

PC.FR/19/03
7 July 2003
RESTRICTED
ENGLISH only



Organization for Security and Co-operation in Europe

Mission to Croatia

Headquarters

STATUS REPORT NO. 12

03 July 2003

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EXECUTIVE SUMMARY

During the reporting period from November 2002 to July 2003, the Croatian Government's efforts within most parts of the Mission's mandate were characterized by increasing determination in comparison to previous reporting periods. While this report again highlights long-standing Mission concerns in core areas, there are enough preliminary indicators to suggest that this reporting period could be a turning point with regard to the Government's stated commitment to address the issues within the Mission's mandate.

Government efforts in this regard are being shaped by two interconnected processes: Croatia's determined bid to become a member of the European Union (EU) by 2007 and preparations for the next parliamentary elections expected by the end of 2003. The Government submitted an EU membership application in February 2003 and the EU Council of Ministers has already requested the European Commission (EC) to assess Croatia's bid. The EC may thus be in a position to inform the EU Council of Ministers of Croatia's fulfilment of political membership criteria as early as spring 2004. Parliamentary elections are now expected in November 2003, owing in large part to the anticipated timing of the decisions related to EU candidacy and the need for a stable Government for the next four years.

There has been progress in the *legislative and administrative framework for return*, but implementation of many decisions remains laggard, due in part to the absence of a suitable working body for Government and international community interaction.

There has not been any significant increase in the pace of return of *occupied private property* after the adoption of legislative changes in August 2002. In April the Government adopted a decision on compensation to owners of occupied housing who still cannot repossess their homes, but the payment of such compensation had not yet started by the beginning of July. Problems remain with regard to multiple or illegally occupied properties, including cross-border cases in Bosnia and Herzegovina. Other problems relate to the lack of enforcement of eviction orders and looting of properties prior to the departure of temporary occupants.

Government efforts at *property reconstruction* are advancing well and reconstruction assistance is becoming widely available to minority beneficiaries. The Mission and its international partners have encouraged the Government to complete the remaining 26,000 reconstruction applications by the end of 2003, the bulk of which are from Serbs.

The Government's acknowledgement in early 2003 that a remedy should be found for returnees who previously lived in apartments with *occupancy/tenancy rights* was a significant positive development. The Government took a decision in June on housing for such individuals outside the Areas of Special State Concern, which complements a similar decision in 2002 for the Areas of Special State Concern. Implementation of both programmes has yet to start. The Government intends to complete the latest programme by the end of 2006. The legal and human rights issues related to the judicial termination of occupancy/tenancy rights is expected to be addressed by the European Court of Human Rights in a ruling in the near future.

Croatia's *minority rights regime* was significantly strengthened in December with the adoption of the Constitutional Law on the Rights of National Minorities (CLNM). The CLNM guarantees minority representation at all levels of elected government as well as in

the judiciary and state administration. Implementation of the CLNM requires *inter alia* the holding of elections for minority representation in local and regional government and for new councils on national minorities at the local, regional and national level as well as efforts to increase minority representation in state administration and the judiciary. This has only been done partially. Further efforts are needed to implement minority rights in education while maintaining an education system that fosters integration rather than segregation. The Government finalized a Draft National Strategy for Roma with the support of the Roma community.

On reform of *the judiciary and the administration of justice*, the Ministry of Justice has set an ambitious, but potentially unrealistic five-year reform plan. The appointment of judges is the most visible indicator of progress in judicial reform. The lack of execution of court decisions presents a serious problem for the administration of justice and contributes to the judicial backlog. The Constitutional Court is more frequently exercising its authority to sanction excessive length of civil proceedings in the lower courts but experiences significant delays in issuing its own decisions. On reform of the state administration, the *Ombudsman institution* requires strengthening as an important domestic human rights institution. Recommendations include a proposal to review the current Law on the Ombudsman in order to strengthen its human rights mandate as well as measures to ensure better co-operation with bodies of public administration.

The necessity of full *co-operation with the ICTY* has been more clearly acknowledged by the Government. The ICTY Chief Prosecutor visited Croatia in mid-April and expressed concern with the failure to arrest retired General Ante Gotovina who still remains at large. Technical co-operation has improved but some requests for documents from the ICTY to the Government remain unfulfilled. A Bosnian Croat indicted by the ICTY in 1995 and arrested by Croatian police was transferred to the ICTY in late June. With regard to *domestic war crimes prosecutions*, state attorneys continue to review old pending war crimes cases but trials remain highly politicized in some areas.

Freedom of the media and reform of media-related legislation was advanced in February with the adoption of the new Law on Croatian Radio-Television (HRT). Only the procedure for the appointment of the HRT's regulatory body was noted as being potentially problematic. The Ministry of Culture is working closely with the Mission, the Council of Europe (CoE) and the EC on Laws on Electronic Media, Telecommunications, and Media. Croatian Television (HTV) remains the dominant source of information for most Croats. It has generally freed itself of political bias but pays little attention to issues such as refugee return and minority rights. Political pressure from local government officials is still witnessed as a result of the lack of transparency in local media ownership. Biased local reporting on issues related to refugee return adversely affects reconciliation in some areas.

Progress on *police reform and training* is being witnessed through the implementation of a comprehensive community policing programme and new programmes at the Police Academy. Minority representation in the police force needs to be enhanced to ensure compliance with the CLNM.

Regarding *civil society and NGO development*, most NGOs face significant financial challenges and weak structural support. The Government has initiated a support framework to NGOs in order to realize more targeted projects and their implementation throughout the

entire country. The Government is planning efforts designed to enhance understanding and support for NGOs among local authorities.

RETURN, REINTEGRATION AND RESTITUTION OF PROPERTY

Overview

There has been progress on important parts of the administrative framework for refugee return as a result of Government action since November 2002. Measures designed to increase the pace of property repossession are currently underway, and more Serbs now receive reconstruction assistance than before. Notable action taken by the Government in June to initiate a system of housing care for former holders of occupancy/tenancy rights who wish to return to Croatia is an important step in resolving a significant barrier to return. Likewise, the Government's decision on 4 June to temporarily suspend the visa regime with Serbia and Montenegro until the end of 2003 is another important development which should support refugee return and reconciliation.

Yet the return of refugees and displaced persons of Serb ethnicity is now taking place at a slower pace than in previous years. During the first six months of 2002, 6,026 minority returnees were registered, while during the first five months of 2003 the number was only 3,070.¹ Further, current research suggests that while most Croat returnees have re-established themselves, only about two thirds of present minority refugee return can be considered 'sustainable'.² Minority Serb returnees and displaced persons cite housing problems and the lack of employment possibilities along with legal, administrative and psychological obstacles as hindrances to their return and reintegration into Croatian society.

The housing problems experienced by minority returnees and potential returnees are largely a consequence of the need to reconstruct up to 20,000 houses for Serb applicants, the slow process of private property repossession, and the absence, until recently, of any solutions to the issue of terminated occupancy/tenancy rights. While the Prime Minister's call in June for all refugees to return to Croatia was a notable step forward, this needs to be followed up by a more concerted demonstration of political will and action in order to overcome the discriminatory legacy of the pre-2000 Government and to establish a more positive atmosphere conducive to the return of refugees and displaced persons among receiving communities.³

By contrast, the return of the Croat majority to their pre-war domiciles is essentially completed. Remaining internally displaced persons of Croat ethnicity refer almost exclusively to the state of the economy and the lack of employment possibilities as their reasons for not returning to their former homes. The number of Bosnian Croats returning to Bosnia and Herzegovina continues to be low; most have secured Croatian citizenship and are expected to remain in Croatia.

Work on the legal framework for refugee return and protection of acquired rights has been hampered since early 2003 because of the lack of an appropriate working-level forum for Government and international community interaction. The activities of the joint Working Group on Legislation were suspended in January 2003 pending a renewed Government commitment to the body. The Working Group was established in June 2001 by the Government and the international community in order to develop a comprehensive legal framework related to sustainable return and reintegration of refugees and displaced persons.

After more than 25 meetings since that time, the Working Group presented two *Joint Recommendations* to the Government for possible administrative and legislative action.⁴ There was little progress in other areas, and on one important agenda item (i.e., the Parliament's suspension of court proceedings seeking state compensation for property and personal injury damage related to terrorist acts and the actions of Croatian police and armed forces during and after the armed conflict), the Government adopted three draft laws in January 2003 for parliamentary procedure without prior discussion in the Working Group.

Property Repossession

The pace of return of occupied private property allocated by the Government for accommodation to temporary users has not changed significantly since August 2002, when the Government took over direct responsibility for returning property through the Law on Amendments to the 1996 Law on Areas of Special State Concern (hereafter: *Amendments*).⁵ An average of about 200–300 cases of repossession of occupied property is currently reported on a monthly basis.⁶ While 2,559 occupied residential properties allocated under the 1995 Law on Temporary Take-Over and Administration of Specified Property have been repossessed since the Government took over this responsibility in 2002, 5,496 are still occupied.⁷

On 17 April the Government adopted a key decision on compensation to owners of occupied housing. More specifically, the decision pertains to the procedure and amount of compensation to be paid to owners whose property was allocated by the Government for the accommodation of others under the 1995 Law on Temporary Take-Over and Administration of Specified Property but not returned within the deadlines specified by the *Amendments* (30 October and 31 December 2002, respectively). This compensation is required not only by law, but also by the Croatian Constitution which states that private property cannot be taken by the State without compensation. The compensation for state use only covers the period prospectively from 1 November; it does not include compensation for use prior to that time.⁸ The Government had not started paying compensation by the end of June.⁹ An unknown number of properties not allocated under the 1995 Law remain excluded from this programme.¹⁰

The main reasons for the continuing slow pace of property return are legal provisions that favour the position of occupants over the legal rights of owners; slow and incomplete implementation of relevant procedures by both administrative and judicial bodies; and the lack of action by authorities to enforce eviction rulings.¹¹ For these reasons, it seems certain that the Government will not be able to meet its stated objectives for the *physical* return of property by the end of 2003.¹²

Problems also remain concerning the return of houses that fall under the rubric of *multiple* or *illegally occupied properties*. The Mission has for a number of years regarded most of these cases as being easily and immediately solvable; occupants either received the State's permission to occupy these properties, or they have access to or own other habitable properties themselves. The immediate resolution of these cases would not include any financial burden to the State since most of the occupants are not entitled to state housing. The Ministry for Public Works, Reconstruction and Construction has forwarded 325 cases of multiple/illegal occupancy to State Attorney Offices.¹³ The Mission is aware of only a limited number of lawsuits initiated by the State Attorney against such occupants.

