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Pragmatic Peace

The UNTAES Peacekeeping Mission as Example for Peaceful Reintegration of Occupied Multiethnic Territories

EMA, The European Master's Programme
in Human Rights and Democratisation

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PRAGMATIC PEACE:
THE UNTAES PEACEKEEPING MISSION AS AN
EXAMPLE FOR PEACEFUL REINTEGRATION OF
OCCUPIED MULTIETHNIC TERRITORIES

FOREWORD

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Prof. Manfred NOWAK
Global Campus Secretary General

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This publication includes the thesis *Pragmatic Peace. The UNTAES Peacekeeping Mission as Example for Peaceful Reintegration of Occupied Multiethnic Territories*, by Kasunić, Sandra and supervised by Đorđe Gardašević, University of Zagreb.

BIOGRAPHY

Sandra Kasunić holds a B.A. degree in Social Work and since 2018 the European Master's Degree in Human Rights and Democratisation (EMA) of the European Inter-University Centre in Venice. She has been a trade union activist for many years with a particular focus on antifascism, antiracism, and (worker's) rights of migrants. Moreover, she has conducted trainings with adolescents and young adults on syndicalism, worker's movement and human rights.

ABSTRACT

Twenty years after the armed conflict in Croatia ended with the completion of the Peaceful Reintegration of the Danube region on 15 January 1998, the war still echoes in the Croatian society. In contrast, the United Nations Transitional Administration (UNTAES), one of the most successful UN peacekeeping missions, is rarely subject to societal debate. What contributed to the mission's success was that besides the reintegration of the formerly occupied territory, the region's predominantly Serb population was reintegrated too.

Against the background of official commemorations of military operations and lack of emphasis of the Peaceful Reintegration as Croatia's successful peace initiative, the author wants to bring out the significance of the UNTAES by shedding light on the circumstances that eventually created stable peace in Croatia. Moreover, given the rise of interethnic tensions that particularly affect the Serb minority, the evaluation and research of the Peaceful Reintegration gives answers as to whether the Croatian state genuinely intended to reintegrate the region's population. The case study on the divided organisation of schooling investigates whether there are implications of the Peaceful Reintegration on today's population in the Danube Region with the example of Vukovar's pupils of Croatian and of Serb ethnicity.

Keywords: UNTAES; UN Peacekeeping; Peaceful Settlement of Armed Conflicts; Peaceful Reintegration; Eastern Slavonia; Croatia; Conflict Settlement; Yugoslavia; Reconciliation; Divided Schooling.

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TABLE OF ABBREVIATIONS

EC	European Community
ECRI	European Commission against Racism and Intolerance
EU	European Union
FRY	Federal Republic of Yugoslavia
HDZ	Croatian Democratic Union
ICFY	International Conference on the Former Yugoslavia
IFOR	Multinational Implementation Force
IOM	International Organization for Migration
JCM	Joint Council of Municipalities
OSCE	Organization for Security and Cooperation in Europe
SDP	Social Democratic Party of Croatia
SRS	Special Representative of the Secretary-General of the United Nations
UNTA	United Nations Transitional Administrator
UN	United Nations
UNCHR	United Nations Commission for Human Rights
UNCRO	United Nations Confidence Restoration Operation in Croatia
UNGA	United Nations General Assembly

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UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children Fund
UNPA	United Nations Protected Area
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNTAES	United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium
WFP	World Food Programme
WHO	World Health Organization
WWII	Second World War
YPA	Yugoslav People's Army

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INTRODUCTION

Twenty years after the armed conflict in Croatia ended with the completion of the Peaceful Reintegration of the Danube region, the war still echoes in the Croatian society. An example could be the military parade that took place in Zagreb on 5 August 2015.¹ The government at the time organised the parade on the 20th anniversary of Operation Storm.² The Croatian state commemorates this day as 'Victory Day and Day of Homeland Gratitude, Day of Croatian Soldiers'.

In the same time, the Peaceful Reintegration, officially known as United Nations Transitional Administration³ (UNTAES), is an underrepresented and somewhat unknown topic, despite the fact that it is considered as one of the most successful UN peacekeeping missions.⁴

The UNTAES terminated on 15 January 1998. It encompassed two dimensions. The first dimension refers to the reintegration of the

¹ Siniša Pavić and HINA, '20. obljetnica Oluje: U mimohodu sudjeluje 3000 pripadnika oružanih snaga, 300 vozila i 30 zrakoplova: Svečanost počinje u 18 sati' *novilist.hr* (4 August 2015) <<http://novilist.hr/Vijesti/Hrvatska/20.-obljetnica-Oluje-U-mimohodu-sudjeluje-3000-pripadnika-oruzanih-snaga-300-vozila-i-30-zrakoplova>> accessed 7 July 2018.

² On 4 August 1995, the Croatian leadership launched the military operation Storm to reconquer occupied territories designated as Sectors North and South during the implementation of the United Nations (UN) peacekeeping mission United Nations Protection Force (UNPROFOR). The territories were occupied by rebel Serbs that did not accept the independence of Croatia from Socialist Yugoslavia. United Nations, 'United Nations Peacekeeping Operations - UNPROFOR: Former Yugoslavia' (New York 1996) <http://www.un.org/Depts/DPKO/Missions/unprof_b.htm> accessed 30 May 2018.

³ United Nations, 'United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium - UNTAES: Croatia' (1997) <https://peacekeeping.un.org/mission/past/untaes_b.htm> accessed 24 March 2018.

⁴ Gordan Bosanac, 'Mirna reintegracija kao moguća okosnica hrvatske vanjske politike u vezi s izgradnjom mira' (2016) 7(25) *Političke analize* 9, 9 <<https://hrcak.srce.hr/159836>> accessed 24 March 2018. See also Boris Pavelić, 'Peaceful Reintegration: The Discarded Triumph of Reason and Peace' (Zagreb January 2018) *Perspective* 10.

territory of the Danube region, the eastern part of Croatia, into the constitutional order of the Republic of Croatia. The second dimension refers to the reintegration of the people, mainly members of the Serb ethnicity, as citizens of the Republic of Croatia. This dimension is vital because the mission aimed to reestablish a coexistence between the former belligerents of the war in Croatia in the 1990s, ethnic Serbs and Croats. Furthermore, reintegrating the local Serbs into the Croatian state, guaranteeing them rights and preserving the multiethnic character of the Danube region implies for me the will to reconcile the people that were once on opposing sides in the conflict.

We can easily notice the different status of the Peaceful Reintegration in the eyes of the Croatian state through the lack of any commemoration of 15 January. As Gordan Bosanac explains,⁵ the Peaceful Reintegration is subject to criticism as the mission only appears to have successfully reintegrated the territory but not the people.⁶

This thesis puts light to the fact that interethnic tensions have been on the rise in Croatia in the last years, caused by ethnic hatred, discrimination and violence directed against Croatian Serbs. In this context, it is noteworthy to mention the case of the referendum proposal organised by a Croatian war veteran organisation in 2014. This organisation sought to amend the Constitutional Act on the Rights of National Minorities to prescribe that the official use of minorities' languages and script at local level is possible only if minorities in such municipalities make more than 50% of the overall population instead of the prescribed threshold of one-third. In August 2014, the Croatian Constitutional Court⁷ declared this initiative unconstitutional because it pursued an illegitimate aim. Another current example is the referendum initiative 'The People Decide,' launched in May 2018, which aims at restricting the rights of national minorities *inter alia* by reducing the number of parliamentary seats of national minorities in the Croatian Parliament. As Enis Zebić explains, this initiative is targeted particularly against the Serb national minority in Croatia.⁸

⁵ Pavelić (n 4) 9.

⁶ *ibid* 10.

⁷ Odluka Ustavnog Suda Republike Hrvatske, br. U-VIIR-4640/2014 of 12 August 2014.

⁸ Enis Zebić, 'Još jedan referendum o manjinama' *Radio Slobodna Evropa* (7 May 2018) <www.slobodnaevropa.org/a/referendum-hrvatska-manjine/29213369.html> accessed 13 July 2018.

Against the background of increasing interethnic tensions and commemorating military actions instead of peace initiatives, I consider it important to evaluate the Peaceful Reintegration as a peace making mission two decades after the UNTAES officially terminated.

Under those circumstances, the central questions that guide the present thesis are whether Croatia's regime has implemented the Peaceful Reintegration of the Serb national minority successfully and whether there are implications of the Peaceful Reintegration on today's population in the Danube Region on the example of the city of Vukovar.

The relevance of the present thesis is both to elaborate the significance of the Peaceful Reintegration for the Croatian society and to shed light to the progress of protection of national minority rights following the armed conflict in Croatia that was *inter alia* interethnic.

In the first chapter, I give an overview on the armed conflict in Croatia in the 1990s including the military operations Flash and Storm that were launched in the months before the Erdut Agreement was eventually signed. In the second chapter, my focus is on the Erdut Agreement and the implementation of the UNTAES. In more detail, I examine the mandate of the UNTAES, define the type of UNTAES as a UN peacekeeping mission and illustrate the implementation of the Erdut Agreement between 1996 and 1998. Subsequently, I describe the situation in the aftermath of the Peaceful Reintegration until today, with an emphasis on the Croatian state policy concerning Serbs as national minority. To get an impression how the Peaceful Reintegration still affects the lives of today's society in the Danube region, the fourth chapter, a key chapter of the research, contains a case study on the divided schooling of Croat and Serb pupils in Vukovar.

The reason for conducting the case study is that in today's Vukovar, pupils of primary and secondary schools are divided along the ethnic lines. This means that there are two prevailing education models in primary and secondary schools. Besides the available majority-education model, four out of seven schools in Vukovar offer schooling in the Serbian language and Cyrillic script. Mainly children of Serb ethnicity attend this minority-education model, colloquially known as Model A.⁹ The divided education policy is a result of the Peaceful Reintegration,

⁹ See for example Dinka Čorkalo Biruški and Dean Ajduković, 'Separate Schools – A Divided Community: The Role Of the School in Post-War Social Reconstruction' (2007) 14(2) Review of Psychology, 93 <<https://hrcak.srce.hr/25575>> accessed 22 March 2018.

when a special schooling model for the Serb minority was negotiated.¹⁰ The observation that Vukovar's children belonging to the Croatian or to the Serb ethnicity attend different classes can serve as indicator that the long-term objective of the UNTAES – the reconciliation of the local population¹¹ – has not been accomplished because the division along ethnic lines continues. Besides, this assumption means also that the mission did not only affect the people who witnessed the process 20 years ago but that the Peaceful Reintegration affects the lives of a generation that witnessed neither war nor the UNTAES.

Methodology

In the initial phase of the process of collecting data and information, I chose to hold 33 consultations with various scholars and experts dealing with the Peaceful Reintegration and its broader context in Croatia. These informal meetings provided me with an overview of the political and social framework of contemporary Croatia. I considered these consultations as a necessary precondition for better understanding the significance of the Peaceful Reintegration in today's society. This initial research phase has fed into my choice of literature and interview samples for the conducted case study on divided schooling in Vukovar. Particularly, I would like to point out the consultations with Vesna Škare Ožbolt as former President of the National Committee for Reconciliation, and also Joško Morić and Ivica Vrkić as her former deputies. These interlocutors as active members of the Peaceful Reintegration process provided me with a special insight for my research.

Subsequently, I have conducted an in-depth literature analysis. Due to my choice to hold consultations, my literature analysis does not encompass the research in archives. As I am fluent in Croatian, Serbian, German and English, I utilised my knowledge of languages, especially the local languages to widen my selection of reviewed literature. I selected the sources based on the following criteria: accuracy, topicality, the frequency of citations and balance of opinions as regards the issues I dealt with in the present work. Given the nature of my topic, the literature was widened

¹⁰ United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, 'Letter of Agreement Between the Ministry of Education and Sport and the UNTAES Regional Educational System' (The document has been made available by the JCM. Vukovar 7 August 1997).

¹¹ UNTAES (n 3).

with additional sources, mostly legal: state reports on Croatia by organs of the UN and the Council of Europe (CoE) as well as reports issued by Croatian non-governmental organisations (NGOs) and Croatian institutions.

For the field research chapter of the thesis, I chose the case study as the preferred method for the analysis of divided schooling in Vukovar. The distinctive advantage of the case study is the method's high degree of focusing on contemporary phenomena. As Robert K Yin explains, the scope of the case study as an empirical inquiry is to investigate 'a contemporary phenomenon in depth and within its real-life context, especially when ... the boundaries between phenomenon and context are not evident'.¹² As I wanted to research whether and how precisely the Peaceful Reintegration affects the real-life context of the current local population of Vukovar, I recognised the distinctive advantage of the case study as a research method and thus chose to explore the divided schooling in Vukovar based on the method's approach.¹³

The present case study, therefore, illustrates the reintegration process of the education sector to verify the relatedness of the current organisation of the schooling in Vukovar with the UNTAES. As public education is subject to legal regulations, it was necessary to conduct a comprehensive analysis of the legal acts pertinent to national minorities and education of national minorities in Croatia.

Additional data collection was implemented through semi-structured qualitative interviews as well as through attending a conference held in Vukovar on 17 April 2018.¹⁴ The mini-conference on 'Challenges of Education in Multiethnic Communities' was organised by the well-known Croatian professor and psychologist Prof Dr Dinka Ćorkalo Biruški and the IntegraNorm research team to publish *inter alia* the latest information gathered in the research 'Preferred Choices of Education and Multiethnic Stances of Children in Schools in Vukovar and Surroundings'.¹⁵ In particular the conference provided me with latest data on the perception of Vukovar's Serb and Croat pupils on the organisation of education.

¹² Robert K Yin, *Case Study Research: Design and Methods* (4th edn, Sage Publications 2009) 18.

¹³ *ibid* 2.

¹⁴ Dinka Ćorkalo Biruški, 'Integracijski procesi većine i manjine u etnički mješovitim zajednicama: rezultati istraživanja u Vukovaru' (Mini-konferencija Izazovi obrazovanja u višetničkim zajednicama, Vukovar, 17 April 2018).

¹⁵ *ibid*.

In order to allow for a flexible dialogue with my interviewees, I have chosen semi-structured interviews.¹⁶ Rosalind Edwards and Janet Holland explain the advantage of semi-structured interviews as follows:

Basically these interviews allow much more space for interviewees to answer on their own terms than structured interviews, but do provide some structure for comparison across interviews in a study by covering the same topics, even in some instances using the same questions.¹⁷

The ability to speak the local language allowed me easier access to the field. I have chosen my interview partners due to the previously conducted literature review on the topic and the informal talks held prior to the field research in Vukovar. The seven interview partners for my case study were: Dijana Antunović Lazić of the Europe House Vukovar, Srđan Jeremić of the Joint Council of Municipalities, Srđan Milaković as Deputy Mayor of Vukovar, Ivana Milas of the Nansen Dialog Center, Dr Vojislav Stanimirović of the Independent Democratic Serb Party and former member of the National Committee on Reconciliation, Prof Dr Slobodan Uzelac as former Deputy Prime Minister of the Republic of Croatia and a teacher in classes of the minority-education Model A of the secondary school Nikola Tesla in Vukovar. I selected the interview partners on account of their expertise and experience regarding the Peaceful Reintegration and the organisation of schooling in Vukovar. The interview guide as regard to topics and questions to be covered during the interviews is laid down in the Ethnics and Informed Consent-Form I provided my interview partners containing background information on me as researcher and on my research focus. The form, which was approved by my supervisor, can be found in the annex to the thesis.

Due to the central questions I seek to answer in the thesis, I focused merely on the people who declare themselves as belonging to the Serb national minority as the biggest national minority group in Croatia. This is because I consider the case of divided schooling in Vukovar as an appropriate paradigm to examine how, in the words of Dinka Čorkalo

¹⁶ Rosalind Edwards and Janet Holland, *What is Qualitative Interviewing?* (Bloomsbury 2013).

¹⁷ *ibid* 29.

Biruški and Dean Ajduković, a ‘once highly integrated community’¹⁸ of multiethnic character functions nowadays after having endured a war, in which the main opponents were of different ethnicities. In the case of Vukovar, the parties to the conflict were ethnic Croats and ethnic Serbs. Having said that, I would like to point out that I am aware that all the people in Croatia suffered during the war, regardless of their ethnic belonging. During my research, I endeavoured to be as objective as possible to keep a professional distance to the topic.

As regards my choice of the case for the research, alternatives to examining the division of pupils were *inter alia* exploring the economic situation of Croatian Serbs in the Danube region, with a special focus on the workers in the region’s labour market, and the *de facto* exercise of the right to use the Serbian language and script as an enforceable right of the Croatian Serbs as a national minority in Vukovar. Both cases are subject to societal debate in Vukovar as well as in Croatia as a whole. In contrast, the organisation of divided schooling in Vukovar is a phenomenon that only exists in Vukovar. This is because Vukovar is the only city in Croatia, in which there is a great proportion of ethnic Croats (57.37%) and ethnic Serbs (34.87%) according to the census of 2011.¹⁹

¹⁸ Dinka Čorkalo Biruški and Dean Ajduković, ‘Od dekonstrukcije do rekonstrukcije traumatizirane zajednice: Primjer Vukovara’ (2009) 16(1) Revija za socijalnu politiku 1, 1 <<https://hrcak.srce.hr/35161>> accessed 20 March 2018.

¹⁹ Državni zavod za statistiku (DZS), ‘Population by Ethnicity, by Towns/Municipalities, 2011 Census: County of Vukovar-Sirmium’ <www.dzs.hr/eng/censuses/census2011/results/htm/e01_01_04/E01_01_04_zup16.html> accessed 7 July 2018.

1.

BACKGROUND: THE WAR IN CROATIA

For examining and evaluating the UNTAES, I consider it necessary to contextualise the armed conflict in Croatia that preceded the Peaceful Reintegration. This contextualisation shall contribute to understanding more thoroughly the significance and importance of establishing peace at last by diplomatic means after years of armed conflict, failed interventions and mediation attempts by the international community as well as the parties to the conflict.

Thus, the first chapter outlines some key events that lead to the outbreak of the war in Croatia that eventually resulted in thousands of refugees, internally displaced persons and casualties. Furthermore, the chapter aims at describing the national and international attempts at finding a peaceful solution to the war. More precisely, it examines the establishment of the UN Protection Force (UNPROFOR),²⁰ the UN Confidence Restoration Operation (UNCRO)²¹ and the so-called Plan Z-4²² including their failures that eventually enabled the launch of the military operations Flash and Storm by the Croatian leadership.

²⁰ United Nations, 'United Nations Peacekeeping Operations - UNPROFOR: Former Yugoslavia' (New York 1996) <http://www.un.org/Depts/DPKO/Missions/unprof_b.htm> accessed 30 May 2018.

²¹ United Nations, 'United Nations Confidence Restoration Operation - UNCRO: Croatia' (New York 1996) <<https://peacekeeping.un.org/mission/past/uncro.htm>> accessed 22 March 2018.

²² International Conference on the Former Yugoslavia, 'Draft Agreement on the Krajina, Slavonia, Southern Baranja and Western Sirmium' in Davor Marijan (ed), *Oluja* (Hrvatski memorijalno-dokumentacijski centar Domovinskog rata 2007) 389ff.

1.1 THE OUTBREAK OF THE WAR IN CROATIA

Given the complexity of the reasons for the collapse of Socialist Yugoslavia and the outbreak of what R Craig Nation labels as the ‘War of Yugoslav Succession’,²³ this subsection focuses on the events that led to the declaration of independence by Croatia and the rising ethnic tensions. Eventually, these tensions started the first hot war on European soil after WWII. It is noteworthy that Dejan Jović suggests that the war is still a controversial topic among the Croatian society, mainly due to differing views on the cause, interpretation and character of the war between the political elites on the one side and the society on the other.²⁴ One can say that the causes for Yugoslavia’s dissolution conglomerated during the ten years after Socialist Yugoslav President Tito’s death in May 1980.²⁵

During the 1980s, the Post-Tito Socialist Yugoslavia was facing exacerbating economic distress that contributed to insecurity among the Yugoslav society and the revival and rise of ethno-nationalism.

Branka Magaš explains in that context that ‘1988 was one of the most dramatic years in Yugoslavia’s post-war history’²⁶ as in that year the country:

was gripped by continuous working-class unrest. The divergence between [the Yugoslav Communist] Party and class was putting a question-mark over Yugoslavia’s very existence as a unified state. The growing political vacuum was being filled with the politics of national chauvinism, especially in Serbia and Macedonia, often systematically fanned by party and state functionaries.²⁷

The latter was mainly driven by Slobodan Milošević, who, after realising that availing himself of fears to increase his influence, began focusing his politics on creating an atmosphere of a fictive threatened position of Serbs in Socialist Yugoslavia that resulted in his so-called

²³ RC Nation, *War in the Balkans: 1991-2002* (Strategic Studies Institute 2003) x.

²⁴ Dejan Jović, *Rat i mi: Politika identiteta u suvremenoj Hrvatskoj* (Fraktura 2017) 7ff. See also Thorsten Gromes, ‘Die Nachkriegsordnungen in Südosteuropa im regionalen und weltweiten Vergleich’ (Frankfurt/M) HSFK-Report 4/2014, 13ff <www.hsfk.de/fileadmin/HSEK/hsfk_downloads/report0414.pdf> accessed 4 July 2018.

²⁵ BBC, *The Death of Yugoslavia* (1995).

²⁶ Branka Magaš, *The Destruction of Yugoslavia: Tracing the Break-up 1980-92* (Verso 1993) 159.

²⁷ *ibid.*

anti-bureaucratic revolution towards the end of the 1980s. Also, Nation adds that Milošević's nationalistic populism and agenda paved the way for Yugoslavia's dissolution.²⁸

During the same period, nationalism revived in Croatia and was supported 'from the anti-Yugoslav Croat Diaspora in Europe and North America'.²⁹ Franjo Tuđman, the founder of the Croatian Democratic Union (HDZ) and first President of the Republic of Croatia, liaised with the Croatian anti-Yugoslav and right-wing diaspora from the mid-1980s and profiled himself increasingly as leader of the Croatian independence movement.³⁰ At that time, the Croatian society was ethnically pluralistic and mostly favoured a reorganisation of Socialist Yugoslavia but remaining in it instead of declaring independence.³¹ In this respect, Jović claims that the society's vision of the future of Croatia as an independent state was then not as unitary as some claim nowadays.³²

The proliferation of nationalist propaganda by the HDZ, founded in 1989, contributed to confirming a nationalist and secessionist direction for Croatia as well as to break with Socialist Yugoslavia and the socialist self-management after the party won the elections in April 1990.³³ Even though declaring independence was out of reach at that time, President Tuđman 'made no secret of his allegiance to the "thousand-year-old dream" of national independence'.³⁴ By stating this, he suggested that Croats have been striving for independence for centuries. Noteworthy, the Croatian society was (and still is) characterised by its ethnical heterogeneity consisting of 23 ethnicities in which Croats constituted a majority and Serbs the biggest minority group, which allows for characterising Croatia as a multiethnic country.³⁵

²⁸ Nation (n 23) x, 92ff.

²⁹ *ibid* 109.

³⁰ *ibid* 92.

³¹ Ivan Grdešić and others, *Hrvatska u izborima 1990* (Naprijed 1991) 199ff.

³² Jović (n 24) 14.

³³ Nation (n 23) 92, 97.

³⁴ *ibid* 97.

³⁵ According to the census of 1991, Croats formed a majority of 78.1% of the population (3,736,356 persons). However, 22 other ethnicities lived in the territory of Croatia, with the Serbs being the most significant minority group of 12.2% (or 581,663 people). Državni zavod za statistiku (DZS), 'Population by Ethnicity, 1971 - 2011 Census' (2011) <www.dzs.hr/Eng/censuses/census2011/results/htm/usp_03_EN.htm> accessed 22 March 2018.

In this context, the landslide victory of the HDZ meant dividing the society into at least two parts. The elections in 1990 additionally approved the nationalist tendency. The outcome of the elections caused a further rise of nationalism that reached one of its peaks by withdrawing the status of a constituent nation from ethnic Serbs in Croatia and declaring them a national minority.³⁶ Parallel to the increasing Croatian nationalism, Croatian Serbs, caught between the ethno-nationalism of Croatian politicians and Milošević's campaign of stirring up hatred against non-Serb nationals in Yugoslavia and incited by nationalist and separatist tendencies by some Croatian Serb leaders, reacted by revolting and putting up the so-called Log revolution.³⁷

In July 1990, the Croatian Government amended and adjusted the Croatian Constitution to its political agenda.³⁸ In turn, the response of the rebelling Serb leaders was *inter alia* to declare independence over the occupied territories.³⁹ The first carnage happened two months later in November 1990, when first a truck was fired at and a couple of days later Goran Alavanja, a police officer, was shot dead and his colleague was injured.⁴⁰

³⁶ Jović (n 24) 128ff.

³⁷ The Log-revolution is a Croatian term for describing the Serb rebellion that occurred in many areas within the Croatian territory, in which ethnic Serbs formed a majority. This rebellion was of separatist character and is classifiable as an expression of non-recognition of the Croatian government. The Croatian society refers to the rebellion colloquially as Log-revolution, as Serbs blocked the main roads to their territories *inter alia* with logs and other barricades to physically divide the land. *ibid* 101ff. See also Leo Tindemans and others, *Unfinished Peace: Report of the International Commission on the Balkans* (Aspen Institute; Carnegie Endowment 1996) 31.

³⁸ Following the first free elections in Croatia, the HDZ-led government amended the constitution by erasing 'socialist' from the name of Croatia, and thus heralded the end of the socialist system in Croatia. Further, the government changed Croatia's flag and emblem and introduced the offices of the President of the Republic as head of the state and ministers. These offices did not exist in Socialist Yugoslavia. For more see Ivo Goldstein, *Dvadeset godina samostalne Hrvatske* (Novi Liber 2010) 82.

³⁹ *ibid* 82ff.

⁴⁰ The discussion on the first victim of the war in Croatia, too, is a controversial one. Some argue that Goran Alavanja, a Croatian Serb police officer, was the first victim of the conflict. Others argue that Josip Jović, an ethnically Croatian police officer was the first victim, who died in operation 'Plitvice' during an armed conflict against the rebelling Serbs. However, the first Croatian Minister of Internal Affairs, Josip Boljkovac, himself claimed in his memoirs that he considers Alavanja to be the first victim of the armed conflict that was about to start. This controversy exemplifies to a certain extent which narratives and debates are still vivid in contemporary EU-Croatia. For more see Drago Pilsel, 'Može li Srbin biti hrvatski mučenik: Prva žrtva Domovinskoga rata nije Josip Jović već Goran Alavanja: 22-godišnji policajac dobio je šest metaka u prsa' (2013) <www.politikaplus.com/novost/75717/moze-li-srbin-biti-hrvatski-mucenik-prva-zrtva-domovinskoga-rata-nije-josip-jovic-vec-goran-alavanja- accessed 31 March 2018.

