
The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Croatia.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Croatia, is dated 15 December 2000, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Croatia to engage in a process of confidential dialogue with ECRI on its draft text on Croatia and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Croatian governmental authorities expressly requested that the following observations on the part of the authorities of Croatia be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE CROATIAN AUTHORITIES CONCERNING ECRI'S REPORT ON CROATIA

"General observations

We appreciate that in ECRI's detailed Second report on Croatia, the considerable progress that has been made by the Croatian authorities in addressing issues related to racism, anti-semitism, discrimination and intolerance has been recognised. The significant democratic changes, which have occurred after the parliamentary and presidential elections at the beginning of 2000, have contributed to the radical changes in a number of policy areas that were previously subject to criticism by various international monitoring instruments. In the course of past twelve months the Croatian Government has been commended for its efforts in this direction and it has taken an entirely transparent course of conduct in respect of resolving all remaining issues dealing with human rights issues, protection of national minorities, and other questions.

The efforts undertaken by the Croatian Government have been awarded also by the international community. In 2000 many doors have been opened for Croatia, among other: NATO Partnership for Peace, World Trade Organisation, we started the negotiation process on the Stabilisation and Associated Agreement with the European Union, and so on. Some of the monitoring processes have been successfully terminated. In September 2000 the Council of Europe, recognising our determination to fulfil our commitments, decided to close its monitoring procedure. The police component of the OSCE mission in Croatia has been withdrawn since November 2000.

Croatia is excluded from the Omnibus resolution on Human Rights in Bosnia and Herzegovina, Republic of Croatia and FRY of the General Assembly of United Nations.

Although it is indicated in the report that a part of the remaining unresolved issues result from conflicts and war destruction, we hold that the following has not been given enough consideration: the population at large is stricken by a difficult economic situation and high unemployment rate in Croatia, and notably on the territories directly affected by the war, where both houses and apartments and the ruined infrastructure and economy are to be rebuilt. Creating jobs, reconstruction of houses and recovery of economy, and providing social assistance to vulnerable groups are pursued along with the general measures taken by the Croatian Government with a view to developing economy. Financial assistance by the international community has not been as high as expected, and the raising of the living standard of refugees and other inhabitants of Croatia will mostly depend on the economic recovery of the country as a whole.

Being aware that there are still some remaining issues, especially in the areas of concern of the ECRI, the Croatian Government is determined to deal seriously with them in the months to come and remains open to the co-operation with international organisations to resolve these issues more rapidly.

Here are however some remarks we would appreciate to be included as an annex to the Second Rapport on Croatia.

21., 22. and 23. - Administration of Justice

For the purpose of quicker processing the courts' backlog and their greater efficiency, in late 2000 the Law on the Amendments to the Courts Act, and the Law on the Amendments to the High Judiciary Council Act, were enacted, while the Draft Bill on the Amendments to the Law on the Court Districts and Seats, and the Draft Bill on State Prosecutors, were submitted to the Government for further procedure.

The Ministry of Justice, Administration and Local Self-government set up in late 1999 the Centre for the professional education of judges and other judicial officials which began its work in early 2000. The purpose of the Centre is to provide various forms of permanent professional education of judges and judicial employees in order to familiarise them with the new national legislation and with the European and other international regulations or current issues of new technologies to manage the judicial work. In 2000, the Programme for the Training of Judges and other Judicial Employees was adopted, and within this Programme four seminars took place in which 438 judges, public prosecutors and other judicial officials took part discussing the application of the new laws.

The High Judiciary Council appointed 23 new judges to the petty offence courts, 34 judges to the municipal courts, 8 judges to the county courts, and 8 judges

to the commercial courts, in order to fill the vacancies and achieve greater efficiency in the processing of the backlog of cases at courts.

G. Reception and status of refugees, displaced persons and non-citizens

Return of refugees and displaced persons

Over the past year a significant progress has been made in the return of refugees and displaced persons and the fulfilment of international obligations assumed by Croatia, following the activities initiated by the Croatian Government to remove the obstacles for unimpeded and unconditional return of all its citizens.

Alone in 2000 32,817 Croats and ethnic Serbs returned: 14,708 formerly displaced Croats (12,978 to the Croatian Danube Region and 1,730 to other areas of return), 18,109 ethnic Serbs (15,778 from FRY, 1,545 from B&H and 786 from the Croatian Danube Region to other areas in Croatia). Independent assessments confirm that the real number of returnees is much higher due to a great number of unregistered returnees: about 20,000. Of this number only about 3,000 were registered over the year and included in the list of total returnees.

