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Croatia: reforms come too late for most remaining ethnic Serb IDPs

The number of internally displaced people (IDPs) in Croatia has fallen significantly since the armed hostilities between the Croat majority and the Serb minority ended in 1995. By December 2005, the total was considered to be between 5,000 and 7,000 including 1,700 ethnic Serbs. These figures disguise a huge disparity in return patterns between ethnic Serbs and Croats. While 99 per cent of the over 220,000 ethnic Croats displaced by the conflict have returned, little more than one-third of the over 300,000 ethnic Serb IDPs and refugees have been able to do so. In addition, about two-third of past returns are not sustainable, according to spot-checks and estimates by international organisations and NGOs. For the remaining Croat IDPs, the main obstacle to return is the poor economic conditions in return areas. For Serb IDPs, the main barriers to return and reintegration are property, housing issues and lack of employment opportunities, as well as continuing discrimination.

However, significant progress has been made by successive governments since 2000 in reforming legislation and adopting measures in favour of Serb return. While implementation has been slow and is still subject to resistance at local level, repossession of private property is nearing completion; having been barred from reconstruction assistance in the past, Serbs represented 70 per cent of beneficiaries in 2005. One of the areas where little progress has been made relates to former occupiers of socially-owned apartments who are still not entitled to repossession or compensation. The housing care option available to them has only benefited 42 families since the programmes started in 2002 and 2003. After an average of ten years in displacement, interest in return has faded and political changes and progress have come too late for many. In 2005, out of 7,500 returns in Croatia, no return of Serb IDPs was registered and it is estimated that the majority of displaced people living in the Danube region of eastern Croatia wish to integrate locally. The measures needed to facilitate durable solutions for the displaced should combine economic support to the most vulnerable still accommodated in collective centres and fair compensation for former holders of occupancy rights.

Map of Croatia



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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, Croatia was faced with an influx of Croat refugees fleeing ethnic cleansing, mainly from Bosnia and Herzegovina. The Serb secession in eastern and western Slavonia, Banovina, Kordun, Lika and in the south-eastern Knin region (the "Republika Srpska Krajina") resulted in the internal displacement of over 220,000 ethnic Croats. The recapture of most of these Serb-controlled territories by Croatia's armed forces during the "Flash" and "Storm" military operations in 1995 forced up to 300,000 ethnic Serbs to flee – primarily to eastern Slavonia (the Danube region), which was still under Serb control, and to Serbia and Montenegro and Bosnia and Herzegovina (UN CHR, 29 December 2005). The November 1995 Erdut Agreement provided for an interim transitional administration by the United Nations followed by the handover of eastern Slavonia to Croatia in January 1998. The first agreement to address the return of IDPs and refugees was the Agreement on the Operational Procedures of Return signed in 1997 by the United Nations Transitional Administration in Eastern Slavonia (UNTAES), UNHCR and the Croatian government, which confirmed the right of the displaced to return to and from the Croatian Danube region.

Most observers put the number of internally displaced people at around 7,000 (UN CHR, 29 December 2005). The offi-

cial estimate as of February 2006 is lower and indicates a figure of 4,700 displaced people. Of these, some 3,000 are ethnic Croats, mostly from the Danube region and the town of Vukovar. The remaining 1,700 are Croatian Serbs living in the Danube region (MMATTD, 9 February 2006; UN CHR, 29 December 2005). Large numbers of Croatian Serb uprooted by the conflict did not seek refuge in Croatia, but fled to neighbouring countries. Over 108,500 Croatian Serbs still live in Bosnia and Herzegovina and Serbia and Montenegro (UNHCR, 1 January 2006). This number has significantly reduced in the past years due to the integration of refugees in their host countries.

The number of displaced people has gradually gone down in the past few years. There were concerns that a significant number of internally displaced Serbs had lost their IDP status as a result of the re-registration processes conducted by the Croatian authorities in 1997-1999 and 2003. According to several sources, IDPs were not adequately informed about re-registration procedures and the registration itself. Those IDPs who were not present at their place of temporary residence at the time of the registration were reportedly deregistered without further notice or opportunity of appeal (Center for Peace, Vukovar, 20 May 2004, email correspondence with UNHCR Croatia, 1 March 2006). More recently, the IDP figure decreased from 11,500 in May 2004 to approximately 7,000 as of early 2006 mainly due to progress in reconstruction assistance and repossession of private property (email correspondence with UNHCR Croatia, 1 March 2006).

