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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

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**COMMENTS OF THE GOVERNMENT OF CROATIA  
ON THE THIRD OPINION OF THE ADVISORY COMMITTEE ON THE  
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES  
BY CROATIA**

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(received on 25 November 2010)

GOVERNMENT OF THE REPUBLIC OF CROATIA

**RESPONSES TO THE THIRD OPINION OF THE COUNCIL OF EUROPE  
ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE  
FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL  
MINORITIES BY THE REPUBLIC OF CROATIA**

Zagreb, November 2010

## INTRODUCTION

The Government of the Republic of Croatia welcomes the Third Opinion of the Council of Europe Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities, which was presented in Strasbourg on 27 May 2010, and which evaluates the Third Report submitted by the Republic of Croatia in compliance with its commitments under the Framework Convention. The Government of the Republic of Croatia would like to thank the Advisory Committee for recognizing the efforts made to honour the basic provisions of the Constitutional Act on the Rights of National Minorities as well as the fact that the authorities of the Republic of Croatia have continued their constructive approach to the monitoring process as laid down in the Framework Convention.

The Republic of Croatia continuously upgrades its system for protecting the rights of national minorities by trying to ensure maximum appreciation of the views of national minorities in its legislative and legal sphere, which has also been demonstrated by recent amendments to the Constitution of the Republic of Croatia and the Constitutional Act on the Rights of National Minorities.

The progress in the realization of national minority rights has been demonstrated year after year in regular reports on the implementation of the Constitutional Act on the Rights of National Minorities and the expenditure of funds secured in the central state budget for the needs of national minorities, submitted by the Government of the Republic of Croatia to the Croatian Parliament. In 2009 the Croatia's central state budget allocations for various activities, ranging from education, preservation and fostering of cultural heritage, cultural programmes and publishing to programmes targeting the Roma and other activities, amounted to HRK 157,236,507.75.

The implementation of the Constitutional Act is also an obligation stemming from international treaties that the Republic of Croatia has entered into, primarily from the Framework Convention for the Protection of National Minorities.

As a dedicated service of Croatia's Government, the Office for National Minorities regularly organizes seminars on the implementation of this significant Convention, as well as relevant round tables with the participation of representatives of national minorities. The conclusions of such meetings serve as a basis for defining new guidelines on enhancing the rights of national minorities in the Republic of Croatia.

It is worth pointing out that implementation of the Framework Convention for the Protection of National Minorities has contributed to the realization of national minority rights in the Republic of Croatia, and for this reason the Government of the Republic of Croatia will continue rendering its support to the implementation of this internationally binding document.

**Responses and comments of the Government of the Republic of Croatia on the Advisory Committee's findings relating to Sections I, II, and III of the Council of Europe Advisory Committee's Third Opinion on the Implementation of the Framework Convention for the Protection of National Minorities by the Republic of Croatia**

**CHAPTER I           MAIN FINDINGS**

**Legislative and institutional framework**

*Paragraph 15*

In relation to the remark that the provisions of Article 22 of the Constitutional Act on the Rights of National Minorities are not fully implemented in practice, we note that national-minority members are continuously encouraged to refer to their ethnic affiliation when applying for vacancies in government administration bodies and administrative bodies of local self-government units in order, in this way and on equal terms, to exercise their right of priority while seeking employment in such bodies.

Each vacancy announcement for admission to the civil service contains a reference to the right of national-minority members to priority in employment, all other conditions being the same as for other candidates. The priority right of national-minority members is also highlighted in the information on the terms and conditions for admission to the civil service, which is posted on the website of the Ministry of Public Administration.

In addition to the adoption of civil-service recruitment plans, the effective employment of national-minority members and the achievement of their appropriate representation in government administration bodies also depends on their applications for the vacancies announced, references to their right of priority in employment, and the fulfilment of requirements set for the vacancies to be filled.

During the admission procedure, candidates seeking employment in government administration bodies may lodge appeals against admission decisions to the Civil Service Board as an independent body responsible for processing appeals pursuant to the provisions of the Civil Servants Act. As grounds for their appeals, national-minority members may cite the infringement of their right to priority, provided they have referred thereto in their applications for the announced vacancies and that they deem themselves to have been deprived thereof. Pursuant to the provisions of the Act on Civil Servants and Employees in Local and Regional Self-Government (as published in *Narodne novine* No. 86/08), appeal proceedings against decisions on admission to service are also guaranteed to candidates applying for vacancies announced for posts in administrative bodies of local self-government units.

