

CROATIA

Follow-up - State Reporting

Action by Treaty Bodies, Including Reports on Missions

CCPR A/58/40 vol. I (2003)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

| <u>State party</u> | <u>Date information due</u> | <u>Date reply received</u> | <u>Further action</u> |
|--|-----------------------------|----------------------------|---|
| <i>Seventy-first session (March 2001)</i> Croatia | 6 April 2002 | 22 April 2003 | Decision on further action to be taken by the Committee at its seventy-ninth session. |

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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260. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Of the 27 States parties (detailed below) that have been before the Committee under the follow-up procedure over the last year, only one (Republic of Moldova) has failed to provide information at the latest after dispatch of a reminder. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

261. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

| <u>State party</u> | <u>Date information due</u> | <u>Date reply received</u> | <u>Further action</u> |
|---|-----------------------------|----------------------------|--|
| <i>Seventy-first session (March 2001)</i> | | | |
| Croatia | 6 April 2002 | 22 April 2003 | At its seventy-ninth session, the Committee decided to take no further action. |

Follow-up - Reporting
Action by State Party

CCPR CCPR/CO/71/HRV/Add.1 (2003)

COMMENTS BY THE GOVERNMENT OF CROATIA ON THE CONCLUDING
OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE (CCPR/CO/71/HRV)

[22 April 2003]

THE MINISTRY OF JUSTICE, ADMINISTRATION AND LOCAL SELF-GOVERNMENT

Re: Concluding observations of the Human Rights Committee on the initial report by the Republic of Croatia under the International Covenant on Civil and Political Rights

The Ministry of Justice, Administration and Local Self-government hereby provides its observations in reply to the Concluding Observations of the Human Rights Committee on the initial report by the Republic of Croatia under the International Covenant on Civil and Political Rights as follows.

Point 7

The Republic of Croatia is aware of the need to educate judges and lawyers on human rights, as well as on other matters which arise in practice. It has accordingly initiated the founding of a Centre for Professional Training of Judges and Other Judicial Officials. In 2002 the Council of Europe financed the holding of a seminar on this topic. The Office of the Government Agent of the Republic of Croatia before the European Court of Human Rights proposed a training programme to be drawn up for 2003. It is expected that the Centre will start to work in a short time.

Point 8

Article 14 of the Constitution of the Republic of Croatia reads as follows: "Everyone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, sex, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law."

It stems from the provisions of the Constitution quoted that it applies to all persons who are in the territory of the Republic of Croatia, which is in accord with paragraph 1, article 2, of the Covenant according to which each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Point 9

Article 17 of the Constitution of the Republic of Croatia reads as follows: "During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian Parliament by a two-thirds majority of all members or, if the Croatian Parliament is unable to meet, at the proposal of the Government and with the co-signature of the Prime Minister, by the President of the Republic.

The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of persons in respect of race, colour, gender, language, religion, national or social origin. Not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offences and punishments, or on freedom of thought, conscience and religion."

We believe that the article of the Constitution quoted is not contrary to the requirements of article 4 of the Covenant. The provision of the Constitution is defined somewhat more broadly from "a public emergency which threatens the life of the nation". However, the provisions mentioned are in accordance with article 4 of the Covenant, since the extent is strictly determined by the needs stemming from the exigencies of the situation, and the measures are not incompatible with other provisions under international law. It stems from the provisions quoted that a state of war, an immediate threat to the independence and unity of the State and severe natural disasters must first be declared, i.e. a two-thirds majority of Members of the Croatian Parliament, the representative and legislative body of all the citizens of the Republic of Croatia, must first so decide, or that the President of the Republic decides on this with a co-signature of the Prime Minister. This means that matters so important as a "threat to the life of a nation" will be decided upon, and the decision need not always be positive. It can be decided, that is, the assessment can be made, that this threat does not exist. Furthermore, the right to life is protected; torture, cruel, inhuman or degrading treatment or punishment is prohibited; legal qualification of punishable offences and punishments is respected, as well as the freedom of thought, conscience and religion.

A violation of the rights from article 8, paragraphs 1 and 2, article 11 and article 16 of the Covenant is a criminal offence in the Republic of Croatia. Criminal offences determined by law remain criminal offences during a state of emergency. We deem that article 17 of the Constitution of the Republic of Croatia is not contrary to the provisions of the International Covenant on Civil and Political Rights.

In connection with article 100 of the Constitution, which relates to the powers of the President of the Republic during a state of war to issue decrees with the force of law in cases when the Croatian Parliament is unable to convene, we maintain that the solutions for matters which may arise in a state of emergency in which a State could find itself must be regulated in some way.

Point 10. The overview of the situation regarding criminal offences against the values protected by international law

Investigations and criminal proceedings for war crimes have been conducted from the beginning of the aggression against the Republic of Croatia. Up until 2000, the proceedings were conducted mostly for crimes against the Croatian population. Since 2000, investigations and criminal trials have been taking place also for crimes committed against the Serbian population. Some of the proceedings conducted previously, where offences were not qualified in the proper way, and, accordingly, adequate punishments were not imposed, are being reopened when this is legally possible. The competent bodies are making every effort in investigating and processing all war crimes.

One hundred and sixty-six persons were *reported* for having committed war crimes in 1991, 1,026 persons in 1992, 756 persons in 1993, 486 persons in 1994, 777 persons in 1995, 935 persons in 1996, 153 persons in 1997, 58 persons in 1998, 34 persons in 1999, 47 persons in 2000, 92 persons in 2001, 116 persons in 2002, that is a total of 4,466 persons in the period between 1991 and 2002.

A total of 205 persons were *indicted* in 1991 and 1992, 193 persons in 1993, 247 persons in 1994, 192 persons in 1995, 385 persons in 1996, 248 persons in 1997, 36 persons in 1998, 10 persons in 1999, 6 persons in 2000, 112 persons in 2001, 40 persons in 2002, that is a total of 1,786 persons in the period between 1991 and 2002.

A total of 53 persons were *convicted* in 1991 and 1992, 157 persons in 1993, 127 persons in 1994, 82 persons in 1995, 57 persons in 1996, 127 persons in 1997, 33 persons in 1998, 32 persons in 1999, 23 persons in 2000, 36 persons in 2001, 50 persons in 2002, that is a total of 777 persons in the period between 1991 and 2002.

Two persons were either *acquitted* or *charges against them were rejected* in 1991 and 1992, 12 persons in 1993, 3 persons in 1994, 3 persons in 1995, 8 persons in 1996, 13 persons in 1997, 6 persons in 1998, 2 persons in 1999, 18 persons in 2000, 22 persons in 2001, 13 persons in 2002, that is a total of 102 persons in the period between 1991 and 2002.

A total of 85 *motions to carry out investigation* for war crimes were filed in 2002.

The Republic of Croatia and its judiciary will also continue in the future work on the identification and bringing to trial of all the individual perpetrators who committed war crimes during the armed conflict in the Republic of Croatia.

Point 11

The Republic of Croatia advocates impartial prosecution of war crimes regardless of the nationality of suspects, including the non-discriminatory application of the General Amnesty Act, in accord with the highest legal standards.

The General Amnesty Act ("Narodne novine" (The *Official Gazette of the Republic of Croatia*), No. 80/96) does not provide a definition of a war crime. However, article 3, paragraph 1, provides an exhaustive list prescribing that the perpetrators of the most serious violations of humanitarian law, which have the characteristics of a war crime, shall be exempted from the amnesty for the criminal offences committed during aggression, armed rebellion or armed conflicts and in connection with aggression, armed rebellion or armed conflicts in the Republic of Croatia, namely for the following criminal offences: the criminal offence of genocide from article 156; the war crime against the civilian population from article 158; the war crime against the wounded and sick from article 159; the war crime against prisoners of war from article 160; unlawful killing and wounding of the enemy from article 161; unlawful taking of the belongings of those killed or wounded on the battlefield from article 162; the use of forbidden means of warfare from article 163; injury of a mediator from article 164; brutal treatment of the wounded, sick and prisoners of war from article 165; unjustified delay of the release of prisoners of war from article 166; destruction of cultural assets or of facilities containing cultural assets from article 167; war of aggression from article 157; misuse of international symbols from article 168; racial and other discrimination from article 174; establishment of slavery and the transport of slaves from article 175; international terrorism from article 169; endangering the safety of persons under international protection from article 170; the taking of hostages from article 171 of the Penal Code ("Narodne novine" Nos. 110/97, 27/98, 129/00 and 51/01) and the criminal offence of terrorism regulated by the provisions of international law.

We emphasize that the General Amnesty Act does not apply to persons accused of serious human rights violations. It applies, by means of the exercise of due diligence, to the cases where there is no sufficient evidence that these were war crimes, and war crimes are not subject to amnesty from criminal prosecution.

The General Amnesty Act was applied to 220 persons in the Republic of Croatia in the period between 1 January and 31 December 2002.

Points 12 and 13

The Republic of Croatia has recognized the importance of the fight against organized crime, and, within this fight, of the combat against all forms of criminal activities related to the trafficking in and smuggling of human beings, especially women and children.

Located at an international intersection of traffic routes used by organized crime for the purpose of trafficking in and smuggling of people, Croatia has undertaken significant activities in the fields of legislation and prevention, as well as in the development and equipping of institutions for the more efficient fight against organized crime.

On 7 November 2002 the Republic of Croatia ratified the United Nations Convention against Transnational Organized Crime with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Air and Sea thereto and the Ministerial Declaration on Trafficking in

Human Beings. The Conventions and bilateral agreements signed provide for vast opportunities for cooperation between the Republic of Croatia and other States at a global level, but first all forms of cooperation with the countries in the region need to be promoted, since our neighbours are located on the main transit routes used by organized crime for the trafficking in and smuggling of people.

The criminal legislation of the Republic of Croatia (the Penal Code, the Criminal Procedure Act and the Office for the Combat against Corruption and Organized Crime Act) contains provisions which provide a framework for the fight against trafficking in human beings.

