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Croatia

In 2005, improved cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) earned Croatia a positive decision by the European Union on opening negotiations on membership. There was little progress, however, in the return of Serb refugees. With the majority of defendants continuing to be ethnic Serbs, Croatia has yet to demonstrate that its efforts to pursue war crimes suspects before domestic courts reflect a principled commitment to justice over and above ethnic considerations.

A decade after the 1991-95 war in Croatia, tensions between the majority Croat population and the Serb minority have eased. However, there were some worrying trends in 2005 threatening to reverse the course. In the key multi-ethnic towns of Knin and Vukovar, local boards of the Croatian Democratic Union (HDZ) formed municipal governments in coalition with ultra-nationalist Croat parties following the May 15 local elections, while sidelining the centrist Independent Democratic Serb Party (SDSS). The SDSS nevertheless continues to support the minority HDZ government at the state level. Violent incidents directed at ethnic Serbs were more frequent in 2005 than in previous years.

Refugee Returns

Between three hundred thousand and 350,000 Croatian Serbs left their homes during the 1991-95 war, mostly for Serbia and Montenegro, and Bosnia and Herzegovina. As of September 2005, the government had registered 122,000 Serb returnees. Croatian Serb associations and the Organization for Security and Co-operation in Europe (OSCE) mission to Croatia assessed the actual number of returnees as significantly lower—between 60 and 65 percent of the registered figure—because many Croatian Serbs had left again for Serbia and Montenegro or Bosnia and Herzegovina after only a short stay in Croatia.

There was no tangible progress in 2005 on the issue of lost tenancy rights in socially-owned property. Croatian authorities had terminated the tenancy rights of up to thirty thousand Serb families after they fled their apartments during and after the war. In June 2003, the Croatian cabinet adopted a set of measures to enable former tenancy rights holders in Zagreb and other big cities to rent or purchase government-built apartments at below-market rates. As of early November 2005, only a dozen former tenancy rights holders had benefited from the two-year-old program. The absence of results only exacerbated the skepticism among refugees that the program would eventually deliver benefits. Only 3,628 former tenancy rights holders had filed applications under the program as of September 2005.

The bleak prospects for receiving an adequate substitute for lost tenancy rights made many refugees place their hopes in the European Court of Human Rights (ECtHR). On December 15, 2004, the Grand

Chamber of the ECtHR agreed to re-hear a case decided four months earlier, in which the ECtHR upheld Croatian court decisions terminating the tenancy rights of a woman who had left Zadar shortly before the outbreak of hostilities in 1991 and had not returned to her apartment within the six-month period specified by Croatian law at the time. The re-hearing of the case, *Blecic v. Croatia*, took place in September, and a ruling was pending at this writing.

Limited economic opportunities for minority returnees, partly caused by employment discrimination, also greatly impedes return. A December 2002 constitutional law on minority rights obliges the state to ensure proportionate representation of minorities in the state administration and the judiciary, as well as the executive bodies and administration of self-government units. In most areas, there are no Serb returnees in the police, the judiciary, or the regional offices of the state ministries. Private entrepreneurs, although not bound by the law to hire Serbs, have proved to be more willing to do so than government agencies.

Violent acts against ethnic Serbs suddenly increased during 2005. The May 18 killing of eighty-one-year-old Dusan Vidic in his house in Karin, near Benkovac, was particularly shocking. Two months later, on July 19, two elderly Serb returnees were beaten in front of their house in the village of Ostrovica, also near Benkovac. In Pakostani, Benkovac and Zagreb, attackers damaged vehicles with Serbian registration plates. Groups of young men attacked or threatened Serbian bus passengers who were traveling through Rijeka and Delnice, as well as Serbian train passengers at the railway stations in Vinkovci and Zagreb. Graffiti with the message “*Srbe na vrbe!*” (“[Hang] the Serbs on the willow trees!”) appeared in Rijeka and Udbina. Two men broke windows at the entrance of the Serb Orthodox Church in Drnis on November 12. On May 21, a bomb exploded next to the premises of a Serb political party in Vukovar, and the following night, unknown perpetrators threw bombs at the municipal assembly buildings in the majority Serb villages of Borovo Selo and Trpinja, near Vukovar. In all but a few cases the police failed to apprehend the perpetrators.

