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CROATIA

The Republic of Croatia is in principle a constitutional parliamentary democracy, with a powerful presidency. President Franjo Tudjman was reelected in 1997 to a second 5-year term in an election that observers considered "fundamentally flawed." President Tudjman and the ruling Croatian Democratic Union (HDZ) had maintained power since independence in 1991 by using the party's majority position to deny opposition parties the ability to compete on free and equal terms in elections. The HDZ agreed in November to hold new parliamentary elections in January 2000. President Tudjman died in December, and Parliament Speaker Vlatko Pavletic was named acting President until presidential elections, which were scheduled to be held by February 2000. The President serves as head of state and commander of the armed forces, chairs the influential National Defense and Security Council, nominates the Prime Minister who leads the Government, and approves certain appointments in local and regional government. During the year, the extensive constitutional powers of the presidency, the blurring of the roles and functions of the HDZ party with those of the government and the presidency, HDZ control of television and the continuing concentration of power within the one-party central Government combined to make the country's nominally democratic system in reality authoritarian. However, on January 3, 2000 the ruling HDZ party lost generally well-conducted parliamentary elections to an opposition coalition. The judiciary is nominally independent; however, it suffers from political influence and bureaucratic inefficiency.

The Ministry of Interior oversees the civilian national police, and the Ministry of Defense oversees the military and military police. The national police have primary responsibility for internal security but, in times of disorder, the Government may call on the army to provide security. The civilian authorities generally maintain effective control of the professional security forces, although the police sometimes committed serious human rights abuses.

The transition to a market-based, free enterprise economy is proceeding slowly. While agriculture is mostly in private hands and the number of small enterprises is increasing,

industry and media enterprises are largely either still controlled by the State or deliberately were transferred in nontransparent, noncompetitive processes to individuals sympathetic to the ruling party. Unemployment remained high at 19 percent, and much higher in the areas affected by the war, and the standard of living for most of the population has yet to recover to prewar levels. The economy showed underlying weakness throughout the year in most industrial sectors, particularly in banking, which continued to be characterized by very low liquidity and serious losses due to bad loans, which in turn have caused bank closures, squeezing hundreds of thousands of depositors, employees, and small entrepreneurs.

The Government's human rights record remained poor; although improvement was noted in certain areas, serious problems continued in others. The Government's conduct of the flawed 1995 elections seriously limited citizens' right to change their government peacefully, although it agreed to hold parliamentary elections in January 2000 according to provisions of the Constitution. Police occasionally beat persons. The Government did not always respect due process provisions for arrest and detention. Lengthy pretrial detention is a problem, especially for ethnic Serbs indicted for war crimes. The judicial system is subject to political influence, and the court system suffers from such a severe backlog of cases that the right of citizens to address their concerns in court is impaired seriously. Cases of interest to the ruling party are processed expeditiously, while others languish in court, further calling into question the independence of the judiciary. The courts sometimes deny citizens fair trials. The Government at times infringed on citizens' privacy rights.

The Government restricted press freedom, using the courts and administrative bodies selectively to shut down or restrain newspapers, radio, and television stations critical of the Government or simply outside of its control. A new telecommunications law, passed in June, in part addressed the concerns of independent radio and television broadcasters, however the HDZ party was to retain considerable influence over the administrative councils and the government-owned radio and television broadcaster for several years. Parliament failed to pass legislation governing the conduct of state-owned television and radio, resulting in campaign coverage for parliamentary elections held in January 2000 that blatantly favored the ruling HDZ party. Government intimidation including libel charges induced self-censorship by journalists; some 900 criminal and civil cases against journalists were ongoing, with legal costs for defendants mounting. There were incidents of overt censorship of the electronic media. The Government at times restricted freedom of assembly and circumscribed freedom of association with a law that prohibited groups from forming unless expressly authorized to do so by means of an intrusive registration process, although there were no reports that the Government used this law to hinder any organization during the year. The Government used the manipulation of laws, harassment, economic pressure, and its almost total control of the electronic media to control the political process. The Government's record of cooperation with international human rights and monitoring organizations was mixed: It cooperated with some requests from the International Criminal Tribunal for the former Yugoslavia (ICTY) but refused to comply with others, including the ICTY's search for evidence on alleged crimes committed during the Croatian military operations "Flash" and "Storm" in 1995, and its request to conduct a field investigation in the country. The implementation of government programs promulgated in 1998 for the return to the country of refugee citizens (mostly ethnic Serbs) and the restitution of their homes proceeded very slowly in many areas because of local government intransigence, unhelpful influence at the national level, and bureaucratic and

legal confusion.

