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International Covenant on Civil and Political Rights

HUMAN RIGHTS COMMITTEE

113th SESSION

Considerations of State Parties' reports **CROATIA**

NGO input to the Third periodic report submitted by the Republic of Croatia (CCPR/C/HRV/3) to be taken up in connection with the List of issues prior to the submission of the third periodic report of Croatia (CCPR/C/HRV/Q/3) adopted by the Human Rights Committee at its 105th session

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Members of the Coalition of NGOs submitting the report are as follows:

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B.a.B.e. – Be active, Be emancipated
CESI – Center for Education, Counseling and Research
Center for Peace, Nonviolence and Human Rights Osijek
Center for Peace Studies
Documenta – Center for Dealing with the Past
Human Rights House Zagreb
Roma National Council
Serbian Democratic Forum
Youth Initiative for Human Rights Croatia
Zagreb Pride Association

In cooperation with the Human Rights House Foundation (HRHF)

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Introduction

Coalition of NGOs

1. The present report is a joint contribution of 10 non-governmental organizations to the Human Rights Committee's 113th Session regarding the considerations of the Third periodic report of the Republic of Croatia CCPR/C/HRV/3.
2. The members of the Coalition of NGOs have significant experience and an outstanding track record in protecting and promoting human rights in Croatia and are as follows: Association for Self-Advocacy, B.a.B.e. – Be active, Be emancipated, CESI – Center for Education, Counseling and Research, Center for Peace, Nonviolence and Human Rights Osijek, Center for Peace Studies, Documenta – Center for Dealing with the Past, Human Rights House Zagreb, Roma National Council, Serbian Democratic Forum, Youth Initiative for Human Rights Croatia and Zagreb Pride Association, in cooperation with the Human Rights House Foundation.

Methodology

3. The research methods utilized in the process of collecting information included desk research and interviews.
4. The desk research aimed at collecting all relevant data from state institutions, NGOs data and issue reports, academic research and previously submitted NGO reports to the United Nations and Council of Europe treaty bodies.
5. The interviews aim at collecting relevant examples of human rights violations, professional opinions and recommendations from the practice of human rights advocates and defenders working in the organizations of the Coalition of NGOs.

GENERAL INFORMATION ON THE NATIONAL HUMAN RIGHTS SITUATION, INCLUDING NEW MEASURES AND DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE COVENANT

Issues no. 1 and 2

1. Please provide information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national level that have taken place since the previous periodic report, including any relevant case law. Please also provide information on measures adopted to disseminate the Covenant among judges, lawyers and prosecutors.
2. Please provide information on significant political and administrative measures taken since the previous report to promote and protect human rights under the Covenant, and the resources allocated thereto, their means, objectives and results.

International Human Rights Law

6. The Republic of Croatia has ratified almost all relevant international conventions and optional protocols concerning the protection of human rights. Some of the remaining issues are the poor or not full implementation of international human rights law, the lack of regular reporting to the treaty bodies system, and the insufficient participation and consultations with the civil society organizations. Croatian citizens are not aware of the obligations arising from the ratification of international treaties and of the importance to assess and to implement the recommendations made by the international human rights bodies.
7. The Republic of Croatia has still not ratified the United Nations International Convention for the Protection of All Persons from Enforced Disappearance and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.

Government Office for Human Rights and Rights of National Minorities

8. The merging of the Government Office for Human Rights with the Office for National Minorities resulted in the deterioration of the Government's capacity to advance the protection of human rights. In particular, the new Government Office lost its proactive role in creating and coordinating the development and implementation of public policies and legislations dealing with human rights. Thus, the Government does not any longer have an effective infrastructure for the promotion and the protection of human rights¹.
9. At the beginning of 2013, an interdepartmental body within the Government Office for Human Rights and the office for National Minorities - Human Rights

¹ Source: Civil Society Assessment Report of the Croatian Government Performance in view of 112 Requests (available at: http://gong.hr/media/uploads/20130326_platform_112_annual_assessment_report_of_croatian_government.pdf)

Committee started its work. In 2013, the Office organized three sessions with the following themes: free legal aid, civic education and civilian war victims. However, the visibility of the Human Rights Committee remains low.

Constitutional Act on the Rights of National Minorities

10. Croatia failed in the full implementation of the Constitutional Act on the Rights of National Minorities, which is the key document on minority protection. The most critical area for national minorities, particularly Serbian minorities and Roma people, is access to employment. Ethnic Serbs are still underrepresented in public administration (2,38%) and in the judiciary (2,11%) in comparison to their percentage of the population (4,3%).
11. Despite the existence of an Action Plan for the Admission of the Members of National Minorities in the Civil Service, since its adoption in 2011, the number of national minorities in the civil service is constantly decreasing. In 2012 almost half of the dismissed civil servants were members of national minorities. The most critical situation is in the areas of Special State Concern where in many municipalities the Serbian national minority form a majority of the population. Despite forming the majority in these places, they do not seem to access civil services posts, as these posts are often filled by ethnic Croatians from neighboring and relatively remote places.
12. The most notable examples are Dvor, where Serbs (according to 2001 census) make up 61% of the population of which 26% have civil servant posts. Similarly, Vrginmost has a population of 58% of Serbs of whom 14% hold civil servant posts. In Plaško the ratio is 46% to 13%.

Free Legal Aid

13. The Free Legal Aid Act of 2013 significantly improved access to justice for the poor and socially marginalized citizens. The most significant novelty has been the introduction of the simplified and changed model of primary legal aid, thus resulting in easier access to free legal aid services by beneficiaries. However, certain problems remain. Budget allocations for the primary legal aid providers, namely human rights NGOs, are insufficient and inadequate. In 2014 Croatia changed its model of financing the primary free legal aid providers by establishing project based financing. Despite this change, the planned financial allocation was only 1.5 million HRK in sum, limiting financial allocation per project to maximum 150 000 HRK. The same allocation is predicted for 2015 as well.
14. An additional problem lays in the requirement for the projects to be annual, thus disabling the primary aid providers from planning their human resources and professional development beyond a year. Croatia invests only 0.001% of their budget per capita for free legal aid, which is far below the European average. This is despite the fact that more than the 30% of its citizens are at risk of poverty². Insufficient financial allocation is a main obstacle for a development of an effective primary legal aid system.
15. Regarding the secondary legal aid services, the new provisions of the Free Legal Aid Act, clearly prescribing the procedure of assigning a lawyer representing a free legal aid beneficiary, are commendable. However, there is still a lack of coordination between the Croatian Bar Association and the State's Administration Offices, the latter which is mandated to sanction the request for a secondary legal aid.
16. Despite the generally positive developments in Croatian free legal aid system, two alarming problems remain. Access to the free legal aid system by

²Source available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/People_at_risk_of_poverty_or_social_exclusion.

foreigners with temporary residence in Croatia, and access to the primary legal aid by asylum seekers.

17. Although the limitation established by Article 5 indent 3 of the Free Legal Aid Act of 2013 stating that foreigners with temporary residence are the beneficiaries of free legal aid on the condition of reciprocity is generally reasonable, a particularly acute problem is noted with the returnees holding a temporary residence status. A significant number of Serbian refugees from Croatia, now returnees, are in this category. Since they are citizens of Serbia, with whom Croatia have bilateral agreement only covering reciprocity in access to the secondary free legal aid, they are not entitled to primary free legal aid in Croatia, i.e. can not obtain legal aid in administrative, first instance proceedings. This is disabling them from effective access to resolve status issues regarding their permanent return and housing.
18. The second problem regarding the scope of the free legal aid is related to asylum seekers. Article 34 paragraph 1 of the Asylum Act grants access to free legal aid to person in asylum proceedings. However, the implementation act, Regulations On Free Legal Aid in Asylum Processes of 2012, namely Article 4 paragraph 1 states that Ministry of Interior shall notify the asylum seeker of the possibility to choose a free legal aid provider no later than when the first-instance decision is delivered and served. In practice, this leaves asylum seekers without access to free legal services in the first-instance administrative proceedings, breaching their rights to adequate legal representation.

Asylum

19. The asylum system in Croatia went through two changes in 2011 and 2013 by amendments to the Asylum Act primarily for the alignment with the European Union's directives. Although being generally aligned with the EU *acquis communautaire* the main critique of the aforementioned act is in the lack of correspondence with the local context, i.e. norms have been merely transposed from the EU law without taking into consideration local specifics and peculiarities, e.g. the second instance body in the asylum procedure is the Administrative Court, mandated to secure effective legal remedy. However, the Administrative Courts were not ready to deal with asylum cases as they had no database for country of origin developed.
20. Asylum seekers are facing systemic problems in Croatia that should be addressed promptly.
21. Amendments to the Asylum Act in 2013 reduced access of the asylum seekers to health care by limiting it to emergency health care only. Prior to the 2013 amendments the Asylum Act provided the asylum seekers with access to health care for essential medical treatments and procedures at public's expense. The list of essential medical treatments should be proscribed by the Act on Mandatory Health Insurance and Health Care of Aliens of 2013. Specifically, Article 20 paragraph 3 mandates the Minister of Health to enact regulations governing the scope of the right to health care. That regulation has not been enacted to date, while there is limited health care of asylum seekers. Language interpretations are also not included for asylum seekers (nor for other foreigners) when undergoing medical treatments.
22. Additionally, asylum seekers do not have access to mental health services. This is of grave importance due to the fact that asylum seekers are an especially vulnerable group. A significant number of asylum seekers suffered from trauma caused by treatment in their country of origin and during their transfer to the country where they seek asylum. Mental health services, most

- notably prevention of mental illnesses caused by adjustment to new social context, is crucial for the successful integration of asylum seekers to society.
23. Some of the issues recorded in the process of reviewing asylum applications are related to inadequate and poor quality of the official language interpretations.
 24. Another issue is the sensibility of Panel members when determining the fact relevant for granting asylum when it comes to especially vulnerable groups of asylum seekers, most notably LGBTI asylum seekers.
 25. Asylum seekers, asylum holders and persons under subsidiary protection face a systemic problem regarding their integration to society, i.e. Croatia does not have general integration policy for foreigners, neither for asylum seekers nor asylum holders. Although the Action Plan for the Removal of Obstacles in Realizing Individual Rights in the Integration of Foreigners for the Period 2013-2015 is a significant step forward. The general lack of funds and a need for greater measures for raising awareness among local population indicates that overall policy should be created.
 26. Most notably, due to lack of funds, asylum seekers, holders and persons under subsidiary protection are not offered regular and organized teachings of Croatian language.
 27. As a most obvious consequence, not knowing the Croatian language significantly deteriorates access to employment for the asylum seekers, holders and persons under subsidiary protection. In addition, a persisting problem is the validation and recognition of professional qualifications of asylum seekers, holders and person under subsidiary protection. Although Article 45 paragraphs 3 to 5 of the Asylum Act establishes that validation or prior learning qualifications shall be determined, that provision has not been horizontally applied by relevant authorities.
 28. Regarding access to education institutions, the most prominent problem for asylum holders and persons under subsidiary protection is in public stipend system where Croatian citizenship is one of the eligibility criteria. The asylum seekers, holders and persons under subsidiary protection, an especially vulnerable and economically deprived group, suffer from this discriminatory provision which poses an obstacle to the effective exercise of their right to education.
 29. Another problem in the effective exercise of the human rights of the asylum seekers, holders and person under subsidiary protection are related to right to marriage and right to conclude life partnership for same sex unions. The asylum seeker, holder or person under subsidiary protection is required to file a birth certificate and confirmation that there is no obstacle for the marriage of a foreign national with a person of Croatian citizenship. In cases when an asylum seeker, holder or person under subsidiary protection arrives from a war-affected area that condition is impossible to fulfill, e.g. documents are probably destroyed by warfare. Acquisition of documents is also problematic, if not impossible for the asylum seekers, holders and person under subsidiary protection coming from countries where authorities are refusing to issue such documentation, *inter alia* due to asylum proceedings of their citizens.
 30. Asylum holders face problems relating to the exercise of their right to housing. The Act on Asylum grants a right to housing provided by the State for term of two years. Due to the insufficient number of housing units, numbers of asylum holders are being placed at asylum centers and reception centers for foreigners, thus significantly reducing their ability to gain full independence. Particularly problematic is placing the LGBTI asylum holders in aforementioned centers where they are subjected to victimization on the grounds of their sexual orientation or gender identity.