Although the Penal Code of the Republic of Croatia contains provisions which can be applied to criminal activities related to the trafficking in human beings (article 175: "Establishment of Slavery and Transport of Slaves"; article 177: "Unlawful Transfer of Persons across the State Border"; article 178: "International Prostitution"; and article 195: "Pandering"), it was precisely with a view to providing a transparent and clear definition and to making it easier to distinguish criminal activities that the work on the amendments to the Penal Code was started.

The Proposal of the Amendments to the Penal Code Act envisages an amended incrimination from article 175, with an amended title: "The Establishment of Slavery and Trafficking in Human Beings". Recognizing the definition of "trafficking in human beings" from the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the text of the amendments proposed underlines the essential elements of the criminal offence:

- Recruitment, transportation, transfer, purchase, sale, harbouring or receipt of persons;
- By means of various forms of coercion or fraud, or the abuse of power;
- For the purpose of exploitation, forced labour or servitude, sexual exploitation or illicit transplantation of parts of the human body.

Trafficking in children or minors would constitute a more serious form of this criminal offence, with a harsher sanction imposed. The incrimination of taking away or destruction of a personal identification card, passport or another identification document in connection with the above is being introduced as well as a new incrimination which will apply to the user of a service who knew that the service was obtained from a victim of trafficking in human beings.

A separate paragraph of this article which regulates trafficking in human beings will emphasize that the fact that a person has given consent to forced labour or servitude, sexual exploitation, slavery or practices similar to slavery or illicit transplantation of parts of his or her body has no relevance for the existence of this criminal offence.

The final Proposal of Amendments to the Penal Code will be forwarded for parliamentary procedure in March 2003.

Article 177 of the Penal Code covers the field of combat against illicit transfers of persons across the State border, that is it includes the prohibition of smuggling of people across

the border committed for lucrative purposes, while article 178 contains various forms of prohibition of incitement and pandering for the purposes of international prostitution.

In article 279, the Penal Code contains also the incrimination of concealing money obtained illegally, that is money laundering. In addition to the existing Prevention of Money Laundering Act, this provision represents the basis for the combat against organized crime, which aspires to legalize dirty money obtained through the trafficking in and smuggling of human beings by means of various financial and other activities.

The Penal Code also contains provisions on the confiscation of pecuniary benefit obtained by a criminal offence as well as criminal law sanctions which also represent, in the sense of general prevention, a framework for the combat against this type of crime.

The Office for the Combat against Corruption and Organized Crime Act contains procedural provisions relating to security measures and measures of forceful deprivation of the proceeds or other pecuniary benefit obtained through criminal offences, allowing in this manner for more efficient confiscation of any profit where grounds for suspicion exist that it stems from the trafficking in and smuggling of human beings, in cases when these criminal offences were committed through the activities carried out by organized crime. As a specialized State's Attorney's Office, the Office is, inter alia, responsible for the prosecution of criminal offences of transnational organized crime. This allows for continuing planned and systematic activities by the State's Attorney's Office, the police and other competent bodies of State authorities and the courts in the combat against organized crime also in the field of trafficking in and smuggling of human beings.

The Criminal Procedure Act ("Narodne novine", Nos. 110/97, 27/98, 58/99 and 112/99) contains procedural institutions and measures offering to the State's attorney's offices, the police and the courts the framework for the detection, investigation and processing of criminal offences of trafficking in and smuggling of human beings and for the imposition of appropriate criminal law sanctions upon them, as well as for the confiscation of the profits obtained through these criminal offences.

A National Action Plan to Combat Trafficking in Human Beings has been made within the Stability Pact Anti-Trafficking Initiative and was adopted by the Government of the Republic of Croatia on 14 November 2002. The National Action Plan envisages the activities connected to the following: the creation of an adequate legal framework; offering assistance to victims; prevention; international cooperation and coordination of activities and training.

The combat against the trafficking in human beings and illegal migration, against the dangers inherent in these activities and their connections with all the forms of corruption, cannot be carried out efficiently without an additional training of the police, the courts, the State's attorneys, customs and other supervisory services. Having recognized the significance of training as an instrument for the efficient fight against trafficking, the Ministry of Justice, Administration and Local Self-government has established the Centre for the Professional Training of Judges and Other Judicial Officials.

In the period between 1991 and 31 December 2002, a total of 1,538 criminal offences against the values protected by international law were registered in the Republic of Croatia.

During and immediately in the aftermath of the military-police actions "Flesh" and "Storm", that is in 1995, 26 perpetrators were registered of the criminal offence of murder in the Republic of Croatia with a total of 47 victims, mainly civilian persons of Serbian nationality. Seventeen cases in which a total of 32 persons were killed were resolved out of these 26 criminal offences committed, in such a manner that criminal reports were filed with the competent State's attorney's offices against 22 persons. In all these cases judicial proceedings were instituted. According to information we have, some of these proceedings have been completed, and some are still pending.

It should be mentioned that nationality, as a motive for murder, was identified in approximately 1 per cent of all the murders committed in the Republic of Croatia during the last several years in which the perpetrators were identified and court proceedings instituted.

Furthermore, in cooperation with the judicial authorities, the Ministry of the Interior has intensified the work on the investigation into all available crime information and knowledge about the perpetrators of and criminal offences committed during the aggression, armed rebellion or armed conflicts, and in connection with the aggression, armed rebellion or armed conflicts in the Republic of Croatia, regardless of the nationality of victims or perpetrators (see the table showing criminal offences against the values protected by international law, with the total number of criminal offences and persons reported in the period between 1990 and 2002).

Specialized organizational units for the investigation of war crimes have been organized and are operating within the Ministry of the Interior. Police officers specially trained for the criminal investigation of criminal offences against the values protected by international law are working in these units.

- *To substantiate this we enclose a table showing criminal offences against the values protected by international law.*

Point 14

The manner of solving the problem of the abuse of prisoners by fellow prisoners is regulated by the Execution of Prison Sentence Act ("Narodne novine" Nos. 128/99, 55/00, 129/00, 59/01 and 67/01). Such behaviour is qualified as a more serious disciplinary offence. Two hundred and twelve disciplinary proceedings for conflicts between prisoners were instituted in 2001, and 219 in 2002.

Psychosocial assistance and support is being offered in cases of abuse. The possibility of dislocating the abusers to another ward or transferring them to another penitentiary or prison for the purpose of preventing contacts and mitigating harmful consequences is also available.

Points 15 and 20. The return of resettled persons and the reconstruction of destroyed property

In the period between 1 January and 31 December 2002, the Ministry of Justice, Administration and Local Self-government checked the data on sentencing for 467 persons who had filed applications to return to the Republic of Croatia from Bosnia and Herzegovina and the Federal Republic of Yugoslavia. Four hundred and forty-seven out of 467 persons have not had any previous convictions. The Ministry has forwarded these data to the UNHCR.

Already in 2001 the Government of the Republic of Croatia initiated and carried out the majority of the measures necessary to ensure and speed up the return of all displaced Croatian citizens to their homes, with priority given to the activities which provide accommodation for all the remaining displaced persons and refugees, and guarantee sustainable return. The Government continued to implement these measures in 2002 and 2003. The activities mentioned primarily relate to the reconstruction of their homes in Croatia and Bosnia and Herzegovina, the repossession of property and housing accommodation in Croatia for the returnees who do not have property, including those who are former holders of protected tenancy rights and refugees who opted for local integration in Croatia as the final solution.

In particular, the activities mentioned can be categorized in the following basic groups:

- The return of property according to the Action Plan of the Government of the Republic of Croatia for the implementation of the return of property up until the end of 2002 (the deadline for the implementation of the measure is the end of 2002 and further);
- Housing accommodation for the temporary occupants of the property currently occupied by means of alternative accommodation or the completion of the reconstruction of damaged housing units in the Republic of Croatia or Bosnia and Herzegovina (the deadline for the implementation of the measure is the end of 2003 and further);
- The reconstruction of damaged housing units and basic infrastructure (the deadline for the implementation of the measure - end of 2004 and further);
- Housing accommodation of the returnees who do not have any property (the deadline for the implementation of the measure - continuously);
- The provision of the unified application of new laws and regulations and procedures for the repossession of property.

Each of the activities mentioned is accompanied by a concrete programme implemented by the Croatian Government, and by significant financial means invested in each programme. They are based on concrete decisions and regulations of the Croatian Government rendered and adopted over the past two years, whose objective is to speed up and finish all the processes, among which the following should be especially mentioned.

Amendments to the Reconstruction Act and Amendments to the Areas of Special State Concern Act were already enacted in the first part of 2000. Discriminatory provisions were removed from these Acts, by which all the returnees were provided with an equal right to return. In addition more flexible and efficient systems of reconstruction and housing accommodation were defined. This was a clear sign to all the Croatian refugees and an invitation to return to the Republic of Croatia and to their homes.

In March 2001, the Government held a special thematic session in Knin on the areas of special State concern and rendered a set of decisions and incentive measures for the return. The measures covered a broad field from legislation, property issues and reconstruction to economic revitalization. The results of the implementation of these decisions and measures should be pointed out:

- The implementation of the revision of all occupied private property, since it was found that the housing commission responsible up until then for the repossession of property had not provided reliable records of the occupied property;
- The implementation of an expanded reconstruction programme; in September 2001 the Government of the Republic of Croatia rendered a decision on taking additional loans on the domestic market for the purpose of implementation of an expanded reconstruction programme;
- The initiatives for legislative amendments with an emphasis on the solution of the issue of the return of property;
- The activities focused on the incentives for businesses and reconstruction of the local economy by means of loans from the Croatian Bank for Reconstruction and Development, as well as activities providing incentives for employment;
- Rehabilitation activities;
- Activities in the field of the renovation of infrastructure through physical reconstruction and set-off of debt to *Hrvatska Elektroprivreda* (Croatian Electricity Company) and *Hrvatske vode* (Croatian Waters);
- The support programme of the Government of the Republic of Croatia for the return of Croats to Bosnia and Herzegovina - so far, 625 families of returnees to Bosnia and Herzegovina with 2,257 family members, who previously lived in Croatia as refugees, have received assistance through donations of construction material for reconstruction.