Violence and discrimination against women remained problems. The Government discriminates against Muslims. Ethnic minorities, particularly Serbs as well as Roma, faced continued serious discrimination. Government commitments to foster reconciliation among ethnic groups have not been met. While some progress was made, ethnic tensions in the formerly occupied areas reignited during the year. Abuses including ethnic-motivated harassment, assaults, and murders continued to occur. Police performance was generally satisfactory, but in many cases where the victim was an ethnic Serb, the police either did not investigate thoroughly or failed to take effective action against the criminal activity. There were continued departures of ethnic Serb citizens from the Danubian region (Eastern Slavonia). Poor economic conditions were a key reason for these departures and the Government did very little to encourage economic development in the region. Moreover, the Government not only failed to take steps to ensure a peaceful reintegration of the area, it often stoked tensions over exhumations of missing persons and housing for returnees, thereby compounding the region's problems. Housing and employment regulations were administered in a manner biased against ethnic Serbs. There were occasional instances of trafficking in women through the country.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government officials.

There were three ethnically motivated killings of ethnic Serbs during the year (see Section 5).

Of the many major crimes committed by both sides during the conflict, the Government has been much more vigorous in the prosecution of those committed by ethnic Serbs than those committed by ethnic Croats. It has been only reluctantly cooperative regarding possible war crimes associated with the Croatian military operations "Flash" and "Storm" in 1995. In April the Croatian Helsinki Committee released a report stating that at least 410 Serb civilians died during the August 1995 operation "Storm." A September report issued by the Government indicated that criminal charges have been brought in 3,978 cases associated with "Flash" and "Storm." However, this number has not been confirmed independently by the ICTY, only 13 of these cases resulted in substantial prison sentences, and none of those convicted were senior officers. In September the Government refused to submit to the jurisdiction of the ICTY regarding these operations unless the ICTY were to convene a special chamber to rule on the issue. In August one (of two) ICTY indictees was transferred to the Hague. The extradition of the second indictee still was pending at year's end due to his poor health (see Section 4). In the Danubian region, five ethnic Serbs were convicted in May of war crimes in the "Sodolovci" case on very weak evidence; however, the Supreme Court reversed their convictions in November. Croatian military and paramilitary members involved in murders in Pakracka Poljana in 1991 were acquitted or sentenced to time served (see Section 1.e.).

Progress was made on the exhumation and identification of bodies at a number of sites in

the Danubian region. Throughout the country, the bodies of 3,129 victims have been exhumed from mass and individual graves since the war (see Section 1.b.).

Dinko Sakic, commander of Croatia's Jasenovac concentration camp in 1944, was convicted in October of crimes against humanity and sentenced to 20 years' imprisonment, the maximum sentence. Sakic was extradited from Argentina in 1998.

b. Disappearance

There were no reports of politically motivated disappearances.

Government figures in December showed that 1,658 persons (mostly ethnic Croats) still were missing in cases unresolved from the 1991-95 military conflict. However, this number does not reflect an additional approximately 900 persons (mostly ethnic Serbs) believed to be missing from 1995, which were reported to the Government of the Federal Republic of Yugoslavia (FRY) or to international organizations. There has been significant progress on the recovery and identification of the remains of ethnic Croats; however, efforts to identify persons reported missing after mid-1995 (primarily ethnic Serbs) were hampered by political and bureaucratic obstacles. Progress was made on the exhumation and identification of bodies at a number of sites in the Danubian region (eastern Slavonia), including a well in Vukovar where 10 female bodies were located in August and a site in Ilok where 30 bodies were recovered in September. Throughout the country, 3,129 victims have been exhumed from mass and individual graves since the war, 81 percent of whom have been identified, and 53 percent of whom were civilians. At a March conference with government officials from Bosnia-Herzegovina and the FRY, the Government agreed to set up a subcommission on missing persons for the Danubian region and to hold regular meetings with FRY officials on missing persons. In December the Danubian subcommission finally became operational. There were no subsequent bilateral meetings with FRY officials after March in part due to the disruption caused by the NATO campaign in Kosovo.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, maltreatment, or cruel or degrading punishment; and there were occasional credible reports that police beat persons and that these cases were not always investigated properly.

