

EUI WORKING PAPERS

SPS No. 2006/02



International Security,
Normalization and Croatia's
Euro-Atlantic Integration

LAURA ZANOTTI



EUROPEAN UNIVERSITY INSTITUTE
Political and Social Sciences Department

EUROPEAN UNIVERSITY INSTITUTE
DEPARTMENT OF POLITICAL AND SOCIAL SCIENCES

International Security, Normalization And Croatia's Euro-Atlantic Integration

LAURA ZANOTTI

EUI Working Paper **SPS** No. 2006/02

This text may be downloaded only for personal research purposes. Any additional reproduction for such purposes, whether in hard copies or electronically, require the consent of the author. If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the working paper, or other series, the year and the publisher.

ISSN 1725-6755

© 2006 Laura Zanotti

Printed in Italy
European University Institute
Badia Fiesolana
I – 50016 San Domenico di Fiesole (FI)
Italy

<http://www.iue.it/>
<http://cadmus.iue.it/dspace/index.jsp>

Abstract

This article uses the theoretical instruments elaborated by Foucaultian studies of disciplinarity and government to explore the process of Croatia's pacification and integration in Euro-Atlantic institutions. The peace agreements brokered by the United Nations, the monitoring mechanisms set in place by the international community in order to protect minority rights, and the political and economic conditionality imposed on Croatia by the European Union and NATO testify to an intense international effort of normalization through disciplinary and governmental mechanisms. In the post-Cold War era, international organizations increasingly maintain international security by establishing mechanisms for monitoring and steering the way states govern their citizens. However in Croatia, these efforts are continuously resisted at the local level, and international technocracy is continuously challenged by local politics.

Normalization, Pacification, Europeanization

The process of pacification and Europeanization of Croatia can be seen as instances of an international regime that in the post-Cold War linked democratization with international security. In the 1990s, theories of international order based upon the equilibrium of two counterpoised blocks no longer provided adequate accounts of new threats and conflicts. Democratic peace theories emerged in academia as an alternative to realism and provided explanations of international war and peace based upon the quality of states' domestic political arrangements.¹ In the face of the proliferation of international threats, international organizations focused on reducing risk and increasing predictability by promoting normalization of potentially disorderly states. Normality is identified with democracy, various degrees of international threats with non-democratic regimes. In the post Cold-War era, international organizations extensively engage in reforms of the institutions of disorderly states. Furthermore, they promote the establishment of international standards for democracy and develop an array of regulations and monitoring mechanisms for assessing and steering states performance. This article explores the methods adopted by the United Nations, the EU and regional organizations to make Croatia a pacified and normal country by European standards, the resistance these efforts encounter and their overall outcomes. The theoretical tools I have used to construct the interpretations proposed are rooted in Michel Foucault's elaborations on government and disciplinarity. In this framework, the proliferation of mechanisms for intervening within states with a view at reforming institutions and the multiplication of mechanisms for steering states behavior can be seen as two trajectories of the post-Cold War international regime: disciplinarity and governmentality. Disciplinarity, for Foucault, is a modality of power that relies upon techniques of individual transformation and domestication that progressively supplanted sovereignty contextually with the formation of administrative states in Classical Europe. Discipline builds responsible and productive members of society through capillary surveillance, mechanisms of reward/punishment, procedural codification, record keeping, training, tutorship, examination. Its goal is not to punish the body, but to actively correct the soul.² Far from being simply a manifestation of repressive power, discipline is also "productive" of modern subjects. Similarly to the Foucaultian inmates of disciplinary institutions, in the post-Cold War era deviant states are increasingly the target of scrutiny and examination with a view at making them democratic, responsible towards their citizens' human rights, and able to sustain health and wealth of populations by fostering market economies.

Norms are the connecting element between disciplinary and regulatory governmentalized power. Norms, Foucault says, can be applied to a body one wishes to

¹ Linked in general terms to "idealistic" interpretations of international relations, democratic peace theories found their first formulation in Kant's "perpetual peace." Immanuel Kant. *Perpetual Peace*, (1795), in *The Philosophy of Kant*, ed. C.J. Friedrich (New York: Modern Library, 1949), 430-476. In their modern versions, democratic peace theories offer two types of explanation of the linkages between democracy and international peace. *Monadic propositions* maintain that democracies are less inclined to violent behavior, regardless of the regime type of their potential opponents. *Dyadic propositions* maintain that democracies, while being as war prone as non-democracies, do not go to war with other democracies due to cultural similarities and/or economic linkages. For a discussion of democratization theories see Miriam Fendius Elman, ed., *Paths to Peace. Is Democracy the Answer?* (Cambridge, Massachusetts: The MIT Press, 1997), 1-57.

² The most complete elaboration of the notion of disciplinarity has been developed by Foucault in *Discipline and Punish. The Birth of the Prison*, (York: Vintage Books, 1995, 2nd ed).

discipline and to a population on wishes to regularize alike.³ Normalization, according to Foucault, becomes one of the great mechanisms of power at the end of the classical age. Degrees of normality indicate “membership in a homogeneous social body but also ... [play] a part in classification, hierarchization, and the distribution of rank.”⁴ Normalization homogenizes and individualizes, as it makes it possible to measure gaps. The emphasis on norms allows for the creation of an important element in modern mechanisms of exclusion and strategies of security: the creation of the notion of the “abnormal.” Abnormality is the way modern threats to social, and (I argue) international order are identified and portrayed. Disciplines are the techniques through which the abnormals – be they individuals or rogue states – are to be corrected and brought to behave normally.

While discipline refers to techniques of individual transformation, bio-power, another trajectory of modalities of rule that, for Foucault, emerged in the eighteenth century, refers to technologies for knowing and steering the behavior of masses with a view at managing risk.⁵ Disciplines articulate with bio-power through norms and regulations (which set the benchmarks and the parameters of transformation) and with security (by providing tools for amending deviations from normalcy). In discussing modern problematizations of security in liberal states, Mitchell Dean has argued that, while the science of “police” made the security of the state depend upon knowledge and detailed regulation of men and things, liberal conceptions advise that security can best be attained by creating conditions under which reasonable individuals can exercise liberties.⁶ In this framework, on the one hand the security of the whole must be fostered by the generalization of certain kinds of individuals, at the same time “disciplined” and “active” in society. On the other hand control must be maintained over particular populations when the exercise of liberty undermines the prosperity of the state. Thus, the security of liberal states depends upon the exercise of liberty by normalized subjects. Similarly, in the post- Cold War, international peace is seen as the result of the responsible behavior of free and democratic states.

Governmentality is distinct from – but connected to – disciplinarity and bio-power. For Foucault, governmentality is a form of government and a technique of power which – resulting from a series of transformations that started at the end of the Middle Ages – took its present shape in nineteenth century Europe. It has as its target the population, as its form of knowledge political economy and corresponds to a type of society governed by apparatuses of security.⁷ While disciplinarity refers mostly to techniques of construction of modern individuals, and bio-power to modalities for knowing and steering populations, governmentality refers more specifically to modalities of rule. Scholars inspired by Foucault extended the concept of governmentality to study a modality of government that emerged in the second half of the twentieth century and that increasingly relied upon the proliferation of

³ Michel Foucault, *Society Must Be Defended. Lectures at the Collège de France, 1975-76*. Ed. Mauro Bertani and Alessandro Fontana. Gen. Ed. François Ewald and Alessandro Fontana (New York: Picador, 253)

⁴ *Ibid.*, 184.