As a collaborative effort to promote the right of national-minority members to representation in administrative bodies of local self-government units, the Ministry of Public Administration and the Academy of Local Democracy has organized the training of mayors, county prefects, their deputies and local officers on the right to priority in employment with the administrative bodies of those local self-government units where national-minority members are entitled thereto. As one of the measures envisaged by the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities, this initiative was carried out in May and June 2010 through four regional meetings held in Topusko, Bizovac, Zadar and Pula.

To ensure that information on the achievement of the right of national-minority members to appropriate representation in government administration bodies and administrative bodies of local self-government units is monitored and updated on a regular basis, the Ministry of Public Administration maintains records of the number and structure of civil servants and employees recruited, including those belonging to national minorities, and makes continued and systematic efforts to monitor and analyse the status regarding the adoption and implementation of employment plans by government administration bodies and local and regional self-government units.

On 10 June 2010, the Government of the Republic of Croatia adopted the Decision to Maintain a Register of Persons Employed in Civil and Public Services (as published in *Narodne novine* No. 83/10). Pursuant to that Decision, and in collaboration with the Ministry of Finance and the Central State Administrative Office for eCroatia, the Ministry of Public Administration has prepared a detailed specification of the functional requirements and contents of the Register and submitted it to the Financial Agency. The Register is to be established by 31 March 2011 at the latest. Once put in place, the Register will, *inter alia*, improve the statistical processing of employee data, data analysis and human resource management. When it comes to employment, it will enable better planning of requirements and methods for filling the vacancies, as well as monitoring the implementation of recruitment plans, including the employment of national-minority members and the realization of their right to appropriate representation.

The Constitutional Act Amending the Constitutional Act on the Rights of National Minorities (as published in *Narodne novine*, No. 80/10), adopted in June 2010, provides that the right of national-minority members to representation in government administration and judicial bodies and administrative bodies of local self-government units is to be achieved pursuant to the provisions of a special law, and of other employment policy papers pertaining to such bodies. Thus, with regard to the achievement of the aforementioned right, particular emphasis has also been placed on the planning and implementation of employment policies.

In accordance with the provision of Article 22(2) of the Constitutional Act on the Rights of National Minorities, the representation of national-minority members in judiciary bodies is to be ensured, in compliance with the provisions of a special law and other employment policy papers, in proportion to their share in the total population of the areas where such judiciary bodies have been established, and taking into account their acquired rights.

When filling vacancies in the judiciary (i.e. the posts of judicial officials and those of civil servants and government employees) as well as other government bodies, national-minority members are given priority, all other conditions being equal (Article 22(4) of the Constitutional Act). In other words, they can exercise their priority right insofar as they are equal to other candidates in terms of all relevant facts and requirements crucial for their selection.

Special laws governing the appointment procedure for judicial posts, as well as the Civil Servants Act, provide that minority members must, in the first place, refer to their right of priority in their applications for the vacancies announced. In order to encourage national-minority members to invoke that right, each vacancy announcement includes a reference thereto. The requirements for appointment to judicial posts are laid down by

the provisions of the Courts Act and the State Attorney's Office Act and, in vacancy announcements, they cannot be altered or tailored to any particular category of candidates. In addition, the requirements for admission to the judiciary concerning qualification levels and professional experience are set forth by the Rules on Judicial Officers and Employees, which are reflected in the internal organisation rules of judicial bodies. Accordingly, they cannot be modified depending on who the candidates are for particular vacancies.

### **Discrimination**

#### *Paragraph 22*

In relation to the finding that in the field of employment, in particular in public administration, the judiciary, local government and public enterprises, the non-respect of the right to proportional representation of persons belonging to national minorities established under the provisions of the Constitutional Act on the Rights of National Minorities gives rise to serious concern, we note that the Advisory Committee has extended the right of national-minority members to proportional representation in government administration bodies, the judiciary and local self-government, including the government's obligation to ensure that right, to public enterprises, although such a claim has no ground in the provisions of Article 22 of the Constitutional Act on the Rights of National Minorities, or in the text of the Framework Convention for the Protection of National Minorities itself. *The same comment applies to paragraph 61 and the third bullet in "Issues for immediate action" on p. 38.*

With regard to the claim that there have been reports of vacancies being withdrawn when a national-minority candidate applied for the post, or job criteria being altered to increase the chances of Croat candidates, it should be noted that, according to the available information, one vacancy announced in the judiciary has thus far been withdrawn when a person belonging to the Serbian national minority applied for the post, referring to the right to proportional representation that he was entitled to as a member of the Serbian national minority. The vacancy in question was announced for the post of judge at the Municipal Court in Slavonski Brod, and was withdrawn as the need to appoint a judge at that Court ceased to exist. Specifically, the former president of the Court was relieved of her presidential office (after which she continued to work as a judge at the same Court), whilst a judge from the County Court in Slavonski Brod was appointed new president of the Municipal Court. After that, since the number of judges at that Court was sufficient to handle all incoming and pending cases, the then minister of justice made a decision to withdraw the announcement of the judicial vacancy because there was no longer any need to hire an additional judge.