Owing to a generally improved atmosphere and the results achieved in removing the administrative and security obstacles, the number of ethnic Serbs returned in the course of 2000 rose significantly - 18,000 compared to 12,000 in 1999). Thus more refugees returned than planned (16,500) in the return project initiated by the Croatian Government in April 2000 within the Stability Pact for Southeastern Europe.

It is true that most Serb returnees (78,000 altogether) are elderly persons, but this trend began to change last year when a greater number of younger people and families returned compared to the years before. For most Serb returnees, as well as other displaced and exiled persons, the task of repairing their destroyed or damaged homes or restitution of their private property is still pending. On the waiting list among the displaced Croats are some worst hit groups: families whose houses have been completely destroyed, many old and helpless persons, as well as families awaiting accommodation, not reconstruction. Most Croatian refugees currently residing in Croatia have come from Republika Srpska (B&H) where the return of non-Serbs has only begun and can be expected on any larger scale in the course of the current year.

Most people have returned to the areas under special state care, those where housing, utilities, social facilities and economy were devastated during the war. These are primarily the formerly occupied parts of the following counties: Sisak-Moslavina, Karlovac, Lika-Senj, Zadar and Šibenik-Knin, where most ethnic Serbs returned last year and where most displaced Croats had returned during the previous years. However, these areas are also inhabited by about 40,000 Croatian refugees from B&H who must be either provided with housing or returned to B&H where their property is damaged or occupied. The areas of return also include the counties of Vukovar-Sirmium and Osijek-Baranja, where the return of displaced Croats began in 1998 and now stands at 83.33% in the Osijek-Baranja County and 69.41% in the Vukovar-Sirmium County of the total number who lived there before the war.

Last year the relevant legislation was significantly reformed, e.g. discriminatory provisions were eliminated from the Law on Reconstruction and the Law on the Areas of Special State Concern, to the effect that the status of all returnees is now equal irrespective of the way and time of return in terms of eligibility for reconstruction, restitution and social security, in compliance with the basic democratic standards according to which all citizens are equal under the law. The Ministry of Public Works, Reconstruction and Building has proposed the implementation regulations on the conditions and criteria for housing care in the areas of special state concern, related to the latest amendments to the Law on the Areas of Special State Concern, introducing modern efficient models of housing care, such as alternative accommodation for temporary occupants of real estate to be restored to the original owners, as well as for any other returnees having no unoccupied housing unit of their own.

In addition to it, the administrative return procedures have been simplified and made more expeditious, shortening the time in which the return applications are considered and ensuring temporary accommodation in refugee reception centres or with host families to all returnees whose property is demolished or occupied.

While a significant progress has been made in removing the administrative obstacles to return, there are still some impediments related to the purely material requirements to be met: lagging reconstruction due to a great number of houses and flats still waiting for repair, restitution of property granted for accommodation to temporary users on the basis of previous regulations, meanwhile cancelled, which restricted the use of such property.

In 2000 actions were taken in co-ordinating and harmonising the restitution procedures at local level, which resulted in the return of at least 900 housing units. In spite of some progress achieved in this direction, the existing restitution system as a whole is considered inadequate. The main problems are identified in the ambiguity of legal regulations on the restitution of temporarily occupied property and the lack of alternative accommodation for the temporary occupants, mostly refugees from B&H. Besides, cases of multiple and illegal occupancy have been identified.

The ambiguity of the said legal regulations will be addressed by the Croatian Government through a new regulation designed to define more efficient restitution procedures, based on the state obligation to offset the effects of the previous Law on Temporary Take-over and Administration of Specified Property. In the current year the Croatian Government will provide about 2,000 housing units for alternative accommodation of temporary occupants through a credit programme of the Development Bank of the Council of Europe and from the state-owned property. Some progress has also been made in dealing with the identified cases of multiple and illegal occupancy and the court proceedings related to such cases have been accelerated, especially by the end of last year¹.

