

### Extract from the IHF report

#### *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*

#### Croatia<sup>1</sup>

**IHF FOCUS: freedom of expression, free media and information; rule of law; independence of the judiciary; right to a fair trial; conditions in prisons and detention facilities; freedom of religion and religious tolerance; social rights; property rights; national and ethnic minorities; rights of homosexuals; aggressive nationalism, racism, and xenophobia; asylum seekers and IDPs.**

Similar to the past few years, Croatia made moderate progress in the field of human rights during 2004. In many aspects, progress was frustratingly slow, but an overall positive trend could be discerned. As a result of developments over several years, ethnically motivated violations of human rights were no longer the most pressing problem. The deeply unsatisfactory situation of returnees (mostly of Serbian ethnicity) and frequent abuses against the Roma population remained major concerns, but there was increasing public readiness to react to such violations of human rights.

The parliamentary elections held in late 2003 represented a return to normal in so far as radical political groups were largely marginalized in public life. However, right-wing radical groups remained active and it appeared that the fact that some segments of the electorate were disappointed with the new government – composed of the Croatian Democratic Union (HDZ) – worked in their favor.

As a result of international political developments, in particular the war in Iraq and the process of EU enlargement in which Croatia was perceived to be treated unfairly, the United States and the EU lost some of their moral authority in the eyes of the Croatian public. This also had implications for local civil society organizations, which felt that they no longer were able to credibly use legal and political conditions in the United States and the EU as model examples.

The Croatian Helsinki Committee (CHC) was involved in activities aimed at improving the human rights situation in the country, including efforts to train judges and to raise public awareness about the new freedom of information legislation. The CHC also addressed problems from previous years, such as the realization of property rights (especially of returnees); the situation of minorities; and aggressive nationalism, racism and xenophobia. In addition, the CHC focused on violations of social and economic rights and prison conditions, especially of juvenile delinquents.

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<sup>1</sup> Based on a report from the Croatian Helsinki Committee (CHC, IHF member) to the IHF.

## Freedom of Expression, Free Media and Information

### *Freedom of Expression and Free Media*

The HDZ government that took up office at the end of 2003 made more explicit attempts than its predecessor to instrumentalize the media and individual journalists for political purposes. In particular, it tried to re-establish political control over the Croatian public broadcaster, the HRT.

A new law on the HRT was adopted as late as in February 2003. However, in 2004, the HDZ government set up an ad hoc commission within the Ministry of Culture to prepare new amendments to this law. This move, which coincided with the election of a new management of the HRT, resulted in public protests led by NGOs and the media. It was argued that the government initiative could set back the progress already achieved in the field of freedom of the electronic media. The government eventually abandoned its plans. More generally, opposition by journalists, NGOs and political opposition leaders, as well as occasional warnings from international actors prevented the efforts of the government to establish political control over the media.

However, repeated attacks on the media by members of the reformed HDZ party gave rise to serious concern. These attacks were reminiscent of the period of HDZ rule in the 1990s, when media freedoms were frequently violated.

- In January, Minister of Foreign Affairs Miomir Žužul demanded that the Croatian news agency HINA retract information it had published about meetings he had attended in Brussels, where the EU accession process was discussed.
- In May, Vice Prime Minister Andrija Hebrang phoned the editor of HTV prime time news while the show was on and demanded that he be granted the opportunity to comment live on some information just broadcast. He also threatened the editor. However, the editor refused to obey Hebrang's request and referred to existing legal provisions enabling him to demand a retraction.
- At the beginning of September, Speaker of Parliament Vladimir Šeks summoned the managers of the HRT and criticized them for the HRT's coverage of the parliament and its leaders. He demanded that these issues be given "special treatment" in the editorial policy of the HRT. In response to this case, the Media Council of the CHC published a joint statement with the Association of Croatian Judges (CAJ), in which they denounced Šeks' course of action as contrary to the law. According to the law on the HRT, the program council of the HRT is appointed by the parliament, but it is independent of the parliament in all its activities. Thus, no interference by the parliament in the policies of the HRT is permissible.<sup>2</sup>
- In September, Member of Parliament Branimir Glavaš, a prominent member of HZD, verbally attacked the president of the CAJ Dragutin Lučić and the *Globus* weekly journalist Slavica Lukić. Both of these had made statements that Glavaš interpreted as being critical of his way to power.

