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Croatia

IHF Focus: Freedom of expression; freedom of the media; freedom of association; peaceful assembly; independence of the judiciary and fair trial; return of refugees and displaced persons (including property laws, harassment and killing); accountability for war crimes; citizenship; social rights; human rights defenders.

The rule of the Croatian Democratic Community (HDZ) continued in Croatia in 1997, resulting in increasing pressure on political dissent. The work of the independent media was obstructed by endless judicial proceedings initiated by HDZ politicians. The courts of law, strongly influenced by the political leadership, handed down sentences which posed a financial threat to the very existence of the free press.

The new Law on Associations vested the government with broad supervisory powers enabling it to monitor the activities of public associations. The return of ethnic Serbs to their pre-war homes was seriously hindered by the failure of the government to solve residence, citizenship and other formalities in due course. Despite statements to the contrary, the Croatian government continued its policy of resettling ethnic Croats to areas where Serbs had formerly constituted a majority of the local population. Attacks on non-Croats in the territories regained by Croatia continued but on a lesser scale than in previous years. Although the Croatian government took positive steps to protect the rights of the remaining Serb population and to secure their representation in administration in the newly re-integrated areas, discrimination against them continued, among other things, in employment and citizenship issues. The return of ethnic Croats to Eastern Slavonia proceeded at a very slow pace.

Presidential Elections

The HDZ undertook various unlawful and unconstitutional measures to prevent individuals in Croatia from freely expressing their political will and to hinder the opposition from carrying out effective electoral campaigns during the June presidential elections.

The OSCE reported that the elections "may have been fair but not free." It recorded serious and substantive deficiencies, including out-of-country voting (9.3 percent of the voting total, with most of these voters having never resided in Croatia). By contrast, some 5 percent of the total electorate, consisting of Croatian Serbs living as refugees in Bosnia-Herzegovina and the Federal State of Yugoslavia (FRY), were disenfranchised.

The electoral campaigns were by no means equal. The HDZ had an enormous advantage, and also the means to misuse their resources. The Croatian Helsinki Committee and the European Institute for the Media, monitoring the presidential elections jointly, revealed serious electoral "engineering" by the HDZ to the advantage of President Tudjman. The state-run electronic

broadcast outlets and distribution network, exercised immense control and influence on them. The harassment by the authorities and the HDZ on the independent media intensified throughout 1997.

The state-owned Croatian Radio-Television Broadcasting Corporation (HRT) operated three national television channels and three national radio stations. While technically under the supervision of the Croatian parliament, HRT was in fact directly controlled by the ruling HDZ party. The few private radio and television stations lacked sufficient resources to produce their own news programs and therefore only reflected HTR policy, as they almost exclusively re-broadcast its news programs.

In October, independent broadcast journalists formed an association "Forum 21" and issued a 21-point program for the development of a more professional and open electronic media. They immediately came under pressure and suffered threats from the HDZ and the state-run media.

The government's intimidation of the independent media was multi-faceted; apart from the manipulation of administrative and other official bodies, the abuse by the government of courts of law to harass media increased dramatically during 1997. Increasing numbers of lawsuits for "insult and defamation" or for "emotional anguish" caused by "insults" resulted in both self-censorship and heavy financial losses by the independent media.

Three independent weeklies were particularly heavily targeted:

- As of early 1998, the weekly Globus was facing the prospect of having to pay out USD 5.9 million in compensation as a result of more than 100 lawsuits pending against it. In October 1997, it was sued by all 22 ministers in the Croatian government for publishing a report by an American company which emphasized the risks of investing in Croatia due to serious levels of corruption within the government.

- Feral Tribune, a satirical weekly, "owed" the nomenklatura more than USD 2.5 million as compensation for "emotional anguish." One of the charges against it was brought by President Tudjman for "insulting the president" after Feral Tribune had criticized his plan to turn the Jasenovac memorial for victims of fascism in World War II into a joint memorial for all victims of war and of post-war communist oppression. Although the Zagreb municipal court in April found Feral Tribune not guilty, the state prosecutor appealed the case and the municipal court revoked its previous verdict. The IHF observers present at the trial in December urged the case to be dismissed as it clearly violated European human rights standards.

- The weekly Nacional faced the possibility of having to pay approximately USD 2.8 million in compensation for "defamation" and "slander" as a result of its critical reporting.