Civic Education

31. Various researchers³ have demonstrated a lack of awareness on human rights principles and democratic processes in the Croatian civil society. The Minister of Science, Education and Sport approved the draft National curricular framework in 2011⁴, laying the foundation for the creation of a first national curriculum for civic education.
32. The final version of the curriculum was approved in 2012 along with the decision to conduct a two years (2012 – 2014) experimental implementation in 12 primary and secondary schools⁵. The plan envisages the introduction of civic education as an independent subject in the final grade of the primary and secondary school by 2014/2015.
33. However, the recently issued plan of implementation only envisions a cross-curricular introduction of civic education. This approach raises serious doubts about its effective implementation, including an appropriate preparation of teachers, an urgent revision of all topics (curricular reform) and the possibilities to conduct an effective monitoring and evaluation⁶.

Dissemination of the Covenant

34. It should be noted that the official translation of the Covenant is not easily accessible on the Internet.
35. The Ministry of Justice has indicated the number of Official Gazette where the Governments decision on the succession to the Covenant is published on its old Internet page. However, the link is on the Internet page is not on an official translation of the Covenant but rather links to the unofficial one⁷.

Recommendations arising under Issues no. 1 and 2

1. International Human Rights Law
 - a. Full implementation of the international human rights law into domestic legislation
 - b. Submit regular reports to treaty bodies of the international human rights conventions
 - c. Increase participation and consultation with the civil society organization regarding the implementation of the international human rights law
 - d. Promptly ratify United Nations International Convention for the Protection of All Persons from Enforced Disappearance
 - e. Promptly ratify Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

³ Bagić, D. (ur.) (2011) *Odgaja li škola dobre građane? Studija o političkoj socijalizaciji hrvatskih srednjoškolaca*. Zagreb: GONG i FPZG; Ilišin, V. (et al.) (2013). *Mladi u vremenu krize*. Zagreb: IDIZ

⁴ Ministry of Education, Science and Sport. *National Curriculum Framework*. (2010) (Available at public.mzos.hr/fgs.axd?id=17504)

⁵ The results of monitoring and evaluation of the experimental process in six schools were compiled in a research report: Spajić-Vrkaš, V. (2014) *Eksperimentalna provedba kurikuluma građanskog odgoja i obrazovanja – Istraživački izvještaj*. Zagreb: Mreža mladih Hrvatske. Curriculum was then adapted according to the results and recommendations of the experimental implementation and a public debate was opened in 2014. The Curriculum that was tested during a two-year period was bypassed without releasing the public debate inputs, a new document of substantially different quality was created in a short period (authors unknown to public!) and a new public debate started in July 2014.

⁶ Also, various stakeholders, mainly CSOs, were informed through media that the Ministry does not plan to further involve them in the process of implementation, monitoring or evaluation of civics in schools, diminishing the capacity for collaboration with the sector which has been involved in creating HR and similar non-formal educational programmes for more than 20 years now and has great expertise in the field. This shows a great misunderstanding of the role of dialogue with citizens and CSOs in the democratic process.

⁷ Source: <http://mirenje.pravosudje.hr/Default.aspx?sec=562>.

2. Government Office for Human Rights and Rights of National Minorities
 - a. Strengthen the proactive role of the Government's Office for Human Rights and Rights of National Minorities in creating and coordinating the development and the implementation of human rights policies and legislations
 - b. Increase the visibility of the Human Rights Committee
3. Constitutional Act on the Rights of National Minorities
 - a. Full implementation of the Constitutional Act on the Rights of National Minorities
 - b. Full implementation of the Action Plan for the Admission of the Members of National Minorities in the Civil Service
4. Free Legal Aid
 - a. Increase the budget allocations for primary legal aid providers
 - b. Change the model of financing the primary legal aid providers from annual to multiannual
 - c. Foster increased coordination between the State's Administration Offices and the Croatian Bar Association
 - d. Provide Serbian returnees with temporary residence access to primary legal aid services
 - e. Provide an effective and immediate access to asylum seekers at the beginning of the first instance administrative proceedings
5. Asylum
 - a. Expand the access to essential medical treatment for asylum seekers
 - b. Immediately enact regulations governing the scope of the right to health care for asylum seekers
 - c. Grant access to mental health services for asylum seekers
 - d. Secure better quality of official language interpretation
 - e. Secure sensibility trainings for asylum officers to increase level of sensibility for LGBT and other vulnerable groups of asylum seekers
 - f. Develop an overall integration policy for foreigners
 - g. Increase the budget allocations for programs of social integration
 - h. Increase awareness raising activities among local population
 - i. Increase the budget allocation for organized teachings of Croatian language
 - j. Secure horizontal application of the Article 45 paragraphs 3 to 5 of the Asylum Act
 - k. Secure access for the asylum holders and persons under subsidiary protection to public stipend system
 - l. Grant effective access to marriage and life partnership for asylum seekers, holders and person under subsidiary protection
 - m. Increase number of available housing units for asylum holders
 - n. Put special attention on protecting the rights of LGBT asylum seekers while being placed at asylum centers or reception center for foreigners
6. Civic Education
 - a. Secure an effective implementation of the curricula on civic education
 - b. Secure appropriate preparation for teachers for the implementation of the curricula
 - c. Conduct the urgent curricula reform
 - d. Secure effective monitoring of curricula implementation
7. Dissemination of the Covenant
 - a. Secure effective accessibility of the Covenant on the Internet
 - b. Secure easier availability of official translation of the Covenant on the Internet

Issue no. 3

3. Please provide any other information on new measures taken to disseminate and implement the Committee's previous recommendations (CCPR/C/HRV/CO/2), including any relevant statistical data.

Concluding Observations

36. The Committee's previous Concluding Observations CCPR/C/HRV/CO/2 are translated to Croatian and are available on the internet pages of the Ministry of Justice.
37. To the best of our knowledge, activities aiming to disseminate the Committee's Concluding Observations to the general public and interested civil society organizations have not been undertaken.
38. Moreover, the Concluding Observations are not being implemented in any systemic manner, i.e. there is no special action plan or any other designated body that would be monitoring the implementation of the Concluding observations.
39. To the best of our knowledge, the Third periodic Report submitted by Croatia to the Committee - CCPR/C/HRV/3, has not been translated to Croatian, or the Croatian version is not publicly available. This leads one to conclude that the Government has neither undertaken any activities prior to the submission of the report to engage in a public discussion of the content of the report nor is it being transparent in the process of its drafting.

Recommendations arising under Issue no. 3

8. Concluding Observations
 - a. Disseminate further the concluding observations to the general public and interested civil society organizations
 - b. Create a working group mandated with overseeing the implementation of the Concluding Observations and include civil society organizations in its work
 - c. Make the Third Periodic Report of Croatia and all that is going to follow publicly available in Croatian
 - d. Conduct a public discussion prior to the submission of the periodic reports

SPECIFIC INFORMATION ON THE IMPLEMENTATION OF ARTICLES 1 TO 27 OF THE COVENANT, INCLUDING WITH REGARD TO PREVIOUS RECOMMENDATIONS OF THE COMMITTEE

A. Constitutional and legal framework within which the Covenant is implemented (arts. 2 and 26)

Issue no. 6

6. Please provide detailed information on the process of merging the specialized Ombudspersons functions with the Office of the Ombudsman and indicate the measures taken to ensure the full independence of the new unified national human rights institution. Please provide information on the human and financial resources allocated for the effective functioning of this institution. Please also describe its mandate and activities in the field of civil and political rights and the steps taken to implement them.

Independent Human Rights Institutions

40. The Constitutional Court revoked an Act proscribing the merger of the Ombudsperson's Offices, Centre for Human Rights, Ombudspersons for Gender Equality, Ombudsperson for Children and Ombudsperson for Persons with Disabilities, due to procedural reasons. New legislation, which no longer foresees the merger of the offices, was adopted in July 2012.
41. A new Ombudsperson was elected on 15 February 2013. The Government of Croatia undertook several initiatives to upgrade the capacity and the status of the Ombudsperson, including the introduction of the new Ombudsman Act⁸ of 2012, the possibility for the Ombudsman to carry out National Preventive Mechanism's tasks⁹, the establishment of the Council of the Ombudsperson for Human Rights¹⁰ and the conclusion of the Agreement on Inter-Institutional Cooperation between three specialized ombudsperson offices (gender equality, people with disabilities and children)¹¹.
42. However, the work of all four established offices is still not sufficiently recognized and valued by the Croatian Parliament and state institutions, as well as by the citizens. Often the Government's bodies and institutions do not accept the recommendations and warnings issued by the Ombudsperson. Citizens do not perceive Ombudsman Offices as institutions that can effectively protect their rights due to the fact that their recommendations and decisions are not perceived by state institutions as obligatory (Ombudsman for Gender Equality stated that only approximately 30% of her recommendations were implemented immediately by state institutions). The coordination between the Ombudsperson and specialized ombudspersons should be better in order to reach out to the citizens.
43. The Office of the Ombudsperson has the responsibility to supervise the implementation of the National Preventive Mechanism against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment Act.¹² The Ombudsperson claims that the office lacks sufficient human and financial resources to fully and seriously implement its mandate.¹³ In November 2014,

⁸ Ombudsman Act (OG 76/12), available at: <http://www.ombudsman.hr/index.php/hr/propisi2ws/finish/6-propisi/50-zakon-o-puckom-pravobranitelju-nn-br-76-12>

⁹ According to the requirements stipulated in the Act on National Preventive Mechanisms against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM) and Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

¹⁰ More information about the Council at: <http://www.ombudsman.hr/index.php/hr/2014-02-21-22-30-08/savjet-ljudska-prava>

¹¹ Available at:

<http://www.prs.hr/attachments/article/889/Sporazum%20o%20medjuinstitucionalnoj%20suradnji%20pravobraniteljskih%20institucija.pdf>

¹² From 8 May to 20 August 2014, the Ministry of Justice launched a public discussion / consultation about the draft Amendments to the Act on National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM).

¹³ Therefore, their last annual report (2013) has several recommendations on how to achieve better implementation. <http://www.ombudsman.hr/index.php/en/documents-3/ombudsman-s-reports/finish/15->

the Regional Offices of the Ombudsperson in Rijeka and Osijek were opened with the intention of increasing the visibility and availability of human rights protection to citizens.

Recommendations arising under Issue no. 6

9. Independent Human Rights Institutions
 - a. Increase the level of the implementation of ombudspersons' recommendations
 - b. Increase level of compliance with ombudspersons' warnings and official opinions
 - c. Increase the visibility of the ombudspersons'
 - d. Increase budget allocation to increase human and financial resources of the National Preventive Mechanism against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
 - e. Continue with opening Ombudsman's regional offices in south of Croatia (Split)

B. Non-discrimination and equality (arts. 2, paragraph 1, 3, 7, 22 and 26)

Issue no. 7

7. With reference to paragraph 5 of the Committee's previous concluding observations, please indicate the measures that the State party has taken during the reporting period to combat discrimination against minorities. Please provide information on the practical implementation of the Anti-discrimination Act (OG 85/08), including examples of case law, and the national anti-discrimination policy plan 2008-2013. What measures have been taken to protect members of the Serb minority against discrimination? Please provide information on the concrete measures taken by the State party to address the serious concerns regarding the situation of de facto discrimination, intolerance, violence and harassment faced by Roma, as was reflected for instance in the report by the Council of Europe's Commissioner following his visit to Croatia in April 2010. Please also provide information on the number of hate crimes reported during the period under review, including information on the outcome of the investigation into the alleged physical attacks on participants in the "Different Families, Same Rights" pride march organized in Split on 11 June 2011.

Discrimination on Grounds of Racial or Ethnic Origin

44. It should be noted that racial or ethnic origin was the most common basis of discrimination about which citizens, particularly those belonging to Roma and Serb communities, complained to the Ombudsman in 2012. At the same time, although recognizing that significant financial resources have been invested

[ombudsman-s-reports/76-summary-annual-report-for-2013](#). In the Annual Report on the Performance of Activities of the NPM 2012 following data are available: "In the State Budget of the Republic of Croatia for 2012, around 62,320 Euro was allocated for the work of NPM. Since July of 2012, when the activities of the NPM began, and until the end of December 2012, seven visits to places where persons deprived of their liberty are placed were organized (three under the authority of the Ministry of Justice, two under the authority of the Ministry of the Interior and two under the authority of the Ministry of Social Policy and Youth)." (pg. 36-37)

in addressing inequalities faced by Roma in their day-to-day lives, ECRI states that Roma continue to be excluded from mainstream Croatian society and endure difficult living conditions.