⁵ For Foucault, bio power “brings together the mass effects characteristic of population, which tries to control the series of random events that occur in a living mass, a technology which tries to predict the probability of those events (by modifying it, if necessary), or at least to compensate for their effects. This is a technology which aims to establish a sort of homeostasis, not by training individuals, but by achieving an overall equilibrium that protects the security of the whole from internal dangers.” *Ibid.*, 195.

⁶ Mitchell Dean, *Governmentality. Power and Rule in Modern Society*. (London: SAGE Publications, 1999), 116-117.

⁷ Michel Foucault, in Graham Burchell, Colin Gordon and Peter Miller (eds) *The Foucault Effect. Studies in Governmentality. With two lectures by and an interview with Michel Foucault*, pp. 87-104. (Chicago: The University of Chicago Press, 1991).

mechanisms for knowing, assessing, auditing, rewarding and punishing behavior.⁸ Governmentalized government, aims at making diverse local varieties administrable, readable and manageable through centralized calculation strategies.⁹ At the end of the twentieth century, governments' regulatory and auditing orientation migrated to the international arena. Numerous regulatory bodies are created to foster both states self-discipline and international scrutiny.¹⁰

The transformation from abnormality into normality and from deviancy to responsibility is at the same time an individualizing and a standardizing process, where one's performance is compared with others' and assessed according to benchmarks that are the same for all. Governmentalized government also relies upon mechanisms of reward/punishment and inclusion/exclusion, that Nicholas Rose, called "government by community." For Rose, in the last decades of the twentieth century, inclusion or exclusion from particular communities and the eligibility for public assistance, has become a means for normalizing individuals and making them functioning elements of society. Thus, in order to be admitted into the community of citizens and receive state's assistance, "abject" individuals must undergo moral reformation and behave responsibly and rationally.

A similar framework can be detected in the modalities of international security in the post-Cold War era. The benchmark for normality in this framework is "democracy" and the field of application of disciplinarity are "rogue" states' institutions. In the absence of a centralized international government and facing the proliferation of chaos, international organizations endeavor to create a self-regulating international arena by normalizing its elements. The United Nations purports to regulate processes of government in the context of peace agreements. For instance, in Croatia, it exchanged the Eastern Slavonia territory for respect for minority rights. And the European Union fosters processes of normalization and defines itself as opposed to its obscure borderlands. The admission of Croatia, a former deviant state, and its eligibility to receive international financial assistance depends upon successful normalization. Ultimately, in order to be included, states must become functioning elements of the "international community," be capable of active self-management, perform as market economies, liberal democracies, predictable administrations and responsible protectors of the health and wealth of their citizens.

The case of Croatia testifies to the normalizing, disciplinary and governmental trajectories of the post-Cold War era international regime and to the role of international institutions in this regard. Normalization of Croatia started with the United Nations Transitional Administration in Eastern Slavonia and continues through the process of association with the European Union and NATO. The United Nations Transitional Administration in Eastern Slavonia (UNTAES) brokered a peace agreement (known as the

⁸ For Foucaultian analyses of government see Mitchell Dean, *Governmentality. Power and Rule in Modern Society*. (London: SAGE, 1999); Nicholas Rose, *Powers of Freedom. Reframing Political Thought* (Cambridge: Cambridge University Press, 1999). For a reflection on the value of applying governmentality to the study of the international arena and for applications of Foucaultian governmental analyses to the study of a number of issue-areas, see Wendy Larner and William Walters (eds), *Global Governmentality: Governing International Spaces*. (London: Routledge, 2004); Wendy Larner and William Walters, "Globalization as Governmentalization" *Alternatives: Global, Local, Political*, 29, no.5 (2004).

⁹ For Nicholas Rose, governmentalization of the state refers to "the invention and assembly of a whole array of technologies that connected up calculations and strategies developed in political centers to those thousands of spatially scattered points where the constitutional, fiscal, organizational and judicial powers of the state connect with endeavors to manage economic life, the health and habits of the population, the civility of masses and so forth" Rose, *Power of Freedom*, 21.

¹⁰ Michael Moran, *The British Regulatory State. High Modernism and Hyper-Innovation* (Oxford: Oxford University Press, 2003), p. 22.

Erdut agreement)¹¹ that, taken together with its annexes, not only defined the mandate of UNTAES and the general principles for the Croatian government's conduct after the withdrawal of the United Nations Transitional Administration. It also spelled out the details of the administrative arrangements for the implementation of such principles. In addition, it established an international monitoring mechanism in the form of a UN led diplomatic multilateral body known as the "Article 11 Commission."

After the closure in June 2003 of the United Nations Liaison Office (the symbolic custodian of the Erdut Agreement) other international organizations, to include the Organization for Security and Cooperation in Europe, the European Union and NATO continued to monitor Erdut's implementation. Croatia's compliance with international standards for democracy and human rights is part of the conditionality for its integration in the Euro-Atlantic organizations; its progress in this regard is continuously assessed in the context of the Stabilization and Association Process and is supported financially and technically through the Community for Reconstruction, Development and Stabilization (CARDS) program, guided by the Council, and legal reforms regarding minority rights are coached by the European Commission for Democracy through Law (the Venice Commission).¹² Reports are prepared, statistical information collected, funds invested and advice given in order to make Croatia a democratic and "normal" country by European standards.

The Legacy of Conflict

Before discussing the methods and outcomes of the United Nations intervention in Croatia, it is worthwhile outlining the context within which the organization had to intervene. The Balkans conflict triggered a massive population movement, the consequences of which are still enduring today. Many people lost their homes to new occupants and the ethnic composition of entire areas changed. Pre-war state institutions, administrative structures and archives were destroyed or lost. In Croatia, discriminatory legal provisions issued in the immediate aftermath of the war are slowly being reformed, and new laws are still haphazardly implemented. Questions that were irrelevant before secession, such as who was to be considered a "citizen" of the new republics, became of paramount importance. The Yugoslav planned economy, common market, and production area collapsed; industrial facilities closed down and entire areas were abandoned as a consequence of ethnic violence, landmines and lack of employment opportunities. The sluggish economy continues to constitute a disincentive to returns for the young and productive part of the population.¹³ Economic

¹¹ Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium. For a full text of this agreement, see United States Institute for Peace Library. *Peace Agreements Digital Collection*. (<http://www.usip.org>).

¹² Croatia has been a member of the Council of Europe since 1996. On its accession to the Council of Europe, Croatia committed to carry the Venice Commission's recommendations regarding amendments to the 1991 Constitutional Law on Human Rights and Rights of Minorities. In addition, in accordance with these commitments, international advisers appointed by the Council of Europe participate in the works of the Constitutional Court of Croatia in cases regarding minority rights.

¹³ The President of the Joint Council of Municipalities, Jovan Ajdukovic, in a conversation with the author held in Osijek on 9 May 2003, indicated that the lack of economic perspectives is a major deterrent for returns of young people. The Croatian Government action plan 2001 outlines the strategy of the government for under-developed regions. The government strategy includes the development of water resources and traffic infrastructure projects, housing development, construction and utility development, and expansion of the existing legal framework with new instruments and incentives. Very little activities for the re-development of cross border economic exchanges, projects aimed at exploiting creatively the area's natural resources or foster capital investments were devised.

stagnation is especially acute in areas that before the war were industrialized, and depopulation reinforces the state of depression.¹⁴

