



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Third periodic reports of States parties due in 2000**

**Addendum**

**CROATIA\***

[3 December 2001]

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\* For the initial report of Croatia, see CAT/C/16/Add.6; for its consideration, see CAT/C/SR.253 and 254 and Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44), paras. 151-162. For the second periodic report, see CAT/C/33/Add.4; for its consideration, see CAT/C/SR.352, 353 and 359 and Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 44 (A/54/44), paras. 61-71.

The information submitted by Croatia in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in HRI/CORE/1/Add.32/Rev.1.

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## I. GENERAL DATA

### Introductory comments

1. Pursuant to the obligation under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the Convention), the Republic of Croatia submits the third periodic report on the implementation of the Convention.
2. The competent bodies of the Republic of Croatia carefully examined the final comments and recommendations adopted by the Committee against Torture, which forwarded these comments and recommendations after it had reviewed the second periodic report (13 and 18 November 1998), in an effort to upgrade the implementation of the Convention.
3. Since the submission of the initial report of the Republic of Croatia and up to the present date, and especially in the period after the elections conducted on 3 January 2000, political and economic changes became especially relevant with respect to the status of the Republic of Croatia at the international level. In August 1995, the Republic of Croatia undertook a comprehensive military and police action to liberate its territory occupied by paramilitary Serb dissident forces. In 1996, the Republic of Croatia made every effort to accomplish, as much as possible, a successful recovery of the liberated territory and tried to build up the security environment in these regions. This included assigning and deploying 3,500 members of the police force and initiating a project to restore the destroyed buildings and facilities, as well as the project "Let's save lives", which was carried out in cooperation with the Government of the Republic of Croatia, the International Federation of the Red Cross and Red Crescent and the Croatian Red Cross, with the purpose of enhancing the humanitarian, social and health care of the older people in the region.
4. Through the Agreement on Normalization of the Relationship between the Republic of Croatia and the Federative Republic of Yugoslavia, dated 23 August 1996, a step was made towards the final restoration of peace in this area. For the purpose of carrying out the Agreement's provisions, the Republic of Croatia adopted the General Amnesty Act (which came into effect on 5 October 1996). According to the data at the disposal of the Ministry of Justice, Administration and Local Self-Government, the General Amnesty Act was applied to 2,453 persons in the last three years.
5. On 6 November 1996, the Republic of Croatia became a member of the Council of Europe. By the end of October 1997, the Republic of Croatia, pursuant to the obligations it had assumed, ratified the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, as well as Protocols Nos. 1, 4, 6 and 7 to the same Convention; the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment of 1987; as well as the two regional instruments for minority rights protection - the Framework Convention for the Protection of National Minorities of 1995, and the 1992 European Charter for Regional or Minority Languages.

6. The Republic of Croatia has, in the last few years, strengthened its cooperation with the Hague Tribunal and expressed full cooperation with it and is, at this moment, sanctioning war crimes itself, regardless of the citizenship, nationality, religion, political affiliation and sex of the offenders.

7. The Croatian Parliament introduced the Law on Changes and Amendments to the Penal Law on 14 December 2000 (Official Gazette, No. 129/00). The proposed modifications and amendments relate to the harmonization of the internal legal system with the international legal obligations assumed by the Republic of Croatia and with the principles of the Constitution of the Republic of Croatia (hereinafter, the Constitution) with a view to modifying the existing institutions and creating new ones. One of the more significant modifications is the expansion of the definition of the legal term "official person" in accordance with the Council of Europe Criminal Law Convention on Corruption (which the Republic of Croatia ratified on 8 November 2000). The intention of the proposed changes and amendments is, among other things, to improve the criminal law protection of an injured party, especially in criminal cases which include elements of violence.

### **Constitutional and legal frameworks**

8. The Constitution of 22 December 1990 enshrines the principle of separation of powers (art. 4). In addition, all the laws must be harmonized with the Constitution, and other legal acts and regulations have to be harmonized with the Constitution and the laws of the Republic of Croatia. The Constitution also enshrines the basic principle which states that human rights and freedoms may be limited only by law in order to preserve and protect freedom and the rights of others, as well as the legal order, public morality and health (Constitution, art. 16). The new modifications to the Constitution, adopted on 9 November 2000, state that every restriction of a freedom or right has to be proportional to the nature of the requirement for restriction in every individual case.

9. Articles 14 to 69 of the Constitution of the Republic of Croatia regulate basic freedoms and human rights, as well as basic principles relating to the rights of national and ethnic communities and minorities. The Constitution ensures the right to life (article 21 proscribes capital punishment in the Republic of Croatia) and the right not to be subjected to torture or inhuman and degrading treatment; forbids slavery and forced labour; guarantees the right of freedom and personal safety, as well as the right to privacy, family life, home, marriage and to establish a family; ensures equality of the couple; the equal right of men and women to enjoy all the civil, political, social and cultural rights; the right of free expression of opinions (censorship is forbidden); the right of peaceful assembly and freedom of association, including the right to set up and join trade unions; the right to work and free choice of employment; the right to equal wages for equal work; the right to protection by a court of law against violations of fundamental human rights; the equal right to vote; the right of peaceful enjoyment of property; the right to inherit and the right to education and to enjoy cultural rights. Even in the case of a direct threat to the existence of the State, the implementation of the constitutional provisions cannot be restricted regarding the right to life, the prohibition of torture and other cruel or degrading treatment or punishment, as well as the provisions relating to the legal explicitness of punishable acts and punishments and the freedoms of opinion, conscience and religion.

### **International agreements**

10. Under the terms of article 141 of the Constitution, the international agreements in force which were concluded and ratified in accordance with the Constitution and then published constitute part of the internal legal order of the Republic of Croatia and are hierarchically above the law with regard to their legal force.

11. The Republic of Croatia has to date become a State party to many international agreements on human rights and during the last three years it has signed, among others, the Criminal Law Convention on Corruption of the Council of Europe (8 November 2000). The Republic of Croatia was the sixth member State (after the Czech Republic, Denmark, Slovakia, Slovenia and Macedonia) to ratify the Convention. Its entry into force is pending another 14 ratifications.

### **Incrimination of criminal acts of torture**

12. The Criminal Code of the Republic of Croatia, which entered into force on 1 January 1998, is the first law in the Republic of Croatia to incriminate the act of "torture" according to the definition of the Convention (article 176 expressly envisages the criminal act of torture and other cruel, inhuman and degrading treatment). The definition states that "an official or any other person who, acting with the encouragement or the express or tacit approval of an official person, causes serious bodily or physical pain to a person with the purpose of obtaining from this person or some other person information or a confession, or with the intention to punish this person for a criminal act committed by this person herself/himself or some other person, or is under suspicion of having committed a criminal act, or with the purpose of intimidating this person or to put her/him under pressure, or owing to any other reason based on any other form of discrimination, shall be punished by the penalty of imprisonment from one to eight years".