45. The media coverage of the Roma presents a mixed picture, with a number of examples of reporting on Roma in an extremely negative way. However, it is worth mentioning that reducing discrimination against Roma and raising the level of availability and accessibility of free legal aid to them in the forthcoming period are among eight priority policies of the 2012 National Strategy.¹⁴
46. It can be concluded that some indications of discrimination and violations of Roma rights in the health-care system exist, although their range and frequency remain officially unrecorded. With the aim of eliminating prejudices and suppressing discrimination against Roma in the health-care system, the 2012 National Strategy sets specific objectives on increasing the sensitivity of health-care professionals for work with Roma and improving communication between Roma and family practitioners. Progress towards this aim is envisaged to be measured by the level of satisfaction of the Roma population with the attitude of health-care professionals toward them, through surveys to be carried out each year.
47. Systemic failure persists in data collect disaggregated by ethnicity and, therefore, the problem of inadequate monitoring of Roma coverage by the specific integration measures in the field of health and in achieving targeted results.¹⁵

Discrimination On Grounds of Sexual Orientation and Gender Identity

48. Research and experiences, as well as complaints of LGBTI persons to organizations reveal existence of discrimination and harassment. Most of the complaints come from LGBTI workers in the public health sector. This suggests that some employers do not respect sufficiently the prohibition of discrimination nor their obligation to protect the dignity of workers; that the labor rights of LGBTI persons are often violated and that the safeguards against discrimination are insufficiently used. Neither state nor private employers have existing inter regulations for protection against discrimination on grounds of sexual orientation or gender identity.
49. Similar to discrimination on other grounds, one of the main motives for not using the protective mechanisms is the fact that LGBT persons are afraid of losing their jobs, reduced wages, and arbitrary actions of their superiors, which is even more present in times of economic crisis, recession and high unemployment. Due to the fear of many LGBT persons for their status within their professional setting and for their own job position, in the majority of cases they are not inclined to publicly express their sexual and/or gender identity, which negatively affects their dignity, work performance and mental health.

Hate Crime

50. Hate crime provisions were modified with the amendments to the Penal Code in 2013 stipulating harsher penalties for hate crime, which is now a qualified form of crime. Throughout the reporting period the Government adopted the Protocol in Cases of Hate Crimes and the Working Group for Monitoring the Hate Crime was established. The establishment of the Working group is

¹⁴ Decade of Roma Inclusion Foundation: Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in CROATIA, page 37. Available at: http://www.romadecade.org/cms/upload/file/9773_file3_cr_civil-society-monitoring-report_cr.pdf

¹⁵ Ibid., pages 65 and 68.

commendable, but it lacks a real mandate regarding the awareness raising activities and issuing recommendations for improvement of hate crime proceedings.

51. Regarding the police proceedings, the aforementioned Protocol stipulates that the police must take particular care when processing cases of hate crime. In practice there are still many problems with the effective investigation of hate crimes. There is a lack of additional education for police regarding recognizing a hate crime and especially lack of sensitivity trainings to avoid secondary victimization of hate crime victims by the police.
52. Regarding hate crime on the basis of sexual orientation and gender identity, a large and unknown number of cases of hate crime remain unreported. A survey from 2007¹⁶, showed that only 4.6% of lesbian, gay, bisexual and transgender persons who participated in the survey reported discrimination and violence to the police, while the research from 2013¹⁷ recorded only a slight increase in the number of reports - less than 8% of the participants reported a hate crime to the police. Very little information is available regarding the transphobic hate crimes. Hate crime and violence are not reported mainly due to the victims' low level of trust in the police, i.e. the low level of education and sensitivity of individual police officers.
53. In addition, victims sometimes fear that their sexual orientation could be revealed against their will. Disclosure of sexual orientation to the family of the victim was noted in the hate crime case in 2012 after the Split Pride.
54. For years there have been discussions about the need to develop a comprehensive national plan to combat homophobia and transphobia, taking into account the alarming levels of violence and intolerance against LGBTI persons, particularly noticeable at the moment when their visibility is increased, as is the case during the Pride Marches. For now, there is no expressed political will to start with preparing a strategy, and in the future it is necessary to raise awareness of political parties and authorities about its importance and necessity.¹⁸
55. Regarding hate crimes on the grounds of nationality or ethnicity, the police proceedings to investigate ethnically motivated crimes are still not conducted seriously and thoroughly. In two cases (*Beganović v. Croatia* and *Đurđević v. Croatia*) the European Court for Human Rights found violations under Article 3 of the European Convention on Human Rights and Fundamental Freedoms by referring to the state's failure to carry out sufficiently thorough and effective investigations in relation to the right to protection from torture or inhuman or degrading treatment. Both cases concern racial motivated attacks against Roma.¹⁹
56. Although the European Court on Human Rights established in *Šečić v. Croatia* that the police has the additional duty to identify any racist motive behind the crime committed in timely manner, that has not been equally applied by the police in all racial motivated hate crimes. Due to lack of adequate education to recognize hate crimes, it has been noted that police officers are more eager to qualify the incident in question as a misdemeanor against public order rather than a crime qualified as a hate crime.

¹⁶ Conducted by the organization LORI, Rijeka.

¹⁷ Conducted by Zagreb Pride, LORI and Queer Sport Split.

¹⁸ *Pink Megaphone: From Anti-Discrimination Act to the Constitutional Ban on Same-Sex* a Report of Zagreb Pride on the Human Rights of LGBTIQ Persons in Croatia 2010 – 2013, page 65

¹⁹ Decade of Roma Inclusion Foundation: Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in CROATIA, page 37. Available at: http://www.romadecade.org/cms/upload/file/9773_file3_cr_civil-society-monitoring-report_cr.pdf, pages: 39-40.

57. In 2012, ECRI concluded that racially motivated violence against Roma remained an issue of concern and strongly recommended that Croatian authorities should ensure that all acts of racist violence be promptly and thoroughly investigated with a view to prosecution of the perpetrators. It also noted that officially reported figures concerning racially motivated violence seldom reflect the true picture and should be treated with caution.²⁰

Ethnic Profiling

58. Regarding the ethnic profiling of Roma by the police, it has been noted that in cases of robberies, thefts and other felonies in towns which are close to settlements mostly or entirely inhabited by Roma, the police would often bring Roma to a police station for interrogation, although there was no reasonable grounds for suspicion justifying police conduct in question.
59. It has also been noted that the police in some cases implements control measures (police stopping) against Roma outside of Roma settlements, although there was no objective justification for it. In this case, ethnicity was the sole basis for control.
60. Instances of ethnic profiling have been noted among asylum seekers as well. The police would come to the Center for Asylum Seekers at so-called 'Hotel Porin' and would bring random asylum seekers in for questioning although there was no reasonable ground for suspicion.

Recommendations arising under Issue no. 7

10. Discrimination On Grounds of Racial or Ethnic Origin
- Take effective measures to end social exclusion of Roma
 - Take effective measures to end poor living conditions of Roma
 - Take effective measures to end extremely negative reporting and portraying of Roma
 - End discrimination of Roma in health care system
 - Start collecting data disaggregated by ethnicity within the health care system
11. Discrimination On Grounds of Sexual Orientation and Gender Identity
- Take effective measures to end discrimination and protect labor right of LGBT people
 - Take effective measures to promote human rights of LGBT employees
12. Hate Crime
- Mandate the Working Group for Monitoring Hate Crime to conduct awareness raising activities and to issue recommendations regarding hate crime
 - Secure additional education of police on hate crime
 - Secure additional sensibility trainings for police regarding hate crime
 - Initiate awareness raising activities about hate crime on the grounds of sexual orientation and gender identity
 - Implement effective measures to build trust between LGBT people and police
 - Develop a national plan or strategy to combat homophobia and transphobia
 - Take effective measures to investigate all ethnically motivated crimes in timely manner

²⁰ ECRI Report on Croatia (fourth monitoring cycle), available at: <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/croatia/HRV-CbC-IV-2012-045-ENG.pdf>, page 27.

13. **Ethnic Profiling**
 - a. Stop immediately with the police practice of interrogating Roma and asylum seekers without reasonable suspicion
 - b. Take effective measures to investigate all cases of ethnic profiling and unjustified police stopping of Roma and asylum seekers
 - c. Take effective measures to stop further cases of ethnic profiling and unjustified police stopping of Roma and asylum seekers

Issue no. 8

8. Further to the Committee's previous concluding observations (para. 7), please indicate any measures taken to promote effective implementation of legislation and policies on gender equality and to ensure women's participation in different areas of public affairs. Please provide information on the progress made in the implementation of the National Policy for the Promotion of Gender Equality 2011-2015, as well as on the status of the National Plan for the Implementation of Security Council resolution 1325 (2000). Please also indicate all the measures taken to eliminate gender stereotyping and to strengthen the mainstreaming of gender perspectives in educational curricula and textbooks.

61. In financial terms, the total budgetary resources directed to institutions that are focused on the achievement of gender equality (Office of the Ombudsperson for Gender Equality and Government Office for Gender Equality), as well as for implementation of different programs (national policies for promotion of gender equality, various international obligations in the field of gender equality, implementation of laws in the field of gender equality and information dissemination), were 4.996.057,8 HRK (2012), compared to 5.232.062 HRK in 2013.
62. Compared to 2011, there was a reduction of budgetary resources directed towards programs or institutions focus on gender equality for 20.36% in 2012 and 16.6% in 2013 (the total budgetary resources for the year 2011 were 6.273,519 HRK).²¹

National Policy for Gender Equality

63. National Policy for the Gender Equality 2011-2015 did not set up indicators of implementation and it is very difficult to make the evaluation of the policy itself. In the Annual Report for 2012, Ombudswoman for Gender Equality states: "Analysis of the obtained responses of measures holders and co-holder shows that most of the measures contained in the National Policy for the Gender Equality 2011 to 2015 were implemented in 2012 at a satisfactory level and by most holders. However, certain measures were not implemented or were implemented only partially due to the lack of financial resources by certain holders, but also because of the lack of their activity."²² For example, measures for the preparation of gender budgets were not implemented at all.²³

²¹ Data available at the web page of the Ministry of Finance of the Republic of Croatia: <http://www.mfin.hr/hr/drzavni-proracun-arhiva>

²² Source: Annual Report 2012, Ombudsperson for Gender Equality, Republic of Croatia, March 2013, pg. 48 (English summary available at: <http://www.prs.hr/attachments/article/858/IZVJESCE%202012%20-%20ENG2-KB.pdf>)

²³ In the Annual Report for 2012, the Ombudswoman for Gender Equality states: "Not a single measure related to gender budgeting and supporting the implementation of gender research and analysis has not been implemented, because according to submitted statement of the Ministry of Finance,

64. County Assemblies have adopted Action Plans for the Implementation of the National Policy for the Gender Equality. The success of their implementation remains to be seen. It is again obvious that the Action Plans do not contain adequate indicators of implementation, and that measures are copied from the National Policy, without putting measures in the local context. Also, the adoption of Action Plans does not necessarily mean the consistent application of gender-conscious policies at the county level. Many County Committees stated insufficient financial resources to implement the measures from the National Policy for the Gender Equality.
65. It can be concluded that although the National Policy for the Gender Equality is formally being implemented, at the same time that implementation has not had significant impact on the status of women, which points to inadequate measures defined by the National Policy. The legal framework is there, the national mechanisms have been established, but the implementation of measures to achieve equality has yet to reach the executive, legislative and judicial power.
66. The scope of the aforementioned problem is evident from the work of Counseling Centre for women in civil society organization B.a.B.e. Although counseling is primarily conceived as a Counseling Centre for victims of domestic violence, a growing number of women with different life and legal problems are addressing the organization B.a.B.e. for mobbing, property rights problems, unemployment, various health problems and many others. By making an analysis of the life situations through which these women pass, it can be concluded that their rights continue to be compromised in three key areas: marriage and family, property and employment and sexual integrity. Furthermore, pregnant women and mothers are facing problems of maternity discrimination in workplace, in getting employment, small child allowances and even the inability to realize their basic rights to health and social protection.

Gender Based Discrimination in Employment

67. The Croatian Government did not take any action to eliminate discrimination based on gender in the labor market. Women are the majority of the unemployed population (in the last quarter of 2013, out of 21,1% of registered unemployed persons, women made up 52,9%²⁴). There are several reported cases of women fired or degraded during a pregnancy leave as well as less paid than men for an equal work. Due to the ineffective judiciary, women workers remain unprotected. The change of the Labor Act in 2013 has worsened the already poor working conditions of women, especially in the private sector, and has seriously affected their position as a working force.

Participation of Women in Public and Political Life

68. The main problem regarding participation of women in public and political life happened with the interpretation of the provisions of article 15, paragraph 2 of the Gender Equality Act²⁵ by the current Government. By this interpretation,

Ombudswoman concluded that budget analysis from a gender perspective, in order to determine the different impact of the budget on woman and men, has not been made.” (Available at: <http://www.prs.hr/attachments/article/633/IzVJESCE2012web.pdf>)

²⁴ Monthly Statistics Bulletin: Year XXVI/13: Croatian Employment Service at http://www.hzz.hr/UserDocImages/stat_bilten_12_2013.pdf

²⁵ Gender Equality Act, Article 15 (2): “With a view to implementing paragraph 1 of this Article, political parties and other entities authorized to submit election lists shall introduce specific measures to prevent a substantial imbalance in the representation of men and women on the lists for the election of representatives to the Croatian Parliament, members to be elected to the representative bodies of units

the Government postponed the implementation of sanctions for political parties that do not respect the principle of balanced representation of both sexes on the candidate lists for four years. This Government announced changes to the Gender Equality Act so that the quota first will be applied to the parliamentary elections in 2015.