Likewise, cross-border multiple occupancy cases require further action. The legal basis for Government action in these cases was established through the *Amendments*. The Housing Verification Monitoring Unit (HVM), an NGO operating under the framework of the Office of the High Representative (OHR), has to date forwarded to the Ministry for Public Works, Reconstruction and Construction a total of 480 cases of Bosnian Croat families, who either repossessed or had their original properties in Bosnia and Herzegovina reconstructed, and are deemed double occupants in Croatia. The Ministry claims that, by end of May, it had found 116 of these families still occupying properties in Croatia.¹⁴ Although the information has been officially confirmed by the Federal Ministry for Human Rights and Refugees in Bosnia and Herzegovina in many cases, the Mission is aware of only seven cases in which the Croatian Ministry has taken administrative action to facilitate the return of the occupied property to its owners.

The authority of the State Attorney to facilitate the return of occupied property is subject to two key limitations that derive from the text of the Law on Areas of Special State Concern. First, because the Law explicitly limits the geographic scope of its application, State Attorneys can only initiate legal action for repossession within the territory of the Areas of Special State Concern (Areas), that is, almost exclusively those areas that were directly under the control of Serb forces during the armed conflict.¹⁵ This means that this repossession mechanism is not equally available to all owners whose property was occupied in conjunction with the armed conflict. Those with occupied property outside the Areas, particularly in urban areas such as Sisak, Karlovac and Zadar, will have only the option to initiate a private lawsuit for repossession.

Second, the Law on Areas of Special State Concern provides that the Ministry for Public Works, Reconstruction and Construction will only forward a case to the State Attorney under certain circumstances: when an occupant receives reconstruction assistance for his/her property (multiple occupant); when no legal ground for using others' property exists (illegal occupant); when an occupant repossesses his/her property in Bosnia and Herzegovina; when an occupant receives reconstruction assistance in Bosnia and Herzegovina (cross-border double occupant) or other parts of the former Socialist Federal Republic of Yugoslavia; or after an occupant is provided alternative housing and thereafter fails to vacate the property. Until such conditions are met, State Attorneys do not have the authority to return the property to the owner. The Mission's court monitoring has also demonstrated that the State Attorney assumes a rather passive role when it enters an owner's lawsuit for repossession as a second plaintiff and has virtually no impact on the positive resolution of these cases.

In court proceedings for repossession under the *Amendments*, courts apply the *Amendments* as *lex specialis* to the Law on Ownership, requiring that housing be provided to the occupant *prior* to granting repossession. Orders for eviction are contingent upon action being taken by a non-party to the lawsuit, i.e., the Ministry for Public Works, Reconstruction and Construction, to ensure housing for the occupant. Because of the uncertain timing of such action and the lack of enforcement possibilities, such orders are arguably inconsistent with fair trial guarantees. During a meeting in December 2002 of Supreme Court and County Court judges to discuss the *Amendments*, the general consensus among the judges was that orders to vacate contingent on the actions of parties not involved in the lawsuit are nonetheless acceptable.

Many properties are looted by temporary occupants prior to their departure. As a result, owners are often unable to move into their homes for several months following successful

repossession. Looting includes removal of integral parts of houses such as windows and plumbing. The *Amendments* do not hold occupants criminally responsible for such acts. In most cases owners are discouraged from entering into long and expensive civil disputes or fail to secure enough evidence for conviction. The Mission is not aware of any case where the State Attorney, although authorized to do so, has initiated lawsuits for damages. The police state they are powerless to stop such vandalism even though they have authority under general policing powers to prevent such activities.

The Mission has recommended to the Ministry of Justice and Members of Parliament that the current legal gap be filled by amending the Criminal Code to include a specific *ex officio* enforceable offence of looting tailored for the specific circumstances of occupied property.

Property Reconstruction

The Ministry for Public Works, Reconstruction and Construction plans to reconstruct about 8,000 houses in the course of 2003 at a cost of about €150 million. Although it is not possible to assess the exact number of Serb beneficiaries, such assistance is now becoming widely available to minority beneficiaries since most Croat beneficiaries have already received assistance. Positive decisions in favour of minority returnees are being routinely passed by the County Offices for State Administration. The Delegation of the EC, the UNHCR and the Mission have encouraged the Government to significantly accelerate its rate of processing applications (presently at 15,000 per year) and to complete the remaining 26,000 applications by the end of 2003 (the bulk of applicants being Serbs).¹⁶ Some County Offices in Western Slavonia confirm that they will process outstanding cases before the end of 2003.

The Ministry for Public Works, Reconstruction and Construction has started to take action on the full implementation of the June 2000 Amendments to the Law on Reconstruction regarding residential property destroyed by *terrorist acts* (as opposed to regular combat activities). The competent county offices granted 52 positive decisions out of 95 submitted, and most may be included in the 2003 reconstruction programme. The Mission continues to monitor decisions on the eligibility for state reconstruction assistance in cases involving *terrorist acts* which, contrary to the June 2000 Amendments, were rejected between June 2000 and spring 2002.

Occupancy/Tenancy Rights

The lack of redress for terminated occupancy/tenancy rights of Serb refugees and displaced persons who previously lived in socially owned apartments in Croatia has for some time been one of the central unresolved issues that impeded return. The issue of terminated occupancy/tenancy rights is particularly relevant in urban centres outside the Areas of Special State Concern, which remained under Government control during the armed conflict. According to data received from the Ministry of Justice, 23,700 families lost their occupancy/tenancy rights during and after the armed conflict through court rulings in areas that were under Government control. The Mission has sought external legal expertise in this area together with the Council of Europe in order to have a basis for further discussion with the Government on this issue.

The Government has initiated steps aimed at facilitating the return of former occupancy/tenancy rights holders and has exchanged views with the Mission and other international partners on the design and implementation of a programme. Two different decisions have been taken on addressing the issue of terminated occupancy/tenancy rights inside and outside the Areas of Special State Concern, respectively.

Through amendments to existing legislation in July 2000 and July 2002, the Government decided to permit former occupancy/tenancy rights holders and all those from the Areas of Special State Concern who have no property to apply for housing. However, this programme has not yet demonstrated any practical results, mainly due to the fact that such individuals are given the lowest priority in relation to other potential beneficiaries.¹⁷ The Mission and its international partners have recommended to the Government that these returnees be given higher priority. In response to a recommendation by the Mission, the Delegation of the EC and the UNHCR, the Minister for Public Works, Reconstruction and Construction has indicated that a special budget item will be incorporated into the 2004 budget to support the provision of housing to former occupancy/tenancy rights holders inside these areas. The Ministry also plans to use available budget means for this purpose beginning in September. These intentions have not yet been publicly announced.

On 12 June, the Government adopted a solution designed to address the housing problems faced by former occupancy/tenancy rights holders outside the Areas of Special State Concern (Areas). While a final assessment of the programme will be based on its implementation, the Mission welcomed the Government's decision as an important step towards ensuring the sustainable return of Serb refugees. The decision foresees that state housing in the form of new apartments purchased by the Government shall be made available to individuals who resided outside the Areas and now wish to return. Eligible applicants will be entitled to lease apartments under favourable conditions that have heretofore only been offered to persons who formerly resided inside the Areas. Applicants may also opt to purchase these apartments under the Programme of Social Subsidized Housing (POS) already available to all Croatian citizens who can afford it. In contrast, those inside the Areas can purchase apartments under more favourable conditions.

The Mission, the Delegation of the EC and the UNHCR recommended several adjustments and modifications in order to ensure that the latest proposal for former holders of occupancy/tenancy rights is effective, transparent and fair. The decision ultimately adopted by the Government reflects some of these suggestions, including publication of the decision (which, however, does not have the force of law), and a prolongation of the application deadline until 31 December 2004 (as opposed to 31 December 2003). The Government has also undertaken to conduct a public information campaign, particularly targeting Serb refugees in Bosnia and Herzegovina and Serbia and Montenegro. The conclusion did not include other recommendations such as expanding the eligibility criteria to explicitly include refugees who have already returned to Croatia, internally displaced persons and other persons who were deprived of their occupancy/tenancy right without ever having left the country.

The Government's proposal does not address the underlying legal and human rights issues related to the judicial termination of occupancy/tenancy rights. One case pertaining to the termination of occupancy/tenancy rights was declared admissible on 30 January 2003 by the European Court of Human Rights.

The procedures proposed for the country as a whole are in contrast to the treatment of former occupancy/tenancy rights holders of Croat ethnicity who fled the Danube Region in Eastern Slavonia. These individuals have the possibility, due to Government action in 1999 and 2003, to repossess their former apartments, and either enter into a lease agreement or subsequently purchase the same apartment.

Finally, judicial termination of occupancy/tenancy rights has occurred not only in the past, but continues in the form of original and reopened proceedings. Execution of final court judgements of termination are continuing, and result in the eviction of occupants who have resided in the properties since the conflict and is thus causing new displacement. Such cases include termination of rights that were reached through application of law contrary to Constitutional Court judgement.

Other Initiatives in Support of Return

The Mission will be actively supporting the return process through a comprehensive *Public Awareness Campaign* with the Government on sustainable return, the planning for which began at the end of 2002. The Government, the Mission and international and domestic partners hope to change the public climate and practical conditions for the return of refugees from Serbia and Montenegro and Bosnia and Herzegovina. Key target audiences are local receiving communities of Croat ethnicity and local government authorities. Some high-level officials including President Stjepan Mesic have agreed to support the campaign.

The three OSCE Missions in Bosnia and Herzegovina, Croatia, and Serbia and Montenegro have completed a *Joint Action Plan* on regional co-operation and return. The plan is an OSCE inter-Mission tool designed to focus activities in support of the seven *Common Principles on Return*¹⁸, which were presented to the three Governments and the OSCE Permanent Council in October/November 2001. These principles were also included in August 2002 in the Stability Pact's Agenda for Regional Action document (AREA II). The plan was drafted with the support of the three UNHCR Missions to ensure *inter alia* that the right to return, the right to property and the protection of ownership rights are upheld and that measures taken in the three countries are mutually consistent.

