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## CROATIA: FACING UP TO WAR CRIMES

### OVERVIEW

On 8 October 2001, the International Criminal Tribunal for the former Yugoslavia (ICTY) confirmed an indictment charging Slobodan Milosevic, the former president of Serbia and of the Federal Republic of Yugoslavia (FRY), with crimes committed in Croatia. This indictment had been keenly awaited for years in Croatia, where a widespread perception of international indifference to Serb crimes perpetrated against Croats between 1991 and 1995 has been ably encouraged and manipulated by the right wing.

Milosevic's indictment was welcomed with particular enthusiasm by the Croatian government, which has struggled for months with the politically explosive issue of war crimes committed *by* Croats.

Since the current government came to power following parliamentary and presidential elections in early 2000, the country's international standing has undergone a critical improvement. In the latter years of the previous administration of the Croatian Democratic Union (HDZ) Party, led by the late president, Franjo Tudjman, Croatia suffered increasing international isolation. Due to its policy towards Bosnia and Herzegovina, it was widely seen as a factor for instability in the region.

The coalition government that replaced the HDZ has taken major strides in strengthening democracy and the rule of law in the country, and has also played a more constructive role in the region – towards Bosnia, above all. This progress has been warmly received by the international community, as reflected in the country's admission to NATO's Partnership for Peace program in May 2000 and

the Stabilisation and Association Agreement (SAA) with the European Union that was initialled in May 2001 and is scheduled to be signed on 29 October 2001.

Policy towards Croatia continues to be swayed by profound relief at having in power a government that is, from the international community's perspective, a much more reliable partner than its HDZ predecessor. Yet in a number of important respects Croatia's performance in meeting its international commitments has been problematic. Such areas include, crucially, cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, and the return and reintegration of ethnic Serb refugees. Croatia is committed to both these policies as a signatory and guarantor of the Dayton Peace Agreement, and compliance with Dayton is an element of the conditionality inherent in the regional approach the European Union has taken toward the 'Western Balkans' (i.e. the former Yugoslavia minus Slovenia, plus Albania) since 1997.

The refugee issue remains difficult, and Croatia's progress continues to disappoint reasonable expectations. Perhaps as a consequence, this issue has largely ceased to serve as a rallying-point for right-wing opposition to the government on the national level. The matters of cooperation with the ICTY, on the other hand, and prosecutions for war crimes in domestic courts have proved sharply contentious, to the point of being able to undermine the stability of the government.

The prospect of Croats being held accountable for war crimes raises noisy opposition from the still powerful right wing and has repeatedly placed the ruling coalition under severe strain. While opinion poll evidence suggests widespread acceptance that

Croats, too, must face justice for war crimes, discontent over this issue threatens to dovetail with mounting resentment at increasing social hardship and the government's perceived failure to get to grips with the country's economic ills. Painful economic reforms, which are being pressed on Croatia by the International Monetary Fund (IMF), threaten to bring rising social unrest. Popular disappointment with the government may eventually erode its support and its cohesion.

Thus the international community finds itself in a dilemma. On the one hand, it is seen as vitally important to maintain the current government in power, given that the possibility of a return to HDZ rule, perhaps in coalition with parties even further to the right, is so unappealing. Yet on the other hand, the international community insists on the fulfilment of unpopular obligations and the carrying out of painful economic reforms that put the government under severe strain.

This briefing paper examines the government's performance in meeting its international obligations with reference to the ICTY, and analyses why this issue causes such strain. It assesses the government's capacity to overcome its political difficulties, and suggests how the international community might reasonably offset some of the damaging domestic pressure that the government incurs when it seeks to fulfil Croatia's political and legal obligations.

## I. WAR CRIMES AND POLITICS

Facing up to the reality that Croats committed war crimes has proven very difficult in Croatia. The HDZ government passed a law on cooperation with the ICTY, and a number of Croats accused of war crimes in Bosnia were transferred to The Hague, albeit only under heavy international pressure.<sup>1</sup> However, key documents were withheld from ICTY investigators by the HDZ government, which refused to recognise the Tribunal's jurisdiction over Operations 'Flash' and 'Storm', the military operations which regained most Serb-controlled areas of Croatia in 1995. Until recently, almost all war crimes prosecutions in domestic courts involved Serb defendants. According to government figures, of 554 war crimes convictions up to 1999, 470 had been obtained *in absentia*. Many such cases were heard in a highly politicised environment, often with a very poor standard of evidence. By contrast, cases in which Croats were accused were extremely rare and often amounted to little more than whitewashing.<sup>2</sup>

For many Croats, seeing the war as a legitimate defence against Serb aggression, it has been hard to accept that serious war crimes were also committed by Croats. Right-wing politicians and commentators have jumped to defend the image of Croatia as a purely innocent victim of Serb aggression from 1991 to 1995, when it won a glorious victory untainted by criminality of any sort. Many Croatians, by no means all of them supporters of right-wing parties, regard discussion of Croat war crimes as undermining the legitimacy of the 'Homeland War', and an attack on the dignity of those who defended the country. A persistent retort to international criticism of Croatia's attitude towards the ICTY is that the world has equated the aggressor and the victim. (In this interpretation, Croatia's belligerent role in

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<sup>1</sup> A group of ten Croats accused of war crimes in Bosnia went to The Hague in October 1997, but only after heavy international pressure on Croatia, including the postponement of an IMF deal.

<sup>2</sup> For example, the 'Pakračka Poljana' case concerning Serb civilians murdered in Western Slavonia in 1991. The original trial in 1999 resulted in two defendants being convicted for minor offences, while others were acquitted. In February 2001 the Supreme Court ordered a retrial of the case. Reuters, 6 February 2001; *Hina* news agency, 4 October 2000.