13. Arrested and convicted persons should be treated humanely with respect for their personal dignity (art. 25/I of the Constitution). This is also stated in the Law on the Execution of Criminal Sanctions.

14. In addition, article 29/3 of the Constitution prescribes that "evidence obtained illegally cannot be used in a judicial proceeding". Pursuant to this principle, the Criminal Procedure Act (Official Gazette No. 110/97) not only bans the use of coercion during testimony (arts. 4/3, 225/7, 226, 235, 265/4), but also bans the use of such statements as evidence (arts. 225/9, 235).

### **Competent bodies**

15. In cases of violation of the provisions of the Convention, the competent bodies are the courts of law, the Attorney-General, the police, the Ombudsman, and other administrative bodies. The courts of law pass judgements based upon the Constitution and the laws (art. 118/3 of the Constitution) and ensure equality before the law (art. 26). The police act in the same manner on the basis of the Constitution and the existing laws which regulate their activity.

### **Courts of law and punishment**

16. According to the Judiciary Act, the courts of general competence and specialized courts are competent for violations of the Convention's provisions. The general competence courts are: the municipal courts, which prosecute criminal acts for which the penalty of imprisonment for less than 10 years is envisaged; the district courts, which are competent for prosecuting criminal acts for which the penalty of imprisonment is more than 10 years; and the Supreme Court of the Republic of Croatia, which decides on cases of appeal and extraordinary legal remedies. The specific domain courts are: the Court of Commerce, the Magistrates' Court and the Constitutional Court of the Republic of Croatia.

17. The execution of criminal sanctions against adult and minor perpetrators in the Republic of Croatia is regulated by the Law on the Execution of Penalties of Imprisonment (the new law was introduced on 22 October 1999). This law regulates the organization, competence and scope of the body responsible for the execution of the penalty of imprisonment. The law shall be implemented starting on 1 July 2001. The sanctions are executed in 6 penal institutions and in the Hospital for Persons Deprived of Liberty (regarded as a penal institution), 14 district prisons and 2 juvenile institutions.

18. All these penal institutions can accommodate 2,300 persons, 42 per cent in closed-type institutions, 48 per cent in semi-open and open-type institutions and 10 per cent in the Central Hospital for Prisoners.

#### **Number of persons sentenced to prison**

Year	No. of prisoners
1997	1 287
1998	1 258
1999	1 202
2000	1 270

### **Legal remedies**

19. The basic legal remedies which are at the disposal of persons who are victims of torture or other cruel, inhuman or degrading treatment or punishment are: (a) the right to report such cases to the administrative bodies responsible for monitoring of conduct (the Ministry of the Interior for police conduct during questioning, prison governors and the Ministry of Justice, Administration and Local Self-Government for cases pending execution of penalty of imprisonment); (b) the right of appeal directly to the Attorney-General's Office within three days after the commission of illegal or irregular police conduct during investigation; (c) the right to file a criminal charge on the basis of individual criminal acts with the Attorney-General and the right of a victim to institute criminal proceedings on his own, as a private complainant, against a perpetrator; and (d) the right to compensation.

### **Current situation and difficulties**

20. During the last five years the state of security on the overall territory of the Republic of Croatia, including the territory which was occupied earlier, is regarded as positive. This accounts for the decline in the number of the most severe criminal acts like murder, robbery, grand larceny, explosions and fires in the region liberated in the "Storm" action. In the period from 1995 to 1999, the number of murders decreased by 77 per cent, the number of robberies by 88 per cent, grand larcenies by 70 per cent, explosions and fires by 96 per cent. The investigatory activities were upgraded so that in 1999, for example, all six murders were solved, as well as 60 per cent of the robberies, 54 per cent of the grand larcenies and 57 per cent of the explosions and fires, and the number of arrested perpetrators is increasing accordingly. The results achieved are even more significant if we compare them to the data gathered from most European countries, as well as our neighbouring countries, where the number of criminal acts, counted on the basis of 100,000 citizens, is a few times larger than in the Republic of Croatia.

21. The Government of the Republic of Croatia, its ministries and other State bodies responsible for the promotion and protection of human rights and freedoms respect the democratic standards of the developed world, with the basic guidelines enshrined in the Constitution and the legal system of the Republic of Croatia. Accordingly, the Republic of Croatia has, during and after the military and police actions, expressed and encouraged a cooperative relationship with all the international humanitarian organizations and institutions which deal with humanitarian issues under the United Nations. Under the same principle, the Ministry of the Interior operates within its competence, being liable and responsible for the overall security situation of the State and, as a matter of course, for the personal security of the citizens of the Republic of Croatia and for their property as well. By introducing the new Law on the Police Force, which entered into force on 1 January 2001 (Official Gazette No. 129 dated 22 December 2000), the Republic of Croatia has incorporated itself completely into the European normative system, accepting the fundamental principles which today are the standard principles of the harmonized activities of the rule of law and guaranteed human rights.

## **II. INFORMATION REGARDING INDIVIDUAL PROVISIONS OF THE CONVENTION**

### **Article 2**

22. The legal system of the Republic of Croatia and the regulations relating to the police force, the administration of justice and the penal system determine the prevention and sanctioning of all criminal acts implied by the concept of torture and other cruel, inhuman or degrading punishments and treatment. Such acts are banned under the regulations and provisions included in the Criminal Procedure Act and in the Law on the Police Force, which define the disciplinary accountability of police officers. They are also regulated by the regulations on the execution of criminal sanctions. The ban on torture is also included in the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities and Minorities in the Republic of Croatia.

23. As was pointed out earlier, the ban on torture enshrined in the Constitution cannot be derogated from even in exceptional circumstances (art. 17, para. 3, of the Constitution), while the Criminal Procedure Act bans all kinds of cruel methods which might be used against persons involved in criminal proceedings. Article 29, paragraph 4, of the Constitution stipulates that evidence obtained in an illegal manner cannot be used in a trial. The Law on the Police Force also determines supervisory measures in the police force and prescribes disciplinary procedures and sanctions (arts. 110-122).

24. The employees of the Ministry of the Interior take into account the provisions of the Criminal Procedure Act and the Law on Internal Affairs (current Law on the Police Force). The Ministry of the Interior daily monitors the legality, professional quality, tactfulness, politeness and correctness of police officers' conduct towards citizens, all to the effect of better protection of human rights.

25. The legality of police officers' conduct is one of the principal factors in evaluating the functioning of the overall police organization, and the Ministry of the Interior pays special attention to it through the implementation of educational, supervisory and disciplinary measures at all levels of work.