In all the cases mentioned above, NGOs, journalists and public figures promptly denounced the attacks by HDZ members. During the year, there were also several cases, where civil society and the media successfully placed pressure on the authorities to reveal the full facts in scandals involving high-ranking officials. As a result of such cases, several officials were forced to resign.

- In December, agents of the Counter Intelligence-Service (POA) tried to blackmail free-lance journalist Helena Puljiz into cooperating with them. Puljiz refused. With the assistance of the

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<sup>2</sup> Joint statement of the Media Council of the Croatian Helsinki Committee (CHC) and the Association of the Croatian Judges, 9 September 2004.

CHC, Puljiz brought her case to the Parliamentary Council for Civil Supervision of Intelligence Services, which undertook an investigation into the case. During the investigation, information was disclosed that suggested that the actions of the POA were aimed at collecting information compromising President Stjepan Mesić, who was running for a second term in the January 2005 presidential elections. The parliamentary council eventually concluded that the POA had infringed the rights of Puljiz. After the findings of the investigation were made public, the case developed into a political battle between President Mesić, who initiated a procedure to dismiss the head of the POA, and Prime Minister Ivo Sanader, who tried to block such a procedure. The CHC and other NGOs deplored this development, and continued to call for the true facts of the case to be established. The CHC demanded complete transparency of the case, sanctions for those responsible for blackmailing Puljiz and measures to strengthen civil control of the intelligence services.<sup>3</sup> After several weeks of political struggle, the head of the POA was finally dismissed. However, as of the end of 2004, no sanctions had been taken against the officers who tried to blackmail Puljiz.

### *Media Legislation*

Although the country's media legislation was reformed in 2003, it still had shortcomings. In particular, legal provisions on media coverage of election candidates are problematic because they impose an obligation on electronic media to give an equal amount of coverage to all election candidates. In the case of parliamentary elections this requirement applies to both public and private broadcasters, but in the case of presidential elections it applies only to the public HRT. According to a study on the coverage of the parliamentary elections in 2003, only 1% of TV viewers watched the official election program on HRT, where more than 5,000 candidates running for parliament had the opportunity to present their views 24 hours a day. The Media Council of the CHC urged the parliament to change the relevant provisions of the election law to ensure editorial independence for electronic media and more constructive media coverage of election campaigns.<sup>4</sup>

A media law provision on media concentration was strengthened during the year. The amended provision requires that information about the ownership structure of media outlets be regularly made public. However, implementation of this provision remained limited.

Privatization of the TV market was promoted by reducing broadcasting time of the public HTV and granting the commercial German TV-channel RTL a concession to start broadcasting. Previously one nation-wide private TV-channel had operated in the country.

A new Council for Electronic Media, whose members were approved by the parliament, took up its work in the fall of 2004. The council was in charge of issuing broadcasting concessions, allocating public funds to encourage pluralism among electronic media (such funds were, however, yet to be made available at the end of 2004) and monitoring implementation of media laws and concession contracts. NGOs criticized the composition of the council because there were no outstanding media experts among its members.

### *Defamation*

A Penal Code provision on defamation was amended so as to make it easier for journalists to defend themselves against defamation charges in court. Thus, the burden of proof was shifted from journalists to plaintiffs, who are now required to provide evidence that a journalist has deliberately insulted them. Despite this positive development, it remains a concern that defamation continues to be criminalized.