According to press reports in August, ethnic Croatian police officers in the Baranja region beat Roma. According to a Roma rights nongovernmental organization (NGO), in one incident an ethnic Croatian police officer allegedly beat a Rom and threatened him at gunpoint. The Rom reportedly filed a complaint against the officer.

In April during tense contract negotiations with Croatian railroads' management, the vice president of the Locomotive Engineers Union reportedly was beaten severely with metal bars by unknown assailants (see Section 6.a.).

According to press reports, in June an opposition Socialist Worker's Party head reported that unidentified assailants hit him in the head with a gun, for which he was hospitalized. According to the individual, this was the fourth or fifth such attack he suffered in the previous 12 months.

Ethnic minorities reportedly were beaten by unknown assailants in the Danubian region (see Section 5). According to press reports, unknown persons threw bombs at Romani houses in Vardarci. Roma allegedly reported the incidents to police, but no suspects were found.

Full control of the police in the Danubian region reverted to the Government in 1998, and the role of police monitoring was assumed by the Organization for Security and Cooperation in Europe (OSCE). The OSCE reported that overall police performance was satisfactory. Leaders of the ethnic Serb community observed that the police generally conducted themselves well, and that in the Danubian region it was the judiciary that was more often responsible for failures in the legal system. Lack of police training and occasionally fear by police to carry out their duties were ongoing problems. In some cases, particularly where the victim of a crime was an ethnic Serb, police investigations were not thoroughly conducted. In the Danubian region monitors noted that police occasionally called ethnic Serbs to police stations for "voluntary informative talks," which amounted to brief warrantless detentions intended to harass Serb citizens.

Prison conditions meet minimum international standards. Jails are crowded, but not excessively so, and family visits and access to counsel are generally available, albeit not consistently at all phases of the criminal proceedings (see Section 1.d.).

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution contains the provision to protect the legal rights of all accused persons, but the Government does not always respect due process provisions for arrest and detention. Police normally obtain arrest warrants by presenting evidence of probable cause to an investigative magistrate. Police may carry out arrests without a warrant if they believe a suspect might flee, destroy evidence, or commit other crimes. Such cases are not uncommon. The police then have 24 hours in which to justify their decision before a magistrate. Inspectors working under the auspices of the Ministry of Finance (the so-called "financial police") do not require a warrant in order to enter premises and examine records, actions that can lead to the unilateral shutdown of the organization in question in advance of any due process (see Section 2.a.).

Detainees must be given access to an attorney of their choice within 24 hours of their arrest; if they have none and are charged with a crime for which the sentence is over 10 years' imprisonment, the investigative magistrate appoints the defense counsel. The investigative magistrate must, within 48 hours of the arrest, decide whether sufficient cause exists to hold a person in custody pending further investigation. Investigative detention usually lasts from a few days to a few weeks, but the Supreme Court may extend the deadline (for a total period of not more than 6 months) in exceptional cases. Once the investigation is complete, detainees are released on their own recognizance pending trial, unless the crime is a serious offense, the accused are considered a public danger, or the court believes that they may flee.

However, persons held under investigation sometimes were denied the right to have an attorney present during all parts of the investigative stage or appeal of investigative detention. During the year, suspects were allowed greater access to attorneys during the

investigative stage, and fewer complaints were noted. In practice detainees generally are bound over for investigation unless it is clear that no case exists against them. There have been several cases of lengthy pretrial detention, including individuals who are awaiting the prosecutor's appeal of their acquittal. While there are provisions for posting bail after charges are brought, the practice is not common. The International Committee of the Red Cross in September counted 72 ethnic Serbs in detention for acts related to the conflicts in 1991-95; of these only 37 had received final convictions, while the rest were in various stages of their judicial processes.