Accountability for War Crimes

Ante Gotovina, a Croatian army general accused of crimes against Croatian Serbs in 1995, remained at large four years after the issuing of his indictment by the ICTY. Deputy Prime Minister Jadranka Kosor stated in January 2005 that if she came across Gotovina she would not report this to the police because she “would not recognize him.” The statement, made during the campaign for the presidential election, was broadly interpreted as an expression of the benevolence with which key officials regarded Gotovina.

ICTY Chief Prosecutor Carla Del Ponte warned on several occasions during the year that Croatia was not doing enough to apprehend Gotovina. However, Del Ponte began to backpedal as the October 3 meeting of the E.U. General Affairs and External Relations Council drew near. The meeting was to decide on whether the European Union would open membership negotiations with Croatia, and the assessment of Croatia’s cooperation with the ICTY would be the crucial factor in the decision. In a report submitted to the council on October 3, the ICTY prosecutor concluded that Croatia was fully

cooperating. Many observers remained unconvinced that Croatia had indeed made significant progress in the previous months, and interpreted the statement by Del Ponte as a bow to political pressure from some E.U. member states.

The number of war crimes trials against ethnic Serbs (eleven) greatly outnumbered trials of ethnic Croat indictees (six). Trials of ethnic Serbs also tended to involve more defendants, making the contrast between the numbers of individuals standing trial from each ethnic group even starker. Most notable among these were the Miklusevci case and the Lovas case before the Vukovar District Court, and the Branjin Vrh case before the Osijek County Court, all ongoing at this writing.

The absence, for the second consecutive year, of any new indictment against accused Croats raises serious concerns about the sincerity of the Croatian government's accountability efforts. The six trials in 2005 were retrials of cases from the 1990s or the early 2000s: Mihailo Hrastov (originally opened in 1993, now re-tried for the third time); Pakracka poljana (1997); Bjelovar group (2001); Virovitica group (2002); Lora (2002); and Paulin Dvor (2003). Another remaining concern is the ability of the Croatian courts to conduct trials in a fair and effective way, given the high number of reversals of first instance judgments by the Croatian Supreme Court. Much progress is also needed in the protection of witnesses and inter-state cooperation, in spite of certain positive developments in those areas in 2005, related to the Lora retrial.

Key International Actors

On October 3, 2005, the Council of the European Union decided to open formal negotiations on membership with the Republic of Croatia. The all-but-exclusive focus on the issue of ICTY cooperation has in the past prevented the E.U. from using its unique position to vigorously demand greater progress on other pressing issues such as refugee return, treatment of minorities, and domestic war crimes trials. However, on October 9, European Enlargement Commissioner Olli Rehn stressed to his hosts in Zagreb that the issues of refugee return, minority rights, and the rule of law would be critical in the European Commission's assessment of the progress Croatia made in meeting the criteria for E.U. membership. The same issues figured prominently in the Accession Partnership document, issued by the commission on November 9. The new emphasis is welcome, although it has probably come several years too late to have any real impact—the process of refugee return is gradually coming to a halt, the memory of war crimes witnesses is becoming unreliable, and the availability of evidence is becoming increasingly problematic.

The OSCE mission to Croatia has continued to pursue a dialogue with the government, while issuing valuable reports critical of its return-related practices, minority rights record, and progress in domestic war crimes trials. Nevertheless, political considerations have led the mission to sometimes attenuate the criticism of Croatia's human rights record. In a frank assessment of the mission's accomplishments in the past two years, the departing head of mission, Peter Semneby, acknowledged in an April 2005

interview that the return issue was being resolved less successfully than he had expected, because “resistance ... proved to be more difficult than I had anticipated.”

On October 7, 2005, U.S. Under Secretary of State for Political Affairs Nicholas Burns reiterated that the U.S. would continue to block Croatia’s efforts to join NATO until the capture of Ante Gotovina.

Various Council of Europe bodies—the Committee of Ministers, the European Commission against Racism and Intolerance, and the Advisory Committee on the Framework Convention on National Minorities—concluded during the year that Croatia still needed to make substantial progress regarding the return of refugees, especially in the matter of housing, fairness in the administration of justice, and in tackling ethnic discrimination.