The population movement that took place during and in the aftermath of the war entailed depopulation or changed the ethnic composition of entire areas. While exact data about the number of displaced people are not available (the issue is still very politically loaded), the estimates provided below are meant to outline in general terms the dimension of problem. Between 1991 and 1995 more than 500,000 people both of Croat and Serb origins were displaced either within or from Croatia. As of the end of 2002, some 305,000, or 61 percent of people originally displaced had returned.¹⁵ Of the total number of returnees, approximately 68 percent are Croatian of Croat origin and 32 percent are Croatian Serbs. Of the about 220,000 Croatian Croats who were displaced between 1991 and 1995 (80,000 of whom fled Eastern Slavonia after the atrocities that occurred in Vukovar), about 207,000 had returned by the end of 2002.¹⁶ In addition, about 150,000 Croats who were not living in Croatia before the conflict and who resettled there as refugees have now earned Croatian citizenship. However, of the about 300,000 Serbs who were displaced during the conflict only 98,000 were recorded as returned in the year 2002.¹⁷ The Serb population in Croatia dropped from 12 percent of the total in 1991 to some 4.5 percent in 2001.¹⁸

The population movements and the legal provisions passed by the Croatian government during the conflict or in its immediate aftermath left as a legacy a still unresolved housing issue. During the operation Flash and Storm, by which Croatia regained the Serb-controlled areas, more than 170,000 people of Serb ethnicity were displaced into Bosnia and Herzegovina and Serbia and Montenegro. Immediately after Flash and Storm, the Croatian Government passed the Law on Temporary Take Over and Administration of Specified Property (LTTP) that provided that those who had fled and did not return within 90 days

¹⁴ While in rural areas – such as for example the Baranja region – people were somehow able to restart their activities once the land had been cleared from landmines, in industrial areas – such as for example the Vukovar region – people still face severe difficulties as most of the pre-war industries have not re-opened. Before the war about 33,000 inhabitants of the Vukovar region (or more than 1/3 of the population) were employed. This number dropped to 4,223 after the war. Between the year 1990 and the year 2000 the number of unemployed persons in Osijek-Baranja County more than doubled (from 14,405 to 33,051), while it tripled in the Vukovar-Sirmium County (from 7,318 to 21,624). It is considered that the trend registered in the Osijek-Baranja area reflects a general trend throughout Croatia. See Jelena Smoljan. “Socio-Economic Aspects of Peace Building: UNTAES and the Organization of Employment in Eastern Slavonia.” *International Peacekeeping*, Vol. 10, no. 2/Summer 2003, 27-50.

¹⁵ International Crisis Group (ICG). *A Half-Hearted Welcome: Refugee Returns to Croatia*. Balkan Report N. 138. 13 December 2002.

¹⁶ Governmental Commission on Returns, Office of Displaced Persons and Refugees (ODPR). *Report on Return Program*. April 2002; *Statistical Background Paper: Displacement, Return and Settlement since the Beginning of the Armed Conflict in Croatia*. OSCE internal document, 3 May 2002.

¹⁷ ICG: *A Half-Hearted Welcome*; OSCE *Statistical Background Paper*. According to the OSCE *Status Report no. 15 on Croatia 's progress in Meeting International Commitments since July 2004*, as of 1 November 2004 approximately 114,000 Serbs are registered as having returned to Croatia. According to the same source, fear discrimination and of lack of transparency in war crimes arrests, still constitute obstacles to return. In addition, while “progress has been made for repossession of residential properties”, no significant progress has been made with regard to apartments with occupancy rights. Furthermore, “the legal regime on property repossession continues to favor the interests of temporary occupants over the rights of the owners.” Legal and administrative issues regarding the recognition of working years under the Republika Srpska Krajina still affect minority returns.

¹⁸ 2001 Croatian Census. All data about population are to be taken *cum granu salis*. It must be recalled that some of the people registered as citizens or permanent residents do not actually live in Croatia, but across the border especially in Serbia and Montenegro; and that the data of the census may have been skewed by the fact that many may have chosen not to declare themselves as Serbs.

would lose the right to reoccupy their residences. By means of this legislation the government took over about 18,500 houses occupied mostly by Croatian Serbs who had fled the area and re-allocated them to Bosnian and domestic Croats, including Internally Displaced Persons (IDPs) and settlers.¹⁹ The conflict also entailed damage or destruction of some 196,000 houses.

Making Peace, Establishing Rules: Regulating State Administrations by International Peace Agreements

The United Nations Transitional Administration (UNTAES), endeavored to address the complex legacy of the war. It did so by including as part of the peace agreement that set the mandate of UNTAES (the “Erdut agreement”) not only the principles, but also the administrative modalities by which the Croatian Government should abide. In very broad terms, The Erdut agreement exchanged territory for respect of the human rights of minorities. The validity of some of its provisions was not meant to be limited to the duration of the Transitional Administration in Eastern Slavonia, but to remain in force after the withdrawal of UNTAES and to provide a guideline for the Croatian government’s behavior with regard to minorities. It was therefore meant to remain a durable instrument to hold Croatia internationally accountable to the benchmarks established internationally.

The Erdut agreement not only founded general principles for conduct. Taken together with its annexes, it also established in detail the administrative arrangements for the implementation of these principles and institutionalized mechanisms for monitoring compliance. After the end of the United Nations mandate, the principles, rules and regulations it set forth continue to be part of the framework for democratization of Croatia and were included as elements of conditionality in the process of admission into the European Union and NATO.

The text of the Agreement, which established the mandate of UNTAES, consists of three sections. The first includes provisions relating to the administration of the territory of Eastern Slavonia under the Transitional Administration during a period of 12 months (article 1-5 and 12); the second includes provisions of general validity regulating the protection of human and civil rights (articles 6-9); and the third includes provisions regarding the monitoring of the implementation of the Agreement after the withdrawal of the Transitional Administration (article 10-11).²⁰

The first set of provisions entrusted UNTAES with the administrative tasks to be carried out during the transitional period. These were restoring public services, training and building professionalism in the police, organizing elections and facilitating the appointment of a local Serb self-government.

The second section of the Agreement provided that the highest standards of internationally recognized human rights and fundamental freedoms be respected in the region. It also spelled out which rights would specifically apply to the situation: that all those who

¹⁹ Ministry of Public Work, Reconstruction and Construction. *Return of Displaced Persons and Refugees: Repossession of Property*. Zagreb, January 2003. Paper distributed at the Briefing on the Progress in the Process of Returns of Refugees 2000-2003, held by the Ministry in Zagreb, Sheraton Hotel, on 3 February 2003. The Croatian government allocated abandoned Serb homes to Croatian settlers and displaced persons mostly from Bosnia and Herzegovina. The undeclared goal was to promote a change in the ethnic composition in the areas populated by a significant Serb minority.

²⁰ See Hans Correl- Note to Mr. Guehenno. Croatia: Status of “Erdut Agreement.” (UN internal document, 21 June 2001). This note, which was circulated by the UNLO to the Zagreb-based international partners, reconfirmed the continuing validity of the provisions of the Erdut agreement after the end of peacekeeping.

left the region had the right to return; that all those who came to the region and were previous permanent residents of the Republic of Croatia had the right to stay; that the same standards of human rights should apply to all, regardless of ethnicity; that all those whose property was illegally taken or who were forced to abandon it had the right to repossess it, receive compensation or assistance for reconstruction.