The arrest in June of former intelligence official Miroslav Separovic appeared to be politically motivated; Separovic allegedly leaked state secrets to the press that resulted in a newspaper article on politically motivated fixing of soccer matches by intelligence agents. The charges against Separovic were dropped in August (see Section 2.a.).

The Government's application of the 1996 amnesty act for rebel Serbs remained problematic. Confusion arose from the fact that the Government initially issued a list of 13,575 persons who were given amnesty from indictments for rebellion during the military conflict, absent the appearance of new and credible evidence of war crimes, as well as a list of 25 individuals who were indicted for war crimes. During the year, the Government issued at least 91 new war crimes indictments, both individual and collective, for ethnic Serbs whose names appear on the amnesty list, claiming that they were based upon new and credible evidence. However, international monitors questioned the credibility of the evidence and the transparency of the process. In several cases, charges were reworded so that offenses that were eligible for amnesty were reinstated either as war crimes or common crimes. These indictments were issued without previously agreed-upon notification to the ICTY. In March the Government claimed that the list of persons amnestied had grown to 18,314; however, the identities of the 4,739 additions to the list were not announced. These events created great uncertainty among ethnic Serbs, because some who wished to return to the country were unwilling to do so until they knew that they would not be arrested, and others who believed themselves amnestied later were arrested.

In separate cases in April and July, Serb police officers in Borovo Selo and in Ilok (both in the Danubian region) were arrested for war crimes dating to 1991 and 1993 respectively, despite the fact that both previously were cleared for police duty by the Ministry of Interior. The Government indicated that there was new evidence justifying their arrests. In September both still were detained pending trial. In addition, in at least five other cases, ethnic Serb police officers in the region fled to the FRY when they learned that they were the subject of investigations. NGO's noted that even a small number of such apparently political cases created serious uncertainty among the 700 Serb police officers in the region. The appeal of Milos Horvat (sentenced to 5 years' imprisonment for genocide in 1997 based on what international monitors described as questionable standards of evidence) was heard by the Supreme Court in December 1998, 18 months after it was filed. In a June decision, the Supreme Court rejected Horvat's appeal of his conviction and also rejected the prosecutor's appeal of the 5-year sentence as too short.

The Constitution prohibits the exile of citizens. In 1998 the Government established procedures by which Croatian Serb refugees who fled the country in 1995 might regulate their citizenship status, obtain citizenship documentation, return to Croatia, and reclaim

their property. Implementation of these procedures is moving forward; however, progress has been slow and uneven (see Section 2.d.). During the year, 8,625 persons who were refugees in the FRY and Bosnia-Herzegovina were able to return to Croatia. Government figures indicate that overall since the conflict, of approximately 250,000 ethnic Serbs who fled their homes, 33,000 have returned from abroad and 27,000 have returned to their homes after being displaced within the country. An October survey by the U.N. High Commission for Refugees (UNHCR) estimated that the actual number of Serb returnees may be much higher than these government figures indicate. In a positive development, the Government opened a full-time consulate in Banja Luka, Bosnia-Herzegovina to facilitate documentation for citizens in Bosnia. The UNHCR and NGO's reported that the Croatian Embassy in Belgrade experienced lengthy delays in providing citizenship and travel documents to citizens (overwhelmingly ethnic Serbs) wishing to return to Croatia. Ethnic Serbs within Croatia requiring documentation also report persistent difficulties and delays, and contradictory requirements by local officials charged with issuing documents.

e. Denial of Fair Public Trial

The judiciary is nominally independent; however, it suffers from political influence. In practice bureaucratic inefficiency mars the system; the court system has a backlog of over 1 million cases.

The judicial system consists of municipal and district courts, the Administrative Court, and the Supreme Court. The independent Constitutional Court both determines the constitutionality of laws, governmental acts, and elections and serves as the court of final appeal for individual cases. A parallel commercial court system adjudicates commercial and contractual disputes. The State Judicial Council (consisting of a president and 14 members) is a body independent of both the judiciary and the Ministry of Justice charged with both the appointment and discipline, including removal, of judges, court presidents, and public prosecutors. The upper house of Parliament nominates persons for membership on the Council, and the lower house elects the members for 8-year terms. The 11 judges of the Constitutional Court are elected for 8-year terms in the same manner, while all other judges are appointed for life.