69. The results of local elections held in May 2013 showed that on the lists of candidates for the County Assembly in 2013 were 2747 women, which represent an increase of 823 women, or 4% compared to 2009, when a total of 1924 women were nominated. Thereby the representation of women on the candidate lists increased from 28% to 32%. However, despite the growing number of women candidates, the proportion of mandates won in the county assemblies for women fell from 23 to 21%. Primarily this happened due to the fact that women were positioned on the lower parts of the lists, but also because of the marked differences in the number of women candidates on the lists of the right and left political parties. Most women were elected to the county assemblies of the Istria County and Varaždin County and Zagreb City Assembly, at least in the County Assembly of the Zadar County. In the city councils only 17,9% women were elected, which is a decrease of almost 3% compared to the local elections in 2009. But at the same time, 40 women became leaders of local and regional government (6,9%), which represents an increase compared to 2009, when the number was 28 women (4.9%).
70. It is important to highlight that Croatia voted against the EU proposed measures to increase the threshold to 40% quota for women participation. This suggests that the Croatian Government has no genuine intention to do something regarding participation of women in public and political life.

Sexual Violence

71. The Rules of Procedure in Cases of Sexual Violence were adopted in 2012. The Croatian Government adopted a new Rules of Procedure in Cases of Sexual Violence on 3 September 2014 to harmonize it with the provisions of the new Criminal Act, the amendments to the Code on Criminal Procedure, the Social Welfare Act and the Family Act²⁶. The main objective of the Rules of Procedures is the introduction of a standardized process for all bodies and institutions in the Republic of Croatia towards the victims of sexual violence. Governmental Office for Gender Equality published and disseminated the Rules of Procedures, while CSO Women's Room – Centre for Sexual Rights conducts trainings for representatives of various institutions and the general public.
72. It is necessary to make additional efforts to ensure the implementation and to increase the level of information and awareness about the Rules of Procedures in Cases of Sexual Violence among all institutions. It is important to ensure better coordination of institutions, as well as to monitor the implementation of the Rules of Procedures in Case of Sexual Violence.

Women in Rural Areas

73. The National Policy for Gender Equality 2011 - 2015 recognizes women in rural areas as a separate social category considering their identified needs. The national policy contains two measures dealing with the position of women

of local or regional self-government and for members of the European Parliament in accordance with Article 12 paragraph 3 of this Act. Pursuant to Article 12 paragraph 1 of this Act, gradual increase in the percentage of the underrepresented sex shall be achieved not later than in the course of the implementation of the third regular elections to follow after the entry into force of this Act." (available at: <http://www.ured-ravnopravnost.hr/site/the-act-on-gender-equality-nn-8208.html>)

²⁶ A decision of Constitutional Court suspended the application of the new Family Act in January 2015. With the same decision Constitutional Court ordered the return of the old Family Act from 2003.

in rural areas which are related to the establishment of a working group to collect information on women in rural areas in the field of education, employment and self-employment, health care, cultural heritage preservation and economic development, and create an action plan based on the results of the analysis and issuing of publications (once a year) on the basis of data on women in rural areas.

74. The Ministry of Agriculture initiated the creation of the Action Plan for the Promotion and Enhancement of the Role and Status of Women in Rural Areas. In 2012, a working group was founded in order to collect information on women in rural areas, and in June 2013 it held the first public debate on the draft of the Action Plan. However, there is no data on the implementation of the Action Plan. Likewise, in the other adopted strategies and programs, women from the rural areas are “invisible”.
75. A gender perspective was not taken into account when drafting the Rural Development Program of the Republic of Croatia for the period 2014-2020, and the document is not gender sensitive. In addition, the European Commission recommended the inclusion of the results of the research “101 questions for rural woman” into the program, and to monitor the follow-up of the survey. The Ministry of Agriculture responded that the recommendation will not be accepted and that such information is not considered relevant.
76. Women's Entrepreneurship Development Strategy in the Republic of Croatia from 2014 to 2020 identifies a lack of data on the situation of women in rural areas and emphasize the importance of research in the areas on which there is insufficient knowledge, including rural entrepreneurship, developing advisory services specializing in entrepreneurial ventures of women in rural areas and increasing support for entrepreneurial projects of women in the activities of new technologies, innovation, rural and karst economy.

United Nations Security Council Resolution 135 (2000)

77. There has been some progress in implementing the National Action Plan for the Implementation of the United Nations Security Council Resolution 135 (2000), while progress is also visible in the increasing inclusion of a gender perspective. The general impression is that women are getting more involved in the activities of preventing armed conflicts and peace building. The shift is evident in the increased share of women in the Ministry of Defense and Armed Forces, but there are still problems related to changes in the structure and the scope of work of individual ministries.²⁷

Gender Sensitive Education

78. On the basis of Article 34, Paragraph 1 of the Act on Textbooks for Primary and Secondary Schools, Ministry of Science, Education and Sports adopted textbook standard that increases the quality of gender-sensitive education, while ethical and linguistic standards of textbooks and visual graphics solutions are aligned with the principles of gender equality.
79. However, the Committee of Experts that evaluates the textbooks is not allowed to give a positive opinion on textbooks and accompanying supplementary teaching resources that are portraying gender stereotypes and gender discrimination in the texts and graphic design, although the supervision is needed.

²⁷ In her report for 2013, Gender Equality Ombudswomen recommended: “1) Continue the implementation of the measures provided for by the NAP and increasingly involve women in decision-making processes. (2) Apply a gender perspective in the area of security through gender-mainstreaming training of police officers, judges, prosecutors, health workers and others.” (Available at: <http://www.prs.hr/index.php/izvjesca/izvjesce-o-radu-za-2013>)

80. The textbooks must promote intercultural understanding, racial, national, ethnic, sexual, gender, religious equality of individuals and social groups as well as awareness of the right to diversity. The textbook should also promote gender equality in an appropriate manner, using a parity ratio of illustrations of characters of both sexes and using both noun genders, especially in the appointment of vocational qualifications, professions and occupations, thereby not disturbing the communication level and naturalness of the Croatian language. The analyses that have been conducted so far (CESI, B.a.B.e., Center for Human Rights, Gender Equality Ombudsman) show that gender-sensitive language is not used systematically and it is a question of interpretation about what really erodes „the level of communication and naturalness of the Croatian language“. The situation is improving, although gender stereotypes related to the occupation, achievements of women and men and the underrepresentation of women in certain areas are still present (for example, women are invisible in history related contents).
81. In 2013, Gender Equality Ombudsman conducted a survey titled Experimental implementation of the Civic Education in the school year 2012/2013 from a gender perspective. A key finding is that 38% of primary and 52% of secondary schools teachers have declared that they consider that they were not sufficiently prepared for teaching civic education, although most of them passed professional training. But despite the lack of preparedness, about 2/3 of the teachers said that they were mostly satisfied with the performance of teaching Civic Education in the school year 2012/2013, which is a positive finding.
82. Teachings on gender-based discrimination do not represent any difficulty for most of the teachers. On the other hand, very small percentage of them considers themselves competent for teaching on gender identity and gender expression. New Gender Equality module²⁸ with elaborated teaching units and associated materials should play a significant role in changing the situation.²⁹
83. In 2012, the Ministry of Science, Education and Sports brought the long-awaited Health Education curriculum based on scientific facts. It is anticipated that Health Education will be conducted through classroom teaching ranging up to 12 hours per year and through content that already exists in the curriculum of each subject.
84. The process of adopting the Curriculum was accelerated, with no space for a public debate, adequate preparation of teachers for the implementation of the curriculum, without consultation with children and young people, who are the direct beneficiaries of the program, and without informing the parents about the content and importance of the program. The manuals for the implementation of Health Education were prepared only a year after its implementation. Evaluation of the program by the National Center for the Evaluation of Education was conducted, but the results are not publicly available.

²⁸ Civil society organization B.a.B.e. published Gender Equality Module in September 2013 with thoroughly elaborated teaching units for primary and secondary school. Available at: <http://babe.hr/hr/rodna-ravnopravnost-151/>

²⁹ In accordance with the above conclusions, the Ombudsman for Gender Equality recommended: “1. To provide professional development of teachers for the Gender Equality module. 2. To provide continuous professional training of new teachers after the end of the experimental phase and the introduction of the Civic education in all primary and secondary schools in the Republic of Croatia.” (Available at: <http://www.prs.hr/attachments/article/997/Istra%C5%BEivanje%20o%20eksperimentalnom%20provo%C4%91enju%20gra%C4%91anskog%20odgoja%20i%20obrazovanja.pdf>)

Recommendations arising under Issue no. 8

14. National Policy for Gender Equality
 - a. Increase budget allocation for the achievement of gender equality
 - b. Continue implementing the National Policy for the Gender Equality 2011-2015
 - c. Increase budget allocation for the implementation of the Action Plans for the Implementation of the National Policy for the Gender Equality on local levels
 - d. Secure that the National Policy for the Gender Equality is being implemented by the executive, legislative and judicial authorities
15. Gender Based Discrimination in Employment
 - a. Take effective measures to ensure that labor rights of women during pregnancy are protected
16. Participation of Women in Public and Political Life
 - a. Take effective measures to apply balanced representation of both sexes on the candidate list for 2015 parliamentary elections
17. Sexual Violence
 - a. Take effective implementation of the Rules of Procedures in Cases of Sexual Violence
 - b. Undertake dissemination and awareness raising activities regarding the Rules of Procedures in Cases of Sexual Violence among institutions
18. Women in Rural Areas
 - a. Publish the date on the implementation of the Action Plan for the Promotion and Enhancement of the Role and Status of Women in Rural Areas
 - b. Mainstream measures for the women from rural areas in all the relevant strategies
 - c. Include a gender perspective in the Rural Development Program of the Republic of Croatia for the period 2014-2020
19. United Nations Security Council Resolution 135 (2000)
 - a. Continue with the implementation of the United Nations Security Council Resolution 135 (2000)
20. Gender Sensitive Education
 - a. Mandate the Committee of Experts that evaluates the textbooks with licensees prerogatives
 - b. Continue with efforts to promote gender sensitive content of textbooks
 - c. Secure additional education for teachers to enable them to teach about gender identity and gender expression
 - d. Publish the evaluation results of the implementation of the Health Care Curriculum

Issue no. 9

9. Please provide information on the achievements made by the 2007-2015 National Strategy for Equalization of Opportunities for Persons with Disabilities, as well as steps taken to reform the law on mental capacity and the guardianship system.

National Strategy for Equalization of Opportunities for Persons with Disabilities 2007-2015

85. National Strategy for Equalization of Opportunities for Persons with Disabilities 2007-2015³⁰ very carefully developed direction defined by the Convention on the Rights of Persons with Disabilities, but with insufficiently specific plans and measures that would lead to significant change of paradigm. Meanwhile, the Strategy is full of requests for additional research without concrete measures, while the Convention clearly states the measures for realization of the fundamental rights of people with disabilities (education, life in community etc.).
86. It is positive that the Strategy is a comprehensive document with the intention to establish a more extensive cooperation between different institutions and bodies (not only the Ministry of Social Policy and Youth). However, the Strategy lacks of specified and concrete measures, as well as reports on its implementation. Ministries responsible for the implementation of the Strategy do not know their responsibilities and there is no genuine mutual coordination between implementation bodies to implement the Strategy.
87. After the change of government at the end of 2011, ministries and other competent institutions who were obliged to implement measures from National Strategy for Equalization of Opportunities for Persons with Disabilities and to report on progress in implementing the measures simply stopped with any kind of monitoring and reporting. It is thus impossible to assess the true impact of this document.

National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016

88. Croatia started with the implementation of the National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016³¹, which foresees the reduction of the number of adult persons with intellectual disabilities placed in institutions by 30% by the end of 2016, and respectively by the 2018. Unfortunately, the responsible institutions did not include persons with disabilities in the process of drafting the document.
89. In contrast to the National Strategy, which included a number of different bodies in the process of implementation, the implementation of National Plan was assigned to the Ministry of Social Policy and Youth, with an emphasis on support system.
90. The Plan reserves a different treatment to people with mental disabilities than to other categories of persons. For instance, persons with mental disabilities in mental institutions do not have the right to decide where to live, and in the worst cases, they are forcibly transferred from an institution to a foster care³² center in a remote rural area³³. Neither the Plan nor the process is in line with the Convention. Most of the people coming out of the institution do not have the final say on where and how they want to live. At this phase of the implementation, the whole process is quite vague and it is not possible to predict how it will end.