The third section of the Agreement sets up mechanisms for monitoring the implementation of its provisions after the withdrawal of UNTAES, and for reporting on progress. In this regard, it established that “after the expiration of the transition period and consistent with established practice, the international community shall monitor and report on respect of human rights in the Region on a long-term basis;” and it constituted a diplomatic body, known as the Article 11 Commission, in charge of monitoring “the implementation of ...[the Erdut] Agreement, particularly its human rights and civil rights provisions, to investigate all allegations of violations..., and to make appropriate recommendations.”²¹ The Article 11 Commission was steered by the United Nations Liaison Office and included “interested countries and international organizations.”²²

A series of sub-agreements between UNTAES and the Croatian government designed to remain valid after the withdrawal of the Blue Helmets defined in detail the administrative modalities for implementation of the framework set forth in the parent agreement. In a letter to the President of the Security Council,²³ the Croatian government reinforced its commitment to respect Erdut and specified in detail the administrative arrangements for minority representation in bodies of local government and public services in the Danube region. Accordingly, the Serb minority would be entitled to proportional representation (including in senior positions) in the local health services, police and judiciary; furthermore, the posts of Sub-Prefect in the counties of Osijek-Baranja and Vukovar-Srijem would be reserved for a Serb. The letter went into such detail as to specifying that “for at least the first year following local elections, the number of local police from the Serb and other non-Croat ethnic communities shall be approximately 700 to 800.”²⁴ The number of seats to be reserved for national minorities in the House of Representatives and the Parliament would reflect the next census results; the Joint Council of Municipalities was recognized as the representational body of the Serb Community; senior posts in the Ministry of Reconstruction and Development and the Office for Displaced Persons and Refugees (ODPR) and “at a level no lower than Assistant Minister in the Ministry of Interior, Justice, Education and Culture” would be assigned to Serbs.²⁵ The Croatian government also recognized the right to educational and cultural autonomy, in line with what was established in annexes to the Erdut Agreement.²⁶ It acknowledged that minorities had the right to be educated in their language and script; that existing schools could not be amalgamated before consulting with minority

²¹ Basic Agreement on the Region of Eastern Slavonia, Baranja and Eastern Sirmium”, art. 10-11.

²² As of July 2001, the Article 11 Commission included, in addition to the Head of the United Nations Liaison Office, the Ambassadors of Austria, Belgium, Canada, Finland, France, Germany, Great Britain, Greece, Italy, Japan, the Netherlands, Norway, Poland, Portugal, The Russian Federation, Spain, Sweden, Switzerland, European Union, the rotating EU Ambassador, the OSCE Head of Mission, the Head of the European Union Military Monitor Mission, and the Head of the UNHCR.

²³ Letter dated 13 January 1997 from the Government of Croatia addressed to the President of the Security Council (S/1997/27, annex). This letter is commonly referred to as “Letter of Intent.” I will refer to it this way from now on.

²⁴ Ibid., para 4.

²⁵ Ibid., para 7.

²⁶ Declaration on Educational Certificates (11 March 1997); Agreement on the Distribution of Principal's Positions (4 August 1997); Decision on Curriculum Content (4 August 1997); Declaration on Minority Education Rights (6 August 1997); Letter of Agreement of the Ministry of Education (7 August 1997).

representatives; that a moratorium on teaching the history of former Yugoslavia between 1989 and 1997 was to be in effect for five years; that diplomas earned under the Krajna rule would be valid; and that school principals' ethnic representation would be proportional to demographic composition. In addition, the Croatian government re-stated its commitment to defer military service for members of the Serb community.

In order to reinforce the continuing binding nature of the Erdut sub-agreements, a "List of public agreements with continuing validity as at [*sic*] November 1997" was annexed to the Secretary-General's last report on UNTAES.²⁷ In the Secretary General's words,

Taken together with the provisions of the Croatian Constitution, those agreements for which Croatia has made itself internationally accountable, provide a comprehensive political and institutional framework of guarantees, which, if fully implemented, will allow the people of the region to exercise freely their rights and obligations as equal citizens of Croatia.²⁸

The list includes, in addition to the Erdut Agreement and the "Letter by the Croatian Government to the President of the Security Council," twenty five agreements covering in great detail a vast array of aspects of public administration, such as labor rights, the ethnic integration of public utilities and communication networks into the Croatian system, the integration of health and education institutions, the integration and issuing of public records, the welfare and pension system, the establishment of minority representation bodies, the integration of the judiciary and the police, and a number of minority return related matters.²⁹

In summary, the Erdut agreement is clearly an instrument through which international organizations regulate in detail the way Croatia governs its citizens. The making and building of peace are clearly linked to the quality of the government of the state, and the benchmarks to be achieved in this regard are established and monitored internationally.

Governing Croatia after the Withdrawal of the Blue Helmets: International Rules and Monitoring Mechanisms

For the United Nations Secretary-General, at the closure of UNTAES, the job was not finished. In his closing report on UNTAES, Kofi Annan indicated that while "the political

²⁷ Report of the Secretary-General on the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium. S/1997/953 of 4 December 1997, Annex 1.

²⁸ S/1997/953 of 4 December 1997 para 7.

²⁹ These are: Affidavit on the Rights of Public Employees (16-18 December 1996); Annex to the Affidavit (14 February 1997); Law on Convalidation (22 September 1997); Letter of Agreement by the Croatian Highway Administration (21 March 1997); Letter of Agreement by Croatian State Radio and Television (2 April 1997); Letter of Agreement by the Croatian Post and Telecommunications Administration (9 May 1997); Letter of Agreement by the Croatian Water Administration (22 May 1997); Agreement by the Croatian Pension Fund on Pension Services (29 May 1997); Letter of Agreement by the Croatian Railways (6 June 1997); Agreement by the Ministry of Health on Regional Health Services (6 June 1997); Letter of Agreement by the Croatian Electricity Company (22 July 1997); Letter of Agreement by the Croatian Forestry Commission (26 June 1997); Declaration on Educational Certificates (11 March 1997); Agreement on the Distribution of Principals' positions (4 August 1997); Decision on Curriculum Content (4 August 1997); Declaration on Minority Education Rights (6 August 1997); Letter of Agreement by the Ministry of Education (7 August 1997); Joint Statement on the Reintegration of the Tax Department (4 September 1997); Joint Statement on Reintegration of the Employment System (11 September 1997); Joint Statement on Reintegration of the Social Welfare System (11 September 1997); Agreement on Recognition and Handover of Record Books (25 September 1997); Memorandum of Understanding on Restructuring the Transitional Police Force (undated); Agreement on the Joint Working Group on Returns (23 April 1997); Organization of the Joint Council of Municipalities (23 May 1997); Declaration on Conditions for Judicial Reintegration (19 September 1997).

and institutional framework for the reintegration of civil administration ...was finalized,”³⁰ the reintegration of public services and enterprises was by and large completed, the principle of proportionality in public employment by and large respected and demilitarization accomplished, many issues that had been addressed in the Erdut Agreement and its annexes remained unresolved. The integration of the education and health care system was still problematic and so was the reintegration of the social welfare system. While the process of return had started, the Secretary-General noted that its future was inhibited by three factors: “legal and financial obstacles to the recovery of property; unrealistic government deadlines for Serb application for reconstruction assistance and delays in government funding for reconstruction of Serb houses; and the uncertain economic and social situation in the areas of potential return.”³¹ In addition, Serbs were often the victims of administrative harassment. There were reasons for concern regarding the application of the Amnesty Law and the fairness of trials for human rights violations when the accused were Serbs.³² In summary, the Secretary-General considered the process of normalization that started during the United Nations Transitional Administration as only the first step of a long-term process that required, in addition to Croatia's commitment, the continuing joint effort of international actors in monitoring her performance with regard to the benchmarks set forth in the Erdut Agreement.³³ The Secretary-General also spelled out which matters needed the Croatian Government's most urgent attention. These were administrative reforms concerning a vast array of aspects of population life, such as social welfare, education, refugee returns, and local government.³⁴

In line with the Secretary-General's advice, and based upon the Erdut agreement and its annexes, after the withdrawal of the United Nations peacekeeping forces the international partners continued to monitor and promote normalization (or democratization) of the Croatian state by multifarious means and with variable outcomes. These means included, in addition to the processes of accession to Euro-Atlantic structures, advisory activities to the central government with regard to legal reform; diplomatic *démarches* by the Article 11 Commission on specific issues regarding minorities; informal lobbying; monitoring and advising local administrations and judiciary systems; advocacy activities and legal support for minorities.