26. In accordance with this view, the Ministry of the Interior has, through the modifications to the Law on Internal Affairs, that is through introducing the Law on the Police Force, established certain protective democratic mechanisms which prescribe that all civil servants and employees of the Ministry of the Interior have a duty to protect and preserve human life and dignity and that they may use only those measures and coercive means which are specified by law, and the use of which has the least damaging effect, in performing their official duties. This excludes any possibility of arbitrary conduct. Altogether, this law guarantees the inviolability of human dignity and human rights and, at the same time, confines police conduct within certain limits.

27. Moreover, the procedure to be followed in cases of complaints against police conduct is precisely prescribed. For example, if a citizen reports any kind of maltreatment or other police misconduct, the Ministry of the Interior is obliged to inform the complainant, within 30 days, of the actions taken in relation to the complaint. This is an additional means of protection in the fight against covering up any form of human rights violation during policing or preventing such violations, especially in the case of the types of violations stated in the Convention.

28. The legal use of coercive measures within the scope of police activities is one of the most delicate issues in policing and it is the field in which the police are most likely to engage in excessive interference in the area of human rights and freedoms. In order to prevent all forms of illegal use of coercive measures, the police authorities daily undertake various steps, like the efficient supervision at each level of activities within the Ministry of the Interior, permanent expert training courses, and careful scrutiny of every case of exceeding authority. It should be pointed out that in cases of exceeding authority in the use of legal coercive measures, a police officer is exposed to very severe disciplinary accountability and to criminal accountability also if he has committed a criminal act.



29. In 1998, 580 cases of the use of coercive measures were recorded; that is 26.6 per cent more than in 1997 when coercive measures were used 458 times. Out of the total number of coercive measures used in 1998, 10 were unfounded (12 in the previous year). During 1999, the number of cases of coercive measures used increased by 18.1 per cent (685 cases) over the previous year. Out of the total number, 671 cases were determined to be founded and the other 14 cases unfounded. In 2000, the number of cases of the use of coercive measures increased in relation to 1999 by 39.4 per cent; 955 cases were recorded, of which 940 were determined to be founded and the other 15 as unfounded.

#### Use of coercive measures for the period from 1997 to 2000

Year	Use of coercive measures		Application of coercive measures			Consequences of the use of coercive measures		
	Open space	Closed space	Bodily force	Truncheon	Firearms	Killed	Slightly injured	Severely injured
1997	320	138	343	17	10	3	154	6
1998	399	181	446	21	11	3	184	7
1999	476	209	501	22	9	1	247	7
2000	699	256	656	29	19	1	317	16

30. Coercive measures have been used in most cases for the purpose of repulsing an attack or overcoming resistance and they have also been used to apprehend suspects. Owing to the use of coercive measures: in 1997, 199 policemen received minor injuries and 4 received serious injuries; in 1998, 208 policemen received minor injuries and 10 policemen serious injuries; in 1999, 274 policemen received minor injuries and 4 serious injuries; in 2000, 340 policemen received minor injuries and 12 serious injuries. By reason of the inappropriate use of coercive measures, exceeding authority or other disciplinary infringements regarding the use of coercive measures, in 1997, 13 disciplinary procedures were initiated, 15 in 1998, 21 in 1999 and 13 in 2000 against the police officers concerned.

31. The basic law which regulated the activities and conduct of the authorized officials of the Ministry of the Interior was the Law on Internal Affairs (which was in force until 1 January 2001). After 1 January 2001 a new Law on the Police Force came into force which, among other things, systematically organizes police mandates in view of the fact that the police force is the body that in most cases interferes with the fundamental human rights. A substantial part of the new Law on the Police Force relates to the conditions of the use of police powers. When speaking of the normative framework (conditions, that is, assumptions) of the use of police powers in a democratic society, one should always bear in mind the correlation between the organizational structure and the activities of the police and the protection of human rights and freedoms. The proclaimed constitutional principles in the Republic of Croatia, especially those relating to the fundamental rights of men and citizens (right to life, personal security and inviolability, ban on inhuman conduct, torture or degradation and others) are made concrete through the passing of laws and the implementation of provisions which provide mechanisms for their protection. This is the reason why the Law is so significant: the operations of the police force imply repression and can result in limiting citizens' rights, but these limitations must be balanced with the need to protect universally accepted social values.

The postulate of each country in the process of transition and building a democratic society based on the rule of law is to find the appropriate balance between the two stated opposite principles.

32. In defining police powers, we had to determine the role of the police force in contemporary society - the concern for the maintenance of peace, order and security, which includes the responsibility for ensuring the citizen's security, so that everyone can live peacefully and go wherever they like in safety. Such an approach to police affairs classifies policing in the domain of prevention, which is in accordance with other States' policies. But, one should not completely exclude the repressive police activities, which are defined as "investigating criminal acts, finding and seizing perpetrators and bringing them before the competent bodies". Such overlapping of the two domains - prevention and repression - is known in the Croatian legal tradition and is supported by the stated Law. In the Republic of Croatia, one cannot draw a clear line between prevention and repression since there is no special judicial police service which would participate in the activity of instituting criminal proceedings, as is the case in some European countries. The other reason why police activities cannot be separated is the existence of basic laws, such as the Criminal Procedure Act, which, in defining the concept of police powers, also defines the status of authorized officials of the Ministry of the Interior.

33. It is important to mention the Constitutional Court decision (Official Gazette 29/00) which revoked the provision of article 18 of the Law on Internal Affairs which prescribed that in matters relevant to State security, the Minister of the Interior may decide, by resolution, that such measures should be taken against natural and legal persons and bodies which deviate from the principle of inviolability of secrecy of correspondence. Such an action is to be reported, as soon as possible, to the President of the Republic. Regarding the fact that it is necessary that the legislation of the Republic of Croatia comprehend regulations that provide for protection of the country's national security, which is also one of the legitimate justifications for interference by public authorities into the private lives of citizens, the Law on Internal Affairs was amended accordingly (Official Gazette No. 53/00) and the newly adopted regulation is in accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950. The amendment relates to legal resolutions included in article 17a, 17b, 17c, and 17d of the Law on Internal Affairs which specifies in detail the time, the mode and the circumstances under which measures of secret data-gathering can be used. It is regarded as a departure from the principles of the inviolability of personality and secrecy of correspondence and other forms of communication. Such regulation is included in all contemporary legislation systems of democratic countries.

34. In application of the principle regulated by article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the use of force is forbidden in the Croatian police force, except in cases when the legal aims can justify such action. In addition to the legal regulations which define the use of coercive measures, the Ministry of the Interior records the developments in this area and issues instructions and guidelines for confining the use of coercive measures to the most critical cases. Moreover, the Ministry of the Interior notes the legality of the use of coercive measures and in all the cases of police officers' misconduct towards citizens the Ministry undertakes the necessary action.

