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Return of refugees and displaced persons to their homes in Croatia

Report

Committee on Migration, Refugees and Demography
Rapporteur : Mr Olav Akselsen, Norway, Socialist Group

Summary

The Government of Croatia has recognised the unconditional right of the refugees and displaced persons who fled their homes in Croatia during the wars in the former Yugoslavia to return to their homes voluntarily on the basis of a free and informed choice, and of their right to recover their property. Abstracting from the some 75 000 who have already returned, this represents a total potential returnee case-load of some 300 000 mostly Croatian Serbs presently in the Federal Republic of Yugoslavia and Bosnia and Herzegovina (Republika Srpska), a few thousand in other countries and also about 55 000 ethnic Croat and 4 000 Croatian Serb displaced persons. Of the refugee and internally displaced population who have returned, most are reportedly "easy" cases of family reunion or where there are no problems of citizenship. Against this background, Croatia is still host to some 18 880 ethnic Croat refugees from Bosnia and Herzegovina and the Federal Republic of Yugoslavia.

The report, which complements that on Croatia presented by the Assembly's Monitoring Committee, welcomes the Croatian Government's *Programme for the return and accommodation of displaced persons, refugees and resettled persons* and its *Continuing programme for the reconstruction of war-affected settlements*, adopted in 1998, and makes recommendations for the removal of the remaining obstacles to return. These include insecurity, lack of suitable housing and of alternative accommodation for those temporarily occupying the homes of returnees, depressed economic conditions, discrimination, difficulty in obtaining Croatian documents, and a general political, legal and cultural climate which hinders reconciliation.

Draft recommendation

1. The Parliamentary Assembly welcomes the recognition by the Government of Croatia of the unconditional right of refugees and displaced persons who fled their homes in Croatia during the wars in the former Yugoslavia to return voluntarily to their homes on the basis of a free and informed choice, and of their right to recover their property. The Assembly also welcomes the Croatian Government's avowed determination actively to support such return at both central and local levels.
2. The Assembly particularly welcomes the adoption in 1998 by the Government of Croatia of the *Programme for the return and accommodation of displaced persons, refugees and resettled persons* and of the *Continuing programme for the reconstruction of war-affected settlements*. The Assembly emphasises the importance of sustained progress by the Croatian authorities at all levels in implementing these programmes in an impartial manner.
3. The Assembly notes with satisfaction that, according to the latest Croatian Government statistics (5 March 1999), confirmed by the Office of the United Nations High Commissioner for Refugees (UNHCR), 30 474 Croatian Serb refugees have returned from the Federal Republic of Yugoslavia and Bosnia and Herzegovina (Republika Srpska) since the end of 1995 (9 015 since the introduction of the Return Programme in June 1998), while an officially estimated 26 039 Croatian Serb displaced persons have returned from the Danube Region to other parts of Croatia and 32 688 ethnic Croat displaced persons have returned to that region. Moreover, some 15 000 refugees have returned to Croatia from countries outside the region of the former Yugoslavia since the end of the war.
4. The Assembly notes with concern, however, that according to UNHCR estimates of numbers of refugees and displaced persons still seeking a durable solution within the region of the former Yugoslavia at present, there are some 270 000 refugees from Croatia in the Federal Republic of Yugoslavia, including recent arrivals from the Croatian Danube Region, and some 30-40 000 refugees from Croatia in Bosnia and Herzegovina (Republika Srpska). In Croatia itself, there are an estimated 18 880 ethnic Croat refugees from Bosnia and Herzegovina (20% from the Federation and 80% from Republika Srpska) and from the Federal Republic of Yugoslavia. An estimated 4 000 Croatian Serbs and 55 000 ethnic Croats remained internally displaced.
5. In addition, several thousand persons enjoying temporary protection status and refugees from Croatia were living in countries outside the region, mainly in Germany, Switzerland and Austria.
6. The Assembly is concerned that despite progress made in regard to the return of refugees and displaced persons to their homes in Croatia, there remain obstacles to return which should be more vigorously addressed by the Croatian authorities at all levels.
7. Such obstacles include continuing insecurity in the regions of return (primarily in the former United Nations Sectors North and South and in the Danube Region), including harassment, intimidation and the presence of landmines; the lack of inhabitable housing and of alternative accommodation for those temporarily occupying the homes of returnees; depressed economic conditions including unemployment, together with discrimination against job-seekers belonging to minority ethnic groups;

the difficulty, for those wishing to return, to obtain the requisite citizenship and travel documents from the Croatian authorities; educational curricula geared to the needs of the majority ethnic group; threats of prosecution for supposed war crimes; confusion surrounding the amnesty law; and a general political and cultural climate which hinders reconciliation.

8. The Assembly is particularly concerned by the continuing departure abroad of citizens of Serb ethnic origin from the Danube Region.

9. The Assembly acknowledges Croatia's economic difficulties in the Danube Region and in other formerly occupied areas. It also notes Croatia's considerable efforts to repair war damage and its appeal for international financial support expressed in particular at the Conference on reconstruction and development of the Republic of Croatia, held in Zagreb on 4-5 December 1998. In this connection the Assembly is concerned that discriminatory legislation on reconstruction remains in force.

10. The Parliamentary Assembly therefore recommends that the Committee of Ministers:

- i. urge the Government of Croatia:
 - a. to ensure the security of returnees by means of effective multi-ethnic policing, immediate, thorough investigations of all security incidents including alleged harassment and intimidation, and action to ensure that offenders are swiftly brought to justice;
 - b. to intensify its mine-clearance programme, in cooperation with the international community, in particular in areas of return;
 - c. to amend or repeal discriminatory legislation, as specified in the Return Programme, as a matter of absolute priority;
 - d. to ensure that the Housing Commissions established under the Return Programme to resolve property and accommodation problems in areas of return, including the processing of applications for re-possession, receive clear instructions to do so quickly and in an impartial and transparent manner, and that their work is closely and more effectively monitored by the Government Commission on Return;
 - e. to issue non-discriminatory guidelines to Housing Commissions establishing acceptable standards for alternative accommodation for temporary occupants obliged to vacate the homes of returnees;
 - f. to ensure that the Housing Commissions take resolute action, as a matter of urgency, to resolve cases of illegal, including multiple, occupancy;
 - g. to seek and follow the advice of Council of Europe legal experts in resolving the problem of the right to occupy formerly socially owned property claimed by refugees, displaced persons and returnees;
 - h. to make additional resources available to the Agency for the Mediation of Real Estate Transactions ("Land Bank") and to speed up and render more transparent its operations;

- i. to ensure that all applications from returnees for financial aid for reconstruction of property are dealt with swiftly and impartially, pursuant to the Mandatory Instructions for the implementation of the Reconstruction Programme and to intensify publicity about the Programme for the benefit of potential applicants;
- j. to amend or repeal the discriminatory provisions of the 1996 Reconstruction Law;
- k. to simplify and speed up the process of issuing the requisite citizenship and travel documents for potential returnees and to give full effect to the 1997 Law on Convalidation;
- l. to provide all returnees, both organised and spontaneous, with "green cards" giving them immediate access to social welfare and other benefits and assistance;
- m. to significantly increase opportunities for refugees to travel to Croatia with a view to their assessing the situation in relation to their homes and their social and economic rights, thus helping them to exercise a free and informed choice as to whether they wish to return on a permanent basis;
- n. to pursue the process of reconciliation far more vigorously, in particular in the areas of return, by fostering a political and cultural climate of respect, tolerance and non-discrimination, through transparent application of the Amnesty Law, and by rendering effective the operation of the Committees for the Establishment of Trust at national, regional and local levels;
- o. to submit projects to the Social Development Fund of the Council of Europe designed to finance the construction and rehabilitation of housing for returnees;
- ii. urge the member states:
 - a. to increase their financial assistance and expertise for mine clearance, particularly in areas of return;
 - b. to step up their provision of financial aid for reconstruction and development, especially for the building of alternative accommodation for those having to leave temporarily occupied property belonging to returnees.

II. Explanatory memorandum by Mr Akselsen

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1. Introduction

1. A frail old woman stands determined in the one inhabitable room of her house, inherited from her mother, in the rural village of Donja Bačuga, near Sisak in Western Slavonia, Croatia. There is a wood stove, an ancient bed and cupboard and a piece of carpet on the dusty concrete floor. The plaster is coming off the walls, the windows are broken and patched up with plastic sheeting, there is no water or electricity. The other room in the house has a hole in the roof. "I will leave my home again only when I die", she says. One month after returning from the Federal Republic of Yugoslavia where she spent three years in a collective refugee centre, she says she is happy to be back home.

2. The purpose of this report is to assess the present situation and prospects of the hundreds of thousands of refugees who left Croatia and of the tens of thousands of persons who were displaced within that country during and following the wars in the former Yugoslavia, as well as of the few thousands who, like the old woman from Donja Bačuga, have returned in recent months.

3. It must be emphasised at the outset that any durable solution to the problem of the return of those who were forced to flee their homes in Croatia must be based on a regional approach, given the very complex pattern of displacement throughout the former Yugoslavia and the fact that return to one location will often have a "knock-on" effect, causing renewed displacement from that location and further along the line.