Employment of the Person with Disabilities

³⁰ Available on the web page of the Ministry of Social Policy and Youth: http://www.mspm.hr/djelokrug_aktivnosti/proces_transformacije_i_deinstitucionalizacije/o_transformaciji_i_deinstitucionalizaciji/nacionalni_okvir

³¹ Available on the web page of the Ministry of Social Policy and Youth: http://www.mspm.hr/djelokrug_aktivnosti/proces_transformacije_i_deinstitucionalizacije/o_transformaciji_i_deinstitucionalizaciji/nacionalni_okvir

³² The Government is prone to foster adults because this way the costs get significantly reduced comparing to the placement in institutions or in the community.

³³ Generally, the very person is brought before a fait and must accept the agreement of the Ministry, the parent/guardian and the institutions on where the person would live.

91. Regarding the active policy measures for co-financing employment of persons with disabilities, positive progress has been made at the legislative level with the adoption of Vocational Rehabilitation and Employment of Persons with Disabilities Act at the end of 2014³⁴. This Act brought a quota obligation of employing persons with disabilities or penalties for those who do not employ persons with disabilities (Article 8). The collected funds from the penalties should be transferred into a Fund for Vocational Rehabilitation and Employment of Persons with Disabilities. The present Act has begun with implementation recently thus its implementation cannot yet be assessed.

Guardianship System

92. The new Family Act of 2014, although it made some positive steps, still prioritizes the use of guardianship and the implementation of measures for deprivation of legal capacity, rather than the adoption of concrete solutions to provide persons with disabilities with support for independent decision-making.
93. The Constitutional Court quashed the Family Act in January 2015 that had some positive steps forward in regulating the system of guardianship, and brought back the Family Act from 2003.
94. The Family Act of 2013 currently in force in the Republic of Croatia fully relies on deprivation of legal capacity as a measure of protection of persons with mental and intellectual disabilities, and completely ignores obligations undertaken by Croatia by ratifying the Convention on the Rights of Persons with Disabilities. The authorities ignored the solutions proposed by the Ombudsperson for Persons with Disabilities and the Association for Self Advocacy, which would have provided a solid basis for establishing supported decision-making without significant costs to burden the state budget.
95. Thus, 18,712³⁵ persons are deprived of legal capacity, out of which 16,620 are completely and 2,092 are partially deprived (mostly persons with intellectual and mental disabilities). These remain second-class citizens without opportunity and support for independent decision-making about themselves and their lives.

Recommendations arising under Issue no. 9

21. National Strategy for Equalization of Opportunities for Persons with Disabilities 2007-2015
- Amend the National Strategy for Equalization of Opportunities for Persons with Disabilities 2007-2015
 - Establish reporting procedures on the implementation of the National Strategy for Equalization of Opportunities for Persons with Disabilities 2007-2015
22. National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016
- Include the civil society organizations in the implementation of the National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016

³⁴ Zakon o profesionalnoj rehabilitaciji i zapošljavanju osoba s invaliditetom (Official Gazette 157/13, 152/14), available at: <http://www.zakon.hr/z/493/Zakon-o-profesionalnoj-rehabilitaciji-i-zapo%C5%A1ljavanju-osoba-s-invaliditetom>

³⁵ All data on the number of persons deprived of legal capacity accessed on 11 October 2012 by the Ministry of Social Policy and Youth on the basis of requests for access to the information sought by the association GONG.

- b. Include various institutions in the implementation of the National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016
 - c. Put the National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016 in line with the Convention on the Rights of People with Disabilities regarding the their decision of place of living
23. Guardianship System
- a. Promptly adopt effective and adequate solution to provide persons with disabilities with support for independent decision-making

C. Violence against women (arts. 3 and 7)

Issue no. 10

10. In light of the Committee's previous concluding observations (para. 8), please report on the impact of the implementation of the National Strategy for Protection from Domestic Violence 2008-2010. Please provide statistical data covering the period under review on the number of complaints filed concerning different forms of violence against women and the number of convictions handed down, including the sentences imposed and the compensation awarded to the victims. Please also provide updated information on existing support services for victims of domestic violence, including the number of State-run facilities available to women needing temporary accommodation and/or the amount of funding provided by the State organizations operating such facilities. In this regard, please comment on reports according to which shelters for victims of domestic violence face severe funding shortages.

Domestic Violence – Institutional Developments

96. In the last decade, the Republic of Croatia adopted a number of laws and strategies whose main purpose was the advancement of the status of women in all spheres of their lives. Among these is the National Strategy for Protection from Domestic Violence 2008 - 2010. However, despite the good intentions of the legislator, after many years of implementation of these legal provisions and strategies, we can say that some of them have been adopted for formal reasons, and in practice do not in any way affect the improvement of the position of women. Also, at the level of local communities, especially in rural areas, it often happens that the relevant officials and citizens themselves do not envisage measures and provisions of the strategies, and the application depends on a case-by-case basis.
97. Likewise, it is important to stress that the Croatian Government signed the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) in January 2013, but has not yet initiated a process of its ratification, most probably due to the economic crisis. The Government is not willing to allocate additional money into prevention or support to women victims of violence.
98. The main problem is the fact that civil society organizations still do not have the status of an equal partner in the institutional network that provides support to victims of domestic violence. This is manifested in the fact that the survival of the organization from year to year is uncertain, due to the unpredictability of the inflow of funds for the work of CSOs.

99. Another problem that arises from chronic lack of funding is the inability of organizations to provide comprehensive assistance to victims of violence - from accepting victims in the premises of the association, through accompanying the victims when signing up to the police and going to court, or provide escort to the shelter and providing comprehensive human and friendly support. At the same time we emphasize that it is precisely this initial contact with the victim that is crucial for its future position. The situation in Croatia is nowadays unfortunately such that numerous omissions of relevant institutions, as well as victim's dissatisfaction, can be found out only by coming to counseling, but after the victim reported the violence to the police and gave the statement to the court.
100. The civil society organizations dealing with the protection of victims of domestic violence have noticed through statistical monitoring that more and more woman are addressing the organizations with the problem of domestic violence, even if they apparently have other legal problems, such as divorce, division of property or similar issues. Often, the conclusion is that the problem for which the beneficiary originally contacted the organization is actually caused by domestic violence.

Shelters for Victims of Domestic Violence

101. A report by UNDP noted that Croatia's shelter capacity on a per capita basis was at least 20% below the Council of Europe standards. The two funding schemes under the Ministry of Social Policy and Youth are complicated and pose challenges for organizations running these shelters. The Government's funding conditions generally fail to reflect the actual needs and operations of a shelter. Prescribed conditions, in turn, reduce shelters' autonomy, forcing them to follow strict and, at times, irrelevant criteria in order to obtain financing. Moreover, the *per-bed funding* does not reflect the reality that shelters' baseline operating costs are the same no matter how many residents they admit.
102. Another barrier to safe refuge for victims is the referral system by Centers for Social Welfare (CSW). Public safe houses can only accept victims referred by the CSWs or police. Often, their staff will even redirect clients to the CSWs or police first.
103. Shelters typically provide housing to victims for a limited period of time, often between six and twelve months. Many NGOs allow extended stays, but due to capacity constraints, shelters are unable to provide a long-term solution. Once they leave a shelter, victims' housing options are limited, as there is no State-subsidized housing specifically for victims of domestic violence, although the status of victims of violence can increase eligibility for some public housing.
104. Although the Government's plan to establish a uniform financing system for all shelters for victims of domestic violence is completely unknown to the public, the CSOs welcome this proposal. Especially if it will reduce or eliminate problems arising from the current system of shelter financing (funds are reduced which leads to uncertainty and sometimes to the lack of transparency in the work of the shelters).

Recommendations arising under Issue no. 10

24. Domestic Violence – Institutional Developments
 - a. Take effective measures to monitor the implementation of the measures to combat domestic violence
 - b. Take effective measures for the implementation of domestic violence strategies at local level
 - c. Secure adequate budget allocation to secure effective performance of the domestic violence prevention system and support system for the women victims of domestic violence
 - d. Take all necessary steps to secure the status of equal partners for the civil society organizations providing support to women victims of domestic violence
 - e. Secure an effective budget allocation stream to provide sustainable financing of the civil society organizations providing a support to women victims of domestic violence
25. Shelters for Victims of Domestic Violence
 - a. Simplify conditions of the call for funding of the shelters for victims of domestic violence
 - b. Adjust funding schemes to better reflect conditions on the ground and organizes consultations on the conditions on the ground prior to making a call for funding
 - c. Revise the *per-bed* funding scheme for the shelters for victims of domestic violence
 - d. Revise referral system of the center for social welfare regarding the acceptance of the victims of domestic violence to the public safe houses
 - e. Secure adequate budget allocation for sustainable funding of programs for long term placement and housing for the victims of domestic violence
 - f. Make public the Government's plan to establish a uniform financing system for all shelters for victims of domestic violence

Issue no. 11

11. According to the information available, dual arrests and convictions of both the perpetrator and the victim of domestic violence are prevalent throughout Croatia. Please comment on these reports and explain the scope of the protective measures provided for in the Act on Protection against Domestic Violence (OG 13/09, 14/10, 60/10), in particular with reference to the conditions under which they may be granted. Please clarify whether the filing of an appeal by the offender does automatically suspend or stay execution of all protective measures, including restraining orders. Please also provide detailed information on gender-sensitive training and awareness-raising programmes for law enforcement officials, health-care personnel and social workers in direct contact with the victims.

Protecting Against Domestic Violence Act

105. While making the first Protection Against Domestic Violence Act in 2010, no one could imagine that victims would be brought together with the perpetrators when reporting domestic violence – which is happening more

and more often in practice. It seems that police officers are not interested in the history of domestic violence. According to the experience of CSOs, police officers prefer to concentrate on a single event that took place on that day when the victim reported the violence. If during this incident a victim responded to unlawful attack in a way of saying an insulting word, it is quite certain that victim will be brought together with their spouse or partner.

106. In such situations, the judges in these procedures regularly instruct victims to give up their right to appeal, and the judgment becomes final immediately. Organizations have more and more cases of victims who are already convicted of domestic violence together with their violent partners, and since they waived their right to appeal against the final judgment, cannot longer use any legal remedy.
107. These situations would not have happened if the victims had professional, legal and psychological assistance from the moment they decided to report domestic violence. Without such assistance and support, victims often come into situations of so-called "replacement of thesis". From the position of suffering from domestic violence, through further procedures that should be taken against the abuser (most often related to care about their children), victims suddenly become mentally unstable individuals who cannot take care of children, liars that made up the violence for certain reasons, emotional abusers of children incompetent in caring for the children and so on.
108. At the same time, in proceedings before the social welfare centers and courts, the violence is relativized and becomes an isolated episode for which the perpetrator was convicted and which is soon forgotten. This leads to absurd situations in practice - situations in which the convicted abuser of his wife and children gets a court decision that children will live with him, or situations in which children are entrusted with Home for Children because the victim and the convicted abuser could not agree on a common care for the children. Also, usually the victim is the one that goes from the common home in a rented accommodation or in a shelter for victims of domestic violence.
109. We can conclude that the application of the Act on Protection against Domestic Violence is characterized by the aforementioned relativism of the problem of domestic violence and the imposition of very lenient sentences that do not have the effect of deterring the offender from further violence.
110. During 2014, the National Team For The Prevention And Suppression Of Domestic Violence And Violence Against Women, set up in 2010, organized four joint meetings and one round table in cooperation with the Ministry of Justice – the Prison System Administration.
111. An Expert Commission For Monitoring And Improving The Work Of Criminal And Misdemeanor Procedure Bodies And Execution Of Sanctions Related To Protection Against Domestic Violence³⁶, set up by the Ministry of Social Policy and Youth in accordance with the Act on Domestic Violence in 2012, has had regular meetings during 2014. According to the CSOs opinion, it is necessary to increase the visibility of all these bodies, but also to improve coordination among all stakeholders that are involved in the protection of women victims of domestic violence.
112. The establishing of a domestic violence database was initiated in 2014, in accordance with the Rules On The Content Of Mandatory Recording

³⁶Expert commission for monitoring and improving the of the work of criminal and misdemeanour procedure authorities and execution of sanctions related to protection against domestic violence, available at: www.mvep.hr/custompages/static/hrv/files/Pogram_za_preuzimanje_i_provedbu_pravne_stecevine_EU_za_2012.pdf

And Reporting, Means Of Gathering, Processing And Storing Of Statistical Data³⁷ related to the implementation of the Protection against Domestic Violence Act. Simultaneously, the development of a new Ordinance on the method and place of implementation of the psychosocial treatment has started. The new Protocol on conduct in cases of domestic violence is currently in the process of drafting.

