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Croatia:

Housing rights and employment still preventing durable solutions

The number of internally displaced people (IDPs) in Croatia has fallen significantly since the armed conflict between the Croat majority and the Serb minority ended in 1995. At the end of the war, around 250,000 people were displaced within Croatia, of whom 32,000 were Croatian Serbs. By June 2009, the number of IDPs had fallen to about 2,400, including over 1,600 ethnic Serbs.

The outcome for the two groups of IDPs has been quite different. In 1995, there were three times more Croat IDPs than Croatian Serb IDPs, but by 2009 the situation has been reversed with twice as many Croatian Serbs as Croats still displaced. As of June 2009, over 220,000 Croat IDPs and some 23,000 Serb IDPs had returned. However almost half of Serb returns to and within Croatia are not sustainable, according to international organisations and NGOs. For the remaining Croat IDPs, the main obstacle to return is the poor economic situation in return areas, whereas ethnic Serb IDPs also face continuing discrimination in accessing housing, property and employment.

Although successive governments have made significant progress since 2000 in reforming and adopting laws to support the return of ethnic Serb IDPs, their implementation has been slow due to their complexity and the discriminatory attitude of administrative bodies. One continuing barrier has been the absence of a remedy for the arbitrary cancellation of tenancy rights for former occupiers of socially-owned apartments; this has mainly affected ethnic Serbs. Alternative housing options have been made available to those who wish to return, but others have been left without any durable housing solutions or compensation for the loss of their tenancy right.

Over the past three years the number of IDPs in Croatia has remained steady, indicating that the remaining few have been unable to resolve their status by returning to their place of origin or integrating locally. To enable them to find durable solutions it would be necessary to combine economic support to the most vulnerable, fair compensation for former holders of occupancy rights, and an effective monitoring system to ensure minority rights are upheld.

Map of Croatia



More maps are available on <http://www.internal-displacement.org>

Background and main causes of displacement

Croatia's independence from the former Socialist Republic of Yugoslavia in June 1991 was followed by armed conflict which lasted until 1995 and resulted in hundreds of thousands of people being displaced from and within Croatia. During the same period, there was an influx of ethnic Croat refugees fleeing the war in neighbouring Bosnia and Herzegovina.

The Serb secession in eastern and western Slavonia, Banovina, Kordun, Lika and in the Knin region which gave rise to the "Republika Srpska Krajina" led over 220,000 ethnic Croats to flee to other areas of the country. Four years later, Croatia's armed forces regained control of most of these Serb-controlled territories, leading to the displacement of up to 300,000 ethnic Serbs, primarily to Serbia and Montenegro and to Bosnia and Herzegovina (UN CHR, 29 December 2005), and also to eastern Slavonia (the Danube region), the only area of Croatia which was still under Serb control. The November 1995 Erdut Agreement provided for the transitional administration of eastern Slavonia by the United Nations, followed by a handover to Croatia in January 1998. In 1997, the United Nations Transitional Administration in Eastern Slavonia (UNTAES), UNHCR and the Croatian government signed an accord confirming the right of displaced people to return to and from eastern Slavonia.

Current displacement and return figures

UNHCR in June 2009 put the number of remaining internally displaced people (IDPs) at around 2,400 (UNHCR, June

2009). Of these, over 1,600 were Croatian Serbs displaced in eastern Slavonia (email communication with UNHCR, August 2009). Additionally, almost 72,000 Croatian Serbs still live in Bosnia and Herzegovina and Serbia and Montenegro (email communication with UNHCR, August 2009).

Since 2005, IDP numbers have fallen by only a few hundred a year, compared to an average decrease of 4,500 between 2002 and 2005. This can mainly be explained by the slowing of reconstruction and housing care programmes and the lack of transparency, consistency and fairness in their implementation.

As IDP numbers have decreased, so have government services to house them. In 2007 most of the state-run collective centres which housed the majority of IDPs in eastern Slavonia were closed, with only some of the residents receiving some form of alternative housing, including relocation to other centres outside the region (email communication, Centre for Peace, 11 June 2008). Currently, six collective centres provide housing to almost 170 IDPs (mainly ethnic Croats), 470 refugees and 40 returnees, but two are planned for closure by the end of 2009 (email communication with UNHCR, August 2009). In the absence of a precise closure plan maintenance has been reduced or suspended in the remaining collective centres leading to a deterioration of living standards in 2008.