- In a case extensively covered by the media, Miroslav Jurić, former editor-in-chief of the local newspaper *Novi brodski list*, was found guilty of defaming a county attorney and ordered to

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<sup>3</sup> Statement issued by the Media Council of the CHC, 1 December 2004.

<sup>4</sup> Statement issued by the Media Council of the CHC, 15 December 2004.

pay a fine. Jurić had re-published an article from the national tabloid *Imperijal*, which discussed alleged misdoings by the county attorney. As Jurić refused to pay the fine, his sentence was converted to imprisonment. The court decision was widely criticized by NGOs and others.<sup>5</sup> Eventually Justice Minister Vesna Škare-Ožbolt paid the fine on behalf of Jurić to prevent him from being imprisoned.

### *Freedom of Information Act*

A Freedom of Information Act (FOIA) was adopted in October 2003 largely as a result of active campaigning by the NGO Coalition “Public Right to Know,” led by the CHC. In 2004, the NGO coalition actively engaged in efforts to raise awareness of the FOIA and to monitor its implementation. Among other measures, the NGO coalition published a guide on the law, developed special forms for requesting information under it, distributed posters, issued press releases and promoted the law in TV broadcasts.

In August, the NGO coalition carried out a test on the implementation of the FOIA. It sent 256 written requests for information to major public bodies at the national and local level. The results were not encouraging: the CHC received a positive response from less than 30% of the public bodies it contacted and it did not receive any response at all from the office of the prime minister, several ministries and most courts. Other institutions, such as the Public Prosecutor’s Office, the Croatian Chamber of Commerce and the HTV, responded that they are not obliged to provide information under the FOIA although the law applies also to them.

During a public debate about the FOIA held in September, President Stjepan Mesić emphasized the importance of citizens’ rights to have access to public documents and pointed out that freedom of information effectively prevents corruption.<sup>6</sup> On the same occasion, Minister of Justice Vesna Škare-Ožbolt admitted that the FOIA was not systematically implemented and announced a change of policy in this respect.

In October, seven months after the deadline established by law, secondary legislation was introduced under the FOIA. This legislation provides public bodies with more detailed information about the implementation of the FOIA, such as information about the establishment of catalogues of information, keeping registers of information requests and appointing FOIA officers. Also, in October, the government published a list of public bodies that are obliged to implement the FOIA.

### *Media Ethics*

The CHC regretted that serious and professional journalism was often sacrificed for sensationalist and scandalous reports and considered the low quality of journalistic work one of the main problems of the Croatian media. The organization was concerned that coverage of criminal and other cases involving individual citizens was sometimes of an unethical character and infringed on the right to respect of personal integrity, honor and reputation of those concerned. In particular, the CHC criticized the fact that the identity of people in vulnerable positions, such as victims of abuse and criminal suspects – especially children – was unnecessarily disclosed.

- In February, large-scale media attention was given to a case in which a 15-year-old inmate at a correctional institution in Mali Lošinj was brutally attacked by a group of other inmates. The boy sustained numerous injuries, including knife scars on his back and a broken leg, and he had the word “informer” burnt on his back. In their coverage of the case, most newspapers revealed the full name of the victim and some even published his picture. The headmaster of

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<sup>5</sup> Statement issued by the Media Council of CHC, 28 June 2004.

<sup>6</sup> In 2003, Croatia was listed number 67 among 146 countries in Transparency International’s index over corruption levels.

the Zagreb Polyclinic for Child Protection, Gordana Buljan-Flander, stated that media had “overstepped their limits” in their coverage of the case. Similarly, the Media Council of the CHC stressed that the media have an ethical obligation to show particular sensitivity to minors in their coverage of events.

- In the past few years, the case of two HIV-infected girls has been at the center of media attention. Various media outlets have virtually followed every step of the girls’ life and have covered issues of a highly private nature. Such reporting placed a significant burden on the girls’ family. In 2004, media reporting escalated into falsely claiming that the family had sued several newspapers for damages they had suffered due to interference in their private life. The CHC characterized the case as “unimaginable” and “a huge media scandal” that could not be justified with arguments that the information published was of public importance.