JUSTICE AND THE RULE OF LAW

Rights of National Minorities

Passage of the Constitutional Law on the Rights of National Minorities (CLNM) on 13 December 2002 by the Parliament represented a significant step towards strengthening Croatia's minority protection regime. The five current minority representatives in the Parliament supported the CLNM, and it was welcomed by the OSCE High Commissioner on National Minorities (HCNM) and the Council of Europe's Venice Commission.

The CLNM guarantees minority representation at all levels of elected government for minorities that reach certain population thresholds, as well as in the judiciary and state administration.¹⁹ Full implementation of the CLNM requires harmonisation of related legislation, i.e., laws pertaining to parliamentary, regional and local elections as well as laws relating to the judiciary and state administration. To date, only legislation related to electoral guarantees has been adopted. Additionally, several legally established deadlines have passed without appropriate executive or legislative action.

Minority representation in state administration does not currently meet the standard set by the CLNM.²⁰ Minorities, particularly Serbs, are underrepresented in the state administration, although in some areas and some offices minorities are represented to an appropriate extent.²¹ The Government has not presented any proposals for implementing this guarantee. Ministry of Justice officials have expressed concerns that implementation will be difficult, suggesting that only a limited number of positions are available for new employment. However, the

number of available positions would suggest that implementation of a prospective plan for increasing minority representation through new hiring would be feasible.²²

The CLNM gives minorities a guarantee of a minimum of 5 and a maximum of 8 parliamentary representatives from special constituencies, which were further specified in April 2003 in the Amendments to the Law on the Election of Representatives to the Croatian Parliament. The number of minorities with a right to parliamentary representation was increased from 10 to 22, i.e., the total number of minorities counted in the 2001 census. Serbs, as the only minority whose total population exceeds 1.5 per cent, were provided the maximum three parliamentary seats allowed for in the CLNM, while the status quo was maintained for the Italians, Hungarians, Czechs and Slovaks.²³ A new seat for five nationalities of the 'former Yugoslavia' was created, and seven other minorities were added to a seat previously shared among five minority groups (i.e., this seat is now shared by 12 minorities).²⁴

The CLNM also guarantees minorities the right to elect representatives to local and regional representative bodies. In those jurisdictions where an insufficient number of minority representatives were elected during the local elections in May 2001, i.e., in 5 counties and 78 municipalities and towns, the CLNM provided that appropriate representation levels were to be obtained by 23 March 2003. Minority representatives were to be added on the basis of party results from May 2001 or, if the required number was still not achieved, through a by-election. The CLNM retroactively eliminated the previously ignored deadline (15 September 2002) in the Law on the Election of Members of Representative Bodies of Local and Regional Self-Government Units (Law on Local Elections) to address the underrepresentation.

Amendments adopted on 11 March 2003 to the Law on Local Elections obligated local and regional self-government units to adjust their statutes no later than 21 April 2003 to accurately reflect the exact number of minority representative seats (and Croat seats in places where Croats constitute a numerical minority). Most, but not all, local jurisdictions required to adjust their statutes did so by the deadline or shortly thereafter and have seated additional minority representatives based on election results from May 2001.

However, underrepresentation of national minorities continues in one county and 18 municipalities and towns, more than two years after the local elections in May 2001. The Government argued that delay in adopting the CLNM was a substantial cause for missing the 15 September 2002 deadline and that the delay in amending the Law on Local Elections was a cause for the lack of compliance by most local authorities with the 23 March 2003 deadline. The Government acknowledges the missed deadlines and argues that the ongoing delays are still justified to ensure careful implementation of the CLNM. On 4 June, the Government adopted a conclusion stating that by-elections to remedy minority under-representation in local and regional governments would be held at the same time as the next regularly scheduled parliamentary election, to take place by April 2004 at the latest.

The CLNM also provides for the first-time establishment of a national-level Council on National Minorities (*Council*) as well as local and regional councils on national minorities for each minority group that reaches certain population thresholds.²⁵ The councils have only a consultative status but permit minorities to formally provide government bodies with advice and input on all issues related to the protection of minority rights. The Government in late March appointed 10 of the 17 members of the national-level *Council* (five members from

public nominations and the five minority representatives in the Parliament which are also members in accordance with the CLNM). The national-level *Council* held its first constitutive meeting in mid-April, but the remaining seven *Council* members must still be nominated by the local and regional councils.

The Government called the election for the new local and regional councils on national minorities for 18 May 2003. The turnout was low (13 per cent). Those minority groups that participated in the election were only able to nominate full or partial lists of candidates for less than half of the councils and individual representatives that they could choose to elect.²⁶ Minority groups criticized the Government for allowing only the minimum legal period for election preparations and some refrained from participation on this ground. The Government argues that minorities were given sufficient time to prepare since the CLNM was adopted in December 2002 and that minorities had been aware since that time that these elections would be called.

The Government's conclusion of 4 June determined that additional elections for the remaining councils on national minorities and individual representatives that were not elected on 18 May, or for additional members where the total number of representatives was not met, will be conducted at the same time as the next parliamentary election. A Government decision published in mid-June mandates municipal and city mayors and county prefects to convene the constituting sessions of the elected minority councils no later than 11 July in those local and regional self-government units where councils were elected.²⁷

The Mission financed the activities of the leading election-support NGO in Croatia (*GONG*) in its campaign to promote the elections through the distribution of information leaflets and promotional activities on television and radio. The Mission has also encouraged the Government to provide more support to minority associations in order to ensure minority voter awareness on the utility of the councils.

The Government and the Council of Europe co-sponsored a round table in mid-March to discuss the first proposal of the Draft National Strategy for Roma, a result of three years of consultations between Roma representatives, officials and experts under the auspices of the Stability Pact for South-eastern Europe. The Draft National Strategy received unanimous endorsement from Roma NGOs and covers key areas where Roma face obstacles to full integration into Croatian society, such as education, employment and social programmes. It proposes specific measures by which these problems should be remedied, including legislative reform and concrete actions to be undertaken by relevant state bodies. The Government will establish a Committee for Monitoring the Implementation of the National Strategy for Roma. The Draft National Strategy should be adopted by the Parliament by the end of 2003.

The moratorium on teaching the history of the former Yugoslavia for the period 1989 to 1995 that was introduced in 1997 in the Danube Region will end with the beginning of the academic year 2003-2004. As discussed by experts at a recent conference sponsored by the Ministry of Education and Sport, contemporary history education requires the development of new textbooks that include appropriate and positive representation of national minorities. Such curriculum reform should also include appropriate and positive representation of women's issues and gender equality. The requests of the Serb minority in the Danube Region to establish separate schools in which education is provided in the Serb language and Cyrillic script have not yet been answered by local authorities. Asked by the Government to be

engaged in this issue, the Mission will seek to continue to facilitate discussions with the Serb minority in order to ensure that this exercise of minority rights does not result in exclusion or isolation of the minority.

Judiciary and the Administration of Justice

The state of the judiciary and the administration of justice as they relate to the Mission's mandate to support the solidification of the rule of law and the sustainable return of refugees and displaced persons continues to be a concern. The Ombudsman noted in his 2002 Annual Report that he continues to receive a significant number of complaints regarding court procedures.²⁸ While noting that his limited jurisdiction did not permit review of the judiciary, he nonetheless concluded that "the lack of efficiency on the part of the judiciary as a whole potentially represents the biggest source of human rights violations in Croatia."

The Mission acknowledges that institutional reform such as that required in the judiciary is a long-term process, and not subject to 'quick fixes' within a given reporting cycle. However, the Government, while claiming on the one hand that judicial reform requires evolutionary rather than revolutionary development, has set for itself an ambitious, potentially unrealistic five-year plan for judicial reform to coincide with its EU aspirations, against which its activities in this area are measured.

The Mission shares the assessment of the EC that the judiciary suffers from "... serious organizational problems, inefficient procedures, [and] a lack of expertise and long delays in the conclusion of cases."²⁹ The Mission also observes that the Government's judicial reform plan adopted in November 2002 does not articulate the full range of measures necessary to address judicial deficiencies. During the reporting period, the Government has implemented some provisions of the judicial reform plan, including the adoption of a number of legislative reform measures that have been forwarded to the Parliament. These include the Amendments to the Criminal Law, Amendments to the Law on Civil Procedure and a new Law on Execution.³⁰ However, with the exception of Amendments to the Law on Court Fees, the Parliament had not adopted any of the proposals by late June.

The most visible indicator of the implementation of the judicial reform plan continues to be the appointment of judges. Of the 330 judges to be added to reach the total target of 2,200, two thirds of the positions been filled to date. Since November 2002, the Ministry of Justice has announced 91 judicial vacancies and the State Judicial Council has appointed 100 judges. It is still too soon for these appointments and the 110 additional appointments since November 2001 to have translated into observable improvements in addressing delays and lack of execution of final verdicts.

Despite hundreds of appointments, some localities still have no permanent judge assigned to the municipal court and are served on a part-time basis by judges from other courts. Judicial vacancies have remained unfilled in some instances in which Serbs were the only candidates considered by the State Judicial Council.³¹ The Parliament's Committee on the Judiciary has questioned the criteria and methodology applied in the judicial selection process and has announced its intention to propose legislative changes in order to ensure a standardized screening procedure.³²

Similarly, the State Attorneys' Council has appointed 90 new Deputy State Attorneys since its establishment in November 2001. The President of Council informed the Mission that with

the exception of Zagreb, the number of applications for vacant posts nation-wide was insufficient.

The CLNM mandates representation of national minorities in the judiciary.³³ Government information as of October 2002 indicates that more than 94 per cent of all judicial personnel are Croats, while less than six per cent are national minorities, of which 2.6 per cent are Serbs (compared with 4.5 per cent of the total population) and 3.0 per cent are others (compared to 2.9 per cent of the total population).³⁴

To date, the Government, the Parliament, and the State Judicial Council have not proposed measures intended to implement the CLNM provision on minority representation in the judiciary. The State Judicial Council has indicated that it could not use set criteria to give priority to certain categories of candidates in the judicial selection process. The State Attorneys' Council has advised that it has not yet considered possibilities to remedy minority under-representation. The Ministry of Justice also indicated that it was not likely to consider including an express encouragement of minority applicants in its judicial vacancy announcements.