Freedom of Association and Peaceful Assembly

The new Law on Associations was passed in July 1997. The law, among other restrictions, gave the government broad supervisory powers to monitor the activities of public associations and to dissolve and/or suspend any association (temporarily or indefinitely) upon the suspicion that the association's activities might contravene the constitution or law; to dispose of an association's property during the period of suspension; to require that associations inform the media of their activities, thereby destroying any privacy enjoyed by the associations; and to charge immense fines for any proven violation of the law's provisions.

media clearly took sides with the incumbent president and their coverage of other candidates was unfavorable.

- The prime-time news program "Dnevnik" devoted about 73 percent of its broadcasts to the incumbent president while candidates of the two main opposition parties HSLS (Croatian Social-Liberal Party) and SDP (Social Democratic Party) received less than 10 percent and 4 percent coverage respectively.

- On 5 June, the opposition presidential candidate Vlado Gotovac was seriously attacked and injured by a member of the Croatian army during an electoral rally, yet the event was given scant coverage in the state-owned media.

The HDZ introduced numerous changes to the electoral law in "emergency parliamentary sessions" with no parliamentary debate. These, for example, introduced the practice of the so-called list-bearers; the HDZ was allowed to use the names of prominent public personalities to their support, particularly military generals, whom the population identified strongly with the establishment of Croatian independence. Although it was illegal for such figures to hold office, they campaigned and ran for office and another individual from the list, loyal to the HDZ, was duly elected using the votes they garnered.

Freedom of Expression

Every dissenting opinion, be it from a member of the political opposition or from a prominent public personality, received a severe reprimand from President Tudjman and the HDZ, who had the state-owned media and to some extent even the courts under their control.

- In the 1997 "open letter" by President Tudjman to the President of the Croatian Academy of Arts and Sciences, Ivan Supek, which was published in all the major dailies, Tudjman accused Supek of planning his assassination, merely because Supek had dared to call for Tudjman to submit to public scrutiny his financial assets before the war and currently. Supek had been a critic of Tudjman's political faux pas since Tudjman took office in 1990. Following the publication of the letter, Supek and his family suffered numerous death threats.

The new penal code, adopted in September 1997 and in force since January 1998, seriously infringed upon the freedom of speech. The law provided for the criminal prosecution of journalists or others who insulted the president, prime minister, Supreme Court president, president of the parliament or the president of the Constitutional Court. This meant, in practice, that the honor and reputation of these leading authorities were to be protected by the state; the prosecutor could initiate slander proceedings even if the victim did not file an official complaint. Also, according to the new penal code, journalists who could not be convicted on slander charges because the veracity of their reporting had been proved could nevertheless be sentenced for inflicting "emotional anguish" on those they were deemed to have criticized. This item was frequently used by President Tudjman, his family and members of the HDZ.

Freedom of the Media

The Croatian constitution guaranteed freedom of thought and expression, including free media outlets. It explicitly prohibited censorship. Still, the Croatian government, holding a virtual monopoly over most print and

As a result of serious criticisms by the opposition and international protests, the government did not submit to parliament the new, restrictive draft Law of Peaceful Assembly. The draft law went so far as to require the organizers of a public assembly to submit to the authorities the ground plan of the area where the assembly should take place and an application for holding an assembly at least 10 days in advance. Moreover, the potential security personnel were to be required to provide certificates for their mental fitness to carry out the job.

~~Independence of the Judiciary~~

Although the Croat constitution provided for independence of the judiciary and due process, in practice these rights were not always respected. The judicial system suffered from both bureaucratic inefficiency and political influence. There was an enormous backlog of court cases as courts were overburdened and understaffed.

The National Defense and Security Council (VONS), formed by President Tudjman, exercised indirect pressure on the State Judiciary Council (DSV) with respect to the appointment of judges. Thus, the DSV rejected some potential candidates for the post of state attorney as they were neither HDZ sympathizers nor ethnic Croats.

• In early 1997, Krunoslav Olujic, the President of the Supreme Court known for his independent work, was dismissed from his job in a clearly politically motivated act preceded by a lengthy public smear campaign against him. It is believed that Olujic was dismissed because he, as head of the Electoral Commission, would have been responsible for determining the credibility of the results in the upcoming county and municipal elections.

The courts proved completely inept at initiating investigations, let alone prosecuting high-ranking members of the Croatian army, Ministry of Defense or police - most of them being either members of HDZ or its sympathizers - who were suspected of being involved in the illegal seizures of apartments, smuggling of weapons and trafficking in luxury vehicles.