35. An example is the case of Riccardo Cetina, who was involved in an incident on 1-2 September 1998 near Zečevo, municipality of Primošten. In the evening of 1 September, six policemen of the Šibenik-Knin Police Administration exceeded their authority in using coercive measures during their intervention and in the course of overcoming resistance during deprivation of liberty of the Italian citizen Riccardo Cetina. As a result, Mr. Cetina suffered serious bodily harm and consequently died in the Split hospital. The six policemen were arrested on 5 September and that same day, after an investigation, they were brought to the Šibenik County Court investigating judge on the criminal charge of being reasonably suspected of the criminal act of maltreatment in performing their duties, as regulated by article 127, paragraph 1, and infliction of serious bodily harm as regulated by article 99, paragraph 1, of the Criminal Code. The municipal attorney-general in Šibenik brought an indictment against the six policemen on 12 April 1999. The six policemen spent the period from 5 September to 29 December 1998 in a remand prison, while the investigation of the incident was carried out.

36. The Head of the Šibenik-Knin Police Administration required the initiating of disciplinary procedures against these policemen because there was reasonable cause to believe they had committed a serious violation of service discipline according to article 82, paragraph 1, point 1, of the Law on Internal Affairs which was in force at the time (abuse of power and exceeding of authority). The Disciplinary Court of the Šibenik-Knin Police Administration passed a sentence of suspension from the police force for all six police officers. After that, all six filed a complaint with the second instance disciplinary court of the Ministry of the Interior which rejected the complaints and upheld the disciplinary measure of suspension from the police force.

37. In the pending process of modification of the penal legislation with the purpose of more efficient protection from police intervention in the area of basic human rights and freedoms, the police were deprived of the right to decide on custody, which today pertains exclusively to the competence of the court. This gives additional assurance for the legal application of this measure.

38. Since in policing special attention is paid to the legality of police conduct and the correct use of mandates at all levels of operation in the Ministry of the Interior of the Republic of Croatia, in conformity with the experience of the European police force systems, the Internal Control Office was founded in 1994 to deal only with disclosure and prevention of misconduct by police officers in performing their duties. Misconduct implies any irregular conduct by police officers or conduct contrary to established police ethics. The adoption of a Police Code of Ethics is pending.

39. During 2000, the Internal Control Office analysed 613 petitions and complaints from citizens, 341 in 1999 and 418 in 1998. Out of the total number of analysed cases in 2000, 132 were accepted, 87 in 1999 and 90 in 1998; the number of rejected cases was 458 in 2000, 258 in 1999 and 322 in 1998. The most common reasons for lodging petitions and complaints were abuse of power, exceeding of authority, unethical performance of duty, failure to undertake appropriate measures, and unseemly conduct while on duty. Regarding the accepted and partially accepted reports and complaints, the Office has initiated disciplinary measures, misdemeanour charges or criminal charges against the officers found accountable, depending on the level of responsibility.

40. Pursuant to article 158 of the Law on the Execution of Criminal Sanctions, a convicted person has the right to file a complaint with the prison governor regarding any violation of his rights, or any other irregular treatment. The prison governor is obliged to consider each complaint, to take a decision on each of them in a form of a resolution and to hand this to the convicted person. If a convict files a complaint against this resolution with the Ministry of Justice, Administration and Local Self-Government, the prison governor is obliged to forward it to the Ministry together with the relevant documents.

**Review of prisoners' complaints concerning conduct of members of the judicial police**

Year	No. of complaints
1997	11
1998	9
1999	16
2000	8

41. According to the legal regulations, members of the judicial police may use coercive measures only in cases when it is necessary to prevent the escape of a convicted person, an assault against an employee, injury to another person, self-injury, or material damage. The use of firearms is allowed in cases when the use of bodily force, truncheons or other coercive measures cannot suffice, if people's lives cannot otherwise be protected, or if an officer is unable to prevent a convicted person from directly jeopardizing the lives of other officers, that is, in case of an attack on a building or an escape. The Ministry of Justice, Administration and Local Self-Government has to be informed of every use of firearms against a convicted person.

**Review of use of coercive measures by members of the judicial police**

Cases of use of coercive measures	No. of cases				Total No.
	1997	1998	1999	2000	
Singling out	35	20	24	42	121
Handcuffing	12	2	18	7	39
Singling out and handcuffing	14	10	8	10	42
Bodily force	8	5	17	21	51
Singling out, handcuffing and bodily force	15	3	14	12	44
Rubber truncheon	6	7	14	11	38
Singling out, handcuffing, bodily force and rubber truncheon	6	7	14	11	38
Total	96	54	99	84	373

**Review of disciplinary measures against members of the judicial police**

Year	No. of measures	No. of suspension proceedings
1997	35	7
1998	30	9
1999	47	10
2000	28	7
Total	140	33

Note: The table shows the number of disciplinary proceedings against members of the judicial police before the Disciplinary Court of this Ministry, related to all forms of violation of service covered by the regulations.

**Article 3**

42. The Ministry of the Interior is drafting the Asylum Law and the new Law on the Movement and Stay of Aliens in cooperation with UNHCR, the Ministry of Labour and Social Welfare, the Ministry of Foreign Affairs and other bodies which deal with the protection of human rights.

43. The issue of the status of refugees and displaced persons is one of the most comprehensive and difficult issues with which the world community is confronted today. Therefore, in drafting the Asylum Law, attention was paid to the fact that its provisions have to be harmonized with all the international standards and regulations deriving from international humanitarian law.

44. As well as other European States, the Republic of Croatia has, in the past few years, been confronted with a large increase in the number of illegal migrants and all the related problems which are typical of other countries hit by flows of migrants. The efficient prevention of migration is directly related to the legal regulations, the efficiency of the State administration and the funds at its disposal, and especially the funds at the disposal of the police authorities. The data on illegal migration to the Republic of Croatia for the last four years (1997, 1998, 1999 and 2000) clearly show an increasing trend: in 1997, 8,303 persons were recorded as illegally crossing the State's border, 10,556 in 1998, 12,314 in 1999 and 24,180 in 2000.

**Misdemeanour and criminal charges against foreign nationals, 1997 to 2000**

Year	No. of misdemeanour charges	No. of criminal charges	Total
1997	8 465	883	9 348
1998	22 051	2 101	24 152
1999	14 389	1 581	15 970
2000	20 444	1 775	22 219
Total	65 349	6 340	71 689

45. On the grounds of their holders having committed a misdemeanour, in 1997, 3,700 residence permits were cancelled in administrative procedures, 5,908 in 1998, 3,157 in 1999 and 4,055 in 2000. With regard to the misdemeanours, the competent courts decided on measures of removal from the Republic of Croatia in 2,364 cases in 1997, 3,250 cases in 1998, 2,456 cases in 1999 and 7,144 cases in 2000. The competent bodies also decided on measures of expulsion from the territory of the Republic of Croatia in 104 cases in 1997, 167 cases in 1998, 120 cases in 1999 and as many as 576 in 2000. In 1997, 5,062 foreign citizens were fined, 5,644 in 1998, 3,778 in 1999 and 5,586 in 2000.