The Government's plan for judicial reform also highlights the need for judicial education. In tandem with training of the current judiciary, fundamental reform of the law faculty curriculum is also required so that a new generation of professionals will be appropriately prepared for the new legal environment they will face.

Substantial delays continue to characterize both civil and criminal proceedings. However, some efforts by the State Judicial Council were undertaken to address this matter through disciplinary proceedings. For example, the Council has suspended at least one judge in Karlovac in central Croatia for failure to issue nearly 30 written decisions within a reasonable time. Disciplinary measures short of suspension have also been taken for similar reasons against judges in Split and Korcula in southern Croatia.

The Constitutional Court has increasingly exercised its authority to sanction excessive length of proceedings in the lower courts in civil cases.³⁵ To date, it has in approximately 20 cases both ordered the lower courts to issue decisions within a fixed time as well as awarded damages to the complaining party.³⁶ The magnitude of delays throughout the judiciary is demonstrated by the increasing number of such complaints received by the Constitutional Court.³⁷ This growing load of cases increasingly threatens the Court's ability to manage its own docket and to serve as an effective domestic remedy for human rights violations.

The Constitutional Court experiences increasingly significant delays in issuing its own decisions, despite a general rule that it should decide cases within one year. In 2002, the Court decided 2,000 cases and carried forward into 2003 nearly 4,000 cases, a backlog of two years, to which more than 1,400 have been added since the beginning of 2003.³⁸ The Court has, however, recently decided that it cannot review the constitutionality of delays in its own proceedings, confirming that only the ECHR can supervise that question.³⁹

Delays by the Constitutional Court have resulted in pending cases being dismissed as moot due to intervening action by the Parliament, thereby casting doubt on the Court's effectiveness as a remedy and its role as the supreme adjudicator of constitutional principles.⁴⁰ Other cases, some pending more than five years that challenge laws and decrees alleged to infringe on the human rights of minorities and refugees, remain undecided.⁴¹

Moreover, the failure of the Government, the State Attorney, the Supreme Court and other courts to adhere to the Constitutional Court's judgements not only adds to the general backlog but also presents a fundamental challenge to that Court's constitutional role and the rule of law. For example, in late 2002, the Constitutional Court was required to issue repeat determinations on questions decided more than five years earlier.⁴² Despite the Court's decision in November 2000 finding that the Administrative Court fails to provide constitutionally sufficient fair trial guarantees, no reform measures have been initiated or adopted.⁴³

In February, the Minister of Justice commented on the significant role of the Government as a litigant in contributing to the backlog of 100,000 new cases out of a total backlog of 1.3 to 1.5 million.⁴⁴ The Minister cited 57,000 cases that were in court due to the State's failure to pay its debts or make a settlement. In an effort to rectify this situation, the Government's proposal for Amendments to the Law on Civil Procedure currently pending before the Parliament includes a provision that would explicitly require that, in proceedings involving the State, an out-of-court settlement be attempted.

The lack of execution of court decisions continues to present a serious problem for the administration of justice and constitutes a significant percentage of the overall judicial backlog. As of the end of 2002, there were more than 312,000 unexecuted final civil verdicts, a doubling in the two-year period since the end of 2000. Revision of the Law on Execution is part of the legislative reform contemplated by the Government's judicial reform plan. A draft proposal was discussed by the Government in mid-May 2003. The Constitutional Court has held that it lacks jurisdiction to review complaints challenging lower court failure to execute a final verdict. In early April, the ECHR agreed to review *Cvijetic v. Croatia* that *inter alia* poses the question whether the failure over seven years of a municipal court to execute a final verdict of eviction violates the right to fair trial.

The Parliament has not yet responded to the March 2002 judgement of the European Court of Human Rights (ECHR) in *Kutic v. Croatia*. The decision established that the Parliament's 1996 suspension of court proceedings for compensation of damages resulting from terrorist acts under Article 180 of the Law on Obligations violated the right of access to court.⁴⁵ In the absence of required legislative action, the ECHR has accepted 16 additional cases presenting the same issue for review.⁴⁶ In late June, the Government forwarded a final proposal related to Article 180 to the Parliament. While the final proposal eliminates some features previously criticized by the Mission and its international partners, it retains others. Most notably, by limiting damage claims to personal injury, the proposal would retroactively eliminate claims for property destruction that have been pending in the courts for years, including some in which judgements had been awarded, while failing to provide any meaningful alternative remedy.⁴⁷ The ECHR has asked some applicants to comment on how the proposed legislation would affect their case. As of the beginning of July, the final proposal is under discussion in the Parliament at second reading.

State Administration and the Ombudsman

The Ombudsman provides a central mechanism through which individual or systemic problems within the state administration can be addressed. Against the background of a weak resource base for this institution in combination with frictions with the Government, the Mission has supported several initiatives to strengthen the institution and highlight its role.

The 2002 Annual Report of the Ombudsman was discussed by the Parliament in late June. The Ombudsman observed that the most common complaints during 2002 involved pensions, disability and social welfare as well as real property. The Ombudsman observed that administrative proceedings, including disputes before the Administrative Court, frequently take an unreasonable amount of time to reach a final decision. Delays often resulted from the failure of the administrative body to meet legal deadlines as well as "endless and reasonless procrastination in the administrative procedure..." The Ombudsman did note, however, substantial improvement in the responsiveness of administrative bodies to inquiries submitted by the Ombudsman.

The Ombudsman also issued recommendations for organizational restructuring as well as training and discipline of administrative personnel. The recommendations include *inter alia* a review of the organization structure of the state administration system in order to eliminate overlapping jurisdictions and non-administrative tasks; de-centralization of administrative tasks to local and regional bodies; regular training for civil servants in the administration; and an evaluation of the work of administrative decision-makers with an eye toward disciplinary procedures for those whose decisions are systematically reversed for error by the Administrative Court.

The Mission has obtained funding to facilitate systematic visits for the first time by the Ombudsman to regional centres with the purpose of increasing the ability of citizens who cannot readily travel to Zagreb to register their complaints. It has also facilitated together with the ODIHR an external analysis of the Ombudsman institution that provided recommendations on strengthening this important 'watchdog' institution. Recommendations contained in the external analysis were addressed to the Government as well as the Ombudsman and include a review of the current Law on Ombudsman with a view to strengthening the human rights mandate of the Ombudsman; measures to ensure better co-operation with the Ombudsman by bodies of public administration; and increased financial and logistical support aimed at capacity-building, including improved premises allowing easier access for complainants and the establishment of regional offices.

Domestic War Crimes Issues

Domestic prosecutions of war crimes continue to be highly politicized in many areas and highlight institutional weaknesses. A steady number of cases against Croat defendants for crimes against Serb victims are now being pursued, but the majority of prosecutions continue to be sought against Serb defendants for crimes against Croat victims. These cases represent different types of challenges, but both pose the same question of whether impartial justice can be dispensed regardless of the national origin of the authorities, the defendants and the victims.

Local state prosecutors continue to review pending war crimes cases; out of the initial group of approximately 1,850 cases identified in late 2001 for review, 1,467 cases remain pending, 99 per cent of which involve non-Croat suspects. The completion of this review remains important given that in July 2002 the Chief State Prosecutor stated that "... at the time of the Homeland War and also afterwards, ... prosecutors ... were submitting investigation requests indiscriminately in a number of cases, and based on insufficiently verified criminal charges, they were issuing dubious indictments for war crimes against a significant number of people on the basis of investigations conducted in an inferior manner...."

A number of courts and prosecutors across the country continued to pursue *in absentia* proceedings despite advice by the Chief State Prosecutor to the contrary.⁴⁸ If defendants convicted *in absentia* are subsequently apprehended, re-trials would be necessitated at additional cost to the State.

A review of the ongoing prosecutions demonstrates that responsibility for war crimes continues to be predominantly sought against Serbs. In 2002, there were 34 arrests for domestic war crimes charges (28 Serbs, 6 Croats). Approximately one third of new indictments were group indictments. During 2002, 18 Serbs and 3 Croats were convicted, while 3 Serbs and 14 Croats were acquitted. According to the Chief State Prosecutor's Annual Report, more war crimes allegations (95) were reported in 2002 than in any single year since 1997, 90 per cent of which were raised against Serbs *in absentia*. The greatest number of allegations was raised in Zadar (25) in southern Croatia, followed by Sisak (24) in central Croatia. Prosecutors filed motions for investigation in 95 per cent of the reports, primarily against Serbs *in absentia*. In the first six months of 2003, there have been a total of 17 convictions (13 Serbs, 4 Croats) and three acquittals (2 Serbs, 1 Croat).

The beginning of 2003 was marked by a significant increase in the number of war crimes arrests, specifically of domiciled Serbs including active police officers in the Danube Region. From January until the beginning of July, there were 27 arrests for war crimes, 21 of which involved Serbs. In June, two Croats were arrested for the killing of a Serb civilian in Sisak in central Croatia, while three Croats were arrested in the beginning of July for the killing of another Serb civilian in the same area.

The experiences of war crimes trials against Croat defendants were mixed. The highly publicized 'Gospic Group' case of five former and active members of the Croatian armed services accused of war crimes in 1991 against Serb civilians in the town of Gospic in south-central Croatia concluded in March 2003 with three convictions on the basis of both command and individual responsibility. The Rijeka County Court issued sentences from 10 to 15 years, but as of the beginning of July the written verdict had not yet been issued although the conviction was orally pronounced three months previously. In November 2002, the Split County Court unanimously acquitted all eight Croat defendants accused of torturing Serb prisoners in 1992 in the Lora naval prison near Split. The State Prosecutor's appeal lodged in February remains pending at the Supreme Court as of late June. In June, a trial began against two Croats for the killing of 19 Serb and Hungarian civilians in the village of Paulin Dvor in Eastern Croatia.