Authorities did not always respect due process provisions for arrest and detention. Thus, although the usual period of pre-trial detention varied from a few days to several weeks (with the Supreme Court able to prolong this with additional three-month rulings, for a maximum of six months) the International Committee of the Red Cross estimated in early 1998 that some 79 ethnic Serbs were still in pre-trial detention for alleged crimes committed in 1995, some of these since being arrested in 1995.

Arbitrary arrests of Serbs returning to Croatia were reported. Twenty-seven of those released under the Amnesty Law of 1996 were soon re-arrested and, as of late 1997, 24 were still in custody facing war crimes charges on the basis of other legal provisions. Others were convicted of war crimes despite a lack of credible evidence.

• A Croatian citizen of Serb origin from Eastern Slavonia was charged with genocide and sentenced to five years in prison, although there was no substantial evidence proving his guilt.

Return of Refugees and Displaced Persons

While the Croatian government publicly declared its commitment to facilitating the return of individuals who had fled Croatia during the

armed conflict (on the condition that it would be done in an organized manner), its practice often contradicted such declarations. The small number of remaining and returning Croatian Serbs in proportion to the number of resettled persons of Croat ethnicity in the former predominantly Serb-populated areas raised concerns that such a policy would irrevocably change the demography of those areas. The authorities meanwhile encouraged the immigration of some 180,000 Bosnian and Kosovo Croats into Croatia.

Within the pilot resettlement program called the Kistanje Project, Croats from Janjevo (Kosovo) were assigned the entire town of Kistanje in the former UN sector South. This act clearly revealed that the Croatian government had not abandoned its plan to resettle ethnic Croats from other parts of the former Yugoslavia in Croatian territory.

As of the end of 1997, some 180,000 ethnic Serbs who were former Croat citizens but had fled to the FRY and Bosnia-Herzegovina after Croatia's military actions in 1995 were still living abroad. Having lost their citizenship, they were in fact exiled. Between April 1997 and early 1998, 34,000 of them had applied for return to the Office for Displaced Persons and Refugees (ODPR) while some had returned to Croatia on an individual basis, utilizing passports issued through Croatian diplomatic representatives abroad.

By the end of 1997, over 31,000 ethnic-Serb refugees who had fled the country in 1995 following the military action of the Croatian army, had returned in an organized manner. In the region of Eastern Slavonia, the ODPR had issued certificates for return to over 12,000 displaced persons; however, 9,500 ethnic Serbs had subsequently left the region for other parts of Croatia whereas some 8,000 ethnic Croats had returned to that region.

Violent attacks on returnees seriously discouraged non-Croats from returning to their former homes. Even those Croatian Serb refugees who possessed valid Croatian citizenship certificates (domovnica) were no longer able to cross the border without first obtaining travel documents from a Croatian embassy abroad. This in turn was made difficult by the fact that Croat embassies in the neighboring countries had no set procedure for issuing passports or other documents and they did not accept applications for citizenship.

Property Rights

The Law on Temporary Takeover and Administration of Specified Property (1995) stipulated that all abandoned Serb homes and property be assigned to ethnic Croats. Over 60,000 displaced ethnic Croats coming from other parts of Croatia, Bosnia-Herzegovina and the FRY were thereafter assigned Serb property. In September, the Constitutional Court declared certain parts of that law unconstitutional. It ruled that private property must be returned to its former owners immediately upon their request. However, there was no evidence of this decision having been implemented, as of the end of 1997.

Incidences of looting and destruction of ethnic Serb property in the former occupied territories continued, albeit on a lesser scale than in 1996. With the exception of former UN sector West (Western Slavonia), police were often ineffective in responding to such incidents, or in resolving cases in which the victims were ethnic Serbs.

In 1997, the Croatian Helsinki Committee processed a total of 542 cases relating to property issues, ranging from seizure of property (apartments,

houses or other) and looting, to refusing to allow legal owners to repossess their property.

Forced evictions or threats of eviction represented a particular problem. They occurred not only in the areas formerly populated by Serbs but also in major cities including the capital, Zagreb. Tenants of Serb origin or Croats from mixed marriages were frequently evicted from formerly state-owned apartments and those owned by the Ministry of Defense (MOD). The MOD arbitrarily revoked their tenancy rights and assigned the apartments to the army or police. Evictions were carried out both by military and civilian police and through the use of force. The courts were especially eager to apply those provisions of the tenancy law which allowed the courts to strip tenants of their rights if they had been absent from their apartments for more than six months, awarding them instead to former members of the Yugoslav Army (JNA).