Judges are prohibited by the Constitution from being members of any political party. Nonetheless, the HDZ party wielded considerable influence over the judiciary, and critics charged that the State Judicial Council (whose members were appointed by the HDZ-dominated Parliament) was a political tool of the executive branch. While the Council is authorized to act independently in the appointment and review of judges, it occasionally has defied Constitutional Court rulings. Moreover, the terms of 8 of the 11 Constitutional Court justices expired in December, and the HDZ reached an agreement with the opposition parties to replace them with judges selected for their political loyalties rather than professional merit. For example, hardline HDZ supporter Vice Vukojevic who is known for his nationalist rhetoric was appointed to the Constitutional Court in December. Several prominent lawsuits to annul the new appointments to the Court on technical grounds were rejected. Observers believe that this agreement could yield a new court that is less independent and less qualified than the previous court. The outgoing president of the Constitutional Court publicly criticized the process by which the new court judges were selected and noted that none of those chosen were career judges.

The severe shortage of judges prevalent in recent years was reduced. However, a greater

problem was that many of the newly appointed judges were inexperienced and did not consistently apply the rule of law. While the ruling HDZ party may not have intervened directly in judicial deliberations, the newly hired judges were appointed by, and often were sympathetic to, the HDZ. Judges at times made decisions in a nontransparent manner seemingly at odds with the evidence or the law. The judicial system suffers from a massive backlog, estimated at 750,000 to more than 1 million cases, some dating back 30 years or more. Cases involving average citizens may drag on for years, while criminal libel suits or other cases affecting high-level government officials are heard within weeks under "urgent proceedings" (see Section 2.a.). According to the president of the Association of Croatian Judges, the Government failed to provide the financial means necessary for the regular operation of the courts. The case backlogs in Zagreb, Rijeka, and Split are compounded by government cutbacks on telephone, gas, water, and electricity throughout the country.

Although the Constitution provides for the right to a fair trial and a variety of due process rights in the courts, the courts sometimes denied citizens fair trials. Local authorities often refused to implement court decisions. For example, little or no progress was made in numerous cases of illegal evictions in which the legal owner had a positive court decision, yet was unable to gain access to his property. Judicial decisions overwhelmingly favored ethnic Croats in property claims involving returning refugees and displaced persons. Approximately 22 percent of all claims submitted to a court were decided in favor of a non-Croat claimant. In those cases in which the court ruled in favor of a non-Croat, only a handful of judicial orders for the eviction of a Croat occupant of a Serb-owned home have ever been carried out by the police (see Section 1.f.). Many of these cases involve either current or former members of the Croatian military or police forces, and local authorities refuse to act against them on behalf of the rightful owner. The only recourse for the defendant is to return to court to demand implementation of the first decision, a time-consuming and costly procedure that still may not result in implementation. Despite an April Constitutional Court ruling overturning a Zagreb city decree that had restricted public protests in the city, local officials continued to enforce the decree until a new law was passed in October (see Section 2.b.). Cases in the Danubian region (Eastern Slavonia) in which the plaintiff was an ethnic Croat were heard and decided in a matter of days or weeks, and judicial orders were carried out expeditiously, sometimes at the expense of the legal rights of Serbs. However, cases in which the plaintiff was an ethnic Serb often dragged on for months or years.

The Government continued to apply questionable legal standards in the implementation of the general amnesty adopted in 1996. There was credible evidence that crimes for which persons should have received amnesty were recategorized as either common crimes or war crimes (see Section 1.d.).

In May two cases starkly highlighted the contrasting treatment of ethnic Serb and ethnic Croat war crimes defendants. The county court in Osijek in the Danubian region convicted five ethnic Serbs (the "Sodolovci group") of crimes against civilian populations for participating in artillery attacks against civilian targets in 1991 and 1992 and sentenced them to terms of imprisonment ranging from 8 to 15 years. The indictments were for a generalized series of attacks, and the evidence did not conclusively conn