The CHC called on the country’s media to commit themselves to respecting certain professional and ethical standards in their work and recommended that such standards be more clearly defined.

### **Rule of Law, Independence of the Judiciary, and Right to a Fair Trial**

According to the Ministry of Justice, the number of cases pending in front of courts decreased from 1.4 to 1.2 million in 2004. A high percentage of these cases concerned the failure of authorities to enforce court rulings. The main reason for the failure to enforce court rulings was the fact that a law on execution of court decisions had yet to be adopted. According to surveys, the public largely perceived the judiciary as slow, inefficient, corrupt and politically influenced.

The Constitutional Court continued to use its authority to rule against the excessive length of civil proceedings, and awarded individuals compensation for violations of their right to a fair and prompt trial. Although the amount of compensation was very low, it still offered some form of remedy to the victims.

In another positive development, the Ministry of Justice began running courses for judges from courts at all levels at the Judicial Academy, which was established in 2000. During 2004, seminars covering family law, law on obligations, misdemeanor, property rights and human rights were organized.

In cooperation with the Netherlands Helsinki Committee, the CHC continued implementing a project aimed at improving relations between the judiciary and the media. In the context of this project, three round-table discussions for judges, state prosecutors and journalists were organized. Together with the Canadian section of the International Commission of Jurists and the Croatian Law Centre, the CHC also implemented a project to promote the efficiency of courts and encourage them to apply international human rights standards. Within the framework of this project, a trial scheme was introduced at two courts in Pula and Varaždin, in which mediation was used as an alternative to regular trials. An initial evaluation suggested that this scheme contributed to an increase in the number of civil cases solved. Within the project, a group of 20 Croatian judges were also educated about international human rights standards, especially the European Convention on Human Rights (ECHR).

A novelty in the judicial field was the introduction of four special courts to conduct war crime proceedings in Zagreb, Split, Osijek and Rijeka. These courts were established after the International Criminal Tribunal for the Former Yugoslavia (ICTY) indicated willingness to transfer some of its cases to domestic judiciaries. The Ministry of Justice organized special training for judges involved in war crime trials, with help from international legal experts and ICTY judges. Proceedings were initiated in some domestic cases, but no cases from the ICTY had yet been transferred to Croatian courts at the end of 2004.

## **Conditions in Prisons and Detention Facilities**

### *Visit to the Correctional Institution for Minors in Turopolje*

In response to an anonymous complaint about the conditions in the Correctional Institution for Minors in Turopolje (hereinafter “the Turopolje institution”), representatives from the CHC visited this institution together with representatives from the public Correctional Institution Management.

As the Turopolje institution was established in 1993 to temporarily serve as a correctional institution, the facility was not adequately designed to house juvenile offenders. It also did not offer sufficient space.

A total of 79 minors between 14 and 23 years of age were accommodated at the institution, about a third of them of Roma origin. Most of the minors had poor and unstable family backgrounds, many were drug or alcohol addicts and some suffered from psychological traumas.

As minors of all ages and with different types of records of offences were kept together, young and physically weak minors were vulnerable to verbal and physical abuse by older and stronger peers. Abuses were often not reported to the staff because victims feared retaliation. Some minors whom the CHC interviewed also claimed that a case of sexual abuse had taken place at the institution. No specific program to prevent abuse at the institution existed.

Twenty-three of the minors housed at the Turopolje Institution were registered as having “reduced intellectual abilities.” The CHC was concerned about reports indicating that minors were sometimes placed in this category simply because they were poorly educated. The organization emphasized that the level of education should not be used as an indicator of intellectual ability and condemned the fact that minors were unduly deemed to be intellectually impaired as a violation of their rights. Although the youths are not aware of this categorization, it follows them through their documents throughout life and will have a serious negative effect on their future.