In June 2001, at the initiative of the OSCE, a Joint Legal Working Group (JLWG) was established to advise the Croatian government on legal reforms pertaining to returns and the

³⁰ S/1997/953 of 4 December 1997, p. 2.

³¹ Ibid., p. 5.

³² Many of the issues highlighted as pending by the Secretary-General in his final report on UNTAES, were still to be solved as of November 2005.

³³ In assessing minority reintegration, the Secretary-General commented:

Important progress has been made, although not all obligations have been fulfilled. Some commitments clearly cannot be fully implemented within the two years transitional period envisaged in the Basic Agreement of 12 November 1995 (S/1995/951, annex), and Croatian performance in some other areas can only be evaluated with the passage of time. (S/1997/953, p. 1). In addition, the SG noted, The first [condition] is the complete and unreserved commitment of the Government of Croatia to the permanent reintegration of its Serb citizens... The second condition is that the international community, and particularly Croatia's key bilateral partners and regional organizations, must continue to scrutinize Croatian performance closely and to make their voice heard whenever performance does not meet expectations. (Ibid., p. 1).

³⁴ “Immediate priorities of the Government of Croatia for the coming winter must include the extension of national social welfare into the region to avert grave humanitarian difficulties for vulnerable groups; completion of the reintegration of health facilities and personnel; resolution of the substantial difficulties in the education sector as a whole; improvement of the conditions for return of all displaced persons in conditions of safety, economic security and personal dignity; completion of the establishment of fully functioning local government; and cessation of back-tracking on its commitment to defer conscription for two years for Serbs in the region.” Ibid., p. 9.

reintegration of minorities and to support the diplomatic activities of the Article 11 Commission. The JLWG (which included representatives of the Croatian Government and experts of the United Nations Liaison Office (UNLO),³⁵ the OSCE, the EU and the UNHCR) met periodically to discuss reforms of laws related to issues of returns and reintegration. Its international component provided verbal advice and detailed working papers on laws concerning issues such as the establishment of a comprehensive regime for the repossession of the property taken over during the 1991-1995 conflict; the establishment of guarantees with regard to transparent and efficient administrative procedures for the return and legalization of former habitual residents of Croatia; the promotion of proceedings to compensate for damages caused by Croatian armed forces during the war; the non-discriminatory implementation of the law on reconstruction; and the clarification and transparent implementation of the convalidation of years of work under the Republika Srpska Krajina (RSK) for retirement purposes. The Croatian government, however, used various tactics to resist the advice of the international partners. These spanned from deferring discussion of key issues, to not taking into consideration the JLWG international component's suggestions, to avoiding discussion of legislation relevant for issues in the JLWG Agenda. For instance, in January 2003, the Croatian government forwarded to the Parliament three laws on compensation of damages caused by the Croatian armed forces without discussing it with the JLWG. In response, the international members suspended the JLWG until further notice in protest for the Croatian government's lack of commitment to its work.³⁶

In some cases, international organizations and the diplomatic community were able to regulate in detail Croatian administrative arrangements. Based upon rules set forth in the annexes to the Erdut agreement, they were able to pressure the government to comply with specific administrative modalities in Eastern Slavonia. For instance, when in 2001 the Croatian government started a police-restructuring program, the Article 11 Commission took an official *démarche*³⁷ with the Ministry of Interior to request compliance with the principle of ethnic proportionality established in the Memorandum of Understanding (MOU) on the Restructuring of the Transitional Police Force in the UNTAES region.³⁸ In its *démarche*, the Article 11 Commission requested respect for proportionality in all police command positions in Eastern Slavonia and went into such detail as to indicate that, in line with Croatia's international commitments, 15.78 percent of uniform police personnel in Eastern Slavonia should be Serbs. In practical terms, that meant adding a further 101 Serbs to the ones that were already planned for by the Ministry of Interior.

³⁵ The author represented the UNLO at this Working Group.

³⁶ The principals of the international organizations members of the JLWG on 23 January addressed a letter to the Prime Minister in this regard. The motivation for suspension of the activities of the Working Group were given as follows: "We regret the failure of the Croatian side to take advantage of the possibilities offered by the JLWG. Pending renewal of a clear Government commitment to the JLWG along the lines that we have suggested, we therefore do not find it useful to convene other meetings of the JLWG."

³⁷ *Démarche* of 27 July 2001 with the Deputy Minister of Interior, undertaken jointly by the UNLO (represented by the author) and the OSCE, represented by the Head of Mission, Ambassador Bernard Poncet.

³⁸ The MOU is listed among the 27 agreements of continuing validity annexed to the Secretary-General's report of 4 December 1997 S/1997/953. Diverging interpretations between the Croatian Government and the international partners (the OSCE and the Article 11 Commission in particular) with regard to the meaning of proportionality delayed the full implementation of proportional ethnic representation. While the position of the bilateral partners of Croatia and the Zagreb-based international organizations was that only officers in uniform should be included in calculations, the government counted in civilian personnel dealing with administration, cleaning and other type of services.

In line with the Secretary- General's report provisions, until June 2003, the United Nations continued to directly monitor the implementation of the Erdut agreement in Croatia and to report to Headquarters in this regard through the Liaison Office in Zagreb. Issues of minority rights, returns and reintegration, property repossession, reform of the judiciary, were also included in the mandates of the United Nations High Commissioner for Refugees (UNHCR) and the Office for the High Commissioner for Human Rights (OHCHR), in addition to a number of local and international NGOs. The Organization for Security and Cooperation in Europe (OSCE) continues to monitor and report on compliance with the human rights provisions of the Erdut Agreement.

Discipline and the Making of a Normal Community: Croatia's Euro-Atlantic Integration

Respect for the set of principles and regulations established in Erdut is a central element in the conditionality for the association with the European Union. The process of accession to Euro-Atlantic structures is still ongoing and is the main context within which the process of normalization of state institutions that started with the deployment of UNTAES continues after the closure in 2003 of the United Nations Liaison Office, the last vestige of United Nations peacekeeping. This process can be seen as an endeavor to modify behavior by making inclusion/exclusion from a particular association conditional upon the achievement of a given set of benchmarks. Furthermore, the accession process uses disciplinary methods to promote assimilation such as constant scrutiny, standardization, examinations, and reward/punishment mechanisms.

The conditions for the association of Croatia with the European Union and for membership in NATO have been established in the *Stabilization and Association Process (SAP)* and in the *Membership Action Plan (MAP) with NATO*. Both processes aim at bringing about stability, economic development and democratization and include the principles established in the Erdut Agreement with regard to minority rights as political criteria for admission: "[The SAP] underpin[s] the implementation of the Dayton/Paris and Erdut agreements and bring[s] basic stability and prosperity to the region."³⁹

The SAP process, establishes the conditions for the association of South Eastern European Countries with the European Union.⁴⁰ Decisions regarding inclusion and exclusion are based upon the achievement of the goals established in the Stabilization and Association Agreement (SAA).⁴¹ Its declared goal is to provide South Eastern European countries with incentives for reform by offering a "credible prospect for membership once the relevant conditions have been met."⁴² In order to be admitted, each "potential candidate" has to undergo periodical examinations: "Effective implementation of the Stabilization and

³⁹ Commission of the European Communities. *Croatia. The Stabilization and Association Process (SAP), First Annual Report*. Report from the Commission. Brussels, April 4, 2002. COM (2002) 163 final. (Executive summary).