During 1997, the Helsinki Committee registered 340 cases relating to discriminatory revocation of tenancy rights, forced evictions or threats of eviction, and illegally breaking into and confiscation of apartments.

Harassment and Killing

Harassment of and violence against non-Croats decreased somewhat in relation to previous years. However, the Croatian Helsinki Committee registered 160 serious cases of harassment and violent attacks ranging from placing bombs or other explosives to threats and intimidation, including eight murders and 25 missing persons. Most of the cases occurred in the Krajina region.

- In May, over 100 Croat refugees from Bosnia-Herzegovina, temporarily residing in former Serb homes in Hrvatska Kostajnica, attacked a group of nine returnees of mixed ethnicity who possessed official government documents permitting them to return to their homes. In the course of several days, homes were burned and otherwise destroyed and looted by Croat civilians. Two individuals were killed.

Employment

Persons of Serb ethnicity were often victims of discrimination and intolerance at their workplaces. Many were dismissed from work on the spurious basis of being "surplus to requirements" or were told directly that their non-Croat family names did not "fit" with the employer's personnel policy.

- In March, six attorneys in the Zagreb municipal attorney's office and nine in Split were fired because of their "inappropriate" ethnicity.

In 1997, the Croatian Helsinki Committee registered a total of 61 "ethnically-motivated" dismissals.

Eastern Slavonia

In July, the United Nations Security Council extended the UNTAES mandate in Eastern Slavonia until 15 January 1998. It was estimated that by that time its successful reintegration into Croatia would be accomplished. Eastern Slavonia was occupied by the Yugoslav army in 1991, forcing most Croats to flee the area.

In the course of 1997, the Croatian government established various bodies to speed up the process and to build confidence among the remaining ethnic Serbs: the Joint Working Group with the UNHCR and UNTAES was established to facilitate the organized return of refugees; the National Commission for Reconciliation and the Re-establishment of Trust, to oversee the creation of local level commissions and to develop programs aimed at bringing together estranged ethnic groups; the Agency for Property Negotiation to assist in buying or selling of homes; and six Offices for Displaced Persons and Refugees (ODPR) to process the applications of those who wished to return.

According to European Community Monitoring Mission (ECMM) data, in 1996 there were still over 65,000 ethnic Serb refugees in Eastern Slavonia. As of the end of 1997, over 40,000 had left the region; of these, some 10,000 had managed to regain their homes in other parts of Croatia. On the other hand, the return of Croats who had fled the region following the Serb aggression in 1991 proceeded at a slow pace; some 1,500 Croats returned, representing only 15-20 percent of the total number of the Croat population who had lived in the region prior to the outbreak of the Yugoslav conflict.

As of September, over 145,000 ethnic Serbs in the region (including many refugees from the FRY and Bosnia-Herzegovina) had been given Croatian documents, thus legalizing their status; approximately 148,000 citizenship documents, 130,000 ID cards, and 126,000 passports had been issued.

A significant number of ethnic Serb representatives were elected to local governmental bodies. The reintegration of the judiciary was also carried out effectively and an ethnic Serb was appointed assistant minister of justice. The government also issued employment contracts for Serbs in the region. An agreement taking into account the unique cultural identity of children of Serb ethnicity and the reintegration of the region into the Croatian educational system was signed in August between the Government of Croatia and the UN mission in Eastern Slavonia, UNTAES. In September, UNTAES handed over control of the border checkpoints to the Transitional Police Force (TPF) and freedom of movement in and out of the region improved significantly.

UNTAES has been widely considered as the most successful mission in the history of the UN. Yet, as the last day of the UNTAES mission, 15 January 1998, approached, the exodus of ethnic Serbs from the region increased.

Citizenship

The government's desire to create an ethnically pure state was particularly evident in the failure to grant citizenship to Serbs and Muslims even if they had been born either in Croatia or other parts of the former Yugoslavia. Many of them had been living with their families in Croatia for decades and their family members often already had Croatian citizenship.

In 1997, the Croatian Helsinki Committee registered 221 cases of individuals requesting help after their applications had been rejected, in many cases without answers which would satisfy generally accepted legal or formal standards, or due to groundless delays.

