding the feasibility and effectiveness of power-sharing systems and develops strategies to address practical issues.

Workshop – Minority Rights and Education in South-East Europe

Education is especially important for vulnerable minority communities who feel that their identity is under threat. Education can be a mechanism for promoting or denying minority rights, and it can reflect wider societal values by promoting either diversity or mono-culturalism.

Workshop – The Decision of the Constitutional Court of Bosnia and Herzegovina on the Constituent Status of Peoples and the Process of Return

In July 2000, the Constitutional Court of Bosnia and Herzegovina ruled that Bosniaks, Croats and Serbs have the status of constituent peoples throughout the whole of the state. This important decision clarified their legal status and, if implemented fully, could encourage the process of return and reduce their fear of discrimination.

Workshop – The Status of Constituent Peoples and Minorities in Bosnia and Herzegovina

This workshop had the objective of developing a deeper understanding of the key issues in the effective protection of the rights of constituent peoples and minorities, and to consider ways forward both in law and in practice for effective implementation of the Constitutional Court decision of July 2000.

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Minorities in Croatia

The Republic of Croatia achieved independence in 1995 after a five-year bloody war with the former Federal Republic of Yugoslavia. During the war, hundreds of thousands of people were killed, seriously injured or displaced.

The minority population of Croatia has fallen drastically. This is partly due to some minorities' fears of discrimination in post-war Croatia, partly due to 'ethnic cleansing' during the 1991–5 war and partly due to an ethnically-biased returns programme for refugees and displaced people. The Croatian government's programme for returnees has favoured ethnic Croats over other groups – especially ethnic Serbs.

Minorities in Croatia argues that the government needs to tackle a raft of minority rights issues if the state can truly be seen to be democratic and representative of all of

Croatia's peoples. These issues range from the introduction of non-discrimination measures in education and employment, to cooperation with the International Criminal Tribunal for the former Yugoslavia and the full implementation of the government's new Constitutional Law on the Rights of National Minorities.

The report contains information on many of Croatia's minority groups, with a particular focus on the two minorities who are arguably most discriminated against in Croatia today – the Roma and the Serbs.

It is not only Croatia's neighbours in the region who are watching the government's movements with interest; Croatia will have to fulfil many requirements on minority rights if it is to further its accession into the European Union. MRG's report concludes with a series of recommendations aimed at the Croatian government.