Bosnia after 1992 tends to be underplayed or altogether erased.)<sup>3</sup>

However, reports by human rights NGOs and parts of the independent media, as well as President Stipe Mesic's outspoken support for ICTY cooperation, have gradually raised awareness of the issue of Croat war crimes, increasing public acceptance that 'their' war criminals, too, must be held accountable. In short, the orthodoxy is changing, but gradually, and despite the best efforts of the HDZ and other right wing groupings to hold back the hands of the clock.

### A. THE RIGHT-WING AGENDA PREVAILS

While cooperation with the ICTY has improved under the new government, and the Tribunal's jurisdiction over Operations 'Flash' and 'Storm' is recognised, the relationship with the ICTY continues to be highly problematic. Elements within the ruling coalition share the sensitivity of the HDZ about the Homeland War, seeing it as the defining moment in Croatia's historic struggle for independence. In addition, Prime Minister Ivica Racan has remained highly wary of the HDZ and other right-wing parties and war veterans' groups, and their potential to whip up unrest over the war crimes issue. He and others in the government have, by tending to explain the need to cooperate with the ICTY primarily in terms of a painful necessity in order to ward off international pressure, done nothing to increase public understanding of why the war crimes issue needs to be addressed. Moreover, his attempt to balance Croatia's international commitment to cooperate with the Tribunal with his government's defence of the 'dignity' of the Homeland War has proved impossible to sustain.

By contrast, President Stipe Mesic has urged full cooperation with the Tribunal, and explained in clear terms the need for everyone who is guilty of crimes, regardless of their ethnicity, to be brought to justice. Admittedly, Mesic's office makes it easier for him to take unpopular positions. On the other hand, although his commitment to cooperating with the ICTY is regarded as

anathema on the right, his popularity among the overall electorate has remained high.

### B. RELATIONS WITH THE HAGUE DETERIORATE

Following the January 2000 election, the new government initially appeared to waver over cooperation with the ICTY concerning the transfer to The Hague of Bosnian Croat war crimes indictee Mladen Naletilic 'Tuta'. This was in part a reaction to widespread shock in Croatia following the conviction of Tihomir Blaskic, who was in March 2000 sentenced by the Tribunal to 45 years imprisonment for crimes committed in Bosnia. Nevertheless, Tuta was transferred to The Hague later that month, and in April 2000 the new parliament issued a declaration on cooperation with the ICTY. Investigators were given access to mass grave sites in Croatia, including those of Serb victims.

Relations with the ICTY deteriorated sharply later in 2000 as the Chief Prosecutor, Carla Del Ponte, stepped up pressure on Croatia over its incomplete cooperation, including the failure to hand over requested documents or to allow investigators to interview several key figures, including intelligence officials. First Deputy Prime Minister Goran Granic and Justice Minister Stjepan Ivanisevic were reportedly taken severely to task by Del Ponte at a meeting in September 2000. In November 2000 the chief prosecutor criticised Croatia's uncooperative stance before the UN Security Council.<sup>4</sup>

The government responded to the mounting pressure by upping the stakes, issuing a thirteen-point list of conditions which sought to redefine the terms of Croatia's cooperation with the Tribunal. In a media interview, Granic sharply criticised the Tribunal, accusing it of being politicised and of showing greater zeal in pursuing Croats accused of committing war crimes than Serbs.<sup>5</sup> Granic clearly implied that Croatia's cooperation was conditional and might be withdrawn, even at the price of negative consequences for Croatia's international standing.

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<sup>3</sup> Vesna Pusic, leader of the HNS party, provoked outraged responses when she stated in Parliament as recently as last year that Croatia had been an aggressor in Bosnia.

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<sup>4</sup> Speech reported by *Hina* news agency, 29 November 2000.

<sup>5</sup> Interview in *Globus*, 1 December 2000.

Particularly contentious was a summons issued by the ICTY to Croatia's army chief-of-staff, General Petar Stipetic, amid indications that he might be questioned not only as a witness, but also as a potential war crimes suspect. Stipetic was widely regarded as a hero in Croatia, and had rarely if ever been mentioned in rumours about likely suspects. The prospect of his going to The Hague excited emotions across a broad political spectrum. There was also speculation that several other Croatian generals might face ICTY indictments. Fears were concentrated on the ICTY's practice of holding suspects accountable on the basis of command responsibility, even when they were not directly responsible for a criminal act. A key point among the government's conditions for cooperation was to insist that indictments should not be on that basis.

### C. GOVERNING COALITION UNDER STRAIN

For a while towards the end of 2000 and at the beginning of 2001, Racan's government came under severe strain over cooperation with the Tribunal. At the core of the six-party government that came to power in January 2000 was a two-party coalition made up of Racan's Social Democratic Party (SDP), the successor to Croatia's former communists, and the Croatian Social Liberal Party (HSLs), led by Drazen Budisa, a prominent nationalist dissident in communist times. An important factor in the success of this arrangement was that whereas the SDP had established itself by 1999 as the biggest opposition party in Croatia, the HSLs and Budisa supplied a nationalist credibility that the SDP could never hope to enjoy.

With its more nationalist profile, the HSLs in particular among the governing parties was sensitive to suggestions that Croatia's war for independence had been tarnished. Indeed, the tough interview given by Granic, a HSLs member, may have been in part aimed at reassuring his own party that the government would not allow the denigration of the Homeland War. With the mounting pressure from The Hague and excitement over the prospect that Stipetic and other Croatian generals could be indicted, it seemed that Racan might have to choose between cooperating with the Tribunal and risking his government's collapse, or withdrawing cooperation and risking a return to international isolation. In the event it did not come

to that. In a visit to Zagreb in January 2001 Del Ponte appeared to back down, indicating that Stipetic would not after all have to travel to The Hague to give evidence.<sup>6</sup>

The respite was brief. Part of the reason for the apparent softening of the Prosecutor's approach towards Croatia in January 2001 may have been the realisation among the international community that to pile pressure on Croatia at a time when the new Serbian authorities were being showered with international favour despite failing to cooperate with the ICTY would have been politically difficult. However, following the transfer of former Yugoslav President Slobodan Milosevic to The Hague on 28 June 2001, the pressure on Croatia was stepped up again. Following a visit by Del Ponte to Zagreb on 6 July 2001, Racan decided that there was no option but to act on the indictments issued by the ICTY against two Croatian Army generals.<sup>7</sup>

The decision, taken at a government session on 7 July, reopened divisions among the governing parties. The ruling coalition was always unwieldy, its unifying principle having originally been to defeat the HDZ. The six parties represent a broad range of political stances and interests, from the reformed communist SDP, to the nationalist HSLs and the conservative Croat Peasant Party (HSS), with its constituency among rural voters. The coalition was beset by disunity from the outset, as parties often appeared more interested in striking postures to enhance their own future electoral prospects than in making the government a success. There has been persistent speculation of a shake-up that might drop some parties from the coalition.