There continue to be delays in the Supreme Court's resolution of appeals in war crimes cases. A substantial rate of error in trial court verdicts of conviction is evidenced by a significant rate of reversal by the Supreme Court, including cases where defendants are detained.⁴⁹ The most frequently cited ground for reversal was insufficient fact-finding by the county court to support the conviction.⁵⁰ There are currently 24 war crimes cases on appeal in the Supreme Court.

The Government has forwarded to the Parliament a final proposal for amendments to the Criminal Code, including provisions designed to harmonize the Code with the Statute of the International Criminal Court (ICC). Crimes against humanity will be included as a new offence. While command responsibility as derived from international texts has already served in Croatia as the basis for criminal liability in a number of war crimes cases, the amendments introduce the first explicit domestic legal provision for command responsibility. Furthermore,

the maximum sentence for war crimes against civilians and crimes against humanity will be increased to life sentence.

Co-operation with the ICTY

Over recent months, the Government has issued a number of statements more clearly than previously acknowledging the necessity of full co-operation with the ICTY. The statements will still have to be backed up by institutional co-operation by the domestic judiciary and prosecutorial service. The ICTY Chief Prosecutor visited Croatia at the invitation of the Government in mid-April and noted the end of the case against retired General Janko Bobetko. She expressed concern over the continuing failure to arrest retired General Ante Gotovina, who has remained a fugitive from justice for almost two years. Problems relating to the delivery of documents in response to ICTY requests were also discussed. The Minister of the Interior subsequently announced a reward of €50,000 for information on Gotovina's whereabouts. Despite giving a widely publicized interview seen by many as an effort to negotiate terms for his surrender to the ICTY through the media, Gotovina remained at large by the beginning of July.

Technical co-operation has improved since the most recent visit of the ICTY Chief Prosecutor. However, a number of requests from the ICTY to the Government reportedly remain unfulfilled, particularly those related to documentary evidence and statistical data. The 'Paulin Dvor' case (the trial commenced in eastern Croatia in early June) is significant for the improving modalities of co-operation, including the transfer of physical evidence from the ICTY to domestic authorities.

Upon notification of the death of Bobetko in late April, the ICTY Chief Prosecutor announced in late June that it had closed the proceedings initiated in September 2002.⁵¹ In March 2003 the ICTY Trial Chamber ordered Croatian authorities to serve Bobetko or his lawyer with the indictment; immediately upon service, the arrest order and the order for surrender would be suspended due to the acknowledged poor health of the accused. On 4 April, the Zagreb County Court notified the Minister of Justice that based on a new assessment by medical experts it had ruled that the indictment could not be served on Bobetko or his lawyer, but in contrast to the court's decision, the Government sent the indictment to Bobetko's attorney by registered mail on the same day, i.e., on the eve of the deadline set by the ICTY.⁵²

In early April the Croatian police arrested Ivica Rajic, a Bosnian Croat indicted by the ICTY in 1995 for ordering and failing to prevent an unlawful attack in 1993 against Bosniac civilians in Bosnia and Herzegovina. In early June, the Supreme Court rejected the appeal by Rajic and confirmed the previous lower court ruling ordering his transfer to the ICTY. Rajic was transferred to the ICTY in late June. The Minister of the Interior initiated an investigation aimed at the identification of persons who may have assisted Rajic in avoiding capture during years of hiding in the Split area of southern Croatia.

FREEDOM OF THE MEDIA

Summary

Passage of the new Law on Croatian Radio-Television (HRT) in February 2003 provided the legal basis for the transformation of HRT into a public service broadcaster but its implementation has been delayed. Required changes to other media-related legislation to

which Croatia is committed have begun and are being reviewed by the Mission and its international partners for compliance with international and European standards. The process of privatizing the third Croatian Television (HTV) channel has also begun; the litmus test here will be the level of transparency of the process. Meanwhile, HTV retains its dominant position as the primary source of information in Croatia but continues to neglect post-conflict issues such as refugee return and minority rights. Freedom of expression is largely guaranteed and observed. Possible changes to the Criminal Code as presented by the Government to the Parliament in June could adversely impact investigative journalism by criminalizing libel. The Government has shown interest in the preparation of a new Law on Access to Information.

Media-Related Legislation

Following extensive consultations between the Government, the Mission and the OSCE Representative on Freedom of the Media, the Parliament adopted on 7 February a new Law on Croatian Radio-Television (HRT). With one reservation - i.e., the procedure for the appointment of the HRT's regulatory body, the HRT Broadcasting Council - the Law represents a considerable improvement over the one previously in force.

A final assessment of the new Law on HRT will depend on its implementation. Since neither the broadest representation of Croatian society in the HRT Broadcasting Council nor the requisite safeguards against potential political interference were assured to the extent suggested by OSCE and the Council of Europe (CoE) experts, the Government and the Parliament will have to ensure that the appointment and working modalities of the HRT Broadcasting Council are fully transparent and fair. This is particularly important given long-standing political conflicts and public debate concerning the independence of HRT.

At the beginning of June, the draft Law on Electronic Media was discussed in the first parliamentary reading. The Ministry of Culture is working closely with the Mission and European media experts to review the draft. OSCE experts have held meetings with Government drafters and EC representatives to discuss the draft during which relevant ministries were offered suggestions on aligning it fully with international standards. The CoE has also conducted a review of the draft Law as requested by the EC. Initial reviews have indicated that general international standards of a modern broadcasting law are being met and that several changes proposed by OSCE and CoE experts have been included. The draft should be strengthened to enhance the independence and the powers of the Council for Electronic Media, the regulatory agency for electronic media. In addition, the Council could be given more extensive powers and be allowed to employ its own professional staff which would be responsible for the daily regulatory work of the agency, and the Government could grant the Council the necessary resources to conduct effective monitoring of Croatian television and radio outlets, including the public broadcaster HRT. The Ministry of Culture committed itself to including these recommendations. The Government expects to adopt the law by the end of July.

The Ministries of Culture and European Integration also initially asked the OSCE to conduct a review of a new draft Law on Telecommunications prepared by the Ministry for Maritime Affairs, Transport and Communication. Changes to chapters on the Law on Telecommunications related to broadcasting are necessary to ensure that they are harmonized with the new Law on Electronic Media and meet international standards in accordance with OSCE, CoE and EU recommendations. The CoE is now supporting a joint OSCE/CoE/EC

expert review of the draft, which should be available by mid-July 2003. The Government expects the adoption of the law in July in a fast-track procedure.

On 7 June, the Ministry of Culture presented a new draft Law on Media, intended predominantly to regulate media ownership and print media. A joint OSCE/CoE/EC review will be ready by mid-July. The Government is planning to send this law to the Parliament on 24 July in a fast-track procedure but adoption is not expected before autumn 2003.

As the Croatian Criminal Code still foresees prison sentences for libel, the Senior Advisor to the OSCE Representative on Freedom of the Media met in April with Croatian officials, NGOs and media professionals, advocating the full decriminalization of libel.⁵³ However, the Parliament looked set in June to adopt changes to the Criminal Code which, instead of decriminalizing libel, expand the type of acts that can be punished as libel under criminal law. The OSCE Representative on Freedom of the Media sent a letter to the Minister of Foreign Affairs indicating that the changes would make the work of journalists harder and added that in a democratic society libellous statements should not be considered as criminal acts.

A coalition of Croatian NGOs, with the support of the CoE, has presented to the Government the text of a draft Law on Access to Information, which is still lacking in Croatia. Representatives of the Ministries of Justice, Culture, and European Integration supported the draft law at a public debate in May, which was co-sponsored by the Mission, but gave no firm dates as to when it may be adopted.

Reform of Croatian Radio-Television (HRT)

The implementation of the Law on HRT is held back by delays in the Parliament over the formation of the new Broadcasting Council. According to the Law, the Parliamentary Committee on Media had to harmonize proposals for candidates by 6 May but this has yet to happen. At the end of March, the Parliament had issued a public invitation for the nomination of members for the new Council which attracted 145 candidates.

Meanwhile, HRT's internal organization continues to function under the transitional provisions of the new Law on HRT. The HRT Director General has assumed overall control of all HRT activities, including indirect supervision over news programming. New positions foreseen in the new Law are, however, being filled by current personnel until a new HRT Programme Council makes its official appointments.

The Government has initiated the long-awaited process of privatization of the third Croatian Television (HTV) channel. The CoE and the OSCE have long called on the Government to accelerate the privatization process in order to provide competition, ensure the widest range of views in television news programming and to ensure that the process is carried out in a transparent manner. On 3 June, the Council for Radio and Television announced that seven companies submitted a bid for the concession. A decision needs to be reached by October 2003, although statements by the President of the Council indicate that it could be made as early as July.

The Croatian Helsinki Committee for Human Rights (HHO) stated in June that the concession for the third HTV channel should be repeated once the Parliament passes the Law on Electronic Media. According to the HHO, the current Law on Telecommunications, under which the tender was undertaken, does not exclude current media publishers from securing

the concession and as a result a further concentration of media ownership could take place. Others pointed out that the present Council for Radio and Television will soon cease to exist and thus lacks legal or moral responsibility to select the best bidder. Given the large stakes involved in the privatization process, it has been remarked that the current situation leaves room for possible undue influence of present Council members.

HTV has generally freed itself of political bias but retains a strong bias in terms of topics covered, which calls into doubt its functioning as a public service broadcaster. This is one of the main findings of a Mission-funded monitoring study of HTV, which also confirmed that HTV still retains a very large influence over Croatian society. HTV still does not provide sufficient attention to important post-conflict issues such as refugee return and respect for human rights and minority rights. Issues related to Croatia's Euro-Atlantic integration also receive very little coverage. While hate speech is no longer an active feature in HRT reporting, it continues to be tolerated by some news anchormen and moderators. The Mission intends to monitor HTV in a similar way during the next parliamentary election campaign expected by in autumn 2003 or April 2004 at the very latest.

Local Media Development

The lack of transparency in local media ownership structures allows political pressure from local government officials, such as mayors and city council members. In some places local officials hold up to an average of 25 per cent of shares in media companies and majority shares in others.⁵⁴ This influence often results in editorial control. Many journalists have suggested that legislation should be adopted to explicitly bar local government authorities from having ownership in media companies and enterprises. Even though most local print media are privately owned, they are heavily dependent on local government advertising or subsidies.