113. During the reporting period, civil society organizations held numerous trainings and awareness-raising programs on domestic violence. For example, the first in a series of trainings on domestic violence (education of professionals who work with domestic violence victims) for police, schools, social welfare centers, state attorney offices, health care institutions and civil society organizations staff was held on 24 and 25 February 2014, organized by the Women's Room, the Ministry of Justice and the City of Zagreb, City office for social protection and people with disabilities.

Recommendations arising under Issue no. 11

26. *Protection Against Domestic Violence Act*
- a. Take effective measures to prevent dual arrests of perpetrators and victims of domestic violence
 - b. Take effective measures for additional education of the police on instances of domestic violence in order to prevent dual arrests in the future
 - c. Take effective measures to ensure victims of domestic violence have effective legal remedy at their disposal
 - d. Take effective measures to secure professional, legal and psychological support for the victims of domestic violence from the moment they decide to report it
 - e. Take effective measures to secure that the application of the Protection Against Domestic Violence Act is victim orientated and that sentencing for domestic violence serves to deteriorate potential perpetrators from committing domestic violence
 - f. Increase the visibility of the National Team for the Prevention and Suppression of Domestic Violence and Violence Against Women, and Expert Commission For Monitoring And Improving The Work Of Criminal And Misdemeanor Procedure Bodies And Execution Of Sanctions Related To Protection Against Domestic Violence
 - g. Improve coordination among all stakeholders that are involved in the protection of women victims of domestic violence

D. Right to life and prohibition of torture and cruel, inhuman or degrading treatment, remedies and administration of justice (art. 6, 7, 2, paragraph 3, and 14)

Issues no. 13,14 and 15

13. With regard to the Committee's previous concluding observations (para. 10), and the request for information made by the Committee's Rapporteur for follow up on concluding observations in her letter of 21 November 2011, please provide up-to-

³⁷Rules on the Content of Mandatory Recording and Reporting, Means of Gathering, Processing and Storing of Statistical Data (OG 105/11), available at: www.propisi.hr/print.php?id=11285

date information on the activities of the specialized war crimes chambers (number of cases received, number of investigations opened and decisions adopted). Please include information on domestic investigations, prosecutions and convictions for perpetrators of war crimes and crimes against humanity committed during "Operation Storm" carried out between August and November 1995.

14. Please provide updated information on the progress made in executing the Operation Plan for the Implementation of the Strategy for the Investigation and Prosecution of War Crimes Committed in the Period 1991-1995. Please comment on reports that indicate that there are persistent obstacles to the effective investigation and prosecution of war-related crimes in Croatia. In particular, please provide information on the measures taken to ensure that the legal framework used for prosecution of war-related cases is in line with relevant international standards, including cases related to crimes against humanity, command and superior responsibility and war crimes of sexual violence. Please clarify the scope of the Law on invalidation of certain legal acts of the judicial bodies of the Former Yugoslav National Army, the former Socialist Federal Republic of Yugoslavia and the Republic of Serbia (OG 124/11), adopted in November 2011, and comment on the serious concerns expressed by the State Attorney General and the European Commission regarding its potential negative implications on bilateral cooperation on war crime cases. Please also provide information on the measures taken to address allegations of war-time crimes committed by senior officials; provide adequate measures of witness protection and support; and ensure fair and adequate reparation for victims of war crimes.

15. According to information available, the number of war crimes trials conducted in absentia increased in 2011, particularly in cases in which the defendant was a Serb. Please provide information on the measures taken to ensure that persons convicted in absentia have access to effective remedies with the possibility of reopening a case and that all such trials are held in conformity with article 14 of the Covenant.

Special War Crime Chambers and Special War Crime Departments at State Attorney's Office³⁸

114. Following the amendments to the Act on the Application of the Statute of the International Criminal Court, which in 2011 stipulated the exclusive competence of county courts in Osijek, Rijeka, Split and Zagreb to try war crimes cases, the majority of cases were transferred from other county courts to the four aforementioned courts during 2012 and 2013 (some remaining cases). War crimes departments were formally organized at those courts and they comprise, with the exception of the Zagreb County Court, of all judges from criminal departments of those courts. Given that the same judges were also appointed to the departments for USKOK cases (State Attorney's Office for combating corruption and organized crime), and that they also try other criminal cases, true specialization for war crime cases did not occur.

115. Special war crime departments have been established at the state attorney's offices, but the large number of non-prosecuted and incoming cases points to lack of human, material and spatial capacities. State attorney's budgets remain at the same level as those from previous years and allow only the performance of basic tasks.

³⁸ Monitoring of War Crime Trials, Report for 2013, *Documenta*, Center for Peace, Nonviolence and Human Rights Osijek, Civic Committee for Human Rights, page 32, available at: http://www.documenta.hr/assets/files/Godisnji20izvjestaji/MonitoringWarCrimeTrialsReport_2013.pdf

116. Significant amendments to procedural and substantive acts represent additional difficulties in the work of courts and state attorney's offices. Due to the complexity of their application, frequent changes cause frustration and do not contribute to efficiency. The State Attorney's Offices' particularly state that amendments to the Criminal Procedure Act significantly reduce powers of the state attorney in preliminary proceedings, and that those amendments will lead to reduced efficiency, particularly in difficult and complex cases. These amendments were created because Constitutional Court quashed 43 provisions of that Act in 2012 because, according to the judgment of the Constitutional Court, they were contrary to the Constitution, i.e. practice of the ECHR.

Victims and Witness Support System³⁹

117. Having established departments for victim-witness support at seven county courts in Vukovar, Osijek, Zagreb, Zadar, Rijeka, Split and Sisak in the past several years the victim-witness support system have not expended further.

118. Further expansion of the support system to other courts, state attorney's offices' and the police, as well as widening the scope of support to provide victims and witnesses with psychological and legal assistance is very much needed. Victim-witness support should be provided at the earliest stage of criminal proceedings and ensure its continuity throughout the criminal proceedings, and in particularly serious cases also during the execution of criminal sanctions and after the perpetrator's release from serving the sentence ("lifetime support").

Regional Cooperation⁴⁰

119. In January 2013 the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of the Republic of Serbia (January 2013) signed the Protocol on cooperation in prosecuting perpetrators of war crimes, crimes against humanity and crimes of genocide, followed in June 2013 by the signature of the State Attorney's Office of Croatia and the Prosecutor's Office of BiH. Those protocols were necessary to accelerate the prosecution of war crimes. In the majority of cases, war crimes in Croatia were investigated, indictments were issued or judgments were passed in the absence of accused perpetrators. In order to increase the efficiency of the procedure, including the collection and exchange of evidence, and to ensure that perpetrators are convicted and serving their sentences, it is necessary to improve the cooperation between the judicial authorities of the countries in the region.

120. Although the prosecutor's office of each country has the sovereign right to decide whether to initiate criminal prosecution for each individual case, different decisions, adopted in almost identical legal systems of Croatia and Serbia, raise doubts on the possibility that those decision are influenced by political interests. Systematic exchange and regular professional consultations between prosecutors, judges and civil society organizations, as well as monitoring of the implementation of the protocols are very much needed.

³⁹ Ibid., page 40

⁴⁰ Ibid., pages 47-53

Cooperation with the ICTY⁴¹

121. With regard to war crimes, Croatia continues to cooperate with the ICTY and to process war crimes cases. During the last few years the situation has changed, and now Croatian prosecutors have to repeatedly send requests in order to obtain documents and investigation materials, from ICTY. According to the data provided by the State Attorney's Office of the Republic of Croatia, during 2013 the investigations were initiated in respect of 39 persons – 36 members of Serb military formations.⁴²

122. In 2013 not a single investigation was initiated nor any member of Croatian military formation or the Ministry of the Interior of the Republic of Croatia were indicted⁴³. This is unlike the past few years, when, during the process of intensification of accession negotiations between the Republic of Croatia and the European Commission, the investigations were conducted and indictments were issued for some of the most serious crimes committed by members of Croatian military formations.

Overall Concerns Regarding the Prosecution of War Crimes⁴⁴

123. Some specific problems have been conveyed from the previous period, such as the numerous cases of non-prosecuted crimes committed by planting explosive devices into houses of citizens of Serb ethnicity, their systematic evictions and expulsions, inadequate and insufficient prosecution of members of Croatian military formations (only as an exception) accused of crimes which did not result in victims' deaths, as well as non-reporting and consequent non-prosecution of crimes committed by rape.

124. The issue that remained to be the subject of serious concern is the large number of non-prosecuted crimes. The problem is even bigger since the lapse of time has further aggravated the situation with collecting information on the committed crimes and their perpetrators.

Failure To Initiate a Criminal Investigation and Lack of Efficient and Adequate Prosecution⁴⁵

125. Unwillingness to conduct investigations or prosecution of certain crimes that had been committed by members of Croatian military formations is noted. During the process of amplification of the EU accession negotiations, the investigations were conducted and indictments were issued for some of the most serious crimes committed by members of Croatian military formations, such as the crimes committed in Sisak and its surroundings, crimes committed at the Zagreb Fairground (Zarebački Velesajam), Pakračka Poljana, Zapadna Slavonija 1991 etc. In 2013 not a single investigation was initiated nor any members of Croatian military formations or police units were indicted, including for crimes committed in Zapadna Slavonija in 1991.

⁴¹ Ibid., 74.

⁴² Out of them, nine persons have been available to the Croatian judicial bodies, and 3 members of the Croatian Defence Council (HVO), available to the Croatian judiciary, who have been charged with crimes committed against Bosnian civilians and members of the B and H Army captured on the territory of Herzegovina.

⁴³ Source: www.dorh.hr/DrzavnoOdvjetnistvoRepublikeHrvatskeAzurirano

⁴⁴ Monitoring of War Crime Trials, Report for 2013, *Documenta*, Center for Peace, Nonviolence and Human Rights Osijek, Civic Committee for Human Rights, page 16, available at:

http://www.documenta.hr/assets/files/Godisnji20izvjestaji/MonitoringWarCrimeTrialsReport_2013.pdf

⁴⁵ Ibid., page 56

Sentencing Disparity in War Crime Cases⁴⁶

126. During the 1990s, members of Serb military formations were given much harsher sentences, often the maximum sentences. During the past few years, there has been a notable standardization of the sentences adjudged to (former) members of Croatian military formations and those adjudged to former members of Serb military formations, for the similar circumstances. However, in several cases in 2013, the first instance courts adjudged significantly harsher sentences to members of Serb military formations than those to members of Croatian military formations for the crimes that were comparable according to the method of execution and the consequences that occurred after the crime. The task of further standardization of court practice still remains with the Supreme Court of the Republic of Croatia.

Sexual Violence Committed in War⁴⁷

127. According to the information provided by the State Attorney's Office of the Republic of Croatia, the Ministry of the Interior of the Republic of Croatia has established that there is a reasonable suspicion that during the Homeland War 182 persons could have been the victims of war crimes committed by rape or some other forms of sexual abuse.

128. According to the records kept by competent county state attorney's offices, there is the credible information on only 57 victims of war crimes committed by rape, and the majority of victims are female persons. Criminal proceedings have been initiated in respect of 36 victims, out of the total of 57, and those proceedings have currently been in different phases.

129. To this day, 15 perpetrators have been convicted for criminal offence of war crime committed by rape. Lack of support by the state institutions, non-identifying and non-recognition of sufferings of victims of sexual abuse and their social stigmatization have influenced the low rate of reporting of the said crimes.

Torture and Killings Committed During the War

130. The need for additional independent inquiry in cases of torture or killing during the war still exists. The number of unprosecuted war crimes is still high (of the registered 490, only 115 have been prosecuted with final judgments passed).

131. During the past few years, the number of applications filed by family members of the victims injured/killed during the war (who claimed that the Republic of Croatia violated their rights guaranteed by the Convention on protection of Human Rights and Fundamental Freedoms), has significantly increased. This is especially after judgments were passed by the European Court of Human Rights ordering Croatia to pay just satisfaction to the applicants due to omission of conducting adequate investigations of the crimes (right to life, prohibition of torture).

Reparations⁴⁸

132. Compensation for damages to family members of victims killed by Croatian military formation or police units are rare and challenging. Civil proceedings initiated by the family members seeking compensation for damages are rejected due to the lack of a final verdict establishing the guilt of a member of the Croatian military formations and police units. In order to end the further agony of family members of the killed persons the Republic of

⁴⁶ Ibid., pages 63-64

⁴⁷ Ibid., pages 65-66

⁴⁸ Ibid., page 57

Croatia should make settlements with the victims' family members and pay them just compensations.