After the elections in spring 1990, Croatia was moving steadily towards secession from Yugoslavia by declaring independence.⁴¹ Violent or armed incidents became more frequent and more intense. Along with the rise of the tensions and incidents, the Yugoslav People's Army (YPA) became increasingly involved in the conflict. As Ivo Goldstein explains, there was a 'conscious, skillful, and utterly profound low-intensity warfare unfolding',⁴² which he identifies as the reason as to why there was a confusion within the Croatian society as well as abroad about what was going on in Croatia during this time.⁴³

The first armed conflicts broke out in spring 1991 at the Plitvice lakes and in Pakrac, and caused casualties on both sides. The frequency of the armed conflicts increased and spread to Slavonia in eastern Croatia. The YPA started to intervene increasingly in the conflict and supplied the rebelling Serbs with artillery. According to Tvrтко Jakovina and Snježana Koren, these events contributed to the rise of the sentiment of seceding from Socialist Yugoslavia among the Croatian society.⁴⁴ On 19 May 1991, 83.56% of the Croatian citizens that participated in the referendum voted with a vast majority of 93.24% for the proclamation of independence from Socialist Yugoslavia. Noteworthy, they voted also for the possibility to form a loose confederation with the other Yugoslav republics.⁴⁵ Around the same time, the Serbs in Krajina held their referendum on independence in which they voted for the annexation of 'their' territory to Serbia and for remaining in Socialist Yugoslavia.⁴⁶

On 25 June 1991, Slovenia and Croatia initiated the process of formally disassociating from Yugoslavia.⁴⁷ As a reaction to that, the YPA and the Yugoslav federal government tried to take over the control over the borders in Slovenia, which initiated a short war in Slovenia and ended with a defeat of the YPA, after which the army withdrew from Slovenia.

⁴¹ Tindemans and others (n 37) 37.

⁴² Goldstein (n 38) 113.

⁴³ *ibid.*

⁴⁴ Snježana Koren, Magdalena Najbar-Agičić and Tvrтко Jakovina, 'Dodatak udžbenicima za najnoviju povijest' in Maja Dubljević (ed), *Jedna povijest, više historija: Dodatak udžbenicima s kronikom objavljivanja* (Documenta - Centar za suočavanje s prošlašću 2007) 22.

⁴⁵ Republička komisija za provedbu referenduma, 'Izvjštće o provedenom referendumu' (Zagreb 22 May 1991) <www.izbori.hr/arhiva-izbora/data/referendum/1991/rezultati/1991_Rezultati_Referendum.pdf> accessed 27 June 2018.

⁴⁶ Koren, Najbar-Agičić and Jakovina (n 44) 22.

⁴⁷ Ustavna odluka Šabora Republike Hrvatske o suverenosti i samostalnosti Republike Hrvatske 25 June 1991. See also Deklaracija o proglašenu suverene i samostalne Republike Hrvatske 25 June 1991.

To find a peaceful solution to the conflict, both Slovenia and Croatia froze⁴⁸ their decision to declare independence for three months in July 1991. As this neither resulted in finding a suitable solution to all sides to the conflict nor halted the spread of the armed conflict to more than one-third of Croatia's territory, the Croatian Parliament declared independence from Socialist Yugoslavia on 8 October 1991. By then, battle zones had grown into a war.

Parties to the conflict were, besides the Croats and radical parts of the rebel Serbs, the YPA and also voluntary paramilitaries from Serbia, which were backed up by President Milošević's regime.⁴⁹ Battle zones were the areas around Knin, Banija, Eastern Slavonia, here in particular around the cities of Vukovar and Osijek, and Western Slavonia around the cities of Okučan and Pakrac. The peak of warfare in Croatia happened in the last quarter of 1991 during the battle of Vukovar⁵⁰ and the shelling of Dubrovnik. By the end of 1991, around one-third of the Croatian territory was under Serb control. Besides controlling this territory, paramilitary units of radical Serbs and the YPA, which was now openly supporting Milošević, pursued a policy of ethnically cleansing the Serb territories from Croats and non-Serb population by either expelling or killing them.⁵¹

⁴⁸ In fact, actors of the international community coerced both countries to freeze the proclamation of independence to negotiate a peaceful settlement of the crisis of Socialist Yugoslavia. Jović (n 24) 17.

⁴⁹ Koren, Najbar-Agičić and Jakovina (n 44) 22ff.

⁵⁰ Before the war, Vukovar was a multiethnic and prosperous city and served as an example for a community that lived in harmony. According to the census of 1991, it was inhabited by 29 ethnicities with Croats (37%), Serbs (31%) and Yugoslavs (22%) constituting the three major ethnicities of the city. Some say that for those who wanted war it was essential to destroy such multicultural cities as Vukovar first to demonstrate that common life of Serbs and Croats in peace and tolerance was not possible. Jović (n 24) 92, 179.

⁵¹ Koren, Najbar-Agičić and Jakovina (n 44) 23.

1.2 ATTEMPTS TO HALT THE WAR: PEACE NEGOTIATIONS AND AGREEMENTS

1.2.1 *From the Brioni Agreement to UNPROFOR*

The escalating conflict in Croatia and the state's strive for independence led to the internationalisation of the Yugoslav crisis when the European Community (EC) assumed the role of peace mediator. A few weeks after the Croatian Parliament initiated the process of declaring independence, the EC organised a summit on the Brioni islands in Croatia, at which the Yugoslav republics partook. During the summit, the parties agreed upon a three-month moratorium on the Declarations of Independence.⁵² Additionally, Ivica Miškulin identified that the EC set up principles that ought to frame a solution to the crisis. These principles were:

- The preservation of the integrity of Socialist Yugoslavia was no longer a principal aim of the international community;
- Borders changed by force would not be recognised; and
- Socialist Yugoslavia's internal borders could be recognised only in case the countries fulfil the prerequisite of enhancing the protection of ethnic minorities.⁵³

When the armed conflict further aggravated, the EC established the Peace Conference on Yugoslavia in August 1991 with the aim to prevent the outbreak of war.⁵⁴ Lord Carrington, Chief Mediator on former Yugoslavia for the EC, assumed the chair of the conference.⁵⁵ Additionally, an arbitration commission (Badinter Commission) was formed, which was comprised in total five European constitutional jurists and was headed by Robert Badinter, the president of the French constitutional council.⁵⁶

⁵² Roland Rich, 'Recognition of States: The Collapse of Yugoslavia and the Soviet Union' (1993) 4(1) *European Journal of International Law* 36, 39 <www.ejil.org/pdfs/4/1/1207.pdf> accessed 3 June 2018.

⁵³ Ivica Miškulin, 'An Avoidable Failure: Peacekeeping in Croatia: 1991-1995' (2011) VII(1) *Review of Croatian History* 37, 40 <www.cecol.com/search/article-detail?id=247397> accessed 24 March 2018.

⁵⁴ Miroslav Tuđman, 'Strategijski dozezi europskih i hrvatskih mirovnih inicijativa 1991 - 1993.' in Miljenko Brekalo (ed), *Hrvatski istok u Domovinskom ratu - iskustva, spoznaje i posljedice: Iskustva, spoznaje i posljedice* (Institut društvenih znanosti Ivo Pilar 2015) 16.

⁵⁵ Tindemans and others (n 37) 43ff.

⁵⁶ Rich (n 52) 40. See also Ana Holjevac Tuković, *Proces mirne reintegracije Hrvatskog Podunavlja* (Hrvatski memorijalno-dokumentacijski centar Domovinskog rata 2015) 33.

The Badinter Commission should have assisted the Peace Conference by issuing opinions on critical legal issues concerning Yugoslavia. It is noteworthy that the commission confirmed the internal borders between the republics of Socialist Yugoslavia that should be recognised as the republic's internationally recognised external borders.⁵⁷

The presidents of the six Yugoslav republics including the general of the YPA, Andrija Rašeta, participated in the Peace Conference, which was held between September and December 1991 in The Hague.⁵⁸ In October 1991, the first agreement on the resolution of the Yugoslav crisis was formalised in the 'Outline of the Arrangements for a General Settlement' (Carrington Plan). The plan envisaged the reorganisation of Socialist Yugoslavia, contained provisions for the protection of human rights and rights of national minorities and ruled out the unilateral change of borders. Serbia rejected the plan as it *inter alia* encompassed provisions on the opportunity for the republics of Socialist Yugoslavia to declare independence and on concomitant international recognition of the independence. Shortly after, Montenegro withdrew its initial acceptance due to political pressure from Belgrade.⁵⁹

The rejection of the Carrington Plan meant the failure of the last chance for negotiating a peaceful dissolution of Socialist Yugoslavia.⁶⁰ Despite the failure of the agreement, the EC remained seized to resolve the Yugoslav crisis happening in its backyard. On 29 November 1991,⁶¹ the Badinter Commission published its legal findings concerning the status of Socialist Yugoslavia. In its first Opinion, the Commission argued that Yugoslavia was 'in the process of dissolution',⁶² which eventually paved the way for secessions from and the destruction of Socialist Yugoslavia.⁶³ Subsequently, the Badinter Commission took on the task to develop criteria for the settlement of future secessions. One of these criteria was *inter alia* the regulation of protection for national minorities.⁶⁴

⁵⁷ Peter Radan, 'Post-Secession International Borders: A Critical Analysis of the Opinions of the Badinter Arbitration Commission' (2000) 24(1) Melbourne University Law Review, 50 <www.austlii.edu.au/au/journals/MULR/2000/3.html> accessed 3 June 2018.

⁵⁸ Nation (n 23) 120ff.

⁵⁹ Tindemans and others (n 37) 44.

⁶⁰ *ibid.*

⁶¹ Ironically, in Socialist Yugoslavia this date was commemorated as the Day of the Republic.

⁶² Arbitration Commission of the Peace Conference on Yugoslavia, 'Opinion No. 1' in BG Ramcharan (ed), *The International Conference on the Former Yugoslavia: Official Papers* (Brill 1997).

⁶³ Nation (n 23) 122.

⁶⁴ *ibid.*

The Croatian Parliament passed the first Constitutional Act on the Human Rights and Freedoms and on the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia on 4 December 1991.⁶⁵ According to Michael Libal, who supports his observation with the remarks of the German professor Christian Tomuschat as regards the assessment of this first Constitutional Act on National Minorities, the law failed to incorporate all provisions proposed in the Carrington Plan.⁶⁶ However, Libal notes that in comparison with national minority protection legislation of other European states, the act was advanced due to the high level of guaranteed cultural and personal rights. Furthermore, Libal claims that the act provided for a certain degree of local political autonomy in the Croatian areas in which Serbs constituted a majority.⁶⁷

As these areas were under occupation when the act was adopted, the implementation of the law was not possible. Nonetheless, as Croatia wanted to fulfil the requirements for the recognition of its independence as proposed by the EC it adopted the Constitutional Act.⁶⁸

During a meeting in mid-December 1991, the EC agreed to recognise Croatia on 15 January 1992 in case the country fulfilled the stipulated prerequisites. Subsequently, the international community recognised Croatia's independence on 15 January 1992.⁶⁹

Due to the ongoing war and the failure of the EC in mediating the conflict, the principal mediation role shifted in favour of the UN.⁷⁰ For this purpose, the then United Nations Secretary-General (UNSG) Javier Pérez de Cuéllar appointed Cyrus Vance, the former US Secretary of State, as his Personal Envoy for Yugoslavia to find a solution for the crisis in October 1991.⁷¹

Vance had his first mediating success shortly after the fall of Vukovar⁷²

⁶⁵ Ustavni zakon o ljudskim pravima i slobodama i o pravima etničkih i nacionalnih zajednica ili manjina u Republici Hrvatskoj, NN 65/91.

⁶⁶ Michael Libal, *Limits of Persuasion: Germany and the Yugoslav Crisis, 1991-1992* (Praeger 1997) 80.

⁶⁷ *ibid* 79ff.

⁶⁸ *ibid* 80.

⁶⁹ Jović (n 24) 41.

⁷⁰ Nation (n 23) 124.

⁷¹ Ivica Miškulin, 'Republika Hrvatska i mirovna operacija Ujedinjenih naroda: kada, kako i zašto je došlo do njezine realizacije?' (2013) 64(1) *Historijski zbornik* 121, 131 <<https://hrcak.srce.hr/103101>> accessed 24 March 2018.

⁷² On 25 August 1991, the battle over Vukovar between Croat and Serb forces began and lasted for 86 days. On 17 November 1991, Vukovar fell to Serb forces. During the siege of Vukovar, the city was severely destroyed, thousands of people were wounded and more than 2,300 people died. Susan L Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Brookings Institution Press 1995) 178, 182.

in mid-November 1991 when the representatives of the Serbs, the Croats and the YPA signed an agreement on the suspension of hostilities in Geneva on 23 November 1991.⁷³ A follow up of this suspension was the conclusion of an unconditional cease-fire agreement (Sarajevo Agreement) signed by the belligerents in Sarajevo on 2 January 1991. This agreement entered into force the following day.⁷⁴

Predrag Jureković remarks as regards the brokered cease-fire that the agreement did not come about solely thanks to the negotiation skills of the international community. Instead, he claims the agreement was possible as it was convenient for the parties to the conflict. On the one hand, Croatia needed more time to build up and strengthen its army. On the other hand, the Krajina Serbs wanted to keep the new *status quo* as they had managed to bring eastern Croatia as well as the other territories, in which Serbs constituted an ethnic majority, under their control.⁷⁵

Vance's next step towards bringing about peace in Croatia was when he, together with the Under-Secretary-General of the UN, Marrack Goulding, presented the 'Concept for a United Nations Peace-Keeping Operation in Yugoslavia' (Vance Plan) in December 1991.⁷⁶ The YPA, the Serb leaders, the representatives of the Serbs in Croatia and the Croatian authorities accepted the plan and thus enabled the implementation of the UNPROFOR peacekeeping mission.⁷⁷

On 21 February 1992, the United Nations Security Council (UNSC) adopted the Resolution 743 in which it confirmed the Vance Plan as an interim measure and decided to establish UNPROFOR,⁷⁸ the first peacekeeping mission in Croatia, for an initial period of 12 months.⁷⁹

⁷³ Miškulin, 'Republika Hrvatska i...' (n 71) 137.

⁷⁴ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 41.

⁷⁵ Predrag Jureković, 'Vom Staatszerfall Jugoslawiens zum EU-Engagement auf dem Westbalkan - 20 Jahre Konflikt und Krisenmanagement mitten in Europa' in Walter Feichtinger (ed), *Internationales Krisenmanagement: Eine Bestandsaufnahme* (Schriftenreihe der Landesverteidigungsakademie vol 8 Republik Österreich, Bundesminister für Landesverteidigung und Sport 2012) 186ff.

⁷⁶ Ružica Jakešević, *Hrvatska i mirovne misije Ujedinjenih Nacija* (Politička kultura 2012) 79.

⁷⁷ Nation (n 23) 124.

⁷⁸ UNPROFOR was not limited to the territory of the Republic of Croatia. For more see Ružica Jakešević, 'Mirovne misije Ujedinjenih nacija i rješavanje etničkih sukoba: studija slučaja Istočne Slavonije' (2012) 49(2) *Politička misao*, 186 <<https://hrcak.srce.hr/84671>> accessed 24 October 2017.

⁷⁹ United Nations Security Council, 'Resolution 743 (1992)' (New York, 21 February 1992) S/RES/743.

UNPROFOR's mandate was somewhat vague and stated that 'the Force should be an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis within the framework of the European Community's Conference on Yugoslavia'.⁸⁰ The mandate further provided for a demilitarisation of the UNPAs and to contribute to the withdrawal or disbanding of the armed forces deployed in those areas to ensure a long-term compliance with the brokered cease-fire.⁸¹



*Illustration 1: United Nations Protected Areas*⁸²

Moreover, the mandate envisaged the withdrawal of all units of both the YPA and the Croatian Army and the dismantling of paramilitary formations. Even though President Tuđman requested in a letter

⁸⁰ UNPROFOR (n 20). See also Ivan Šimonović and Ivan Nimac, 'UNTAES: A Case Study' (1999) 5(14) *Croatian International Relations Review* 5, 5 <<https://hrcak.srce.hr/7145>> accessed 24 March 2018.

⁸¹ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 41.

⁸² <www.croatia.eu> 'Contemporary Croatia: History' <http://croatia.eu/images/02-07/en_unpa.gif> accessed 5 May 2018.

written to Vance on 21 November 1991 *inter alia* ‘the peacekeeping forces to immediately, within no time, set out for Croatia’.⁸³ However, once established, the Croatian leadership perceived UNPROFOR as somewhat problematic. As Ružica Jakešević explains, the issue was that the UN designated merely those areas as protected which were under the occupation of the Serb rebels. This designation contributed to frustration among the Croatian leadership, which considered the approach of the UN as biased in favour of the Serb side.⁸⁴

The UNPAs were set up in Eastern and Western Slavonia and Northern and Southern Krajina, better known as Sectors East, West, North and South.⁸⁵ More precisely, the UNPAs were set up in those areas in Croatia which were either inhabited by a Serb majority or in areas in which Serbs as a minority had a significantly high share of the total population and in which hostilities escalated due to the interethnic conflict.⁸⁶

As reflected in the UNSC resolutions, the international community recognised the UNPAs as integral parts of the Croatian territory.⁸⁷

In its Resolution 749, the UNSC authorised ‘the earliest possible full deployment of the UNPROFOR’⁸⁸ on 7 April 1992. Besides the deployment of military forces, the UNPROFOR mandate encompassed the deployment of the UN Civilian Police (UNCIVPOL) ‘to ensure that the local police carried out their duties without discrimination against any nationality and with full respect for the human rights of all UNPA residents’.⁸⁹

The UNSC enlarged the mission’s mandate in Croatia three times.⁹⁰ Per the first enlargement in Resolution 762 of 30 June 1992, the UNSC

⁸³ President of the Republic of Croatia, ‘Letter from the President of the Republic of Croatia, Dr. Franjo Tuđman, to Cyrus Vance, the Personal Envoy for Yugoslavia of the UNSG’ in Miroslav Tuđman (ed), *Bosna i Hercegovina u raljama zapadne demokratije* (Despot infinitus 2013).

⁸⁴ Jakešević, *Hrvatska i mirovne misije* (n 76) 79.

⁸⁵ Nation (n 23) 124.

⁸⁶ Jakešević, *Hrvatska i mirovne misije* (n 76) 79.

⁸⁷ Goldstein (n 38) 157.

⁸⁸ United Nations Security Council, ‘Resolution 749 (1992)’ (New York, 7 April 1992) S/RES/749.

⁸⁹ United Nations, *Yearbook of the United Nations* 1992 (Martinus Nijhoff Publishers 1993) 328.

⁹⁰ United Nations Security Council, ‘Resolution 762 (1992)’ (New York, 30 June 1992) S/RES/762; United Nations Security Council, ‘Resolution 769 (1992)’ (New York, 7 August 1992) S/RES/769; United Nations Security Council, ‘Resolution 779 (1992)’ (New York, 6 October 1992) S/RES/779.

authorised UNPROFOR to monitor the so-called ‘pink zones’. These zones were outside of the UNPAs but under control of the YPA and populated mainly by Serbs. Furthermore, a Joint Commission was established that was to monitor the restoration of Croatian authority in the zones in cooperation with Croatian authorities, local authorities in the areas and the EC Monitoring Mission.⁹¹ The other two enlargements provided for strengthening the mandate and widening the areas that were to be monitored by UNPROFOR.⁹²

As mentioned, the UNPROFOR was an interim measure intended to pave the way for a peace treaty. However, the Peace Conference collapsed and brought about the stagnation of the peace process with no immediately subsequent initiative in sight.⁹³ Thus, the mission ended up preserving merely the *status quo* in the UNPAs and the Croatian authorities were forced to accept ‘the continued functioning of the rebel authorities’⁹⁴ instead of being assisted by the UN to establish ‘control over its borders’⁹⁵ and its ‘constitutional order in the occupied territories’.⁹⁶ As Ana Holjevac Tuković explains, ‘the Vance Plan was only partially fulfilled: the YPA left Croatia, but nothing else was respected’.⁹⁷ For example, the plan’s provisions on facilitating the return of refugees were not carried out. What is worse, the forceful displacement of the non-Serb population from the UNPAs continued regardless of UNPROFOR’s presence.⁹⁸

The issue was that the mission’s mandate was not strong enough, for eg, to enforce demilitarisation, to maintain public order due to a lack of executive responsibility or to facilitate the return of refugees.⁹⁹ UNPROFOR was also not capable of disbanding the Serb paramilitary units. This was mainly an issue in Sector East where the paramilitary comprised around 16,000 soldiers.¹⁰⁰ Thus, UNPROFOR’s overarching aim of creating conditions for an overall settlement of the Yugoslav

⁹¹ UNSC Res 762 (1992) *ibid*.

⁹² UNSC Res 769 (1992) (n 90); UNSC Res 779 (1992) (n 90).

⁹³ Nation (n 23) 124f.

⁹⁴ Miškulin, ‘An Avoidable Failure’ (n 53) 47.

⁹⁵ *ibid*.

⁹⁶ *ibid*.

⁹⁷ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 43.

⁹⁸ Albert Bing, ‘Put do Erduta: Položaj Hrvatske u međunarodnoj zajednici 1994.-1995. i reintegracija hrvatskog Podunavlja’ (2007) 7(1) *Scrinia Slavonica* 371, 379 <<https://hrcak.srce.hr/27078>> accessed 24 March 2018.

⁹⁹ Tindemans and others (n 37) 45.

¹⁰⁰ David Owen, *Balkanska odiseja* (Hrvatski institut za povijest 1996) 69.

conflict could not be realised as the Croatian and the Serb sides were irreconcilable. On the one hand, the Croats wanted to gain full authority over the occupied territories. On the other hand, the representatives of the Serbs wanted to annex their territories with the Federal Republic of Yugoslavia (FRY).¹⁰¹ This seemingly intricate situation led to an open dissatisfaction of the Croatian regime by the end of 1992 as it was under the impression that the UNPROFOR's presence in the country would result into a similar situation as it was the case with divided Cyprus.¹⁰²

After the focus of the international community had shifted from Croatia to the escalating armed conflict and humanitarian catastrophe in Bosnia and Herzegovina, Croatian authorities reacted *inter alia* with the launch of several military operations in some areas belonging to the UNPAs and 'pink zones' between 1992-1993. These interventions' objective was to show Croatia's unwillingness to tolerate the stagnation of its strategic aims of reintegrating the occupied territories and gaining territorial integrity under its internationally recognised borders.¹⁰³

With the military actions, Croatia damaged itself because the rebel Serbs were partially enabled to retrieve (heavy) weapons from storage sites under UN supervision following the limited offensives. The parties to the conflict demonstrated that the Sarajevo Agreement was fragile and only relevant when convenient.¹⁰⁴ As the armed confrontations had particularly severe consequences for the civil population, the international community spared neither the rebel Serbs nor the Croatian authorities from criticism concerning the breaking of the cease-fire. Moreover, the conducted military operations contributed to a worsening of Croatia's position in the international community, particularly because of its army's alleged crimes against the Serb civilian population.¹⁰⁵

The reactions of the international community concerned the Croatian political leadership.¹⁰⁶ According to Ante Nazor and Janja Sekula

¹⁰¹ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 43.

¹⁰² Bing, 'Put do Erduta' (n 98) 375.

¹⁰³ *ibid* 376.

¹⁰⁴ UNPROFOR (n 20). See also Jureković (n 75) 189.

¹⁰⁵ 'Zapisnik sa 22. sjednice Vijeća obrane i nacionalne sigurnosti Republike Hrvatske održane 12.09.1993' in Ante Nazor and Janja Sekula Gibač, 'Proces pokušaja normalizacije hrvatsko-srpskih odnosa i mirne reintegracije Republike Srpske Krajine 1994./1995. na okupiranom području zapadne Slavonije' (2014) 46(1) *Časopis za suvremenu povijest* 7, 8 <<http://hrcaak.srce.hr/122058>> accessed 24 October 2017. See also UNPROFOR (n 20).

¹⁰⁶ Nazor and Sekula Gibač (n 105) 8.

Gibač, President Tuđman especially seemed to be aware that Croatia's reputation deteriorated due to launching the military operations as well as Croatia's military involvement in the Bosnian war.¹⁰⁷

As a result, he considered that in the future Croatia needed to adhere to the agreements concluded with the international community for the reintegration of the UNPA territories. This implied that Croatia needed to refrain from further violence and to refocus on peace negotiations with the so-called RSK. By refraining from further military operations, Croatia needed to demonstrate that it was one of the two warring parties open for negotiations and that the so-called RSK was the party opposing a peaceful settlement of the conflict.¹⁰⁸ Therefore, the Croatian leadership accepted the peace proposal by the international community in October 1993, while expecting that the proposal would likely fail. However, the political calculation was that by demonstrating reason, a failure of the negotiations could justify future military operations.¹⁰⁹

In its Resolution 871 of 4 October 1993, the UNSC called upon the parties to the conflict for an 'immediate cease-fire agreement ... mediated under the auspices of the International Conference on the Former Yugoslavia'¹¹⁰ (ICFY)¹¹¹ and urged 'them to cooperate fully and unconditionally in its implementation'.¹¹² Subsequently, the Croatian leadership created a document on its priorities concerning the implementation of the UNSC resolutions and the economic reintegration of the occupied territories labelled as 'Starting Points of the Republic of Croatia on the Conduction of the Peaceful Reintegration of the Pink Zones and UNPAs and the Solution of the Serb Question in Croatia'.¹¹³

Furthermore, President Tuđman proposed a peace initiative in November 1993 with the aim to end the war in Croatia, to normalise the economic and social life in the UNPAs and to propose conditions for a Peaceful Reintegration.¹¹⁴

¹⁰⁷ *ibid.* 10. See also UNPROFOR (n 20).

¹⁰⁸ Nazor and Sekula Gibač (n 105) 10.

¹⁰⁹ *ibid.*

¹¹⁰ United Nations Security Council, 'Resolution 871 (1993)' (New York, 4 October 1993) S/RES/871.

¹¹¹ The ICFY was founded at the end of August 1992. In contrast to the Peace Conference on Yugoslavia which was operating from September 1991 through August 1992, the ICFY was a joint conference of the EC and the UN. Tindemans and others (n 37) 56.

¹¹² UNSC Res 871 (1993) (n 110).

¹¹³ Nazor and Sekula Gibač (n 105) 11.

¹¹⁴ President of the Republic of Croatia, 'Peace Initiative of the President of the Republic of Croatia' in Miroslav Tuđman (ed), *Bosna i Hercegovina u raljama zapadne demokracije* (Despot infinitus 2013).