4. The report takes account of the rapporteur's visits to the Federal Republic of Yugoslavia and the Danubian Region of Croatia from 4 to 9 October 1998 (see programme in Appendix 1) and to Bosnia and Herzegovina (Republika Srpska) and other parts of Croatia from 2 to 6 November 1998 (see programme in Appendix 2). Although the rapporteur has not recorded here all the wide-ranging discussions and meetings held with the refugees, displaced persons and returnees, with the representatives of local, regional, and national authorities, and with those of inter-governmental and non-governmental organisations, he has tried to be objective by letting their statements speak for themselves as far as possible. The rapporteur has of course interjected his own observations and drawn the conclusions, reflected in the draft recommendation. The rapporteur would like to express his warmest thanks to all those who took the time to meet him and who took the trouble to reply to requests for further information, including the Organisation for Security and Cooperation in Europe (OSCE) and Human Rights Watch. For having arranged much of the programme and provided transport in the field, he would like to record particular thanks to the staff of the United Nations High Commissioner for Refugees (UNHCR). They were unfailingly helpful and attentive, even while many of them struggled to cope with the crisis over Kosovo. The Assembly debated that crisis no less than five times in 1998, eclipsing discussion of the less acute though no less real human tragedy undergone by those forcibly displaced during earlier conflicts.

5. This report is designed to complement that on Croatia prepared by the Assembly's Committee on the honouring of obligations and commitments of the member states of the Council of Europe (Monitoring Committee). While one of the tasks of that report is to assess the various legislative and implementing measures adopted by the Croatian authorities with a view to facilitating the minority returns to which they are committed, this report seeks more to convey, even if the attempt may seem impressionistic at times, the conditions under which the refugees, displaced persons and returnees are living and the problems and obstacles they face.

2. Background

6. According to UNHCR estimated figures¹ for refugees and displaced persons seeking a durable solution within the region of the former Yugoslavia at 1 July 1998, there were 330 500 refugees from Croatia in the Federal Republic of Yugoslavia (FRY), including some 50 000 arrivals from the Croatian Danube Region, and 40 000 refugees from Croatia in Bosnia and Herzegovina (Republika Srpska). In Croatia itself, there were an estimated 34 500 refugees from Bosnia and Herzegovina (one third from the Federation, two thirds from Republika Srpska), 500 from the FRY, and 81 500 internally displaced persons.

7. According to the report accompanying the *Programme for the return and accommodation of displaced persons, refugees and resettled persons* adopted by the Croatian Parliament on 26 June 1998, there were 94 796 registered displaced persons in Croatia at 4 April 1998 and 42 000 refugees from Croatia abroad as of May 1998. In addition, the report records 283 000 "persons who left" Croatia and 109 000 "returnees to the liberated areas" at that date.

8. The reality behind these figures can be gauged from the ethnic composition of Croatia according to the 1991 Yugoslav census: the declared Serb population of Croatia then represented 12.1 per cent of the total, whereas the present estimate is about 4 per cent. This change in the ethnic composition of the population reflects over four years of war, including the departure of over 180 000 inhabitants of the Western Slavonia and Krajina regions (formerly under the control of the so-called "Serb Republic of Krajina" and designated United Nations Protected Areas North, South and West) during the Croatian military operations "Flash" and "Storm" in summer 1995 which resulted in the return of these regions to Croatian control. The change also reflects the more recent departures of ethnic Serbs from the Danube Region (otherwise known as Eastern Slavonia, Baranja and Western Sirmium) which, after forming part of the wartime breakaway "Serb Republic of Krajina", was fully reintegrated into Croatia on 15 January 1998 following two years of United Nations transitional administration (UNTAES) in accordance with the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (Erdut Agreement) signed by representatives of the Croatian Government and the Serb community on 12 November 1995.

9. Against this background of departures from Croatia of its population of mainly Serb ethnic origin, the above-mentioned Croatian Government Return Programme "recognises the inalienable right to return of all Croatian citizens and all categories of persons that can be regarded as refugees in accordance with the definitions of the 1951 Geneva Convention...and other relevant UN instruments".² These should, therefore, include the estimated 300 000 mainly Croatian Serb refugees remaining in the Federal

¹ Figures cited in this report are from UNHCR sources unless otherwise indicated or clear from the context.

² This echoes the provisions of the Erdut Agreement, which states that "All persons have the right to return freely to their place of residence in the Region and to live there in conditions of security. All persons who have left the Region or who have come to the Region with previous permanent residence in Croatia have the right to live in the Region. (Article 7) Furthermore "All persons shall have the right to have restored to them any property that was taken from them by unlawful acts or that they were forced to abandon and to just compensation for property that cannot be restored. (Article 8).

Republic of Yugoslavia and Bosnia and Herzegovina (Republika Srpska), between 4-5000 in other countries and some 4 000 Croatian Serb displaced persons.

10. This is certainly the expectation of the international community, which has maintained pressure on the Croatian Government, as well as other governments in the region, to take concrete steps to promote national reconciliation and the safe return of all refugees and displaced persons who so wish to their homes as soon as possible in accordance with the principle of non-discrimination. For example, following international criticism of previous measures adopted by the Croatian Government, the Regional Return Conference held in Banja Luka on 28 April 1998 under the joint chairmanship of UNHCR and the Office of the High Representative (OHR) called on Croatia to adopt effective legislation and simplified administrative measures to allow the restitution of property, to provide alternative accommodation for those required to vacate housing but could not return to their homes, to provide some form of compensation when warranted, to apply amnesty laws fairly, to facilitate return to a series of identified empty villages in Croatia, to allow "go and see" visits by refugees, to grant temporary entry permits, and to stabilise the situation in the Danube region.

3. Procedures for return

11. On 23 April 1997 the recently established "Joint Working Group on Returns" (JWG) comprising representatives of the Croatian Government, UNTAES, and UNHCR agreed the "Operational Procedures of Return" for Eastern Slavonia (Danube Region), still under UNTAES mandate. The aim of this agreement was essentially to establish and implement mechanisms for the registration and processing of all requests for return into and out of the region (ie two-way return within Croatia). Under the agreement, the Government of Croatia undertook to "provide equal access and equal treatment for safe return, reconstruction, and the other mechanisms specified [in the agreement] for all Croatian citizens who in 1991 resided in the Croatian Danube Region or who are currently living there." Such people could remain in the houses they inhabited until enabled to move from them as a result of the application of the agreement. The Government also undertook to set up an "Agency for Mediation in the Traffic of Real Estate" which would operate a "Land Bank Database" designed to facilitate the sale, exchange and rental of property.

12. The following categories of housing status were distinguished: 1) family reunion (where the house is the original residence of the returnee and a family member still lives in it); 2) vacant housing (which the Croatian authorities undertake not to assign to another individual after receiving a request for return); 3) damaged/destroyed housing (with displaced person priority for rebuilding or aid); 4) occupied housing.

13. The procedures involve the following steps: 1) the applicant registers with the Office for Displaced Persons and Refugees; 2) the Croatian authorities check on the status of the house; 3) ODPR issues a confirmation to the applicant (in some cases "return" is actually a move to temporary accommodation near the original home); 4) a date is set and logistics for return confirmed; 5) the return is effected and the vacated house is secured.

14. On 27 April 1998 the Government of Croatia introduced a "Procedure for the individual return of persons who have abandoned Croatia". This laid down the principle that "the persons who abandoned...Croatia on a voluntary basis [i.e. Croatian Serbs] and who have or acquire Croatian citizenship through the legally prescribed procedure

are entitled...to individual return to...Croatia." Those who could not produce, with their return application, proof of citizenship in the form of a certificate of citizenship ('domovnica'), a valid identity card or a valid passport, had to produce documents "on the basis of which it can be established that he or she meets the requirements for the acquisition of Croatian citizenship" (e.g. expired personal ID; expired passport; employment book; driver's licence; birth or marriage certificate; proof of school attendance or property ownership, etc). If the Croatian Ministry of the Interior accepted that such applications were founded (decisions had to be taken within two or a maximum of three months), the Croatian Embassy or Consulate through which the application was made was instructed to issue a travel document ('putni list')³ authorising the applicant's return. Appeals against negative decisions had to be lodged within thirty days. If the applicant could produce none of the documents required to establish the right to return, it was up to the Croatian Ministry of the Interior to research the applicant's claim.

15. The procedure described in paragraph 14 was supplemented on 14 May 1998 by "Mandatory Instructions" for its implementation. This clarified the requirements for establishing proof of citizenship. Where the citizenship claim of the applicant for return is proven beyond doubt, the Croatian diplomatic mission issues a travel permit.