As of June 2009, over 244,000 IDPs had returned to their place of origin, including some 220,000 Croat IDPs (of whom 92,000 returned to the Danube region) and 23,000 out of a total of some 32,000

Croatian Serb IDPs (UNHCR, June 2009).

Continuing barriers to return

The main obstacles to return for remaining Croat IDPs have been the poor economic situation in their region of origin and some remaining housing issues which led many of them to integrate locally (USDoS, 28 February 2005, p.11; email communication with UNHCR, August 2009). However, the barriers to the return of ethnic Serb IDPs have been harder to overcome. Such obstacles included a slow and often discriminatory implementation of legislation in areas such as property repossession, housing care, reconstruction and access to citizenship. Limited access to property, utilities, education, employment, as well as occasional security incidents against returnees and lack of social cohesion in the return areas has also affected return and its sustainability by preventing integration of returnees with the rest of the population. Indeed, a UNHCR study indicated that between up to half of Serb IDP and refugee returnees left the country or resettled elsewhere within Croatia (UNHCR, 2007).

Discriminatory employment practices against Serbs contribute to this poor sustainability of return. The unemployment rate is much higher in return areas than in the rest of the country (email communication with UNHCR, August 2009). Minorities remain highly under-represented in state administration, the judiciary and the police (EC, November 2008; USDoS, 2009; Minority Rights Group International, July 2008). In 2008, the government adopted an action plan and established the Department for National

Minorities to enforce the Constitutional Law on National Minorities, which obliges local authorities as well as public enterprises to employ representatives of minorities according to their percentage within the overall population (EC, November 2008). However, these national policies are not necessarily reflected at local levels, and the Commission on the Elimination of All Forms of Racial Discrimination (UN CERD, March 2009) noted in 2009 the reluctance of some local authorities to implement laws and government policies on non-discrimination, in particular with regard to returnees.

The demographic structure of the Serb returnee population confirms the impact of the unemployment factor on return and raises concern regarding the long-term presence of minority population. 37 per cent of returnees are over 65 (compared with only 17 per cent among the population as a whole) and therefore have access to a pension which guarantees a minimum income. Children constitute only 12 per cent of the returnee population (half of the overall figure for Croatia), bringing into question the long-term sustainability of minority communities in return areas (UNHCR, 2007).

In 2008, the situation of older IDPs and returnees became a little easier as a new government policy to recognise periods of work in areas under Serb control during the war paved the way for increased pension entitlements. At the end of May 2009, almost 16,000 resulting claims had been lodged with the Croatian pension fund, half of the requests had been processed and 3,500 approved.

The complexity of the legal framework, especially regarding housing care and reconstruction, has made it harder for IDPs to assert their rights and effectively prevented their return to urban areas. Indeed most tenancy rights were granted in urban areas and there is still no compensation for the arbitrary termination of these rights. As a result only three per cent of returnees live in settlements of more than 100,000 inhabitants (ECRE, October 2007).

Biased war crimes rulings have also discouraged the return of displaced minorities. A majority of Croatian war crime proceedings continue to be held in local courts where the crime occurred, rather than one of the four courts designated for war crimes (EC, November 2008, p.9; OSCE March 2008). These courts have come under scrutiny for disproportionately pursuing Croatian Serbs and fostering a culture of impunity for war crimes committed against Serbs by the Croatian security forces (EC, November 2007, p.8; AI, 21 January 2009). While some progress has been made on the issue of prosecuting perpetrators irrespective of ethnicity (EC, November 2008, p.8), concerns remain especially on trials against minorities held *in absentia* and on questions of judicial fairness in charging and sentencing minorities (AI, 21 January 2009, OSCE March 2008).

A few violent incidents against ethnic Serb returnees, particularly in the Dalmatian hinterland region (HRW, January 2009; USDoS, 2009), have also affected IDPs' willingness to return (USDoS, 11 March 2008, p.10). In some cases where former owners have tried to access their property, they have been threatened with or subjected to violence while police

largely refrained from intervening (ECRE, October 2007). In 2008, police investigations have improved although only a few prosecutions took place (EC, November 2009, p.13), and Croatian Serbs have been appointed as regional police advisers for security issues and ethnically motivated crimes in Zadar and Vukovar.

Property and housing issues

While the restitution of illegally occupied private properties continued in 2007 and 2008, members of local minorities still face difficulties in accessing their housing and property rights (USDoS, 11 March 2008; email communication with UNHCR, August 2009).