With his Peace Initiative, President Tuđman aimed at illustrating the strategic goals of the Croatian policy as well as demonstrating Croatia's determination to settle the conflict in a diplomatic fashion.¹¹⁵ With regard to President Tuđman's action, Goldstein explains that 'Croatia's tactics and strategy has always been two-sided from the end of the war operations in January 1992: negotiations, and if they do not work out, there are always other means as well'.¹¹⁶

1.2.2 Zagreb Four talks (Z-4) and UNCRO

Resolution 871 and President Tuđman's Peace Initiative brought about noticeable progress in the negotiations between the parties to the conflict after both signed the so-called Zagreb Agreement on 29 March 1994.¹¹⁷ Following the Washington Agreement of March 1994,¹¹⁸ Peter Galbraith, the US ambassador to Croatia, initiated talks between the parties to the conflict and in cooperation with representatives of the EU, UN, the USA, and Russia in the US Embassy in Zagreb on 22 March 1994. The USA and Russia were also members of the ICFY.¹¹⁹ Due to the amount of the participating organisations, countries and the venue of the talks, the group was called Zagreb Four talks (Z-4).¹²⁰

The initiative elaborated a three-phase peace process aimed at restoring confidence between the conflicting parties. In the first phase, the Zagreb Agreement ought to create a stable cease-fire. The next phase was supposed to settle questions of economic nature. The negotiations on economic cooperation and confidence-building measures lasted for six months and formalised when the Agreement on Economic Relations was signed between Croatia and the so-called RSK on 2 December 1994.¹²¹ After having reached a stabilisation of the previous two stages,

¹¹⁵ Tuđman (n 54) 13ff.

¹¹⁶ Goldstein (n 38) 188.

¹¹⁷ *ibid* 191. See also Holjevac Tuković, *Proces mirne reintegracije* (n 56) 48.

¹¹⁸ The Washington Agreement terminated the year-long war between Muslim and Croat troops in central Bosnia. For more see Nation (n 23) 183.

¹¹⁹ Albert Bing, "Balkanski" i "zapadni" makijavelizam: Z-4 - diplomacija i/ili oružje? (2015) 47(3) Časopis za suvremenu povijest 485, 485ff <<https://hrcak.srce.hr/152054>> accessed 22 March 2018.

¹²⁰ Bing, 'Put do Erduta' (n 98) 388.

¹²¹ Ana Holjevac Tuković, 'Kako je Hrvatska vratila Podunavlje, zašto nije bilo nove Oluje te koliko je sve to koštalo: 20 godina od mirne reintegracije' (tportal.hr, 15 January 2018) <www.tportal.hr/vijesti/clanak/kako-je-hrvatska-vratila-podunavlje-zasto-nije-bilo-nove-oluje-te-koliko-je-sve-to-kostalo-foto-20180112> accessed 2 March 2018.

the final phase aimed at settling core political issues. The final phase was never reached because the so-called RSK authorities declined to negotiate political matters despite having been offered a peace plan comprised of wide-ranging rights and autonomies.¹²²

A first version of the peace plan, colloquially known as Plan Z-4, was crafted in September 1994. Over the course of the four following months, the negotiators amended the plan multiple times. By the end of January 1995, Galbraith and Leonid Kerstedzhlyants, the Russian Ambassador to Croatia, introduced the Croatian leadership including President Tuđman to the Plan Z-4. In the plan, the international community offered the Croatian Serbs the highest standard of protection of their national minority rights and a high level of (political) autonomy in the form of a quasi-state within the Croatian republic.¹²³

The plan further ensured Croatia's territorial integrity to rule out the possibility of a military reintegration.¹²⁴ According to Goldstein, President Tuđman openly showed his discontent when confronted with the final Plan Z-4. Notwithstanding, President Tuđman's diplomatic manoeuvre was to accept the plan as a basis for negotiations with the Krajina Serbs.¹²⁵ Leo Tindemans, former chair of the International Commission on the Balkans, and his co-members describe the actions of the Serbs in their analysis on the death of Socialist Yugoslavia in the following words:

[b]ut despite the negotiators far-reaching concessions to Serb sensitivities, the Serb leadership refused even to receive the plan unless Croatia reversed its decision on UNPROFOR. Milosevic (sic!) declined to exert pressure upon the Serb side and the Z-4 Plan dropped from view – until the very eve of Croatia's full-scale military recapture of Krajina, when one of the Serb leaders announced on television from Belgrade his qualified acceptance of the plan. It was too late.¹²⁶

Besides the renewed attempts to bring about a peaceful conflict settlement, Croatia began to consider a military reintegration of the UNPAs as an alternative to diplomatic means. In this regard, the Croatian Parliament adopted a resolution on UNPROFOR's future

¹²² Goldstein (n 38) 190ff.

¹²³ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 51.

¹²⁴ Bing, 'Put do Erduta' (n 98) 392.

¹²⁵ Goldstein (n 38) 192.

¹²⁶ Tindemans and others (n 37) 47.

in Croatia on 23 September 1994. In the resolution, the parliament expressed its discontent with the previous processing and unsatisfactory results of the peacekeeping mission. However, the parliament agreed to another extension of UNPROFOR's mandate.¹²⁷ The UNSC adopted the mandate extension in Resolution 947 on 30 September 1994.¹²⁸

Following the escalation of the conflict in neighbouring Bosnia from the second half of 1994, Croatia's leadership decided to cancel UNPROFOR's mandate as the escalation halted negotiations between the so-called RSK and Croatia.¹²⁹ Therefore, after almost three years of having UNPROFOR deployed in Croatia, President Tuđman sent a letter to the United Nations Secretary-General to inform him about Croatia's decision to cancel UNPROFOR's mandate by 31 March 1995, the day of the expiration of the mission's mandate in Croatia.¹³⁰

As a follow-up to UNPROFOR, the UNSC established per Resolution 981 the successor peacekeeping mission UNCRO on 31 March 1995.¹³¹ UNCRO's mandate envisioned *inter alia* to monitor the cease-fire agreement of 29 March 1994 and to facilitate the implementation of the economic agreement of December 1994. Like UNPROFOR, UNCRO was supposed to constitute an interim arrangement until conditions are created 'that would facilitate a negotiated settlement consistent with the territorial integrity of Croatia and which would guarantee the security and rights of all communities living in Croatia'.¹³²

After the forceful reintegration of UNPA Sectors West, North, and South in May and August 1995 respectively, UNCRO withdrew from all UNPAs except for Sector East, which remained occupied. With the establishment of UNTAES on 15 January 1996, UNCRO's mandate terminated accordingly.¹³³ According to Jakešević's assessment of both UNPROFOR and UNCRO, neither mission was able to meet its objectives because of an alleged lack of interest in the conflict by the

¹²⁷ Holjevac Tuković, *Proces mirne reintegracije* (n 56) 48.

¹²⁸ United Nations Security Council, 'Resolution 947 (1994)' (New York, 30 September 1994) S/RES/947.

¹²⁹ Holjevac Tuković, 'Kako je Hrvatska...' (n 121).

¹³⁰ President of the Republic of Croatia, 'Statement by the President of Croatia, Dr. Franjo Tuđman, to the Croatian Public on the Occasion of the Cancellation of the Mandate of the UN Peace-Keepers' in Miroslav Tuđman (ed), *Bosna i Hercegovina u raljama zapadne demokracije* (Despot infinitus 2013).

¹³¹ United Nations Security Council, 'Resolution 981 (1995)' (New York, 31 March 1995) S/RES/981.

¹³² UNCRO (n 21).

¹³³ *ibid.*

UN as well as both mission's weak mandates. She emphasises that notably stronger mandates could have enabled the fulfilment of the complex and demanding task of restoring confidence among the parties to the conflict and the ethnically divided society.¹³⁴

1.3 MILITARY OPERATIONS FLASH AND STORM

Following the genocide in Srebrenica, the Croatian Army launched several operations that put Knin, the capital of the so-called RSK, under severe pressure at the end of July 1995. At that time, another offensive by the Croatian Army seemed imminent.¹³⁵ On 2 August 1995, the political representatives of both Croatia's regime and the local Serbs met in Geneva to discuss once again a political settlement of the conflict. Even though the Croatian representatives offered concrete proposals during that meeting, according to Goldstein's claims, the delegation came to Geneva without the intention to bring about an agreement.¹³⁶ On the contrary, the Serb representatives eventually showed a willingness to negotiate, but as it would turn out, this willingness had come too late.¹³⁷

Even after the negotiations in Geneva failed, the international community officially still insisted on a peaceful solution to the conflict. Following the failed negotiations that simultaneously sealed the failure of the Plan Z-4 on 3 August 1995, Croatia's leadership launched Operation Storm on 4 August 1995. According to Galbraith, the US 'declined to stop Croatia as its army seemed the only available force that could spare Bihać [a city in eastern Bosnia close to the Croatian border] the fate of Srebrenica, which had fallen two weeks before with the massacre of its men and boys'.¹³⁸

Around 150,000 soldiers of the Croatian Army assumed control over former UNPA Sectors North and South. Operation Storm officially terminated on 8 August 1995. On this day, the so-called RSK, which was never an officially recognised state, ceased to exist.¹³⁹

¹³⁴ Jakešević, 'Mirovne misije' (n 78) 191.

¹³⁵ Goldstein (n 38) 196.

¹³⁶ *ibid.*

¹³⁷ Tindemans and others (n 37) 47.

¹³⁸ Peter W Galbraith, 'Negotiating Peace in Croatia: A Personal Account of the Road to Erdut' in Brad Blitz (ed), *War and Change in the Balkans: Nationalism, Conflict and Cooperation* (1st edn, UP 2006) 126.

¹³⁹ Goldstein (n 38) 196ff.

Operation Storm's objective to militarily reintegrate Sectors North and South was successful. However, one of the operation's consequences was the massive exodus of the local Serb population that amounted to around 200,000 people.¹⁴⁰

As of today, there is no consensus between the opposing sides on who bears the responsibility for the exodus of the Croatian Serbs. For example, Davor Marijan suggests that Croatia headed by President Tuđman wanted the Croatian citizens of Serb ethnicity to remain in the country.¹⁴¹ He supports his claim with President Tuđman's appeal to the Serbs, which was not only officially released on the day Storm was launched, but, what is more, was repeated in 15-minute intervals on the public radio.¹⁴²

On the contrary, Goldstein claims that parallel to the broadcast of the appeal on the radio, the Croatian Army disseminated leaflets on Cyrillic script that proposed escape routes leading the local population out of the territory of the so-called RSK.¹⁴³ As regards to the military operations launched in summer 1995 and the political actions preceding and following the military interventions, Jović contends that their pursued objectives were *inter alia* to reduce the Serb population in Croatia to a minimum.¹⁴⁴

For the sake of completeness, Goldstein claims that the exodus of the Krajina Serbs was also fostered due to fear stemming from nationalist propaganda. Accordingly, radical Serb nationalists disseminated this propaganda by conjuring up memories of the WWII, when the Croatian Nazi-puppet regime called the Independent State of Croatia (NDH) committed genocide on the Serb population in the territory of the former so-called NDH. Aside from this, some fled because they feared the vengeance of their displaced Croatian neighbours or because they were forced to

¹⁴⁰ United Nations Security Council, 'Further Report on the Situation of Human Rights in Croatia Pursuant to Security Council Resolution 1019 (1995)' (New York, 14 February 1996) S/1996/109, para 23 <www.un.org/Docs/s1996109.htm> accessed 20 March 2018.

¹⁴¹ Marijan (n 22) 138ff. See also the excerpt of the letter from President Tuđman to the Croatian citizens of Serb ethnicity prior to the launch of Operation Storm: 'I call the Croatian citizens of Serb nationality, who did not actively participate in the rebellion, to remain in their homes and without fear for their life and their property, to await the Croatian Government, with the guarantee that they will be given all civil rights and enabled to elect the local self-government in accordance with the Croatian constitution and the Constitutional Act in the presence of international observers'. President of the Republic of Croatia, 'To the Croatian Citizens of Serb Nationality from the Occupied territories of Knin, Gračac, Lapac, Korenica, Slunj, Glina, Dvor and Petrinja' in Marijan (n 22) 2.

¹⁴² *ibid.* See also Goldstein (n 38) 197.

¹⁴³ *ibid.* 198.

¹⁴⁴ Jović (n 24) 227.

leave by the so-called RSK army.¹⁴⁵ In the days, weeks and months that followed Operation Storm, some fears of the Serbs were to be confirmed. Members of the Croatian Army were reportedly responsible for serious human rights violations of Krajina Serbs, ‘including harassment, looting of property, burning of houses and killing of civilians’.¹⁴⁶ Consequently, only around 6,000 mainly disabled or elderly Croatian Serbs, or rather those who could not flee, remained in their homes.¹⁴⁷

According to Goldstein and Jović, the reduction of the Serb population in Croatia was the result President Tuđman wanted to achieve, as he especially considered the Croatian Krajina Serbs as a factor of disturbance for the country.¹⁴⁸ Nikola Bajto claims that those who left Croatia were hindered from returning due to the large-scale devastation and looting of their properties. Furthermore, they were hindered from returning to their homes through governmental action.¹⁴⁹ Amongst others, according to Reichel, the parliament adopted amendments of the Property Act, ‘so that abandoned property would come under State control if not claimed within thirty days. Besides, it passed a bill postponing implementation of the Constitutional Act on Minorities’.¹⁵⁰ The newly adopted regulations affected Croatian Serb refugees, respectively the Serb national minority as a whole, and called into question Croatia’s willingness to create a society in which there is also place for ethnic Serbs.

By August 1995, the only remaining territory under Serb occupation was the former Sector East. This sector is called the Danube region and is comprised of Eastern Slavonia, Baranja and Western Sirmium.¹⁵¹

¹⁴⁵ Goldstein (n 38) 199ff.

¹⁴⁶ United Nations Security Council, ‘Report of the Secretary-General Submitted Pursuant to Security Council Resolutions 981 (1995), 982 (1995) and 983 (1995)’ (New York, 23 November 1995) S/1995/987 para 7 <www.un.org/en/ga/search/view_doc.asp?symbol=S/1995/987> accessed 20 March 2018.

¹⁴⁷ *ibid.*

¹⁴⁸ Goldstein (n 38) 199. See also Jović (n 24) 227.

¹⁴⁹ For more see Nikola Bajto, ‘Šterc ljudima’ *Novosti* (3 March 2018) <www.portalnovosti.com/sterc-ljudima> accessed 3 March 2018.

¹⁵⁰ Sarah Reichel, ‘Transitional Administrations in Former Yugoslavia: A Repetition of Failures or A Necessary Learning Process towards A Universal Peace-Building Tool after Ethno-Political War?’ (Berlin 2000) Discussion Papers P 00 - 305, 7 <<https://www.econstor.eu/bitstream/10419/49849/1/320316866.pdf>> accessed 26 March 2018.

¹⁵¹ Goldstein (n 38) 197.

2.

BRINGING ABOUT PEACE

The Erdut Agreement was signed on 12 November 1995 between Croatian authorities and representatives of the Serb population. It laid the foundations for UNTAES¹⁵² and thus paved the way for the reintegration of the former Sector East and for what is going to be known as favourable precedent in peacefully settling armed conflicts in the wars in Yugoslavia and as one of the most successful peacekeeping missions of the UN.¹⁵³ The following chapter seeks to shed light on the circumstances that led to signing the Erdut Agreement and the establishment of the UNTAES. Moreover, it aims at revealing reasons as to why establishing peace was possible only after several failed peace negotiations and military operations. Considering the objective of the thesis, the analysis focuses on Croatia's efforts to reintegrate the local Serb population.

2.1 FROM STORM TO PEACE: ON THE ROAD TO THE ERDUT AGREEMENT

The Operation Storm and its consequences are considered to be the turning point in the four-year-long war. The defeats, which the rebel Serbs suffered in both Croatia and Bosnia, as well as the humanitarian disaster as a direct outcome of the Operation Storm, weakened the Serb side significantly.¹⁵⁴

¹⁵² United Nations Security Council, 'Resolution 1037 (1996)' (New York, 15 January 1996) S/RES/1037.

¹⁵³ Emina Bužinkić, 'Integracija - kako dalje?: Mirna reintegracija hrvatskog Podunavlja' (2014) (197) *Preporodov Journal* 12, 12.

¹⁵⁴ Ana Holjevac Tuković, *Proces mirne reintegracije Hrvatskog Podunavlja* (Hrvatski memorijalno-dokumentacijski centar Domovinskog rata 2015) 55.

These new circumstances eventually enabled a peaceful settlement of the Yugoslav wars caused by a change of balance of powers between the belligerents and political pressure from the international community, particularly by the US. According to Boris Pavelić, this pressure was a consequence resulting from the violence against Serb civilians during and following Storm that caused discontent among the international community and *inter alia* led to the postponement of Croatia's membership in the CoE. Despite existing plans to reconquer eastern Slavonia too *qua* military action, finding a peaceful solution for resolving the question on the remaining occupied territory prevailed eventually.¹⁵⁵

The negotiations began shortly after the termination of Storm when President Clinton launched a peace initiative for Bosnia that encompassed addressing the issue of Eastern Slavonia.¹⁵⁶ The reason for putting Eastern Slavonia on the peace agenda was that the US wanted to avoid another Croatian military operation, which could likely have involved a Yugoslav counter-reaction and thus provoked a renewed armed confrontation that would have caused a renewed destabilisation and endangered a peace accord.¹⁵⁷

According to Galbraith, Clinton was of the opinion that '[t]here must be a long-term plan for resolving the situation in Eastern Slavonia ... based on Croatian sovereignty and the principles of the Plan Z-4 (e.g., Serb home rule, the right of refugees to return, and the other guarantees for Serbs who live there.)'¹⁵⁸

Thus, the Plan Z-4 was put onto the agenda again as the plan's essential elements served as a starting point to find a solution for the reintegration of the Danube region under new circumstances.¹⁵⁹ Thereupon, Galbraith and Thorvald Stoltenberg, UN envoy, began their mediation efforts between the local Serb leaders and Croats for reintegrating eastern Slavonia peacefully.¹⁶⁰

¹⁵⁵ Boris Pavelić, 'Peaceful Reintegration: The Discarded Triumph of Reason and Peace' (Zagreb January 2018) Perspective 4.

¹⁵⁶ Peter W Galbraith, 'Negotiating Peace in Croatia: A Personal Account of the Road to Erdut' in Brad Blitz (ed), *War and Change in the Balkans: Nationalism, Conflict and Cooperation* (1st edn, UP 2006) 127.

¹⁵⁷ Ana Holjevac Tuković, 'Temeljni sporazum o području istočne Slavonije, Baranje i zapadnog Srijema (Erdutski sporazum) i uvjeti za njegovu provedbu' (2015) 47(3) *Časopis za suvremenu povijest* 617, 622ff <<https://hrcak.srce.hr/154374>> accessed 24 March 2018.

¹⁵⁸ Galbraith, 'Negotiating Peace' (n 156) 127.

¹⁵⁹ Albert Bing, '"Balkanski" i "zapadni" makijavelizam: Z-4 - diplomacija i/ili oružje?' (2015) 47(3) *Časopis za suvremenu povijest* 485, 504 <<https://hrcak.srce.hr/152054>> accessed 22 March 2018.

¹⁶⁰ Galbraith, 'Negotiating Peace' (n 156) 127.

At this point, I would like to point out that there are differing views as to whether the Croatian political elite led by President Tuđman preferred a Peaceful Reintegration to a military one.¹⁶¹ On the one hand, *inter alia* Vesna Škare Ožbolt, the former president of the National Committee for the Establishment of Trust, Accelerated Return, and Normalization of Living Conditions in the War-affected Regions of the Republic of Croatia (National Committee for Reconciliation), claims that President Tuđman, when being confronted with the grave humanitarian implications following a military intervention in Eastern Slavonia, deliberately decided to give priority to a peaceful settlement.¹⁶²

On the other hand, one cannot neglect the fact that the international community imposed the decision to negotiate on Croatia. This conclusion is deduced from the described Croatian military and political actions from 1991-1995 that indicate that Croatia agreed to negotiate to foster the goodwill of the international community and gain time to build a strong army. Furthermore, in his account on the Peaceful Reintegration, Galbraith notes that after handing in the first draft for reintegrating Eastern Slavonia, he received ‘a diplomatic note warning that Croatia preferred a military solution’¹⁶³ by Hrvoje Šarinić, the installed negotiator for Croatia.

Giving peace a real chance was the wisest decision the Croatian and the Serb representatives made after four years of war, especially from a humanitarian perspective. Following the argumentation of Pavelić, accepting the Peaceful Reintegration demonstrates that the politicians ‘could have done everything differently from the beginning – had they only wanted to’.¹⁶⁴ The significance of the Erdut Agreement is further demonstrated in the light of the readiness of the Croatian Army and the existent public pressure to militarily reconquer Eastern Slavonia and particularly Vukovar as a symbol of Croatian suffering during the war.¹⁶⁵

In contrast to previous peace negotiations, President Milošević left the Croatian rebel Serbs without significant support and limited his role

¹⁶¹ Pavelić (n 155) 4ff.

¹⁶² Vesna Škare Ožbolt, ‘Zašto Hrvatska vojska nije oslobodila istočnu Slavoniju?: Godišnjica Mirne reintegracije’ (tportal.hr, 15 January 2013) <www.tportal.hr/vijesti/clanak/zasto-hrvatska-vojska-nije-oslobodila-istocnu-slavoniju-20130115> accessed 3 July 2017.

¹⁶³ Galbraith, ‘Negotiating Peace’ (n 156) 127.

¹⁶⁴ Pavelić (n 155) 5.

¹⁶⁵ Ana Holjevac Tuković, *Proces mirne reintegracije Hrvatskog Podunavlja* (Hrvatski memorijalno-dokumentacijski centar Domovinskog rata 2015) 65.

to instructing the Serbs in negotiating the peace treaty. As Galbraith explains, the Serb negotiators assumed a somewhat passive role in the talks even on critical topics such as the protection of the Serb national minority.¹⁶⁶

After talks began that were initially separated and under difficult circumstances, Serb and Croat negotiators reached an agreement comprised of 11 articles in Erdut on 3 October 1995.¹⁶⁷ This agreement was further negotiated during the Dayton Peace Conference on 1 November 1995.¹⁶⁸

When being confronted with the final document coming out of Dayton, Galbraith noted that even though the agreement was almost the same as the one of 3 October 1995, there was one small but a significant modification, which he describes as follows:

[T]he Croatian government managed to weasel out of a commitment in the earlier draft that gave Croatian Serbs, who were refugees in Serbia the same right to return to their original homes that was given to Serbs living in Eastern Slavonia. It was an unfortunate change, apparently made by one of my colleagues at Dayton (at this stage Stoltenberg and I had resumed our shuttle in the region) who did not understand the significance of the original commitment.¹⁶⁹

On 12 November 1995, the Erdut Agreement was signed in Erdut by Milan Milanović, Deputy Minister of Defense of the so-called RSK for the Serb side, and in Zagreb by Šarinić.¹⁷⁰

The agreement's objective was to reintegrate the occupied Danube region including its population into the constitutional order of Croatia under the auspices of the UN Transitional Administration over the course of one year. At the request of one of the contracting parties, the period could be extended for a maximum of 24 months.¹⁷¹

Concerning the perception of the population on the signing of the Erdut Agreement, both the Croat and the Serb community did not seem

¹⁶⁶ Galbraith, 'Negotiating Peace' (n 156) 127.

¹⁶⁷ *ibid.*

¹⁶⁸ *ibid.* 128.

¹⁶⁹ *ibid.*

¹⁷⁰ Government of the Republic of Croatia, 'Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium' (The document has been made available by the JCM. Erdut, Zagreb 12 November 1995).

¹⁷¹ Albert Bing, 'Put do Erduta: Položaj Hrvatske u međunarodnoj zajednici 1994.-1995. i reintegracija hrvatskog Podunavlja' (2007) 7(1) *Scrinia Slavonica* 371, 403 <<https://hrcak.srce.hr/27078>> accessed 24 March 2018.

to be overly keen on accepting the idea of a Peaceful Reintegration. As Holjevac Tuković clarifies, on the one hand, the Croatian public expected similar military actions in Vukovar as those conducted in May and August 1995 respectively. On the other hand, the Serb perceived the Erdut Agreement as a guarantee for the survival of the Serb ethnicity in Croatia but avoided to mention the agreement's objective of reintegrating the territory and population into the Croatian state.¹⁷²

The Erdut Agreement contained in total 14 provisions for accomplishing the above-mentioned objectives. According to Siniša Tatalović and Tomislav Lacović, half of these provisions pertained to various aspects for the protection of human and national minority rights including the Serb minority. In this regard, provision number six reads as follows, 'The highest levels of internationally-recognized human rights and fundamental freedoms shall be respected in the Region'.¹⁷³ As of 12 November 1995, Croatia was not yet a member state of the CoE and thus had not yet ratified the European Convention on Human Rights (ECHR).¹⁷⁴ Concerning Croatia's ratification status of UN's human rights treaties on the date of signing the Erdut Agreement, the ratified¹⁷⁵ treaties¹⁷⁶ were *inter alia*:

- Convention on the Elimination of All Forms of Discrimination against Women¹⁷⁷, ratified on 9 September 1992;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁷⁸, ratified on 12 October 1992;
- International Covenant on Civil and Political Rights¹⁷⁹, ratified on

¹⁷² Holjevac Tuković, *Proces mirne reintegracije* (n 154) 75.

¹⁷³ Basic Agreement (n 170).

¹⁷⁴ Council of Europe, 'Croatia// 47 States, One Europe: Member States' <www.coe.int/en/web/portal/croatia> accessed 3 July 2018.

¹⁷⁵ For a more comprehensive list of ratified international human rights treaties see University of Minnesota Human Rights Library, 'Ratification of International Human Rights Treaties - Croatia' (2008) <<http://hrlibrary.umn.edu/research/ratification-croatia.html>> accessed 13 July 2018 and International Labour Organization, 'Ratifications for Croatia' <www.ilo.org/dyn/normlex/en/f?p=1000:11200:0:NO:11200:P11200_COUNTRY_ID:102700> accessed 13 July 2018.

¹⁷⁶ United Nations Human Rights, Office of the High Commissioner, 'Ratification Status for Croatia: Human Rights Bodies' <https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=43&Lang=EN> accessed 3 July 2018.

¹⁷⁷ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

¹⁷⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) 2375 UNTS 237 (CAT).

¹⁷⁹ International Covenant on Civil and Political Rights (adopted 16 December 1966,

- 12 October 1992;
- International Covenant on Economic, Social and Cultural Rights¹⁸⁰, ratified on 12 October 1992;
 - International Convention on the Elimination of All Forms of Racial Discrimination¹⁸¹, ratified on 12 October 1992;
 - Convention on the Rights of the Child¹⁸², ratified on 12 October 1992.

Together with the UN Universal Declaration on Human Rights¹⁸³ that is of declaratory but not of legally-binding character, the above-listed treaties can be considered as the levels of internationally recognised human rights and fundamental freedoms mentioned in provision number six of the Erdut Agreement. This conclusion is drawn as Croatia was legally obliged to merely respect the ratified human rights treaties.