Biased local reporting on property repossession and other issues related to refugee return continues to adversely impact reconciliation and normalization in some areas. Property repossession issues in the war-affected areas are typically presented from the perspective of Bosnian Croat temporary occupants with little or no understanding for the housing problems faced by Serb owners and returnees.⁵⁵ Promotion of the return of Serb refugees is still not adequately pursued by most local media.

POLICE ISSUES

Police Reform and Restructuring

The Minister of the Interior announced in April 2003 the implementation of a comprehensive programme to carry out police reform, utilizing a community policing framework. The programme reflects to a great extent co-operation and consultations between the Ministry and various international partners who have been working with Croatian authorities for many years on police reform issues. Seven ministerial working groups have been established to guide developments in these areas.⁵⁶ The Mission and its international partners are discussing with Croatian authorities on how best to provide support to the reform package.

Following a seven-month hiatus, regular meetings of a ministerial working group tasked to forward reform proposals to the Cabinet of the Minister of the Interior were re-started in March. Current discussions in the working group are focused on priorities for restructuring internal administrative structures of the police, including the creation of a model Police

Administration. The working group's second priority is to propose methods for ensuring the de-politicization of certain operational procedures in the Ministry of the Interior so as to increase the professional autonomy of the police.

Reflecting these developments, the Mission is restructuring its police advisory capabilities to provide advice and support to the Ministry primarily in the areas of community policing, the restructuring of the police administration, and international donors' co-ordination.

A variety of international assistance programmes, including those related to the Stabilization and Association process with the EU, continue to be advanced through an informal donors' group, co-chaired by the Mission, and the Ministry's own collegium on police reform.⁵⁷

Police Performance, Recruitment and Training

Ongoing in-service training programmes and the Police Academy's new Basic Police School and Field Training Programme continue to enhance the overall level of police professionalism.⁵⁸ In turn, security as well as the public perception of police performance continues to improve in most areas. Police Academy officials have targeted training initiatives for nearly 6,000 officers in 2003, which represents a 10-fold increase compared with two years ago. Improvements in Academy training include enhancement of skills and training techniques related to the use of force, human dignity, gender awareness, and management expertise.

An important objective of the Ministry of the Interior is its commitment to recruit women and national minorities to make up 20 per cent of the first recruitment class to begin in September 2003. The Mission will continue to support the Ministry's efforts to hire members of minority groups as prescribed in the Constitutional Law on the Rights of National Minorities (CLNM).⁵⁹ The Mission will continue to provide expert advice and assistance on proposals to amend legislation and procedures on hate crime, as well as procedures related to police operational protection from various types of political interference. It will also provide advice on the current draft law on witness protection as the Ministry may require.

Community Policing

In April 2003 the Ministry of the Interior launched its first community policing project in five pilot sites.⁶⁰ The Mission believes that these efforts will greatly assist with remaining security issues, such as looting of properties, housing evictions and illegal weapons and explosives. The Mission assisted with the action plan through consultations and training seminars at the Police Academy and in the field. The Mission will also provide training and support to efforts at the local level to form community partnerships and projects that target local concerns together with the police. Among others, the Ministry and the Mission have planned joint visits of local police and journalists to European countries with established community policing operations.

WORKING WITH NON-GOVERNMENTAL ORGANIZATIONS (NGOs)

Government Support to NGO Development

The Government has maintained approximately the same level of NGO funding in 2003 that existed in 2002, i.e., €2.2 million (down from 3 million in 2001). However, in 2004 all ministries will have a separate budget line for 'civil society projects' which should increase available funds. Some adjustment in the disproportionate budget share given to Zagreb-based

NGOs versus those located in the rest of the country has taken place (62 per cent in 2003 versus 70 per cent in 2002). However, NGOs dealing with human rights issues continue to face serious financial challenges.

The inadequacy of funding and the weakness of structural support are perhaps the two most important factors inhibiting the growth and effectiveness of the Croatian NGO sector. The Government increasingly understands the advantages of an active civil society and NGO community and has drafted two important items of legislation to encourage private and corporate donations: the Law on Tax Benefits for NGO Donors and the Law on Public Benefit Organizations. The Parliament is expected to pass these laws in autumn 2003. If the business sector becomes more engaged, which will require even stronger legislative inducements as well as education, the financial problems could begin to recede.

The Government is decentralizing the co-ordination and funding of NGO activities in the expectation that less top-down working relationships will evolve and more targeted projects will be implemented across the country. The Head of the Government Office for Associations has met with NGOs throughout the country, urging them to become more pro-active. This decentralization is taking place through the development of two bodies: the Council for the Development of the Civil Society⁶¹ and the National Foundation for Civil Society.⁶² Some opposition, often expressed as demands for regional distribution of funds, has been encountered from smaller NGOs who believe that the decentralization process will weaken their voice within the central Government and diminish their access to national funding.

Local NGO Development

The poor state of non-urban economies, very high unemployment and inefficiencies that limit the ability to collect revenues hamper local government support for NGOs. In some locations, municipalities recognize the utility of NGOs and do provide in-kind assistance, e.g., premises and equipment. However, in many others the political will to help NGOs is weak or absent. The situation is worse in war-affected areas where residents pay little or no taxes and the municipalities themselves depend on central government subsidies. Thus, in addition to being undermotivated, NGOs largely do not receive any local financial support beyond very small sums of money for certain projects.

The conceptual problems which initially retarded NGO growth in Zagreb continue to present barriers locally. Before the armed conflict, 'associations' were traditionally defined as sports or hobby 'clubs'. They still continue to carry the same meaning for many people in and out of government. For example, a number of County Offices for Associations adhere to this traditional definition and provide most funding to athletic groups. Private donations to support organizations beyond the church or hunting club are also uncomfortable notions.

Further, the existence of a professional NGO community at the local level that can bring expertise to bear on specific issues of government or public concern remains misunderstood in many places. Similarly, the close link between local NGOs and international donors occasionally raises questions of trustworthiness in the minds of some local authorities. More coherent interaction between large, Zagreb-based NGOs and their fledgling counterparts elsewhere would contribute to clearing up such misconceptions. The more experienced and mature organizations could assist by changing the public image of the newer NGOs and also their relationships with local administrations.

The Government Office for Associations plans to address these misunderstandings through education and familiarization of NGO activities and by distributing guidelines to local authorities. These pamphlets would also contain instructions on how local governments, NGOs and other civil society actors should write and review project proposals, issue tenders and, most importantly, explain the nature and utility of the NGO to the authorities. The Office identified the guidelines as a priority task for the end of 2002 and early 2003, but drafting has not yet begun as a result of transfer-related issues surrounding the creation of the Foundation.

Mission Support to NGO Development

Some slow progress has been noted over the past seven months in the quality of the project performance of certain NGOs within the Mission's civil society and project management activities. Other steps forward have included an improved working relationship with local authorities and a growing cohesiveness and readiness of local NGOs to co-operate among themselves.

In 2002, the Mission jump started the establishment of the Regional Forum of Associations in Eastern Slavonia, while in January 2003 in Zadar it hosted the first structured discussions ever between local NGOs and government representatives in southern Croatia. Similarly, in Sibenik-Knin County, the Mission supported the introduction of a network of scheduled round tables at which both local NGOs and local government representatives will meet to discuss projects and resource needs. The Mission plans to use these examples as models for possible broader application throughout the country.

In response to informal needs surveys made in early 2003, the Mission adjusted its NGO development strategy to incorporate parallel capacity-building and training for officials of County Offices for Associations. A Mission pilot project is underway with the County Office in Dubrovnik which features on-the-job training by an experienced NGO. Moreover, Mission capacity-building, dissemination of information and intersectoral co-operation activities are now being tailored nation-wide to the individual needs of each County Office and each local NGO cluster. By doing so, the Mission will be able to measure performance more accurately against a common standard.

CONCLUSION

While there has been progress on the legislative and administrative framework within important parts of the Mission's mandate since late 2002, the practical implementation of many programmes remains slow and incomplete. Nevertheless, recent legislative and administrative changes provide a favourable outlook for further progress within the next half year.

Within the field of *refugee return*, it is essential and possible to significantly increase the rate of return of occupied properties; to process pending reconstruction applications; and to implement the programmes for providing housing to former holders of occupancy/tenancy rights, both in the Areas of Special State Concern and in the rest of the country. Provisions should be made for the return of properties which were allocated for temporary use under different legislation than the 1995 Law on the Temporary Take-Over and Administration of Specified Property and other types of property than housing, in particular agricultural land and business properties. In order to ensure the sustainability of return, the Government should make efforts to improve the climate for return, particularly in receiving communities.

Concerning *minority rights*, the Government should reinvigorate its efforts to implement the Constitutional Law on the Rights of National Minorities (CLNM). In particular, it should hold by-elections and other elections mandated by the CLNM and should also provide related information to the minority population and adequate election support to minority associations. The Government should prepare programmes to ensure appropriate representation of minorities in administrative, judicial and other bodies. The National Programme on Roma should be adopted.

On *judicial reform*, the judicial reform programme should be underpinned by appropriate legislative action and administrative support to the court system. Measures should be taken to strengthen the Ombudsman institution and to provide conditions for the effective work of the Constitutional Court. Further efforts should be undertaken to ensure a fair treatment of war crimes cases by domestic judicial bodies and to fully co-operate with ICTY.

A number of *media* laws remain to be adopted. Particular attention should be paid to ensuring a non-politicized implementation of the Law on Croatian Radio-Television (HRT), especially concerning the appointment of members to the Broadcasting Council. Libel should be excluded from criminal legislation, and a Law on Access to Information should be adopted. Efforts are needed to prevent biased reporting and to improve coverage by Croatian Television (HTV) and some local media of minority and refugee issues.

Within the area of *police reform*, the implementation of the new community policing programme is a major, although largely uncontroversial task. Efforts are needed to ensure appropriate minority representation throughout the police in accordance with the CLNM.

Government efforts to enhance support for *NGOs* at the local and regional level should continue and be expanded.

The Mission will continue its assistance to the Government in these tasks together with the EU, the UNHCR and other key partners, as well as within the Stability Pact for South-eastern Europe. Refugee issues will be the subject of trilateral OSCE-UNHCR co-operation with neighbouring countries.