Relations among 'The Six' became more difficult following local elections held throughout the country on 20 May 2001. The governing parties fought the elections separately, so they were in part an internecine trial of strength. The HDZ and other right-wing nationalist groups performed better than expected, with the HDZ emerging as the biggest single party – a result only partly explained by the

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<sup>6</sup> Reuters, 12 January and 15 January 2001.

<sup>7</sup> The indictments of Generals Rahim Ademi and Ante Gotovina were issued on 8 June 2001, but kept confidential until 25 and 26 July respectively.

low turnout.<sup>8</sup> Following the election, the regional Istrian Democratic Congress (IDS) withdrew from the government, alleging government indifference to Istrian concerns. In fact the party's relatively poor showing on 20 May, and its need to concentrate its activities in Istria rather than in Zagreb, were widely suspected to be the main reasons. The votes of the SDP and the HSS held up reasonably well, while the Croatian People's Party (HNS), the party of Mesic until his election as president, made substantial gains, especially in the capital Zagreb. The HSLs, however, fared badly, and failed even to enter the assembly in Zagreb.

Budisa's strategy of participating in the government while seeking to differentiate the HSLs as a party of the centre-right competing for the same political space as the HDZ, had caused strain in the government. To its coalition partners, the HSLs seemed to be behaving increasingly like an opposition party. Budisa's leadership was also causing strain within the HSLs. In general, most HSLs members holding senior government posts, including Granic, were loyal to the government and opposed the increasingly factious line pursued by Budisa and party secretary Dorica Nikolic. The HSLs's poor showing on 20 May appeared to indicate that Budisa's strategy had not paid off, and relations with Racan deteriorated sharply. While senior HSLs figures prevailed upon Budisa to mend fences in the coalition, the decision at the beginning of July on ICTY cooperation finally brought the government's divisions to crisis.

At Budisa's prompting, HSLs members of the government were directed by their party to vote against acting on the two indictments. Only one HSLs minister obeyed, while two abstained and two, including Granic, voted in favour. Four of the five HSLs ministers, including Granic, then resigned from the government due to the incompatibility of party and government positions. Racan responded by calling for a confidence vote in the government. In this showdown, with the HSLs divided, Budisa was in a weak position. Following its poor performance in the local elections, the HSLs could ill afford to force the government's fall and so face an early parliamentary election. Budisa resigned as HSLs leader on 11 July, and a caretaker leader, Jozo

Rados, was appointed pending a party congress. In the event, nearly all the HSLs's parliamentary deputies voted for the government in the confidence vote during the night of 15-16 July 2001, and the government survived comfortably.

Having faced down Budisa and humbled the HSLs, it seemed that Racan had turned a corner and finally adopted a bolder stance regarding war crimes and cooperation with the ICTY. The impression remained, however, that the government's cooperation with the Tribunal, beyond rhetorical promises, would be provided only with great reluctance and under intense pressure. Racan made clear that he essentially agreed with Budisa's objections to the indictments of the generals, but believed that Croatia had no choice except to argue its case within the framework of the Tribunal. In June, Racan had laid out those objections in a letter to Del Ponte.<sup>9</sup>

Budisa and Racan objected that the indictments were based on command responsibility and failed to establish the individual responsibility of the accused for concrete criminal acts. They also argued that the wording of the indictment against General Ante Gotovina suggested that Operation 'Storm' had been intended to drive the Serb population from the recaptured areas, and that it thus appeared to criminalise the entire campaign.<sup>10</sup> ICTY officials have repeatedly denied any intention to judge the operation as such, but only crimes committed during its course.<sup>11</sup> Nevertheless, the widespread belief in Croatia, shared across much of the political spectrum, is that the ICTY prosecutors have based their

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<sup>9</sup> The contents of the letter were revealed in July. *Hina* news agency, 27 July 2001.

<sup>10</sup> Paragraph 30 of the indictment runs as follows: 'Between 5 August 1995 and 15 November 1995, Croatian forces committed numerous acts of killing, arson, looting, harassment, terror and threat of physical harm to person and property. By these acts, Croatian forces intimidated and coerced Krajina Serbs into leaving their villages, hamlets and homes. Ante Gotovina acting individually and/or in concert with others, including President Franjo Tudjman, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the deportation and forced displacement of the Krajina Serb population.' Available at <http://www.un.org/icty/indictment/english/got-ii010608e.htm>.

<sup>11</sup> For example, statement by Del Ponte reported by *Reuters*, 15 January 2001.

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<sup>8</sup> *IWPR* Balkan Crisis Reports, 25 May 2001, 'HDZ Comeback?'

investigations of Croatian army operations on an understanding of the wartime context that most Croats find unacceptable.<sup>12</sup> Doubts about the ICTY Prosecutor's approach to responsibility for crimes committed during and after Operation 'Storm' are not confined to Croatian officials.<sup>13</sup>

#### D. PLUS ÇA CHANGE?

Whether or not the ICTY's approach to the command responsibility of senior Croatian officers may be questionable, the persistent tendency of the Croatian authorities to cooperate in processing war crimes prosecutions only when the pressure becomes unbearable leads inescapably to the conclusion that they are extremely reluctant to face up to the issue of Croat war crimes.