The provisions relating to human rights were particularly necessary given the then occurring humanitarian crisis in the aftermath of the military operations in the former occupied sectors that the mainly Croatian Serb population suffered. Consequently, a significant bilateral peace agreement had to entail provisions that prevent severe crimes and mass exodus and to protect those who wanted to remain in their homes. Moreover, the agreement provided for the demilitarisation of Eastern Slavonia, the organisation of local elections and the establishment and training of a multiethnic police force 'reflecting the ethnic composition of the area'.¹⁸⁴ Furthermore, provision number two of the Erdut Agreement entailed a request for the UNSC to establish a transitional administration.¹⁸⁵ Subsequently, the UNSC confirmed its readiness to implement both the military and the civilian dimension of the Peaceful Reintegration.¹⁸⁶

Until the beginning of the implementation of the Erdut Agreement, the international community demanded the fulfilment of its requirements

entered into force 3 January 1976) 993 UNTS 171 (ICCPR).

¹⁸⁰ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 3 (ICESCR).

¹⁸¹ International Convention on the Elimination of All Forms of Racial Discrimination (adopted 7 March 1966, entered into force 4 January 1969) 660 UNTS 195 (ICEAFRD).

¹⁸² Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).

¹⁸³ Universal Declaration of Human Rights (adopted on 10 December 1948) UNGA Res 217 A(III).

¹⁸⁴ Galbraith, 'Negotiating Peace' (n 156) 129.

¹⁸⁵ Basic Agreement (n 170) 1.

¹⁸⁶ Holjevac Tuković, *Proces mirne reintegracije* (n 154) 82.

and thus exerted continued pressure on Croatia. These requirements pertained to the situation of human rights, press freedom, the return of Serb refugees including enabling their right to ownership and the democratisation process. The fulfilment of these requirements was of great importance for Croatia as the international community linked them directly to its support of the Peaceful Reintegration.¹⁸⁷

Since the UNCRO mandate was about to terminate on 30 November 1995, Croatia wanted to avoid a renewal of the mandate to prevent two missions operating in parallel in the country. In consequence of diplomatic pressure exerted mainly by the US, Croatia accepted the extension of UNCRO until the start of the implementation of the Erdut Agreement on 15 January 1996. By the extension of UNCRO, the international community further filled the monitoring gap, which would have opened up until the establishment of the subsequent mission.¹⁸⁸

Besides extending UNCRO's mandate in its Resolution 1025, the UNSC further requested the UNSG to prepare a report in which he ought to propose a plan for the implementation of the Erdut Agreement.¹⁸⁹ Accordingly, the UNSG submitted the requested report S/1995/1028¹⁹⁰ in which he elaborated a plan for a successful implementation of the Erdut Agreement on 13 December 1995. More specifically, the UNSG defined demilitarisation as a crucial element of the Erdut Agreement and the purpose of UNTAES to achieve a Peaceful Reintegration of the Danube region that ought to maintain its multiethnic population.¹⁹¹

The latter implies the mission's aim to integrate the local Serbs along with the territory.

2.2 THE UNITED NATIONS TRANSITIONAL ADMINISTRATION

¹⁸⁷ *ibid* 84.

¹⁸⁸ United Nations Security Council, 'Resolution 1025 (1995)' (New York, 30 November 1995) S/RES/1025.

¹⁸⁹ *ibid*.

¹⁹⁰ United Nations Security Council, 'Report of the Secretary-General Pursuant to Security Council Resolution 1025 (1995)' (New York, 13 December 1995) S/RES/1028 para 12 <www.un.org/en/ga/search/view_doc.asp?symbol=S/1995/1028> accessed 20 March 2018.

¹⁹¹ *ibid*.

2.2.1 Mandate and legal framework of UNTAES

Per Resolution 1037, the UNSC created the UNTAES on 15 January 1996.¹⁹² Besides emphasising in the resolution that the former Sector East constitutes an integral part of the Croatian state, the UNSC established¹⁹³ the mission under Chapter VII¹⁹⁴ of the Charter of the UN as it determined that the situation in Croatia continue ‘to constitute a threat to international peace and security’.¹⁹⁵ UNTAES was equipped with both a military and a civilian component.

The mandate of the military component consisting of around 5,000 troops was:

- to supervise and facilitate the demilitarisation;
- to monitor the safe and voluntary return of displaced persons and refugees to their home;
- to contribute to maintaining peace and security in the Danube region by being present; and
- to assist otherwise in implementing the Erdut Agreement.

As for the civilian component, the mandate of UNTAES was:

- to establish a temporary police force, including *inter alia* the tasks of defining its size and structure, developing a training programme and overseeing its implementation;
- to undertake tasks that relate to aspects of civil administration respectively the functioning of public services;
- to facilitate the return of refugees;
- to organise elections, including assisting in their conduct, and certifying their results; and
- to undertake other activities described in the report of the UNSG,¹⁹⁶ including *inter alia* in assisting in coordinating plans

¹⁹² UNSC Res 1037 (1996) (n 152).

¹⁹³ Charter of the United Nations (adopted on 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI.

¹⁹⁴ Chapter VII of the Charter of the UN is comprised of arts 39-51. The chapter regulates the action of the UN regarding threats to peace, breaches of the peace and acts of aggression. In case the UNSC considers the maintenance or the restoration of international peace and security, it can invoke Chapter VII, particularly arts 41-42 as its most coercive measures including military action to react to threats to international peace and security.

¹⁹⁵ UNSC Res 1037 (1996) (n 152).

¹⁹⁶ UNSG Report S/RES/1028 (n 190).

for the development and economic reconstruction of the Danube region.¹⁹⁷

UNTAES' further task was to monitor whether the parties to the Erdut Agreement comply with their commitment of respecting the highest standards of human rights and fundamental freedoms and promoting an atmosphere of confidence among the entire local population regardless of their ethnicity. Moreover, UNTAES ought to 'monitor and facilitate the demining of the territory within the Region, and maintain an active public affairs element'.¹⁹⁸

Finally, UNTAES also ought to cooperate with the International Criminal Tribunal for the former Yugoslavia in performing the tribunal's mandate.¹⁹⁹

2.2.2 *Defining the UNTAES peacekeeping mission*²⁰⁰

According to John Taylor Wentges, there are three types of peacekeeping missions: 'classical (consensual, uni-functional, static), wider (consensual, multi-functional, dynamic) and assertive (enforcing, uni-functional, quasi-static)'.²⁰¹

Following Taylor Wentges' assertions, the failures of UN peacekeeping missions in the post-Cold war period contributed to the evolution of international peacekeeping. Taylor Wentges defines this evolution in a broad fashion as 'missions undertaken by the UN, regional arrangements, or ad hoc multinational coalitions normally including a military component and sanctioned impartially by the UN Security Council or General Assembly in order to facilitate peace and development'.²⁰² Consequently, he classifies the UNTAES as consensual,

¹⁹⁷ UNSC Res 1037 (1996) (n 152).

¹⁹⁸ *ibid.*

¹⁹⁹ *ibid.*

²⁰⁰ Due to the limited space in the thesis, this chapter will focus merely on the classification of UNTAES as a peacekeeping mission and will not deal with the development of UN peacekeeping missions in general.

²⁰¹ John Taylor Wentges, 'Force, Function and Phase: Three Dimensions of UN Peacekeeping' (1998) 5(3) *International Peacekeeping* 58-77, 58 <<http://dx.doi.org/10.1080/13533319808413731>> accessed 5 October 2017.

²⁰² John Taylor Wentges, 'Force, Function and Phase: Three Dimensions of UN Peacekeeping' (1998) 5(3) *International Peacekeeping* 58-77, 60 <<http://dx.doi.org/10.1080/13533319808413731>> accessed 5 October 2017.

multi-functional and dynamic, and as a wider peacekeeping mission due to the consent of the parties to the Erdut Agreement.²⁰³

As Jakešević, whose analysis corresponds to Taylor Wentges', explains, this classification is a result of the comprehensiveness of the mandate of UNTAES, which not only provided for a military component of the mission but also included civilian dimensions as the name 'administration' suggests.²⁰⁴ According to Michael W Doyle and Nicholas Sambanis, UNTAES' function were fourfold. It did not only keep the peace but, what is more, it also made, built and enforced peace. In more detail, it facilitated the Erdut Agreement; monitored the demobilisation process and encompassed the resettlement of refugees and supervision of the transitional civilian administration; and monitored the implementation of human rights and local elections, and contributed the enforcement of the Erdut Agreement in case of discrepancies or difficulties during the process.²⁰⁵

Concerning human rights, UNTAES was one of the first UN peacekeeping operations that encompassed specific units specialised in human rights in the 1990s.²⁰⁶

The UNSC authorised UNTAES acting under its most coercive Chapter VII of the UN Charter notwithstanding the consent of both parties to the Erdut Agreement from the outset.²⁰⁷ The consent rested on the fact that the Republic of Croatia and the local Serb leaders of Eastern Slavonia requested the assistance of the UNSC in implementing the Erdut Agreement.²⁰⁸ As Sarah Reichel explains, by invoking Chapter VII for the UNTAES, the international community wanted to avoid problems arising from a change of attitude towards the peacekeeping operation due to, for eg, potential changes in the political climate in

²⁰³ *ibid* 75, 77.

²⁰⁴ Ružica Jakešević, *Hrvatska i mirovne misije Ujedinjenih Nacija* (Politička kultura 2012) 91.

²⁰⁵ Michael W Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton UP 2010) 13ff.

²⁰⁶ Mari Katayanagi, 'UN Peacekeeping and Human Rights' in Jared Genser and Bruno Stagno Ugarte (eds), *The United Nations Security Council in the Age of Human Rights* (1st edn, CUP 2016) 128.

²⁰⁷ In contrast to the consensual approach, there is also the coercive Chapter VII approach of the UNSC to authorise a UN Transitional Administration. Kristen Daglish and Hitoshi Nasu, 'Towards A True Incarnation of the Rule of Law in War-Torn Territories: Centering Peacebuilding in the Will of the People' (2007) 54(1) NILR (Netherlands International Law Review) 81, 92ff <<https://doi.org/10.1017/S0165070X07000812>> accessed 22 March 2018.

²⁰⁸ *ibid* 88.

Croatia.²⁰⁹ Hence, the UNSC preventively avoided risking an abrupt end of UNTAES' mandate and its objectives regardless of having the consent of both contracting parties to the Erdut Agreement.²¹⁰ Reichel further clarifies that the UN usually executes its peacekeeping missions under Chapter VI.²¹¹ As a result, they depend on a continuous consent of the parties involved. Hence, invoking Chapter VII for the implementation of UNTAES represented a novelty. Moreover, this also showed that by giving UNTAES more coercive powers, the UN attempted to avoid another failed peacekeeping operation in Croatia.²¹²

The Erdut Agreement set the contractual and legal basis for the process of the Peaceful Reintegration of the remaining occupied territory.²¹³

What distinguished UNTAES from previous traditional UN peacekeeping missions were the tasks of the mission's civil component, namely, for example, supporting the economic reconstruction of the region, facilitating the return of displaced persons and refugees, enabling the conduction of local elections and monitoring the situation of human rights in the Danube region.²¹⁴

2.2.3 *Conducting the Peaceful Reintegration*

Following the establishment of UNTAES, the US General Jacques Paul Klein was appointed as Transitional Administrator for the Danube region.²¹⁵ The Belgian General Joseph Schorpus assumed the function as commander of the UNTAES military component.²¹⁶ The force

²⁰⁹ Sarah Reichel, 'Transitional Administrations in Former Yugoslavia: A Repetition of Failures or A Necessary Learning Process towards A Universal Peace-Building Tool after Ethno-Political War?' (Berlin 2000) Discussion Papers P 00 - 305, 20 <<https://www.econstor.eu/bitstream/10419/49849/1/320316866.pdf>> accessed 26 March 2018.

²¹⁰ Daghlish and Nasu (n 200) 90ff.

²¹¹ Chapter VI is comprised of arts 33-38 of the Charter of the UN and regulates the peaceful settlement of disputes. Charter of the UN (n 187).

²¹² Reichel (n 209) 20.

²¹³ Siniša Tatalović and Tomislav Lacović, 'Dvadeset godina zaštite nacionalnih manjina u Republici Hrvatskoj' (2011) 27(3) Migracijske i etničke teme 375, 381 <www.ceeol.com/search/article-detail?id=188882> accessed 22 March 2018.

²¹⁴ Ružica Jakešević, 'Mirovne misije Ujedinjenih nacija i rješavanje etničkih sukoba: studija slučaja Istočne Slavonije' (2012) 49(2) Politička misao, 194 <<https://hrcak.srce.hr/84671>> accessed 24 October 2017.

²¹⁵ Vesna Škare Ožbolt and Ivica Vrkić, *Olujni mir: kronologija hrvatske misije mira na Dunavu: Stormy Peace: chronology of the Croatian mission of peace on the Danube* (Narodne Novine 1998) 7.

²¹⁶ Holjevac Tuković, *Proces mirne reintegracije* (n 154) 85.

comprised 4,568 people allocated in various units and battalions. The military component comprised UN military observers, border monitors and civilian police officers who were all unarmed.²¹⁷ As UNTAES was executed under Chapter VII of the UN Charter, the force was enabled to, if necessary, ensure the security and freedom of movement of the UNTAES personnel by taking military action.²¹⁸

The civilian component consisted of 650 people working in several units and dealing with various aspects of administering the reintegration process. As Klein explains:

[t]he Civil Affairs Unit had six field offices, liaison offices to work with the Regional Council (Serb representatives of the region), an economic reconstruction and coordination unit, and a Secretariat for the Joint Implementation Committees (JIC) to oversee the reintegration process. The Office of the Transitional Administrator had public affairs, political and legal affairs units. Supporting these was an Office of the Chief Administrative Officer, which controlled logistics, supply, transport, finance, administration, and health services.²¹⁹

The phases identified as being vital for the civilian component were:

- to gradually reintegrate the region into Croatian structures;
- to create conditions for a successful conduct of elections;
- to prepare the region for the returns of displaced people;
- to establish a human rights monitoring mission that would encompass a mechanism for redress;
- to economically reintegrate and reconstruct the region;
- to gradually reintegrate the region into the Croatian payment system;
- and
- to prepare the region for the time post-UNTAES including the establishment of a monitoring institution.²²⁰

As one can see, the civilian component had a broad base to deal with the identified phases of the civilian reintegration process. The

²¹⁷ Jacques P Klein, 'The United Nations Transitional Administration in Eastern Slavonia (UNTAES)' (2003) 97 Proceedings of the Annual Meeting (American Society of International Law) 205, 205ff <<http://www.jstor.org/stable/25659853>> accessed 23 March 2018.

²¹⁸ Reichel (n 209) 20.

²¹⁹ Klein, 'The UNTAES' (n 217) 206.

²²⁰ *ibid.*

Transitional Administrator was designated a broad range of executive powers, and in this way, the UN enabled the administrator as head of the UNTAES to monitor the local administration and to monitor the overall implementation process of the Erdut Agreement.²²¹

To simplify the governing structure of UNTAES as much as possible, three pillars that mutually supported each other constituted the mission's foundation. The first pillar was the Transitional Administrator, who was also the head of all pillars. The second pillar was the Administration Council. The council was responsible for UNTAES policy. It was composed of representatives from local Croatian and Serb authorities, the Croatian Government, UNTAES Civil Affairs Officers and local minorities. Moreover, representatives of the EU, Russia and the US were a part of the council. Having representatives of the international community on board was crucial to obtain broad political support. The third pillar was the Joint Implementation Committees (JIC). The committees were interrelated and represented the executive mechanism of UNTAES.²²²

Especially in the beginning of the reintegration process, the local authorities were mostly Serbs. For this reason, Klein fostered the cooperation between the local Serb and Croatian leaders by including them in the 13 Joint Implementation Committees. Each JIC had subcommittees that dealt with various aspects of the administrative and civilian reintegration. The JICs were grouped into three subcomponents. The political subcomponent dealt with refugees and displaced persons, elections committees and human rights. The political-administrative subcomponent was comprised of education and culture, health committees and civil administration. Finally, the technical subcomponent encompassed railways, utilities, roads, agriculture and municipal services.²²³

Moreover, due to the multi-disciplinary and cross-sectoral nature of administrative tasks, the JICs were designated 'to monitor the implementation of the agreement, to ensure integration of executive functions, to investigate allegations of violations, to adopt appropriate recommendations, to arbitrate disputes, and to coordinate and interface

²²¹ Reichel (n 209) 19.

²²² *ibid* 18.

²²³ Klein, 'The UNTAES' (n 217) 207.

between sectors'.²²⁴ Klein deemed the inclusion of both Croats and Serbs in working groups in which they would cooperate as crucial for accomplishing UNTAES' objectives.²²⁵

The mandate envisioned the establishment of a Transitional Police Force (TPF), which was established following the demilitarisation of the region.²²⁶ The ethnic composition of the TPFs reflected the region's population before the war. The tasks of the TPF was to enhance law and order for the region's population and its returnees.²²⁷ The establishment and training of a professional neutral and multiethnic police force was considered vital for 'enabling communities to live together'.²²⁸ As Joško Morić, former Assistant to the Minister of Interior²²⁹ recalls, in the beginning, the Croatian TPF officers were the only representatives of the Croatian authorities in the Danube region. As there were many inadequately trained Serb officers, they attended training to be able to apply the Croatian legal system. During this time, the burden of professionalism was on the Croatian police officers who were working with their fellow Serb colleagues in multiethnic teams. Then, the TPFs did not only take care of regular police duties, and they had to 'swallow political dumplings'.²³⁰ Hence, Morić labels the applied strategy for the work of the TPF the 'strategy of common sense'.²³¹ This strategy referred to approaching the return of displaced persons and refugees from both Croat and Serb sides with patience and in an organised, controlled and calm manner to avoid incidents that could have endangered the whole reintegration process. Moreover, the strategy demanded transparent communication to the public about everything what is happening and to convince the people that the TPF was in charge of preventing interethnic conflicts.²³²

²²⁴ Reichel (n 209) 18.

²²⁵ Klein, 'The UNTAES' (n 217) 206.

²²⁶ Reichel (n 209) 18.

²²⁷ *ibid.* 20.

²²⁸ Galbraith, 'Negotiating Peace' (n 156) 129.

²²⁹ Joško Morić, '(Ne)željena reintegracija' (2016) 7(25) *Političke analize* 14, 14 <<https://hrcak.srce.hr/159848>> accessed 24 March 2018.

²³⁰ Joško Morić, 'U potrazi za učvršćivanjem mira u istočnoj Slavoniji' in Dijana Antunović Lazić (ed), *Mirna reintegracija hrvatskog Podunavlja - Zaboravljeni mirovni projekt?* (2015) 17.

²³¹ *ibid.*

²³² *ibid.*

In addition to the TPF, a UN Civilian Police (UNCIVPOL) was deployed in the region. As per UNSC Resolution 1037, UNCIVPOL was in charge of establishing a temporary police force, defining its size and structure, developing a training programme for the TPF including overseeing its implementation and monitoring the treatment of offenders as well as the prison system.²³³ What further differed UNCIVPOL from the TPF was that the UN Civilian Police was unarmed and did not have executive police powers meaning that in contrast to the TPF, UNCIVPOL ‘did not have the power to arrest’.²³⁴

The deployment of the UNTAES force began in February 1996.²³⁵ After the force was fully deployed and thus operational on 20 May 1996, the demilitarisation process started on 21 May 1996 and ended on 21 June 1996.²³⁶ An additional measure to contribute further to the demilitarisation process was the inception of a weapons buy-back programme. The Croatian Government and UNTAES’ military component initiated this programme on 2 October 1996. After the completion of the demilitarisation phase, the operation’s civilian component assumed its designated tasks.²³⁷

One of the mission’s objectives was to contribute to a stabilisation in the former Yugoslavia. To that end, President Tuđman and President Milošević issued a joint declaration at a meeting in Athens, Greece on 7 August 1996, which *inter alia* referred directly to the reintegration process in the Danube Region. A few weeks later on 23 August, the FRY and Croatia signed the ‘Agreement on the Normalization of Relations’.²³⁸ The agreement encompassed the mutual recognition of their international borders and contained points significant for the accomplishment of the Peaceful Reintegration, such as a declaration on a general amnesty for the hostilities committed during the armed conflict except for war crimes.²³⁹

²³³ UNSC Res 1037 (1996) (n 152).

²³⁴ Reichel (n 209) 20.

²³⁵ Holjevac Tuković, *Proces mirne reintegracije* (n 154) 84.

²³⁶ United Nations, ‘United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium - UNTAES: Croatia’ (1997) <https://peacekeeping.un.org/mission/past/untaes_b.htm> accessed 24 March 2018.

²³⁷ Klein, ‘The UNTAES’ (n 217) 206.

²³⁸ Federal Republic of Yugoslavia and Republic of Croatia, ‘Agreement on Normalization of Relations between the Federal Republic of Yugoslavia and the Republic of Croatia’ (New York, 23 August 1996) Annex A/51/318 S/1996/706 <https://peacemaker.un.org/sites/peacemaker.un.org/files/HR%20RS_960823_AgreementNormalizationRelationsYugoslaviaCroatia.pdf> accessed 3 July 2018.

²³⁹ UNTAES (n 236).

The issue of amnesty was an omnipresent topic during the reintegration. Already in the initial phase of the topic, Klein and international diplomats insisted on the adoption of an amnesty law to decrease tensions among the local Serb population and ease the demilitarisation process. Despite the existence of such a law, the Croatian Parliament adopted several laws between May 1996 and September 1997 to adjust the national legislation under the conditions imposed by the international community.²⁴⁰

Also in August 1996, UNTAES created a marketplace for peace, colloquially known as Klein's marketplace, located on one road located between Klisa and Osijek. The market's aim was to create an open-air meeting spot where the region's population would be able to commence and to reunite with their family members. Already by March 1997, around 140,000 persons had participated without any incidents during the organised market days. UNTAES officials interpreted the attendance rate during the market days as a positive sign for a future co-existence between Serbs and Croats in the region.²⁴¹

The UNSC extended the UNTAES mandate through 15 July 1997 per Resolution 1079 on 15 November 1996.²⁴² Later, during the London Conference on 4 December 1996, Klein welcomed the extension of the mandate and recommended to conduct UNTAES for a maximum possible period of 24 months to ensure efficient execution and winding-up.²⁴³ Also in December 1996, President Tuđman visited the Danube region for the first time. During his visit, he *inter alia* called upon Serbs to remain in Croatia and confirmed Croatia's willingness to respect their human rights.²⁴⁴

More than one month after President Tuđman's visit to the Danube region, the Croatian Government published its 'Letter on the Completion of the Peaceful Reintegration under the transitional administration of UNTAES' (Letter of Intent) on 13 January 1997.²⁴⁵

²⁴⁰ Holjevac Tuković, *Proces mirne reintegracije* (n 154) 110ff.

²⁴¹ UNTAES (n 236).

²⁴² United Nations Security Council, 'Resolution 1079 (1996)' (New York, 15 November 1996) S/RES/1079.

²⁴³ UNTAES (n 236).

²⁴⁴ *ibid.*

²⁴⁵ Government of the Republic of Croatia, 'Letter from the Government of the Republic of Croatia on the Completion of the Peaceful Reintegration of The Region under the Transitional Administration' S/1997/27 Annex (The document has been made available by the JCM. New York, 13 January 1997).

The letter contained 12 points with various guarantees referring *inter alia* to the political participation and also cultural and educational autonomy of the Serb ethnicity in the Danube region. Moreover, the Letter of Intent provided a basis for the establishment of the Joint Council of Municipalities (JCM) and the Serb National Council (SNC). The international community considered these guarantees as prerequisites for successful completion of the mandate of UNTAES.²⁴⁶ After transmitting the letter, the UNSC welcomed it and underlined the importance of holding and certificating elections for which the council stressed the responsibility of the Croatian state in meeting its obligations.²⁴⁷

On 20 August 1996, offices for the issuance of Croatian personal documents opened in the region, in which local Serbs were able to obtain the Croatian citizenship, birth certificates and identification documents. By 20 March 1997, the offices had issued over 64,000 identity cards and 88,000 citizenships with both being prerequisites for participating in the forthcoming local elections.²⁴⁸

In this regard, Galbraith connotes the importance of obtaining citizenship and thus the ability to participate in the political decision making as a 'great deal of the Basic Agreement'²⁴⁹ given the aim of the Peaceful Reintegration of reintegrating the region's people along with the territory.

As Jakešević points out, a critical moment of the reintegration was the establishment of a representative and legitimate political administration. Thus, UNTAES had to organise and conduct local elections and needed to generate a voters list for that purpose. Due to the events and migrations in the Danube region, generating such a list was complicated due to many legal and technical issues. Identifying eligible voters was a complex task, as UNTAES had to draw up an updated and valid voters list. The task was complicated because of the migrations of forcibly displaced persons and refugees during the war years. Therefore, identified eligible voters

²⁴⁶ Government of the Republic of Croatia, 'Letter from the Government of the Republic of Croatia on the Completion of the Peaceful Reintegration of The Region under the Transitional Administration' S/1997/27 Annex (The document has been made available by the JCM. New York, 13 January 1997).

²⁴⁷ UNTAES (n 236).

²⁴⁸ *ibid.*

²⁴⁹ Peter W Galbraith, 'Croatian Citizenship and Peaceful Reintegration' (1998) 3(3) Croatian Critical Law Review 263, 264.

were both Serbs who settled in the Danube region but were originally from other parts of former Yugoslavia, as well as Croats and other national minorities who fled the region but had intended to return.²⁵⁰

Hence, according to the assessment of the UN, '[t]he successful holding of municipal and local elections in the region, conducted by UNTAES on 13-14 April 1997, was a historic milestone in the Peaceful Reintegration'.²⁵¹ The assessment further states that the high voter turnout of more than 72,000 voters exceeded all expectations, as possessing the Croatian citizenship documents was a precondition for obtaining the right to vote.²⁵²

Following the elections, the Croatian leadership created a 'State Commission for the Establishment of the Constitutional-Legal Order of the Republic of Croatia in the Areas of Osijek-Baranja and Vukovar-Sirmium Counties Which Are Currently under the Administration of UNTAES' with the Minister for Development and Reconstruction as head of the commission. The objective of the commission was to oversee and coordinate the work of public authorities concerning the Peaceful Reintegration in cooperation with UNTAES.²⁵³

In June 1997, the Transitional Administrator presented his developed two-phase strategy for the completion of the reintegration and the withdrawal of UNTAES from the Danube region. A prerequisite for the successful completion of the strategy and the UNTAES was Croatia's full cooperation for bearing the responsibility to convince the region's population of the irreversibility of the reconciliation process and the sustainability of the reintegration.