ENDNOTES

¹ According to the UNHCR, 6,197 minority returnees were registered in the first six months of 2001, while 7,982 were registered in the first six months of 2000.

² Out of more than 300,000 Serbs who left their homes in relation to the armed conflict in Croatia between 1991 and 1995, about 100,000 have been registered by the Government as having returned to or within Croatia. Yet in January 2003 the UNHCR conducted a review in 43 return villages in the Knin area of southern Croatia, covering approximately 11 per cent of the returnee population in the Lika-Senj, Zadar and Sibenik-Knin Counties. The results of the survey established that only 62 per cent of the registered returns could be considered as 'sustainable', i.e., as having returned to the area for good, while 27 per cent were classified as commuters, travelling between their place of exile and area of origin in Croatia on only a few occasions before leaving for third countries or returning to their place of exile.

³ The Prime Minister's call was also welcomed by leading representatives of the Serb community in Croatia, but assessed by most of them as having taken place too late. A number of NGOs also pointed to the fact that return would still be difficult given the slow pass of property repossession and other barriers to return.

⁴ One *Joint Recommendation* addresses the full implementation of the Law on Reconstruction. The Ministry for Public Works, Reconstruction and Construction has already taken concrete measures towards its implementation. The second pertains to the full implementation of the right of unconditional return of refugees through suggested changes to the Law on Foreigners. The final draft entered parliamentary procedure in December 2002 and was adopted in early July 2003.

⁵ Since the coming into force of the *Amendments* in August 2002, 2,299 repossession cases of occupied property have been reported by the Government (209 per month), while in the nine months prior (November 2001 - August 2002), 2,142 cases had been solved (238 per month). However, the current monthly average of about 200 resolved cases includes a number of self-solved or wrongly accounted cases which makes the actual number of cases physical repossession even lower.

⁶ In his 2002 Annual Report, the Ombudsman noted that there had been a decrease in the number of complaints related to property rights, noting the "gradual, although very slow, solving of violations of property rights...." Despite the reduced number of complaints, the Ombudsman noted that "the total number of these complaints is unacceptably high, so in 2003 we may still expect a substantial number of complaints for violations of property rights."

⁷ Of these, 4,081 cannot be returned to their owners until temporary users receive housing care or temporary accommodation *prior* to vacating the premises. The alternative housing will be financed mainly with funds from the state budget in the amount of €67 million and with a €40 million loan from the Council of Europe Development Bank which will be made available later this year. In addition, 1,538 empty properties, mostly looted and uninhabitable, have been administratively returned to their owners since September 2002.

⁸ The settlement ('*nagodba*'), which has been formally confirmed by Government decision (17 April 2003) is contrary to the Law on Obligations and explicitly excludes the payment of interest by the Government for delayed payment. The Law on Obligations provides that the debtor (in this case the State) is obliged to pay, in addition to the capital, the interest of arrears (from 1 July 2002, the interest of arrears is 15 per cent).

⁹ Beginning in December 2002, the Ministry for Public Works, Reconstruction and Construction conducted a survey ('*anketa*') among owners of occupied properties related to compensation. The exact purpose of the exercise was not clear and the Mission questioned its method and value. The procedure suffered from an initial lack of transparency, which led to vast confusion and irritation among owners. For example, the forms used by the relevant offices were not standardized in the beginning, choices offered to owners were misleading and partly in contradiction to various laws, and relevant staff could not provide a clear answer as to the legal status of the statements given by owners.

¹⁰ The legitimate owners of these properties can seek repossession only through private lawsuits filed in accordance with the existing legislation on ownership. The *Amendments* do not address these kinds of properties which were allocated by different administrative organs such as Military Housing Commissions and Crisis Headquarters or occupied illegally. The Ministry for Public Works, Reconstruction and Construction has, since the entry into force of the *Amendments*, received 1,186 new applications for repossession; 721 refer to property

not allocated under the 1995 Law and are therefore excluded from the new procedures. The Ministry states that it is still analysing the 721 applications in order to establish how many of them refer to reconstruction, occupancy/tenancy rights and how many to repossession.

¹¹ In his 2002 Annual Report, the Ombudsman noted that the “basic reason for violations and limitations of the rights of owners is in the inability of state authorities (judicial and executive authorities) to enforce eviction (after the revocation of the right) of illegal beneficiaries/users. The inability to enforce evictions arises also out of another inability, that is, the inability to procure another apartment as alternative accommodation. The interests of beneficiaries/users and owners.... are irreconcilable... . Furthermore, cases of inappropriate behaviour of the beneficiary/user are still frequently encountered, which may not and cannot be allowed. In that regard, we primarily mean beneficiaries/users who refuse to accept alternative accommodation, and to move out of the house they are using. There are also those who do not really need property that has to be returned to the possession of the owner for his use, but who hold the property for exploitation of (agricultural) land or for keeping domestic animals.... The owner is not even permitted to come close to the property. The owner of the property is completely unprotected.”

¹² The previous goal of the Government was in fact to return all occupied properties by the end of 2002.

¹³ Out of these, 67 had already been filed by former housing commissions; while in 258 cases the State Attorney is expected to file lawsuits for eviction on behalf of the State.

¹⁴ According to the HVM, 180 families of Bosnian Croats currently occupying private properties in Croatia have had their original properties in Bosnia and Herzegovina reconstructed, while 300 families have reposessed their properties (Source: HVM monthly report, May 2003).

¹⁵ Instructions issued on 18 March 2003 by the Chief State Prosecutor to all County State Prosecutors.

¹⁶ This figure does not refer to cases in which decisions can not be taken because some documentation of the applicants, who are refugees abroad and therefore not easily approachable, is missing. According to the Ministry, about 10,000 letters have been sent to applicants, mainly those in Serbia and Montenegro and Bosnia and Herzegovina, requesting missing data and documentation.

¹⁷ In accordance with the Rulebook on the Order of Priority of Housing Care in the Areas of Special State Concern, dated 25 September 2002, former occupancy/tenancy rights holders are eligible for housing care *after* the following categories of applicants have been processed: a) temporary users of claimed properties; b) temporary users of unclaimed properties; c) individuals currently accommodated in collective centres; and d) settlers in the Areas of Special State Concern.

¹⁸ The seven *Common Principles on Return* are formally referred to as the ‘Framework for Enhanced Regional Co-operation on Return, Property and Acquired Rights Issues.’.

¹⁹ The CLNM also provides for minority representation in other non-elected bodies, including executive bodies of local self-government where proportional representation of minorities in the elected bodies is required, and administrative bodies of local self-government.

²⁰ The CLNM guarantees minority representation in the state administration “...in compliance with the provisions of a special law, taking into account the share of members of national minorities in the total population at the level at which the state administration ... was established.”

²¹ In April 2001, the Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities stated that “[a]s regards participation of persons belonging to national minorities in state administration as employees, the Advisory Committee finds that the situation is disconcerting as regards persons belonging to the Serb minority, but that it is very unsatisfactory also with regard to some, but not all, other national minorities...”; Opinion on Croatia, adopted on 6 April 2001, paragraph 55. In May 2003, the Ministry of Justice indicated to the Mission that it is unable to provide current statistics about minority representation in the state administration.

²² From early January to late April, over 900 positions in state administrative bodies were advertised in the Official Gazette. For example, from early January to late March, 420 positions in state administrative bodies at all levels of government and 76 positions in public institutions were advertised in the Official Gazette.

²³ The Italians and Hungarians each received one seat, while the Czechs and Slovaks will continue to be represented by a joint representative.

²⁴ Albanians, Bosniacs, Montenegrins, Macedonians, and Slovenes will have one joint representative. Austrians, Bulgarians, Germans, Poles, Roma, Romanians, Russians, Ruthenians, Turks, Ukrainians, Vlachs, and Jews will likewise also be represented by one Member of Parliament.

²⁵ The local and regional councils range in size from 10 to 25 members with special provisions for very small minorities to elect single representatives.

²⁶ Sixteen national minorities managed to nominate lists for 220 of the 470 councils and 40 of the 140 individual representatives.

²⁷ The decision is to take effect in 116 local and 19 regional self-government units.

²⁸ Despite his lack of jurisdiction in this area, the Ombudsman reports that, where appropriate, these complaints were referred to the Ministry of Justice for resolution. As an exception, complaints pertaining to an administrative dispute before the Administrative Court were forwarded to that Court. See Section II.1, Ombudsman, Report on Work for 2002, March 2003.

²⁹ Report of the European Commission on Croatia and the Stabilization and Association Process for South East Europe, 2003, Section 2.1.

³⁰ Others include a new Law on Protection from Domestic Violence, and three new laws to fill the legal gap created by the suspension of court proceedings under the Law on Obligations related to compensation for damages caused by terrorist acts, military and police operations, and financial obligations incurred by the former Yugoslavia to which Croatia succeeded.

³¹ Dvor, Gvozd, Vojnic and Hrvatska Kostajnica are examples in this regard.

³² During a session on 9 April, the Committee expressed concerns about the weighing of certain factors by the State Judicial Council in making candidate selections, e.g., permanent residence in the respective court jurisdiction and prior judicial work experience. The Committee also expressed concern that the Council did not conduct interviews with the judicial candidates and that the vote for appointment was by secret ballot, rather than open. The Committee concluded that these concerns called for amendments to the Law on Courts and the Law on the State Judicial Council.

³³ The CLNM guarantees minority representation in the judiciary "... in compliance with the provisions of a special law taking into account the share of members of national minorities in the total population at the level at which the ... judicial body was established."

³⁴ While minority representation in the lower courts is higher than the overall average, representation in higher courts is significantly lower. There are no Serb or other minority judges on the Administrative Court, no Serb and only two other minority judges on the Supreme Commercial Court as well as the regional Commercial Courts, whereas there is one Serb and two other minority members on the Supreme Court. The percentages of minorities in the offices of the State Attorney on the municipal, county and state level are similar to those in the judiciary.

³⁵ In 2002, the Constitutional Court issued six decisions finding excessive delays in violation of the right to fair trial, denied 38 complaints, finding that the delays were not unreasonable, and rejected a larger number for procedural reasons. In the first three and one-half months of 2003, the Court found a violation in 11 complaints, denied 17, and rejected a larger number for procedural reasons. The Court has, however, interpreted its jurisdiction as limited to cases that are ongoing, dismissing complaints in which a decision is issued by the lower court after the complaint is submitted to the Constitutional Court. In contrast, the ECHR, as illustrated by

its judgements in *Soc v. Croatia* and *Sahini v. Croatia*, continues to award damages for excessive length of proceedings even for cases that are concluded.