Especially significant progress has been achieved in the field of the repossession of occupied private property, as one of the key elements of the return and protection of human rights, especially the right to dispose of private property. In the second half of 2001, the Government launched a comprehensive reform of the system of repossession of property, on the basis of a review of all occupied property which was carried out by the Ministry of Public Works, Reconstruction and Construction in the first half of that year. This provided a clear definition of the initial situation. In September 2001 the Croatian Government rendered a decision to complete the process of repossession of all occupied property by the end of 2002. The implementation of this decision was elaborated in a plan called the Action Plan for the Repossession of Property adopted by the Government in December 2002, which elaborates in detail the activities and measures, together with the deadlines for the repossession of property and for providing housing accommodation to the temporary occupants of the occupied property. The legal definition of these activities for the speeding up of the repossession of property which have been launched, was given in the amendments to the Areas of Special State Concern Act of July 2002 ("Narodne novine", No. 88/02).

The Amendments mentioned harmonized and amended the procedure for the repossession of property, defined the deadline for the repossession of property by the owners as

the end of 2002 and disbanded the local housing commissions which had been responsible for the repossession of property up until then. The overall responsibility for the return of property was taken on by the Ministry of Public Works, Reconstruction and Construction as of 30 August 2002. Also, this Act introduced the measures for the more efficient management and use of State-owned housing facilities. Temporary occupants of occupied property were given priority in housing accommodation in order to ensure the repossession of property, thus giving priority to the owners of the occupied property over other returnees.

The Regulation on the Order of Priority for Housing Accommodation in the Areas of Special State Concern ("Narodne novine" No. 116/02) established the order of priority when deciding on applications for housing accommodation of other returnees to the areas of special State concern who did not have any property. Among these, the priority was given, *inter alia*, to the former holders of specially protected tenancy rights.

At the beginning of February 2003, the Ministry announced a programme for housing accommodation of former holders of protected tenancy who are returning outside of the areas of special State concern, with an implementation deadline not exceeding four years. All the returnees who do not have any property or accommodation in Croatia will be provided temporary accommodation up until their final housing accommodation.

Through the measures and activities mentioned above, the Government has removed all the remaining legislative and administrative obstacles for the efficient return of all the displaced Croatian citizens, with the emphasis on the provision of sustainable conditions of the return.

The activities and measures mentioned were followed by significant investments by the Croatian Government over the last three years aimed at the creation of sustainable conditions for the return and development of the war affected areas, especially for the reconstruction of housing facilities and basic communal infrastructure and social infrastructure damaged or destroyed by the war, as well as the repossession of property and housing accommodation. Two thousand eight hundred and fifty-five million Kuna (381 million Euros) were spent on the reconstruction of the destroyed and damaged housing facilities alone. The housing accommodation programme was financed from the budget of the Republic of Croatia, and from a 30 million Euro loan from the Council of Europe's Development Bank. The provision of additional funds with a view to providing housing accommodation for the remaining 5,000 temporary occupants who are currently occupying other people's property is under way. Four hundred and ninety million Kuna (40 million Euros) will be provided from the State budget for this purpose. In November 2002 the Government requested a new loan from the Council of Europe's Development Bank in the amount of the remaining 292 million Kuna (40 million Euros) necessary for the completion of the programme. The funds have already been allocated in the State budget and also from the loans taken on the domestic financial market for the financing of the pace of the reconstruction achieved, which had already been speeded up in the previous period.

In addition to the above, the transparency of the implementation of all the programmes by the Government of the Republic of Croatia should be mentioned, as well as the improvement of cooperation with non-governmental organizations, especially those which include returnees who are members of national minorities and other displaced citizens.

International cooperation in connection with the implementation of the return programme, including cross-border return, has also been intensified with Bosnia and Herzegovina and the Federal Republic of Yugoslavia, which has resulted in access for the Republic of Croatia to international financial institutions and funds for the financing of projects.

In addition to the funds from the State budget, the Government of the Republic of Croatia has since 2000 been implementing reconstruction programmes also from funds obtained from domestic and foreign loans, with a view to intensifying and speeding up the reconstruction programme. A total of 119,000 housing units damaged in the war have been repaired through reconstruction activities, and ca. 13 billion funds from the State budget have thus been spent. The assistance by the international community for the housing units reconstruction process has so far been ca. 7 per cent.

The increased scope of work resulted in the abolition of priority lists or waiting lists for the implementation of the programme. Nine partnership agreements were signed over the last three years with the most significant international donor organizations, all with a view to better coordinating the implementation of the reconstruction programme and harmonizing the criteria. In addition to the above, other non-governmental organizations as well as the representatives of the beneficiaries of rights have been significantly involved in the preparation and implementation of the reconstruction programme. A good cooperation with the representatives of the Serbian Democratic Forum Serbian National Council and others has been established in this. The representatives of international monitoring organizations have been mentioning in their reports over the last years the significant steps forward and progress achieved, and emphasizing the transparency of the implementation of the programme. Possible vague or unclear elements are being resolved speedily and efficiently, and have no impact on the pace of the implementation.

A comprehensive media campaign focusing on the deadlines for the filing of applications for reconstruction and on the provision of information on the implementation of the programme was carried out in Croatia and abroad in the second half of 2001 with the assistance of UNHCR. This especially relates to the territory of Serbia, Montenegro and Republika Srpska. The priority measures are under way to address the needs of all those temporarily accommodated in collective temporary accommodation centres in these countries.

The nationality of the beneficiaries of the right to construction is not a characteristic according to which any of the records of beneficiaries are kept. However, an analysis of the settlements where citizens of the Republic of Croatia of Serbian nationality used to live prior to the war leads to an estimate of 75 per cent of the beneficiaries mentioned were included in the Programme for the Organized Reconstruction of Family Homes in 2003.

All the activities mentioned above have resulted in a significant improvement of the pace and sustainability of the return over the last three years.

Seventy thousand four hundred and thirty-two displaced persons and refugees, Croatian citizens, have returned to their homes, including 38,321 (54.4 per cent) of returnees of mainly Serbian nationality, who had, prior to that, been refugees in the Federal Republic of Yugoslavia

and Bosnia and Herzegovina.

Twenty-two thousand five hundred and seventy-eight housing units have been reconstructed, thus making the return of ca. 66,000 returnees possible. The repossession of property has been provided for 12,212 owners, thus making their return into their property possible. Two thousand two hundred and forty-eight temporary occupants, mostly refugees from Bosnia and Herzegovina, and, fewer, returnees without any property, who have vacated the occupied private property, have been provided housing accommodation, and this property has accordingly been returned to its owners, mostly returnees who are members of national minorities.

It is especially important to point out the speeding up the return of citizens of Serbian nationality, which is the result of the measures and activities undertaken, and the overall change of the atmosphere in local returnee communities.

Point 16

The Ministry of Justice, Administration and Local Self-government every year follows the work of all the courts in the Republic of Croatia on a regular basis and makes an annual Statistical Overview about this. This Statistical Overview shows all the cases received by courts during one calendar year, the number of the cases solved and the number of pending cases. This Ministry is aware of the heavy backlog of cases awaiting hearing, especially from previous years. Certain activities have been undertaken in relation to this. The Government of the Republic of Croatia has adopted the Strategy of the Reform of the Justice System in the Republic of Croatia. One of the priorities of this reform is certainly the solving of the delays in administration of justice. In this sense, amendments to procedural laws are to be adopted, with a view to removing the possibilities for abuse of procedural rights by parties in proceedings and increasing their procedural discipline.

Also, in 2001 and 2002 the Ministry of Justice, Administration and Local Self government published announcements of vacancies for vacant judicial posts at all the courts at which the number of judges is not sufficient, that is where vacancies exist. Staffing of courts and State attorneys' offices by the appropriate number of civil servants has also been completed. The Center for the Professional Training of Judges and Other Judicial Officials has started its work as part of the implementation of the justice system reform programme, with the task of permanent and continuous training of judges and State attorneys, with special emphasis on the training of young and still insufficiently experienced judges and State attorneys.

The reform of the judiciary also includes training of judicial officials. The Government of the Republic of Croatia has undertaken the task of defining a system of professional and permanent education of employees of the justice system through the Centre for the Professional Training of Judges and Other Judicial Officials. The task of the Centre is to promote professional and permanent training of judges and other officials in the justice system through various forms of educational activities and professional training in new laws and regulations and topical problems related to new technologies for the management of judicial affairs, as well as in European and other international laws and regulations. The programme of the Centre will include various forms of professional training which will be carried out in various legal and law

related fields (criminal, civil, commercial, labour, misdemeanour, European laws, ICT skills in law, etc.), by organizing conferences, seminars and workshops, where the main partners will include representatives of the judicial power and university community in the Republic of Croatia (judges, State attorneys, etc.).

Point 17

Article 199 of the Penal Code incriminates the criminal offence of slander. Article 2 incriminates a qualified form of slander for which anyone who slanders another through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the insult becomes accessible to a large number of persons will be punished.

Defamation is regulated in article 200 of the Penal Code. Paragraph 2 of this article defines public defamation as a qualified form of this criminal offence committed when the basic criminal offence is committed through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons. We note that article 203 of the Penal Code excludes the unlawfulness in the case of the slandering content or the defamatory content referred to which are realized or made accessible to other persons in scientific or literary works, works of art or public information, in the discharge of official duty, political or other public or social activity, or journalistic work, if, from the manner of expression and other circumstances, it clearly follows that such conduct was not aimed at damaging the honour or reputation of another.

Point 18

The Croatian Parliament adopted a new Associations Act in July 2001, which was published in "Narodne novine" No. 88/01, and is a result of the harmonization of the text of the Draft Bill over several months of public debate through meetings, panel discussions and written observations by the representatives of the non-governmental sector and by the experts of the Council of Europe. Accordingly, the solutions contained in this Act reflect high European standards in the field of freedom of association.