16. On 26 June 1998 the Croatian Parliament adopted the long-promised "Programme for the return and accommodation of displaced persons, refugees and resettled persons". As we have seen, this establishes the right to return of all Croatian citizens and all categories of persons who can be considered as refugees in accordance with the 1951 Geneva Convention and other relevant United Nations instruments. It lays down the principle that "return is voluntary, and should be based on a free and well informed choice", and reaffirms "the constitutional right of the [returnee] owner to enjoy, enter into possession and freely dispose of his property". It also states that return "shall be actively supported by the Government both on central and local level". A Return Commission is set up to devise a Programme to monitor its implementation and supervise the work of the Housing Commissions to be set up in the municipalities and cities of return. Chaired by the Assistant Minister for Development and Reconstruction, the Commission is supposed to meet twice a month or as necessary (at the time of your rapporteur's visit it had met only once). This Commission is charged with constituting a Return Coordination Committee (RCC) from among Government ministries and other bodies concerned with return, to include representatives of the international community (UNHCR, OSCE, Representative of the UN Secretary General, UNDP, UNICEF, UN Mine Action Centre), the Article 11 Commission⁴, donors and NGOs. The objective of the RCC is to monitor return, make recommendations for increasing the efficiency of the return process and help raise funds to finance return. Both the Commission and the Committee are supposed to meet in public, with the participation of monitors and media with prior agreement, which has apparently not been easy to obtain. One of the main

³ This is in the form of a travel letter which, under the Travel Documents Act, is issued to Croatian citizens who find themselves abroad without a travel document, for the purpose of returning to Croatia. A travel letter expires 30 days after the date of issue, but applicants may apply again for a new travel letter under the same conditions.

⁴ The "Article 11 Commission", set up pursuant to Article 11 of the Erdut Agreement of November 1995, brings together representatives of interested countries and organisations to monitor implementation of the Agreement, particularly its human rights and civil rights provisions.

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criticisms made by the international community is that the Return Commission has not functioned fully or effectively since it was set up, thereby significantly hindering the return process.

17. Under the Return Programme, the process of return and the documentation requirements are governed by the "Procedurc for individual return..." and "Mandatory instructions..." outlined in paragraphs 14 and 15 above.

18. The functions of the Housing Commissions set up under the Programme are to register and certify the use of real estate; to record and issue information on damage to housing units; to receive applications for the retrieval of real estate in which other persons are housed; to find temporary or alternative accommodation for returnees until their housing is restored through the system of reconstruction, by way of non-returnable funds for categories I-III of damage, or by way of organised reconstruction for categories IV-VI;⁵ to implement the "Programme for accommodation of the users of property under temporary administration of the Republic of Croatia, which must be returned for possession and use to the owner"; to provide accommodation in state-owned apartments to persons currently housed in temporarily used property; to cooperate with the Agency for the Mediation of Real Estate Transactions (APN) with a view to more expedient purchase or exchange of property among persons who do not want to return; to report to the Return Commission; and deal with other matters relating to the return of persons and property.

19. The Programme foresees the registration of all applicants for repatriation from outside Croatia by UNHCR and ODPH in order to create a database for return planning purposes.

20. The Croatian Government ensures security in return areas, the Ministry of the Interior reporting on any difficulties or incidents encountered.

21. Finally, the Programme sets out procedures for return, which are basically an updated and improved version of the former procedures outlined above, in particular involving the Housing Commissions.

22. It seems doubtful that the commitment to allow the return of refugees will be fulfilled rapidly, even though the pace of so-called "minority returns" has picked up in recent months. According to the Croatian Office for Displaced Persons and Refugees (ODPR), since the end of 1995 altogether 30 474 refugees had returned from FRY and Bosnia and Herzegovina as of 5 March 1999, of whom 9 015 within the mechanisms of the Return Programme. (A first small group of returns from Republika Srpska took place in November 1998). Of the 21 459 who had returned outside the scope of the Return Programme, 11 197 had returned with ODPR authorisation on humanitarian grounds (family reunification, extreme vulnerability, etc.) and 10 262 unassisted. On 5 March 1999 the total number of applications for return submitted to ODPR through UNHCR and the Commissariats for Refugees in FRY stood at 18 180. UNHCR assisted 1 670 refugees to return from the FRY to Croatia in period July 1998-5 March 1999, 1 201 of them in the three months July-September 1998. In 1996 and 1997 the figures were 349 and 767 respectively.

⁵ The war damage survey conducted by the Ministry of Development and Reconstruction classifies housing damage according to an ascending scale from 0 (no damage) to 6 (virtually destroyed).

4. Croatian refugees in the Federal Republic of Yugoslavia

23. Mrs Bratislava Morina, Serbian Commissioner for Refugees, told your rapporteur that there were 700 000 refugees and "expellees" in the Federal Republic of Yugoslavia, 400 000 from Croatia alone⁶. The vast majority were of Serb ethnicity. This situation, a humanitarian catastrophe, had been forgotten by the international community whose double standard was clear, according to Mrs Morina: Mr Tudjman, President of Croatia, had not even received a warning during military operations which had led to the expulsion of the ethnic Serbs in summer 1995, whereas now there were threats to bomb Belgrade over Kosovo.⁷ Mrs Morina said that Croatia aspired to be an "ethnically clean" state. The "outer wall" of sanctions against the FRY remained in place, resulting in a depressed economy with 1.5 million unemployed, and UNHCR reported that international donors had reduced their support. Yet refugees in the FRY received the same benefits as other citizens, including education, health care, and financial support, according to Mrs Morina. The vast majority of refugees lived in private accommodation or with host families, many of whom were on the verge of exhaustion. A minority (some 42 000) lived in collective centres. Only a symbolic number of Croatian Serbs had recently returned to their homes under an agreement concluded between the FRY and Croatia⁸. Their economic and security situation was very difficult. Some were threatened with death. Procedures for return were in place but were not implemented.⁹ Nor did the international community seem concerned by the 60 000 recent departures of Croatian Serbs from Eastern Slavonia, where the human and economic rights of the Serb population were constantly violated. More were arriving every day asking for asylum in the FRY. These were not given refugee status, being considered migrants, Mrs Morina concluded.

24. The collective centres for refugees in the FRY are typically former workers' or military barracks, socially owned company housing, and schools. Your rapporteur visited two such centres in Vojvodina, a region hosting 292 793 registered refugees representing 14.6 per cent of the population and about half of all refugees in the FRY. One, in Novi Banovci, accommodates 236 refugees in dismal conditions. The owner has refused to make any improvements, hoping that the refugees would be moved elsewhere. The residents were almost all elderly and forlorn, many without any illusions as to the possibility of returning to their homes in Croatia, but hopeful nevertheless that they might one day receive compensation for their property. UNHCR provides fresh food on a regular basis.

25. Little better, although animated by more of a spirit of collective purpose, was a centre in a rural area near Backi Sokolac. The 36 residents, former farmers from the Krajina, were able to raise pigs and grow vegetables. They had built greenhouses with material supplied by UNHCR, through its implementing partner CARE International, as part of its self-reliance project for the collective centres. Coal for heating and fresh food were also provided on a regular basis.

⁶ The UNHCR figure at 10 November 1998 was 312 200.

⁷ It should be recalled here that in summer 1995 many ethnic Serbs were allegedly incited to leave Krajina by their own leaders. As for the warning to Croatia, the European Union suspended its "rapprochement" with Croatia.

⁸ Protocol on Return of Refugees, signed on 2 April 1998, guaranteeing freedom to return in safety to a normal life.

⁹ But cf. below, e.g. paragraphs 33, 58, 61 *et seq.*

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26. The rapporteur also visited a "Local Settlement Project" opened in May 1998 close to Backi Sokolac, obviously designed with integration in mind. This consisted of 14 newly built small houses and two small apartment buildings for a total of 22 refugee families (115 refugees). The freshly painted homes were built by UNHCR through its implementing partner Swiss Disaster Relief on land provided by the municipality, including a 700 m² garden for each family and 3.5 hectares of land close by for the 14 farming families. The other inhabitants were employed by the municipality as teachers, health workers or in some other capacity or by a local firm. Criteria for selection from among the refugee population (80 per cent are former residents of collective centres) include wish and capacity to integrate, skill profiles needed by the municipality, size of family, and vulnerability of dependents. Six such projects have been completed and seven are planned.

27. The rapporteur also had occasion to visit individual asylum seekers and refugees in the FRY, living in barely acceptable conditions. One Roma family had sold their home in Eastern Slavonia and bought a small house in the village of Stara Moravica, consisting of two rooms and a barnyard, from a Hungarian who had resettled in Northern Vojvodina. Ninety-five per cent of the pre-war population of the village had been Hungarian. They had sold 170 houses. One of the first things that the mostly Croatian Serbs now settling there had done was to rehabilitate the Orthodox cemetery: a mark of their intention to integrate.

28. Another refugee, an invalid Croatian Serb farmer, had been displaced from his original home in Grubišno Polje, Western Slavonia, to Ilok, Eastern Slavonia, where he had occupied the house of a Croat who had now returned. He had therefore sought refuge in the FRY, where he rented a room for 100 DM a month including electricity. He had refugee status and received hygienic parcels and some food from the Red Cross and help from the Office of the Serbian Commissioner for Refugees. He hoped to be compensated for his original home, which had been looted and partly destroyed, and his land, which was being used by other villagers. He had left his tractor trailer behind. He had tried to sell his property through UNTAES, but it appeared he would have to travel himself, which he could not do as an invalid. He had no pension, his wife was also an invalid, and his son did odd jobs.