### **Ethnically-motivated incidents**

#### *Paragraph 23*

With regard to the remarks concerning ethnically-motivated incidents, we note that the police take all measures and actions falling within their jurisdiction in order to achieve the maximum level of efficiency in preventing and combating any offences with elements of discrimination or intolerance. The cited concrete cases of attacks against the Roma and persons belonging to the Serbian national minority constitute but a small number of individual, isolated incidents without elements that would suggest the existence of any kind of organized violence against the members of a particular ethnic community or minority.

For offences committed during sporting events and involving any elements of the expression of, or incitement to, hatred or violence on racial, national, regional or religious grounds, Article 4(1) of the Act on Preventing Incidents at Sporting Events provides that, in cases where the perpetrator's identity has been established, the police are obliged to submit a motion to indict to the competent misdemeanour court. However, when a large number of people shout out slurs offending the feelings of citizens on any grounds (racial, national, religious, regional, etc.), establishing the identity of offenders and proving that a particular person is the actual perpetrator of such an offence is made more difficult by the very number of people located in that section of the area (i.e. the sports facility) where such taunts are shouted out.

In addition to cases where such offences occurred during sporting events and were targeted at spectators or sportsmen who were, as a result of their racial, national, religious or regional affiliation, exposed to verbal abuse, the police are also trying to enforce measures falling within their jurisdiction at events where such behaviour is not expected.

In the Republic of Croatia, there has been no evidence of organized violence against particular ethnic groups. There are occasional cases of tensions stemming from the Homeland War, especially in the war-affected areas. However, no escalation of conflict has been observed, nor have there been any organized assaults on the members of other ethnic groups or their property. These incidents most often constitute isolated, momentary and sporadic conflicts.

Government authorities pay particular attention to the investigation of hate crimes, which is also demonstrated by a high solution rate for hate-crime cases. Thus, 80.43% of such cases were solved in 2007, 72.41% in 2008 and more than 90% in 2009.

In addition to investigative and preventive efforts, attention is also paid to training programmes for officers participating in the identification and/or prosecution of hate crimes.

The State Attorney's Office of the Republic of Croatia has issued a binding instruction to all state attorney's offices, providing that, in cases of any suspicion of hate crime, urgent investigative measures and actions be taken in co-ordination with the police and other government authorities in order to ensure the expeditious investigation and prosecution of such cases, including the maintenance of special records thereof.

Generally, with regard to ethnically-motivated crimes and misdemeanours, and pursuant to the Binding Instruction on Hate Crime Management and Record Maintenance as well as the definition of hate crime under Article 89(36) of the Criminal Code, case data are not maintained according to particular national-minority groups. The cases listed are identified as hate crimes committed on the grounds of ethnic origin, sexual orientation, religion, affiliation with subcultural groups and other reasons enumerated in Article 89(36) of the Criminal Code.

## **Citizenship**

### *Paragraph 24*

With regard to the remark that a considerable number of persons belonging to national minorities continue to face difficulties in accessing and obtaining Croatian citizenship, we note that access to Croatian citizenship is regulated by the Croatian Citizenship Act (as published in *Narodne novine* Nos. 53/91, 28/92 and 113/93). The sole criterion for

admission to Croatian citizenship is the fulfilment of legal requirements laid down by the said Act, regardless of the ethnic affiliation of applicants.

The Croatian Citizenship Act came into force on 8 October 1991, and it was amended in 1992 and 1993. The amendments eased the conditions for acquisition of Croatian citizenship on the basis of certain legal grounds.

The procedure and conditions for obtaining Croatian citizenship for national-minority members are more favourable than those laid down in regulations of other European countries in all significant criteria (length and type of approved residence, knowledge of language and culture, release from foreign citizenship). Due to the evidence required to establish the relevant facts, the largest number of decisions rejecting applications for acquisition of Croatian citizenship have been adopted for applications submitted by Croats living abroad.