In addition to the possibility of association of physical and legal persons, who have the capacity of a legal person, the provisions of the Associations Act also regulate the issue of association of those who are not legal persons (art. 3), to whom the provisions of the Civil Obligations Act ("Narodne novine" Nos. 53/91 and 3/94) which regulate the institution of partnership apply appropriately. An association may carry out activities for the realization of its goals even before its registration in a register, i.e. from the date of its foundation (art. 5, para. 1). Accordingly the realization of the purpose of the foundation has been made possible immediately upon foundation, even before the termination of the registration proceedings.

The number of founders of an association has been decreased from 10 to 3. A founder of an association may be a physical person with disposing capacity and a legal person, and accordingly, foreign nationals may found associations freely, without any restrictions (art. 10, para. 2). The statute of an association contains significantly fewer mandatory elements (art. 11, para. 3), which allows for the expression of the free will of the members of an association. The

only limitation is that the internal organization of an association must be based on the principles of democratic representation and democratic expression of will of its members (art. 6, para. 3).

The name of an association may contain individual foreign words if they constitute the name of the international organization of which the association is a member, if they are usual in the Croatian language, if there are no appropriate words for them in the Croatian language or if these are words from a dead language. Also no previous approval is necessary for the words "Croatia" and its derivatives and for the names of the units of local and regional self government, parts of their coats of arms and flags, which accelerates the registration proceedings and lightens the burden on the bodies that used to grant approvals.

State administration offices have subject matter jurisdiction for the registration of associations. The State administration office of the seat of an association has venue (art. 14, para. 3). Associations may function on the entire territory of the Republic of Croatia without limitations. The Ministry of Justice, Administration and Local Self-government registers foreign associations. This legislative solution has implemented the deconcentration of tasks from the State administration to the bodies in the units of regional self-government, which allows for the faster and efficient exercise of legal rights by citizens, concrete performance of the tasks of the registration of an association into a register, as well as of any changes of statutory issues with respect to associations.

In relation to the registration of foreign associations, it should be mentioned that the consent by the Ministry of Foreign Affairs for the work of a foreign association on the territory of the Republic of Croatia, which used to be necessary under the former Associations Act, is no longer necessary, which significantly accelerates the procedure of registration of foreign associations founded under the legal order of a foreign State.

The amount of data an association, which is a legal person, is required to furnish to the registration office has decreased (art. 19, para. 1). No time limit is prescribed for the filing of an application for the registration of changes into the register by a person authorized for representation of an association. The limitation concerns the use of data before their entry into the Register of Associations.

The Government of the Republic of Croatia allocates, on the basis of a public contest, a grant from the State budget to associations or programmes which are of interest for the general/public good in the Republic of Croatia (art. 23, para. 1).

Supervision of the work of associations is carried out primarily by the members of the association. Procedure is prescribed for cases when the members of an association find irregularities in the implementation of the statute. If the body designated in the statute fails to remove the irregularities within 30 days of the receipt of a written warning alleging these irregularities, the member concerned is entitled to file a complaint for the protection of his or her rights prescribed in the statute of the association, with the county court with venue according to the seat of the association. The following measures may be undertaken in inspection supervision proceedings conducted by an official from the State administration office: orders to remove the deficiencies and irregularities established, and a misdemeanour report alleging the

violation of this Act.

There are fewer reasons for the dissolution of an association:

- A decision on dissolution rendered by a competent body;
- The cessation of activities;
- A legally effective court decision which prohibits the activities of an association;
- Bankruptcy.

The office of State administration shall render a decision on the dissolution of an association for the reasons mentioned and inform the court for the purpose of carrying out bankruptcy proceedings. Deletion from the register is to be carried out by the office of State administration on the basis of a legally effective judgement prohibiting the activities of an association or a legally effective ruling on the conclusion of bankruptcy proceedings, by which association's status as a legal person is terminated.

The reasons given for the prohibition of an association are based on article 43, paragraph 2 and article 16 and article 11, paragraph 2 of the European Convention on Human Rights. There is no temporary prohibition of the work of an association which would be decided upon by an administrative body. The court decides on the prohibition of the activities of an association, in court proceedings, and if the competent State attorney assesses that reasons for the prohibition of the activities exist, he or she will file a motion with a county court with venue according to the seat of the association. The procedure for the prohibition of an association is conducted subject to the application of civil contentious procedure rules.

The amounts of fines for misdemeanours were reduced and harmonized, as are the number of misdemeanours.

The issue of the interim period following the entry into force of the Act is regulated so as to allow associations to continue their activities on the basis of the existing registration, while the county State administration offices carried out ex officio the registration of associations within 90 days from the date the collection of documents is taken over from the Ministry of Justice, Administration and local Self-government. On the basis of this legislation, the existing associations did not have to be subject to the procedure of "re-registration". Upon the entry into force of the Associations Act, those "social associations" and "associations of citizens" as well as foreign associations which did not adjust themselves under the former Associations Act, which obligation was due on 15 January 1998, were deleted from the Register.

The property over which the association had the right of disposal or the right to use it up until the enactment of the 1997 Associations Act, except for the property of trade-union associations, becomes the property of the associations of their legal successors as of the date of the application of the 2001 Associations Act. The Associations Register is unified, kept in electronic form and accessible to the public. More than 22,000 associations are registered in this Register, and the tendency of registration in the Register has been constantly increasing since the entry into force of the new Associations Act.

It stems from everything mentioned above that the Associations Act was harmonized

with the highest European standards and provides a framework for the strong development of the civil society in the Republic of Croatia.

Points 19 and 21

The legislation regulating labour law and employment have been harmonized with the provisions of the Constitution of the Republic of Croatia which prescribes that every person in the Republic of Croatia has all rights and freedoms without any discrimination of any sort whatsoever. The provisions on the prohibition of discrimination are also contained in the provisions of the Labor Act. This issue from the field of labour and employment will be more broadly regulated by the Amendments to the Labour Act (which are being prepared) and which will bring a higher degree of adjustment to the European Union directives (especially the Council's Directive 2000/78/EC, Directive 76/207/EEC and Council Directive 2000/43/EC).

Point 22

The Republic of Croatia enacted the new Constitutional Act on the Rights of National Minorities ("Narodne novine" No. 155/02) in December 2002. With this Constitutional Act it ensures the realization of the following rights to members of all national minorities, where the notion of a national minority means a group of Croatian citizens whose members are traditionally settled on the territory of the Republic of Croatia, and its members have ethnic, linguistic, cultural and/or religious characteristics different from other citizens and are moved by the desire to preserve these characteristics (article 7 of the Constitutional Act):

1. Private, public and official use of their language and script.
2. Upbringing and education in the language and script which they use.
3. Use of their signs and symbols.
4. Cultural autonomy, by means of preservation, development and expression of their own culture and preservation and protection of their cultural heritage and tradition.
5. The right to manifestation of their religion and the found of religious communities together with other members of that religion.
6. Access to the media and to the performance of the activities of public communication (receipt and dissemination of information) in the language and script they use.
7. Self-organization and association for the purpose of the realization of common interests.
8. Representation in representative bodies on the State and local levels as well as in administrative and judicial bodies.
9. Participation by members of national minorities in public life and management of local affairs through councils and representatives of national minorities.
10. Protection from any activity which threatens or could threaten their survival and the realization of their rights and freedoms.

It stems from the above that members of the Roma population in the Republic of Croatia also have the status of a national minority. The Government of the Republic of Croatia has initiated, together with the Council of Europe, the "National Programme for the Roma" within which adequate solutions for a comprehensive solution for the status of the Roma in the Republic

of Croatia are being sought, starting from the improvement of quality of life, through the development of Roma settlements, health care, to the teaching of Croatian language and Latin script, with a view to faster integrating the Roma national minority into the society. The vast majority of them do not speak the Croatian language, which is one of the obstacles for their inclusion into, for example, educational programmes. The Roma in the Republic of Croatia have their own associations which are entitled to funds from the State budget for the work of these associations. The Republic of Croatia has been investing a great deal of effort and hopes that by the implementation of the "National Programme" instituted and with other conditions fulfilled, the status of the Roma in the Republic of Croatia will improve significantly.

We also believe that members of the Serbian national minority in the Republic of Croatia are not being discriminated against whether in comparison with members of other minorities or in relation to the majority population, as rights equal to the rights of everybody else have been offered and ensured to them. The areas of special State concern, that is the areas to which members of Serbian nationality should return, since they were displaced from those areas, are a major problem. These are areas with many problems, mostly of an economic nature, due to the poorly developed economy, resulting in a lack of jobs, while the agricultural land is unfortunately still mostly mined, which constitutes an additional danger. Accordingly, all the inhabitants of these areas devastated during the armed conflict on the territory of the Republic of Croatia are affected by the same problems.

It is unfortunately true that there are incidents motivated by national discrimination, but this is definitely not the rule, and any person who has committed an offence motivated by discrimination on any grounds is subject to criminal responsibility.

CCPR, CCPR/C/HRV/CO/2/Add.1 (2011)

Information received from the Republic of Croatia on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/HRV/CO/2)

[17 January 2011]

Response from the Republic of Croatia on the implementation of the Committee's recommendations under paragraphs 5, 10 and 17 of the concluding observations of the Human Rights Committee on the second periodic report of the Republic of Croatia dated 29 October 2009

1. Pursuant to paragraph 21 of the concluding observations of the Human Rights Committee (CCPR/C/HRV/CO/2) regarding the second periodic report of the Republic of Croatia, the Republic of Croatia submits the relevant information on the implementation of the recommendations of the Committee made in paragraphs 5, 10 and 17 of the concluding observations.

Reply to the issues raised in paragraph 5

Fight against discrimination

2. Regarding the fight against discrimination, it is necessary to stress that the Republic of Croatia is undertaking intensive measures in order to suppress all forms of discrimination and to overcome prejudice against ethnic minorities.