Measures have been taken to speed up the restitution procedure. The Government Steering Committee for the Areas of Special State Concern has ordered the Housing Commissions to submit all decisions on the granting of property for temporary use and requested the Ministry of Public Works, Reconstruction and Building - its Department for Displaced Persons, Returnees and Refugees (DDRR) to check these decisions and take appropriate actions after establishing the facts. According to data collected so far, 20,000 decisions on the granting of property for temporary use were issued in the areas under special state care pursuant to the Law on Temporary Take-over and Administration of Specified Property (repealed in 1998). So far 11,573 restitution requests have been submitted to the Housing Commissions and 4,000 have been solved by way of actual restitution.

In early February 2001 the DDRR starts reviewing all the issued decisions (20,000) on the granting of property for temporary use which the Housing Commissions had sent to the DDRR by the end of 2000. The review, conducted by regional offices for displaced persons and refugees and in co-operation with the Housing Commissions, will exactly identify the owners and the temporary occupants, revoke any multiple occupancy decisions for a single property and solve cases where the occupants, due to completed reconstruction or availability of alternative housing, have no longer the right to this type of housing care or possess another unoccupied privately owned flat or house in Croatia. It will also be determined who of the temporary occupants are eligible for alternative accommodation. This action will significantly accelerate the restitution process and help radically change the current situation at local level as well as the attitudes of the local authorities.

The number of beneficiaries of the aid associated with the returnee status stood at a steady average of 14,000 a month. The returnee status and the rights thereunder in the duration of 6 months following the return were used last year by 33,000 persons (including about 20,000 ethnic Serbs). Once they lose the status, many of them seek benefits from the welfare system. In addition to it, through

¹ *Of 80 known cases of illegal and multiple occupancy, 30 have been solved in that the user has left the occupied property and the property has been restored to the owner, or eviction requests have been filed by the Housing Commissions (upon which several court rulings have been issued). The Public Attorney's Office has stepped in to assist the Housing Commissions and local courts, which has helped in dealing with such cases. The Housing Commissions have checked most other cases which are being considered, but many of them are not related to illegal or multiple occupancy.*

various international relief programmes and the Red Cross alternative ways are being sought to help the most vulnerable groups of returnees and residents in the areas under special state care.

A tendency noticeable recently is that the returnees, especially the younger families, but also senior citizens, are leaving the areas of return after a while, once they get their pension benefits and make use of their rights under the returnee status, joining the younger members of their families living elsewhere. Lack of jobs, inaccessibility of mined agricultural land, poor traffic links of the remote villages with the municipal and county centres, infrastructure reconstruction lagging behind housing reconstruction – these are the main obstacles to overall normalisation in these areas, including the stay of both the returnees and the settlers and the return of the remaining pre-war population. While the rate of housing reconstruction is significant, no programmes have been initiated yet to renew the industrial facilities and farms.

The existing return trend should be maintained through the reconstruction of family houses and infrastructure in the areas of return where there are still about 30,000 damaged houses and at least 7,000 occupied houses belonging to the returnees or potential returnees. A significant number of them are awaiting reconstruction or restitution of their property. As for the Croatian refugees from B&H, Serbia and Montenegro living in the areas under special state care in private houses and demanding the provision of long-term housing in Croatia or the return to B&H, in the course of the current year their problems will be taken in hand more vigorously.

For speedier dealing with the reconstruction and return problems, Croatia has taken a loan from the EBRD expected to arrive shortly. In addressing this problem more international help is expected through the approved return projects within the Stability Pact, the results of which should be felt in the course of the current year already. These projects cover minor housing repairs and assistance to agriculture and small businesses in the said areas and are or will be implemented through NGOs operating in Croatia.

The main task ahead is the economic revitalisation of the areas under special state care where people, regardless of ethnic origin, are faced with extreme hardships. The incentives provided under the Law on the Areas of Special State Concern are expected to yield some results, but also needed is greater international assistance. In analysing this matter one should take into account the overall economic and the current rate of unemployment nation-wide, a matter which has no longer anything to do with ethnic considerations. What should also be recognised are the welfare measures taken by the Government to protect the most vulnerable families, of whom the returnees in the said areas make a significant portion.

This can be corroborated by a survey among the Serb returnees, conducted by an independent UNHCR-engaged agency (a representative sample of 10,000). The

results of the survey clearly refute the allegations about “insecurity prevailing in the areas of return”. Only 15% of the returnees declared that they felt insecure and intimidated, as much as 92.4% declared that they intended to stay and 85% that they would advise other refugees to return. True, in early 2000 there were a few incidents in the areas of return involving the Serb returnees, but these were isolated cases and were getting fewer and fewer towards the year’s end.