Outside the Danube region, approximately 2,200 IDPs (ethnic Croats) are

accommodated in collective centres and 3,000 in private accommodation. In the Danube region, an additional 1,700 (mainly Serbs) live either in collective or private accommodation (UN CHR, 29 December 2005, par.18). People still living in collective centres are among the most vulnerable who need particular social and economic support and who are often dependent on state services for housing, food and medical assistance (UN CHR, 29 December 2005, par.38).

Return of displaced Croats almost complete; Serb return stalled

Since the end of the conflict, the number of displaced ethnic Croats has significantly fallen, mainly as a result of return movements to the Danube region. Out of over 220,000 displaced Croats, approximately 218,500 had returned as of February 2006 (MMATTD, 9 February 2006). The return of displaced ethnic Croats is almost complete and the main obstacle to return is considered to be the poor economic situation in the Danube region and the fact that some of the displaced have decided to integrate locally (USDOS, 28 February 2005, p.11). The return rate has been much lower among the displaced Serb population. In fact, out of a total of 300,000 ethnic Serb refugees and IDPs uprooted since 1995, only 120,000 returns had been recorded as of February 2006. Among them, 23,650 were internally displaced people (MMATTD, 9 February 2006). This difference can be explained by the legislation and assistance programmes which until the early years of this century have largely discriminated against ethnic Serbs in areas such as property repossession, reconstruction, access to citizenship and pen-

sions. Legislative requirements made it more difficult for displaced persons to obtain Croatian citizenship, prove their years of working experience during the war, and access full pension benefits which directly affect return since most returnees are elderly (The Independent, 4 February 2005). Moreover, the complexity of the legal framework, which makes rights differ depending on the region and conditional on specific deadlines, has limited the possibility of IDPs availing themselves of their rights and often had a discriminatory effect (UN CHR, 29 December 2005, par.42-43; JRS, p.371).

Poor return conditions have led some 60 per cent of returnees to go back into displacement (EU, 9 November 2005, p.27). Limited access to property, utilities, education, employment, as well as occasional security incidents against returnees have a negative impact on the sustainability of return and prevent integration of returnees with the rest of the population. Widespread looting and devastation of repossessed properties combined with long delays for reconnecting houses to water and electricity make living conditions particularly harsh for returnees (OSCE, 18 November 2005, p.7-8). The persistence of segregated classes where children are separated based on their ethnicity in some schools in Vukovar remains problematic although such schools do not only reflect limited tolerance but also the exercise by Serbs of their right to education in their mother tongue and script. In addition, access to employment is severely limited for Croatian Serbs due to a high unemployment rate which can reach 90 per cent in some return areas and also to prevailing discrimination at local level (UNHCR, 1 September 2005). The Constitutional Law on the Rights of

National Minorities which was adopted in 2002 provided for the proportional representation of members of minority groups in administrative and judicial structures. However, minorities remain under-represented (MRG, 1 July 2005, p.3) and private entrepreneurs have shown more interest in hiring Croatian Serbs than the authorities (HRW, January 2006). Although the overall security situation is quite stable for returnees, 2005 has seen an increase in incidents against ethnic Serbs, in particular in the most active return areas, the Dalmatian hinterland and in eastern Slavonia (HRW, January 2006; USDOS, 8 March 2006, p.15).

According to some observers, although the improvement of the political climate and support for return is undeniable, such progress has come quite late in the process and many IDPs have already rebuilt their lives elsewhere and given up on return. While refugees recently showed renewed interest in return as illustrated by an increased number of applications for reconstruction in 2004 (OSCE, 29 July 2005, p.5), the majority of IDPs seems to be more interested in local integration and a significant number of them asked for permanent housing solution in their area of displacement (the Danube region) rather than their place of origin (email correspondence with Center for Peace, 9 February 2006). Furthermore, according to government statistics there were no returns of ethnic Serb IDPs in 2005. Out of some 7,500 returnees, almost 2,800 were displaced Croats and the rest were ethnic Serbs returning from abroad (MMATTD, 9 February 2006).

Property and housing issues

Property repossession and housing is considered one of the main obstacles to return in Croatia. While progress regarding repossession of private property and reconstruction has been significant in the past three years, solutions for former occupants of socially owned flats remain inadequate and are hardly being implemented.