⁴⁰ The agreement to the Stabilization and Association Process by the countries in the region was sealed at the Zagreb Summit, held on 24 November 2000. The countries concerned were: Croatia, Bosnia and Herzegovina, Serbia and Montenegro, FYROM and Albania.

⁴¹ Commission of the European Communities. *Croatia. The Stabilization and Association Process (SAP), First Annual Report*. Report from the Commission. Brussels, April 4, 2002. COM (2002) 163 final. (Executive summary).

⁴² *The EU Actions in Support to the Stabilization and Association Process*. http://europa.eu.int/comm/external_relations/see/actions/sap.htm, Accessed 2 August, 2004.

Association Agreements is a prerequisite for any further assessment by the EU of the country's prospects of accession."⁴³

The SAP aims at obtaining standardized results through individualized methods. On the one hand, each country must "achieve the adoption of European standards." In this regard, "the destination for all countries is expected to be the same: the full realization of association after a transitional period through implementation of the same core obligations."⁴⁴ On the other hand, the Stabilization and Association Agreements are signed individually and "tailored to the circumstance of each country." The EU plays a role similar to a tutor, a trainer or a psychologist to guide each individual country to normality: "the EU will work with each country to bring them closer to the standards which apply to the EU."⁴⁵ As any personalized training or program, the "Stabilization and Association process is...designed to be a flexible and dynamic process, evolving in line with changes in the region, the EU and the world."⁴⁶ These methods are similar to the ones that emerged in classical Europe's total institutions and that Foucault calls "disciplinarity." In his analysis of the emergence transformations of power in classical Europe, Foucault spelled out discipline's standardizing and individualizing character. In order to be made a responsible element of a group and achieve standards of performance that are valid for all, diverse individuals must be assisted with tailored programs designed to accompany their personal evolution from deviance (or disease) into normality or health. In order to achieve these results an array of *savoirs* and techniques (for instance criminal psychology, penitentiary literature, clinical medical science, military training) emerge, that at the same time treat individuals to be transformed as unique entities with their specific characteristics and path of "development" and on the other hand include them in fields of comparison and standardization. The European Union develops a disciplinary project aimed at transforming state institutions before admitting non-members. This project is aimed at reforming institutions and making disorderly states into orderly and responsible members of a community, able and willing to fulfill their obligations.⁴⁷

Croatia signed the Stabilization and Association Agreement on 29 October 2001 and submitted its application for membership to the European Union on 21 February 2003. In April 2004, the European Commission issued a positive opinion on Croatia's application.⁴⁸ In expressing its opinion in favor of Croatia's accession, the Commission recalled that countries wishing to become members of the European Union have to meet political, economic and capability criteria, which include democracy, competitive market economy and administrative effectiveness. Democracy and respect for minorities are, together with economic criteria and adherence to European political, economic and monetary standards, central elements of conditionality for Croatia's admission into Europe.⁴⁹

⁴³ *The EU Actions in Support to the Stabilization and Association Process*

⁴⁴ *Ibid.*, p. 2

⁴⁵ *Ibid.*, p. 2

⁴⁶ *Ibid.*, p. 2

⁴⁷ *The Stabilization and Association Process*, COM (2002) 163 Final p. 3.

⁴⁸ Commission of the European Communities. *Croatia: Opinion on the application of Croatia for membership of the European Union*. Brussels, 20 April 2004- COM(2004)-257 final.

⁴⁹ "Specifically, these criteria are:

- Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the ability to cope with competitive pressures and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union." (*Ibid.*, p. 4).

In expressing its opinion, the Commission emphasized that Croatia's democratic institutions are "stable," that they "function properly" and that the 2002 and 2003 elections were "free and fair." While acknowledging that "fundamental rights" are by and large respected, the Commission underscored that more must be done with regard to the Serb minority rights and judicial reform and for the implementation of laws improving the functioning of institutions.⁵⁰

In addition, the Commission re-stated the need for Croatia to cooperate with the International Criminal Tribunal for Yugoslavia (ICTY), to remain committed to regional cooperation, and to resolve pending border issues with neighboring countries.

With regard to the economic criteria, the Commission's Opinion indicated that Croatia is a "functioning market economy." However, the Commission recommended reforms aimed at extending mechanisms of standardization, visibility and simplification to an array of issue-areas still affected by legal and administrative confusion. In this regard, establishing a comprehensive property record system, clarifying administrative functions, unifying systems for taxation and improving the performance of the judicial sector are considered as the main priorities.⁵¹ The extension of consistent, clear and continuous mechanisms of government is not only the main foundation for the "good governance" of each single state, but it is also the pre-condition for the accession to supra-national structures. Normalized states and functioning supra-states organizations need stable legal processes and unified administrative mechanisms. Issues of "good governance", or governability through standardized administrative processes and unified systems are considered key elements for Croatia's capacity to carry out the EU requirements. In this regard, the Commission emphasized the need for unification of the legal system and the strengthening of administrative and judicial institutions.⁵²

The Commission emphasized that in order to accompany Croatia in the process of negotiation of its access, the EU should reinforce surveillance and performance assessment mechanisms:

To assist Croatia in the preparation of accession negotiations, a comprehensive screening exercise would need to be undertaken... This Opinion is accompanied by a draft European Partnership for Croatia which identifies the priorities which it needs to address in preparing for accession. The Commission will report regularly to the Council on the progress made by Croatia on its preparation for EU membership.⁵³

In its 2002 report on Croatia, the United Nations Development Program (UNDP) emphasized the importance of developing a system of statistical data collection in line with the EU's Nomenclature Territory of Statistics (NUTS 1999).⁵⁴ The implementation of this

⁵⁰ "Croatia should speed up the implementation of the Constitutional Law on National Minorities and accelerate efforts to facilitate the return of Serb refugees from Serbia and Bosnia and Herzegovina. Croatia needs to make substantial improvements in the functioning of the judicial system.", *Ibid.*, p. 118.

⁵¹ "the performance of the judicial sector needs to be enhanced and high administrative burdens as well as incomplete systems of cadastre and land registry need to be addressed. Enterprise restructuring and privatization has been slower than expected... The necessary reforms of the fiscal and social security systems as well as the public administration are not yet completed and fiscal consolidation needs to be vigorously pursued", *Ibid.*, p. 54.

⁵² Administrative capacity is uneven and enforcement of legislation needs to be improved. Croatia needs to continue legislative alignment while at the same time strengthening administrative and judicial structures that are necessary for the effective implementation and enforcement of the *acquis*, *Ibid.*, p. 119.

⁵³ *Ibid.*, p. 120

⁵⁴ United Nations Development Program (UNDP). *Human Development Report. Croatia 2002*. (Zagreb: UNDP Croatia 2003).

system not only would facilitate Croatia's administrative capacity and ability to carry out its commitments to the European Union, but also the implementation of the EU regional development policy.⁵⁵

The criteria for the collection of information had to be standardized and Croatia had to be included in a field of comparable elements. "Croatian counties, municipalities and towns" will have to be classified "according to the model used by the bearers of the European Union's structural policy and of Member States' regional policies."⁵⁶ The introduction of the NUTS system in Croatia required that decisions are taken with regard to the administrative organization of the territory, and that this organization be clarified and stabilized.⁵⁷ However, the UNDP report underscored that the numerous changes that took place in the last fifty years in the territorial organization of Croatia make the collection of consistent and standardized information particularly difficult.⁵⁸ In addition, some of the territorial arrangements required by the EU statistical system antagonized local political interests.

In December 2004 the European Council endorsed the Commission's opinion. Croatia became a full candidate to the EU in October 2005.