Missing Persons, Exhumations and Identifications

133. Procedures of the Bureau for Detained and Missing Persons within the Ministry of War Veterans show certain deficiencies in methodology and prioritization of cases regarding the exhumation and identification. The way the Bureau categorizes missing persons is not in accordance with the standards of the International Commission for the Missing Persons. The missing persons are not recorded according to their ethnicity, but according to two programs through which the Bureau is operating. These programs are: (i) The 1991-1992 Program and (ii) The 1995 Program. The Bureau justifies its policy on the grounds that Law on Protection of Personal Data prevents publishing of one's ethnical identity. We consider this argument to be untenable, since identity of missing persons or their families cannot be jeopardized by a cumulative list of all the missing persons according to their nationality.
134. According to assessments made by the Bureau in 2011, 89% of missing persons in the 1991-1992 Program are of Croatian origin, while between 90% and 95% of missing persons in the 1995 Program are of Serbian origin.
135. There are a number of common graves on the territory of the Republic of Croatia whose existence is known, but exhumations and identifications have not yet taken place. These are graves created during clearing and sanitation activities done by medical teams of Croatian Army in the aftermath of military operation Flash (May 1995) and military operations Storm (August 1995). For some of the graves an exact number of buried persons, as well as names in some cases, are known. However, although identification of bodies from these graves would be less complicated, they are still not exhumed. Although locations of common graves have been known for more than 15 years, exhumations are yet to be done. The reason for this, according to the Bureau, is insufficient space in the morgues, where the victims' bodies await identification. According to the Bureau, the morgues have the capacity for remains of up to 700 people, while at the moment they contain remains of around 900 people.
136. The Republic of Croatia has allocated around 3.5 million euro to increase the capacities of the morgues. However the morgues remain under-capacitated.
137. The number of remaining missing persons is 938, although the Bureau for Detained and Missing Persons has, since its foundation, exhumed bodies of 4937 persons, 3956 of which have been identified. The assessment of the Bureau is that 85% of all the missing persons from the 1991-1992 period have been exhumed. The number of exhumed persons from the 1995 period is lower, with 60% of all the remains exhumed.
138. Additionally, it is assessed that out of the total number of missing persons, a certain number were killed and buried during the 1992-1995 War in Bosnia and Herzegovina. However, they are still listed as missing persons in Croatia.
139. Practice of exhumations and identifications done by the Bureau are organized geographically: following completion of work in one region, the process moves to the next region. However, deviations from that practice are noticed. The exhumation activities are often moved to a new region without completion of the exhumation process. The official reason for that remains unclear. However, it can be concluded based on reasonable suspicion, that the Bureau is systemically neglecting exhumations of common graves from

1995 period based on ethnic biases, since these graves contain remains of mostly ethnic Serb victims.

Recommendations arising under Issues no. 13, 14 and 15

27. Special War Crime Chambers and Special War Crime Departments at State Attorney's Office
 - a. Further foster and amplify the process of the true specialization of judges for war crime cases
 - b. Significantly increase budget allocation to build human, financial and special capacities of state attorney's offices
28. Victims and Witness Support System
 - a. Further expand the witness support system to other courts, state attorney's offices' and the police
 - b. Widening the scope of support to provide victims and witnesses with psychological and legal assistance
 - c. Provide witness support at the earliest stage of criminal proceedings
 - d. Ensure witness support continuity throughout the criminal proceedings, and in particularly serious cases also during the execution of criminal sanctions and after the perpetrator's release from serving the sentence ("lifetime support")
29. Regional Cooperation
 - a. Take effective measures to improve regional cooperation between judicial bodies
 - b. Take effective measures to eliminate the possibility of political influence into the prosecution of war crime cases
 - c. Foster systemic cooperation between judges, prosecutors and civil society organizations regarding exchange and regular professional contributions
30. Failure To Initiate a Criminal Investigation and Lack of Efficient and Adequate Prosecution
 - a. Take effective measures to investigate and prosecute war crimes committed by members of Croatian military formations and police units
31. Sentencing Disparity in War Crime Cases
 - a. Take effective measures to secure standardization of sentencing in war crime cases with similar circumstances irrespective to the membership of military formations
32. Sexual Violence Committed in War
 - a. Take effective measures to investigate and prosecute all cases of war crimes committed by rape or other form of sexual abuse
33. Torture and Killings Committed During the War
 - a. Take effective measures for independent inquiry in cases of torture or killing occurred during the war
 - b. Take effective measures to process all registered war crimes
34. Reparations
 - a. Take effective measures to reach settlements with the family members of victims killed by Croatian military or police forces during the war in order to pay them just compensation
35. Missing Persons, Exhumations and Identifications
 - a. Conduct a reform of the process of categorization of missing persons to be done according to the standards of International Commission for the Missing Persons
 - b. Take all necessary steps, *inter alia*, financial, logistics and operational to

- expedite exhumations and identifications of the remains.
- c. Raise the capacities and establish better coordination between morgue facilities
- d. Take all necessary steps in order to expedite the exhumation of all known mass/common graves and to identify all the remains
- e. Take all necessary steps to expedite the exhumation of known, but not yet exhumed mass/common graves from 1995 period

E. Elimination of slavery and servitude (art. 8)

Issue no. 19

19. According to reports, the State party is a destination, source, and transit country for men, women and children subjected to conditions of sex trafficking and forced labour. Please provide information, on an annual basis since 2009, on complaints, investigations, prosecutions and convictions, including penalties, for perpetrators of human trafficking. Please indicate what measures, if any, have been adopted to improve and develop training in the identification of victims of trafficking, especially child victims. Has the State party evaluated the effectiveness of the Protocol on the integration of victims of human trafficking adopted in May 2011?

Human Trafficking

140. According to the US Department of State's Trafficking in Persons Report 2013⁴⁹, Croatia is in Category 2 – the Croatian Government does not entirely meet the minimum standards for the elimination of trafficking but it is making significant efforts in this field. Although a formal and appropriate structure for combating human trafficking exists, Government efforts to implement this structure stagnated during 2013. In the period 2002 - 2014, 173 victims of human trafficking were recorded (according to the Ministry of Internal Affairs report from 2013), while according to the Walk Free Foundation report, it is estimated that there are 18,000 “modern slaves” in Croatia, taking 61st place out of 162 countries⁵⁰. Apparently, there are problems with the identification of victims of human trafficking, as well as with very few court proceedings, while pronounced sentences are low.

141. In 2013, the Croatian Government's Office for Human Rights and National Minorities, as an Office of the National Coordinator for Combating of Human Trafficking, conducted a series of trainings on combating human trafficking for the representatives of relevant institutions and various promotional materials were printed. As a coordinating body they are not making enough effort to ensure adequate prevention programs for different target groups. A large part of prevention activities are being implemented by the Ministry of Internal Affairs and civil society organizations. However, due to limited human and material resources, not all targeted groups can be included in these programs.

⁴⁹ US Department of State's Trafficking in Persons Report 2013, June 2013, available at: <http://www.state.gov/documents/organization/210738.pdf>

⁵⁰ The Global Slavery Index 2013, Walk Free Foundation, available at: http://www.ungift.org/doc/knowledgehub/resource-centre/2013/GlobalSlaveryIndex_2013_Download_WEB1.pdf

Recommendations arising under Issue no. 19

36. Human Trafficking
- a. Take necessary measures to prevent human trafficking
 - b. Take additional measures to raise public awareness about human trafficking.
 - c. Intensify and continue with the educational activities for target groups about occurrences of human trafficking
 - d. Conducting regular research on the issue of human trafficking and the latest trends in this field as a precondition for upgrading the measures to combat human trafficking

F. Freedom of movement (art. 12)

Issue no. 20

20. With regard to the Committee's previous concluding observations (paras. 6 and 14), please provide updated information on the steps taken to find sustainable solutions for the remaining internally displaced persons and returnees in the State party, including those who continue to live in collective shelters. Please also provide information on the progress made so far in the so-called "Sarajevo Process"?

Refugees

142. 18 years after the conclusion of the war, the process of return of refugees and displaced persons, and their housing, is still far from being finalized.⁵¹ Nearly 50,000 refugees from Croatia are still located in the region and the main reason can be identified in the discriminatory legislation and the inefficiency of the authorities responsible for the return and reconstruction. Despite the existence of the mandated State Office, more than 30,000 applications for housing have still not been solved.

Returnees and Housing

143. In the course of 2013 the aforementioned Office only solved 8 cases from a list of priority⁵². According to UNHCR data, the average duration of the process of return is 8 years, and administrative expenses for a family of four mounts to 4500 EUR. Since 2011, Croatia has systematically reduced budget allocations for return and housing despite the large number of pending applications.
144. The Regional Housing Program is characterized by delays and a small number of its true beneficiaries⁵³. It commenced its operations in Croatia only in 2014, and not as planned in 2013. The number of estimated users in Croatia is 8529 which is far less than the pending requests for housing.
145. The major obstacle to sustainable return is a systematic socio-economic negligence in the areas where returnees homes are located: there are no services available (health care, social welfare etc.), and often not even basic life conditions are secured such as electricity, water or heating.

⁵¹ http://www.unhcr.hr/images/stories/pdf/minority_return_en.pdf

⁵² <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220264>

⁵³ <http://reliefweb.int/report/serbia/refugees-issue-still-pending-balkans>

146. The Areas of Special State Concern Act discriminates when it comes to housing and return. The regional cooperation fostered through the Regional Housing Program is burdened with delays and lack of domestic funding.

Convalidation

147. Serbian returnees struggle to obtain social and pension rights. With regard to pension rights, Serbian returnees face problems obtaining recognition of the years of work conducted at the occupied territories during the war.
148. Unsolicited investment claims are still unresolved but Amendments to the Areas of Special State Concern Act are a step in the right direction.

Recommendations arising under Issue no. 20

37. Refugees
- a. Take all necessary measures to effectively expedite the process of return of refugees and displaced persons
 - b. Take all effective measures to identify and remove all discriminatory legislation that are an obstacle for return
38. Returnees and Housing
- a. Take effective measures to expedite State Offices' output ratio in resolving requests for housing
 - b. Take effective measures significantly reduce procedural time needed to resolve the request for housing
 - c. Take effective measures to significantly reduce administrative expenses
 - d. Take effective measures to improve socio-economic conditions in areas where returnees' homes are located
39. Convalidation
- a. Take effective measures to recognize years of work of Serb refugees conducted in the occupied territories during the war

G. Freedom of expression and association and right to peaceful assembly (arts. 19, 21 and 22)

Issue no. 21

21. With regard to the Committee's previous concluding observations (para. 17), and the request for information made by the Committee's Rapporteur for follow up on concluding observations in her letter of 21 November 2011, please provide information on the public condemnation of instances of intimidation and attacks against journalists. In this regard, please inform the Committee of the outcome of the criminal investigation into: (a) the alleged attack against Duško Miljuš, an investigative journalist at *Jutarnji List* covering corruption, in June 2008; and (b) the June 2010 attack on Stjepan Mesaric, reporter of the weekly *Medjimurske Novine*, after writing an article about corruption in the local construction industry.

Media and Public Interest

149. Croatia ranks 65th in the 2014 World Press Freedom Index of the media watchdog Reporters Without Borders. Six years of the European Union negotiations led to significant positive changes, such as the inclusion of references to media freedom and the right of access to information in the Constitution⁵⁴.
150. However, many things remain unsolved. While the infrastructure is technologically highly developed⁵⁵, the Ministry of Culture failed to develop a media strategy and consistent policies in order to ensure a democratic contribution of the media.
151. Facts show that in response to digitization, mainstream journalism has become increasingly tabloid, while there are uncertainties in regard to the sustainability of public interest in the media. Progresses in this direction are also prevented by the lack of transparency and accessibility of relevant data regarding the media industry.
152. Due to long and serious economic crisis and concentrated media ownership, the journalist profession has eroded significantly. According to the study *Media integrity in Croatia* (2014), being a journalist in Croatia implies a precarious work and a job position with a low level of autonomy.
153. Since 2010, the number of unemployed journalists has considerably risen. According to information of the Croatian Employment Bureau, the number of unemployed journalists in 2013 was 729⁵⁶. Fear of job loss, with no perspective in finding a new employer, often results in self-censorship. Consequently, journalists frequently fail to maintain their commitment to the public interest.
154. A positive aspect of this situation is the steady growth of non-profit media, predominantly on the Internet. However, albeit being professionally tailored and of extreme importance for citizens, non-profit media have poor funding opportunities and are not sustainable.