46. Foreign citizens who do not act in accordance with the measures pronounced are subject to forcible removal. Such was the case of 1,906 foreigners in 1997, 2,147 in 1998, 1,193 in 1999 and 1,789 in 2000. In some cases it was not possible to remove a foreign citizen immediately because he/she did not possess travel documents, or the country of citizenship was not accessible by regular transport links. Such persons were accommodated in alien reception centres: 1,034 in 1997, 934 in 1998, 522 in 1999 and 1,111 in 2000.

47. In interpreting the above data it should be recalled that in 1998 war began in Kosovo which reached its culmination with the NATO forces' intervention in 1999; this resulted in a decrease in the number of illegal migrants.

48. Observing the criterion of voluntary consent, the return of Albanians from Kosovo is at this moment possible only on the basis of the agreement on transit permission for Yugoslav citizens obliged to leave the country of their current stay. The Republic of Croatia signed this agreement along with eight other countries in 1999. For this purpose citizens of Yugoslavia are asked to sign a statement that they voluntarily consent to return to Yugoslavia. Other foreign citizens who wish to return to their mother country which has been recognized as a State which violates human rights also have to sign a statement voluntarily consenting to return to that country. Such a procedure has become part of the regular procedure for repatriation of the citizens of the Islamic Republic of Iran.

49. If a foreign citizen objects to forced removal to his mother country on the grounds that there his human rights would be violated, he/she is not removed from the Republic of Croatia, and the authorities try to find a solution to the problem together with UNHCR. Usually, a large number of such persons are accommodated in the UNHCR centre in Rakitje, near Zagreb; most of them are Iranian and Afghani nationals, members of vulnerable groups, families with children and sick people.

50. The department responsible for illegal migrations at the Ministry of the Interior of the Republic of Croatia (that is, the Division for the Execution of Measures) gives its consent to the execution of measures of removal and coordinates activities regarding the organization of the execution of forced removal. Police officers are familiar with the obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as other international legal documents on the basis of which foreign citizens may not be forcibly removed to countries where they might be subjected to torture or other inhuman treatment.

51. The Ministry of the Interior decides on applications for asylum, for extended stay permits, for permanent residence permits and for the issuance of visas. The following tables indicate the dynamics of the decisions on these applications during the last four years.

Year	Applications for refugee status
1997	1
1998	26
1999	20
2000	23

Year	Applications for extended stay permits
1997	6 881
1998	6 642
1999	5 847
2000	5 084

Year	Applications for permanent residence
1997	8 252
1998	4 552
1999	1 845
2000	1 349

Year	Stay on the grounds of issued business visas at 31 December 2000
1997	141
1998	348
1999	307
2000	501

52. It should be pointed out that since 1997 the new Law on Public Assembly has been in force (Official Gazette 128/99). The Law on Public Assembly came as a result of the need for regulations harmonizing the views on implementation of the Convention for the Protection of Human Rights and Fundamental Freedoms. It is grounded on the basic constitutional regulations on human rights and rights of citizens, and has the effect of:

- Recognizing freedom of public assembly and public protest for all the citizens (art. 42 of the Constitution);
- Guaranteeing freedom of opinion and expression; the freedom of expression of opinion refers especially to the freedom of speech and public appearance (art. 38, paras. 1 and 2);

- Banning incitement to or encouragement of war or use of force, national, racial or religious hatred, or any kind of intolerance (art. 39);
- Securing for religious communities freedom to perform their religious ceremonies (art. 41, para. 2); and
- Restricting the freedom and right of peaceful assembly or public protest only in order to safeguard the rights and freedoms of others as well as public order, public morals and health (art. 16).

53. One of the basic reasons for which the Law was adopted was the necessity for more comprehensive regulating of police powers in the implementation of the Law. By the proposed Law, the police forces gain an obligation to protect peaceful assembly and the powers to realize the conditions necessary for the fulfilment of this obligation.

#### **Article 4**

54. The Criminal Code standardizes the following criminal acts which relate to torture and other inhuman and degrading treatment: violation of citizens' equality (art. 106), unlawful deprivation of liberty (art. 124), extortion of accusations (art. 126), maltreatment in performing service or public mandates (art. 127), coercion (art. 128), violation of the inviolability of home (art. 122), illegal search (art. 123), violation of secrecy of correspondence (art. 130), unauthorized recording and wiretapping (art. 131), torture and other cruel, inhuman or degrading treatment or punishment (art. 176).

#### **Number of reported criminal acts in the Republic of Croatia which included torture and other cruel, inhuman or degrading treatment or punishment**

Criminal Code article	No. of reported criminal acts			
	1998	1999	2000	Total
106	0	0	0	0
122	70	164	96	330
123	0	1	1	2
124	19	23	21	63
126	3	1	3	7
127	15	12	14	41
128	2	3	4	9
130	17	3	4	24
131	2	8	7	17
176	0	0	0	0



**Number of legally valid sentences for criminal acts which included torture  
and other cruel, inhuman or degrading treatment or punishment**

Criminal Code article	No. of legally valid sentences			
	1998	1999	2000	Total
106	0	0	0	0
122	8	41	56	105
123	0	0	0	0
124	6	8	5	19
126	0	5	2	7
127	14	11	13	38
128	0	3	2	5
130	0	4	0	4
131	1	1	1	3
176	0	0	0	0

**Article 5**

55. On the basis of the principle of the sovereignty of the Republic of Croatia, the Criminal Code applies to every person who has committed a criminal act on the territory of the Republic. As was already pointed out in the initial report, the Criminal Code also applies to every person who commits a criminal act on a Croatian-registered, or civil aeroplane during a flight or in a military aircraft, regardless of its location at the time of commission of a criminal act.

56. Pursuant to article 14 of the Criminal Code, the Code applies to citizens of the Republic of Croatia for offences committed abroad and when such persons are found on the territory of the Republic of Croatia or have been extradited. The same article of the Criminal Code applies to foreign nationals who have committed a criminal act against the Republic of Croatia or against its citizens outside Croatian territory, if these persons have been found on the territory of the Republic of Croatia or extradited to the Republic of Croatia.

**Article 6**

57. As stated in the initial report, on the basis of the Criminal Procedure Act, a person can be detained (in preliminary custody), according to precisely regulated provisions, if there is a reasonable suspicion that he/she has committed a criminal act. This measure can be used only on the basis of an investigating judge's injunction before whom the detainee has been brought after first being questioned. The detention must be revoked even if the accused does not request it, if the reasons for detention are no longer valid. The detention has to be replaced by a more lenient measure (for example, by the promise of the accused that he will not leave his place of residence, by bail, etc.) whenever the legal conditions are met for such an action. Upon the detainee's request, the family or some other person of the detainee's choice has to be notified of the detention of the person concerned. Pending the preliminary proceedings, the accused may be detained in custody for the maximum of one month from the date of arrest. After this period, the

House of Counties may prolong detention for a maximum of two days, and in case of felonies, for which the expected penalty is more than five years' imprisonment, the Supreme Court Council may prolong detention for an additional three months. In any case, an unlawfully detained person has the right to compensation for the damage sustained.