The UNSC extended UNTAES' mandate in Resolution 1120²⁵⁴ until 15 January 1998 and endorsed its plan for drawing down the mission's military component on 11 July 1997. On 1 August 1997, William Walker was appointed as Klein's successor in taking over the function as Transitional Administrator.²⁵⁵

²⁵⁰ Jakešević, 'Mirovne misije' (n 214) 194.

²⁵¹ UNTAES (n 236).

²⁵² United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, 'Letter of Agreement Between the Ministry of Education and Sport and the UNTAES Regional Educational System' (The document has been made available by the JCM. Vukovar 7 August 1997).

²⁵³ UNTAES (n 236).

²⁵⁴ United Nations Security Council, 'Resolution 1120 (1997)' (New York, 14 July 1997) S/RES/1120.

²⁵⁵ UNTAES (n 236).

The UNSC expressed its concern regarding the insufficient progress by the Croatian Government in meeting its obligations for successful reintegration of the Serb national minority in mid-September 1997. Following this statement, Walker met President Tuđman on 22 October 1997, who in turn affirmed Croatia's intention to take all necessary steps for accomplishing a permanent reconciliation and co-existence with Serbs in Croatia in the period after the termination of UNTAES.²⁵⁶

The Peaceful Reintegration was a product of the coordinated effort of UN agencies as well as local, regional and national organisations and NGOs. The cooperating organisations and agencies were the United Nations High Commissioner for Refugees (UNHCR), United Nations Commission for Human Rights, World Food Programme, World Health Organization, United Nations Children Fund, Multinational Implementation Force, Organization for Security and Cooperation in Europe, International Committee of the Red Cross, International Organization for Migration and many local and regional NGOs.²⁵⁷ All the groups contributed to assisting the humanitarian aid coordination and addressing the human rights challenges, including severe violations of human rights.

In 1997, Croatia signed the CoE Framework Convention for the Protection of National Minorities (Framework Convention) in 1997, shortly before it came into effect on 1 February 1998 when it reached the minimum amount of ratifications necessary for its entry into force.²⁵⁸ Notably, the Framework Convention does not provide for a definition of what a national minority is due to a lack of consensus among the member states of the CoE. Thus, the CoE leaves defining a national minority to the margin of appreciation of the contracting party.²⁵⁹ The Framework Convention entails a string of rights and freedoms vital for the protection and preservation of national minorities. By signing the Framework Convention, the states commit to comply with the enlisted string of rights and freedoms.²⁶⁰

²⁵⁶ UNTAES (n 236).

²⁵⁷ *ibid.*

²⁵⁸ Mario Vinković, 'Nacionalne manjine i europske integracije - Hrvatska i njezino približavanje "Europski regija"' (2001) 17(3-4) *Pravni vjesnik* 231, 238ff.

²⁵⁹ Secretariat of the Framework Convention for the Protection of National Minorities, 'Factsheet on the Framework Convention for the Protection of National Minorities: National Minorities' (October 2016) <www.coe.int/en/web/minorities/fcnm-factsheet> accessed 1 July 2018.

²⁶⁰ Vinković (n 258) 238f.

In the same year, Croatia also signed and ratified the European Charter for Regional or Minority Languages (European Charter). Along with the Framework Convention, the European Charter represents CoE's framework for the protection of national minorities.²⁶¹

Mostly, the reintegration process progressed steadily and terminated as envisaged on 15 January 1998. When recalling the initial period of UNTAES, Klein describes it as arduous due to the persisting difficulties both parties had with each other. After Klein saw no significant progress in the overall process, he decided to change his managing style to handle the reintegration more efficiently in autumn 1996. What followed was an evaluation of the previous work of the Joint Implementation Committees.

According to Klein, the next step was to identify priorities and issues that hampered the reintegration. The identified issues were territorial integrity, lack of political guidance from both sides, and employment security. In this regard he describes that the:

recurring theme was that political reintegration issues were always sidestepped due to one side or the other deferring to its political masters. Another issue was employment security for the region's population. All JICs put this as the priority. Territorial integrity was an issue the Serb delegates insisted be addressed at the highest political level. Two of the three issues were dealt with immediately ... The issue of territorial integrity required a policy statement by the Croatian government and a sense of reality had to return to the Serb delegation: The chance of the Serbs having their own strictly defined homogenous area was remote; after frank discussions this was accepted. For employment security, it was recommended that a policy be clearly defined and presented to both parties. It was recognized that a set policy for definite numbers of workers could be realistically achieved. Coupled with this was the hope that the economic development program would be underway throughout Croatia, so that workers phased out could be trained for employment in other private or public sector-positions. The linkage between economic development and investment and employment security could not be overlooked. This is where innovation and opportunity came to the forefront.²⁶²

²⁶¹ Council of Europe, 'Chart of Signatures and Ratifications of Treaty 148: European Charter for Regional or Minority Languages' (Status as of 21/06/2018, Strasbourg) <www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures> accessed 21 June 2018.

²⁶² Klein, 'The UNTAES' (n 217) 207.

Hence, clarifying and defining policies solved the issues of territorial integrity and lack of political guidance from both sides. The issue of employment security was solved through a written confirmation of guarantees that the region's public employees would retain their employment status once reintegrated into the Croatian state. Regardless of some resistance of the Croatian authorities about signing a declaration comprising employment security guarantees, the written confirmation of guarantees, the Affidavit of Employment Rights, was signed in mid-December 1996.²⁶³ The next step toward the realisation of the Affidavit's guarantees was the drawing-up of an additional Annex. This Annex contained eight points providing for *inter alia* regulation of pensions, the credit period for the retirement pension, continuation of employment, work contracts and re-education. This Annex was signed in mid-February 1997 and, according to Klein, 'opened the way to total reintegration',²⁶⁴ as the Affidavit and the Annex provided for ensuring the employment of the region's workers in the public sector in case they were qualified for their positions.²⁶⁵

Klein claims that UNTAES organised a public information campaign to inform the local population about the meaning and enforceability of these international agreements. As Klein further writes, 'Croatian authorities attended meetings between workers and UNTAES to state publicly that Croatia would honor its international agreements'.²⁶⁶ By using a method to effectuate the qualification of workers through combining the issue with the reintegration of the education sector, UNTAES achieved a declaration on educational rights by convincing the Croatian Government to issue a guarantee to the region's students 'that they would be able to continue their studies and that the certificates they acquired would be recognized'.²⁶⁷ He further clarifies that:

[t]he agreement reached was that certificates issued in schools of the region during the period 1991-1997 would to be validated, recognized, and replaced by Croatian certificates. This agreement, as the next logical step, stated that, because the Croatian government recognized these educational certificates, those working in public institutions and enterprises who held them could not be released on the pretext that they

²⁶³ Klein, 'The UNTAES' (n 217) 207ff.

²⁶⁴ *ibid* 208.

²⁶⁵ *ibid* 208ff.

²⁶⁶ *ibid* 208.

²⁶⁷ *ibid*.

were not academically qualified. Two issues were thus put to rest. The government of Croatia met its obligations and provided work contracts to over 5,300 people. To this day [the year 2003] well over 4,900 are still employed; the rest have either left voluntarily or retired.²⁶⁸

In July 1997, the reintegration of all public enterprises, including pension rights, was terminated. One month later, the education and health sector followed.²⁶⁹

However, the international community represented by the UN kept on addressing Croatia's efforts concerning the situation of human rights and on the importance of initiating a national reconciliation process to achieve a more comprehensive and sustainable reintegration.²⁷⁰ In the focus of addressing human rights issues were the conditions under which the Serb population in Croatia was living. More in detail, the UNSC expressed its concern regarding the governmental efforts, which it perceived as too unsatisfactory concerning the improvement of the status, personal and economic living conditions of the local Serb community and refugees and displaced persons.²⁷¹ In her report²⁷² on the Republic of Croatia of 1997, the Special Rapporteur of the Commission on Human Rights, Elisabeth Rehn, included concrete examples with regard to the human rights issues:

For example, in a return movement organized by the Office of the UNHCR and UNTAES at the end of March 1997, approximately 25-30 Croatian Serbs returned from the region of Eastern Slavonia to their homes in the village of Krbavica, former Sector South. As of August 1997, they still lacked basic needs such as electricity and running water. Destroyed houses in Western Slavonia are being reconstructed, with some discrepancies among beneficiaries: in general, priority has been given to ethnic Croats.²⁷³

²⁶⁸ Klein, 'The UNTAES' (n 217) 208.

²⁶⁹ *ibid.*

²⁷⁰ UNTAES (n 236). See also United Nations, *Yearbook of the United Nations 1997* (Martinus Nijhoff Publishers 2000) 323ff.

²⁷¹ UNTAES (n 236).

²⁷² United Nations Economic and Social Council, 'Report on the Situation of Human Rights in the Republic of Croatia Submitted by Ms. Elisabeth Rehn, Special Rapporteur: Republic of Croatia' (Pursuant to Commission Resolution 1997/57, New York 31 October 1997) E/CN.4/1998/14 <<http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/1998/14&Lang=E>> accessed 13 July 2018.

²⁷³ *ibid* para 28.

About incidents affecting Serb returnees to Croatia, Special Rapporteur Rehn mentions the example of an incident that occurred in former Sector North in late February 1997, when:

some 100-150 Croats from Bosnia and Herzegovina gathered to demonstrate following a rumour of the arrival of several bus-loads of Croatian Serb returnees. The demonstration was followed by bomb attacks and anti-Serb graffiti, such as 'Death to the Serbs' and 'Serbs Out', on at least 11 buildings.²⁷⁴

To show its willingness to improve the human rights situation and foster the reconciliation process, the Croatian Government submitted 'the text of its Programme for the Establishment of Trust, Accelerated Return, and Normalization of Living Conditions in the War-affected Regions of the Republic of Croatia'²⁷⁵ (National Programme for Reconciliation) to the President of the UNSC on 3 October 1997. According to the UN, the objectives of the National Programme for Reconciliation objectives were:

- establishing a climate of security and tolerance within the society;
- realising administrative equality of citizens;
- establishing trust among the society;
- normalising life through creating basic social, political, security and economic conditions;
- ensuring a swift return of displaced persons to their homes;
- including all citizens in the process of building a democratic society; and
- creating a political framework for the implementation of legal norms.²⁷⁶

President Tuđman institutionalised the programme by founding the multiethnic National Committee for the Establishment of Trust, Accelerated Return, and Normalization of Living Conditions in the War-affected Regions of the Republic of Croatia (National Committee for Reconciliation).²⁷⁷

²⁷⁴ United Nations Economic and Social Council, 'Report on the Situation of Human Rights in the Republic of Croatia Submitted by Ms. Elisabeth Rehn, Special Rapporteur: Republic of Croatia' (Pursuant to Commission Resolution 1997/57, New York 31 October 1997) E/CN.4/1998/14 para 51. <<http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/1998/14&Lang=E>> accessed 13 July 2018.

²⁷⁵ United Nations, *UN Yearbook 1997* (n 270) 329.

²⁷⁶ *ibid.*

²⁷⁷ Odluka o osnivanju nacionalnog odbora za ostvarivanje programa uspostave povjerenja, ubrzanog

The task of this committee was to monitor the implementation and realisation of the programme, while cities, municipalities and counties ought to form their local reconciliation committees to more effectively monitor the implementation of the programme in their areas. 'By December [1997], two thirds of the local reconciliation committees had been established.'²⁷⁸ The reconciliation programme aimed to address various spheres of public life such as politics, judiciary, administration, internal affairs, economy, society, culture, education, reconstruction and return, and the media. The existence of this National Committee for Reconciliation showed that attempts for pursuing the Peaceful Reintegration by working on reconciliation for the whole Croatian society existed at the governmental level. In this context, David Bloomfield, Teresa Barnes and Luc Huyse define 'reconciliation after sustained and widespread violent conflict'²⁷⁹ as 'a process through which a society moves from a divided past to a shared future.'²⁸⁰ This definition implies that reconciliation needs to be carried out in a long-term way, over the course of several years.

The leadership of the board was assumed by Vesna Škare Ožbolt (Head of the Office of the President of the Republic of Croatia) as president and Ivica Vrkić and Dr Vojislav Stanimirović as her deputies. Moreover, the board comprised the following members of Serb and Croatian ethnicity: Dubravko Jelčić, Martin Katičić, Milorad Pupovac, Sandor Jakob, Mato Šimić, Joško Morić, Mirko Tankosić, Ivan Krstanović and Lovre Pejković.²⁸¹

The members of the National Committee for Reconciliation either were members of the parliament or performed leading functions in state agencies dealing with the issues enlisted in the National Programme for Reconciliation.²⁸²

The UNTAES mandate terminated on 15 January 1998. On that day, the remaining peacekeeping forces, which had been gradually scaled down in the months before the conclusion of UNTAES, withdrew and the Croatian Government assumed the overall control of the territory.²⁸³

povratka i normalizacije života na ratom stradanim područjima Republike Hrvatske, NN 107/97.

²⁷⁸ United Nations, *UN Yearbook 1997* (n 270) 313.

²⁷⁹ David Bloomfield, Teresa Barnes and Luc Huyse, *Reconciliation after Violent Conflict: A Handbook* (International Institute for Democracy and Electoral Assistance 2003) 12.

²⁸⁰ *ibid.*

²⁸¹ Odluka o osnivanju nacionalnog odbora (n 277).

²⁸² *ibid.*

²⁸³ Ivan Šimonović and Ivan Nimac, 'UNTAES: A Case Study' (1999) 5(14) *Croatian*

Regarding conducting the UNTAES, Klein identifies two approaches that were used to accomplish the mission: '[t]he first was social and economic security; the second was a Croatian letter of intent that guaranteed the political rights of the Serb population in the region'.²⁸⁴

It is noteworthy that it was not only the international community who were responsible for the accomplishment of the Peaceful Reintegration. What is more, UNTAES' mandate was fulfilled due to the cooperation and participation of the Croats and local Serbs. As Morić stresses in this context, 'Not Klein reintegrated us, we reintegrated us ourselves, not Brussels is going to reintegrate us, we are either going integrate us ourselves or we are not going to integrate us at all'.²⁸⁵

International Relations Review 5, 8 <<https://hrcak.srce.hr/7145>> accessed 24 March 2018.

²⁸⁴ Klein, 'The UNTAES' (n 217) 209.

²⁸⁵ Joško Morić, 'U potrazi za učvršćivanjem mira u istočnoj Slavoniji' in Dijana Antunović Lazić (ed), *Mirna reintegracija hrvatskog Podunavlja - Zaboravljeni mirovni projekt?* (2015) 17.

3.

CROATIA AFTER UNTAES

After the completion of the UNTAES mandate and the Peaceful Reintegration of Eastern Slavonia, Baranja and Western Sirmium, the support of the international community was minimised. The following section seeks to illuminate how Croatia handled the transition of the reintegrated territory, once the scrutiny of the international community decreased to a minimum in the years after the UNTAES, throughout the EU integration process, when Croatia again was under scrutiny due to the accession process to the EU. Finally, the section will describe the processes and developments since Croatia's EU accession on 1 July 2013 until today.

Aside from the reintegration process encompassing reintegrating the territory, at least nominally, it included the reintegration of the people of Serb ethnicity as a recognised national minority. Thus, the subsequent portrayal will focus mainly on the political and legal development and treatment of Serbs as a national minority – especially those living in the former Sector East.

3.1 BETWEEN THEN AND NOW: THE SITUATION OF THE SERB NATIONAL MINORITY AFTER THE PEACEFUL REINTEGRATION

3.1.1 *The situation after UNTAES until 2000*

Following the termination of UNTAES, the UNSC established the UN Police Support Group (UNPSG) per Resolution 1145²⁸⁶ on 19 December 1997. The mandate of the UNPSG came into effect on 16 January 1998.²⁸⁷ According to Ivan Šimonović and Ivan Nimac, the objective of the UNPSG was to monitor the work of the police in the Danube region, especially concerning the returns of displaced persons.²⁸⁸ Souren Seraydarian of the Syrian Arab Republic, Representative of the UNSG and head of the UN Liaison Office in Zagreb, assumed the leadership of the UNPSG. With the help of UNPSG, the performance of the police improved. The Croatian Government also supported this process. In this context, the Croatian Parliament adopted a 'Programme for the Return and Accommodation of Displaced Persons, Refugees and Exiled Persons' on 26 June 1998. Notwithstanding the programme, returns to Croatia were somewhat slow. The mandate of the UNPSG ended on 15 October 1997. As follow up, OSCE took over its responsibilities on 16 October 1998. The mandate of the OSCE mission was similar to the mandate of UNPSG.²⁸⁹ Noteworthy, the OSCE mission's mandate also encompassed the monitoring of whether the Croatian Government complied with human rights.²⁹⁰ The OSCE Police Monitoring Group mission ended on 31 October 2000 following an assessment by the OSCE's Permanent Council that the security situation in the reintegrated territory was stable.²⁹¹

²⁸⁶ United Nations Security Council, 'Resolution 1145 (1997)' (New York, 19 December 1997) S/RES/1145.

²⁸⁷ *ibid.*

²⁸⁸ Ivan Šimonović and Ivan Nimac, 'UNTAES: A Case Study' (1999) 5(14) *Croatian International Relations Review* 5, 9 <<https://hrcak.srce.hr/7145>> accessed 24 March 2018.

²⁸⁹ *ibid.*

²⁹⁰ Sarah Reichel, 'Transitional Administrations in Former Yugoslavia: A Repetition of Failures or A Necessary Learning Process towards A Universal Peace-Building Tool after Ethno-Political War?' (Berlin 2000) Discussion Papers P 00 - 305, 37 <<https://www.econstor.eu/bitstream/10419/49849/1/320316866.pdf>> accessed 26 March 2018.

²⁹¹ Organization for Security and Co-operation in Europe, 'Survey of OSCE Field Operations' (Vienna 2017) 65 <www.osce.org/cpc/74783?download=true> accessed 26 March 2018.

The end of UNTAES also heralded the next step towards integrated communities by representing the beginning of the return of refugees and forcibly displaced persons, mainly Croats but also people of other ethnicities, into their homes in the reintegrated Danube region.

This next step was necessary for those who were integrated, as they contributed to the success of the mission by staying in their homes. Overall, it seemed that the reintegration was successfully terminated as the mission fulfilled its mandate. One can conclude that the vision of those initiating, negotiating and conducting the mission was to create a surrounding in which people will be able to live together as communities, regardless of their ethnicity. This observation is deduced from the content and conduct of the Peaceful Reintegration. For example, the mission contained a human rights dimension, working groups consisted of Serbs and Croats members, and the Republic of Croatia stated that it wanted the Danube region's population to stay. The logic of following the path of reconciliation thus would have required the authorities to create a psychosocial support system, which could have supported the war-torn communities in the Danube region in the processes of healing, reconciliation, and reconstruction. Besides, such an institutionalised system would have underlined the officially stated will to endorse and to ensure human rights and rights of national minorities by creating an atmosphere in which those rights could have flourished in a meaningful fashion. However, such an institutionalised follow-up for enabling co-existence and fostering reconciliation was missing.

After the withdrawal of UNTAES, the people in the region were left alone without any adequate support mechanism that would foster and support the life between Croats and Serbs. Noteworthy, some newly founded NGOs at that time did their best to compensate for this lack of support.²⁹² One example is *inter alia* the project 'Building a Democratic Society Based on the culture of Nonviolence – the Post war Peace Building in Eastern Croatia', which was initiated by the Centre for Peace, Nonviolence and Human Rights from Osijek, and the Life and Peace Institute from Uppsala. As Kruhonja explains, the objective of this project was actually the same as the one of the National Programme for Reconciliation initiated by President Tuđman a couple of months

²⁹² Gordan Bosanac, 'Mirna reintegracija kao moguća okosnica hrvatske vanjske politike u vezi s izgradnjom mira' (2016) 7(25) Političke analize 9, 10 <<https://hrcak.srce.hr/159836>> accessed 24 March 2018.

prior to the conclusion of the reintegration. However, the commission installed to implement the programme existed but never carried out all of its envisioned tasks such as fostering reconciliation.²⁹³ For me, this creates the impression that the National Programme for Reconciliation was initiated largely to satisfy the requirements imposed on Croatia by the international community. Moreover, it can serve as indicator for the unwillingness of the Croatian leadership to foster the reconciliation of the population.²⁹⁴

Thus, the NGO-initiated project aimed at overcoming the lack of systematic support in restoring trust, preventing interethnic conflicts and, by doing so, encouraging the process of reconciliation. The conceptualisation of the project started during the transitional administration, which in turn classified the initiation of the project as valuable. Notwithstanding, this classification did not contribute to engage in the project financially nor to encourage the Croatian Government to incorporate this project into its National Programme for Reconciliation.²⁹⁵

That a follow-up as regards reconciliation was not on the government's list with main priorities is also suggested by the documented observations of the UN. The *UN Yearbook of 1998* notes the following:

Regarding the situation in the Danube region, since the termination of UNTAES, the Government of Croatia had met the majority of its obligations concerning the provision of public services and employment within the public sector. However, almost no progress had been achieved in reconciliation since January. At the national level, the programme continued to be pursued within the framework of the National Committee for the Establishment of Trust, but that was not evident at the municipal level throughout Croatia. In many instances, local authorities viewed

²⁹³ Katarina Kruhonja, 'Poslijeratna izgradnja mira u istočnoj Hrvatskoj - mirovni timovi kao privremena mirovna struktura// Post war Peace Building in Eastern Croatia - Peace teams as an interim peace structure' in Lana Vego (ed), *Preporuke za sigurnosnu politiku EU temeljem iskustva izgradnje mira država nastalih dezintegracijom Jugoslavije// Recommendations for EU security policy based on peace building experience from countries formed by the disintegration of Yugoslavia* (Centar za mirovne studije 2010) 69.

²⁹⁴ I came to this conclusion as I was not able to find any official documents, reports or information pertaining to the work of the National Committee for Reconciliation. The National Committee for Reconciliation ceased to exist in 2000. Digitalni informacijsko-dokumentacijski ured Vlade Republike Hrvatske, 'Nacionalni odbor za ostvarivanje programa uspostave povjerenja, ubrzanog povratka i normalizacije života na ratom stradalim područjima Republike Hrvatske' <http://digured.srce.hr/webpac-hidra-imnt/?rm=results&show_full=1&f=IDbib&v=IT039816&filter=hidra-imnt> accessed 13 June 2018.

²⁹⁵ Kruhonja (n 293) 69.

reconciliation committees as a mechanism for solving problems related to returning Croat displaced persons rather than for re-establishing confidence between ethnic communities. In some areas of Serb return, reconciliation committees had not been formed.²⁹⁶

Likewise, the UNSG observed that there had been some progress after 15 January 1998, but that this progress was insufficient. Moreover, he noted that some:

core issues remained unsolved, including the abolition of discriminatory property laws and the establishment of effective property recovery mechanisms. The Government still had to adopt a comprehensive nationwide programme for returns and to develop a balanced reconstruction plan. A wide gap continued to exist between commitments reconfirmed at the highest official level and implementation at lower levels. Those factors combined to produce a perception among the local Serb population that they had no future in Croatia.²⁹⁷

Undoubtedly, the burden was on Croatia to pursue the realisation of the UNTAES's long-term objectives: fostering reconciliation and building a multicultural society by preserving Croatia's, and particularly eastern Slavonia's, multiethnic character. By pursuing these objectives, Croatia needed to show its credibility as to whether it was willing and able to integrate and accept its Serb population. Showing the will of accepting the Serb people in Croatia was crucial in the context of the country's aspiration to become a part of the Western and Euro-Atlantic world. Hence, according to Šimunović, after political pressure by the OSCE, the Croatian Government repealed a discriminatory decree on state-owned housing in the Danube region, which the Serbs claimed it had discriminated against them in February 1998.²⁹⁸ The effectiveness of political pressure showed that the international community was able to influence Croatia's policy to a certain extent.

With the reintegration of the Danube region into the Croatian state, the war was definitely over. As the war was closely related to the independence of Croatia, President Tuđman himself contributed

²⁹⁶ United Nations, *Yearbook of the United Nations 1998* (Martinus Nijhoff Publishers 2001) 353.

²⁹⁷ *ibid.*

²⁹⁸ Pjer Šimunović, 'A Framework for Success: Contextual Factors in the UNTAES Operation in Eastern Slavonia' (1999) 6(1) *International Peacekeeping* 126, 130 <<https://doi.org/10.1080/13533319908413760>> accessed 22 March 2018.

to labelling the war as the ‘Homeland war’ to create a feeling of unity among Croats. However, instead of entering a phase of democratisation, Croatia entered into a phase of institutionalisation of the war.²⁹⁹ As Goldstein claims, the connection between the HDZ and the unsatisfying level of democratisation is shown by the fact that after HDZ lost the elections in 2000, Croatia entered a phase of positive change in terms of democratisation.³⁰⁰

3.1.2 Croatia’s accession negotiations with the European Union

The year 2000 marked not only the beginning of a new millennium, but also a year of critical elections³⁰¹ in Croatia. After President Tuđman’s death in December 1999, both the parliamentary and the presidential elections were performed in the first quarter of 2000. HDZ lost in both elections and more progressive and more democratic parties and politicians came to power.³⁰²

This political change opened the way for refocusing national policy and priorities and enhanced a democratisation process, with the latter paving the way towards stronger protection of minorities’ rights. The newly elected government improved, democratised and readjusted the Croatian Constitution, particularly in the field of protection of minority rights. The reason for this is that in 2000, article 15 of the Croatian Constitution was changed which improved the legal protection of national minorities.

The added part reads as follows:

Equality and protection of the rights of national minorities shall be regulated by a constitutional act to be enacted under the procedure stipulated for organic law. Over and above general suffrage, the right of the members of national minorities to elect their representatives to the Croatian Parliament may be stipulated by law.³⁰³

²⁹⁹ Ivo Goldstein, *Dvadeset godina samostalne Hrvatske* (Novi Liber 2010) 206. *ibid* 82ff.

³⁰⁰ *ibid* 206.

³⁰¹ Siniša Tatalović and Tomislav Lacović, ‘Dvadeset godina zaštite nacionalnih manjina u Republici Hrvatskoj’ (2011) 27(3) *Migracijske i etničke teme* 375, 382 <www.cceol.com/search/article-detail?id=188882> accessed 22 March 2018.

³⁰² *ibid*.

³⁰³ *Promjena Ustava Republike Hrvatske*, NN 113/00, art 7. See also *Ustav Republike Hrvatske*, NN 56/90, 135/97, 8/98, 113/00, 124/00, art 15.

This formal protection was additionally implemented with corresponding legislative acts, namely the Act on the Use of Language and Script of National Minorities of the Republic of Croatia³⁰⁴ and the Act on Education in the Language and Script of National Minorities³⁰⁵ (Act on Education of Minorities). These two acts contributed to the improvement of cultural autonomy of national minorities living in Croatia by specifying the rights related thereto.