Repossession of occupied private properties is almost complete, with only 35 administrative and court cases remaining to be resolved as of August 2009 out of some 20,000 cases (email communication with UNHCR, August 2009). However, this process has lasted more than a decade because of administrative obstruction and the fact that the law gives precedence to the rights of (mainly ethnic Croat) temporary occupants over those of (mainly ethnic Serb) original owners, by making restitution dependant on rehousing of the occupant (USDoS, 2009). The European Court for Human Rights has found this practice to be in violation of the European Convention for Human Rights (ECtHR) due to the unreasonable length of proceedings, the excessive burden placed on one particular social group, and the failure to strike a fair balance between a pressing social need for housing and individual ownership rights (ECtHR (Radanovic v. Croatia), 2006; *and* (Kunic

v. Croatia), 2007 see OSCE, September 2008).

There have been no administrative procedures to help returnees take possession of their agricultural land (HRW, January 2009). The only option is to initiate a lengthy and costly court procedure (email communication with Centre for Peace, 28 April 2008), which many minority IDPs and refugees cannot afford. While a solution was found in 2009 for land allocated by the state to temporary users in Zadar, the problem remains for illegally occupied land in the Dalmatian hinterland.

The reconstruction of homes has slowed and the target of completing the process by the end of 2009 has been postponed to 2010. In 2003, once the reconstruction of houses belonging to ethnic Croats had been largely completed, Croatian Serbs became the main beneficiaries of reconstruction assistance (OSCE September 2007). In the last three years the government has rebuilt fewer than 1,500 housing units, compared to over 9,500 in 2005, and almost 60,000 out of 200,000 destroyed houses have not been rebuilt. It is estimated that two in three rebuilt houses belong to ethnic Croats (email communication with UNHCR, August 2009). Decisions on reconstruction assistance are often not made within deadlines set by law, and many proceedings last for several years (OSCE, March 2007). As of May 2009, more than 2,500 cases and 7,000 appeals against negative decisions were still to be resolved. Government damage assessments have also reportedly discriminated against ethnic Serbs, with under-estimations of the amount of damage to individual properties resulting in owners being unable to fully rebuild their house (ECRE, October 2007).

The most pressing and unresolved property issue, however, remains the situation of former occupancy rights holders (ORHs) of socially-owned flats. This category of housing represented 70 per cent of housing units in former Yugoslav cities (COE CHR, 4 May 2005). These rights had many characteristics of ownership with indefinite right to occupy a flat and the possibility for the occupancy right to be inherited by the relatives of the holder. Most ORHs were allowed to transform their occupancy right into ownership right for a symbolic amount during and after the war. However, displaced persons and refugees were often unable to use this possibility and lost their rights. In contrast with authorities in Bosnia and Herzegovina and in Kosovo, the Croatian government considered that former ORHs had no right of repossession, unlike owners of private property. This position directly affects up to 30,000 households in Croatia, almost exclusively ethnic Serbs, whose occupancy rights over their apartments were terminated in a discriminatory manner when they fled due to the conflict. Local courts took advantage of their flight to cancel their occupancy rights on the grounds of unjustified absence from the apartment refusing to take into account compelling war circumstances. In addition, in areas which were under Serb control during the conflict, 5,000 to 6,000 Serb households lost their right *ex lege* once the conflict was over (OSCE, March 2007). While almost all ethnic Croat ORHs have been able to repossess and purchase their apartments, ethnic Serb refugees and IDPs whose occupancy rights were terminated have been largely unable to do so or gain legal redress or compensation.

Attempts to challenge termination of occupancy rights before the European Court have failed, since Croatia became party to the European Convention for Human Rights after most of the violations were committed. However, references such as the “Principles on Housing and Property Restitution for Refugees and Displaced Persons” adopted in August 2005 by the UN Sub-Commission on Human Rights make clear that acquired housing rights should be recognised and their termination compensated. In 2009 the UN Human Rights Committee confirmed in the Vojnovic case that the arbitrary termination of an occupancy right violated the International Covenant on Civil and Political Rights and highlighted Croatia’s obligation to provide an effective remedy, including compensation (HRC, April 2009).

The only options available to former ORHs are two housing scheme programmes introduced by the government in 2002 and 2003: one related to war-affected “Areas of Special State Concern” (ASSC), and another related to main urban areas outside the ASSC. The schemes offer alternative housing for rent or purchase, but only to former ORHs who wish to return. Almost 14,000 applications have been filed, some 3,300 by ethnic Serb IDPs and the rest by refugees. As of May 2009, less than half of them had received accommodation, mainly in the ASSC (communication, UNHCR, August 2009). Since no disaggregated data by categories of beneficiaries is available it is impossible to assess to what extent implementation of these schemes has contributed to the return of displaced people (OSCE, April 2008).