58. Regarding the procedure for extradition of accused and convicted persons, the Criminal Procedure Act prescribes that after submitting a request for the extradition of a foreign national to the investigating judge, if there are grounds for detention the investigating judge has to issue a warrant for detention, except in cases where the application does not give the reason for extradition. After the alien has been identified, the investigating judge must inform him immediately about the charges and evidence which give grounds for the extradition request and also about the right of access to a lawyer. If the criminal act requires access to a lawyer, a lawyer has to be officially assigned to the accused.

59. In cases of emergency, when there is a possibility that a foreign national might escape, the police have the power to apprehend the foreign national upon the request of a foreign body and to bring him before the investigating judge. Such a request must contain the necessary data and a statement that the extradition is going to be requested through proper channels.

60. After detention has been decided, the investigating judge, after interrogation, has to inform the Ministry of Foreign Affairs via the Ministry of Justice, Administration and Local Self-Government. If the reasons for detention cease to be valid, or if the foreign State has not submitted an extradition request in due time as determined by the judge, the foreign citizen must be released. This time period cannot be longer than three months from the day of detention, but, at the foreign State's request, the District Court Council can, for a good reason, prolong this term for a maximum of two months.

### **Article 7**

61. The principle *aut dedere, aut judicare* specified in article 7 of the Convention is also incorporated in the Croatian legal system. As is the case in most Western European countries, the courts of law supervise the process of extradition and the implementation of extradition agreements. But since extradition is considered to be an act of Government, the Republic of Croatia has adopted the system of the so-called "judicial veto" for the cases when County Court decisions denying extradition, become final. The cases are terminated by sending the relevant decision to the foreign country. When the court of law decides that the statutory and conventional preconditions for extradition are fulfilled, this decision has to be forwarded to the Ministry of Justice, Administration and Local Self-Government which finally decides on the appropriateness of extradition.

62. In cases where evidence exists that a criminal act has been committed abroad and the extradition has not been approved, the Attorney-General shall, *ex officio*, institute criminal proceedings against a foreign national. This application is submitted to the District Court and the Croatian legal system guarantees that the person whose extradition has been denied will be prosecuted and that he/she will be subject to trial like everybody else, according to the principles of the Criminal Code of the territory.

### Article 8

63. The Republic of Croatia has succeeded to or concluded the following bilateral agreements on extradition:

- With Albania - Convention on extradition of sentenced persons of 1926 (Official Gazette No. 117/29 - succession);
- With Algeria - Agreement on legal assistance in civil and criminal matters of 1982 (Socialist Federal Republic of Yugoslavia Official Gazette, No. 2/83 - succession);
- With Austria - Agreement on extradition of 1982 (Official Gazette, No. 1/97);
- With Australia - Agreement on mutual extradition of sentenced persons of 1900 (Official Gazette, No. 1/97);
- With Belgium - Convention on extradition and legal assistance in criminal matters of 1971 (Official Gazette, No. 11/97);
- With Bulgaria - Agreement on mutual legal assistance of 1956 (Federal People's Republic of Yugoslavia Official Gazette, No. 1/57 - succession);
- With the Czech Republic - Agreement on mutual transfer of sentenced persons of 1989 (Official Gazette, No. 11/97);
- With France - Convention on extradition of 1970 (Official Gazette, No. 4/96);
- With Greece - Convention on mutual legal assistance of 1959 (Official Gazette, No. 4/96);
- With Italy - Convention on extradition of 1922 (Official Gazette, No. 42/31 - succession);
- With Hungary - Agreement on mutual legal assistance of 1968 (Official Gazette, No. 13/97);
- With Mongolia - Agreement on rendering legal assistance in civil, family and criminal matters of 1981 (Official Gazette, No. 7/82 - succession);
- With the Netherlands - Agreement on extradition of 1896 (Serbian Gazette, No. 275 of 1896 - succession);
- With the Federal Republic of Germany - Agreement on extradition of 1970 (Official Gazette, No. 17/76 - succession);

- With Poland - Agreement on legal assistance in civil and criminal matters of 1960 (Official Gazette, No. 9/95);
- With Romania - Agreement on legal assistance of 1960 (Federal People's Republic of Yugoslavia Official Gazette, No. 8/61 - succession; an additional protocol was signed in 1972 (Socialist Federal Republic of Yugoslavia Gazette, No. 4/73 - succession));
- With the Russian Federation - Agreement on legal assistance in civil, family and criminal matters of 1962 (Official Gazette, No. 4/98);
- With the United States of America - Convention on extradition of 1901 (Official Gazette, No. 33/32 - succession);
- With Slovenia - Agreement on extradition of 1994 (Official Gazette, No. 5/95);
- With Slovakia - Agreement on regulation of the legal relationship in civil, family and criminal matters of 1964 (Official Gazette, No. 11/97);
- With Spain - Agreement on legal assistance in criminal matters and extradition of 1980 (Official Gazette, No. 13/97);
- With Switzerland - Convention on extradition of 1887 (Official Gazette, No. 1/97);
- With Turkey - Convention on legal assistance in criminal matters of 1973 (Official Gazette, No. 13/97);
- With Great Britain - Agreement on mutual extradition of 1900 (Official Gazette, No. 11/97).

However, whereas the Republic of Croatia has been, since 1995, a party to the European Convention on Extradition of 1957, as well as to the Additional Protocols to the Convention, the application of this Convention prevails over the application of the bilateral agreements related to the States parties to the Convention.

64. Except for the extraditions based on the agreements and the 1957 European Convention, pursuant to the provisions of the domestic criminal law, it is possible to carry out an extradition which is not related to an agreement. This implies the establishment of reciprocity, regardless of the fact whether the Republic of Croatia demands extradition or offers the establishment of reciprocity, or whether the Republic of Croatia has received a request and is offered reciprocity. Based on article 9, paragraph 2, of the Constitution of the Republic of Croatia, the Republic of Croatia does not extradite its own citizens.

65. The Republic of Croatia, on 19 April 1996, issued the Constitutional Act on Co-operation of the Republic of Croatia with the International Criminal Tribunal of 1991 (Official Gazette, No. 32/96). The Act derogated from the constitutional ban on the extradition of nationals of the Republic of Croatia, which complied with the condition for cooperation with the International Criminal Tribunal for the Former Yugoslavia.

### **Article 9**

66. Legal assistance and cooperation in criminal proceedings relating to criminal acts regulated by the Convention are affirmed on the grounds of bilateral conventions which are in force in the Republic of Croatia and on the grounds of national provisions included in the Criminal Procedure Act which renders such acts possible even beyond the Convention.