Repossession of private properties is almost complete. Out of almost 20,000 properties allocated for temporary use by the government, only 32 cases remained to be resolved as of February 2006 (MMATTD). However the impact of the repossession process on return remains limited. Physical repossession by owners has taken place in half of the resolved cases. Some 8,000 properties have been sold to the state which, particularly in return areas, has encouraged owners to do so in order to reallocate such properties to the current occupants (OSCE, 29 July 2005, p.7; Stability Pact, 30 June 2005, p.12). Looting of properties by temporary occupants also seriously compromises return since it renders the house uninhabitable and takes place in 30 to 55 per cent of repossessioned properties monitored by the Organisation for Security and Cooperation in Europe (OSCE) (OSCE, 1 April 2005, p.5). Perpetrators are rarely prosecuted by State Attorneys who are mandated to do so under the law and the police have often been reluctant to intervene to stop the looting (HRW, 13 May 2004; USDOS, 28 February 2005, Sect.1.f). Following pressure from the international community, the government adopted in July 2005 a scheme to compensate owners of looted properties and implementation has started in 145 out of 600 cases identified as of November

2005 (OSCE, 18 November 2005, p.8). Another obstacle to return is the absence of administrative procedure to repossess agricultural land and business premises which is an essential component of self-reliance for returnees. The only option available is to initiate a lengthy and costly court procedure which many displaced or returnees cannot afford (COE CHR, 4 May 2005).

Despite progress, several concerns remain regarding repossession of private property, reflecting a continuing bias against ethnic Serb owners. While displaced Croats were able to repossess their property in the former UNTAES area regardless of whether the (Serb) occupant had alternative accommodation, the Law on Areas of Special State Concern (LASSC) as amended in 2000 and 2002 subordinates the rights of property owners to those of temporary occupants by making property repossession conditional on provision of alternative accommodation for the occupant (Center for Peace, July 2004; US DOS, 25 February 2004). Several judicial decisions now threaten repossession by ordering (Serb) owners to compensate temporary users for investments made on the occupied property, even if these were made without the owners' consent. Unless the owners agree to pay the amount specified by the court, they risk losing their property (Stability Pact, 30 June 2005, p.13). There are currently 24 similar compensation claims before Croatian courts. (OSCE, 12 January 2006)

The acceleration of reconstruction has supported return, through provision of housing to owners or temporary occupants. As of February 2006, the government had reconstructed over 138,000 of

the 200,000 destroyed houses and apartments (MMATTD, 9 February 2006; EU, 9 November 2005, p.27). The impact on return has been particularly significant in western Slavonia (HRW, 14 May 2004, p.9). Reconstruction of houses belonging to Croatian Serbs only started in significant numbers in 2002, after reconstruction of houses belonging to ethnic Croats was largely completed (ECRI, 14 June 2005, par.109). Croatian Serbs now represent 70 per cent of the beneficiaries of reconstruction (MMATTD, 9 February 2006) but inconsistent implementation of the law resulted in only 30 per cent of the claims being declared eligible for reconstruction assistance (OSCE, 29 July 2005, p.5).

Taking into consideration the progress regarding repossession of private property and reconstruction, former tenants of socially-owned flats are the most significant group without a housing solution. This category of housing represented 70 per cent of housing units in former Yugoslav cities (COE CHR, 4 May 2005). In contrast with countries of the region which allowed for repossession of socially-owned properties, the Croatian authorities considered that this type of public sector housing did not amount to property and therefore should not be subject to repossession. So far the only possibility for those who held occupancy rights on those apartments is to apply for housing care. During the war, up to 30,000 households, almost exclusively Serbs, lost their occupancy rights over their apartments. In urban centres, around 24,000 occupancy rights were cancelled following court decisions where the ethnic bias against Serb was evident. Occupancy rights were mainly cancelled because of unjustified absence from the

apartment without taking into consideration compelling war circumstances. In war-affected areas which were under Serb control during the war, 5,000-6,000 Serb households lost their right *ex lege* (OSCE, 29 July 2005, p.3). While ethnic Croat occupancy rights holders (ORHs) were able to repossess and purchase their apartments, ethnic Serbs have been largely unable to repossess their formerly socially-owned apartments and have been provided with no possibility of legal redress or compensation. The Croatian government has consistently refused to consider compensation for lost occupancy rights and proposed a formula of housing care limited to those who want to return. In 2002 and 2003 the government put in place two housing schemes to which former ORHs can apply. Depending on the scheme, former ORHs can either rent or purchase the accommodation they receive. However the implementation has hardly started and, as of March 2006 in only 42 cases have former tenancy rights holders been provided with housing care. Attempts to challenge termination of occupancy rights before the European Court for Human Rights have so far been unsuccessful mainly because most cancellations took place before Croatia accepted the jurisdiction of the court.

