

C. Implementation Concerns

There are a number of aspects of the programme itself which from the beginning raised doubts as to whether it would be fully implemented. They include the following:

1. Legal Status

The legal status of the programme is unclear. Although the programme has been passed by the Sabor, some Croatian officials have warned that it does not have the status of a law as such. A Croatian legal expert consulted by ICG warned that in addition to the programme's uncertain, "sub-legal" status, it is, in its detail, too imprecise, too open to interpretation and too open to challenge. The programme, the Croatian lawyer warned, depends on the good will of those charged with implementing it, which, given the record, must be considered doubtful.

The Prime Minister, Zlatko Matesa, has assured the OSCE that the programme will have legal effect, and on 9 July 1998 the programme was published in the official gazette. However, in certain respects the programme is at odds with existing Croatian law. For example, according to Croatian law, someone facing eviction proceedings should have the right to appeal to a higher court against the decision. Yet the programme states that an appeal procedure initiated by a temporary occupant should not delay the repossession of the property by the legitimate owner. Essentially, the commitment of the government to act on this stipulation represents a political decision, rather than one based in law.

However, the legal expert consulted by ICG pointed out that the law repealing the *Law on the Temporary Take-over and Administration of Specified Property* refers to the programme, specifying that the repealed law is superseded by the provisions of the programme. This reference in the law thus gives legal status to the programme. It is clear, nevertheless, that ultimately the implementation of the programme depends on the political will of the Croatian authorities to fulfil their commitments to the international community, whatever quibbles there might be about the programme's legal status.

2. Property Legislation

The Banja Luka Regional Return Conference welcomed the decision to repeal the *Law on Temporary Take-over and Administration of Certain Properties* and the *Law on Renting of Apartments in the Liberated Areas*. However, it went on to insist that Croatia should introduce new, comprehensive, non-discriminatory property legislation, which would create simplified procedures for the restitution of properties to their rightful owners and holders of occupancy rights in socially-owned property; provide alternative accommodation to temporary occupants; provide adequate alternative accommodation or financial compensation to former occupancy right holders; and provide adequate and prompt assistance to those whose property was in need of reconstruction.

While the programme does address these issues (although not entirely adequately in every case, as described below), it does not constitute satisfactory, comprehensive property legislation, as looked for in Banja Luka. The effects of the two repealed laws remain, and given the uncertain legal