A new law on Housing Care in ASSC entered into force in 2008 but is not likely to change the situation significantly. Although it allows claimants to appeal negative decisions, it restricts even further the eligibility criteria which could further limit returns.

National response

Since the year 2000, the process of accession to the European Union (EU) has driven successive governments to institute measures that encourage return, as the return of ethnic minorities is a precondition for accession (HRW, January 2008). However, the overall approach towards Serb return has been characterised by piecemeal legislation and measures obtained progressively under strong international pressure.

Until 2000, the national framework and policy for return and property repossession favoured the return and resettlement almost exclusively of majority ethnic Croats over minority ethnic Serbs (UN CERD, 21 May 2002). The 2000 elections marked the end of the ten-year rule of the nationalist Croatian Democratic Party (HDZ), and under pressure from the EU the new government from the Social Democratic Party initiated wide legislative reform to uphold minority rights and facilitate the return of Croatian Serb refugees and displaced people. Several discriminatory provisions were amended or cancelled, including laws on the status of displaced persons and refugees, return programmes, property reconstruction and repossession. The HDZ returned to government in 2003, but did not change this trend.

Following elections in November 2007, the HDZ retained the majority of seats, but a representative of the Independent Democratic Serbian Party was appointed as one of the deputy prime ministers with responsibility for regional development, reconstruction and return. In January 2008, issues related to return passed, with the dissolution of the Ministry for Maritime Affairs, Tourism, Transport and Development, to the Ministry for Regional Development, Forestry and Water Management. This Ministry includes a Directorate of Areas of Special State Concern in charge of providing assistance to IDPs, returnees and refugees (OSCE, March 2008).

Reforms have been obtained mainly under strong international pressure from the EU, OSCE and the office of UNHCR. Discriminatory and slow implementation has contributed to limit the impact of reforms which came at a stage, when after ten years of displacement, people have become less likely to return. Issues still to be addressed by the government include the situation of former ORHs, the implementation of existing housing care and reconstruction programmes, and the provision of employment opportunities, security and fair treatment to returnees.

Civil society organisations continue to play an important role in the promotion and protection of human rights, democracy and protection of minorities, however, according to the European Commission, they have faced difficulties influencing policy debate and have remained relatively weak in analytical capacity (EC, November 2008).

International response

The international community has carefully monitored the return of IDPs and refugees to Croatia. The EU, the OSCE and the Council of Europe, including the European Court for Human Rights, have played significant roles in upholding the rights of displaced people and minority groups. However, international organisations have slowly started to decrease their presence in the country. UNHCR and the OSCE have reduced their operations assisting the process of IDP and refugee return, but maintain a presence in the country. UNHCR, for instance, maintains a field presence in Knin and Sisak, provides assistance and advice to minority returnees and focuses on the provision of legal advice for displaced people within the Croatian Danube Region, particularly targeting the most vulnerable among them (email communication with UNHCR, August 2009). Following the closure of the OSCE mission in December 2007, an OSCE Office in Zagreb has been established to monitor war crime proceedings and the implementation of the housing care programme for former occupancy right holders.

Since 2006, UNDP has been working on socio-economic recovery in former war-affected and return areas. The projects assist all communities by providing them with improved infrastructure, access to social services and employment. Particular attention is given to the needs of the elderly population (email communication with UNDP, August 2009).

The EU holds the most influence over the Croatian government because of the accession process and as the main provider of assistance to Croatia. In March 2008, Croatia received an accession target date of 2010. The European Council's deci-

sion of February 2008 identified among the priorities for attention refugee return, adequate housing for former tenancy rights holders, recognition of Serb wartime working time for pensions and the reconstruction and repossession of property.

The European Commission through its annual progress report has praised Croatia for taking many steps to facilitate return, but has also identified several areas that require further action, including judicial and public administration reforms, and the promotion of minority rights and refugee return (EC, November 2008). The EC took up the issue of lost occupancy rights and advocated for a more progressive approach in line with solutions adopted in neighbouring countries (EC, November 2007).

Note: This is a summary of the IDMC's Internal Displacement profile. The full profile is available online [here](#).

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About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre, established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based Centre runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards.

The Internal Displacement Monitoring Centre also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org.

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