National response

Up to 2000, the national framework and policy for return and property repossession favoured the return and resettlement almost exclusively of majority ethnic Croats rather than minority ethnic Serbs (UN CERD, 21 May 2002). The 2000 elections marked the end of the 10-year rule of the nationalist party led by the late

President Franjo Tudjman, the Croatian Democratic Party (HDZ), and a significant change of the national policy towards return. The new government initiated wide legislative reform aiming at upholding minority rights and facilitating the return of Croatian Serb refugees and displaced people. Several discriminatory legislative provisions were amended or cancelled, including the Law on the Status of Displaced Persons and Refugees, the Return Programme, the Law on Reconstruction and the LASSC dealing with property repossession. The return of the HDZ to government in 2003 did not change this trend as illustrated by the cooperation agreement on measures to facilitate return signed between the HDZ and members of parliament representing Croatian Serbs in December 2003. Further to this agreement a Commission for the Return of Refugees and Displaced Persons and Restitution of Property was established in March 2004 to coordinate government activities on those issues (ECRI, 14 June 2005, par.103).

The accession process to the European Union (EU) has also been a significant incentive for Croatia to make statements and take measures more favourable to return since the EU considers the return of Croatian Serbs a pre-condition for deepening relations with Croatia (HRW, 13 May 2004; EU, 8 November 2005). In January 2005, a regional ministerial conference on refugees took place in Sarajevo and resulted in a joint declaration establishing principles and measures to facilitate the return of refugees and close the chapter of displacement by the end of 2006. Like the European Union, the Sarajevo declaration signed by relevant ministers from Bosnia and Herzegovina, Croatia and Serbia-Montenegro, focuses

on refugees rather than displaced persons. However, since both are faced with the same obstacles prior to and upon return, a process addressing such obstacles also benefits displaced people.

Overall, Croatia's approach towards Serb return has been characterised by piecemeal legislation and measures obtained progressively under strong international pressure from the EU, OSCE and the office of the United Nations High Commissioner for Refugees (UNHCR). The result is that most reforms come at a stage where their impact on return is likely to be limited by the fact that, after ten years of displacement, people have become more hesitant to return. Despite an improved political climate at national level, significant resistance to return persists at local level and limits the impact of the new measures (UN CHR, 29 December 2005, par.34). To address this situation, the government and the OSCE Mission to Croatia launched a media campaign in November 2005 intending to raise public awareness on, and create an environment more favourable to, return (OSCE, 3 January 2006).

A number of outstanding issues still remain to be addressed by the government. The new legislation has not, in several cases, suppressed the violations of rights resulting from past legislation. Displaced persons and refugees who missed the deadline to apply for validation of pension-related documents are still unable to obtain full pension rights. Former occupancy rights holders who lost their apartments during and after the war are offered inadequate solutions which are not even being implemented. Funds for the housing care programme remained unspent in 2004 and 2005 (OSCE, 21

November 2004, p.4; OSCE, 29 July 2005, p.2). In addition, at a meeting of the task force resulting from the Sarajevo declaration on refugee return which took place in March 2006, Croatia refused again to consider compensation for former occupancy rights holders, as requested by Bosnia-Herzegovina and Serbia-Montenegro.

International response

The return of IDPs and refugees to Croatia has been carefully monitored by the international community. The EU and regional organisations such as the OSCE and the Council of Europe, including the European Court for Human Rights, have played a significant role in monitoring or upholding the rights of displaced people and minority groups. UNHCR has mainly focused on displaced people within the Croatian Danube Region which is where most Croatian Serb IDPs moved following the 1995 offensive of the Croatian army. Since the closure of its field offices at the end of 2003, UNHCR efforts have focused on finding durable solutions for refugees, IDPs and returnees by the end of 2006 in particular through provision of legal advice (UNHCR, 1 September 2005; UNHCR, 7 January 2004). The Return and Integration Unit of the OSCE Mission to Croatia has been mandated since 1997 to ensure and monitor the protection of IDP and refugee rights. The OSCE Mission has worked closely with the government, providing advice on property repossession and rule of law. Its in-depth reports on various issues have been an essential source of information and advocacy for the EU, the Council of Europe and other organisations following the situation

in Croatia. The combined efforts of the OSCE, the EU and UNHCR have been instrumental to convince the government to make reforms in favour of the return of Croatian Serbs. It is largely due to their efforts that the government agreed on several occasions to postpone legislative deadlines which were limiting access to the rights of displaced persons and refugees.