During the beginning of the talks between Croatia and the EU in November 2000, Croatia committed itself to adopting a new Constitutional Act on the Rights of National Minorities (Constitutional Act on Minorities) by signing the Stabilisation and Association Agreement as part of the EU Stabilisation and Association Process. The Croatian Parliament adopted the Constitutional Act on Minorities in 2002.³⁰⁶ Since then, the Act serves along with the Croatian Constitution as legal foundation for the current legal protection system of national minorities in Croatia.³⁰⁷

The Stabilisation and Accession Agreement, signed on 29 October 2001, was an essential international contract for the improvement of rights of national minorities and particularly the Serb national minority. By signing the agreement, Croatia committed itself to ensure the right to return for all refugees and displaced persons and to protect their rights. In 2001, the published census showed the radical change of population, which can also be described as homogenisation. Namely, compared to the census of 1991, the census of 2001 revealed that in these ten years around 380,000 citizens of Serb ethnicity or around 8% of the overall population 'disappeared' from Croatia.³⁰⁸ Additionally, the overall population was reduced by around 207,600 citizens of other ethnicities. Overall, the percentage of national minorities in Croatia decreased from around 22% in 1991 to around 10.4% in 2001.³⁰⁹

³⁰⁴ Zakon o uporabi jezika i pisma nacionalnih manjina u Republici Hrvatskoj, NN 51/00, 56/00.

³⁰⁵ Zakon o odgoju i obrazovanju na jeziku i pismu nacionalnih manjina (ZOOJPNM), NN 51/00, 56/00.

³⁰⁶ Ustavni zakon o pravima nacionalnih manjina, NN 155/02.

³⁰⁷ Tatalović and Ljčović (n 301) 382.

³⁰⁸ Nikola Bajto, 'Šterc ljudima' *Novosti* (3 March 2018) <www.portalnovosti.com/sterc-ljudima> accessed 3 March 2018.

³⁰⁹ Državni zavod za statistiku (DZS), 'Population by Ethnicity, 1971 - 2011 Census' (2011) <www.dzs.hr/Eng/censuses/census2011/results/htm/usp_03_EN.htm> accessed 22 March 2018.

On 21 February 2003, Croatia officially applied for EU membership. Following the procedure, Croatia was given the status as a candidate country for accession to the EU on 16 June 2004.³¹⁰ On 3 October 2005, Croatia began to officially negotiate its accession with the EU. On this day, the EU started its screening programme concerning Croatia's compliance with EU legislation. During the accession negotiations, Croatia was under constant scrutiny by the EU. The accession negotiations formally terminated on 30 June 2011 when all of the 35 negotiation chapters were closed.³¹¹ One of these chapters, Chapter 23 concerning judiciary and fundamental rights, was of practical relevance for the Serbs as a national minority as it encompassed the rights of national minorities in Croatia. Chapter 23 was negotiated from 2010 to 2011. In the document concerning the EU's common position as regards Chapter 23, issued on 29 June 2011, the EU invited 'Croatia to continue to work to improve the situation as regards human rights in particular as regards non-discrimination, procedural safeguards, rights of persons belonging to minorities and cultural rights ... as well as to take measures against racism and xenophobia.'³¹²

About respect for and protection of minorities and cultural rights, the document referred *inter alia* in particular to the Serb national minority whose protection ought to be improved further as this group was facing particular challenges according to the EU. In addition, the EU called upon Croatia to improve the implementation of the Constitutional Act on Minorities of 2002 as it detected insufficient representation of Serbs in the judiciary, the police and in state administration. Besides, Croatia was invited to tackle discrimination of its ethnic minorities more broadly and to focus on the access to social rights for people belonging to national minorities. The document further stressed 'the importance of settling outstanding refugee issues arising from the conflict in the 1990s'.³¹³

³¹⁰ European Commission, 'Statement of the European Commission: Opinion on Croatia's Application for EU Membership' (COM (2004) 257, Brussels 2004), 4 <https://www.esiweb.org/pdf/croatia_croatia_opinion_2004.pdf> accessed 15 April 2018.

³¹¹ Ministarstvo vanjskih i europskih poslova, 'Hrvatska i Europska unija' <www.mvep.hr/hr/hrvatska-i-europska-unija/pregovori/> accessed 19 June 2018.

³¹² European Union, 'European Union Common Position: Chapter 23 - Judiciary and Fundamental Rights' (Conference on Accession to the European Union - Croatia, Brussels 29 June 2011) AD 29/11 <www.mvep.hr/custompages/static/hrv/files/pregovori/ZSEUEN/23.pdf> accessed 19 June 2018.

³¹³ *ibid* 18.

To deal with this issue, Croatia ought to improve its efforts to enhance the refugee return process by *inter alia* providing and settling issues concerning accommodation and property rights and ‘continually improving the climate for the social and economic reintegration of returnees’.³¹⁴ Finally, the EU called upon Croatia:

to implement measures to increase tolerance in society and reconciliation between ethnic groups. In particular, Croatia should continue to encourage a spirit of tolerance towards the Serb minority and take appropriate measures to protect those who may still be subject to threats or acts of discrimination, hostility, or violence. Croatia should continue to undertake measures against racism and xenophobia, including through education and reviewing the role of schooling, raising awareness of the general public, the media, and adequate response at the political and law enforcement level to racist incidents.³¹⁵

What can be concluded from this document issued on the closure of Chapter 23 is that the challenges national minorities, and here in particular Serbs, faced in Croatia by 2011 are reminiscent of *inter alia* the UNSG’s reports following the termination of the UNTAES. Notwithstanding the fact that the EU detected issues of Croatian Serbs in 2011 similar to those existing in 1998, Croatia became a full-fledged member of the EU on 1 July 2013.

3.1.3 *The phase after the EU accession of Croatia*

Following Croatia’s accession to the EU on 1 July 2013, there has been a noticeable rise in violence, hate speech and intolerance directed against the Serb national minority.³¹⁶ The reasons for this trend are *inter alia* that due to the accession, Croatia as a full member was no longer under heavy scrutiny by EU institutions that monitored the country’s compliance in fulfilling the requirements as regards the accession. The trend arose in a changed socio-political context that became more radical

³¹⁴ European Union, ‘European Union Common Position: Chapter 23 - Judiciary and Fundamental Rights’ (Conference on Accession to the European Union - Croatia, Brussels 29 June 2011) AD 29/11, 18 <www.mvcp.hr/custompages/static/hrv/files/pregovori/ZSEUEN/23.pdf> accessed 19 June 2018.

³¹⁵ *ibid* 19.

³¹⁶ See for example European Commission against Racism and Intolerance, ‘ECRI Report on Croatia: Fifth Monitoring Cycle’ (Strasbourg, 15 May 2018) <www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Croatia/HRV-CbC-V-2018-017-ENG.pdf> accessed 20 June 2018.

and was marked by right-wing extremism and historical revisionism.³¹⁷ An event that particularly contributed to the anti-Serb sentiment among the Croatian society was the decision of the then Croatian Government to fully implement the Act on the Use of Language. The act *inter alia* prescribes the equal use of the language of the ethnic minority in communities in which the national minority constitutes at least one-third of the overall population. As this was the case in Vukovar,³¹⁸ the government set up bilingual plaques on public institutions in Vukovar in the beginning of 2013. Subsequently, the veteran association 'Headquarter for Defense of Croatian Vukovar' openly protested initially against these bilingual plaques and later against the rights of the Serb national minority. The protests contributed to a rise of hate speech and ethnic violence among the public including the media.³¹⁹

According to Tamara Opačić, the negative trend was additionally fuelled by the presidential and governmental election campaigns of the HDZ in 2014 and 2015 respectively, which used nationalist propaganda to mobilise its voters.³²⁰

The next level of escalation of historical revisionism, hate speech and violence against Serbs was when the so-called 'Patriotic coalition', consisting of right-wing parties including the HDZ, formed a new government in the beginning of 2016. With the nationalist Patriot coalition's assumption of power, the society became subject to a neo-conservative reform. In that time, hate speech in the public sphere, especially targeted against anti-fascists and Serbs, increased. Following a scandal that involved a high-ranking government politician, the parliament voted the Patriot coalition out of office by delivering a vote of no-confidence. The HDZ again led the government that succeeded the Patriot coalition. As Opačić explains, the new head of both the Croatian Government and HDZ, Andrej Plenković, principally committed himself to combating the more radical right wing of the HDZ. However, according to her, the new government pursued its policy of combating all forms of totalitarianism, which was equal to offsetting the fascist NDH regime with Socialist Yugoslavia, and in turn contributed to rehabilitating the Ustaša regime in Croatia.³²¹

³¹⁷ Tamara Opačić, 'Bulletin #3: Nasilje i nesnošljivost prema Srbima u 2014' (Zagreb 2015) 1.

³¹⁸ Državni zavod za statistiku (DZS), 'Population by Ethnicity, by Towns/Municipalities, 2011 Census: County of Vukovar-Sirmium' <www.dzs.hr/eng/censuses/census2011/results/htm/e01_01_04/E01_01_04_zup16.html> accessed 7 July 2018.

³¹⁹ Opačić, 'Bulletin #3' (n 317) 1.

³²⁰ *ibid* 1ff.

³²¹ Tamara Opačić, 'Bulletin #10: Historijski revizionizam, govor mržnje i nasilje prema Srbima u 2016' (Zagreb, 2017) 3ff.

An example for the pursuance of this policy is *inter alia* the reaction of the government after a plaque was installed in the centre of Jasenovac, the place where Croatia's biggest concentration camp was located and in which at least 80,000 people, mainly Serbs, were murdered. On the plaque, which was installed by war veterans of the Croatian Defense Forces³²² (HOS), one could find the Ustaša salute '*Za dom spremni!*' ('For home (land) – ready!'). With this salute, an equivalent to the Nazi salute 'Heil Hitler!', the genocidal acts that enabled the thousands and thousands of deaths in Jasenovac were signed. Instead of clearly condemning and reacting following this scandalous act, Prime Minister Plenković announced the establishment of an expert commission, which ought to 'deliberate in a rational, calm manner the adequate institutional and legal framework about how to assess symbols of totalitarian regimes in a pluralistic atmosphere'.³²³ This commission concluded that the salute '*Za dom spremni!*' is unconstitutional, but can be used in exceptional circumstances in cases where there is prior permission.³²⁴

As regard to numbers, Opačić states that the cases of historical revisionism, hate speech and violence against Serbs arouse from 82 recorded cases in 2014 to 331 recorded cases in 2016 and finally 393 recorded cases in 2017.³²⁵ These figures illustrate a rise of an anti-Serb sentiment among the Croatian society and that the process of reconciliation is, in case it ever started, severely hampered by discriminatory acts and offenses directed against the Serb ethnicity.

This presumption is further supported by the reports of the Croatian Ombudswoman and the European Commission against Racism and Intolerance (ECRI). The former issued her latest findings in March 2018. In the subsection on persons belonging to the Serb national minority, she observed an existence of social distance, prejudices and hate directed against Serbs in Croatia. Besides supporting the findings of the Serb National Council, she welcomed the adoption of an 'Operative program for national minorities in the period between 2017 through 2020'.

³²² In the beginning of the war in Croatia, HOS was a paramilitary unit, which was later on integrated into the regular Croatian Army.

³²³ Opačić, 'Bulletin #10' (n 321) 6.

³²⁴ HINA, 'Vijeće za suočavanje s posljedicama vladavine nedemokratskih režima: "Za dom spremni" samo za poginule HOS-ovce: Komemorativna svrha' (novolist.hr, 28 February 2018) <www.novolist.hr/Vijesti/Hrvatska/Vijece-za-suocavanje-s-posljedicama-vladavine-nedemokratskih-rezima-Za-dom-spremnii-samo-za-poginule-HOS-ovce> accessed 20 June 2018.

³²⁵ Opačić, 'Bulletin #10' (n 321) 6. See also Tamara Opačić, 'Bulletin #14: Historijski revizionizam, govor mržnje i nasilje prema Srbima u 2017' (Zagreb, 2018) 3ff.

The objective of this programme is to evaluate the previous effectiveness of legal mechanisms that ought to foster integration of the Serb national minority into the Croatian society that was developed following the war and the UNTAES. Furthermore, the programme aims to develop new approaches to integration of the Serb national minority, and in particular its younger generation.³²⁶

ECRI too issued its report of the fifth monitoring cycle on Croatia on 15 May 2018. Although ECRI detected certain positive developments in Croatia, it also notes that ‘[r]acist and intolerant hate speech in public discourse is escalating “with main targets being Serbs”’.³²⁷ The report further states, ‘[t]here is a growing rise of nationalism, particularly among the youth, which primarily takes the form of praising the fascist Ustaša regime’³²⁸ and that ‘expressions of racism and xenophobia against Serbs ... are commonplace’³²⁹ on the internet and in the media.³³⁰ Attempts by the Croatian Government to respond to these ‘incidents’ are assessed as not ‘fully adequate’.³³¹ Given the use of diplomatic language of an institution such as ECRI, this assessment must be understood as a euphemism to circumscribe the fact that the government has not responded adequately in combating these ‘incidents’.

3.2 AN EVALUATION OF UNTAES: HAVE THE MISSION’S GOALS BEEN ACHIEVED IN THE LONG TERM?

The aim of UNTAES was to reintegrate the Danube region as well as the region’s local population into the Croatian state. As regarding the reintegration of the people, the mission aimed at, *inter alia*, preserving the multiethnic character of the Danube region by reintegrating the Serb population, laying the foundation for reconciliation between Croats and Serbs and normalising the relations between Croatia and Serbia for achieving overall stability in the former Yugoslavia. In contrast to

³²⁶ Pučka pravobraniteljica Republike Hrvatske, ‘Izješće pučke pravobraniteljice za 2017’ (Zagreb, 2018), 47ff <<http://ombudsman.hr/hr/izvjesca-2017/izvjesce-pp-2017/send/82-izvjesca-2017/1126-izvjesce-pucke-pravobraniteljice-za-2017-godinu>> accessed 25 April 2018.

³²⁷ European Commission against Racism and Intolerance (n 316) 9.

³²⁸ *ibid.*

³²⁹ *ibid.*

³³⁰ *ibid.*

³³¹ *ibid.*

the previous UN missions in Croatia, the advantage of the UNTAES was that the international community showed that it had learned its lessons by incorporating these lessons into the mission's mandate. Hence, through 'careful advance planning, sufficient military, and civilian staff support, full executive powers as well as demilitarization of the region'³³² which 'were identified as necessary requirements for a successful multinational operation prior to the UNTAES deployment'³³³ it paved the way for effective implementation of the mission's goals.

The key elements of the mandate that made the UNTAES successful were 'an achievable mandate, international support for the fulfillment of the mandate, domestic leadership, and forbearance, adept and pragmatic leadership of the mission and the existence of a balance of power in the region conducive to the mandate's implementation'.³³⁴

In his speech during an event organised by the Academy for Political Development in Zagreb on 20 July 2012, former UNSG Ban Ki-moon made following remarks regarding the success of UNTAES:

Our experience with UNTAES ... helped to show Croatia and the world the positive side of peacekeeping. From 1996 to 1998, the United Nations Transitional Authority peacefully reintegrated Eastern Slavonia, Baranja, and Western Sirmium into Croatia. United Nations agencies were proud to support the massive Government reconstruction effort and the return of thousands of displaced people to their homes. Enormous progress has been made since UNTAES was involved in that process — and the effort continues. President Josipović and the Croatian Government share our view that UNTAES was a great success. Croatia has since brought its experience of peacekeeping operations and post-conflict recovery to the Security Council, serving as a member from 2008 to 2009.³³⁵

For evaluating UNTAES' success, criteria need to be identified by which the mission's success can be measured. To this end, Duane Bratt suggests four indicators for assessing the success of peacekeeping missions based on the previous work of Brown and Diehl.

³³² Reichel (n 290) 43.

³³³ *ibid.*

³³⁴ Šimonović and Nimac (n 288) 5.

³³⁵ Ban Ki-moon, 'In 20 Years of UN Membership Croatia Has Taken 'Remarkable Journey, Travelling Arc from Turmoil of Conflict to Peacekeeper, Peacebuilder, Says Secretary-General' (SG/SM/14423, 2012) <<https://www.un.org/press/en/2012/sgsm14423.doc.htm>> accessed 24 March 2018.

These indicators are ‘mandate performance, facilitation of conflict resolution, conflict containment, and casualty limitation’.³³⁶

The first indicator, mandate performance, means that the mission’s mandate was successfully completed.³³⁷ The mandate of UNTAES entailed a set of well defined, feasible, and clear operational tasks and encompassed rules which demanded the limitations on the use of force, a full respect of human rights and a resolution of political disputes in a diplomatic manner. Furthermore, UNTAES had both a clearly outlined timetable and the equipment for an adequate range of instruments that contributed to ensuring the meeting of the mission’s requirements peacefully and establishing recognition for the human rights of ethnic minorities as well as displaced persons.³³⁸

The following indicator, facilitation of conflict resolution, helps to assess whether the mission was capable of facilitating the resolution of causes of the conflict with the formal requirement of an existing peace agreement signed by the parties to the conflict. As Bratt explains, this indicator is vital, as ‘it should be the ultimate aim of all UN efforts’.³³⁹ For this indicator, UNTAES succeeded in establishing a basis for the achievement of some positive results that likely would not have been possible without the mission. What is more, the existence of UNTAES contributed to the peace process in the entire territory of former Yugoslavia, as it established a basis for the normalisation between the FRY and Croatia. Besides, through its mediation efforts, it also created an atmosphere of mutual, though fragile, trust between Serbs and Croats that in the case of another military operation would not have been possible.³⁴⁰ While bearing in mind that, as Klein realistically evaluated, ‘[w]e must bear in mind that no relatively short-lived UN mission can achieve a full reconciliation between individuals who were so recently embroiled in a painful fraternal war’,³⁴¹ one can say that through its successful termination, UNTAES opened the door to a reconciliation process.

Conflict containment as the third indicator seeks to identify whether the mission was able to prevent third parties from intervening in the

³³⁶ Duane Bratt, ‘Assessing the Success of UN Peacekeeping Operations’ (1996) 3(4) *International Peacekeeping* 64, 66 <<https://doi.org/10.1080/13533319608413640>> accessed 14 March 2018.

³³⁷ *ibid* 67

³³⁸ Šimunović (n 298) 128.

³³⁹ Bratt (n 336) 68.

³⁴⁰ Šimunović (n 298) 128ff.

³⁴¹ Jacques P Klein, ‘The Prospects for Eastern Croatia: The Significance of the UN’s Undiscovered Mission’ (1997) 142(2) *The RUSI Journal* 19, 19ff.

conflict. Finally, the limitation of casualties as the fourth indicator is self-explanatory and can be determined by comparing the number of losses before and after the establishment of the mission.³⁴² As of both indicators, UNTAES was successful. As Duane assesses, '[t]he course and completion of UNTAES neutralized the possibility of a major armed conflict, which could have also escalated into a new inter-state (Croatian-Yugoslav) war'.³⁴³ Concerning casualties, during the Peaceful Reintegration, there were three casualties caused by hostile acts and four due to occurred accidents.³⁴⁴

Following his concluding observations regarding the evaluation of the UNTAES, Pjer Šimunović postulates that the mission was able to fulfil its purpose fully because it:

had been given a wide-reaching authority and a clear, workable, proactive mandate, not to uphold a status quo but to bring about the status quo ante. It was provided with a military profile high and credible enough to ensure the feasibility of the civilian and police components of the operation. It operated on a relatively small and manageable territory. In terms of implementation, UNTAES was skillfully and energetically led by Klein, a high-calibre mediator, and his operation had the strong backing and attention of the international community, particularly of the United States. Finally, the success of UNTAES will be judged on the extent to which it helped to build a peace momentum and to develop a process of reconciliation and a culture of tolerance and dialogue. This will, however, remain dependent on the course and outcome of Eastern Slavonia's economic revitalization.³⁴⁵

The latest reports of the ECRI, the SNC and the Croatian Ombudswoman indicate that UNTAES' long-term objective – reconciliation between Croats and Serbs in Croatia – has not been achieved. In this regard, Jović explains that the transition from war to peace has not ended.³⁴⁶

Šimunović's conclusion as regards the ultimate success of UNTAES resonates clearly. Hence, as of today, UNTAES definite success cannot be confirmed yet.

³⁴² Bratt (n 336) 69.

³⁴³ Šimunović (n 298) 128.

³⁴⁴ *ibid.*

³⁴⁵ *ibid.* 139.

³⁴⁶ Dejan Jović, *Rat i mit: Politika identiteta u suvremenoj Hrvatskoj* (Fraktura 2017) 116.

4.

CASE STUDY: IMPACT OF UNTAES ON SOCIETY ON THE
EXAMPLE OF PRIMARY AND SECONDARY SCHOOLS IN
VUKOVAR

One of the most central questions the present thesis seeks to answer is whether the region's population that was mainly of Serb ethnicity was successfully reintegrated into the Croatian state on 15 January 1998. This is, *inter alia*, because some parts of the Croatian society call into question the mission's success as regards the reintegration of the local population such as for example Bosanac or Jović, who doubts Croatia's will to reintegrate the people.³⁴⁷ Moreover, a lack of institutional effort to foster reconciliation as a follow-up to the Peaceful Reintegration backs-up these assumptions.

To explore these assertions, I conducted field research on how the people in the Danube region live nowadays, how their communities function, whether there are factors that indicate a(n) (ongoing) conflict and whether the UNTAES still has an impact on today's society.

For this thesis, I will merely analyse the organisation of schooling in Vukovar. The reason for focus is that the city serves as the symbol of the suffering of Croatia during the war. In contrast to that, Vukovar also symbolises the establishment of peace with diplomatic means.

The current divided school system is a direct implication of the Peaceful Reintegration.³⁴⁸ The Erdut Agreement laid, *inter alia*, the foundation for the education of the Serb minority in the Danube region.³⁴⁹ By bearing in mind that schools tend to reflect the relations within the

³⁴⁷ Dejan Jović, *Rat i mit: Politika identiteta u suvremenoj Hrvatskoj* (Fraktura 2017) 54.

³⁴⁸ Dinka Ćorkalo Biruški and Dean Ajduković, 'Separate Schools – A Divided Community: The Role Of the School in Post-War Social Reconstruction' (2007) 14(2) *Review of Psychology*, 95 <<https://hrcak.srce.hr/25575>> accessed 22 March 2018.

³⁴⁹ Dinka Ćorkalo Biruški and Dean Ajduković, 'Stavovi učenika, roditelja i nastavnika prema školovanju: što se promijenilo tijekom šest godina u Vukovaru?' (2008) 24(3) *Migracijske i etničke teme* 189, 189 <<https://hrcak.srce.hr/30719>> accessed 24 March 2018.

society as a whole,³⁵⁰ I hold the view that I can draw conclusions as regards the level of integration of the Serb minority into the Croatian society by exploring the organisation of schooling in Vukovar. Moreover, I think that analysing the school system is necessary to evaluate whether the UNTAES still has implications on today's community. In this regard, I anticipate that if UNTAES were indeed successfully terminated, pupils representing a part of Vukovar's community today would not suffer any consequences deriving from the past conflict that they did not witness.

This separation is most discernible among today's pupils, who did not witness war nor UNTAES but feel the implications of an unfinished reconciliation process by being divided into different classes. To again refer to the offered definition of reconciliation as a 'process during which a society moves from a divided past to a shared future',³⁵¹ it is evident that reconciling war-torn communities is a long-term process. Having said this, I think that if there were an institutional will to foster reconciliation and deal with the past, today's community of Vukovar would be less divided and closer to a shared future bearing in mind the 20 years that passed since the termination of UNTAES. Accordingly, the following chapter will examine the reasons for and implications of this division.³⁵²

The primary objective of the case study is to dive into the complexity of the current organisation of education in Vukovar, to understand how it relates to the Peaceful Reintegration and to explore whether the UNTAES is still relevant for today's community.

Hence, what follows is a description of the reintegration of the educational sector into the constitutional order of Croatia and an outline of the legal regulations on the schooling of national minorities in Croatia. Subsequently, I will illustrate the organisation of education of the Serb minority in Vukovar in contrast to the majority-schooling model. This description will also encompass possible reasons for and implications of the division of Serb and Croat pupils for themselves as well as for the

³⁵⁰ Dinka Čorkalo Biruški and Dean Ajduković, 'Škola kao prostor socijalne integracije djece i mladih u Vukovaru' (Zagreb, 2012) 7 <http://www.fes-croatia.org/fileadmin/user_upload/skola-vukovar-brosura.pdf> accessed 15 April 2018.

³⁵¹ David Bloomfield, Teresa Barnes and Luc Huyse, *Reconciliation after Violent Conflict: A Handbook* (International Institute for Democracy and Electoral Assistance 2003) 12.

³⁵² Ivana Bodrožić, 'Još jedna priča o nama' *Vreme* (17 July 2014) <www.vreme.com/cms/view.php?id=1213812> accessed 28 March 2018. See also Čorkalo Biruški and Ajduković, 'Separate Schools...' (n 348).

community. Furthermore, I will include the example of the genesis of the Intercultural school as a societal bottom-up approach to present a potential alternative to the educational *status quo* in Vukovar. Finally, I will use the disclosure and evaluation of the gathered information on the organisation of schooling in Vukovar to evaluate the implications of the Peaceful Reintegration and reconciliation of the multiethnic population in Vukovar.

4.1 THE PEACEFUL REINTEGRATION OF THE EDUCATION SYSTEM

During the reintegration process, the education system as part of the Danube region's public sector was subject to negotiations between Croatian authorities and representatives of the Serbs, and under the auspices of the UNTAES.³⁵³ Schooling of Serbs in the Danube region was subject to negotiations since the Erdut Agreement was not only a political document containing provisions on the reintegration of the Danube region into the Croatian constitutional order. Moreover, the political representatives of the Serbs in Vukovar considered the Erdut Agreement as a strategic document that contributed to specifying and regulating national minority rights and the status of Serbs in the former Sector East.³⁵⁴ However, as the Erdut Agreement entailed no specific rights pertinent to the education of children belonging to the Serb minority, and although schooling is a critical issue of public interest, the matter of education was solved primarily as a political question within the course of politically resolving and organising the rights of the Serb minority in Croatia.³⁵⁵ The political character of minority education in the Danube region was also reflected in the Letter of Intent of the Government of Croatia of 13 January 1997. With regard to education, paragraph 8 of the Letter of Intent states the following:

The Government of Croatia, in accordance with existing Croatian laws and statutes and internationally accepted standards, hereby guarantees that the members of the Serb minority, and the members of other minorities within the areas under the Transitional Administration, shall have full rights with respect to educational and cultural autonomy.

³⁵³ Čorkalo Biruški and Ajduković, 'Separate Schools...' (n 348) 95.

³⁵⁴ Čorkalo Biruški and Ajduković, 'Škola kao prostor...' (n 350) 8.