Like that of its predecessor, the present government's stance towards the Tribunal is based

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<sup>12</sup> Deputy Parliamentary Speaker Zdravko Tomac, a senior SDP figure, stated in a recent interview that the ICTY Prosecutor's office had been informed of the conclusions of a parliamentary debate on cooperation with the Tribunal, which argued that the prosecutor's understanding of the context of Operation 'Storm' was flawed (*Jutarnji list*, 19 August 2001). Judging by the reactions of ICG contacts, Tomac was by no means the only Croat who believes that the indictment of General Gotovina contains elementary errors and imprecisions.

<sup>13</sup> The U.S. ambassador to Croatia at the time, Peter Galbraith, has expressed doubt as to whether there was a planned expulsion of the Serb population from the formerly Serb-controlled Krajina. Noted Croatian human rights activist and critic of the government's inaction over war crimes, Ivan Zvonimir Cicak, has expressed doubt as to the responsibility of Gotovina for war crimes (article in *Newsweek*, 20 August 2001, 'What did the CIA know?'). The article in *Newsweek* claimed that U.S. officers cooperated with the planners of Operation 'Storm', especially in sharing intelligence material, and suggested that U.S. officers could be called as key witnesses in any trial of Gotovina. An article in Croatia's *Nacional* (7 August 2001, 'HDZ opovrgava Tudjmana: kako bi spasio Gotovinu, HDZ sad tvrdi da su u "Oluji" sudjelovali i Amerikanci') claims that Gotovina's defence lawyer, together with Croatian right-wingers, have been pushing the idea of shared U.S. responsibility for Operation 'Storm' in an attempt to defend Gotovina from the charge of command responsibility for crimes. The *Newsweek* article was followed by a flurry of claims that the U.S. had been intimately involved in planning and monitoring Operation 'Storm'. These claims contrasted strikingly with the right's insistence ever since 1995 that 'Storm' had been a glorious victory for Croatia in the teeth of international disapproval.

on primarily political criteria. Accepting the right-wing view that each indictment or rumoured indictment is an attack on Croatia and its state interests, the government seems to regard the very institution of the ICTY as a threat to the nation that must be fended off. Unlike President Mesic, who has consistently called for facing up to Croat crimes and unreserved cooperation in bringing those responsible to justice, government officials have mostly failed to take the initiative in confronting the darker side of the war effort, particularly over events during and after Operation 'Storm'.

This reluctance could be seen also in the initially patchy record in prosecuting Croats in domestic courts for war crimes. However, in this regard a change has been evident, particularly since the showdown with the HSLS in July 2001.

Already in January 2001 the government had decided to set up specialised units, including an office within the Justice Ministry, to ensure a more effective and even-handed approach to war crimes investigations. A number of Croats accused of the murders of dozens of Serb civilians in Gospić in 1991 were arrested in September 2000, while the case of Serb civilians murdered in Pakracka Poljana in 1991 was reopened.<sup>14</sup>

This tougher stance followed the murder in August 2000 of an ethnic Croat from Gospić, who had cooperated with ICTY investigators looking into the crimes committed in that town in 1991. That murder appeared to demonstrate the determination of some right-wingers to prevent prosecutions of Croat war crimes suspects at all costs. The authorities faced another challenge in February 2001, when the arrest of General Mirko Norac, who had been under investigation by a domestic court for his alleged part in crimes committed in Gospić in 1991, brought mass demonstrations, notably in the coastal city of Split.<sup>15</sup>

Government nervousness at the ability of right-wing groups and war veterans associations to stir up trouble has undoubtedly been a major factor determining its caution over war crimes issues. While the authorities braved the wrath of the nationalist right in apparently clear-cut cases such

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<sup>14</sup> *Reuters*, 12 and 13 September, and 9 October 2000.

<sup>15</sup> *Globus*, 9 February 2001; *Republika*, 11 February 2001.

as Gospic and Pakracka Poljana, they have been more reluctant over Operation 'Storm'. Objections to the approach of the ICTY Prosecutor towards 'Storm' as well as towards the 1993 Medak Pocket operation, for which General Rahim Ademi has been indicted, might elicit greater international understanding if the Croatian legal authorities had not been so slow to deal with crimes that were undoubtedly committed during those operations. Despite an abundance of evidence,<sup>16</sup> few of them were seriously investigated.<sup>17</sup> Such failures of the legal authorities are presumably to the detriment of defendants such as Gotovina and Ademi, who have been accused by The Hague on the basis of command responsibility for crimes whose actual perpetrators are still at large.<sup>18</sup>

In August and September 2001 a spate of new war crimes proceedings seemed to indicate that the authorities might belatedly have decided to tackle the issue head on. In late August 2001 the case of the shooting of prisoners of war near Bjelovar in 1991 was opened, leading to charges against four former and serving police officers. In September four persons were arrested for crimes committed in the Sibenik-Knin area following Operation Storm in 1995,<sup>19</sup> and a further eight persons were arrested in connection with the killing of military and civilian prisoners of war near Split.<sup>20</sup>

The arrest of two men (one of whom was quickly released) in a village near Sibenik was followed by

local tension with the police that re-ignited fears of possible trouble from the right. Media speculation that an uprising was in progress was denied by the head of the local government, who at the same time asserted that while police patrols in the village would be tolerated, further arrests would not be.<sup>21</sup> The detention of five persons for the murder of a local Serb in Virovitica in 1991 also provoked demonstrations and fisticuffs in court.<sup>22</sup>