3. In order to provide better protection and to promote the rights of the members of national minorities, including members of the Serb minority, and to suppress discriminatory behaviour against all members of national minorities, the Government of the Republic of Croatia adopted in 2008 an Action Plan for the Implementation of the Constitutional Act on the Rights of Minorities. The goal of this document is to provide the best and most comprehensive exercise of all the rights of national minorities guaranteed by the Constitutional Act on Protection of the Rights of National Minorities.

4. The Action Plan contains measures divided into 12 chapters (official and public use of languages and script of the national minorities; education in the language and script of national minorities; use of their signs and symbols; cultural autonomy, the right to preserve one's religion and to establish religious communities together with other members of that religion; access to the media; self-organising and association for the purpose of exercising mutual interests; representation in the representative bodies at the state and local level, and in administrative and judicial bodies; participation of members of national minorities in the public life and in management of local affairs through the councils and through representatives of national minorities; protection from any activity which endangers the exercise of rights and freedoms of the members of national minorities - developing tolerance towards differences and suppression of discrimination; Roma National Programme and the Action Plan for the Decade of Roma

Inclusion 2005- 2015; general measures for the support of the implementation of the Constitutional Act on the Rights of Minorities and of the Action Plan).

5. In order to successfully follow the implementation of measures stipulated in the Action Plan, an obligation to submit an annual report to the Government of the Republic of Croatia on the implementation of the Action Plan for the Implementation of the Constitutional Act on the Rights of Minorities was introduced. In October 2010, the Government of the Republic of Croatia adopted the Report on the Implementation of the Action Plan for the Implementation of the Constitutional Act on the Rights of Minorities for 2008 and 2009.

6. Former experience in Action Plan implementation showed that the measures have achieved the desired results in many areas (cultural autonomy of national minorities, education in the language and script of national minorities, the right to profess one's religion and to establish religious communities together with other members of that religion, representation in the representative bodies at the state and local level, implementation of the Roma National Programme and the Action Plan for the Decade of Roma Inclusion 2005-2015). The representatives of the national minorities in the Croatian Parliament gave a large contribution to the realisation of national minorities' rights. Members of national minorities are a constituent part of the ruling majority and they participate in the state affairs.

7. It is important to stress that the analysis of the implementation of measures shows that 48 measures have been fully implemented (51.61%), 33 measures have been continuously implemented (35.48%), 5 measures have been partially implemented (5.38%), and 7 measures have not been implemented (7.53%). The mentioned data shows a high percentage of implementation of the Action Plan measures (92.47%). The majority of measures that have not been implemented are planned for implementation during 2010.

8. As it has been proven that implementation of the Action Plan measures has significantly contributed to the promotion and realization of the rights of the national minorities guaranteed by the Constitutional Act on the Rights of Minorities, however, there is still room for improvement and the Office for National Minorities is preparing a new Action Plan for the Implementation of the Constitutional Act on the Rights of Minorities for the following period. The new Action Plan shall define the new measures for the consistent implementation of the Constitutional Act on the Rights of Minorities, that is, it shall continue with the implementation of those measures that are continuously implemented, as well as intensify the activities for more efficient implementation.

9. The Republic of Croatia's progress in realizing the rights of national minorities is also confirmed by the opinion of the Council of Europe Advisory Board on the Third Report of the Republic of Croatia on the Implementation of the Framework Convention for the Protection of National Minorities. The Council of Europe has recognised the high standards that the Republic of Croatia has incorporated into the legislative framework.

10. Furthermore, the Office for National Minorities of the Government of the Republic of Croatia in cooperation with the Council for National Minorities of the Republic of Croatia and the Faculty of Political Science in Zagreb organised a workshop entitled "Media and national minorities in the Republic Croatia" for journalists of both electronic and printed media.

Regarding the recommendations and guidelines for reporting on subjects concerning the minorities it was stressed that the representation of the minorities in daily newspapers and news broadcasts needs to be improved. The goal of the workshop was to help develop the sensitivity of journalists and editors when reporting on subjects and events connected to the members of national minorities. Thus pointing out the need to reduce the stereotypes and prejudice against national minorities, especially against Roma people.

11. Also, in 2008 the Republic of Croatia joined the Council of Europe campaign entitled "Dosta!" (Enough), against discrimination of Roma national minority in Europe. In accordance with the Council of Europe recommendation and the obligations of the Republic of Croatia as a participating country in the "Dosta!" campaign, in 2009 the Office for National Minorities of the Government of the Republic of Croatia, in cooperation with NGO, Fade In from Zagreb, conceived and financed a TV spot for the promotion of the "Dosta!" campaign that was aired on Croatian television station, HRT.

12. In co-organisation with the Human Rights Office of the Government of the Republic of Croatia, the Ombudsman's Office, Centre for Peace Studies and the Judicial Academy, and as part of the project entitled "Support for the implementation of the Anti-Discrimination Law", seminars were held during 2009 in Zagreb, Split and Osijek entitled "Seminar on the implementation of the Anti-Discrimination Law" with altogether 58 participants coming from all over Croatia.

13. In 2009 in Zagreb, Split, Rijeka and Osijek, workshops entitled "Rights of witnesses and victims: providing support" was held with altogether 75 participants (judges and State attorneys) coming from various regions of the Republic of Croatia

14. Also, social care institutions were provided with clear instructions on the implementation of positive regulations regarding human rights and fight against discrimination, that is on actions to be taken in cases of any kind of intolerance and/or verbal or physical attacks on the members of national minorities.

Hate Crimes

15. The Republic of Croatia pays special attention to the issue of hate crimes. By means of analytical follow-up of the situation, it should be emphasized that in the Republic of Croatia there were no registered cases of organized violence towards particular groups. Collecting and analysing information on hate crimes is also directed towards possible undertaking of appropriate preventive measures in case there are clear parameters indicating higher level of danger for any ethnic group in any way, time or space.

16. Indisputably there are occasional cases, but they are becoming less frequent, of tensions remaining from the Homeland war, especially with the population that was involved in wartime activities and where material and human casualties were considerable. However, it needs to be mentioned that no escalation of conflict or of organised attacks on members of other ethnic groups or their property was noted. Mostly the cases in question are individual, momentary and sporadic conflicts that have no shared characteristics that would indicate planning, organising

and conducting of the attacks by certain groups or individuals.

17. At the same time, we would like to mention that the conclusion on the slowness of investigations in cases of hate crimes, that is, in cases of ethnically motivated incidents is not completely founded. Besides the special attention given to hate crime investigations, the high percentage of solved cases of this kind (80.43% in 2007, 72.41% in 2008, and over 90% in 2009) point to such conclusion.

18. The Ministry of Interior is especially dedicated to dealing with this issue which is evident through adoption and implementation of the OSCE/ODIHR fight against hate crimes training programme for police officers. 25 police officers completed this training and gained the status of training teachers, while parts of the programme are integrated into the basic police training curriculum as well as in specialist courses curriculum. Procedure in cases of hate crimes is clearly defined for all the organisational units within the Police Directorate and proscribed by special instruction forwarded to all the organisational units for implementation, following the entry into force of the Amendments of the Criminal Code (1 October 2006).

19. In order to process hate crimes as soon as possible, the State Attorney's Office of the Republic of Croatia, in accordance with its authority within the criminal prosecution framework for crimes of this type, issued an instruction to all State Attorney Offices pursuant to which in cases where there is a suspicion of a hate crime being committed urgent investigation measures and actions need to be conducted in coordination with the police and other state bodies in order to have a prompt investigation and indictment in such cases. Special records are kept regarding this, and such crimes are followed up with special statistics. In this way, through the instructive and supervisory function of the State Attorney's Office, adequate, urgent and encompassing processing of these crimes is ensured, as well as the protection of the injured party, that is, the victims of such crimes, all of which is part of the scope of work of the State Attorney's Office.

Sustainable return

20. Regarding the recommendation that the State needs to continue with its efforts in the sense of social and economic development of the regions populated with Serb returnees, we would like to mention that the Government of the Republic of Croatia has intensified its efforts with regard to social and economic development of areas lagging behind other areas in the Republic of Croatia. Among others, this refers to areas of special State concern where the majority of returnees of Serb ethnicity are coming back to live.

21. For that reason, in 2008, a new Ministry of Regional Development, Forestry and Water Management was formed. As the basic document for governing regional development, in December 2009, the Law on Regional Development was adopted. The law determines the goals and principles governing regional development in the Republic of Croatia, as well as the strategic planning for the development of assisted areas, the institutional framework for governing, assessing and sorting regional and local self-governing units according to the level of development of assisted areas. The assessment of the development level of regional and local self-governing units is based on the social and economic development index.

22. In June 2010 the Regional Development Strategy of the Republic of Croatia for 2011-2013 was adopted. Also several implementing regulations were passed pursuant to the Law on Regional Development, and it is expected that the Law on Assisted Areas will be passed by the end of this year.

23. The above-mentioned measures and documents from the institutions determine the measures that will contribute to a more even development of all the areas of the Republic of Croatia. They also support the demographic and economic progress, the return of the pre-war population and permanent housing solutions. First and foremost, this implies the contribution to the development of those areas that are developmentally lagging behind the Republic of Croatia average, meaning the areas of special state concern where the majority of returnees of Serb ethnicity are coming back to live.

Reply to issues raised in paragraph 10

24. The Republic of Croatia pays special attention to the war crime trials. The effort invested in working on issues of war crimes was stressed in the report of the Organization for Security and Co-operation in Europe (hereinafter OSCE), dated 27 October 2009, where it is stressed that there are significant improvements noticed with regard to the war crimes issues. Regarding the monitoring of war crime trials it was stressed that NGOs in Croatia today are capable of handling this demanding task. The Republic of Croatia is addressing all of the war crimes, using equal and objective criteria on all perpetrators of war crimes

War crime trials

25. In order to determine whether the courts are biased when it comes to war crime trials, considering the fact that some of the accused persons are members of the Croatian Army (hereinafter HV) or the so-called Yugoslav People's Army (hereinafter JNA) and paramilitary formations, the Ministry of Justice conducted an "Analysis of proceedings in war crime cases before the county courts in the Republic of Croatia for the period 2005-2009."