29. According to the refugee accommodation coordinator of Backa Topola municipality and the head of the local Red Cross, the Yugoslav Red Cross had been forced to restrict humanitarian assistance to babies under one year old, persons over 65, invalids and those in real need. In this way the number of beneficiaries in the FRY had apparently been cut from 225 000 to 125 000. The refugees in collective centres received more food assistance, through donations of fresh meat, vegetables and flour from the community, than the individuals, who depended on food parcels from the European Community Humanitarian Office (ECHO) and the World Food Program (WFP). There was concern that the ECHO parcels would contain beans instead of pasta in future. There was pressure on refugees from their host families to move into collective centres.

30. Those refugees who had managed to visit their homes in the Knin area of Croatia had reported that security was not adequate to allow repatriation, or their homes were occupied. Returns so far had been the "easy" cases of return to homes already occupied by a family member or relative. One problem was that the draft Agreement between FRY and Croatia on mutual payment of pensions had not been ratified by

Parliament, and no measures existed for such financial transfers. Many with pension rights had managed to obtain a border pass to collect their pension in Eastern Slavonia. Concerning the influx of Croatian Serbs (and also Roma) from that region, most had already been displaced once. Many were vulnerable, even destitute, social cases. Others, more prosperous, were long-term residents who had sold their homes.

31. The Norwegian Refugee Council's Civil Rights Project and the Humanitarian Centre for Integration and Tolerance provide legal advice and other assistance for refugees in the FRY. Your rapporteur met their representatives in Novi Sad (and also in Osijek). Those seeking advice are mainly Croatian Serbs. Most have property, pension, banking and other rights in Croatia but cannot cross the border to claim or manage these rights or simply to assess the situation because of the difficulty in obtaining the required documents from the Croatian authorities. Moreover, only Croatian citizens or those able to prove their right to Croatian citizenship can apply to return.¹⁰ This was the *leitmotiv* of many discussions with Croatian Serb refugees and points to a major problem which needs to be solved.

32. The documentation problem stems from provisions of the Croatian Citizenship Law adopted after the declaration of Croatian independence in October 1991, which excludes certain categories of citizens of the Socialist Federated Republic of Yugoslavia resident in the Socialist Republic of Croatia until that time who then had to apply for "naturalisation" even though they may have been resident in the S.R. Croatia all their lives. However, not all residents of the breakaway "Serb Republic of Krajina" were able or willing to apply for the new Croatian citizenship. Moreover, in the stampede exodus of Croatian Serbs during the Croatian military operations in summer 1995, many apparently left their documents behind. This issue is complex and best left to the Monitoring Committee's report, but from his discussions the rapporteur is aware that even where the law allows for Croatian Serbs to be issued with citizenship documents, practical impediments and delays are encountered in obtaining them. For example, neither the Croatian Embassy in Belgrade nor the consular facilities in Banja Luka (see below, para. 52) are adequately-equipped to handle the number of applications.

33. Those who do return permanently to Croatia lose their refugee status in FRY and apply for returnee status ("green card") giving them welfare rights, including cash grants, for a maximum of six months. Those who have returned to Croatia and have lodged an application to reclaim their property there (through the Housing Commissions set up under the Croatian Government's Return Programme) are apt to be told that they cannot repossess their property because no alternative accommodation can be found for the temporary occupants.¹¹ Those who wish to sell their original homes cannot do so for the same reason. Conversely, where Croat displaced persons reclaim their property in Eastern Slavonia they have less trouble getting an eviction order against the Croatian Serb occupant, although OSCE reports that the court system is generally so backlogged that even Croats can face delays of several months.

34. It seems likely that many Croatian Serb refugees now in the FRY will perforce integrate there, given that many of their homes in Croatia have been destroyed or badly damaged or have been occupied by others, at least on a temporary basis. Moreover, many of those who might be contemplating return appear to fear for their security, find

¹⁰ See above, paragraphs 14-15. Proof of Croatian citizenship or of the right to it is a major element in the procedures established by the Return Programme.

¹¹ On this point see also paragraphs 56, 60 and 64 hereafter.

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it difficult to obtain the necessary documents, and are discouraged by the prospect of harassment and discrimination against the Serb minority in Croatia in employment and other areas of life. According to the Serbian Commission for Refugees, a 1996 survey of the intentions of the refugee population in the FRY revealed that only 9.1% expressed the wish to repatriate, while 60.2% wished to stay, 8% wished to resettle abroad and 20.2% were undecided. It may be, of course, that more would like to repatriate today given the lapse of time and the hopeless situation in which many find themselves in the FRY (perhaps up to one-third, according to another more recent unofficial estimate), but it is very unlikely that there will be a massive return movement.

35. Nevertheless, your rapporteur has the impression that many would like to visit their homes in order to assess for themselves whether they wish to make a firm commitment to repatriation and/or to settle property and other rights issues. To this end, UNHCR and the Croatian Office for Displaced Persons and Refugees (ODPR) organise "go and see visits" which also allow potential returnees to apply for documents. However, the scale of these organised visits is limited, and spontaneous visits are rendered difficult for those who require the new Croatian documents in order to cross the border. Besides, the Croatian authorities appear to take the general view that a firm commitment to return is a precondition for recovery of property¹² and other rights.

5. Situation in the Danube Region of Croatia

36. On 15 January 1998 Croatia recovered full control over this region, after a two year process of reintegration under the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES). The total population of the region according to the 1991 Yugoslav census was 201 400, of whom 86 700 Croats (43 %), 73 200 Serbs (36 %), 13 000 Hungarians (6.5 %) and 28 500 others (14 %).

37. In October 1996 a United Nations Military Observer survey showed that out of a total of 144 600 inhabitants of the region, the Croat population had fallen to 8 800 (6 %), the Hungarian to 6 700 (4.6 %) and "others" to 8 500 (5.9 %), while the Serbs numbered 73 000 (50.5 %). The balance was accounted for by 47 600 (33 %) displaced persons (mainly Croatian Serbs who arrived following the Croatian army offensives in 1995).

38. In October 1998, UNHCR estimates gave a total population of 105 000, composed of 30 000 Croats (28.6 %), 55 000 Serbs (52 %), 7 000 Hungarians (6.7 %), 6 000 "others" (5.7 %) and between 6 000 and 8 000 displaced persons, depending on the source. Therefore, between October 1996 and October 1998 some 21 200 Croats must have returned, an approximate figure confirmed by ODPR (21 349 on 23.9.98 and 22 396 on 28.10.98). On 5 March 1999 ODPR gave the total number of Croatian displaced persons having returned to the Danube Region as 32 688. Nevertheless, OSCE estimated in its report of 8 September 1998 that only 10 000 Croat returnees reside in the region full time.

¹² i.e. effective occupancy as opposed to compensation.

39. As for the ethnic Serbs in the Danube region displaced from other areas of Croatia, 26 039 had returned to such areas as of 5 March 1999¹³, according to ODPR, but again OSCE doubts that the figure is so high, putting it at somewhere between 10 000 and 15 000.
40. However, UNHCR and OSCE estimate that in the two years since September 1996 some 28 000 displaced Serbs left the Danube region for the Federal Republic of Yugoslavia, mostly during the UNTAES mandate. Between May and September 1998 these departures continued at an average rate of six families a day. According to ODPR, indeed, only some 4 000 Serb displaced persons still live in the region, of whom 1 000 were originally domiciled there.
41. Of the pre-war Serb population of the Danube region, according to UNHCR estimates cited by OSCE, some 16 000 left, mainly for the FRY, between August 1996 and July 1998. According to the Serbian Commission for Refugees and the Joint Council of Municipalities (an institution set up under the UNTAES mandate to coordinate the interests of the Serb community in the Danube region), cited by UNHCR, some 47 000 Serbs have left the region since early 1996, of whom 18 000 were part of the domiciled population and 29 000 were displaced persons. Your rapporteur was not given any evidence during his visit to the Danube region to suggest a reversal of this negative trend, but did seek to understand the reasons for it.
42. Some light had already been shed on the matter by meetings in the Federal Republic of Yugoslavia. According to the Trustee for Refugees (representative of the Serbian Commissioner for Refugees) of Backa Palanka municipality, Mr Radoslav Milosevic, all Serbs arriving from Eastern Slavonia were asked the reason for their departure: according to their statements not one had left voluntarily. Allegedly, they had been harassed and intimidated, for example with threatening phone calls or by placement on fictitious lists of wanted criminals, they had been fired from their jobs, or suffered destruction of property. Those who still owned property wanted to sell and leave. Your rapporteur would like to emphasise that such incidents are well documented by international observers in the region.
43. According to the representative of the Council of Europe's Local Democracy Agency in Osijek, there was indeed social pressure on Serb families in the region from individuals with an extremist agenda, to which the police failed to react adequately. However, the depressed economy was also a factor in causing especially young people to leave and also not to return. According to a recent report by the Representative of the United Nations Secretary General, overall security in the region was satisfactory enough to allow the withdrawal of the UN Civilian Police on schedule on 15 October 1998. (OSCE assumed responsibility for police monitoring on that date. Half of the OSCE force were recruited from among former UN police). According to the UN report, there was a lamentable lack of effort on the part of the Croatian Government to foster reintegration and reconciliation. Systematic harassment of displaced persons continued and the economic situation was bleak for Croat returnees.