Freedom of Press

155. Serious threats to the freedom of press are represented by the provisions of the Penal Code of 2013 that re-introduced defamation allowing the prosecution of journalists even for publishing true and verified facts and information.
156. As a result of this law, a recent judgment found a journalist guilty for publishing facts about corrupt and illegal actions of one private company⁵⁷. The judge found that the truth was not of public interest although a Government's ministry was involved in the case. The Appellate Court quashed the decision but the provision has not been removed from the Penal Code thus allowing future prosecutions.
157. Recently, RTL Broadcasting Company was found guilty for broadcasting a live interview with the Prime Minister who criticized the Mayor of the City of Zagreb. The Mayor of Zagreb initiated proceedings against RTL and all media who informed the public about Prime Minister's statement. The Court's decision states: "RTL Television should not have aired interview without pre-editing", suggesting that media are not supposed to have any live programs.

⁵⁴ Source: <http://rsf.org/index2014/en-eu.php>

⁵⁵ Croatia has the highest free-to-air digital terrestrial coverage in Europe, exceeding 99% of national territory.

⁵⁶ Source: Popović, Helena (2014) *Media integrity in Croatia* (available at: http://mediaobservatory.net/sites/default/files/croatia_0.pdf)

⁵⁷ <http://www.hnd.hr/hr/arhiva/show/67694/>

Recommendations arising under Issue no. 21

40. Media and Public Interest
 - a. Create a working group formed by all relevant stakeholders with the aim to develop a five year media strategy
 - b. Secure budget allocation to provide sustainable support to non profit media in order to ensure independent and professional information
41. Freedom of Press
 - a. Amend the provision of the Penal Code proscribing defamation
 - b. Conduct trainings for judges on the human rights law principles related to the freedom of expression

H. Rights of the child (arts. 7, 13 and 24)

Issue no. 22

22. According to the information before the Committee, the State party lacks adequate infrastructure to protect unaccompanied and separated migrant children. Please provide information on the steps taken, and procedures in place, to ensure that appointed guardians represent the child's best interests and safeguard the protection needs of their wards. Please indicate the qualification criteria for guardians who represent unaccompanied children. Please clarify whether all unaccompanied and separated children have the right to be assisted by an interpreter and to be provided legal assistance other than for asylum appeals.

Unaccompanied Minors

158. Unaccompanied minors represent 10% of the total number of persons arrested in illegal border crossing in Croatia.⁵⁸
159. The system of gathering statistical data on unaccompanied minors in Croatia is not organized in order to collect uniform statistical data from all relevant institutions mandated to take care of the well-being of unaccompanied minors.
160. The most prominent problem is in the disparity between the total number of unaccompanied minors and the number of assigned guardians.⁵⁹ Data for the Ministry of Interior on the total number of unaccompanied minors in Croatia is not paired with the database of the Ministry of Youth and Social Policy that is mandated to assign guardians.
161. There are several problems arising in the process of assigning a guardian. Although a minor's opinion should be respected in a process of assigning of a guardian over an unaccompanied minor, in practice that is not the case due to lack of guardian's knowledge of a minor's language. Consequently, guardianships are assigned to illegal migrants who are in practice mostly found in felony. Thus, the question of representing the best interests of a minor is highly dubious.
162. An additional problem regarding the placement is in building the accommodation for unaccompanied minors illegal migrants within the area of the Reception centers for foreigners. This accommodation is highly

⁵⁸ UNHCR: Djeca bez pratnje strani državljani u RH, page 11, http://www.unhcr.hr/images/stories/pdf/unhcr_djecabezpratnje_hr_webpage.pdf

⁵⁹ Ibid.

inappropriate for minors, especially for their further psychosocial development.

LGBT Children and Youth

163. National policies, programs and initiatives in Croatia recognize the importance of protecting children and young people from abuse, of providing a safe environment and of enhancing their emotional, physical and educational well being. However, guidelines and regulations that are directly related to sexual orientation and gender identity and combating homo/bi/transphobia in schools do not exist.
164. It is therefore necessary to introduce topics about LGBTIQ issues and to remove existing homophobic and transphobic content from school textbooks. The majority of such content can be found in books on religious education.
165. Educational institutions should insist on the use of affirmative language on a daily basis and confront hate speech and discriminatory comments by employees and students.⁶⁰

Recommendations arising under Issue no. 22

42. Unaccompanied Minors
 - a. Develop a system to collect uniformed data on unaccompanied minors
 - b. Take all necessary measures to ensure that guardianships for unaccompanied minors are being assigned to persons that will be representing the minor's best interests
 - c. Take all necessary measures to secure that the minor's opinion is fully respected when assigning a guardianship
 - d. Take all necessary measures to secure placement for unaccompanied minors illegal migrants are placed to places where their psychosocial development is not jeopardized
43. LGBT Children and Youth
 - a. Develop programs, guidelines and regulations for combating homophobic, biphobic and transphobic bullying in schools
 - b. Introduce topics about the LGBTIQ issues in schools teachings
 - c. Introduce affirmative language regarding lives of LGBTIQ people in school teachings

I. Rights of persons belonging to minorities (arts. 2, 24, 26 and 27)

Issue no. 23

23. With regard to the Committee's previous concluding observations (para.16), please provide updated information on the measures taken to ensure that the administrative procedures and legislative provisions on citizenship do not disadvantage persons belonging to national minorities. Please describe the results of the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities. Please include information on the measures taken to ensure

⁶⁰ *Pink Megaphone: From Anti-Discrimination Act to the Constitutional Ban on Same-Sex a Report of Zagreb Pride on the Human Rights of LGBTIQ Persons in Croatia 2010 - 2013*

adequate political representation and participation of minorities at all levels of government, in particular members of the Roma and the Serb minority.

Equal and Official Use of Minority Languages and Scripts

166. The equal and official use of minority language was jeopardized in 2013. A group of citizens gathered in the civil initiative “The headquarters for the defense of the Croatian Vukovar” began collecting signatures of citizens with the purpose of initiating the referendum regarding the equal and official use of the language of national minorities on November 17, 2013, proposing the following referendum question: “Do you agree that Article 12, paragraph 1 of the Constitutional Act on the Rights of National Minorities should be amended to read: Equal official use of the language and script used by members of a national minority shall be exercised on the territory of a local government unit, state administration and judiciary when the representatives of a certain minority make at least one half of the population of the respective unit.”
167. In August 2014 the Constitutional Court banned the referendum. However, in its decision, the Court transferred the responsibility to implement the equal and official use of minority languages and scripts regarding its scope to the local authorities. This has led to inconsistencies and uncertainty in the way the legal regulations have been applied, thus creating new difficulties in the protection of minority rights.

Official Recognition of Romani Language

168. Regarding the Romani language in Croatia it should be noted that albeit the Roma people are officially recognized as a national minority in the Republic of Croatia, their language is not recognized as an official minority language. When ratifying the Council of Europe Charter on Regional or Minority Language the Republic of Croatia put a reservation on Romani language thus excluding it from the scope of the Charter.
169. That had an impact on Croatian legislation concerning language rights of national minorities, i.e. the Constitutional Act on the Rights of National Minorities and consequently the Act on Usage of Languages and Scripts of National Minorities. As a consequence, the Romani language does not enjoy the same protection and promotion as other minority languages.

National Minorities and Citizenship Issues

170. In regard to acquiring the citizenship for the members of Serbian national minority, the Foreigners Act does not make difference between foreigners from third countries and refugees from Croatia which significantly complicates the return of refugees (the majority of whom are Serbs) and the Ministry of Interior still holds a discretionary right to ban entry on the basis of safety assessments. A significant number of refugees were deprived of the right to return with the official claim that they participated in the war against Croatia, but without any proof-based evidence.
171. There is no precise data on the number of Roma who need to sort out their status in Croatia. Some recent estimates suggest that 500 to 1,000 Roma in Croatia are de facto stateless, while another 1,000 to 2,000 are of unidentified citizenship and at risk of statelessness. Furthermore, it is roughly estimated that 25% of the current Roma population, mainly those who moved to Croatia more recently, lack personal identity documents or citizenship certificates from their country of origin. In addition, an unknown number of Roma do not have official residential status in Croatia and/or birth certificates

and personal identity documents issued by the respective Croatian authorities.

172. The 2003 National Program for Roma, inter alia, foresaw specific measures to facilitate and assist Roma with long-term residence in Croatia in clarifying their status rights and obtaining personal documentation. Pursuant to the Program, mobile teams consisting of representatives of relevant line ministries, public bodies and services, including Roma representatives, were established and became active in mid-2004.⁶¹
173. According to the Ministry of the Interior, 234 persons of Roma origin were granted Croatian citizenship during the period of 30 August 2007 to 4 January 2012, while 20 Roma individuals obtained citizenship status in 2012. In 2012, ECRI stated that it understood that this project had been successful and considered that it should be further reinforced and accompanied by the removal of all administrative obstacles, in order to make birth/civil registration and procedures more simple and accessible.⁶²

Recommendations arising under Issue no. 23

44. Equal and Official Use of Minority Languages and Scripts
- a. Take measures to implement the decision of the Constitutional Court regarding the amendments of the Act on Usage of Languages and Scripts of National Minorities for its better implementation
 - b. Take effective measures so that local authorities respect rights and dignity of national minorities when determining the scope of the minority languages and scripts usage on their territory
45. Official Recognition of Romani Language
- a. Promptly officially recognize Romani language as a national minority language in Croatia
 - b. Promptly revoke reservation on the Council of Europe Charter on Regional or Minority Language regarding the official recognition of Romani language
46. National Minorities and Citizenship Issues
- a. Promptly amend the Foreigners Act to differentiate between foreigners from third countries and refugees from Croatia as a reasonable exemption from the general rule aiming to foster faster return
 - b. Take effective measures to scrutinize the right to ban one's entry to the country by removing the safety assessment based on a claim of participation in the war against Croatia without proof-based evidence
 - c. Continue implementing measures to facilitate and assist Roma with long-term residence in Croatia in clarifying their status rights and obtaining personal documentation

⁶¹ Decade of Roma Inclusion Foundation: Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in CROATIA, page 35. Available at: http://www.romadecade.org/cms/upload/file/9773_file3_cr_civil-society-monitoring-report_cr.pdf

⁶² Ibid.

Issue no. 24

24. With regard to the Committee's previous concluding observations (para. 19), please provide updated information on the steps taken to effectively end de facto segregation of Roma children in schools, as highlighted by the European Court of Human Rights' judgement of 16 March 2010 in the case of *Oršuš and Others v. Croatia*, concerning discrimination of Roma pupils in the education system. According to the information before the Committee, the measures developed by the State party's authorities are insufficient to address the causes of discrimination of Roma children in the education system, as identified by the Grand Chamber of the European Court of Human Rights. Please comment.

Segregation of Roma Children in Educational Institutions

174. Despite the continuous implementation of basic desegregation measures, the problem of segregation of Roma children is still present in preschools and elementary schools which are located in a proximity of settlements largely or entirely populated by Roma, i.e. Međimurje County has 12 of these 'so called' Roma settlements. Statistic data shows that in the school year 2012/2013 there were 50 segregated classes.⁶³
175. In Međimurje County researchers have noticed a trend of increasing number of classes attended exclusively by Roma children. In total, that number is higher today than it was in 2010 when the European Court on Human Rights passed *Oršuš and Others v. Croatia* judgment. Having in mind the increased number of Roma children attending preschool and elementary school it is reasonable to suggest that the number of segregated classes will increase in the future.⁶⁴
176. Measures to combat segregation in education, being proscribed by the National Strategy of Roma Inclusion 2013-2015 and its Action plan for 2013-2015 are not being followed by applicable practical instruments for its implementation, i.e. there was a plan to develop and enact the Regulation on Preventing Segregation in Education and Desegregation Modalities. To date the aforementioned Regulation has not been passed, thus significantly disadvantaging uniform mode of desegregation and further collection of data on segregated classes.
177. Another problem lies in the quality of the education provided to Roma. Researchers have noted that in Međimurje County the overall quality and educational criteria are significantly lower in the so-called 'mostly Roma' classes in comparison with 'mixed' and 'no-Roma' classes. Due to a significant drop of quality in the 'mostly Roma classes', 'non-Roma' parents are transferring their children to other classes and even other schools, thus directly resulting in further segregation.
178. Having in mind the aforementioned, it is hard to expect that '*no segregation classes by 2020*', a special goal of the National Strategy of Roma Inclusion 2013-2020, will be achieved.

⁶³ Ibid. str 47

⁶⁴ Ibid. 48

Recommendations arising under Issue no. 24

47. Segregation of Roma Children in Educational Institutions
- a. Take effective measures to end segregation of Roma children in educational institutions
 - b. Promptly develop and enact Regulation on Preventing Segregation in Education and Desegregation Modalities
 - c. Take effective measures to secure the same equality of education in in so-called 'mostly Roma', 'mixed' and 'no-Roma' classes
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