67. All the conventions and national law provide foreign countries with certain forms of assistance in criminal proceedings, including: document checks, interrogation of accused persons, witnesses and experts, confiscation of goods and preventing their delivery abroad, serving of summonses, transmission of data contained in police files on the accused persons and other forms of assistance. The courts of law can approve legal assistance at the request of the foreign countries' courts of law and other foreign countries' bodies, providing there are no specific circumstances which would be harmful for the security or other important matters of interests of the Republic of Croatia.

### **Article 10**

68. Instruction and professional training of police officers in the area of the ban on torture and other cruel, inhuman and degrading treatment is conducted as a part of the regular training programme at all levels of education and training (the Police School and the Police Academy, which includes the Police College).

69. The content of the Convention is included in a few educational subjects at several levels of training and education, the subjects being: Police Conduct Methods, Criminal Investigation Methodology, subjects related to the Criminal Procedure Act and the Law on Internal Affairs. This matter is also incorporated in teaching Criminal Investigation Methods and Police Service Rules, and also in some other law-related subjects.

70. Regarding the issue of human rights, the judicial police are being trained at the Training Centre in accordance with a syllabus for judicial police officers and officers in charge of criminal prosecutions. During 1997 and 1998 there were no courses for judicial police training. The first such course was held in 1999 with 40 participants and in 2000, 65 police officers were included in two training courses. The course for 2000 also included a subject on human rights and the course was attended by 30 civil servants of the judicial police who were working as the responsible officers in bodies competent for criminal prosecutions.

71. The provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are included in the Police Academy syllabus in the following subjects: Human Rights and Police Ethics, Criminal Law, Police Organization and Policing, Tactics and Criminal Investigation Methods, and Protection of the Constitutional Order.

72. In an effort to prevent any form of unlawful conduct and in order to establish a new and professional code of police ethics, especially in the use of coercive measures, the police undertake a series of measures daily, including efficient control of functions at every level of

work throughout the whole Ministry of the Interior, continuous professional training and education, detailed analyses of every case of exceeding authority, strengthening proper conduct tactics and establishing greater mutual understanding and trust between the police and citizens.

73. The Ministry of the Interior pays special attention to the lawfulness of police conduct and the use of powers at all levels of work, especially in cases of torture and other forms of violent conduct specified in the Convention.

74. Likewise, in the education of military police officers a great deal of attention is paid to the humane treatment of people. These officers are obliged to observe the dignity, reputation and honour, as well as the physical integrity of all persons during proceedings. Through their training in the Military Police Educational Centre, military police officers gain knowledge of the Criminal-Material Law and Criminal Procedure Act. The training is conducted while performing regular military service and also at different levels of training for non-commissioned officers and officers pursuant to the relevant syllabus.

75. The use of force and coercive measures is regulated in the same manner for military police officers as for police officers.

#### **Article 11**

76. A novelty in the penitentiary system is the setting up of the centre for training of penitentiary employees. Up to now, four training courses have been organized for security employees following a new syllabus. The basic novelty of this syllabus relates to training in communication skills and teamwork, which were estimated as deficient in penitentiary personnel training. Also, the number of hours devoted to the course Administering First Aid was increased. Within the new plan for education and training, 136 security officers successfully finished the course. Training of penitentiary employees in administering first aid will be included in the training for October 2001 of the Training Centre. The course will be attended by all the security officers who have not finished it yet from all district penitentiaries and penal institutions.

77. The conditions in the Lepoglava and Glina penal institutions will be improved through some reconstruction work. In the Lepoglava penal institution, one wing of the prisoners' building is currently under reconstruction and a new enclosure is being built. The building of an enclosure, which is currently under way in Glina, will make it possible to separate categories of prisoners and take a certain number of prisoners from the Lepoglava penal institution. This will make the Glina penal institution a closed-type penitentiary in which younger male prisoners will serve their sentences, that is young male adult prisoners serving their first sentence.

78. Things have changed in the Lepoglava penal institution regarding the treatment of prisoners in the Intensive Surveillance Section. The House Rules were modified and amended in a way that some criteria for sending prisoners to the Intensive Surveillance Section were elaborated, so that every sentenced person gets a documented decision on accommodation in a certain section of the prison. Every person has the right of appeal.

79. The treatment of these prisoners is intensive and every prisoner is treated by the same expert who treated him before he was sent to the Intensive Surveillance Section. This treatment is done on an individual basis. The treatment also includes group therapy which is conducted by a group therapy specialist, at least once a week.

80. Once a month, the expert committee regularly reviews decisions on intensive surveillance at the meeting of the Expert Council of the Treatment Service and the decisions are modified according to the prisoners' behaviour. After the reconstruction of the Požega penal institution was completed in December 2000, a new section was established - the Juvenile Delinquency Section - and one more specialist for treatment was employed.

81. In the Zagreb District Penitentiary, a semi-closed section called Vukomerec was established for prisoners sentenced to less than six months who fulfil the criteria for serving sentence in a semi-closed penitentiary and who earlier served sentence in fully closed systems like the district penitentiary at Bjelovar, Karlovac, Sisak, Varaždin and Zagreb. This way the district penitentiaries were relieved and the conditions of imprisonment for persons sentenced to less than six months were alleviated. The treatment of sentenced drug addicts was intensified. Appropriate education and training was carried out for all the penitentiary medical teams, treatment specialists and security personnel of the district penitentiaries in Pula, Rijeka and Split and by the end of the year, all other employees of the district penitentiaries shall be involved in such treatment. Concurrently, the instruction and training of therapy specialists was conducted for people who are to work as therapists and in the Lepoglava Penal Institution, where most of the drug addicts serve their sentences, some employees from the security service, teams of trainers and specialists in treatment, underwent such training. Anti-addiction therapy programmes are a part of the National Anti-Addiction Programme and are conducted by specialists from the State Centre for Suppressing Addiction within the "Sisters of Mercy" hospital.

82. During 2000, treatment was started for a separate group of sentenced persons, persons suffering from post-traumatic stress. The treatment of these prisoners is organized and monitored by experts from the Psychological Medicine Clinical Hospital. The reconstruction of the premises for these prisoners will be planned in accordance with the available funds.

83. The former Law on the Police Force envisaged the possibility of detaining citizens within the official premises for one day, at most. However, the new Law on the Police Force does not include any provisions on detention.

84. The issue of defining disciplinary responsibility of members of the Republic of Croatia military forces is regulated by the Military Discipline Regulations Code which is harmonized with the effective legislation of the Republic of Croatia and with the international conventions, especially those pertaining to the human rights domain. This sets the ground for creating normative provisions for establishing accountability for violations of military discipline in the Croatian military forces, which are regarded as a modern military force built on Croatian tradition and the positive experience of developed countries' military forces.