¹³ Of these, 16 472 returned on the basis of confirmations issued by ODPR, of whom 1 789 by organised ODPR/UNHCR convoy and the others individually. 9 567 persons returned without ODPR confirmations, some having left FRY via the Danube Region with Croatian documents issued in that region.

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44. In Osijek your rapporteur met representatives of both Croat refugees from Bosnia and Herzegovina (Republika Srpska) and Croat returnees. The former complained that they could not recover their homes in RS, or even go to see them. However they were subject to eviction from their temporarily occupied houses in the Osijek area when the rightful owners returned, even if they were Croatian Serbs. They were offered alternative accommodation at the Gasinci refugee camp. Some avoided this fate by renting lodgings with the help of relatives. In any case, many of these refugees had lost their refugee status in Croatia, and the attendant benefits, by adopting Croatian citizenship, as all Croatians abroad have the constitutional right to do. They had hoped in this way to secure a better future and especially to improve their employment prospects. In this they had been disappointed. Some had chronic diseases such as tuberculosis and could not pay for treatment. They were helped by humanitarian organisations. Asked whether they would accept to go to other parts of Bosnia and Herzegovina if it proved impossible to return to RS, the reply was that the two most important considerations were security and employment. The rapporteur had a somewhat different impression of Bosnian Croat refugees from the Federation side when he met them later in the Knin area.

45. The problems of the Croat returnees in the Danube Region are of a different order, according to their representatives in Osijek. They had originally formed an association of displaced persons to fight for the return of the former UN sectors North, East, South and West to Croatian sovereignty, and now that this had been accomplished they were mainly concerned with reconstruction, economic revival and employment. Some 80 000 had originally been displaced from the Danube Region to other parts of Croatia, of whom about 20 000 had returned. An estimated 80% wanted to return to their homes, the remaining 20% having been too traumatised to return or were now too vulnerable to move. The return process was intensive but not fast enough, first because there was not enough funding for reconstruction and development, and second because the procedures before the housing commissions (set up under the Croatian Government's Return Programme) and the courts in order to recover their occupied homes took too long.¹⁴ The courts should act more swiftly in issuing eviction orders. There should be more alternative accommodation in order to re-house temporary occupants.

46. Representatives of the Croatian Serb displaced persons and returnees in Beli Manastir said that the relevant Croatian laws were in principle non-discriminatory but often appeared not to be implemented in this way. A major problem was that of property rights, and in particular so-called "tenancy rights". In the former Yugoslavia, all workers had to pay 2-3% of their salaries towards the cost of building socially owned housing, mostly apartments in urban areas. Rent was paid to the State. The right to occupy such socially owned housing was acquired as an individual "tenancy right" over time depending on length of employment. The acquired tenancy right was considered as a form of ownership with the distinction that sale of the property was not permitted. During the war, the Croatian Government considered that those who left such housing had abandoned it and gave others right to live there. After the war the Croatian Government decided to privatise such property and the current occupants were allowed to buy it. Only Croatian citizens were allowed to buy former socially owned property. In order to assess who held the tenancy right to a particular property before privatisation, and therefore had a right to purchase the property, the law excluded those who had not inhabited the property for the last six months. However, according to the

¹⁴ This is corroborated by OSCE: see above, paragraph 33.

Serb representatives, in practice the courts only applied this exclusion to ethnic Serbs. Ethnic Croat tenancy right holders who had not occupied their apartments even for six years were allowed to keep their rights and hence acquire the property. The issue of tenancy rights, not covered in the Croatian Government's Return Programme, appears to be a major obstacle to the return of Croatian Serbs, especially to urban areas.

47. Representatives of the local and regional authorities in both counties of the Danube Region (Osijek-Baranja and Vukovar-Srijem) stressed that there were no legal or administrative obstacles to the return of Croatian Serb refugees from FRY or RS. As for implementation of the two-way return procedures (within Croatia), they said that these had worked successfully so far, except that return could be faster with more funding, for reconstruction of housing and infrastructure. In response to your rapporteur's question, they said that they had no contacts with their counterparts in FRY or RS to discuss common problems.

48. This assessment of the two-way return process is perhaps somewhat undermined by the fact that, although according to official statistics 26 039 displaced Croatian Serbs have returned from the Danube Region to their former areas of residence in Croatia, in many cases they have not been able to return to their own homes, where these are occupied by Croat displaced persons or Bosnian Croat refugees or "settlers", or destroyed, or where they have lost tenancy rights.

49. Confidence-building between ethnic communities is the task of the Trust Establishment Committee set up at national and regional levels to implement the Croatian Government's "Programme on Establishment of Trust, Accelerated Return, and Normalisation of Living Conditions in the War Affected Regions of the Republic of Croatia" adopted on 2 October 1997. The committee's representatives in Vukovar said that the committee had met seven times since then and had dealt with problems raised by the Housing Commission, security, reconstruction of cultural and recreational facilities, etc. Every effort was made to build confidence between the communities but there had of course been incidents. Nevertheless security was better in the Danube Region than in other parts of Croatia, a fact which could be put down to the efficiency of the multi-ethnic police force (40% Croat, 40% Serb and 20% others). Responding to questions, the Committee members had conflicting information on the number of approved applications from ethnic Serbs for Housing Commission cash grants for the rehabilitation of property. It must be added that OSCE experience in the field shows that what goes on in meetings of the Trust Establishment Committee has little impact on the fears or material situation of individuals.

50. The representative of the Joint Council of Municipalities (JCM) explained that this body had been set up in Vukovar as an advisory body in accordance with the Erdut Agreement to coordinate the interests of the Serb community in the Danube Region, particularly in regard to Government policies and measures for the reintegration of the region. Members of the JCM were elected from among town and municipal councillors all over the region. It monitored human and cultural rights. However, its work had virtually come to a halt for lack of finance. Out of an original 50 members, only 20 remained. Staff had been reduced from 132 to 32. The telephones had been cut off.¹⁵ The only other channel through which the Serb community's views could be articulated was the Serbian Independence Party. Problems in the region included education, which in the light of recent incidents should be separate for the different ethnic groups, lack of

¹⁵ Since the rapporteur's visit, the situation of the JCM has improved.

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alternative accommodation for displaced persons, lack of employment, unemployment benefits and pension rights. As long as such problems were not resolved, the exodus of the Serb population would continue. Return was not two-way but one-way, with the Croatian Serbs leaving for other countries rather than other parts of Croatia.

51. Meetings with representatives of the OSCE, the United Nations, human rights and humanitarian organisations confirmed the impression that the process of reintegration of the Danube Region into Croatia, though peaceful, is subject to many problems. The main problems are lack of security and trust between the communities leading to the departure of many Croatian Serbs abroad, the lack of a proactive policy on the part of government in this respect, the perceived discrimination against minorities, the depressed economy, and the lack of alternative accommodation for those forced to make room for returnees. Physical reconstruction is visible everywhere and is impressive, but the psychological reconstruction and reconciliation that needs to go with it is seriously lacking.

6. Situation of Croatian Serb refugees in Bosnia and Herzegovina (Republika Srpska)

52. The situation of the some 40 000 Croatian Serb refugees in Republika Srpska was first brought to the attention of the rapporteur following the visit of a delegation of the Sub-Committee on Refugees to Banja Luka in October 1997. These refugees had reported that they could not obtain Croatian passports or duplicates of identity documents required to establish proof of Croatian citizenship because they could not cross the frontier into Croatia or go to Sarajevo where there was a Croatian Embassy. Without evidence of Croatian citizenship they could not return to their homes in Croatia and in effect were stateless. The Croatian member of the Committee, Mrs Basic, has reported attempts by the Croatian Government to open a Croatian Consulate in Banja Luka to facilitate such transactions, but during the rapporteur's visit to Banja Luka in November 1998 the situation still had not been resolved. It is true that under the terms of the "Protocol on Organized Return" between Croatia and the RS in June 1998, Croatian consular officials travel back and forth to Banja Luka for two so-called "consular days" per week, but this appears to be totally inadequate to cope with the numbers of applications for documents. A building is apparently available for a full-time consulate but there appears to be a problem with the local authorities about the flying of a Croatian flag, and unresolved problems with the Government in Sarajevo.