The process of association with NATO is carried out through normalizing techniques that very much resembles the ones adopted by the European Union. These are standardization and individualization, advice and counseling, periodical examination, and mechanisms of reward/punishment. NATO Membership Action Plan (MAP) "is a NATO program of advice, assistance and practical support tailored to the individual needs of countries wishing to join the Alliance."⁵⁹ The areas of interest of MAP encompass a broad range of activities of the aspiring members who must voluntarily subject themselves to scrutiny, counseling, examination, and rehabilitation with regard to political and technical matters:

The MAP's main features are the submission by aspiring members of individual annual national programmes on their preparations for possible future membership, covering political, economic, defence, resource, security and legal aspects; a focused and candid feedback mechanism on aspirant countries' progress on their programmes that includes both political and technical advice, as well as annual meetings between all NATO members and individual aspirants at the level of the North Atlantic Council to assess progress; and a defence planning approach for aspirants which includes elaboration and review of agreed planning targets.⁶⁰

⁵⁵ "For the harmonization of the European Union regional policy, the establishment of the degree of regional development of a specific country, as well as for the formulation, implementation and monitoring of regional policy, there is a need to develop a harmonious system of statistical regions, which will allow the collection and processing of comparable data... By introducing the NUTS, Croatia would be a step closer to Europe but also to the formulation, implementation and monitoring of regional policy" *Ibid.*, 20.

⁵⁶ *Ibid.*, p. 20

⁵⁷ "Croatia lacks systematic regional statistics. By dividing the territory of the Republic of Croatia into statistical regions it will be possible to establish regional statistics, as well as to harmonize regional data and assure their comparability as a basis for formulation of regional policy. The regions of comparable size (in terms of population size) belong to the same NUTS level, and it is therefore possible to make comparisons and various conclusions regarding different aspects of development of the regions. Only by analyzing the data collected using a common methodology in regions of the same level is it possible to compare counties, groups of counties, municipalities and cities, calculate certain indicators and monitor effects of regional development measures." *Ibid.*, 135.

⁵⁸ "In the last fifty or so years administrative organization of the territory of the Republic of Croatia has been rather unstable. The division of state territory into regions is questionable still today and the regional policy is becoming barely discernable. There is no system of monitoring statistical data needed for the implementation, control and evaluation of regional policy measures." *Ibid.*, 133.

⁵⁹ NATO web site North Atlantic Treaty Organization NATO. Membership Action Plan (MAP) <http://www.nato.int/issues/map/>, Accessed 2 August 2004.

⁶⁰ *Ibid.*, p.1

Assessment of progress takes place in the yearly meetings of the North Atlantic Council with individual aspirants. Nevertheless, counseling and training are continuous: "Throughout the year, meetings and workshops with NATO civilian and military experts in various fields allow for discussion of the progress report on activities under the MAP."⁶¹

Outcomes

Notwithstanding the deployment of multifarious means, local resistance continuously stalled international endeavors. The street protests that followed Gotovina's capture in December 2005, an ICTY indicted war criminal, who is for many an hero, may signal that the process of admission into the European Union is not unproblematic and may contribute to foster political polarization instead of reconciliation. While the central government is concerned with scoring points in view of Croatia's accession to the EU, and therefore is more prone to implement (yet slowly) some of the legal reforms proposed by the international counterparts, local administrations, especially in the areas where the conflict was more fierce and ethnic resentment is still high, tend to obstruct the implementation of all legislation going against the interests of their constituency.

International efforts face continuous resistance with regard to the housing issue, a politically loaded matter. During the conflict, the Croatian government favored the settlement of Croats from Bosnia in abandoned Serb houses in order to achieve change in the ethnic composition of areas that were populated by a numerous Serb minority. In areas heavily affected by conflict, such as for example Eastern Slavonia, Serb and Croats still carry on separate lives and send their children to separate school. While the war of guns is over, the war of looks and words is still ongoing.⁶² The nationalistic agenda remains an appealing one to many that were involved with or have been affected by the war and is carried out by the powerful rightist party (the HDZ). The lack of economic opportunities in war-affected areas and the harsh competition for the very few jobs available contribute to exacerbate ethnic animosity. In this political context the central government has been slow in reforming legislation regarding housing and in giving instructions for its implementation, whereas local administrations have been even more resistant to implementing legislation to restore property and housing rights to their pre-war owners.

As of the end of 2002 the government and its international partners had reconstructed some 188,000 houses, out of 196,000 that were destroyed during the conflict. However, the 111,000 houses reconstructed by the government were allocated almost exclusively to Croats. Discriminatory provisions included in the 1996 Law on Reconstruction with regard to allocation of funds made this possible.⁶³ Nevertheless, since the end of 2002, Croatian Serbs represent the majority of beneficiaries of Government reconstruction programmes.⁶⁴ In July 2003, the Croatian Government passed the Law on Terrorist Act, regarding property destroyed during the conflict. However, because many property claims regard premises that the Government does not consider eligible for compensation, very few property owners have been granted reconstruction assistance.

⁶¹ Ibid., p. 1.

⁶² A writing contest sponsored by the UNLO and organized and managed by the author testified to this situation. Many children from high-schools in Vukovar and Osijek indicated in their essays that Croats and Serbs did not mix, and blamed each others for the war.

⁶³ ICG: *A Half-Hearted Welcome*.

⁶⁴ OSCE Mission to Croatia. *Status Report No. 15 on Croatia's progress in meeting international commitments since July 2004*. 21 November 2004.

In November 2005 the OSCE estimated that, with the exception of a few cases still pending, the property repossession process should be completed in the first trimester of 2006.⁶⁵ While there has been some progress, local administrations are still reluctant to implement legislation that could harm their political constituency. Court decisions are taken at a very slow pace and evictions of Croats rarely executed. In addition, even when houses have been reposessed, owners have often found them to be looted and have had no recourse to recover damages, other than starting a costly private lawsuit with little chance of winning. Local administrations policy with regard to access to utilities when the applicants were minority families is another instance of obstruction: returnees have often not been able to get utilities reconnected unless they paid the occupants' outstanding bills. Some areas inhabited by minorities are not provided with basic services such as road maintenance or clearing of snow during the winter.

Socially owned flats further complicate the housing issue. In former Yugoslavia urban areas families were entitled to live in socially owned flats as part of their work benefits. Serbs who fled their homes during the war were deprived of these rights, either on the basis of an absence of more than six months (as established in pre-war legislation) or on the basis of the 90 days deadline for return set in the LTTP. In a war situation, these deadlines were difficult to meet. As of November 2005 a housing solution still had to be found for the some 30,000 Croatian Serbs who lived in former socially owned apartments.⁶⁶

After the end of the war Croats, unlike Serbs, were in the vast majority able to assert their housing rights.⁶⁷ The discriminatory character of the approach to the issue of occupancy rights was also reflected in the fact that the same policy was not applied consistently throughout the Croatian territory. Because in the UNTAES region occupancy rights were not canceled, the mostly Croat returnees were able to regain their houses.⁶⁸ The same was not true for those Serbs who were displaced into the UNTAES region and that attempted to return to their homes in other areas of Croatia.⁶⁹ In this way the territorial limitation of the provisions of the Erdut Agreement had an ironical effect. Returns to the Danube region were mostly "majority returns." By stating the right of all to their residences, Erdut protected the legitimate rights of the Croat majority whose homes were occupied by minority Serbs. However, as its provisions were territorially limited to Eastern Slavonia, the Erdut agreement offered no remedy for Serbs who were evicted from the Danube Region but were not able to repossess property in other parts of Croatia.

Discrimination against minorities is not limited to the housing issue and is exerted through an array of legal and administrative means. As of November 2005, international and local human rights organizations had continued to report discrimination with regard to

⁶⁵ See Organization for Security and Cooperation in Europe OSCE Mission to Croatia. *Status Report no. 17, on Croatia's Progress in Meeting International Commitments since July 2005*. 10 November 2005

⁶⁶ OSCE Mission to Croatia. *Status Report No. 17* of 10 November, 2005.