Moreover, there was a lack of staff, in particular teachers and pedagogues, at the institution. The CHC also received numerous complaints alleging that the psychiatrist who regularly visited the institution prescribed the same therapy for all juveniles irrespective of their medical condition.

The state funding allocated to the Turopolje institution was insufficient to take adequate measures to improve conditions.

## **Freedom of Religion and Religious Tolerance**

As in previous years, the leaders of the Roman Catholic Church – the largest religious community in Croatia – had a strong influence on nationalist and conservative political parties regarding various political and social issues.

The legal situation of “non-traditional” religious communities remained problematic. These religious communities welcomed the new Law on the Legal Status of Religious Communities, which was adopted in July 2004, with great expectations as they hoped that it would clarify their legal status and place them on an equal footing with “traditional” religious communities. However, while the new law provides for registration of all religious communities that have at least 500 members and were active in the country prior to the law’s adoption, registration does not in itself guarantee the enjoyment of equal benefits to all religious communities.

Many of the benefits laid down by the new law can only be enjoyed by religious communities that have signed an agreement of mutual interest with the government. Among such benefits are the right of children to confessional religious education in schools and spiritual care in hospitals, military forces

and other public institutions. The government has negotiated agreements with several “traditional” religious communities, such as the Roman Catholic Church, the Serbian Orthodox Church and different Protestant churches. However, other religious communities will only be eligible for similar contracts after they have been registered as associations for five years. As a result, also after the entry into force of the new law, the legal status of different religious communities in the country remained unequal.

With the support of the governmental Commission for Relations with Religious Communities, some “untraditional” religious communities appealed to the government that they be granted the same legal status as those communities with which the government had entered into agreements. However, this move was not successful.

## **Social Rights**

Official data from the State Bureau for Statistics indicated that about 20% of the population in Croatia lived in poverty in 2004. According to the Employment Bureau, 317,577 persons were registered as unemployed as of December, which corresponded to an unemployment rate of about 19%. In particular, the regions directly affected by the 1991-1995 war (which were legally defined as the “areas of special state concern”) were characterized by high unemployment and a generally difficult economic and social situation.

Implementation of social care programs were impeded by the fact that those seeking help were required to go through complicated administrative procedures.

Maternity and pregnancy subsidies remained low. As a result, parents of lower socio-economic status often had difficulties to adequately care for the needs of their children. While it was estimated that the monthly living costs of a four-person family was at least 8,400 Kuna (EUR 1,130), a four-person family who was dependent on social assistance received at the most a monthly support of 3,000 Kuna (600 kuna in pregnancy subsidies and 600 kuna in regular social assistance per person) (EUR 400).

As in previous years, the state failed to compensate pensioners who suffered a dramatic decrease in real pensions (relative to wages and salaries) during the war and many pensioners lived on a bare minimum. It also remained a problem that requirements regarding convalidation remained unnecessarily complicated. Thus, people who were not able to present certain documents to prove that they had worked a certain number of years in occupied areas during the war could not include these years among their total number of working years when pension payments were calculated. There were also reports about people who had to pay large amounts of money to obtain the documents they needed to prove their working experience in occupied areas.

Reports indicated that an increasing number of people experienced discriminatory treatment in access to public housing. For example, applications for public housing filed by people who were physically ill, suffered from disabilities or had many children, were typically given low priority and had poor chances of being upgraded. In response to a request by the CHC, the Office of Administration of Property of the City of Zagreb refused to make available information about the number of applicants for public housing in the city or the criteria used in the preparation of priority lists for such housing.

The CHC received numerous complaints about the work of social care centers in child protection cases. Some of these complaints gave rise to concern about the procedures used when parents were denied custody of their children, in particular in cases where children were placed in foster homes. For example, the quality of psychological assessments used to determine whether parents were capable of caring for their children was criticized.

## **Property Rights**

The process of returning property to Croatian citizens who fled to Serbia and Montenegro and Bosnia and Herzegovina during the war remained problematic.