85. According to the Military Police Directorate records, in the period 1997-2000, no disciplinary procedure was instituted against military police officers on the grounds of cruel or degrading treatment or on the grounds of exceeding authority in the use of coercive measures.

86. The Military Discipline Regulations Code sets out the following: disciplinary measures and sanctions, mandates to determine accountability for violations of discipline, instituting and conducting disciplinary procedures, evaluation of the legality of disciplinary measures, appeal procedures, execution of disciplinary sanctions, competence for deciding responsibility for disciplinary offences, instituting and conducting procedures for disciplinary offences, procedure for seeking legal remedy, expenses incurred by disciplinary procedures, executing of disciplinary sanctions, conducting procedures for reducing or mitigating disciplinary measures and sanctions and granting pardons, recording and annulling disciplinary measures and sanctions and deciding on disciplinary measures during a state of war.

87. It needs to be pointed out that, according to the Military Service Law, the Supreme Commander regulates military discipline rules, disciplinary measures and disciplinary sanctions for violation of military discipline; he also decides on the procedure for determining violations of military discipline, the passing and execution of disciplinary measures, sanctions, and the powers, organization and actions of the military discipline courts.

#### **Article 12**

88. As stated in the previous report, in our legal system the institutions competent for cases of torture and other cruel, inhuman and degrading punishments and actions regulated by the Convention, are the courts of law, the Attorney-General, the police, the Ombudsmen and administrative bodies.

89. In the application of coercive measures, which are based on the regulations in force and democratic standards, police must take care to safeguard the lives and dignity of those against whom these measures are taken. This issue is stressed in police practice. Although, for the sake of objectivity, one has to be aware of the fact that it is impossible for the authorized officers to completely avoid making wrong decisions in actual work and in every possible situation, every such case is subjected to scrutiny in order to determine if the action was legal.

#### **Article 13**

90. If, in the application of legal coercive measures or in any form of police conduct an officer exceeds his authority, a citizen has the right to file a complaint within a three-day period with the Attorney-General who, for his part, is obliged to determine the facts and institute criminal proceedings if warranted. If the Attorney-General decides that a criminal act which should be prosecuted ex officio has been committed, he is obliged to inform the complainant within eight days. The complainant can himself institute criminal proceedings.

91. During 1997, the Ministry of Justice, Administration and Local Self-Government received 81 complaints from citizens filed with the Attorney-General relating to article 42 of the Criminal Procedure Act, 87 complaints in 1998, 102 complaints in 1999 and 169 complaints in 2000.



#### Article 14

92. Every person in the Republic of Croatia against whom a sentence was wrongly pronounced, or any person wrongly found guilty has the right to claim compensation on the grounds of special legal remedy, pursuant to article 476 of the Criminal Procedure Act.

93. Pursuant to article 480 of the Criminal Procedure Act, the persons who also have the right of compensation are the following: persons who have been detained without criminal proceedings having been instituted, persons who have been acquitted by a decision of a court of law, persons who have wrongly served time in prison, persons whose penalty of deprivation of liberty has been diminished, persons who have been deprived of liberty on the grounds of a mistake made by a State body, or persons who have been detained in prison for too long.

#### Number of claims for indemnity by persons wrongly detained and convicted

Year	No. of claims received	No. of claims settled	No. of claims rejected
1997	114	64	9
1998	183	91	20
1999	138	67	14
2000	140	78	16

Note: The difference between the numbers of received and settled claims is due to the fact that some wronged persons lodge a complaint for compensation of damages to the competent court (pursuant to article 478, paragraph 1, of the Criminal Procedure Act) if they have not received a reply from the competent ministry. The second reason is that some wronged persons whose claims have been settled in their favour do not accept the sums of money offered by the competent ministry because they consider it to be too small and such persons pursue their right to indemnity through a court procedure.

94. If an applicant dies, his heirs have the right to claim indemnity or lodge a new claim for compensation on the condition that the deceased did not revoke his/her claim, or that the three-year statute of limitation has not expired.

95. If a case related to an unfounded sentence has been announced by a public means of communication and has damaged a person's reputation, he/she also has the right to moral satisfaction, which implies that the invalidated sentence is to be announced in a newspaper or some other means of public communication. In case of this person's death, this right is inherited by a consort, children, parents, brothers or sisters. This claim has to be submitted to a court of law within a six-month period from the date of acquittal and is not dependent on the lodging of a compensation claim.

96. A wrongly convicted person, or a person deprived of liberty on unlawful grounds, who, owing to such a sentence or imprisonment has lost his/her job or social welfare benefit, has the right to receive annual increments for the period of non-employment.

### **Article 15**

97. According to its constitutional provisions, the Republic of Croatia does not acknowledge illegally obtained evidence. This is expressly elaborated in the Criminal Procedure Act in a way that forbids the use of testimony obtained by force, deception, or in a similar way. Moreover, this law stipulates that the record of such questioning has to be removed from the case before the beginning of a trial. Nevertheless, if despite this the sentence of the criminal court is based on illegally obtained evidence, such a sentence has to be invalidated in the appeal procedure.

### **Article 16**

98. In accordance with democratic practice, pending convening of a hearing in a criminal case, a police officer may ask for information relating to the case from a detained or imprisoned person only in the case when this has been approved by the investigating judge or by the head of the institution in which the person is being held.

99. In performing their duty, police officers have the power to use force (bodily force, truncheon, water gun, firearms, etc.) only in cases where they cannot perform their duty otherwise. The range and type of such coercive measures have to be in proportion to the circumstances and the police officer has the obligation to issue a warning before using any coercive measure. If the coercive measures have been used legally, the police officer does not bear the responsibility. Otherwise, the police officer is subject to disciplinary measures and criminal liability.

100. The Law on Internal Affairs, as well as the new Law on the Police Force, precisely stipulates the use of coercive measures including expressly determined use of firearms. Under article 62 of the current Law on the Police Force, a police officer is authorized to use firearms in cases when: other coercive measures are not effective; a police officer is not otherwise able to protect his life and other people's lives (para. 1); he is not otherwise able to prevent the commission of a criminal act for which a five-year sentence of imprisonment or more is envisaged (para. 2); he is not able to prevent the escape of a perpetrator of a criminal act for which a 10-year sentence of imprisonment or more is envisaged; he is not able to prevent the escape of a person declared wanted for a criminal act for which a 10-year sentence of imprisonment or more is envisaged (para. 3); he is not able to prevent the escape of a person who was arrested for the criminal act stated under article 3 or a person charged for such criminal act and who has escaped from prison (para. 4).

101. Before they use firearms, police officers are bound to warn a person by uttering the first warning, "Stop, police!" and the second warning, "Stop, or I will shoot", if it is possible in a given situation and if enforcement of the law is not challenged. The use of firearms is not allowed if it puts other people's lives in danger, except in cases when the use of firearms is the only means of defence against a direct assault or jeopardy.

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