53. According to representatives of the Croatian Serbs in Banja Luka these two "consular days" amount to three hours open for business on Tuesdays and Thursdays, with some 100-200 applicants queuing to see consular officers each day. When successful, they were given an appointment to return three months hence. If they persisted they might receive a travel document ("putni list"), valid for 30 days,¹⁶ allowing them to go to Croatia. Their main problem was to establish that they were citizens of Croatia. In order to obtain the new documents one had to go to Croatia, but in order to go to Croatia one needed the new documents. Moreover the criteria and procedures were confusing. Clear, straightforward information was lacking. The only other way to get to Croatia was through the "go and see" visits organised by UNHCR and ODP. But these were few and far between and orchestrated by the Croatian Government as show piece models of return on the occasion of major international conferences focusing on the return issue. Another major problem raised by the

¹⁶ Cf. footnote 3.

representatives of the Croatian Serb community in Banja Luka was property: most lived in property vacated by Bosnian Croats and Muslims. Their own property in Croatia had been assigned to Bosnian Croats for temporary use, but in many cases apparently for ten years, contrary to the legally proscribed limit of one year.¹⁷ A certain number had managed to sell or exchange, especially in urban areas. Their tenancy rights in Croatia had been lost subsequent to privatisation. There was a sense of injustice vis-à-vis the Bosnian Croats who could enjoy dual citizenship, the right to vote in both Croatia and Bosnia and Herzegovina, and travel freely across borders. Moreover, about 10 000 Croatian Serbs had accumulated pension rights in Croatia, and such pensions were necessary in the very hard economic situation they faced.

54. To overcome the key problem of information, UNHCR is beginning to publish leaflets on the return procedures, and it seems important that non-governmental organisations should be present to offer advice, as in Vojvodina. One such NGO is the Serb Democratic Forum (SDF) established in Croatia which recently opened offices in Republika Srpska. It is supported financially by UNHCR, USAID, Oxfam and other sources. The SDF representative in Banja Luka was not very optimistic about prospects for return. According to him no Croatian Serb whose house was destroyed has qualified for reconstruction under the Government's programme. Those of their homes which were still inhabitable had been occupied by Bosnian Croats. Returning Croatian Serbs were not given employment. They were currently occupying other people's homes to which they had no legal title as non-citizens of Bosnia and Herzegovina. As for the security situation for returnees, the SDF representative said that the *fear* of insecurity on return was in fact worse than warranted. Potential returnees should be allowed to go and assess the situation for themselves without hindrance. This was the only way to allow them to make a free and informed choice. They should be issued documents simply on request, without having to go through a lengthy and discouraging procedure. A list should be drawn up of all those wishing to apply. The SDF representative had the impression that the RS authorities, anxious to consolidate the entity's population, were no keener for them to return than was the Croatian Government to encourage the return of Bosnian Croats, who not only added to the population but were generally a source of nationalist political support.

55. While in Banja Luka your rapporteur was given an account by the (Bosnian Serb) Mayor of Drvar, Mr M. Marceta (himself severely wounded in an attack by demonstrators against returnees), and President of the Association of displaced persons of Glamoc, Mr S. Krstanovic, of the problems surrounding return of Bosnian Serbs to Croat administered canton 10 in Bosnia and Herzegovina (Federation) in the wake of the withdrawal of the Army of BH. It appears that the area, formerly predominantly Serb, is subject to much manipulation by Croat and Serb nationalist factions, the former allegedly with the support of the Croatian Government, which has apparently illegally taken over land at the frontier. Allegedly, many Croat displaced persons have occupied formerly Serb homes in the area as well as occupying homes of displaced Croatian

¹⁷ In fact the now repealed 1995 Law on Temporary Takeover and Administration of Specified Property, which allowed vacant property to be assigned to various persons for temporary use, prescribed no time limits, although in some places a one-year term was set and then extended indefinitely. However, under the 1996 Law on Areas of Special State Concern, which the Government of Croatia has undertaken to amend, temporary use was assigned to certain priority categories of people for a period of three years. After ten years of continuous residence they would be entitled to ownership.

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Serbs in the Knin area across the border. Moreover, the major economic enterprises in the area, which are Croatian, apparently pay no taxes to the municipality.

7. Situation in other regions of Croatia

56. The rapporteur's impression of Knin, former capital of the so-called "Serb Republic of Krajina", since his last visit in October 1995 was that much reconstruction and rehabilitation had taken place. Businesses seemed to be operating, many apparently owned by Bosnian Croat "settlers" and returnees from Germany, although not necessarily thriving because purchasing power in the area is so low.

57. According to representatives of UNHCR and other international organisations and NGOs in Knin, the town has indeed become a focal point for ethnic Croat refugees and displaced persons, encouraged to settle there by the authorities. This means that there is very little alternative accommodation to move them into to allow the Croatian Serbs who left in August 1995 during Operation Storm to reclaim their property. Nevertheless it appears that Bosnian Croats sometimes enjoy double or triple occupancy of the homes of departed Croatian Serbs, having applied for such accommodation on behalf of several members of the same family. This should obviously be remedied. But there appears to be a lack of political will or enthusiasm to address the housing issue, as borne out by the disappointing performance of the Housing Commissions. The members of these commissions were appointed by the mayors and worked on a voluntary basis. However, ownership of property was sometimes difficult to prove or to trace because land registers had not always been properly kept.

58. According to these representatives, those who had returned were often accommodated with relatives who had stayed in 1995: the so-called "easy" cases of family reunion. However, it took some time – up to two months – to obtain returnee status ("green cards") which gave them access for six months to cash and social welfare benefits.¹⁸ The cash payments were often delayed and were minimal: usually 150 Kuna a month or 250 Kuna for the destitute. However, most returnees were elderly and could claim pension rights. It was important to ensure a certain minimum quality of support for returnees, otherwise there would be no incentive for others to return. Unemployment was extremely high, and this would deter younger refugees from returning. The fact that Knin had been a major rail junction had made it a centre of industrial production but the market was no longer there. Income generation projects and investment in small scale enterprises with a multiplier effect such as cattle markets could be envisaged. Return to the villages required a different approach, with donation of minimum farm tools and livestock.

59. As for documentation, according to these international officials, it was time-consuming and expensive to obtain copies of originals, and the rules varied as between municipalities. Some Registry Offices required the applicant to appear personally, others accepted postal applications. Difficulties often arose for families if one member was born in some part of the former Yugoslavia outside Croatia. A further problem raised was implementation of the so-called Law on Convalidation adopted in October 1997 for the purpose of validating documents (birth, marriage certificates, etc) issued by the authorities of the breakaway "Republika Srpska Krajina" between 1991 and 1995.

¹⁸ Those returning under an organised scheme may now be granted a temporary certificate, valid for one month, giving them immediate access to health and other benefits.

Since this matter is discussed in the report of the Parliamentary Assembly's Monitoring Committee, suffice it to say here that the lack of transparency surrounding the implementation of the Law is a further obstacle to return.

60. The rapporteur met several Croatian Serb returnee families and individuals in the outskirts of Knin, and in Udbina, Bunić, Debelo Brdo, Korenica, and, near Sisak, Donja Bačuga, and Luščani.

61. As may be imagined, many of them were living in rudimentary comfort or barely acceptable surroundings. All had problems connected with property. One elderly Croatian Serb lady in Knin was living alone in her daughter's house without electricity. She had returned 'spontaneously', not under the 'two-way return programme', in 1997 with Croatian papers issued in Eastern Slavonia. At first she had not been eligible for 'returnee status' and its attendant benefits, but had then obtained it. Her own home was not 500 metres away but occupied by an unaccompanied minor and his friends who threatened her if she approached. Her daughter had applied to the Housing Commission on her behalf for repossession. Even if the Housing Commission found in her favour, it would not evict the minor until alternative accommodation was found for him in town, even though he had family in a town not far away. Her son, who was visiting from Belgrade where he was a refugee, was from Tuzla in Bosnia and Herzegovina. He had applied for restitution of an apartment there, occupied by Muslims, to which he had acquired the tenancy right. He travelled on a Bosnian passport.

62. A Croatian Serb family of eight (parents, four children and grand-parents) were in a similar situation, having returned in September 1997 from Vojvodina in the Federal Republic of Yugoslavia, after obtaining their papers in Beli Manastir, Eastern Slavonia. The grand-parents had returned first to a small house owned by the family and the others had joined them under family reunion, which disqualified them from returnee status. They subsisted on a social welfare cash grant amounting to the equivalent of 70 DM per person per month, and the grand-father's pension of 250 DM a month. They were not entitled to health insurance and relied on the assistance of the American Refugee Committee. They had originally left their large home, on a large piece of arable land not far from where they lived now on the outskirts of Knin, during shelling in 1995. They had joined a convoy, empty-handed. The house had been looked after by an uncle, but while he had been in hospital a short time it had been occupied by an elderly couple, whose daughter had been assigned occupancy of yet another house. The municipality had promised Bosnian Croats that if they just found a house to occupy they would be given the requisite authorisation. All the large houses had been occupied in this way. They had applied to the Housing Commission for repossession of their home, but had received only an acknowledgement. The father had worked with the railway administration and the mother for the local bank, but neither had got their job back. They were pessimistic about Serbs finding employment. He had attempted to cultivate his land but had been told by a Bosnian Croat settler that he had been assigned the use of the land by municipal decision. The Town Hall had refused his request for a copy of this decision. The children had not at first had problems in school, but then they had been harassed on the way there, so the parents now accompanied them. The atmosphere had recently deteriorated following Croatian TV reports of recent anti-Croat incidents in a school in Eastern Slavonia. Another family had returned to the FRY as a result of harassment of the children. The future seemed to favour the Bosnian Croats, who had greatly profited from the situation with the encouragement of the Croatian authorities.