³⁵⁵ *ibid.*

With respect to education, the members of the Serb minority, and the members of other minorities within the area under the Transitional Administration, shall be entitled to prepare and implement a curriculum that fosters cultural identity, history and heritage insofar as it does not prejudicially affect any right or privilege with respect to international educational standards and Croatian laws.

Within the cultural identity of the members of the Serb minority or any other member of other minorities within the above-mentioned areas, they shall under the law, have full rights to preserve and foster individual cultural identity provided that it does not affect any right or privilege with respect to the rights of the Croatian members.³⁵⁶

UNTAES facilitated the negotiations regarding the education sector in the Joint Implementation Committee on education.³⁵⁷ The results of these negotiations were confirmed in a letter and supplemented by annexes to affect the reintegration of the education sector. To this end, the 'Letter of Agreement between the Ministry of Education and Sport and the UNTAES Regional Education System'³⁵⁸ (Letter of Agreement) listed *inter alia* following relevant documents:

- Affidavit on Employment signed by the Government of Croatia on 16 December 1996;
- Annex to the Affidavit on Employment approved by the Government of Croatia on 14 February 1997;
- Declaration by the Government of the Republic of Croatia on Certification and Recognition of Qualifications within the Framework of Educational Rights in Eastern Slavonia, Baranja and Western Sirmium signed on 12 March 1997;
- Agreement on Distribution of Principal Positions for Schools in the UNTAES Administered Region signed on 4 August 1997;

³⁵⁶ Government of the Republic of Croatia, 'Letter from the Government of the Republic of Croatia on the Completion of the Peaceful Reintegration of The Region under the Transitional Administration' S/1997/27 Annex (The document has been made available by the JCM. New York, 13 January 1997) 2ff.

³⁵⁷ Jacques P Klein, 'The United Nations Transitional Administration in Eastern Slavonia (UNTAES)' (2003) 97 Proceedings of the Annual Meeting (American Society of International Law), 207 <<http://www.jstor.org/stable/25659853>> accessed 23 March 2018.

³⁵⁸ United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, 'Letter of Agreement Between the Ministry of Education and Sport and the UNTAES Regional Educational System' (The document has been made available by the JCM. Vukovar 7 August 1997).

- Decision on Temporary Education Curriculum for Members of the Serbian Minority or Ethnic community in the Republic of Croatia for the 1997/1998 Academic Year Initialled and Signed on 4 August 1997; and the
- Declaration by the Government of Croatia in Recognition of Educational Rights for minorities in Eastern Slavonia, Baranja, and Western Sirmium signed on 6 August 1997.³⁵⁹

These documents enabled the reintegration of the regional education system into the Republic of Croatia in August 1997.³⁶⁰

Notably, the agreement concerning the recognition of educational rights for the Serb minority contained the following provisions, which still have an impact on the implementation of schooling. These provisions are:

- the existing schools in the Danube region ought to remain functional until the school system is revised in consultation with the national minority group affected;
- that all national minorities in the Danube region have the right to education in their language and script in accordance with the law; and
- the moratorium for history classes with regard to the former Yugoslavia and its constitutive republics between 1989 up to and including 1997 ought to remain in force for five years, so until 2002/2003.³⁶¹

The Letter of Agreement in combination with the mentioned Affidavit of Employment Rights also reintegrated the Serb teachers as public employees into the Croatian public employment sector.³⁶²

³⁵⁹ United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, 'Letter of Agreement Between the Ministry of Education and Sport and the UNTAES Regional Educational System' (The document has been made available by the JCM. Vukovar 7 August 1997).

³⁶⁰ United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, 'Deklaracija Vlade Republike Hrvatske predstavljena od strane Ministarstva prosvjete i športa u pogledu priznavanja obrazovnih prava za manjine u Istočnoj Slavoniji, Baranji i Zapadnom Srijemu' (The document has been made available by the JCM. 6 August 1997).

³⁶¹ *ibid.*

³⁶² Klein, 'The UNTAES' (n 357) 208ff.

Within the scope of agreement regarding the reintegration of the regional education system, the parties agreed that:

certificates issued in schools of the region during the period 1991-1997 would to be validated, recognized, and replaced by Croatian certificates. This agreement ... stated that, because the Croatian government recognized these educational certificates, those working in public institutions and enterprises who held them could not be released on the pretext that they were not academically qualified.³⁶³

Following the educational reintegration, representatives of the Serbs formed separate classes where since then schooling is carried out in Serbian language and script. They did this by invoking the Letter of Agreement as well as their right to schooling in their native language and writing. This right was later specified in the Act on Education of Minorities of 2000 that endowed the then current national minority education with a legal framework. This act also acknowledged the schooling in the native language and script of national minorities. This schooling type was established during the UNTAES and later became known as Model A.³⁶⁴

The moratorium on teaching history, as agreed upon in the Declaration on Recognition of Education Rights,³⁶⁵ was negotiated for the schooling in Serbian language and script in the Danube region, as there was no consensus on what happened between 1989 and 1997. As the effectiveness of the moratorium ceased in the academic year 2002/03, the Croatian Ministry of Science and Education ordered the elaboration of a handbook called 'Supplement to Textbooks of Contemporary Croatian History' for teaching contemporary history. For this purpose, the Ministry of Science and Education formed a 'Commission for the elaboration of proposals concerning the teaching of the history of the former Yugoslavia since 1989 in schools of the Croatian Danube region' in cooperation with history teachers and representatives of the Serb community. As a result, the commission prepared a handbook in the first half of 2005. The content of the manual caused a highly controversial and polemical public debate that prompted the Ministry of Science and Education to drop the

³⁶³ Klein, 'The UNTAES' (n 357) 209.

³⁶⁴ Ćorkalo Biruški and Ajduković, 'Škola kao prostor...' (n 350) 8.

³⁶⁵ Deklaracija Vlade RH (n 360).

publication of the manual. Even though the manual could have served as a step towards dealing with the past, it succumbed to those who only want to accept one historical truth.³⁶⁶

It is noteworthy that the parties involved in the Peaceful Reintegration agreed on testing and subsequently evaluating the then chosen schooling model (Model A) after five years. The objective of deciding a trial period and evaluation of schooling was to determine the assets and the drawbacks to improve and to adopt the organisation of education if necessary. However, as far as it is known, no such evaluation was ever conducted. Therefore, Croat and Serb children are today, 20 years after the termination of the UNTAES, divided throughout their entire school education in Vukovar.³⁶⁷

4.2 LEGAL REGULATION OF NATIONAL MINORITY EDUCATION IN CROATIA

Currently, there are several legal acts relevant for the regulation of minority education in Croatia. Firstly, the Constitutional Act on Minorities of 2002 guarantees national minorities the right to education in their language and script.³⁶⁸ Secondly, the Act on Education of Minorities of 2000³⁶⁹ supplements the Constitutional Act on Minorities by regulating more precisely how members of national minorities can effectuate their right to education from pre-school to post-secondary education in their respective native language.³⁷⁰

The Act on Education of Minorities derives from the 1979 Act on Education on the Languages of Nationalities, which was adopted while Croatia was a part of Socialist Yugoslavia. This law prescribed educational

³⁶⁶ Maja Dubljević (ed), *Jedna povijest, više historija: Dodatak udžbenicima s kronikom objavlivanja* (Documenta - Centar za suočavanje s prošlošću 2007), XI-X, 142-143. The qualifications as regards the manual presented in the main text are thus taken from this source.

³⁶⁷ As Ćorkalo Biruški and Ajduković explain the term divided classes must be used with caution. This is because despite the fact that schooling in Vukovar is either conducted in Croatian language and script as majority-schooling model or in Serbian language and script as minority schooling model, the respective classes are not ethnically homogenous. Particularly classes of the majority-schooling model are attended by Croat children and by children of other ethnicities, including Serb children. Ćorkalo Biruški and Ajduković, 'Škola kao prostor...' (in 350) 8.

³⁶⁸ Ustavni zakon o pravima nacionalnih manjina, NN 155/02, 47/10, 80/10, 93/11.

³⁶⁹ Zakon o odgoju i obrazovanju na jeziku i pismu nacionalnih manjina (ZOOJPNM), NN 51/00, 56/00.

³⁷⁰ Mato Arlović, *Pravo nacionalnih manjina u Republici Hrvatskoj* (Novi informator 2015) 393ff.

rights for members of the so-called 'old' national minorities.³⁷¹

Following the declaration of independence, Croatia kept the law on education of national minorities. The issue was that the 1990 constitution gave a new definition of national minorities that only partly conformed to the definition from Socialist Yugoslavia's Act on Education of 1979.³⁷² As Jović explains, the international community set the adoption of a comprehensive legal protection scheme for national minorities as a precondition for recognising the independence of the Republic of Croatia. Croatia's government attempted to fulfil that imposed precondition of the international community by adopting the first Constitutional Act on Human Rights and National Minorities in 1991.³⁷³

However, the first Constitutional Act on Minorities had flaws because the legislation was not genuinely committed to creating a legal framework that could have efficiently dealt with issues of both new and old national minorities. Tatalović explains this lack of commitment by arguing that Croatia adopted the first Constitutional Act on Minorities not out of conviction but due to diplomatic pressure and its will to gain recognition.³⁷⁴ The consequence of the lukewarm adoption of the Constitutional Act on Minorities was that the law was not applied until 1995 due to a lack of implementation legislation, non-existent political sensitiveness for minority issues and the war events during those four years.³⁷⁵ As described in the second chapter of the thesis as regards Croatia's accession negotiations with the EU, the pertinent laws to educational rights of national minorities were enacted in 2000 and the new Constitutional Act on Minorities in 2002.

Nowadays, the Croatian legislation provides for a range of schooling models and specific educational frameworks respectively that form a part of the Croatian system of education. This education system allows parents to choose for an adequate minority-schooling model

³⁷¹ These were Czechs, Hungarians, Italians, Russians, Slovaks and Ukrainians.

³⁷² The national minorities were the old constitutional peoples of Socialist Yugoslavia, namely: Bosniaks (then Muslims), Macedonians, Montenegrins, Serbs and Slovenes.

³⁷³ Jović (n 347) 220ff.

³⁷⁴ Siniša Tatalović, *Nacionalne manjine u Hrvatskoj* (Stina 2005). See also Dario Kuntić, 'Minority Rights in Croatia' (2003) 9(30/31) *Croatian International Relations Review* 33, 35 <<https://hrcak.srce.hr/file/10105>> accessed 1 May 2018.

³⁷⁵ Siniša Tatalović and Tomislav Lacović, 'Dvadeset godina zaštite nacionalnih manjina u Republici Hrvatskoj' (2011) 27(3) *Migracijske i etničke teme* 375, 380 <www.cceol.com/search/article-detail?id=188882> accessed 22 March 2018.

for their children. The National Pedagogic Standard³⁷⁶ for the Primary Education and for the Secondary Education define the education models that Croatia offers its national minorities. Article 30 of the National Pedagogic Standard for Primary Education³⁷⁷ and article 43 for Secondary Education³⁷⁸ respectively define the following education models:

- Model A (classes in the language and script of the national minority);
- Model B (bilingual classes); and
- Model C (additional lessons).

Moreover, articles 30 and 43 respectively provide for other schooling frameworks in which pupils can learn the minority language as a language of the social environment and special classes (such as summer schools, winter classes and correspondence-consultative classes).³⁷⁹ Hence, parents of children belonging to a national minority are given the possibility to choose an education model and programme under applicable laws as well as the pupil's ability to complete the selected programme.

The legal basis for the enjoyment of this right are enshrined in article 9 of the Act on Education of Minorities³⁸⁰ and article 12, paragraph 1 of the Constitutional Act on Minorities.³⁸¹

Thus, parents can enrol their child into one of the minority-education models by declaring their will to do so and if the model is available.³⁸²

On account of accuracy, in addition to these two national laws, there are two international treaties pertinent to national minority education in Croatia. These two treaties are the aforementioned Framework

³⁷⁶ The National Pedagogic Standard sets the framework for public schooling in Croatia.

³⁷⁷ Državni pedagoški standard osnovnoškolskog sustava odgoja i obrazovanja (DPSOSOO), NN 63/08.

³⁷⁸ Državni pedagoški standard srednjoškolskog sustava odgoja i obrazovanja (DPSSSOO), NN 63/08, art 30.

³⁷⁹ *ibid.* See also art 43.

³⁸⁰ ZOOJPNM, NN 51/00, 56/00 (n 369), art 9.

³⁸¹ Ustavni zakon o pravima nacionalnih manjina, NN 155/02, 47/10, 80/10, 93/11, art 12, para 1.

³⁸² Ivanka Milčić and Karolina Majsec, 'Reintegracija osnovnoga školstva u Vukovaru - u svijetlu nekih statističkih podataka' in Dražen Živić and Sandra Cvikić (eds), *Mirna reintegracija hrvatskoga Podunavlja: Znanstveni, empirijski i iskustveni uvidi* (Institut društvenih znanosti Ivo Pilar 2010) 274.

Convention and the European Charter for Regional or Minority Languages. The Framework Convention refers to education in articles 6 and 12-14.³⁸³

Furthermore, Croatia has a bilateral agreement on the protection of rights of the Serb and Montenegrin national minority with Serbia and Montenegro,³⁸⁴ which was enacted on 1 June 2005.³⁸⁵

As illustrated, the current organisation of minority education is *inter alia* an outcome of the Peaceful Reintegration. Thus, the reintegration still affects today's Vukovar community to a certain extent. According to Stanimirović, the Serb community in Vukovar, represented by its political leaders, decided to claim its right to education in the Serbian language and Cyrillic script, and therefore chose Model A as the preferred model for preschool, primary and secondary education.³⁸⁶

4.3 DIVIDED EDUCATION: ORGANISATION OF PRIMARY AND SECONDARY EDUCATION IN VUKOVAR

Model A as mother tongue education means that all school subjects are being taught in Serbian language and script. Additionally, the pupils enrolled in Model A have obligatory Croatian classes in the same number of hours as they study the Serbian language. In Vukovar, this schooling model is organised and conducted in separate classes of primary or secondary schools that also accommodate majority-education classes.³⁸⁷

There is a slight but noteworthy difference between the organisation of the primary and secondary education. In primary schools, the Serb and Croat children not only attend different classes but also attend school also in differing shifts.³⁸⁸ In 2006, this changed for pupils of secondary schools. Since then, pupils of secondary schools in divided

³⁸³ Framework Convention for the Protection of National Minorities (adopted on 1 February 1995, entered into force 1 February 1998), ETS No 157 (Council of Europe), arts 6 and 12-14.

³⁸⁴ In 2005, Serbia and Montenegro constituted one country.

³⁸⁵ Steve Degenève and Richard Gowan, 'Minority Education in the Republic of Croatia: A Case Study in Vukovar-Sirmium County' (Field Centre Vukovar 2003) 16 <www.osce.org/zagreb/21381?download=true> accessed 16 April 2018.

³⁸⁶ Interview with Vojislav Stanimirović (Vukovar, 18 April 2018).

³⁸⁷ Čorkalo Biruski and Ajduković, 'Separate Schools...' (n 348) 93.

³⁸⁸ This means that the pupils attending the majority-education model have classes in the morning (first shift) and the pupils attending Model A have classes in the afternoon (second shift).

classes but in the same shift. One of the interlocutors for present thesis, a teacher of Model A in the secondary technical school Nikola Tesla in Vukovar, who chose to remain anonymous, criticises this existing practice of dividing pupils into two different shifts. In his view:

pupils in secondary schools are divided into different classes but are attending the same shift. However, why this is not done in, let us say, primary schools, where you have Serb and Croatian classes, but they [the pupils] are also separated in different shifts. The first shift is Croatian; the second shift is Serb. And then they go to secondary school and then they can go together. Whereas when they are small and when they do not get anything, I mean what is the reason for that?³⁸⁹

The division of primary school pupils in different classes and shifts prevents them from bumping into each other, for eg, when commuting to and from school or on the hallways during breaks. Thus, as the children have reduced opportunities to meet, the chances for establishing contact are low too.

Today, four schools comprise both classes in Croatian language and script as well as in Serbian language and script (bilingual schools). Besides, there are three other schools in which classes take place only in Croatian language and script (monolingual schools) in Vukovar.³⁹⁰

Models B and C, ‘which would enable children to attend schools together’,³⁹¹ are both usually not available to parents in Vukovar.³⁹² It is noteworthy that currently there is one pupil attending Model C in the primary school Siniša Glavašević in Vukovar and thus represents an exception. As the head teacher of the primary school, Slavica Mišić,³⁹³ explains, the pupil, who is currently in the sixth grade, has two additional classes per week. As his parents chose Model C for him, the school asked the Ministry of Science and Education for authorisation. As regulated per law, the competent Ministry authorised and organised the Model C without hesitation. Further, Mišić reports that her school

³⁸⁹ Interview with anonymised teacher (Vukovar, 20 April 2018).

³⁹⁰ Dinka Ćorkalo Biruški, ‘Integracijski procesi većine i manjine u etnički mješovitim zajednicama: rezultati istraživanja u Vukovaru’ (Mini-konferencija Izazovi obrazovanja u višetničkim zajednicama, Vukovar, 17 April 2018).

³⁹¹ Marinko Uremović and Ivana Milas, ‘Challenges of Education for Peace in Segregated Schools in Vukovar’ in Claire McGlynn, Michalinos Zembylas and Zvi Bekerman (eds), *Integrated Education in Conflicted Societies* (Palgrave Macmillan US 2013) 187.

³⁹² Ćorkalo Biruški and Ajduković, ‘Škola kao prostor...’ (n 350) 9.

³⁹³ Interview with Slavica Mišić (Vukovar, Zagreb, 18 May 2018).

offers the parents the opportunity to choose one of the three available education models for their child. According to her, however, there have not been additional requests from parents for enrolling their child in any other model apart from Vukovar's predominant schooling models. Mišić clarifies that:

the majority of parents who choose Model A for their child do so without a doubt, while only a small number of parents choose Model A not another due to the perceived pressure from their community.³⁹⁴

Besides, Mišić explains that the school provides information on the range of education models for national minorities before initial enrolment into the primary school Siniša Glavašević. In answer to the question of whether the school or the Ministry of Science and Education could prevent parents from enrolling their child into one of the models at their disposal, Mišić holds the view that 'education of national minorities is regulated by law and thus neither the school, nor the Ministry of Science and Education should be able to hinder parents from enrolling their child into the Models A, B or C'.³⁹⁵

In contrast, the teacher of the secondary technical school Nikola Tesla reports that the children belonging to the Serb community are being enrolled either in Model A or in the majority-education model, which he does not consider as a danger for assimilation. The teacher further explains that schools tend to reason their unwillingness to enable the implementation and subsequent enrolment into Models B or C by saying that 'we are not doing that'.³⁹⁶ Altogether, what can be observed is that Model A and the majority-education model predominate in Vukovar and that the offered rationales for this *status quo* vary and depend on role and function of the interlocutor.

While having two schooling options appears to be a minor issue for the enrolment of children stemming from ethnically homogenous families, this 'either-or' option can constitute an obstacle for parents in, for eg, mixed relationships. As Dijana Antunović Lazić³⁹⁷ describes, she faced this dilemma as a parent herself in the past and decided together with her husband to choose the education model that offers the highest

³⁹⁴ Interview with Slavica Mišić (Vukovar, Zagreb, 18 May 2018).

³⁹⁵ *ibid.*

³⁹⁶ Interview with anonymised teacher (n 389).

³⁹⁷ Interview with Dijana Antunović Lazić (Vukovar, 21 April 2018).

quality of the teachers in the present schools. A potential consequence of this way of deciding an adequate schooling model for some parents can be is that they see themselves confronted with the ‘unfortunate position’³⁹⁸ to having to ‘decide which “side” they will ally with’.³⁹⁹

At this juncture, it is noteworthy that the Serb community or rather its representatives cannot be held solely accountable for the ethnic division of pupils in Vukovar as they are exercising their right to education in their language and script. However, the existence of Serbian language connotes the successful exercise of Croatian national minority protection legislation but also a divided school system along ethnic lines.⁴⁰⁰ Where the Serb national minority differs from other national minorities is the fact that the Serb and Croatian language used to be one and that pupils were educated jointly before the war. As Dr Vojislav Stanimirović clarifies in this regard during our interview, there are reasonable grounds for as to why political representatives of the Croatian Serbs in Vukovar strictly reject other education alternatives to Model A.

According to him, the Serb representatives consider that the:

majority community needs to make a certain step forward in terms of content that is being taught, especially in history classes, in literature classes and so on. ... We just consider that ... we need to protect those children, not to stigmatise them, to protect them in order for them to accept, within the framework of Croatian laws, but for them to accept some milder solution which would be more acceptable for those children.⁴⁰¹

He further emphasises that the majority of the Serb community did not commit any atrocities while pointing out that a majority of them was mobilised during the war. Therefore, they cannot be denounced as war criminals or ‘četniks’ nowadays. He explains in this regard:

We do not accept that as community and we for the time being consider that this [Model A] is no segregation, that this in some way a transition into another time when it will happen that we also get some laved, I say so laved, contents of history, literature and so on in order to start applying what is also acceptable for the children of Serb nationality.⁴⁰²

³⁹⁸ Interview with Dijana Antunović Lazić (Vukovar, 21 April 2018).

³⁹⁹ Uremović and Milas (n 391) 188.

⁴⁰⁰ Čorkalo Biruški and Ajduković, ‘Separate Schools...’ (n 348). See also Uremović and Milas (n 391) 187.

⁴⁰¹ Interview with Vojislav Stanimirović (n 386).

⁴⁰² *ibid.*

Moreover, Stanimirović explains that one cannot expect the Serb representatives to favour a form of joint schooling that contains anti-Serb sentiments in the current curriculum. According to him, until some majority-schooling subjects are revised, Model A will remain the only acceptable option for the education of Serb pupils.⁴⁰³

The statements of Stanimirović go in line with the reports of Srđan Jeremić, president of the Joint Council of Municipalities and Srđan Milaković, Deputy Mayor of the City of Vukovar. In this regard, Jeremić additionally stresses that Model A does not jeopardise any person and that it opens the door to studying in the Republic of Serbia as well as in the Republic of Croatia.⁴⁰⁴ Apart from these arguments, Milaković adds that:

Model A is important to us for a variety of reasons ... We consider it [Model A] to be one of the basic preconditions for the survival of the Serb community in this region, which is already fraught with a continuing connotation of war. This [the Vukovar community] continues to be a community which is in that sense quite impassioned, which has negative attitudes towards the Serb community and the identity of the Serb community. And then, amongst others, we consider that this [Model A] in some segment is a shield against such a kind of societal context.⁴⁰⁵

To enable the children to, later on in their adult lives, deal with this kind of societal context, he deems necessary ‘the creation of a healthy attitude concerning the culture and national identity of the Serb community in this region’.⁴⁰⁶

He further points out that the support of Model A is also closely linked to the question of ‘employment of members of the Serb community’.⁴⁰⁷ Besides, Milaković clarifies that ‘the Serb community does not see that [Model A] as a cause or seed [of evil] or whatever for the separation or the segregation or the negative attitude towards the other’.⁴⁰⁸

Therefore, Milaković believes that ‘even if we would change the organization of education, we would not solve the problem in Vukovar’.⁴⁰⁹ What is more, he fears that abolishing Model A ‘could lead

⁴⁰³ Interview with Vojislav Stanimirović (n 386).

⁴⁰⁴ Interview with Srđan Jeremić (Vukovar, 19 April 2018).

⁴⁰⁵ Interview with Srđan Milaković (Vukovar, 20 April 2018).

⁴⁰⁶ *ibid.*

⁴⁰⁷ *ibid.*

⁴⁰⁸ *ibid.*

⁴⁰⁹ *ibid.*

to a collapse of a range of other things, your status [the status of Serbs in Croatia]’.⁴¹⁰ About the success of the Peaceful Reintegration in the context of the organisation of education in the Danube region, he observes that ‘even in this aspect [schooling] you cannot say that trust has been restored’.⁴¹¹

In this regard, Model B could be considered as a potential schooling alternative because history is taught in Serbian language and script likewise as in Model A. In contrast to Model A, however, Model B gives Serb and Croat children the opportunity to encounter during classes of non-cultural subjects. Still, there are reasons as to why one should not advocate for a non-critical endorsement of merging Serb and Croat classes. One of these reasons is the increase in a strong anti-minority sentiment in the Croatian society as described in Chapter III on the phase after Croatia entered the EU. This sentiment currently intensified by the advocacy work of some right-wing veteran organisations who want to include more lessons on the Croatian war in the 1990s.⁴¹²

Prof Dr Dinka Čorkalo Biruški, a social psychologist and professor at the Psychology department of the Faculty of Philosophy in Zagreb has been committed to researching the effects of the *de facto* division of pupils in Vukovar for nearly two decades.⁴¹³ The first research on attitudes regarding schooling in Vukovar, conducted in 2001 by Čorkalo Biruški and Ajduković, brought to light that schools can be pivotal indicators for an ethnic division of the community. However, it also revealed that schools could be of importance in changing such a division. In addition, the researchers found out that parents of children being taught in Serbian language and script had positive attitudes towards all three education models for national minorities. Furthermore, they also had a favourable opinion on integrated education with included education elements for fostering national identity. Parents of children attending the majority education model gave the most favourable ratings to Model C. The rating of Model A was less positive while Model B was rated slightly negative.

⁴¹⁰ Interview with Srđan Milaković (Vukovar, 20 April 2018).

⁴¹¹ *ibid.*

⁴¹² Braniteljski portal, ‘Otkrili smo: Upozorenje svima - u kurikulumu predmeta povijest nema povijesti Domovinskoga rata!’ (2 May 2018) <www.braniteljski-portal.com/otkrili-smo-upozorenje-svima-u-kurikulumu-predmeta-povijest-nema-povijesti-domovinskoga-rata> accessed 22 May 2018.

⁴¹³ See for example Dinka Čorkalo Biruški and Dean Ajduković, ‘Socijalni kontekst “Vukovarske nove škole”’ (Izješće projekta, Zagreb 2003); Čorkalo Biruški and Ajduković, ‘Separate Schools...’ (n 348); Čorkalo Biruški and Ajduković, ‘Škola kao prostor...’ (n 350).

Concerning educational integration, their attitude was neutral.⁴¹⁴

The latest research,⁴¹⁵ conducted between 2016 and 2017 by Čorkalo Biruški and her team, and presented in Vukovar on 17 April 2018, aimed at investigating the preferred educational choices and interethnic attitudes in schools of Vukovar and its suburbs. During the research period, 426 Croat pupils and 238 Serb pupils were questioned to explore the level of integration of the majority and minority group in Vukovar as an ethnically mixed community.

Key findings for the present thesis are the opinions of Vukovar's pupils on their preferences with regard to their education. As regards the pupils being educated in Croatian classes, an absolute majority (52.9%) preferred Model C the most, one-third (29.3%) favoured Model B and the fewest questioned pupils (17.9%) preferred Model A. As for the pupils being educated in the Serbian language, the majority (45.4%) preferred Model B. Moreover, around one-third (31.9%) of the children preferred Model A. Model C was rated as the children's least preferred education model (22.7%).⁴¹⁶ The figures show that none of the children preferred Model A the most.