Only those who acquire Croatian citizenship through regular procedure, in line with the provisions of Article 8(1) of the Croatian Citizenship Act (as published in *Narodne novine* No. 53/91, 28/92 and 113/93), in addition to other requirements, need to submit release from foreign citizenship. If, at the moment of submitting his/her application, the party does not have such release from foreign citizenship, or has no proof that he/she will be granted release if accepted for Croatian citizenship, the party can be issued a guarantee of acceptance into Croatian citizenship with a validity period of two years. The goal of this provision of the Croatian Citizenship Act is to prevent dual or multiple citizenship.

The citizenship of any person who has submitted an application for acquisition of Croatian citizenship is established in each single case on the basis of documents attached to the application (confirmation of citizenship, foreign passport, foreign identity card, excerpt from the register of births containing data on citizenship etc.)

All applicants for whom it is established during the procedure of acquisition of Croatian citizenship that, in addition to the citizenship of one state, they also have the citizenship of another state, are requested to terminate all of their prior citizenships.

Other countries' legal regulations and internal procedures governing the acquisition and termination of citizenship are not a subject under consideration of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by the Republic of Croatia. However, our practice to date has shown that the durations and results of proceedings concerning release from foreign citizenship before foreign government bodies depend, as a rule, on the level of interest of each single applicant and his/her cooperation with the relevant foreign bodies. The application for release from citizenship can be submitted at a foreign diplomatic mission or consular office in the Republic of Croatia, or directly to the relevant bodies abroad.

In order to take measures to improve living conditions for the Roma national minority and to include its members in social and public life, the Republic of Croatia is implementing the National Programme for the Roma. As a part of the Programme, special emphasis has been placed on the importance of regulating Croatian citizenship for persons belonging to the Roma national minority. Although they are not obliged to declare themselves with regard to their ethnic affiliation, applications from persons belonging to the Roma national minority are processed as a matter of priority.



Priority is also given to processing applications from persons belonging to the Bosniak and Serbian national minorities who reside in the Areas of Special Government Concern. Throughout the procedure, they receive legal assistance from the Ministry of the Interior. Applicants or their proxies are instructed in the terms and conditions for obtaining Croatian citizenship. If they have no regulated legal status in their native countries, they are referred to competent foreign authorities in order to exercise their rights. If the need of a person's subsequent entry in the register of births in the Republic of Croatia emerges as a preliminary issue in the procedure for obtaining Croatian citizenship, the Ministry of the Interior will regularly contact and co-operate with relevant registry offices at the Ministry of Public Administration.

Through the Croatian Citizenship Act, the Republic of Croatia has prevented statelessness as a consequence of state succession. Specifically, the provision of Article 30(1) of that Act lays down the principle of legal continuity of Croatian citizenship. Articles 5, 7, and 14 of the Croatian Citizenship Act contain special provisions ensuring protection against statelessness for minors, which are – in terms of their scope and substance – even more favourable than those of the 1961 Convention on the Reduction of Statelessness. Since the aforementioned Convention contains the fundamental humanitarian and civilizational standards applied by the international community to ensure protection against statelessness, the Republic of Croatia is making preparations for its ratification, whereby it would become a part of Croatia's national legal system.

#### *Paragraph 25*

In relation to the remark that simplified procedures for the acquisition of Croatian citizenship are still only available to ethnic Croats, we note that such procedures, and eligibility for dual citizenship, are available to applicants (national-minority members) on the basis of a number of legal grounds, regardless of their ethnic affiliation.

Compared to the regular procedure for obtaining Croatian citizenship under Article 8 of the Croatian Citizenship Act, all other legal provisions lay down more flexible and more favourable conditions. Privileged access to citizenship is provided for those born in the territory of the Republic of Croatia, spouses of Croatian citizens, emigrants, their descendants and spouses, minors whose parents have obtained Croatian citizenship by naturalisation, persons whose admission is in the interest of the Republic of Croatia and their spouses, and those whose Croatian citizenship has been terminated by release.

Persons applying for Croatian citizenship based on the foregoing legal grounds do not need to have knowledge of the Croatian language and the Latin script, nor do they need to obtain release from foreign citizenship. In addition, they can acquire Croatian citizenship under more favourable conditions in terms of the type and duration of their residence.