What most returnees consider the worst problem is the status of their property and being without job and income. The worst problem for 25% of them is that their houses are damaged or occupied, for 23.4% that they have no income, for 14.3% that they have no work². As these figures indicate, problems are almost evenly distributed and the greatest problem for most returnees is associated with the hard social and economic conditions in the areas of return. Besides, most of them, 75%, feel that they are better off in Croatia than they were in the country of exile (largely FRY where 77% of the Serb refugees have returned from), and only 10% feel that they are worse off in the areas of return. Other answers: 65.3% feel that their living conditions have improved since their return, and as many as 82% that their decision to return was good. 58.4% of the Serb returnees find their standard of living equal to that of their Croatian neighbours, 30% find it worse.

What should also be borne in mind in this context is that the areas of return are mostly rural, where before the war a significant number of the returnees was engaged in agriculture, including 31% of them who had some regular jobs.

The said survey also included a smaller reference sample (300) of the Croatian returnees who more than the Serbs were unhappy about their decision to return - 37.1% of them find their living conditions worse after their return. According to the results of this independent survey, most returnees (83%) have had access to the rights under the returnee status. Besides, most of them were receiving or are still receiving humanitarian aid in food. 47% of them have received various forms of aid, but very few have been helped to renew their farms.

Finally, nowhere have the returnees warned of any serious problems in obtaining their Croatian personal documents, or that it impeded their return. As far as we know, a significant number of potential returnees still in FRY and B&H are in possession of the Croatian personal documents.

26. This point of ECRI's Report lists the application of the Amnesty Act among the obstacles deterring Serbs from return to the Republic of Croatia.

² Most Serb returnees have returned to their pre-war addresses (74.7%), whereas 18.3% of them live with their families or friends. Two thirds of the returnees' houses are damaged, and only 9.4% of the returnees have their houses temporarily occupied. So far reconstruction has been officially applied for by 40% of the returnees and 15% of the applications have been approved. However, the fact is that as many as 42.5% of them do not know how to apply for reconstruction.

Under this Act general amnesty from criminal prosecution is granted to perpetrators of crimes committed during aggression, armed rebellion or armed conflicts in the Republic of Croatia in the period from 17 August 1990 to 23 August 1996, or in relation to them. The amnesty also applies to the enforcement of final verdicts pronounced for such crimes. Exempted from the amnesty are perpetrators of the gravest violations of humanitarian law with a nature of war crimes, listed in Article 3 of the Amnesty Act, and the acts of terrorism acts defined in the relevant provisions of international law. The Amnesty Act came into force on 5 October 1996 and up to date was applied to 20,616 persons.

30. Asylum seekers and refugees

The Migrations and Aliens Department of the Ministry of the Interior can not accept the assertion that it is operating under "ad hoc asylum structures". The Ministry of the Interior incorporates a permanent body with the exclusive powers to decide on granting the refugee status in the territory of the Republic of Croatia.

Training of police officers who will be involved in the asylum procedure has already started. Under the UNHCR auspices courses were held in Zagreb in late 2000, attended, among others, by border guards. Under the UNHCR 2001 agenda such courses will be held regularly.

31. Illegal migration

As for the treatment of different illegal migrants groups, the police have approached them on a selective basis. Minors accompanied by parents were not separated, persons designated for repatriation as well as unaccompanied minors were accommodated separately from convicted persons, unobstructed communication with respective consular, international and domestic, government bodies and NGOs was ensured.

Regarding the special training of police officers, several courses have been held so far, as well as seminars on aspects of implementing the European Convention for the Protection of Human Rights and Fundamental Freedoms and generally on human rights issues, with participation of the representatives of the Council of Europe.

The co-operation within the framework of the Stability Pact for South-Eastern Europe and with European Commission regarding the problems related to the illegal migration has been intensified recently.

H. Access to public services

Access to social services such as social welfare, basic facilities and health care

41. to 43. - Access to education

Education of Roma children is a complex issue that could only be solved through systematic approach by local and wider communities. The Ministry of Education and Sports is encouraging and contributing to efforts aimed at solving problems on local level and up to the Government and the Parliament. Arrangements have been made for preparatory classes to provide access for Roma children to socialisation, learning of the Croatian language, etc., as well as to familiarise them with the use of sanitary facilities and acquisition of hygienic habits; organisation of supplementary Croatian language, maths and other classes during the mandatory eight-year schooling period; adjustment of curricula to the needs and potentials of Roma pupils in schools with larger numbers of Roma children; in co-operation with other institutions, provision of free textbooks and accessories, free meals at school and bussing; Roma secondary school students have priority in free hostel accommodation; higher and university education of Roma students is encouraged.

