

CROATIA

REPUBLIC OF CROATIA

Head of state: Stipe Mesić

Head of government: Ivica Račan

Death penalty: abolitionist for all crimes

International Criminal Court: ratified

Both Serb and Croat suspects faced war crimes trials, revealing the shortcomings of the criminal justice system which proved largely unable to prosecute cases impartially and independently. Croatia failed to cooperate with the International Criminal Tribunal for the former Yugoslavia (the Tribunal) by delaying the arrest and transfer of two Croatian suspects indicted by the Tribunal. Incidents of violence and discrimination against members of minority groups were reported, and returns of the country's pre-war Croatian Serb population continued to be obstructed by flawed and discriminatory legislation and practice.

Background

In July the five-party coalition government resigned as a result of a dispute concerning the use of a nuclear power plant situated in neighbouring Slovenia. Shortly afterwards Ivica Račan was reappointed as Prime Minister; he formed a new government in late July.

The implementation of key human rights elements of the Stabilization and Association Agreement, signed with the European Union in October 2001, was delayed. The government itself had set the deadline for these measures to be taken by the end of 2002. Issues included accelerating refugee returns, reform of the judiciary, a new constitutional law on minorities and media legislation.

Impunity for war-time violations

International prosecutions

In May Mile Mrkšić, a former Serb officer in the Yugoslav People's Army (JNA) who had been indicted for war crimes committed after the fall of Vukovar in November 1991, was transferred to the Tribunal from the Federal Republic of Yugoslavia (FRY). The two people indicted with him, Veselin Šljvančanin and Miroslav Radić, remained at liberty in the FRY despite repeated calls by the Tribunal and others, including AI, for their arrest.

Trial proceedings against the former Yugoslav President, Slobodan Milošević, continued at the Tribunal. The prosecution put the case that he had superior responsibility for crimes against humanity and war crimes committed in Croatia as well as genocide in Bosnia-Herzegovina.

In September the Tribunal unsealed an indictment against retired General Janko Bobetko, the former Chief of Staff of the Croatian Army, for war crimes and crimes against humanity committed against Croatian Serbs in 1993. Ignoring the obligation to cooperate unconditionally with the Tribunal, the government first referred the case to the Constitutional Court,

apparently in an attempt to stem public anger. Croatia also appealed against both the decision confirming the indictment and the arrest warrant. In November the Tribunal turned down both appeals, finding that Croatia could not challenge these decisions on political grounds and that only the accused in person could counter the indictment before the Tribunal. The Constitutional Court also ruled in November that it was not competent to decide on the merits of the indictment. The authorities had not transferred Janko Bobetko to the custody of the Tribunal by the end of 2002, apparently on grounds of his poor health.

Another suspect, retired General Ante Gotovina, who was indicted in 2001, also remained at liberty. He had gone into hiding after the charges against him were published, although reportedly the authorities had been given prior warning by the Tribunal. He was indicted for war crimes against Croatian Serbs during and after the 1995 Croatian Army offensive, Operation Storm.

Domestic prosecutions

Scores of war crimes trials were conducted before the local courts. The vast majority of defendants were Croatian Serbs, many of whom were accused in group indictments and tried in their absence.

The State Public Prosecutor continued to review outstanding war crimes cases, recognizing that many charges were not supported by sufficient evidence and were motivated by the suspect's ethnicity. However, this review apparently excluded trials that had already been concluded where proceedings had apparently been unfair.

✉ Mirko Graorac, a Bosnian Serb, was convicted after a retrial in 2000 and sentenced to 15 years' imprisonment after a trial that reportedly failed to meet international standards of fairness. He lodged an appeal with the European Court of Human Rights.

In prosecutions of Croats, prosecution witnesses were inadequately protected and the trial courts were reportedly not conducting proceedings impartially.

✉ The trial of eight former military police officers for war crimes committed against Serb detainees in Lora military prison in Split ended with their acquittal in November. There were consistent reports of intimidation and harassment of victims and witnesses, some of whom left the country as a result. Despite complaints made to the local police identifying the perpetrators of these acts, none was reportedly brought to justice. The court also failed to ensure the appearance of prosecution witnesses living in the FRY and in Bosnia-Herzegovina, who had earlier refused to come to Croatia, apparently fearing for their safety.

Minorities

The results of a population census conducted in 2001 revealed that the proportion of minorities had approximately halved since the 1991 census. Discrimination against members of minority communities was reported, in particular with regard to social, economic and cultural rights. The existing legal and administrative mechanisms appeared inadequate in providing redress for victims of such violations.

In March the UN Committee on the Elimination of Racial Discrimination noted with concern Croatia's delay in adopting a new constitutional law on the rights of national minorities. The Committee highlighted the Roma and Croatian Serb minorities as being particularly affected by discriminatory legislation and practices and recommended that steps be taken to increase access to justice and equal treatment before the law.

A new draft constitutional law on the rights of national minorities, one of the accession requirements Croatia undertook when joining the Council of Europe in 1996, was adopted by parliament in December.

There were persistent reports that the approximately 35,000-strong Roma community was subjected to widespread discrimination and violence by both law enforcement officials and non-state actors, particularly groups of skinheads. Roma children faced discrimination in the school system. For example, in Medjmurje County they were only allowed to attend segregated classes with a lower standard of education.

☞ In November a Romani man and his son filed a complaint with the European Court of Human Rights in connection with their ill-treatment in Zagreb in 1999 and 2001 by skinhead groups, who had not been prosecuted by the authorities.

Skinhead attacks were also reported against members of the lesbian and gay community. After the first Gay Pride parade in Zagreb in June, 30 people were assaulted, some of them sustaining serious injuries.

Minority returns

About 11,000 Croatian Serbs from the FRY and Bosnia-Herzegovina reportedly returned during 2002, an increase compared to previous years. Problems over restitution of housing persisted, although in July legislation on the return of property was reformed and responsibility was moved from the housing commissions, which were abolished, to the central state. The government committed itself to issuing decisions on the repossession of all privately owned property by the end of 2002. However in late November the Organization for Security and Co-Operation in Europe (OSCE) reported that less than 10 per cent of all occupied private property had been reposessed. There was still no redress for thousands of Serb refugees who had lost tenancy rights during and after the war and therefore could not return.

'Disappearances'

According to official statistics, about 2,000 people remained unaccounted for following the armed conflict in Croatia. Many were victims of "disappearances" or abductions.

After years of negotiations between Croatia and the FRY, in March the Serbian authorities, assisted by the International Commission on Missing Persons, started exhuming the bodies of Croat war victims buried in graveyards on FRY territory. By the end of 2002 more than 200 bodies had been returned to Croatia for identification. Exhumations of grave sites increased and several hundred bodies were recovered from graveyards in the former Krajina region, including Gračac and Knin. During exhumations near Gospić in May, 18 bodies were recovered. They were reportedly the bodies of Serb civilians

who had been killed by the Croatian Army in 1991 in the eastern Slavonian village of Paulin Dvor, some 500km to the east. A criminal investigation into these killings was launched.