Moreover, the research showed that the interethnic attitudes of pupils are proportionately moderate and that the pupils in Model A-classes have somewhat more positive interethnic attitudes and a slightly stronger ethnic identity than their colleagues in the majority-education classes. Besides, the children attending bilingual schools⁴¹⁷ indicate that they have the same frequency of interethnic contacts in schools as their colleagues in the Serb classes, but the latter stated that they have more frequent interethnic communication in their leisure time. In comparison, pupils from monolingual Vukovar schools⁴¹⁸ have less frequent interethnic contacts and friendships. However, pupils of all schools described their close friendships as ethnically homogenous. According to Čorkalo Biruški, those results raise questions as to how schools can support and foster interethnic contact of the children, how schools can become an environment in which social integration can occur and what schools can do to promote the norms of inclusion within the community and outside the school environment.⁴¹⁹

⁴¹⁴ Čorkalo Biruški and Ajduković, 'Socijalni kontekst...' *ibid.*

⁴¹⁵ Čorkalo Biruški (n 390).

⁴¹⁶ *ibid.*

⁴¹⁷ The schools that have classes in both Croatian as well as Serbian language.

⁴¹⁸ The three Vukovar schools, in which classes are held merely in Croatian language.

⁴¹⁹ *ibid.*

The reason as to why the school factor is an essential for the functionality of a multiethnic community is because it represents a natural environment for children. This natural environment allows for successfully establishing contact with others in an ideal surrounding for children. Moreover, successfully creating communication also ‘opens up the possibility of making friends’.⁴²⁰ In contrast to divided schooling, gaining positive interethnic experiences in ‘an ethnically mixed school environment might have long-term effects outside the school’.⁴²¹

Consequently, intercultural schools can have positive implications for the interethnic community as a whole.

4.4 AN ATTEMPT TO POSE AN ALTERNATIVE: THE INTEGRATED PRIMARY SCHOOL PROJECT IN VUKOVAR

The project of establishing an integrated school as an additional alternative to the conventional models of schooling in Vukovar was initiated by the Nansen Dialogue Centre Osijek (NDC) under the preliminary project title ‘New School’ in 2003.⁴²²

As Ivana Milas,⁴²³ the project coordinator of the NDC for the integrated school project, explains, the initial idea was to find alternative ways of educating children in Vukovar in cooperation with teachers and parents and adopting the national curriculum to the conditions and needs of a multiethnic community. To find out the parents’ views on the quality and organisation of national minority schooling in Vukovar, the NDC conducted a survey among 256 parents between October 2004 and January 2005. To reflect the ethnic composition of the community, 50% of the respondents were Croats, 32.42% Serbs, 3.12% other ethnicities and 14.46% were those who did not declare their belonging to any ethnicity.⁴²⁴ The survey showed, *inter alia*, that the majority (71.4%) was dissatisfied with the organisation of national minority

⁴²⁰ Ćorkalo Biruški and Ajduković, ‘Separate Schools...’ (n 348) 94.

⁴²¹ *ibid.*

⁴²² Interview with Ivana Milas (Vukovar, 17 April 2018).

⁴²³ *ibid.*

⁴²⁴ Nansen Dijalog Centar Osijek, ‘Ispitivanje odnosa roditelja prema kvaliteti osnovnog školovanja njihove djece u Vukovaru: Izvješće o kvalitativnom istraživanju’ 6 (Osijek September 2005) <www.ndcosijek.hr/wp-content/uploads/2014/08/istrazivanje.pdf> accessed 26 April 2018.

education and 81.2 % answered the question on whether they would enrol their child in a shared class, ie school, affirmatively.⁴²⁵ Besides, a majority (94.5%) was in favour of adding intercultural subjects into the curriculum, which would reflect all the cultures of the ethnicities living in Vukovar.⁴²⁶ The survey confirmed the need to work on finding alternative ways of educating Vukovar's children. During the process, the NDC continued to work closely with interested teachers and parents *inter alia* by educating them. In particular, the latter were eager to find new alternatives that for them were unsatisfactory and divided education models. As a result of their discontent, the parents initiated a parents' club called 'For the Children of Vukovar' through which they advocated their need for the integrated and joint schooling of their children.⁴²⁷

The next step towards the realisation of an integrated school was the creation of a first new curriculum for the project, which was facilitated by the NDC, and co-developed by the Croatian Education and Teacher Training Agency (CETTA) in 2006. Later a competent authority declared the curriculum admissible in 2007. In the following year, the NDC started its effort to found such an intercultural school in Vukovar, more specific to enable the implementation of the crafted and approved cross-cultural curriculum together with interested parents. The curriculum is characterised by its incorporated values of interculturalism and multiculturalism. The National Framework Curriculum⁴²⁸ and the Act on Education in Primary and Secondary Schools⁴²⁹ both contain these values as well. Additionally, the curriculum included a new subject, namely 'Cultural and Spiritual Heritage of the Home Region' (CSHHR), which aims at enabling all the children to learn from all the region's 23 ethnicities and cultures, including their own.⁴³⁰

⁴²⁵ Nansen Dijalog Centar Osijek, 'Ispitivanje odnosa roditelja prema kvaliteti osnovnog školovanje njihove djece u Vukovaru: Izvješće o kvalitativnom istraživanju' 12, 16 (Osijek September 2005) <www.ndcosijek.hr/wp-content/uploads/2014/08/istrazivanje.pdf> accessed 26 April 2018.

⁴²⁶ *ibid* 17.

⁴²⁷ Klub roditelja Za djecu Vukovara and Nansen Dijalog Centar Osijek, *Inicijativa oživotvorenja Nove škole u Vukovaru: Klub roditelja Za djecu Vukovara i Nansen Dijalog Centar Osijek pokreću, u skladu s Ustavom zagarantiranim pravom na obrazovanje, kao i s pravom roditelja i djece da biraju vrste i kvalitetu osnovnog školovanja, slijedeću inicijativu* (2008).

⁴²⁸ Ministarstvo znanosti, obrazovanja i športa, 'Nacionalni okvirni kurikulum: Za predškolski odgoj i obrazovanje te opće obvezno i srednjoškolsko obrazovanje' 15:148 (Zagreb 2010) <www.azoo.hr/images/stories/dokumenti/Nacionalni_okvirni_kurikulum.pdf> accessed 8 May 2018.

⁴²⁹ Zakon o odgoju i obrazovanju u osnovnoj i srednjoj školi (ZOOOSŠ), NN 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13, 152/14, 07/17.

⁴³⁰ Interview with Ivana Milas (n 422).

By 2008, the Vukovar-Sirmium County, the then mayor of Vukovar *Željko Sabo*, the Coordination of the Council of National Minorities of the Vukovar-Sirmium County, the then President of the Republic of Croatia *Stjepan Mesić* and other relevant national and international institutions as well as organisations supported the project. As this was still not sufficient to launch the project, the NDC decided to intensify its advocacy as regards the New School. They did this by organising a public campaign and conducting a survey together with the parents club to again ascertain the opinion of Vukovar community regarding the organisation of schooling and to raise awareness for the New School initiative.⁴³¹

This survey revealed that 74% of the respondents favoured a change in the current organisation of education in Vukovar.⁴³² Furthermore, 77% stated that pupils should be educated jointly, regardless of their ethnicity and 87% held the view that parents would be willing to enrol their children in schools in which there is no division based on ethnicity.⁴³³

Regardless of this favourable opinion of the community on introducing a new alternative education type in Vukovar, the next big step towards the realisation of the project was in 2012, when the project gained support by relevant political actors on all levels. First, the project won support after a meeting with the Office of the President, then *Ivo Josipović*, in September 2012, and subsequently following a meeting with the NDC and the Ministry of Science and Education in October 2012. During this meeting, the project partners agreed that the City of Vukovar should found the New School. For this purpose, the City Council of Vukovar added the project on the Agenda of its 23rd Session held on 5 February 2013. However, the proposal to accept the initiative and to initiate the procedure to found a primary education institution received support neither by the parties HDZ, Croatian Party of Justice Dr Ante Starčević (HSP Dr Ante Starčević) nor by the SDSS. Due to the lack of support of the Vukovar's local politicians, the project was not adopted.⁴³⁴

⁴³¹ Monika Šimek, 'Analiza rezultata ankete o organizaciji školovanja u Vukovaru' (Osijek 2008).

⁴³² *ibid* 3.

⁴³³ *ibid* 5.

⁴³⁴ Gradsko vijeće Grada Vukovara, 23. sjednica Gradskog vijeća: 8. točka dnevnog reda: Donošenje Zaključka o pribivačanju inicijative i pokretanje postupka osnivanja Osnovnoškolske ustanove „Nova škola“ (Izjavitelj: G Bošnjak i Ivana Milas) (2 dio sjednice, 2013). The parties HDZ and HSP Dr Ante Starčević are conservative respectively right-wing parties and SDSS is the ruling party of Croatian Serbs in Vukovar.

Although the Vukovar City Council rejected the project, the project gained considerable support on the national level. Therefore, the NDC and the Ministry of Science and Education applied jointly for an EEA grant, which was made available to establish the Intercultural school.⁴³⁵

As Milas explained during the 23th session of the City Council of Vukovar held on 5 February 2013, the intercultural school project aimed to pose a third alternative for parents who were not satisfied with the two existing schooling models in Vukovar.⁴³⁶ She further stressed that the intercultural school was never intended to have a bridging function between the minority education Model A and the majority-schooling model nor to be another minority-education model.⁴³⁷

Additionally, the curriculum of the school ought to enable all children, regardless of their ethnic origin, to learn from each other's cultures and by doing so to contribute to an integrated and inclusive community.⁴³⁸ To that end, another curriculum was developed, which contained in addition to the subject 'Cultural and Spiritual Heritage of the Home Region' another subject for languages that are spoken in the Danube region. The objective of the language subject was to give pupils the opportunity at their choice to learn one of the spoken languages in the Croatian Danube region.⁴³⁹

The intercultural school project ended in 2017 with the result that the curriculum was officially published and the school formally established. In spite of that, the prospects of the intercultural school are currently not promising. This outlook is made based on the outcome of the 32nd City Council session of the City of Vukovar held on 20 December 2016.⁴⁴⁰ Even though the City Council adopted the proposal to found the intercultural school during this session, the debate held for that purpose made clear the negative attitudes towards the school by both Croatian as well as Serb representatives. As a reminder, the Vukovar City Council had already expressed its negative stance on the integrated school in February 2013. Therefore, Biljana Gaća, member

⁴³⁵ Interview with Ivana Milas (n 422).

⁴³⁶ Gradsko vijeće Grada Vukovara, 23. *sjednica* (n 434).

⁴³⁷ *ibid.*

⁴³⁸ Interview with Ivana Milas (n 422). See also EEA grants Croatia, 'Interkulturalna škola u Vukovaru' <www.eagrants.hr/projekti/interkulturalna-skola-u-vukovaru-31/31> accessed 24 April 2018.

⁴³⁹ Interview with Ivana Milas (n 422).

⁴⁴⁰ Gradsko vijeće Grada Vukovara, 32. *sjednica Gradskog vijeća: 8. točka dnevnog reda: Prijedlozi i informacije (Izvjestitelj: Ivan Penava)* (2 dio sjednice, 2016).

of the City council of Vukovar for the party Social Democratic Party of Croatia (SDP), asked the major Ivan Penava (HDZ), during the 32nd Session what had changed that made him change his opinion as regards the intercultural school.⁴⁴¹ She raised that question because Penava voted against the establishment of this school when serving his mandate as council member in 2013.⁴⁴² Interestingly, in his response, he stressed that although he is still against the intercultural school project:

we are put in the situation that the school will be here and clearly with us or without us. Insofar the city has the opportunity to come into the position to become the owner with this constituent act for the institution, and thus those objects, why should we miss this chance? I think this is just a responsible behavior towards the citizens of the city of Vukovar and for this opportunity, despite my opinion; I had to place the interests of the citizens over my opinion. And I think this is a good thing for Vukovar ... that I am behaving in that way. I am not speaking of the project itself. I am still of the same opinion as then.⁴⁴³

Later in the session, the City Council adopted the constituent act and thus formally established the intercultural school.⁴⁴⁴ However, it seems that the intercultural school was established because of its associated property rights over the school objects and not with the aim to open an operational school.

Bearing in mind the arguments presented during the two sessions of the City Council of Vukovar, held in 2013⁴⁴⁵ and 2016⁴⁴⁶ respectively, the political process of establishing the intercultural school suggests that neither political representatives of the majority population (except for the SDP),⁴⁴⁷ nor the representatives of Vukovar's Serbs were supporting the intercultural school. Having said that, each of them used different arguments to express their opposition to the project. On the one hand, Pilip Karaula, member of the city council for the HDZ, stated during the 23rd session of the City Council of Vukovar that the 'schools

⁴⁴¹ On the 23rd session of the city council of Vukovar, Ivan Penava, at that time member of the opposition, voted against the foundation of the integrated school. *Gradsko vijeće Grada Vukovara*, 23. *sjednica* (n 427).

⁴⁴² *Gradsko vijeće Grada Vukovara*, 32. *sjednica* (n 440).

⁴⁴³ *ibid.*

⁴⁴⁴ *ibid.*

⁴⁴⁵ *Gradsko vijeće Grada Vukovara*, 23. *sjednica* (n 434).

⁴⁴⁶ *Gradsko vijeće Grada Vukovara*, 32. *sjednica* (n 440).

⁴⁴⁷ *Gradsko vijeće Grada Vukovara*, 23. *sjednica* (n 434).

implemented in Croatian language and script are perfect as they are'.⁴⁴⁸ He backed up his statement by mentioning that many children of Serb ethnicity attended the classes in Croatian language and thus saw no problem in the organisation of schooling in Vukovar.⁴⁴⁹ On the other hand, Stanimirović as one of the representatives of the Serb community considered this school to have a bridging function towards assimilation and therefore considered holding on to Model A as the only option to preserve the Serb culture and national identity.⁴⁵⁰

Slobodan Uzelac, former President of the Serb Cultural Society 'Prosvjeta' in Croatia who contributed to the elaboration of education Model C for national minorities, offers an explanation concerning the obstacles the intercultural school project is facing. He believes that the school is:

too idealistic and too good to be able to pass. It simply cannot pass here because in Vukovar and all of those communities one lives on the conflict and from the conflict. What would those politicians from those communities be if it were not for the conflict? What would they show the world? ... They live from this conflict. This is their motor fuel. On the local as well as on the wider level ... Because it simply does not exist, not only that the will for that [the school] does not exist, but there is also a counter will. They will do anything that this [the school] does not happen ... Here, this is not possible no matter how great it is, and it is great, no matter how useful it is for everyone, and it is useful for everyone and children of all kind. Unfortunately, this is not possible because of this [politics]. And for a long time it will remain impossible.⁴⁵¹

The hitherto ineffective implementation of the project 'Intercultural school Danube' suggests that despite the, one dares to say, revolutionary idea of establishing the intercultural school as third schooling alternative in Vukovar, the current and mainly political circumstances pose a severe impediment to its establishment. Currently, one can agree with Slobodan Uzelac on his description of the intercultural school as being a too idealistic proposal for a society that is still transitional and post-conflictual.

⁴⁴⁸ Gradsko vijeće Grada Vukovara, 23. *sjednica* (n 434).

⁴⁴⁹ *ibid.*

⁴⁵⁰ Interview with Vojislav Stanimirović (n 386).

⁴⁵¹ Interview with Slobodan Uzelac (Zagreb, 24 April 2018).

CONCLUSION

The war in Croatia reached one of its tragic peaks with the devastation of Vukovar in 1991, which led to the forced displacement of the majority of Vukovar's non-Serb population. Today, 20 years after the completion of the UNTAES, Vukovar is again a multiethnic city with Serbs and Croats as its largest ethnic groups. The Erdut Agreement, that paved the way for the Peaceful Reintegration, and the Letter of Intent are considered the most relevant documents for the preservation of Vukovar's multiethnic character. Both documents entail provisions that relate to the protection of the people living in the Danube region, which were considered necessary to motivate the people to remain by guaranteeing them a high level of protection.

What is missing in those documents are provisions concerning reconciliation of the population. Although the UN set reconciliation as an objective of the Peaceful Reintegration as reflected *inter alia* in the reports of the UN Secretary-General, they did not define what they actually meant by that term nor was reconciliation a subject to negotiations between the Croat and Serb representatives negotiating the Erdut Agreement.

The introduction of national minority protection laws and political compromises made during the UNTAES contributed to the preservation of multiculturalism in Vukovar and the Danube region. However, I am of the opinion that some negotiated agreements during the Peaceful Reintegration hampered the process of reconciliation of the Vukovar population. An example for such an agreement is the reintegration of the educational sector that laid the foundation for divided schooling in Vukovar by agreeing on the introduction of special education model that aims at preserving and protecting the Serb identity and culture, and thus preserving the Serb minority in Croatia. By agreeing on a

special type of education for pupils belonging to the Serb ethnicity, the negotiators of the education reintegration seem to have added to a legal and subsequently a social division of the community in Vukovar.

In the mid-1990s when war just ended, protecting people by, for eg, separating Serb and Croatian children to avoid confrontations and conflicts may have seemed logical and necessary. Today, this protection creates an ethnic division line by dividing Serb and Croat children, which challenges the very being of multiculturalism in Vukovar. Moreover, there is only a small difference between Croatian and Serbian. Therefore the children do not have any language barriers when communicating with each other. Hence, during the period of Socialist Yugoslavia, the children of both ethnic groups attended joint classes. The absence of language barriers and the common history of joint schooling is what differs the Serb minority from other Croatian national minorities, such as for example the Hungarian or the Italian minority, who as recognised national minorities also enjoy the right to education in their language and script.⁴⁵²

At the same time, aside from protecting legislation, it is necessary to have a vision of and provisions on gradually (re-)creating an integrated, multiethnic community. In other words, laws that aim at the protection of national minorities alone cannot compensate the absence of mechanisms and regulations that foster reconciliation and restoration of a unified community.

As it seems, some lines of social division were made permanent through the absence of official policies that include fostering interculturalism, the rebuilding of trust and reconciliation. Even though Vukovar's children have the opportunity to encounter in their leisure time, learning from and with each other would contribute to fostering their mutual relations. Moreover, joint schooling would enhance the relations of the whole Vukovar community. As described by Antunović Lazić, particularly parents in mixed marriages face a dilemma when needing to decide in which education model to enrol their child. This dilemma results from a lack of a school with an integrative and inclusive curriculum that encompasses all the cultures, languages and scripts present in the Danube region. Such a school could enable the children to learn about and from each other. What is more, as Čorkalo Biruški

⁴⁵² Čorkalo Biruški (n 390).

and Ajduković point out an intercultural school can facilitate mutual contact that is a fundamental precondition:

for the establishment of intergroup relations and the decrease of prejudices wherein this contact needs to be equal, co-operative, frequent and supported by government. Exactly the school can enable all of these preconditions, whereby children could communicate and create peer networks in the same way as they are been created in every community that is not ethnically divided – based on mutual interests, and not on ethnical belonging.⁴⁵³

As portrayed in the case study, almost none of the Croat nor the Serb representatives are in favour of a third schooling alternative for various reasons. Notably, none of these reasons relates to the best interest, well-being and needs of the children. Protecting and preserving one's own identity must be possible for those to whom it is essential, particularly to members of a national minority. At the same time, there are people of more than one ethnicity and people who want to endorse multiculturalism in every aspect of their lives. Therefore, they reject to declare their ethnic belonging. Thus, complex topics such as ethnicity must be debated with sensitivity. At this point, it seems essential to state the fact that by agreeing on the Peaceful Reintegration, both Serb and Croat representatives decided to not only reintegrate the territory of the Danube region but, what is more, to reintegrate the local population. Although not everybody chose to remain or to return, today Vukovar is a city that is inhabited by Croats and national minorities, including Serbs.

Overall, one can say the Serb national minority was physically reintegrated along with the territory when the UNTAES was terminated. However, my research enabled me to conclude that the social reintegration of the people has not been successful yet as Croatia has not demonstrated its will to genuinely foster reconciliation of the people. This negatively affects not only the population living in the Danube region, but the society as a whole. Besides, the case study shows that there are implications of the Peaceful Reintegration on the Vukovar community on the example of today's generation of pupils, who

⁴⁵³ Dinka Čorkalo Biruški and Dean Ajduković, 'Izazovi socijalne rekonstrukcije zajednice nakon rata: učiti iz prošlosti, gledati u budućnost' 15 *Dokle se stiglo s mirnom reintegracijom brvatskog Podunavlja?* (2013).

witnessed neither war nor the UNTAES. The division of pupils along ethnic lines can be seen as sign that UNTAES' objective of reconciling Croatia's society has not been successfully met.

In the light of the recent rise of anti-minority sentiments, more specifically anti-Serb resentments, fostering inclusiveness, reconciliation and resilience in Vukovar should be a priority for the decision makers to bring the Peaceful Reintegration to a genuinely successful end. Therefore, the Croatian leadership needs to implement its existing anti-discrimination legislation more strongly to fight discriminatory acts directed against the Serb minority. As Michael Wardlow⁴⁵⁴ explained, such laws alone cannot modify the behaviour of the community. In his opinion, written law depends on follow-up measures in form of a remedy or an anti-discriminatory environment. One such remedy can be a national equality or human rights commission that could serve as a monitoring mechanism to existing anti-discrimination legislation. As Wardlow puts it, 'we need the hearts (remedy) as well as the minds (the written law) to change attitudes towards inclusiveness, tolerance, and accepting opinions'.⁴⁵⁵

All in all, I think that Vukovar's population and particularly its youngest members should be offered an alternative education model, which embraces multiculturalism and diversity through interethnic dialogue. Such an alternative education model would also reflect the will of Vukovar's pupils as pupils of neither Croat nor Serb classes perceived Model A as most preferable. To create an intercultural and inclusive society, both Croatian and Serb political leaders need to change their currently pursued policies, start to work together and bear in mind the will of the people. Having said this, the main responsibility undoubtedly lies with the Croatian authorities and the majority population.

⁴⁵⁴ Contribution of Dr Michael Wardlow during the mini-conference on *Education Challenges in Multiethnic Communities* in Vukovar on 17 April 2018.

⁴⁵⁵ *ibid.*

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ANNEX

Ethics and Informed Consent

Research project title: Pragmatic Peace. The UNTAES Peacekeeping Mission as Example for Peaceful Reintegration of Occupied Multiethnic Territories?

Researcher: Sandra Kasunić

Research Participants name:

Background of and a statement by the researcher: My name is Sandra Kasunić. I was born and mainly raised in Munich, Germany, but I originate from Croatia. I hold a Bachelor's Degree in Social Work, and I am currently studying the European Master's Degree in Human Rights and Democratisation (EMA). My motivation for writing my final thesis on the UNTAES is not politically but merely intrinsically motivated due to my interest in conflict and post-conflict situations with a focus on the wars in former Yugoslavia. Due to my experience in living as a second generation migrant in Germany, I am particularly interested in researching multiethnic societies in both peace and conflict situations. The aim of the research is not to offer definite answers nor solutions, but rather to highlight the importance of halting a war by peaceful and diplomatic means as was the case with the UNTAES. The approach to research this topic will be multiperspective and interdisciplinary. I do not intend to favour one side of the belligerents nor peace negotiators. Moreover, I declare that I am neither influenced nor instructed by any political party. I also state that I do not intend to favour any party to

the conflict nor do I feel affiliated with any side. The purpose of the research and the thesis is to investigate following questions:

- Has the UNTAES operation indeed been successful? Which criteria can be utilised to rate the success of such a mission besides the absence of an armed conflict?
- Has the Peaceful Reintegration been indeed terminated, or only halted?
- Has only the territory of former Sector East been reintegrated, but not the people? By this, I mean the Serb population
- How is the situation in the reintegrated territory today, in particular, the case of the multiethnic society?
- Is the current organisation of the school system in Vukovar a direct consequence of the Peaceful Reintegration?
- Have there been any, and if yes which, follow-up measures in the aftermath of UNTAES to continue the process of reintegration, reconciliation and confidence restoration?
- Which conclusions can be drawn for future missions of similar context? Can a mission on the example of UNTAES as peaceful settlement of armed conflicts in other settings be conducted, such as in, for example, the occupied territories in Ukraine?

All or parts of your interview including direct or indirect quotations may be used for the Master thesis 'Pragmatic Peace. The UNTAES Peacekeeping Mission as Example for Peaceful Reintegration of Occupied Multiethnic Territories?'

By signing this form, I agree that;

1. I am voluntarily taking part in this project. I understand that I do not have to take part. I have the right not to answer questions, and if I feel uncomfortable in any way during the interview session, I can stop the interview at any time;
2. I have sufficient information about this research project, and I understand my role. The purpose of my participation as an interviewee in this project and the future management of my data has been explained to me and is evident;
3. I understand that the information I submit, including direct quotations, may be included in the Master thesis and that my

- participation will be audio recorded for accuracy and I consent to the use of this material as part of the project;
4. I understand that the information may be used just like I submit them during the interview. In order to ensure I can request that the information I submit during the interview is incorporated anonymously into the thesis. In that case, I understand that the researcher will nonetheless documents the submitted information together with my identity;
 5. The transcribed interview or extracts from it may be used as described above;
 6. I have read the information sheet;
 7. I don't expect to receive any benefit or payment for my participation and I can request a copy of the Master thesis;
 8. I have been able to ask any questions I might have, and I understand that I am free to contact the researcher with any questions I may have in the future.
 9. I have been given a copy of this consent form co-signed by the interviewer.

Monastery of San Nicolò
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Global Campus Europe. The European Master's Programme in Human Rights and Democratisation (EMA)

EMA is a one-year intensive master's programme with participation of 41 prestigious universities representing all EU Member States. It is based on an action- and policy-oriented approach to learning and combines legal, political, historical, anthropological, and philosophical perspectives on the study of human rights and democracy with targeted skill-building activities. As a measure of its success, EMA has served as a model of inspiration for the establishment of EU-sponsored master's programmes in several other regions of the world, all of which are being coordinated and cooperate in the framework of the Global Campus of Human Rights.

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Each year the EMA Council of Directors selects five theses, which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, potential usefulness in raising awareness about neglected issues and capacity for contributing to the promotion of the values underlying human rights and democracy.

The present thesis - ***Pragmatic Peace. The UNTAES Peacekeeping Mission as Example for Peaceful Reintegration of Occupied Multiethnic Territories***, by Kasunić, Sandra and supervised by Đorđe Gardašević, University of Zagreb - was submitted in partial fulfillment of the requirements for the European Master's Programme in Human Rights and Democratisation (EMA), coordinated by EIUC.