In 2004, 2,312 houses and apartments were returned to their rightful owners, which increased the total number of houses returned since 1995 to 18,074. According to the Ministry of Sea, Tourism, Transport and Development, another 1,197 houses and apartments remained occupied by temporary owners. A total of 1,481 people have received compensation from the state because they were not able to re-occupy their property by the end of 2002, as prescribed by law.

The State Agency for Purchasing of Houses (APN), was in charge of purchasing property from refugees that decided not to return to Croatia and of assigning/selling such property to people who lost their property during the war. The CHC received numerous complaints about irregularities in the work of the APN. A number of persons who submitted requests to have their property returned found out that their property had already been purchased by the APN and thus was in the possession of the state. The CHC was informed that the APN, in all these cases, had entered into purchase agreements with people who had presented falsified certificates of ownership of the property. After being contacted by the rightful owners of the property, the State Prosecutor's Office pressed criminal charges against these persons. At the end of 2004, about ten complaints of this kind had been filed with the State Prosecutor's Office.

Everyone whose property was destroyed or seriously damaged during the war has been granted the right to request that the state pays for the reconstruction or renovation of their property. According to the Ministry of Sea, Tourism, Transport and Development, some 9,000 houses and apartments were reconstructed in 2004. This increased the total number of reconstructed and renovated houses and apartments to 131,634. About 70% of the property that was reconstructed in 2003-2004 belonged to ethnic Serbs.

An increasing number of returnees experienced that loose property had been damaged or stolen when they arrived to take their houses or apartments into possession. In other cases, temporary occupants refused to move out although alternative accommodation was offered to them or they had their own real estate where they could live. In some of these cases, rightful owners initiated legal proceedings against the temporary occupants of their property. However, such proceedings were typically lengthy and financially burdensome for the rightful owners. There were also cases in which previous temporary users of property filed complaints against the rightful owners to demand compensation for financial and other investments that they had made.

During the privatization process in Croatia in 1991-1996, most tenants of publicly owned apartments were granted the opportunity to purchase apartments under favorable conditions. However, tenants of apartments that were nationalised after 1945 were not granted this right although they were treated as tenants of publicly owned apartments during the communist era. Instead these apartments were returned to the pre-communist era owners. The CHC believed that this policy was wrong and that the authorities should have allowed also tenants of nationalized apartments to purchase the apartments where they resided, while compensating the pre-communist era owners.

The deadline for returnees to submit requests for housing in state-owned apartments, of which they were the tenants before they fled because of the war, initially expired at the end of 2004 but was prolonged until 30 June 2005. According to official information, 6,474 requests had been filed at the end of 2004 in the areas under special state protection, and 1,572 state-owned apartments had been handed over to returnees. In other regions of the country, 1,641 requests had been registered.

The adoption of a new law on housing relations has been pending for more than ten years. As a result, there was no adequate legislation regulating relations between property owners and tenancy holders, and conflicts were frequent. Among other cases, there were reports of forced evictions.



## **National and Ethnic Minorities**

### *The Situation of the Roma and Serb Minorities*

The new HDZ government made efforts to establish a respectable reputation with regard to minority rights and its members repeatedly made statements in favor of tolerance and respect for ethnic diversity, which contributed to a positive societal atmosphere.

However, the situation of the Serb and Roma minorities remained deplorable. Although the government had good intentions, it did not take enough concrete measures to prevent discrimination against Serbs and Roma.

Only 20% of the 560,000 Serbs who lived in Croatia before the war had returned by the end of 2004. Many of the returnees, whose average age was around 60, experienced problems related to the return of their property, tenancy rights and pension payments. They also had difficulties in finding employment and securing representation in local self-administrative bodies. In many regions, citizens continued to feel deep resentment and animosity toward their co-citizens of Serb ethnicity.