It is two years now that in collaboration with the Swedish PRONI Institute the Ministry of Education and Sports has been carrying out the project: Multiculturalism - a basis for healthy, peaceful and tolerant education and coexistence, aimed at combating racism, discrimination, intolerance, stereotypes and prejudices. In collaboration with the US CIVITAS Center the Ministry is carrying the projects Introduction to Democracy and Civics. In collaboration with the Council of Europe a human rights project is underway.

The Ministry of Education and Sports is consistently implementing the Law on Education in the Language and Script of National Minorities, and the rights thereunder are exercised by Austrian, German, Czech, Slovak, Ruthenian, Hungarian, Italian and Serb minorities. In the Croatian Danube Region the Decision on Moratorium on Teaching Recent History is observed consistently. A representative of the Ministry of Education and Sports is taking part in the project "History and its teaching in Southeastern Europe" carried out within the Stability Pact under the auspices of the Council of Europe and OSCE.

We believe that these measures, along with those within the national programme for Roma (see point 48) testify to a systematic approach by the Croatian Government, intended to protect and promote the rights of Roma in Croatia.

J. VULNERABLE GROUPS

48. Roma

In 1998 a project was launched intended to integrate Roma children into the Croatian educational system. Measures envisaged by this programme are focused not only on pre-school education and schooling but also on the conditions to be created for Romany children to attend school regularly. Funds were allocated from the budget for education of the Roma: vocational training courses, seminars for primary-school assistant teachers and seminars for Roma as mediators within the social welfare

system. Also financed were potable water supply to several settlements (e.g., Lončarevo by Metekovac), electrification and urbanisation of settlements at Capraška poljana and Palanjki, as well as improving the living conditions in the settlements at Zagreb (Plinarsko naselje, Struge, Kozari bok). Partially financed was the construction of a kindergarten at Novska.

The Ombudsman is approaching with extreme care every problem encountered by the Roma in Croatia, so on several occasions he intervened to protect them, especially their children within the educational system. (Please see also Access to education, points 41 to 43.)

49. The allegations that the security continues to be important concern in war affected areas are not corroborated by the UNHCR survey among the Serb returnees (page 14 of the Comments) or by the fact that the OSCE Mission has decided to withdraw its special police monitoring. Some individual cases can not be taken as a rule. The Amnesty Law quite clearly stipulates that from the amnesty are exempted the perpetrators of the gravest violations of humanitarian law with a nature of war crimes, listed in Article 3 of the Amnesty Act, and the acts of terrorism acts defined in the relevant provisions of international law.

L. Conduct of certain institutions

Law enforcement officials - 52 and 53

The fact that the security situation in the areas of special state concern, especially the Croatian Danube Region, is satisfactory and that the cases reported by ECRI are rare exceptions, is confirmed by the decision of 31 October 2000 to terminate the Police Monitoring Groups in the Danube Region which were a special component of the OSCE Mission in Zagreb. In its report of 13 November 2000 the OSCE Mission also assessed the local police as largely professional and unbiased. The allegations that the security continues to be important concern in war affected areas are not corroborated either by the UNHCR survey among the Serb returnees (page 14 of the Comments).

SECTION II: ISSUES OF SPECIAL CONCERN

N. Local authorities 57., 58., 59., 60. and 61

The implementation of the state policy on local level is determined by the local situation on one hand, and, on the other, the capacity of central government to influence local and regional authorities, taking into account that only the control over the legality of the local authorities' work is possible, which is in line with domestic legislation and the European Charter on Local Administration. Since the local authorities, especially in the mentioned areas, are still those which were elected shortly after the reintegration of these areas, and which are still burdened with the political situation prevailing at that time, hence strained by the-then political situation, problems arise that are delicate even in the eyes of central authorities and a reform in local self-government system is needed. Required steps in this direction have already been taken. Amendments to the existing law regulating local self-government

are underway. Along with the modifications in other regulations, such as those governing local elections, they will allow a stronger influence of the minority group members on local living conditions, and a consistent implementation of the state policy on all levels. The results of the local elections to be held in June 2001 are expected to help address these issues."