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63. The rapporteur met several Bosnian Croat families living in Gracac. They had left Kakanj, Bugojno and other mostly Muslim towns in Central Bosnia, around June 1993. Although Kakanj has been designated by UNHCR as an "open city" meaning that the municipal authorities encourage minority returns, thereby ensuring funding from the international community, all members of the families that had left there except for the head of one of them said they did not want to return. Their houses had been destroyed or damaged. The authorities had assigned them Croatian Serbs' houses in Gracac. Some of the owners had returned to live permanently, others just to assess the situation. At first the Bosnian Croat refugees had been given refugee status, then "refugee settler" status, and Croatian documents. Those who had retired from employment in Kakanj were entitled to a pension equivalent to 150 DM a month payable in Mostar. This was collected by a friend with power of attorney. They had no health insurance in Croatia since they had not contributed. They had been assisted by humanitarian organisations such as Caritas. Some had found employment in the local tannery. As for education, their children seemed quite happy in the local schools and the parents were happy for them to be learning Croatian. One major reason why they did not want to return was that they did not accept the predominant Muslim culture or schooling, which they asserted included the teaching of Arabic. The other major reason for not wishing to return was security. This applied especially to the younger refugees who were threatened as competitors for scarce jobs. Elderly returnees were more readily accepted.

64. Insight into the attitude of local authorities was provided by meetings with the Prefect of Gaspic county and the mayors of Korenica, Donji Lapac and Udbina as well as the young deputy mayor of Knin, himself a Bosnian Croat "settler". The central government and the international community seemed to have the impression that local authorities were dragging their feet and obstructing the return process. This was not true. They were trying to find solutions to intractable problems. This would take time.

65. According to these officials, in order for Croatian Serbs to return to the region, there had to be a solution for the Bosnian Croat refugees. Evicting them from houses or apartments they now occupied could be very upsetting not only for them but for the communities where they lived. They had been promised durable, permanent solutions. They had at first been assigned unoccupied property on an emergency basis, in order to prevent arson and looting, and it was true that applications had not always been very carefully examined. For example, some 1000 socially owned apartments in Gaspic had been assigned in this way, half of which were found on more detailed consideration to have been authorised for occupation by people who were ineligible. But they were now reluctant to move, and before they could be evicted alternative accommodation had to be found. This was very scarce. Not even all the originally displaced ethnic Croats had yet managed to return to their homes which had been badly damaged or destroyed. Reconstruction and return must go hand in hand. Return to Bosnia and Herzegovina was the only other option for the Bosnian Croats. If housing were available in Bosnia and Herzegovina, administrative measures would be taken to move them.

66. According to these officials there was no discrimination against the Croatian Serbs as regards employment or applications for reconstruction grants, provided they had met the October 1997 deadline for grant applications. The Housing Commissions operated on a pragmatic, case by case basis. Many applications lacked the requisite documentation (at 3 November 1998 in Knin, for example, of 256 pending applications for repossession of property, only 30 per cent were adequately documented). Eighty per cent of applicants were over 65. Proof of ownership was often very hard to establish from the Land Registry, which might point to several thousand possible beneficiaries of

wills made at the time of former Yugoslav regimes and even under the Austro-Hungarian Empire.

67. Despite the message about the scarcity of alternative accommodation, these officials admitted that certain villages in the Knin area and further north (Gracac and Donji Lapac were mentioned) were either completely or partly empty and could sustain several thousand returns. High expectations were held of the forthcoming Conference on Development and Reconstruction in eliciting funding for reconstruction from the international community.

68. The essential connection between return and the need for funding for reconstruction and job creation was emphasised by all representatives of the Croatian authorities, not least by the Minister for Development and Reconstruction, Dr Jure Radic. According to the "Continuing Programme for the Reconstruction of War-Affected Settlements" adopted by the Government in October 1998, about 10 per cent of Croatian housing stock had been damaged or destroyed during the war. This amounted to 171 705 apartments and houses. Excluding secondary or holiday homes, the number taken into consideration for reconstruction was 145 000-150 000. Of these, about 80 000 had already been rebuilt or repaired. This was the equivalent of building the second largest city in Croatia in the past 3-4 years. The system was based on cash grants in ascending amounts for the repair of houses in damage categories I-III, while the re-building of houses in damage categories IV-VI was directly carried out and financed by the Ministry for Development and Reconstruction. Over the next five years the plan was to re-build or repair a further 80 000 housing units for about the same number of returnee families, representing a total of some 200 000-250 000 people. Some 55 per cent of the reconstruction would be in the Danube Region, since 55 per cent of all returnees (42 787 families or between 107 000 and 128 000 returnees) were due to go there. All returnees, regardless of ethnicity, would be given equal access to reconstruction assistance. However, there were conditions: the applicant had to have inhabited the property in 1991; the damage had to be certified war damage; the applicant had to promise to return to live in the property and to leave their government-assigned temporary accommodation; and the applicant had to be a Croatian citizen. Required documents were residence status in 1991, statement of return and proof of citizenship. There were also certain priority categories of applicant: those who had lost a family member during the war, widows, orphans, etc. The total cost of this programme was estimated at 2.5 billion USD over the next five years. An additional source of housing was provided by the Agency for the Mediation of Real Estate Transactions (APN), which had mediated the sale of some 3 000 properties thus made available for purchase by those given temporary authorisation to inhabit them.

69. Your rapporteur would like to point out, in relation to the Continuing Reconstruction Programme, that it has not, legally speaking, superseded the 1996 Law on Reconstruction, several provisions of which the international community considers to be discriminatory and should be amended or repealed.

8. Conclusions

70. The rapporteur has the impression that the Croatian authorities are in the process of re-imposing firm control over both the Danube Region and the former United Nations Protected Areas. Before allowing those who left these regions during the wars in the former Yugoslavia access to their homes, let alone to the benefits of the new Croatian State, the Croatian Government demands a pledge of permanent return and,

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somewhat speciously given the many obstacles it has put in the way of Croatian Serb applicants, proof of loyalty in the form of renewed commitment to citizenship. Of course this policy is understandable in a country which is struggling to establish nation-statehood in the wake of a civil war, but it is likely to produce much injustice where families wish to recover their rights, whether to property or pensions, in the land where they had been established for centuries.

71. Representatives of the Croatian Government are apt to argue that the Croatian Serbs who left are interested only in claiming their rights, not in exercising their responsibilities as Croatian citizens. This is not the impression gained by your rapporteur, who believes that many of them would exercise their right and responsibility to vote if allowed to do so. In any case what is essential is that they should enjoy equal treatment under the law. They may not be keen at this early stage in the reconciliation process to take part in national celebrations but this is hardly surprising. In any case, a multi-cultural, multi-ethnic society must recognise the right of minorities to cultural difference, in accordance with the Council of Europe's principles. This also applies in the field of education.

72. It is hard to judge how many of the over 380 000 Croatian refugees abroad would like to return permanently. This will doubtless depend on how their present living conditions develop and what is done to help integrate them where they are. In any case it is unlikely to be a flood. However, what is important is that they should have the right to exercise a free and informed choice for themselves, and this cannot happen on any significant scale until opportunities for short visits are considerably expanded. The whole process of issuing the requisite documents for potential returnees must be simplified and speeded up.

73. Return is also a question of finding alternative accommodation for the mainly Bosnian Croat refugees who were given the right to occupy the homes left behind by the Croatian Serbs. This requires major financial assistance from the international community, not only in Croatia but also in Bosnia and Herzegovina. The procedures for recovering property for returnees should be simpler and more transparent. The issue of so-called tenancy rights should be resolved through an independent judicial opinion from Council of Europe experts.

74. Continuing insecurity, the presence of mines, high unemployment, and fear of discrimination and prosecution for alleged war crimes are all factors in deterring return to Croatia. What is important where real and objective economic problems exist is that they should not be compounded by lack of information or even misinformation. This strengthens still further the need to allow potential returnees to see for themselves as a first step, and the responsibility of the international community to emphasise the circulation of objective information and to foster independent media.