Despite the adoption of a National Program for Improving the Position of Roma in 2003, the country's estimated 34,000 Roma continued to experience discrimination in different areas of society. A great majority of all Roma were unemployed and lived in seriously substandard conditions. According to statistics, 85% of Roma children do not complete elementary school. In the county of Medjmurje, which had the largest concentration of Roma in the country, all Roma children attended segregated classes. Public opinions toward Roma were largely hostile and Roma were frequent targets of skinhead attacks. The treatment of Roma by authorities and the media also gave rise to concern.

The Constitutional Law on the Status and Rights of National Minorities provides for the establishment of consultative bodies composed of ethnic minority members at the municipal and county level. While consultative councils existed in all regions where more than 200 ethnic minority members lived, the work of such bodies was characterized by various problems, including logistic and technical problems. There was also a lack of clarity about the role of ethnic councils, which pointed to the need for continued efforts to educate members of ethnic councils as well as their partners in public bodies about the tasks of these bodies.

### *Ethnically Motivated Discrimination in Employment*

During the war, many employees were arbitrarily fired from their jobs at state-owned companies because of their ethnic affiliation. In Croat controlled areas, ethnic Serbs were fired, while in Serb controlled regions, ethnic Croats lost their jobs. A majority of those workers who were dismissed on discriminatory grounds have not been able to return to the companies where they used to work, which in the meantime have been privatized, nor have they received any compensation.

There were also reports of new cases of ethnically motivated discrimination in access to employment, in particular in the regions dominated by Serb forces during the war. In the region of Knin, ethnic Serbs, persons from Serb-Croat marriages and ethnic Croats who lived in Serb-controlled territories during the war faced discrimination. Among others, state institutions, hospitals, courts and schools reportedly rejected job applicants of these categories although they had adequate training and instead hired people from other Croatian cities or Croatian settlers from Bosnia and Herzegovina who lacked sufficient qualifications.

## **Rights of Homosexuals**

Organizations promoting the rights of homosexuals received threats on an almost daily basis.

- Dorino Manzin, president of Iskorak, a NGO promoting the rights of homosexuals, received a death threat via email in October. An investigation showed that the email originated from the Department of Informatics of the Croatian Ministry of Defense. At the end of the year, the military criminal police, who took over the investigation into the case, announced that the employee behind the threat had turned himself in.

There were also reports of physical attacks on homosexuals.

- In July, a group of hooligans reportedly rebuked four homosexuals as “fags” in Zagreb and beat them up. No perpetrators were arrested.

The Catholic Church repeatedly used fierce and intolerant language against homosexuals, including in media statements.

In 2003 new legislation was adopted that improved the status of same-sex partners. There was broad consensus that this legislation was sufficient and organizations promoting the rights of homosexuals did not actively advocate the recognition of same-sex marriages.

### **Aggressive Nationalism, Racism, and Xenophobia**

According to the Deputy State Prosecutor Slavko Zadnik, only seven criminal charges concerning racial and other forms of discrimination were raised in the period 2001-2004. At the end of 2004, two of these cases were pending before courts. During the same period, only three sentences were handed down in cases concerning equality of citizens.

An expert group within the Ministry of Justice was charged with drafting amendments to the Penal Code to complement existing provisions on racial and other forms of discrimination. The draft legislation *inter alia* contains provisions that prohibit extolling the country’s past totalitarian regimes. These provisions have been the subject of broad public discussions. On the one hand, there has been widespread concern about recent efforts by some groups to promote the memory of the Ustasha movement. The extremely nationalist Ustasha movement was in power 1941-1945, when it introduced racist laws and carried out mass executions of Serbs, Jews, Roma and Croats. On the other hand, right wing political parties have demanded that efforts to praise the communist system should also be covered by the new provisions because of the “deeply criminal character” of this system and its complicity in systematic killings of Croats immediately after World War II and prior to the establishment of an independent Croatian state in 1990.

During the year, efforts to extol the Ustasha movement included public parades, the erection of monuments, the promotion of lyrics, and revisionist interpretations of historical events.