## E. RACAN'S TIMIDITY ENCOURAGES THE RIGHT

The high sensitivity of the war crimes issue was confirmed yet again on 1 October 2001, when a documentary film about Croatian war crimes was broadcast on Croatian state television (HTV). The program cited data from the Croatian Helsinki Committee for Human Rights on crimes in the formerly Serb-controlled area and included images of murdered Serb civilians and statements by witnesses. The HDZ, the Committee for Defending the Dignity of the Patriotic War (SODDR), and the Association for the Protection of Patriotic War Values (HONOS) immediately hit out at HTV for 'attempting to equate the guilt of Serb aggressors and Croatian defenders and victims'. SODDR and the Croatian Association of Disabled Veterans of the Patriotic War (HVIDRA) called for public demonstrations on 20 October to protest the damage that the government had supposedly inflicted on Croatia's 'national identity, territory, social welfare rights and the integrity of its war heroes'.<sup>23</sup>

A poll conducted by a professional agency found that a bare majority (51 per cent) of the sample of 1,200 adult viewers believed the facts as presented in the documentary. A greater proportion – 73 per cent – agreed that all war crimes should be prosecuted regardless of the identity or status of the perpetrators. Yet, a majority also supported HDZ arguments that the documentary was 'anti-Croatian' and should not have been screened.<sup>24</sup> The ambiguity in public attitudes could hardly have been more graphically illustrated.

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<sup>16</sup> As of July 2000, the Croatian Helsinki Committee for Human Rights had listed some 677 deaths apparently as a result of crime – i.e. not casualties of military operations – in the territories recaptured in August 1995, following their recapture (*Jutarnji list*, 21 July 2000). The Committee also claims that 22,000 Serb-owned homes were destroyed in those territories. The mass destruction of Serb-owned properties lends weight to accusations that there was a deliberate attempt to ensure that the Serb owners would never return. In the Medak Pocket operation in 1993, at least 38 Serb civilians were murdered.

<sup>17</sup> One that has been investigated is the murder of sixteen Serb civilians in Gosici and Varivode shortly after Operation 'Storm', for which six Croatian soldiers have been charged. The case was reopened in March 2001, having originally been dismissed in 1996. *Hina* news agency, 20 March 2001.

<sup>18</sup> Regarding responsibility for the Medak Pocket operation see *Feral Tribune*, 4 August 2001, 'Bauk cistih ruku: sudbina Rahima Ademija u Racanovim rukama'.

<sup>19</sup> *Jutarnji list*, 25 and 26 July 2001; *Hina* news agency, 5 and 26 September 2001.

<sup>20</sup> *Jutarnji list*, 28 September 2001.

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<sup>21</sup> *Hina* news agency, 6 and 9 September 2001.

<sup>22</sup> *Jutarnji list*, 16 September 2001 and *Hina* news agency, 19 September 2001.

<sup>23</sup> *Vjesnik*, 5 October 2001.

<sup>24</sup> *Jutarnji list*, 4 October 2001.

In view of this sensitivity, the government should be commended for having markedly improved Croatia's fulfilment of its obligations towards the ICTY and the impartial investigation of war crimes through the domestic courts. However, in their caution and lack of resolve during their first year and a half in office, the authorities missed an opportunity to face up to painful episodes in the country's recent past and remove the stigma that will be attached to its war effort so long as individual war crimes are not punished. Rather, they allowed the nationalist right to reclaim the agenda and to exploit the war crimes issue as a persistent destabilising factor that distracts the government from issues of far greater significance in the daily lives of Croatia's citizens. Indeed, the sudden spate of activity in August and September 2001 by the police and judiciary over war crimes cases begs the question of why it took so long to begin probing such matters.

Opinion poll evidence has mostly shown broad support for cooperation with the ICTY and for punishing Croat perpetrators of war crimes. There is no appetite among the public for a return to the international isolation that the country suffered under the HDZ. The present government's victory in January 2000 was possible precisely because the wartime nationalist agenda had lost its relevance for most voters, to be replaced by more 'normal' concerns about the economy and social conditions.

Yet the Racan government has allowed its agenda to be dictated by a noisy right-wing minority that could call out street demonstrations but whose support had plummeted since the HDZ's heavy electoral defeat in January 2000. Rather than confront the war crimes issue head on and, like Mesic, clearly explain the need to come to terms with it, Racan has sought to present the government as a worthy defender of national 'dignity' as defined in the terms beloved of the nationalist right. By seeking to accommodate a constituency that cannot be assuaged, he has alienated many of his natural supporters, who believe that Croatia should have reckoned with its war criminals for the sake of its own development and values, not because of international pressure.

Undoubtedly Racan has been constrained in part by tensions within the governing coalition, especially from the HSLs. Perhaps he is also inhibited by awareness that his communist background renders him forever vulnerable to

right-wing accusations of selling out the 'national interest'. The same consideration may explain his reluctance to make political capital out of HDZ officials' patently selfish interest in resisting cooperation with the ICTY and discouraging domestic pursuit of war crimes.<sup>25</sup>

Be this as it may, Racan's timidity in facing challenges from the right has been particularly striking when compared with Mesic's decisiveness. For example, in September 2000 a group of twelve generals joined the HDZ leadership in writing controversial letters that accused the authorities of undermining the legitimacy of the Homeland War and appeared to call for their removal. However, the shock with which this was greeted in the media quickly dissipated when Mesic retired the seven generals who were still serving. The president's action was greeted by widespread public approval, and the limitations of the right's ability to undermine the government were demonstrated.

Racan's timidity may even have contributed to a resurgence in support for right-wing parties, as seen in the 20 May 2001 local elections. In addition to the HDZ and the smaller Croatian Party of the Right (HSP) and the Croatian Christian Democratic Union (HKDU), a new factor on the far right is the grouping called Croatian Identity and Prosperity (HIP) led by Miroslav Tudjman, elder son of the late president. Following its success in May 2001, when it took 7 per cent of the vote, the HIP announced its intention to transform itself into a political party, Croatian True Revival (also HIP). The HIP has concentrated in particular on defending Croatian generals accused of war crimes and has tried to build support among the Croat Diaspora, whose help was crucial to Franjo Tudjman's ascent to power in 1990.<sup>26</sup> Significant elements in the Catholic Church have constituted

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<sup>25</sup> In September 2001 two prominent HDZ figures, former interior minister Ivan Vekic and Branimir Glavas, once known as the 'sheriff of eastern Slavonia', spurned police summonses for routine questioning in connection with alleged war crimes. Predictably, Glavas responded by decrying the 'repressive state apparatus' that wanted to 'criminalise' the HDZ era, while Vekic called for public demonstrations in Zagreb on 20 October, warning somewhat gratuitously that any attempt to prevent the protest would be met with force. See *Jutarnji list*, 29 and 30 September and 6 October 2001.