Accountability for War Crimes

According to the Office of the Prosecutor, the Croatian government's cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) was insufficient and uneven. On one hand, the government

repeatedly asserted its willingness to provide assistance to the ICTY, on the other, it continued to criticize the ICTY for blaming all sides in the war in former Yugoslavia equally.

Due to the failure of Croatia to turn over indicted war criminals - including Bosnia Croats residing on Croatian territory - the international community began to exert more intense diplomatic pressure on Croatia from the very beginning of 1997.

- In January, the ICTY submitted sub poena duces tecum to the Croatian government requesting additional documentation for the case of General Tihomir Blaskic - the first indicted war criminal of Croatian ethnicity. Blaskic, a former commander of the Bosnian Croat armed forces, indicted for crimes against civilians during the period from 1992 to 1994 surrendered to the court voluntarily in April 1997.

- In March, the Croatian government transferred another indictee, Zlatko Aleksovski, to the ICTY. Aleksovski had been arrested in June 1996 in Croatia and he became the first suspect to be turned over to the ICTY by the Croat authorities.

In July, the Croatian government rejected the sub poena, claiming that the ICTY had extended its jurisdiction and that it had no right to submit a sub poena to an independent state. At this point, Croatian cooperation with the ICTY temporarily came to a halt. However, the US measures against Croatia, including the blocking of international loans and diplomatic and economic isolation, made Croatia change its policy.

- In August, Croatian authorities arrested Pero Skopljak, indicted in November 1995 for war crimes committed against Muslims. He was due to be released at the end of 1997 after it was proved that he had left his position as chief of police in a town in Bosnia and Herzegovina before the events in which he had allegedly taken part had occurred.

- In October, ten former members of the political and military bodies of the so-called Herzeg-Bosna (Bosnia and Herzegovina), among them Dario Kordic, long sought by the ICTY, were extradited to the ICTY. It was officially stated that they had surrendered themselves voluntarily. However, it was more likely that the Croatian government, responding to international demands, had pressured them into surrendering.

Stipe Mesic, a former Croatian member of the collective Presidency of the Social Federal Republic of Yugoslavia and former president of the Croatian government and parliament, was interviewed by ICTY investigators on two occasions. He was later widely condemned in the Croatian media as a "traitor." He had revealed details concerning Croatia's involvement in the conflicts in Bosnia and Herzegovina, leveling serious accusations at the Croatian side, in particular President Tudjman.

- In December, Croatian authorities began war crimes proceedings in the Zagreb district court against four former members of a special police unit who were indicted for the murders of Serb civilians in the Gaspic and Pakrac areas during the war. The proceedings were instigated as a result of an interview which one of them had given to the weekly Feral Tribune in which he had claimed that he had been directly responsible for the death of 86 individuals, 72 of which he had killed with his own hands, including nine women. The Croatian government decided to prosecute these individuals in Croatia rather than hand them over to the Hague.

Social Rights

As a result of unwise economic policies, illegal activities by the ruling HDZ and the consequences of war, the Croatian economy declined and poverty increased; the economically vulnerable groups became poorer while the 100 most wealthy families closely linked to the ruling party grew even more prosperous. This could largely be attributed to the so-called "privatization" process which in practice amounted to selling former state-owned property at bargain prices to these privileged families.

The unemployment rate was officially put at 17.3 percent but the real figure was believed to be nearer 30 percent, since those employed in the "grey area" of the economy received no social and security benefits. In the former occupied areas, the unemployment rate rose to 80-90 percent, due to a virtual economic standstill. As of October, the average monthly salary in Croatia was 2,437 KN (USD 400) but some 100,000 employees had not received their salaries for over seven months. According to international criteria, there were more than 1.45 million individuals living in poverty in Croatia. More than 900,000 pensioners received an average of KN 1,000 (USD 150) monthly.

Human Rights Defenders

In September, Croatia ratified the European Convention on Human Rights. In spite of this notable act, the HDZ intensified its efforts to silence "disobedient" human rights activists in Croatia. Thus, in August, the public prosecutor initiated preliminary investigations against Ivan Zvonimir Cicak, president of the Croatian Helsinki Committee and opponent of HDZ politics. Cicak was charged with "disseminating false information" after he had alleged in an interview with Feral Tribune that President Tudjman had agreed the division of Bosnia and Herzegovina with the then Serbian President Slobodan Milosevic. The same allegation had been previously published in domestic and foreign newspapers with no reaction by the government. Later in 1997, Ivan Zvonimir Cicak received the Bruno Kreisky Award for his work for the promotion of human rights.

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