- At the beginning of the year, the lyrics of a song performed by the singer Marko Perković-Thompson, which glorifies the massacres of the Ustasha army against Serbs, were published on the web portal [www.index.hr](http://www.index.hr). The song, whose title refers to two concentration camps of the Ustasha regime, gave rise to strong protests and an electronic petition campaign against it was launched. In response, fans of Perković-Thompson initiated a petition in favor of the singer.
- In August, the government ordered that a recently established memorial of Mile Budak, a minister in the Ustasha government, be removed in Sveti Rok. The government also ordered the removal of similar monuments in other cities.
- In December, on the Defenders of the Homeland Day, contemporary followers of the Ustasha movement organized a public parade in Zadar. The participants were dressed in traditional black Ustasha uniforms and carried a big framed photo of Ante Pavelić, a former Ustasha leader. Police allowed the parade to go ahead without intervening, but subsequently charged

the participants with misdemeanors. The president of the Zadar municipal council, who made a welcoming speech at the event, was deprived of his membership in the HDZ party.

During the year, a number of violent attacks on foreigners and minority members were reported. The CHC was concerned that racial motivation was often not taken into consideration in the punishment of such attacks. For example, while membership in a group inciting racial violence was punishable with imprisonment between six months and five years, police reportedly did not take adequate measures to investigate whether perpetrators were involved in criminal groups unless the perpetrators openly stated that this was the case.

- In February, two extremists attacked a group of foreign students, composed of nine Arabs and one Cameroon citizen, on the main square in Zagreb. Both perpetrators were promptly arrested, and their case was subsequently heard by a misdemeanor judge.
- In November, three extremists attacked a Chinese shop owner and her cousin in Zagreb. Upon arrest, the perpetrators declared that they were members of an extremist group. They were subsequently charged with membership in a group inciting racially motivated violence and brought before a criminal court. At the end of the year, the case was still pending.

The CHC criticized the media for engaging in irresponsible reporting that reinforced negative stereotypes against Roma and contributed to social alienation of this group. In particular, the organization criticized the media for emphasizing the ethnicity of Roma involved in crime.

## **Asylum Seekers, Refugees and IDPs**

### *New Asylum Law*

On 1 July, a new Asylum Law entered into force. The new law generally complies with the 1951 Refugee Convention in terms of the principle of *non-refoulement*. However, it establishes an exception to this principle in the case of asylum seekers who are considered to pose a threat to public order or national security or who have committed serious crimes that is not in conformity with the ECHR or case law by the European Court on Human Rights.

The new law states that foreigners who express an intention to apply for asylum at border points should be granted access to the asylum process. However, despite this, the previous practice of only allowing asylum seekers who have already entered Croatian territory to file applications was continued after the entry into force of the law. Also, with the adoption of the law, the process for appealing asylum decisions remained problematic because of the composition of the commission that hears appeals. The members of this commission are appointed by the government and are not necessarily experts on asylum law.

Moreover, the new law does not provide for any complementary forms of protection. The Law on Foreigners provides for the issuance of humanitarian visas on an exceptional basis, but does not establish any clear definition of the circumstances in which such visas may be granted. Thus, current legislation leaves it open whether vulnerable groups such as victims of trafficking are eligible for protection in Croatia.

During the year, 141 requests for asylum were submitted. All requests were rejected. As of the end of 2004, not a single person had been granted asylum in Croatia.

The Ministry of Interior announced plans to establish an asylum reception center in Stubička Slatina, which resulted in protests by local inhabitants.

### *Refugees and IDPs*

According to official information, by the end of 2004, a total of 330,727 refugees and IDPs had returned since the beginning of the return process in autumn 1995. Out of these, 215,579 were ethnic Croats, while 115,148 were members of ethnic minorities, in particular Serbs. In 2004, 12,478 persons returned, out of whom 7,295 were of Serb ethnicity and 5,183 of Croat ethnicity.