26. The period was considered adequate in order to provide clear indicators of the attitude of the Croatian judiciary towards perpetrators of war crimes. The processed data represents a sample large enough to show growth and decline trends, as well as the comparison of certain parameters.

27. The analysis gave the following data:

28. Of the total number of 195 defendants, 124 persons (64%) stood trial, and 71 persons (36%) were tried in absentia. As a rule, the persons in question were mostly members of the JNA. In fact, an incomparably large number of JNA members were unreachable by the judicial authorities (92% of members of the JNA were tried in absentia). It needs to be mentioned that in 2005, 2007, 2008 and 2009, all indicted members of the HV stood trial and none was tried in absentia.

29. With respect to 47 members of the HV, 41 members stood trial, while 6 members (or 13%) were tried in absentia (2 (33%) of whom were acquitted and 4 (64%) were found guilty on all the

charges laid against them). As such, 87% of the persons were present during their trials.

30. With respect to 148 members of the JNA, 83 members stood trial, while 65 members (or 43%) were tried in absentia (11(17%) of whom were acquitted and 54 (83%) were convicted of crimes). As such, 56% of the persons were present during their trials.

31. Therefore, we can conclude that more members of the HV were present during their trials, and consequently more members of the HV faced the consequences for the crimes they committed.

32. As a large number of in absentia criminal proceedings had been held at the beginning of the 1990s during the war, it was concluded that in certain cases individuals were convicted on insufficient evidence and therefore those convictions do not comply with the legal standards for the trials. In all of those cases in which subsequent investigations provided bases for the claim that the “in absentia” conviction, in full force and effect, needs to be changed according to the new facts and evidence (likely to result in the acquittal of the convicted person or to his conviction according to the more lenient criminal code) - it was concluded that these proceedings need to be revised.

33. Hence, the State Attorney's Office of the Republic of Croatia (hereinafter DORH) created the Action Plan for the implementation of Instruction No. O-4/08 regarding the work on war crimes cases, No. A-223/08, dated 12 December 2008, allowing the renewal of certain criminal proceedings (pursuant to the Criminal Procedure Act, Official Gazette (hereinafter NN) No. 152/08) for which it was concluded that based on new-found facts or evidence the court might render a different judgement in relation to in absentia judgement.

34. Pursuant to the mentioned Action Plan, the State Attorney's Office of the Republic of Croatia inspected the cases where the accused persons were convicted in absentia for war crimes. 117 in absentia convictions in full force and effect against 465 persons were identified.

35. According to the data from September 2010 pursuant to the 2008 Criminal Procedure Act and Criminal Procedure Amendment Act (2009), requests for the renewal of proceedings in 17 war crime trial cases were submitted in relation to 94 persons, and requests were accepted with regard to 90 persons, while for 2 persons the courts rejected the requests, and for 2 persons no decision has yet been made. Regarding the other cases, in future, DORH, in accordance with the law, shall continue to submit requests for the renewal of proceedings when there are legal grounds for such an action.

36. The above-mentioned Act and its Amendments gave more possibilities for the State Attorney's Office to initiate renewals of proceedings thus enabling the removal of noted shortcomings of procedures with final judgements rendered in absentia.

37. On 27 and 28 May 2010, the 4th Regional Conference of Chief State Prosecutors was held on Brijuni. The Conference proved to be a very useful medium for bilateral cooperation and acquisition of positive experiences and proposals for the continuation of processing of war criminals from the area of the former Yugoslavia. The Conference addressed the war crimes proceedings, with the presentation of the War Crimes Data Base created by the State Attorney's

Office of the Republic of Croatia, which has been in use since June 2010. The War Crimes Data Base contains data related to war crimes, description of the crime, information on victims and witnesses, evidence data and other relevant information. The State Attorney's Office of the Republic of Croatia is coordinating the police and other State bodies' procedures leading to investigation against unknown perpetrators, and to this end conducts the exchange of information and evidence with prosecutions of other countries pursuant to the signed Protocols on Co-operation.

38. It is important to mention that representatives of the War Crimes' Prosecutor's Office of the Republic of Serbia, Office of the Prosecutor of the BiH, Chief State Prosecutor's Office of Montenegro, Office of the Federal Prosecutor of the BiH Republic Prosecutor's Office of the Republic of Srpska, and representatives of Brčko District Prosecutor's Office in BiH also participated.

Impartiality of Croatian courts

39. The above mentioned analysis of the number of convictions in cases of war crimes leads to the following findings:

40. Out of 146 persons with final convictions, 24 are members of the HV (16%), while 122 persons are members of the JNA (84%).

41. Out of 49 persons with pending convictions, 23 are members of the HV (47%), while 26 of them are members of the JNA (53%).

42. There is continuity with regard to the number of verdicts rendered during the years. In fact, in 2005, 14 verdicts were passed, in 2006 - 19 verdicts, in 2007 - 11 verdicts, in 2008 - 10 verdicts and in 2009 - 24 verdicts. The ratio of the listed convictions was stabilised as 35% of the HV members and 65% of the JNA members.

43. The actions of the Croatian judicial bodies show that every person who is reasonably suspected of committing war crimes has to be brought before the court to answer for his/hers actions, regardless of whether the person in question was a member of the aggressor forces or the defence forces.

44. If the data is put into context of the situation during the Homeland war, whereby the HV were the defenders and the JNA was the aggressor, then the larger number of convictions for the members of the JNA is both logical and expected.

45. Furthermore, in the above-mentioned analysis, the determined categories are members of the JNA and members of the HV, and not their ethnic background. In fact, during the observed period, of the HV members that stood trial, three declared themselves as Muslims, one was of the Albanian minority, and one was Slovenian (all citizens of the Republic of Croatia). From the foregoing, it is evident that it is inappropriate to talk about the ethnicity of the war crimes perpetrators with regard to this specific analysis because ethnicity had no influence what so ever on any part of the decision-

making during the war crimes proceedings.

46. During the last five years, war crimes proceedings were held before 16 county courts, in the same community and environment where the crimes was committed, which indicates the readiness and maturity in processing of all the war crimes regardless of the ethnicity of the perpetrators. See table below.

Number of persons convicted according to ethnicity and years in which the judgements were rendered (1992-2009), pursuant to the relevant articles of the Criminal Code (hereinafter CC)

| <i>Perpetrators Convicted for War Crimes According to Ethnicity</i> | | | | | | | |
|---|-------|--------|-------|----------|-----------|-------|---------|
| | Total | Croats | Serbs | Bosnians | Albanians | Other | Unknown |
| 2009 | | | | | | | |
| Article 158, paragraph 1 of the CC ¹ | 29 | 5 | 18 | - | - | 4 | 2 |
| 2008 | | | | | | | |
| Article 158, paragraph 1 of the CC | 8 | 2 | 4 | - | - | 2 | - |
| Article 160 of the CC ² | 2 | - | 2 | - | - | - | - |
| 2007 | | | | | | | |
| Article 158, paragraph 1 of the CC | 21 | 8 | 12 | - | - | - | 1 |
| 2006 | | | | | | | |
| Article 158, paragraph 1 of the CC | 20 | 1 | 18 | - | - | - | - |
| Article 160 of the CC | 1 | - | 1 | - | - | - | - |
| 2005 | | | | | | | |
| Article 158, paragraph 1 of the CC | 28 | - | 26 | 1 | - | 1 | - |
| Article 160 of the CC | 3 | 1 | 2 | - | - | - | - |
| 2004 | | | | | | | |
| Article 156 of the CC ³ | 4 | - | 3 | - | - | - | 1 |
| Article 158, paragraph 1 of the CC | 8 | 5 | 1 | - | - | 1 | 1 |

2003

| | | | | | | | |
|---|----|---|----|---|---|---|---|
| Article 158, paragraph 1 of the CC | 10 | - | 10 | - | - | - | - |
| Article 158, paragraph 2 of the CC ⁴ | 1 | - | - | - | - | - | 1 |
| Article 160 of the CC | 1 | - | 1 | - | - | - | - |

2002

| | | | | | | | |
|------------------------------------|----|---|----|---|---|---|---|
| Article 158, paragraph 1 of the CC | 23 | 1 | 21 | - | - | 1 | - |
| Article 165 of the CC ⁵ | 1 | - | 1 | - | - | - | - |

2001

| | | | | | | | |
|------------------------------------|----|---|----|---|---|---|---|
| Article 156 of the CC | 2 | - | 2 | - | - | - | - |
| Article 158, paragraph 1 of the CC | 20 | - | 20 | - | - | - | - |
| Article 160 of the CC | 3 | - | 3 | - | - | - | - |
| Article 165 of the CC | 2 | - | 2 | - | - | - | - |

2000

| | | | | | | | |
|------------------------------------|----|---|----|---|---|---|---|
| Article 158, paragraph 1 of the CC | 51 | 1 | 49 | - | - | - | 1 |
| Article 158, paragraph 2 of the CC | 12 | - | 12 | - | - | - | - |
| Article 160 of the CC | 10 | - | 6 | - | - | - | 4 |
| Article 165 of the CC | 1 | - | 1 | - | - | - | - |

1999

| | | | | | | | |
|------------------------------------|----|---|----|---|---|---|----|
| Article 156 of the CC | 2 | - | 2 | - | - | - | - |
| Article 158, paragraph 1 of the CC | 22 | - | 10 | - | - | 2 | 10 |
| Article 158, paragraph 2 of the CC | 4 | 1 | 3 | - | - | - | - |
| Article 160 of the CC | 5 | - | 5 | - | - | - | - |

1998

| | | | | | | | |
|--|----|---|----|---|---|---|---|
| Article 156 of the CC | 8 | - | 8 | - | - | - | - |
| Article 158, paragraph 1 of the CC | 26 | 1 | 19 | - | - | - | 6 |
| Article 160 of the CC | 1 | - | 1 | - | - | - | - |
| 1997 | | | | | | | |
| Article 120, paragraph 1 of the BCC ⁶ | 29 | 1 | 28 | - | - | - | - |
| Article 120, paragraph 2 of the BCC ⁷ | 1 | - | 1 | - | - | - | - |
| Article 121 of the BCC ⁸ | 1 | - | 1 | - | - | - | - |
| Article 122 of the BCC ⁸ | 9 | - | 7 | - | - | 2 | - |
| Article 128 of the BCC ⁸ | 1 | - | 1 | - | - | - | - |

47. Regarding the table, it needs to be mentioned that the persons included stood trial pursuant to the law in force at the time that the crime was committed. Therefore, in order to render judgements during the period 1992-1993, the provisions of the Criminal Code of Yugoslavia were used. From 1993, judgements were rendered pursuant to the Criminal Code of the Republic of Croatia.