³⁶ In general, the Constitutional Court requires lower courts to issue decisions within six months and awards damages in amounts ranging from HRK 1,000 to 10,000 for delays ranging from 5 to 20 years.

³⁷ In 2002, the Court registered 453 new complaints on this issue and 217 in the first three and a half months of 2003. In 2002, the Court decided 145 such cases while deciding 70 in the first three and a half months of 2003.

³⁸ Of 2000 cases decided in 2002, the Constitutional Court found a constitutional violation in 50 or 2.5 per cent of the cases.

³⁹ In a case in which the constitutional complaint for repossession of private property had been pending for one and a half years, the Court found it lacked jurisdiction to determine whether there was an excessive length of proceedings in violation of the constitutional right to fair trial. U-III-1871/2002 (Official Gazette 49/03).

⁴⁰ For example, the Constitutional Court issued an unpublished decision in December 2002 rejecting five separate requests for review of the constitutionality of the 1998 Return Programme's alternative accommodation requirement for occupants prior to the return of private property to owners that had been pending since 1999, 2000, and 2001, respectively. The Court dismissed the requests without reaching the constitutional questions, citing the Parliament's repeal in July 2002 of relevant parts of the Return Programme. As indicated by this example, publication of only selected Supreme Court and Constitutional Court decisions hinders judges and litigants from being aware of the prevailing judicial practice. The Mission was recently informed by the Constitutional Court of an unpublished 1998 decision dismissing as moot a 1997 request for review of the 1995 law terminating occupancy/tenancy rights *ex lege* within 90 days, due to the Parliament's repeal of the law in 1998.

⁴¹ Cases that have been pending from 2 to 5 years include challenges to: the 1996 law suspending court proceedings for compensation for damages resulting from terrorist acts under Article 180 of the Law on Obligations (submitted in 1997; addressed by the ECHR in *Kutic v. Croatia*); the 1998 Government decree establishing a one-year deadline for convalidation of working years and pensions (submitted in June 2001). Each of these cases is presented in the form of an abstract proposal for constitutional review; hence the applicants cannot pursue their complaints to the ECHR.

⁴² In 1997, the Constitutional Court determined in an abstract review that certain provisions of the Law on Selling Apartments on which an Occupancy Right Exists were unconstitutional. U-I 697/1995 (Official Gazette 11/97). In late 2002, the Constitutional Court made the same determination in an individual case in which the State Attorney, representing the Ministry of Defence, challenged a lower court's application of the 1997 Constitutional Court decision and the Supreme Court held that the Constitutional Court decision was inapplicable to the individual case because it could only be prospectively applied. U-III-88/2001 (Official Gazette 25/2002). See also U-III-326/1995, 24 February 1999, unpublished; U-III-435/2000 (Official Gazette 56/2000; U-III-457/2000) (Official Gazette 131/2000) (repeated adjudications by Constitutional Court required due to State Attorney's failure to follow the Court's constitutional interpretation of Article 102a of the Law on Housing Relations under which occupancy rights can only be terminated for "participation in enemy activity" upon the basis of a criminal conviction). See also U-III-630/1996 *et al* (Official Gazette 134/1997), U-III-504/1996 (Official Gazette 80/1999); U-III-217/1988 (Official Gazette 131/2002) (repeated adjudications on Croatia's liability for financial obligations incurred by the former Yugoslavia prior to the Parliament's 1999 suspension of all pending cases).

⁴³ U-I-745/1999.

⁴⁴ The Minister of Justice has suggested that the Ministry's "clumsy statistics" in which the same case was counted more than once may result in some over-estimation of the total case backlog.

⁴⁵ Despite the ECHR's decision, the Constitutional Court has not decided complaints, some pending since 1997, challenging the same law. Indeed, prior to the ECHR's decision in *Kutic v. Croatia*, the Constitutional Court held in at least two unpublished decisions that it could not reach the issue of lack of access to court because there was no final decision from a lower court. U-III-1206/2000, U-III-1310/2001. These cases, *Acimovic v. Croatia* and *Jorgic v. Croatia*, were accepted in late 2002 for review by the ECHR.

⁴⁶ The ECHR has also accepted for review six cases that pose the question whether the Parliament's 1999 suspension of pending court cases seeking compensation of damages resulting from acts of the Croatian military or police under the Law on Obligations similarly violates the right of access to court..

⁴⁷ In late June, the Government also forwarded to the Parliament a final proposal on the issue of compensation for damages by the military and police as well as a third proposal intended to address the Parliament's 1999 suspension of all pending court proceedings seeking payment by Croatia as the successor State of financial obligations to individuals incurred by the former Yugoslavia.

⁴⁸ In February, two Serbs from Benkovac were convicted *in absentia* by the Zadar County Court for killing civilians. The County Court in Osijek continued in February the trial against nine Serb defendants *in absentia* and one who was present. In March, the same court accepted the prosecutor's request to commence an investigation against eight Serbs, four *in absentia*, from Popovac related to war crimes against civilians in 1991, 1992 and 1995. Also in February the prosecutor in Vukovar raised an indictment against ten Serbs *in absentia* accused of destruction of the town of Vukovar and killing of Croat civilians between August and November 1991. Four of the ten defendants are already indicted by the ICTY. Finally, in late June, three Serbs were convicted *in absentia* by the Zadar County Court for war crimes against civilians.

⁴⁹ Appeals to county court verdicts in 2002 were filed to the Supreme Court in 19 war crimes cases. In nine of these cases in which convictions were entered, the defendants are imprisoned and the appeals have been pending for more than three months since being submitted to the court of first instance. The Supreme Court decided appeals lodged by convicted defendants in five war crimes cases in 2002. In 4 of the 5 cases, which involve Serb defendants, the Supreme Court granted the appeal, reversing the conviction and ordering a new trial.

⁵⁰ In the first five months of 2003, the Supreme Court decided appeals in four war crimes cases, granting in one case appeals by six Serb defendants from Eastern Slavonia. In two of these cases it increased the sentence.

⁵¹ In November 2002 the ICTY Appeals Chamber rejected two challenges against the Bobetko indictment that were submitted by the Government. The Chamber emphasized that Croatia's role in complying with an order of the Tribunal was a purely ministerial one of executing the warrants of arrest and surrender.

⁵² The Government acted contrary to the Croatian Constitutional Law on Co-operation with the ICTY and the Criminal Procedure Code which assign the responsibility for serving documents and indictments to courts. The President of the Croatian Judges' Association condemned the Government's conduct as an unjustified interference in the independence of the judiciary and called for the resignation of the Prime Minister. Despite discussions in the media as to the legal validity of the service of the indictment, the ICTY announced the suspension of the arrest order and order for surrender in mid-April.

⁵³ In comparison to 2000, there are fewer lawsuits from state officials and politicians against media outlets and journalists. However, problems still exist with regard to the judiciary interpreting civil libel. For example, there are still 80 pending civil lawsuits against the renowned weekly *Feral Tribune* amounting to €1.5 million (including 20 criminal suits where prison sentences are being requested for employees of the weekly).

⁵⁴ This situation applies, for example, to 19 local newspapers and 29 local radio stations in the Sisak area of central Croatia.

⁵⁵ One notable exception was recently noted in *Novi List*, which reported on a Serb couple who were not able to access their property due to the negligence of the state administration. The family was allowed to make an appeal to the State for property repossession through this newspaper. Covering the recent death of a member of the family, the paper stressed in its title that this case was "a disgrace for Croatia".

⁵⁶ Groups have been formed in the following areas. Executive Oversight; Reform of Operations and Crime Prevention by Uniform Police; Improving Crime Prevention; Organizing Community Crime Prevention; Public Relations; Education and Continuous Education; and Internal Democratization of Police.

⁵⁷ Some of these programmes included assistance with restructuring the Police Academy by the US, community policing education by the UK, and the EC CARDS Programme for Border Police, Customs, and Criminal Analysis.

⁵⁸ The Ministry of the Interior tasked its Academy personnel in March 2001 to completely reform law enforcement training in consultation with the US-based International Criminal Investigative Training Assistance Programme (ICITAP). The Basic Police School represents a fundamental change in concept for developing new police officers by selecting already educated adults for enhanced development. This measure will be followed by the Field Training Programme which supervises the transfer of acquired basic training into the job environment.

⁵⁹ Articles 3(1), 4(6), 7(8), 22(2), and 22(4) of the CLNM obligate the Ministry to ensure minority representation within the overall police service as a state administration.

⁶⁰ Expert consultations for these efforts were provided, among others, by the German Ministry of the Interior and the Mission. Additional assistance by the UK, facilitated by the Mission, is being planned in co-ordination with the Director General of Police.

⁶¹ The Council, created in March 2002, is the national policy body for the NGO sector. Its membership includes *inter alia*, ministerial and NGO representatives, academics, and finance and management planning experts. It has achieved two major successes in the past seven months. First, it brought about a sea-change in attitude by instilling a problem-solving approach between the NGO sector and the Government. Second, in fall 2002 its members unanimously accepted rules of procedure organized around concrete objectives. The present Council members' mandates expired on 15 April and are expected to be replaced in mid-June by an even broader and more diverse group. One of the items on the Council's current agenda is to consider how to evaluate and reduce the total number of registered NGOs in Croatia, currently listed at approximately 20,000. The Head of the County Office for Associations in Dubrovnik believes, for example, that only 40 of the approximately 700 NGOs on his registry are minimally competent and active. Indicia will have to be developed to measure the validity of these organizations status, an area where the Mission believes it could assist.

⁶² The National Foundation was agreed to by the Government in February 2003. While the Council serves national policy needs, the Foundation is to be the operational core embedded within the NGO sector, constantly interacting with its members, measuring needs, evaluating viability, advising newer NGOs, fund raising and most important, providing daily two-way communication to the Council and the Government at large. It is expected that most of the staff from the Government Office for Associations will transfer to the Foundation, thus leaving only a small logistics-support office behind.