The EU is the main provider of assistance to Croatia. Between 1991 and 2004 Croatia received €631 millions to support democracy, the economy and the rule of law as well as reconstruction and support for the process of sustainable return of refugees and IDPs (EU, 9 November 2005, p.6). Within the framework of Croatia's application for EU membership, the EU's support to Croatia has shifted from humanitarian aid to regional development, including support for sustainable development of war-affected areas (EC, 6 May 2004). This last point has been identified by the Representative of the Secretary-General on the Human Rights of IDPs as essential to facilitate return. Further to his visit to Croatia in June 2005, Walter Kälin called on the international community to support the government's efforts to revitalise the economy of war-affected areas (UN CHR, 29 December 2005). Finally, given that EU pressure has been one of the main incentives to make reform in favour of return, many put their hopes on the EU to take on the issue of lost occupancy rights and advocate for measures in line with solutions adopted in neighbouring countries (Rhodri Williams, April 2005). Such measure, in favour of this group which concerns almost exclusively Serb refugees and IDPs would provide a rem-

edy to their lost rights and remove one of the main remaining obstacles to return.

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

Sources:

Center for Peace, Legal Advice and Psychosocial Assistance Vukovar (Centar Za Mir Vukovar), 20 May 2004, Email to NRC from the Center for Peace, Legal Advice and Psychosocial Assistance- Vukovar

Center for Peace, Legal Advice and Psychosocial Assistance Vukovar (Centar Za Mir Vukovar), 31 August 2004, Shadow report on the implementation of the framework Convention for protection of the rights of national minorities in the Republic of Croatia

Council of Europe (COE), Commissioner for Human Rights, 4 May 2005, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights on his visit to the Republic of Croatia

European Commission, 9 November 2005, Croatia 2005 Progress Report, SEC(2005)1424

European Commission against racism and intolerance, 14 June 2005, European Commission against Racism and Intolerance, 3rd Report on Croatia, CRI (2005) 24, Adopted on 17 December 2004

Human Rights Watch (HRW), 14 May 2004, Croatia Returns Update: Human Rights Watch Briefing Paper

Human Rights Watch (HRW), 18 January 2006, Croatia: human rights overview

Human Rights Watch (HRW), 13 May 2004, Croatia returns update

Journal of Refugee Studies, 3 September 2005, Refugee returns, Civic differentiation, and minority rights in Croatia 1991-2004, by Brad K.Blitz

Ministry of Maritime Affairs, Tourism, Transportation and Development (MMATTD), 9 February 2006, Return of displaced persons and refugees to Croatia

Minority Rights Group International (MRG), July 2005, Croatia: Challenges for sustainable return of ethnic Serb refugees

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, 10 November 2005, Status report N.17 on Croatia's Progress in Meeting International Commitments Since July 2005

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, 29 July 2005, Background report on refugee return in Croatia and the status of implementation of the January 2005 Sarajevo ministerial declaration on refugee return

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, April 2005, Background Report on Access to Housing

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, 12 January 2006, News in brief

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, 3 January 2006, News in brief

Organization for Security and Cooperation in Europe (OSCE) Mission to Croatia, 21 November 2004, Status report n.15 on Croatia's progress in meeting international commitments since July 2004

Stability Pact, MARRI-Danish Refugee Council, 30 June 2005, Access to the Rights in Croatia, civil rights project, drafted by Ankica Gorkic

The Independent, 4 February 2005, Balkan home truths: how Croatia swindled its exiled Serbs

U.S. Department of State (U.S. DOS), 8 March 2006, Croatia: Country Reports on Human Rights Practices -2005

U.S. Department of State (U.S. DOS), 28 February 2005, Croatia: Country Reports on Human Rights Practices -2004

U.S. Department of State (U.S. DOS), 25 February 2004, Country Reports on Human Rights Practices: Croatia (Bureau of Democracy, Human Rights, and Labor)

United Nations Commission on Human Rights (CHR), 29 December 2005, Specific Groups and Individuals: Mass Exoduses and Displaced Persons

United Nations Committee on the Elimination of Racial Discrimination (UN CERD), 21 May 2002, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Croatia, CERD/C/60/CO/4

United Nations High Commissioner for Refugees (UNHCR), 2006, Estimate of Refugees and Displaced Persons still seeking solutions in South-Eastern Europe

United Nations High Commissioner for Refugees (UNHCR), September 2005, Country Operation Plan: Croatia

UNHCR Representation to Croatia, March 2006, email correspondence

United Nations High Commissioner for Refugees (UNHCR), 7 January 2004, End of an era as UNHCR closes local offices in Croatia

Rhodri Williams, 30 April 2005, Considerations related to Croatia's wartime appropriation of apartments

Note: All documents used in this overview are directly accessible on the Croatia [List of Sources](#) page of our website.

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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