APPENDIX 1

Visit of Mr Akselsen to the Federal Republic of Yugoslavia and Croatia (Danube Region), 4-9 October 1998

Sunday 4 October 1998

Arrival in Belgrade

Monday 5 October 1998

- 09.00 Briefing at Office of UNHCR Chief of Mission (repatriation section, resettlement section, public information section)
- 10.30 Meeting with Serbian Commissioner for Refugees, Mrs Bratislava Morina
- 13.00 Departure from OCM Belgrade for Stara Pazova municipality
- 13.30 Meeting with Ms. Slobodanka Grujić, Stara Pazova Trustee of the Commissariat for Refugees of the Republic of Serbia and departure for collective centre "Kablar" (236 refugees)
- 14.30 Departure for the municipality of Backa Topola
- 16.00 Meeting with Dr. Grujo Milosev, President of Backa Topola Red Cross and Mr. Borislav Majkić, municipal Co-ordinator for Accommodation of Refugees
- 16.30 Visit to the local settlement project (LSP) Backi Sokolac (22 refugee families) 18 farming and 4 non-farming) and collective centre "Granicar" (36 refugees)
- 17.00 Visit to a family of asylum-seekers from Eastern Slavonia (Stara Noravica)
- 17.30 Departure for Novi Sad
- 18.30 Working dinner with Ms. Tora M. Gaarder, Director of the Norwegian Refugee Council's Civil Rights Project in Vojvodina

Tuesday 6 October 1998

- 08.30 Visit to the Humanitarian Centre for Integration and Tolerance (HCIT) Novi Sad and meeting with Mr. Ratko Bubalo, Legal Project Co-ordinator
- 09.30 Departure for the municipality of Backa Palanka
- 10.00 Meeting with Mr. Radoslav Milošević, Backa Palanka Trustee for Refugees
- 11.00 Visit asylum seekers from Eastern Slavonia
- 12.00 Arrival at Ilok border crossing (UNHCR Osijek staff take over)
- 12.30-14.30 Working Lunch with UNHCR Field Office Osijek Head of Office in Vukovar
- 14.30-16.30 Field visits to selected villages in Vukovar-Srijem county (Vukovar, Sotin, Tovarnik, Pača, Šidški Banovci, Slakovci, Mirkovci, Vinkovci, Gaboš, Markušica, Laslovo, Ernestinovo, Antunovac, Osijek - Meeting with the Mayor of Antunovac)
- 16.30-17.30 Meeting with the Local Democracy Agency in their office in Osijek
- 17.30-18.30 Meeting with UNHCR Field Office Osijek
- 18.30 Working Dinner with UNHCR senior staff, Osijek

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- 08:30-09:30 Meeting with head of Croatian Regional Office for Displaced Persons and Refugees in Osijek, Ms Arbanas
- 09:30-10:30 Meeting with Bosnia and Herzegovina (Croat) refugee representatives in Osijek
- 10:30-11:30 Meeting with representatives of Croat returnees in Osijek
- 11:30-12:30 Meeting with Prefect of Osijek-Baranja county, Mr Lovrinčević and other representatives of the authorities
- 12:30-14:00 Working Lunch with Prefect of Osijek-Baranja county, Mr Lovrinčević and other representatives of the authorities
- 14:30-15:30 Meeting with Mr Vučetić and Mr Kresović, representatives of the Serb displaced persons and returnees in Beli Manastir
- 15:30-17:30 Field visit to selected villages in Osijek-Baranja county (Beli Manastir, Topolje, Batina, Zmajevac, Kneževi Vinogradi, Kozarac, Jagocinjak, Bilja, Osijek – Meeting with the mayor of Jagocinjak, Mr Balaban)
- 17:30-19:00 Meeting with selected human rights NGOs in UNHCR FO Osijek office (Centre for Peace, Non-violence and Human Rights Osijek; Centre for Peace, Legal Advice and Psycho Social Assistance Vukovar; Civil Rights Project; Association for Peace and Human Rights Baranja)
- 19:00 Working Dinner with UNHCR and NGOs

Thursday 8 October 1998

- 09:00-10:00 Meeting with Mr Jörg Lünzburg, Deputy Head of OSCE Co-ordination Centre Vukovar
- 10:00-10:30 Meeting with Mr Robert Gravelle, Political Adviser, UNCIVPOL, Vukovar
- 10:30-11:30 Meeting with Prefect of Vukovar-Srijem county, Mr Koenig
- 11:30-12:30 Meeting with Mr Mirko Jagetić, representative of the Joint Council of Municipalities and Deputy Prefect of Vukovar-Srijem county (Serb ethnic community)
- 12:30-13:30 Meeting with regional representatives of the Trust Establishment Committee in Vukovar
- 13:30-15:30 Working Lunch with local authorities
- 15:30 Departure for Zagreb

Friday 9 October 1998

Departure from Zagreb

APPENDIX 2

Visit of Mr Akselsen to Croatia and to Bosnia and Herzegovina, 2-6 November 1998

Monday 2 November 1998

- 13.20 Arrival in Zagreb
- 15.00 Meeting with European Community Monitoring Mission, Mr. Franz Foidl, Head of Zagreb Office
- 16.30 Meeting with the Vice-President of the House of Representatives of the Croatian Parliament, Mrs. Jadranka Kosor.
- 17.30 Meeting with the Government Office for Displaced Persons and Refugees (ODPR), Mr. Lovre Pejković, Head of the Office
- 19.30 Working Dinner with:
 - Mr. Victor Tomseth, Senior Deputy Head of Mission, OSCE
 - Mr. Mark Thompson, Spokesman and Public Affairs Advisor, OSCE
 - Mr. Branimir Radev, Political Advisor, OSCE, Zagreb
 - Mr. Herman Stuurwold, Deputy Chief of Mission and Return Coordinator, UNHCR
 - Ms. Sonia Munoz, Assistant Chief of Mission (Protection), UNHCR

Tuesday 3 November 1998

- 08.00 Departure for Sisak
- 09.00 Field trip to two villages in Petrinja municipality (Sisak County) - meetings with returnees, refugees and non-governmental organisations
- 11.30 Departure for Banja Luka
- 15.00 Meeting with representatives of Croatian Serb refugees (at UNHCR)
- 16.00 Meeting with representatives of Serb Democratic Forum (at UNHCR)
- 17.00 Meeting with representatives of displaced persons from Drvar, Bosansko Grahovo and Glamoč - Bosnian Croat administered Canton 10 (at UNHCR)
- 19.00 Working dinner with UNHCR Banja Luka and OHR Banja Luka staff and informal briefing

Wednesday 4 November 1998

- 08:00 Departure for Knin
- 12:00 Arrival at UNHCR Knin, briefing by the Head of Office and staff
- 13:00 Working lunch with the Deputy Mayor of Knin and ODPR (Ms. Nada Galiot)
- 15:30 Meeting with OSCE, ECMM, ICRC, IOM and other relevant agencies
- 17:00 Visit returnee families in Knin town

Thursday 5 November 1998

- 08:00 Departure for Zagreb via Gospić
 - Visit Serb returnees in Udbina and Korenica and Bosnian settlers in Gračac.
- 14:00 Meeting with the Prefect (Župan) of Gospić county (Mr. Ante Frković), the Mayors of Korenica (Mr. Mile Cancar), Donji Lapac (Mr. Milan Ledenko) and Udbina (Mr. Ivan Pešut), and ODPR (Ms. Jasminka Grbac)
- 15:00 Departure for Zagreb

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18:00 Meeting with the Deputy President of the National Committee for Establishing of Trust, Mr. Josko Morić, and the President of the Commission for Imprisoned and Missing Persons of the Government of the Republic of Croatia, Colonel Ivan Grujić

Friday 6 November 1998

- 08.00 Meeting with Mr. Jovan Vejnović, Secretary General, Serbian National Council, and Dr Slobodan Uzelac, President, Serb Cultural Organisation "Prosvjeta"
- 09.00 Meeting with Ms. Zdravka Bušić, Croatian Parliament
- 10.00 Meeting with Mr. Jure Radić, Minister for Reconstruction
- 11.00 Meeting with Mr. Andrej Plenković, Head of Department for European Integration, Ministry for Foreign Affairs
- 12.00 Debriefing with UNHCR
- 14.00 Departure from Zagreb

Reporting committee : Committee on Migration, Refugees and Demography.

Budgetary implications for the Assembly : none.

Reference to committee: Doc. 7818 and Reference No 2185 of 28 May 1997.

Draft recommendation unanimously adopted by the committee on 26 February 1999.

Members of the committee: Mr *Díaz de Mera* (Chairman), Mr *Iwiński*, (Vice-Chairman), Mrs *Aguiar*, MM. Akselsen, Amoruso (Alternate: *Olivo*), Árnason, Mrs Arnold, MM. Atkinson (Alternate: *Hancock*), Aushev, Beaufays, Mrs Björnemalm, MM. Bogomolov, *Brancati*, Branger, Mrs *Brasseur*, Mrs *Bušić*, MM. Chiliman, *Christodoulides*, *Chyzh*, Cilevics, Clcrfayt, *Connor*, Debarge, *Dinçer*, Mrs Dumont, Mr Einarsson, Mrs Fehr, MM. Filimonov, Ghilechi, Gyürk, Jakic, *Lord Judd*, Mrs Karimi (Alternate: *Jurgens*), Mrs *Karlsson*, MM. Koulouris (Alternate: *Korakas*, Vice-Chairman), *Kozłowski*, Kuk, Laakso, Mrs Langthaler, MM. *Lauricella*, *Liapis*, Luís, Mrs Markovska, MM. Mateju, Melo, Minkov, Mularoni, Mutman, *Ouzky*, Pullicino Orlando, Rakhansky (Alternate: *Strizhko*), Mrs *Rastauskienė*, Mrs Roth, MM. von Schmude, Sincai (Alternate: *Paslaru*), *Tabajdi*, Tahir, Mrs Terpstra, MM. Thönnies, *Tkác*, Mrs Vermot-Mangold (Alternate: *Gross*), Mr Wray (Alternate: *Lord Ponsonby*).

N.B. *The names of those members present at the meeting are printed in italics.*

Secretaries of the committee: Mr Newman, Mrs Nachilo, Mr Adelsbach.