War Crimes Justice Project of the Office for Democratic Institutions and Human Rights (hereinafter ODIHR)

48. Education of personnel involved in war crime proceedings is conducted as part of the ODIHR project War Crimes Justice Project. During the last few years, training in the mentioned area of legal expertise was organised for attorneys, judges and State attorneys. Also one regional conference on war crimes was held.

49. During 2008, Croatian Bar Association (hereinafter CBA) and the Ministry of Justice drew up a list of attorneys with previous experience and interest in additional education to act as defence counsels in cases of this type. The list of attorneys was published on the CBA website and submitted to all county courts. Also, a practice was established of appointing attorneys that are on the list as defence counsels. On 14 April 2009, an education for attorneys interested in acting as defence counsels in such cases was held at the CBA premises in cooperation with the Judicial Academy.

50. Continuous training for war crime trials is held for judges and State attorneys. Since 2004, several seminars and workshops were held at the Judicial Academy in which judges and State attorneys were familiarised with the peculiarities of war crime trials. The events were held as follows:

a) During 2004

Workshop entitled "Croatia and International Crime Law" in co-organization with the Judicial Academy and the Ministry of Foreign Affairs of the Kingdom of the Netherlands:

- in Stubičke toplice on 21 and 22 May, on 11 and 12 June, and on 2 and 3 July 2004
- In Opatija on 24 and 25 September 2004
- In Trogir on 15 and 16, and on 29 and 30 October 2004

60 judges and State attorneys from all over Croatia participated in the workshop.

b) During 2007

Seminar entitled "Organisation and handling of the main hearing: the role of the court in providing appropriate defence and use of evidence in the context of the right to a fair trial in cases of war crime trials" co-organised by the Judicial Academy and the OSCE:

- In Zadar on 8 and 9 November 2007
- In Tuhelj on 29 and 30 November 2007

59 judges and State attorneys from all over Croatia participated in the seminar.

c) During 2009

Seminar entitled "War crimes: renewal of criminal proceedings for trials in absentia pursuant to new provisions of the Criminal Procedure Act, in force since 1 January 2009" organised by the Judicial Academy:

In Pože on 26 January 2009

- In Osijek on 30 January 2009
- In Šibenik on 5 February 2009
- In Zadar on 6 February 2009
- In Zagreb on 9 February 2009

78 judges and State attorneys from all over Croatia participated in the seminar.

51. In June 2007, a regional conference entitled "Heritage of the International Criminal Tribunal for the Former Yugoslavia and its influence on the states in the region" was held in Dubrovnik. The Conference was jointly organised by the Faculty of Law of the University in Zagreb, civil society associations and the Judicial Academy; altogether, there were 51 participants, of which 17 came from the neighbouring states, and 34 from various parts of Croatia.

52. ODIHR prepared a project which will include the translations into Croatian language of verdicts of the International Criminal Tribunal for the former Yugoslavia (hereinafter ICTY).

Implementation of a video link was planned as part of the project and this was accomplished.

53. Legal framework for the use of a video link exists in the Criminal Procedure Act of the Republic of Croatia. Five county courts in the Republic of Croatia (Osijek, Rijeka, Split, Vukovar and Zagreb), competent to try cases referred pursuant to 11*bis* rule of the ICTY Rules of Procedure and Evidence, are fully technically equipped to conduct witness examinations in such a way. During 2009, testifying through a video link was used in Zagreb, Rijeka and Vukovar county courts:

- in five proceedings with the Republic of Serbia
- in a single proceeding with Bosnia and Herzegovina
- in two proceedings with the Kingdom of Norway.

54. War crimes proceedings are held before all competent county courts, in accordance with Article 12 of the Law on the Implementation of the Statute of the International Criminal Court and Prosecution of Crimes against International Law of War and Humanitarian Law (NN No. 175/03) which states that for war crimes criminal proceedings, beside competent local courts, county courts in Zagreb, Osijek, Rijeka and Split are also competent. These courts were given the special status and role of Specialized Courts for War Crimes. The mentioned law also makes it possible, for the Chief State Attorney of the Republic of Croatia to request, in cases where deficiencies are noticed, the approval of the President of the Supreme Court to transfer the proceedings to specialized court for war crimes instead of competent local court.

55. Therefore, specialized courts for war crimes should not be perceived as a necessity in order to efficiently process the perpetrators of war crimes for all the cases appearing before the local courts. They should be viewed as an additional option available to the State Attorney's Office of the Republic of Croatia, with the support of the Supreme Court of the Republic of Croatia, for cases in which there is doubt that the trial is not adhering to the prescribed rules of procedure for whatever reason.

56. Up to 30 September 2010, the State Attorney's Office of the Republic of Croatia submitted eight requests to the Supreme Court for the transfer of war crime cases to a specialized court. The Supreme Court granted the request in 4 cases:

1 case from the County Court in Gospi_ was transferred to the County Court in Rijeka

- 1 case from the County Court in Karlovac was transferred to the County Court in Zagreb
- 2 cases from the County Court in Šibenik were transferred to the County Court in Split

57. For the remaining 4 requests for transfer the Supreme Court has not yet rendered the decision.

58. Through the ICTY Liaison Officer, the State Attorney's offices are collecting additional data and evidence in order to discover and process war crimes in cases where direct perpetrators are not yet discovered. With the same goal in mind, the evidence is being intensively collected for cases in which the direct perpetrators are still undetermined, in order to process the cases pursuant

to so called guarantee command responsibility of the unit commanders either from the Croatian or Serbian side.

59. Regarding the cooperation with the ICTY, specifically regarding the submission of documents related to Croatian military operations requested by the said Tribunal, it is necessary to mention that *54bis* procedure regarding the artillery documents was completed on 27 July 2010. The ICTY Trial Chamber in the *Gotovina, _ermak and Marka_* case rendered the decision denying the Prosecution request to issue a court order to the Croatian Government to submit documents or information regarding the missing artillery documents, because according to the Trial Chamber's assessment, it is impossible to determine with certainty the existence of documents in question. In fact, after an intensive proceeding that lasted more than two years, the ICTY Trial Chamber recognised the proactive role and efforts of the Government of the Republic of Croatia in their search for the requested documents, and decided against issuing such court order to the Republic of Croatia.

60. Furthermore, the interdepartmental Task Force, formed by the President of the Government of the Republic of Croatia at the end of September 2009 to improve the administrative investigation conducted regarding the artillery documents, has so far submitted 10 reports to the Trial Chamber in the *Gotovina, _ermak and Marka_* case. The Task Force continues with its work and is currently working on a new report.

War crimes that were not processed

61. Beside the convictions made in absentia, another challenge that remains regards unprosecuted war crimes.

62. In December 2008, the State Attorney's Office of the Republic of Croatia (hereinafter DORH) and the Ministry of the Interior (hereinafter MUP) developed action plans defining the unique approach to solving of war crimes that were not processed. The Plans are complimentary and compatible in terms of content.

63. DORH and MUP jointly assessed the condition of cases with unknown perpetrators in order to determine the priorities regarding the measures to be undertaken in order to identify the direct perpetrators.

64. Criteria used for determining the priority cases are first and foremost the number of victims, the extent of property damage, manner in which crime was committed, circumstances and time when the crime was committed, availability of the perpetrators, witnesses and victims. These are all continuous activities.

65. The aggravated circumstance in this case is the fact that the mentioned events happened almost 20 years ago, which is a very long period of time from the viewpoint of obtaining quality evidence, ability to determine the objective situation and achieve a quality reconstruction of an event included in a criminal proceeding before a local or a foreign court.

66. Regardless of the possible difficulties, the State Attorney's Office of the Republic of Croatia

and the police are intensely cooperating in identifying cases of war crimes that were not processed and in locating the responsible perpetrators regardless of their ethnicity.

67. In July 2010, the Chief State Attorney of the Republic of Croatia held a working meeting with the county state attorneys regarding the preparations for the development of the Work strategy for war crimes cases, which refers specially to cases in which the perpetrators are still unknown. Deadline for the completion of the Strategy is mid November 2010.

68. During August 2010, the county state attorney's offices submitted to the State Attorney's Office of the Republic of Croatia their assessment on the difficulty of cases and actions that need to be taken in certain cases with unknown perpetrators. In accordance with the instruction, the state attorneys have arranged the cases according to importance, that is, the difficulty of the said cases, and the assessment of the circumstances for additional investigations to discover the perpetrators.

69. The State Attorney's Office of the Republic of Croatia consolidated these reports into a single document, and provided its own assessment of the priorities. On 24 September 2010, the document was submitted to the Police Directorate so that the police could, pursuant to the state attorney's offices assessment, create a concrete work plan for these cases.

Act on General Pardon and the inappropriate statute of limitations

70. Regarding the recommendation to ensure that the General Pardon Act (NN No. 80/96) is not applied to cases of serious violations of human rights or violations related to a crime against humanity or war crimes, we would like to stress that Article 3 of the General Pardon Act lists the criminal offences from the Criminal Code catalogue that are exempt from pardon. The said article states that the crimes of genocide, war crimes and other crimes that constitute serious violations of human rights are exempt from pardon. It also states that criminal offences of terrorism regulated with provisions of the international law are exempt from pardon.