<sup>26</sup> On efforts by the HIP to curry favour with the diaspora and nationalist elements in the Catholic Church, see *Nacional*, 7 August 2001, 'Crkva i diaspora agitiraju za Tudjmana'.



another sharp critic of the government from the right. In July 2001, the Croatian Bishops' Conference's 'Iustitia et pax' commission issued a statement lamenting that the Hague Tribunal was, in collusion with domestic elements, calling the country's independence into question.<sup>27</sup>

However, the right wing is itself fragmented, and the possibilities for forming a coherent bloc may be limited. Miroslav Tudjman reportedly started his own movement when it became apparent that he could not inherit the HDZ. The current HDZ leader, Ivo Sanader, claims to wish to turn it into a modern European conservative party in the Christian Democratic tradition. Achieving that ambition will prove impossible as long as widely controversial and disliked figures such as the late President Tudjman's favoured adviser, Ivic Pasalic, retain considerable sway.<sup>28</sup> Whatever support the HIP attracts is most likely to be mainly at the expense of the HDZ and other right-wing parties. It is conceivable that if the HIP were to succeed in drawing away more extremist elements, Sanader's professed ambition to transform the HDZ might receive a boost. The prospect of a HDZ return to power might then become less worrisome. For now, the lack of a credible democratic opposition in Croatia justifies the international community's fears for the consequences if the present government were to fall.

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<sup>27</sup> Report on the statement by the *Hina* news agency, 23 July 2001. Many Catholic clergy in 2001 used the 5 August holiday commemorating the reconquest of formerly Serb-held territories as an opportunity to attack the government over cooperation with the ICTY. The Bishop of Sibenik was quoted as declaring that 'We are not convinced that our authorities are doing everything in their power to defend the honour and dignity of our state and people, as our defenders did'. *Agence France Presse*, 5 August 2001.

<sup>28</sup> In one of the more bizarre twists of Budisa's career, the former HSLS leader demonstratively spent the renowned annual equestrian spectacle, the 'Sinjska alka', in the company of Pasalic, who for many Croatians personifies the sort of political values which Budisa had opposed in the 1990s. Under Tudjman and the HDZ, the Alka was officially promoted as independent Croatia's preeminent folkloric display of martial virtue. The current Master ('Vojvoda') of the Alka is the imprisoned General Mirko Norac, and the 2001 Alka was controversially turned into a nationalist rally against the government, including a public snub to the representative of President Mesic. *Nacional*, 7 August 2001.

## II. RISING DISCONTENT

As argued in this paper, Racan has unnecessarily allowed the right to recapture the agenda with the war crimes issue, and the extent to which that issue need threaten the government has probably been exaggerated. On its own, contention over war crimes should not be enough seriously to endanger the ruling coalition. So long as the ruling parties have the will to stay together, the right-wing opposition does not appear to have sufficient popular support to defeat them. The HSS's loyalty to the government will be of key importance. The HSS is especially strong in the countryside, and thus compliments the SDP's urban strength. Its leadership can be well satisfied with its strong performance on 20 May 2001, but it has to be sensitive to its conservative, rural constituency, and its indefinite adherence to the government cannot be guaranteed.

The war crimes issue has assumed such importance in the political agenda largely because Racan has allowed the vociferous right wing minority and the sensationalist press to keep it there.<sup>29</sup> However, social conditions are likely to be much more important for the bulk of the Croatian electorate. If popular discontent over this issue begins seriously to erode the government's support, coalition strains may reach new levels.

Although Croatia's economic performance has picked up somewhat since the last year of HDZ rule (real GDP growth was 3.7 per cent in 2000, following a -0.4 per cent contraction in 1999),<sup>30</sup> this has not been felt by much of the population. The average unemployment rate was 21.3 per cent in 2000, up from 19.1 per cent in 1999. The figure would be much higher were it not that over the past decade unprecedented numbers of workers have taken early retirement. While the average earnings of those in jobs have increased over recent years, pensioners have been left behind. They represent an important constituency that the government can

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<sup>29</sup> Some of the same newspapers that still denounce the legacy of HDZ corruption and have no illusions about the right-wing parties of today appear, nevertheless, to be addicted to the adrenaline-rich issue of Croatian accountability for war crimes. Racan's government is learning only very slowly to cope with the fickleness of the media.

<sup>30</sup> Data from the *Economist Intelligence Unit*.

ill afford to ignore. Following the January 2000 election, there was broad understanding that living standards would not improve rapidly, and necessary economic restructuring would mean further pain. However, whatever patience existed then has diminished as the perception has grown of government drift and failure to get to grips with the parlous economy.

The government faced a daunting legacy from the years of HDZ and communist rule. It has scored some successes, such as reducing the very high levels of domestic indebtedness, which had been a major drag on the economy in the late HDZ period. But many deeper problems have barely been addressed. Reforms of public administration and the judiciary have been disappointingly slow. For example, the huge backlog of pending cases facing the overburdened judiciary means that it is nearly impossible to reach speedy settlement of commercial disputes. Another factor putting off potential investors is the frequent lack of clarity concerning property ownership after 45 years of communist rule. One difficulty of the government's own making has been its failure to communicate a clear strategy to the public about how it plans to tackle the country's economic and social woes.