⁶⁷ ICG, *A Half-Hearted Welcome*. The Croatian Government has until recently refused to address the issue of occupancy rights on the ground that these rights have been abolished. In contrast, in Bosnia, occupancy rights have been recognized as "possession." As a result, Bosnian Croats in Croatia have been able to assert their rights in Bosnia, while Croatian Serbs displaced in Republika Srpska have not been able to regain their rights in Croatia. This eventually hindered the return of Bosniacs and Croats to the Republika Srpska where their houses are still occupied by Croatian Serbs.

⁶⁸ As opposed to other areas of Croatia, where in many cases the police does not carry out evictions ordered by courts, in Eastern Slavonia the eviction process has by and large been accomplished according to the rules. However, Eastern Slavonia is an area of majority (i.e. Croatian Croat) returns and the ones to be evicted are Serbs.

⁶⁹ The Joint Legal Working Group (see below) has advised the Croatian Government to implement a comprehensive regime for repossession of property throughout Croatia, with limited results.

recognition of the status of minorities as resident and citizens. Under the Yugoslav state, citizens who were not born within the administrative borders of what later became independent states but who were working and living there, were considered habitual residents and had full right to stay. After secession, this right was often refused to Serbs attempting to return to Croatia. Furthermore, as Croatian citizenship legislation discriminates on the basis of ethnicity, ethnic Croats who had never resided in Croatia before the conflict easily obtained citizenship, while Serbs and other minorities who used to be permanent residents continue to face obstacles. These obstacles are aggravated by the slow response of local administrations to minority demands for personal records and identification documents, necessary to exert rights in a modern state bureaucracy.

Notwithstanding the international partners' efforts to promote legal reforms, the Croatian social welfare system continued to delay the full implementation of the "Law on Convalidation" signed in 1997 under the umbrella of the Erdut agreement and approved by the Parliament in October 1997. This law provides for the recognition for retirement purposes of the years worked under the RSK. The lack of recognition of those years of service makes unavailable the only source of basic income for thousands of former employees eligible for pension.

Under pressure from its international counterparts to address minority discrimination, on 13 December 2002 the Croatian Parliament adopted the Constitutional Law on the Rights of National Minorities (CLNM). This law provided that multi-ethnicity should be observed in administrative and judicial bodies, including the police, in all Croatian territories. A positive step in the implementation of the CLNM was the adoption in March 2003 of the Electoral Legislation for Local and Regional Bodies.⁷⁰ In line with the provisions of this legislation, elections for minority councils were held on 18 May. However, voter turnout was rather low throughout the territory. Serbs and Roma were among the minorities that participated the least. In contrast, the participation of the Bosniac minority was as large as 80 percent in some cities. Slovaks and Hungarians fared relatively well in Osijek-Baranja, with a participation as large as 42 percent. The timing chosen by the government for these elections, called at short notice and held in the immediate aftermath of a long period of vacation connected with the Catholic and Orthodox Easter, may have influenced this outcome. The fact that the Serb minority, unlike the Bosniacs, did not participate in great numbers may also be read as a sign of the disengagement of this community from political life and of a lack of trust in institutions.

The CNLM emphasized the right to security for all. While ethnically motivated physical confrontations or threats to life are rare, in areas where the process of returns is still under way Serbs still face verbal harassment and arrests for alleged war crimes that remain often unsubstantiated. As of November 2005, national minorities were still under represented in the police workforce, where only two percent were from minority groups (as compared to 7.5 percent in the population.)⁷¹ At that time, the Eastern Slavonian police force remained the only multi-ethnic one in Croatia.⁷²

⁷⁰ "Amendments to the Law on the Election of Members of Representative Bodies of Local and Regional Self-Government Units" adopted by the Parliament on 11 March 2003.

⁷¹ Source OSCE, *Report no 17* of 10 November 2005.

⁷² Notwithstanding international pressure, the Ministry of Interior did not make proportionality of representation in the police force throughout the Croatian territory its first priority. For example, the public competition for the retraining of 250 attendants for the occupation of police officers published in 2003 does not include any provision regarding ethnic proportionality. Upon inquiry by the OSCE Police Adviser, the Ministry of Interior indicated that out of these 250 posts, 50 are reserved for females and minorities. However, this information

Transparent Regulations, Opaque Politics. Reflections on Normalization, Resistance and Consensus

In Croatia, international agreements signed in the context of peacekeeping constitute the starting point for a normalization process that continues beyond the withdrawal of the blue helmets. The process of normalization initiated by UNTAES continues under the umbrella of other regional and international organizations, such as the EU, NATO the OSCE. These organizations endeavor to implement and extend the principles and rules of behavior stipulated in Erdut by monitoring and advise the Croatian government on legal reforms, economic policies and administrative arrangements. In particular, the process of accession to the European Union and NATO displays a proliferation of rules, regulations, monitoring, assessment and reward/punishment mechanisms that resemble what Foucault has described in his studies of disciplinarity and governmentality.

International organizations increasingly maintain security, promote the creation of regional identities, and the expansion of market economy by deploying, at the international level, mechanisms of government that emerged in the context of the formation of European nation states. In the post-Cold War era, fields that were previously considered to fall within a state's jurisdiction became the subject of international knowledge and intervention. In the eighteenth century, the "science of police" emerged as a modality of government that linked state security to the knowledge and promotion of the well-being of population. The collection of statistical data regarding an array of aspects of life constituted the "social body" as a subject of knowledge and political intervention, out of the indistinct population mass.⁷³ Similarly, in the post-Cold War era, international organizations endowed themselves with instruments for knowing what they purport to regulate. As international organizations developed instruments for monitoring populations and governments alike, the international arena increasingly became a field for political intervention. The creation of unified and standardized systems for the collection of data, the proliferation of supra-national reporting and auditing mechanisms, the normalization of administrative systems and procedures testify to this process. The distinction between internal/external mechanisms of government blurred, together with traditional notions of sovereignty.

However, notwithstanding the deployment of numerous means and multifarious techniques, international normalization encounters continuous resistance. In Croatia, international organizations and political associations increasingly attempt to regulate in detail the conduct of state institutions and local administrations. Nevertheless, these develop continuous and capillary resistance through the very governmental instruments deployed by international bodies. The tactics of the central government to sidestep the advice of the JLWG, the local administrations' lack of implementation of evictions when illegal occupants were Croats, the slow recognition of pension rights for Serbs and the difficulties they encounter in obtaining citizenship and identification documents constitute examples of this resistance. When international demands with regard to minority rights could not be satisfied without hurting the interests of ethnic Croats, reforms remained often at the level of declaration of intentions or legal frameworks waiting to be enforced.

Croatia's institutional resistance indicates that political will cannot easily be created through regulatory processes and that there is a continuous tension between local political

could not be confirmed in any public document. (Source: David Hancock, OSCE Police Adviser, OSCE Zagreb interviewed by Laura Zanotti, UNLO Political Affairs Officer, in Zagreb, OSCE Headquarters on 10 June 2003).

⁷³ Pasquale Pasquino "Theatrum politicum: The genealogy of capital - police and the state prosperity" in *The Foucault Effect*, 108-109.

dynamics and international agendas. The republican concern with political debate and consensus cannot rapidly be circumvented through the internationally- led construction of legal frameworks, regulations and administrative arrangements. Political will (or the lack thereof) continues to blur the enforcement of anodyne multilateral agendas. International partners may continue to face the weakness of technocracy in the face of politics.