71. Regarding the recommendation on the need to ensure that the statute of limitations is not applicable for the time period of the conflict, in order to enable processing of serious cases of murder and torture, in the Criminal Code certain criminal offences are exempt from the general provisions on the statute of limitations. Therefore, the statute of limitations is not applicable to crimes of genocide, aggressive war, crimes against humanity, war crimes and other criminal offences for which the statute of limitations cannot be applied pursuant to International Law. The non-applicability of the statute of limitations is based on the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity from 1968.

Reply to issues raised in paragraph 17

72. It is indisputable that no journalist should, due to his/her work, become a target for the attacks by persons unhappy with their writing. The competent bodies of the Republic of Croatia are undertaking all available preventive and repressive activities in order to further prevent and process all forms of attacks and intimidation against journalists.

73. Attacks on journalist, regardless of which media they work for, are a priority when it comes to the work of police officers. However, the perpetrators of these crimes, as a rule, attack journalists using either physical force or blunt objects (most frequently bats/sticks) and are usually masked (wearing a motorbike helmet, caps or sunglasses). Taking this into consideration, as well as the fact that the police are usually informed after the fact, these are the circumstances that are making it more difficult for the police to identify and find the direct perpetrators as well as the originators of these attacks.

74. Nevertheless, in cases of grievous attacks on journalists, those that are classified as major criminal offences against life and limb, all legal prerequisites for special investigation measures were met and in accordance with the issued court orders certain persons on whom information was received that they could be responsible for an attack on journalists, were put under surveillance. Unfortunately, in certain cases, even such activities did not result in finding of the perpetrator and the police have to continue and intensify its work on these cases.

75. Also, in order to prevent possible attacks on certain vocal journalists, who obtained information from sources that they could be attacked, or if the police itself obtained such information, parallel with the search for the possible perpetrator, the police provides protection for these journalists unless they specifically decline said protection.

76. When analysing the statistics on the attacks on journalists it is noticeable that there is an increase in the number of criminal and offence charges. However, the indisputable fact is that journalists must not be attacked by other persons because of their work and in that sense the police has a clear task of having to conduct a detailed criminal investigation of every attack on journalists in order to bring the perpetrators before the court without delay. Regarding the attacks on journalists, D. Miljuš and H. Appelt, the police are conducting an investigation pursuant to the request of the competent State Attorney's Office.

77. The State Attorney's Office in cooperation with the police and other bodies, after receiving a report, or any other form of information, that a criminal offence of attack, threat or some other criminal offence against a journalist was committed, shall undertake all necessary investigative measures and activities in order to discover and process the perpetrator. Subsequently, in the last few years, approximately 30 persons were indicted after conducted investigations (including the persons indicted for the murders of journalists, I. Pukani_ and Z. Franji_), and the courts have so far convicted 20 persons.

¹ War Crimes Against the Civilian Population - Whoever violates the rules of international law in time of war, armed conflict or occupation and orders an attack against the civilian population, settlements, individual civilians or those hors de combat resulting in death, severe bodily harm or serious damage to people's health, orders an indiscriminate attack harming the civilian population, orders the killing, torturing or inhuman treatment of civilians, orders civilians to be subjected to biological, medical or other scientific experiments, their tissues or organs taken for transplantation, orders civilians to be subjected to great suffering impairing the integrity of their

bodies or health, or orders their resettlement, displacement or forceful loss of ethnic identity or conversion to another religion, orders rape, sexual oppression, forced prostitution, pregnancy or sterilization or other sexual abuse, orders measures of intimidation or terror, hostage taking, collective punishment, unlawful deportations to concentration camps or illegal detention, deprives people of the rights to a just and unbiased trial, forces them to serve in hostile armed forces or in the information services or administration of hostile power, subjects them to forced labour, starvation, confiscates property or orders that the population's property be plundered or illegally and wantonly destroyed or its large-scale appropriation where there is no justification by military needs, or imposes illegal and disproportionately large contributions and requisitions, or decreases the value of the domestic currency or unlawfully issues it, or orders an attack against persons, equipment, materials, units or vehicles involved in humanitarian aid or a peace mission pursuant to the Charter of the United Nations, or orders that the rights and actions of the citizens of a hostile country be prohibited, suspended or pronounced unlawful in court proceedings, or injures personal dignity or orders civilians and other protected persons to be used to shield certain places, areas or military forces from military operations, or orders the recruitment of children under fifteen years of age for the national armed forces or their active participation in hostilities, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by long-term imprisonment.

² War Crime Against Prisoners of War -Whoever, in violation of the rules of international law, orders the killing, torturing or inhuman treatment of prisoners of war and their subjection to biological, medical or other scientific experiments, their tissues or organs taken for transplanted, orders prisoners of war to be subjected to great suffering, impairing the integrity of their bodies and health, or whoever compels prisoners of war to serve in hostile armed forces or deprives them of their right to a fair and unbiased trial, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by long-term imprisonment.

³ Genocide- Whoever, with intent to destroy in whole or in part a national, ethnic, racial or religious group, orders the killing of members of such a group, or orders serious bodily injury to be inflicted on them, or orders the physical or mental health of the members of such a group to be impaired, or orders the forcible displacement of the population, or conditions of life to be inflicted on the group which are calculated to bring about its physical destruction in whole or in part, or orders measures to be imposed which are intended to prevent births within the group, or orders the forcible transfer of children of the group to another group, or whoever with the same intent commits any of the foregoing acts, shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

⁴ War Crimes Against the Civilian Population -The same punishment as referred to in paragraph 1 of this Article shall be imposed on whoever violates the rules of international law in time of war, armed conflict or occupation by ordering an attack against objects protected by international law, against works or powerful installations such as dams, dykes and nuclear power plants, indiscriminate attacks against civilian objects protected by international law, against undefended places and demilitarized zones or orders an attack which results in an extensive and long-lasting damage to the environment and may impair the population's health or survival, or whoever commits any of the foregoing acts.

⁵ Brutal Treatment of the Wounded, Sick and Prisoners of War - Whoever, in violation of the rules of international law, brutally treats the wounded, sick or prisoners of war or restricts or prevents the realization of the rights granted to them under these rules shall be punished by imprisonment for six months to five years.

⁶ War Crimes Against the Civilian Population, paragraph 1 - Whoever violates the rules of international law in time of war, armed conflict or occupation and orders an attack against the civilian population, settlements, individual civilians or those hors de combat resulting in death, severe bodily harm or serious damage to people's health, orders an indiscriminate attack harming the civilian population, orders the killing, torturing or inhuman treatment of civilians, orders civilians to be subjected to biological, medical or other scientific experiments, their tissues or organs taken for transplantation, orders civilians to be subjected to great suffering impairing the integrity of their bodies or health, or orders their resettlement, displacement or forceful loss of ethnic identity or conversion to another religion, orders rape, sexual oppression, forced prostitution, pregnancy or sterilization or other sexual abuse, orders measures of intimidation or terror, hostage taking, collective punishment, unlawful deportations to concentration camps or illegal detention, deprives people of the rights to a just and unbiased trial, forces them to serve in hostile armed forces or in the information services or administration of hostile power, subjects them to forced labour, starvation, confiscates property or orders that the population's property be plundered or illegally and wantonly destroyed or its large-scale appropriation where there is no justification by military needs, or imposes illegal and disproportionately large contributions and requisitions, or decreases the value of the domestic currency or unlawfully issues it, or orders an attack against persons, equipment, materials, units or vehicles involved in humanitarian aid or a peace mission pursuant to the Charter of the United Nations, or orders that the rights and actions of the citizens of a hostile country be prohibited, suspended or pronounced unlawful in court proceedings, or injures personal dignity or orders civilians and other protected persons to be used to shield certain places, areas or military forces from military operations, or orders the recruitment of children under fifteen years of age for the national armed forces or their active participation in hostilities, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by 20 years imprisonment.

⁷ War Crimes Against the Civilian Population, paragraph 2- The same punishment as referred to in paragraph 1 of this Article shall be imposed on whoever violates the rules of international law in time of war, armed conflict or occupation by ordering an attack against objects protected by international law, against works or powerful installations such as dams, dykes and nuclear power plants, indiscriminate attacks against civilian objects protected by international law, against undefended places and demilitarized zones or orders an attack which results in an extensive and long-lasting damage to the environment and may impair the population's health or survival, or whoever commits any of the foregoing acts.

⁸ War Crimes Against the Wounded and Sick- Whoever, in violation of the rules of international law, in time of war or armed conflict, orders the killing, torturing or inhuman treatment of the wounded, sick, shipwrecked persons or of medical or religious personnel, orders that they be subjected to biological and other scientific experiments, their tissues or organs taken for transplantation, orders civilians to be subjected to great suffering, impairing the integrity of their

bodies or health or orders an illegal and wanton, large-scale destruction or appropriation of materials, medical vehicles or supplies of medical institutions or units when there is no justification by military needs or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by 20 years imprisonment.

⁹ War Crime Against Prisoners of War -Whoever, in violation of the rules of international law, orders the killing, torturing or inhuman treatment of prisoners of war and their subjection to biological, medical or other scientific experiments, their tissues or organs taken for transplantation, orders prisoners of war to be subjected to great suffering, impairing the integrity of their bodies and health, or whoever compels prisoners of war to serve in hostile armed forces or deprives them of their right to a fair and unbiased trial, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by 20 years imprisonment.

¹⁰ Brutal Treatment of the Wounded, Sick and Prisoners of War - Whoever, in violation of the rules of international law, brutally treats the wounded, sick or prisoners of war or restricts or prevents the realization of the rights granted to them under these rules shall be punished by imprisonment for six months to five years.

¹¹ Genocide- Whoever, with intent to destroy in whole or in part a national, ethnic, racial or religious group, orders the killing of members of such a group, or orders serious bodily injury to be inflicted on them, or orders the physical or mental health of the members of such a group to be impaired, or orders the forcible displacement of the population, or conditions of life to be inflicted on the group which are calculated to bring about its physical destruction in whole or in part, or orders measures to be imposed which are intended to prevent births within the group, or orders the forcible transfer of children of the group to another group, or whoever with the same intent commits any of the foregoing acts, shall be punished by imprisonment for not less than ten years or by 20 years imprisonment.