A particular problem is the shambolic state of public finances. In 1998 and 1999 general government expenditure ran out of control, reaching 56.2 per cent of GDP in 1999, the highest level in Europe. The general government deficit of -8.5 per cent of GDP in 1999 was reduced to -5.8 per cent in 2000.<sup>31</sup> However, the impression that the government is merely muddling through is reinforced by its over-reliance on privatisation receipts. The off-budget pension and healthcare funds have been unable to meet their obligations, and represent a continuing drain on public finances. Bringing public spending under control has been a priority for the IMF, with which Croatia reached a standby agreement in March 2001. An IMF delegation visited Zagreb in August 2001 when it seemed that the agreed targets might be slipping.<sup>32</sup>

In order to reduce expenditure, the government announced drastic measures, including the

immediate layoff of thousands of police, cuts in the armed forces and reductions in pensions to some categories of pensioners and in social welfare payments.<sup>33</sup> Coming after a year and a half in power, the measures smacked of desperation. They drew added criticism from many quarters because they appeared to have been forced on Croatia by the IMF, which had already been criticised by many in the country, including economists, for allegedly pressuring the government into measures that stifled growth. The added pain is likely to elicit increasing tension in the government's already strained relations with trade unions, and there is a possibility of mounting social discontent over the coming months. There are already clear indications that right-wing groups hope to exploit such unrest, which could dovetail dangerously with other areas of discontent, including over war crimes.

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<sup>31</sup> Ibid.

<sup>32</sup> Reuters, 1 and 9 August 2001.

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<sup>33</sup> Unemployment in June 2001 stood at 21.5 per cent, some 365,000 people (data from the *Economist Intelligence Unit*). In August 2001, the government announced sweeping cuts in the number of police, from 16,000 to 12,000. (3,800 police were dismissed on one day alone, 7 August.) These cuts provoked some well-publicised acts of protest by aggrieved police. The following week, the Ministry of Defence announced that the Croatian armed forces would have to shed 17,000 positions over the next ten years, reducing overall numbers from 42,000 to 25,000, in line with advice from NATO. (Zeljko Peratovic, 'Zagreb's Next Political Crisis', IWPR Balkan Crisis Report, 17 August 2001.) Social and welfare cuts are likely to provoke strong reactions, too, especially among war veterans. The minister of veterans affairs has emphasised the problem of unjustified claims for disabled veterans; he has stated that there are now 33,000 claimants, compared to only 15,000 in 1995. *Jutarnji list*, 28 August 2001.

### III. CONCLUSION

Although the government's performance in meeting its international obligations and carrying out economic reforms has often been disappointing, it represents a marked improvement on its predecessor in key respects:

- The country has played a constructive role on the regional stage, especially in setting its relations with Bosnia and Herzegovina on a correct footing and ending sponsorship of hardline Croat leaders there.
- Significant progress has been made in democratising political and public life in areas such as freedom of the media.
- While progress in removing barriers to the sustainable return of Serb refugees to Croatia has often been slow,<sup>34</sup> the government has, through a much more positive attitude, improved the overall environment for return.
- Though cooperation with the ICTY has continued to be problematic, the government's record is much better than its predecessor's.

In this light, it is understandable that the international community wants to see the current government, or some variation on it, remain in office. Yet, many of the demands it puts to Croatia result in strain that makes it harder for the government to meet its commitments. The war crimes issue continues to be extremely sensitive and to overshadow political life. While it may not on its own be enough to bring the government down, the issue causes considerable stress among the ruling parties. Combined with discontent over the economy, it threatens to erode popular support for the government over the coming months.

The international community should continue to insist that Croatia fulfil its international

obligations, including cooperation with the ICTY, as well as carry out necessary economic reforms. At the same time, however, it needs to show better that the government's pro-Western policies pay dividends in order to make it politically more feasible for the government to continue those policies. There are two, closely related, areas on which the international community could usefully concentrate: the Stability Pact and Croatia's aspiration to membership in the European Union.

Despite its habitual suspicion of regionally directed initiatives, Zagreb takes a constructive approach to the Stability Pact, which emphasises regional economic and infrastructure – though not political – integration. Active pursuit of further projects under the Pact with direct benefit to Croatia would, therefore, support the government while furthering the West's general policy of encouraging constructive regional engagement.<sup>35</sup> More active engagement by the Stability Pact in supporting projects in Croatia will also help on the EU membership issue since the EU originated and regards itself as the 'driving force' of the Stability Pact and pays considerable attention to its regional dimension.<sup>36</sup>

Croatia is still at a very early stage in the pursuit of its long-term ambition of joining the EU. It initialled its Stabilisation and Association Agreement (SAA) with the EU in May 2001, and that agreement is to be signed on 29 October 2001. The government is just setting out on meeting the reform commitments contained in that document.

The European Union's SAA with Croatia, of course, is only a piece of the broader strategy represented by the Stability and Association Process (SAP) for the Western Balkans (former Yugoslavia, minus Slovenia, plus Albania) that it launched in 1999. The EU has asserted that each country in this process will be treated on its merits and that countries that can proceed faster on integration with it will not be held back by regional laggards.

<sup>34</sup> Milorad Pupovac, president of the Serb People's Council, recently stated that citizens of Serb ethnicity have been 'totally excluded from the [housing] reconstruction process' in Croatia. He claimed that only 10 per cent of 20,000 applications for reconstruction assistance lodged by ethnic Serbs have been resolved, of which 'less than 1 per cent of houses were actually rebuilt'. *Vecernji list*, 22 August 2001.

<sup>35</sup> For example, in the context of the European Union's Transport and Infrastructure Regional Study (TIRS) in the Balkans, the government has submitted a number of proposals related to regional transport and energy infrastructure. It is to be hoped that these projects will win significant international backing via the Stability Pact.

<sup>36</sup> See EU Council regulation (CARDS regulation) no. 2666/2000.

Assurances that the SAP envisages an individual process for each country in the region are important for Croatia, which is wary of being consigned to a bloc of less developed Balkan countries. Initiatives that propose, or seem to propose, an overarching Western approach to the region have repeatedly elicited nervous reactions in Croatia,<sup>37</sup> where the right wing has claimed that the international community, with government connivance, plans to force Croatia back into some kind of new Yugoslavia. EU officials need to keep this sensitivity in mind as they work with Croatia to implement the new agreement.

If they do exercise such care, however, the SAA provides the EU with excellent leverage to encourage Croatia to improve its record of fulfilling international obligations related to war crimes (and refugee returns) in its own interest. The SAA is not a traditional aid program, but rather a means of grooming countries for eventual membership through targeted assistance.<sup>38</sup> It implies that the pace at which Croatia's approach to membership proceeds will be very much

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<sup>37</sup> For example, an article in *The Financial Times* ('Closer ties with west hinge on relations with neighbours', 8 October 2000), which stated that the EU 'intends that the countries of the former Yugoslavia, excluding Slovenia, should prepare for eventual succession – and that, unusually, they should do so as a group', drew negative comment in the media. The same occurred when Carl Bildt published his essay, 'A Second Chance in the Balkans', in *Foreign Affairs* (January/February 2001). Most recently, a call by German foreign minister Joschka Fischer for a common market in the Balkans was greeted with extreme nervousness. *Jutarnji list*, 10 and 11 September 2001. Following Fischer's remarks, the outgoing representative of the European Commission in Zagreb, Per Vinther, reasserted the principle of an individual approach. He added that it would be up to each country to reach bilateral agreements with its neighbours, and that there was no need for any new structures or multilateral agreements. *Jutarnji list*, 24 September 2001.

<sup>38</sup> 'With a view to Croatia's integration into European structures, the EU will support Croatia's efforts on constitutional, electoral, media and judicial reform, full respect of human rights and fundamental freedoms, economic reform, active progress on Croatia's obligations under the Dayton/Paris agreement (including the return of refugees and displaced persons as well as full cooperation with the ICTY), and a real commitment to regional cooperation. The EU puts special emphasis on the importance of Croatia's active commitment to the principles and objectives of the Stability Pact.' From *EU Factsheet on Croatia*, June 2001.

determined not only by the country's strictly economic performance but also by its demonstration of political maturity, not least its satisfaction of commitments such as its Dayton Agreement obligations. It follows that Croatia's best interest will be served by accelerating its adaptation to the EU's priorities for reform, as detailed in the SAA itself, rather than wasting energy and international goodwill by disputing the details of this process. Indeed, if EU membership is Croatia's strategic goal, any other course will be self-destructive.

Put the other way, to the extent that the EU shows it is prepared to move quickly on its side of the SAA bargain, including specific assistance to prepare Croatia for formal candidacy and eventual membership, it would be clearly counterproductive for Zagreb to drag its feet on issues like war crimes cooperation which, in the broader picture, are only details that have to be met if the country is to satisfy its fundamental objective of 'joining Europe'. Cooperation with the Hague Tribunal could then be presented to the Croatian public positively as a natural part of a reinvigorated pro-European strategy. Just such a strategy has been advocated by a number of Croatian politicians and opinion-makers. For example, the former foreign minister, Mate Granic, and Mladen Stanicic, director of the Institute for International Relations (IMO), have argued that Croatia 'must adapt and act as though it already were a member of the EU, regardless of when formal membership will come into force'.<sup>39</sup>

The government's course on war crimes should be clear. It should cooperate fully with the ICTY. It should step up procedures for the prosecution of war crimes in domestic courts, without consideration of the ethnicity of the perpetrator or the victim.<sup>40</sup> Government officials should avoid politicising war crimes cases, treating them instead solely on their legal merits and not as issues of national interest or security. More broadly, the

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<sup>39</sup> *Hina* news agency report, 3 May 2001.

<sup>40</sup> The *political* benefits of following this principled course seem to be clear to Racan's new minister of justice, Ingrid Anticevic-Marinovic, who lost no time in telling the media that if the judiciary demonstrated the capacity to tackle Croatian war crimes, the international community would take more heed of Zagreb's own concerns about the ICTY. *Nacional*, 3 October 2001.

government should encourage a public debate on war crimes issues, confronting the truth of painful wartime events and establishing individual guilt. But such a policy of enlightened self interest will become politically more feasible if the EU makes

clear that this path is the only one – and a not impossibly lengthy one – that leads to Croatia's reintegration with Western Europe.

**Zagreb/Brussels, 16 October 2001**

## APPENDIX A

### MAP OF CROATIA



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.

ICG's approach is grounded in field research. Teams of political analysts, based on the ground in countries at risk of conflict, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports are distributed widely to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's internet site, [www.crisisweb.org](http://www.crisisweb.org). ICG works closely with governments and those who influence them, including the media, to highlight its crisis analysis and to generate support for its policy prescriptions. The ICG Board - which includes prominent figures from the fields of politics, diplomacy, business and the media - is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; former Australian Foreign Minister Gareth Evans has been President and Chief Executive since January 2000.

ICG's international headquarters are at Brussels, with advocacy offices in Washington DC, New York and Paris. The organisation currently operates field projects in nineteen crisis-affected countries and regions across four continents: Algeria, Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone, Sudan and Zimbabwe in Africa; Burma/Myanmar, Indonesia, Kyrgyzstan, Tajikistan, and Uzbekistan in Asia; Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia in Europe; and Colombia in Latin America.

ICG also undertakes and publishes original research on general issues related to conflict prevention and management. After the attacks against the United States on 11 September 2001, ICG launched a major new project on global terrorism, designed both to bring together ICG's work in existing program areas and establish a new geographical focus on the Middle East (with a regional field office planned for Amman) and Pakistan/Afghanistan (with a field office planned for Islamabad).

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United Kingdom. Foundation and private sector donors include the Ansary Foundation, the William and Flora Hewlett Foundation, the Charles Stewart Mott Foundation, the Open Society Institute, the Ploughshares Fund, the Sasakawa Foundation, the Smith Richardson Foundation, the Ford Foundation and the U.S. Institute of Peace.

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