Therefore, the provision of Article 16 of the Croatian Citizenship Act, which regulates the acquisition of Croatian citizenship by ethnic Croats having residence outside the Republic of Croatia, does not constitute discrimination based on ethnic origin. The Constitutional Court of the Republic of Croatia has confirmed the foregoing by its Decision No. U-I-1559/2000 of 12 March 2003. Article 16 of the Croatian Citizenship Act provides for but one of several special grounds for admission of aliens to Croatian citizenship under more favourable conditions. Such a provision constitutes a habitual legal basis for privileged naturalisation known in the national naturalisation laws of many European countries. Its purpose is admission to citizenship with a view to

supporting the efforts to preserve the linguistic and cultural identity of ethnic Croats within the countries of their residence, all in keeping with the constitutional obligation of the Republic of Croatia.

Amendments to the Aliens Act (as published in *Narodne novine*, Nos. 79/07 and 36/09), which became effective on 31 March 2009, have relaxed the conditions regulating temporary and permanent residence for certain categories of aliens on humanitarian grounds. In accordance with Article 68(1)3 of that Act, temporary residence on humanitarian grounds may be granted, *inter alia*, to aliens returning to the Republic of Croatia under its return and reconstruction programme. Such persons are not required to furnish any evidence of their means of subsistence, ensured housing, health insurance or the legitimacy of the purpose of their stay in the Republic of Croatia. Also, in order to enable the regulation of their status in the Republic of Croatia, members of the Roma community who are not able to demonstrate the fulfilment of all requirements set forth in substantive legislation are also granted temporary residence on humanitarian grounds.

At the same time, this facilitates their admission to Croatian citizenship, because regulated residence constitutes a crucial prerequisite for the acquisition of Croatian citizenship under Articles 8, 9 and 10 of the Croatian Citizenship Act.

In order to ensure education and assistance in resolving status-related issues, the relevant government administration bodies have established co-operation with parliamentary and other representatives of the Serbian, Roma, Bosniak and other national minorities, which has been manifested in a number of joint meetings and in mutual correspondence.

## **Participation**

### *Paragraph 27*

With respect to the remark on irregularities in the voter registration records, due to which persons belonging to national minorities were denied the right to vote in elections for councils of national minorities at the level of local self-government units, we note that the Constitutional Act Amending the Constitutional Act on the Rights of National Minorities, adopted in June 2010 (as published in *Narodne novine* No. 80/2010), regulates, *inter alia*, the methods of electing national-minority representatives to the Croatian Parliament and determining the number of national-minority members for the purposes of achieving the right to representation in representative and executive bodies of local self-government units.

Article 19 of the Constitutional Act on the Rights of National Minorities, as amended, provides that a minimum of three seats in the Croatian Parliament must be reserved for representatives of those national minorities which, on the effective date of this Constitutional Act, account for more than 1.5 percent of Croatia's total population and which achieve their right to representation on the basis of universal suffrage, by election from the party slates of such minorities or slates proposed by voters belonging to such minorities, in compliance with the law governing the election of members of the Croatian Parliament. Furthermore, the same Article provides that, in addition to their right to exercise universal suffrage, those national minorities which account for less than 1.5 percent of Croatia's total population are entitled to a special right to vote, enabling them to elect five MPs belonging to such national minorities from within their own special constituencies, all in compliance with the law governing the election of members

of the Croatian Parliament and without the possibility to impair the acquired rights of national minorities.

With regard to the achievement of the right of persons belonging to national minorities to representation in representative and executive bodies of local self-government units, Article 20(7) of the Constitutional Act on the Rights of National Minorities, as amended, provides that the criterion relevant for determining the number of national-minority members with a view to achieving that right should be the official census data on the number of national-minority members in a particular local or regional self-government unit, which are, prior to the conduct of any elections, adjusted (upwards or downwards) by the number of voters entered into or deleted from the voters' list of such unit during the period from the census to the latest confirmation of the voters' list.

The Voters' Lists Act (as published in *Narodne novine*, No. 19/07) regulates the content of the collection of personal data on voting rights, the method of maintaining the collection, the registration procedure, the correction, deletion and verification of entries, conclusion and confirmation, the preparation of voter registration certificates, the issuance of documents, and the methods of processing such data for the purposes of elections.

Voters' lists are maintained in electronic format and their content is standardized in all municipalities and cities, which enables data matching throughout the Republic of Croatia and precludes the possibility of one voter being entered in the voters' lists of two or more cities or municipalities.

Voters' lists constitute permanent records maintained *ex officio*. They are amended and supplemented (updated) on a daily basis, with several authorities being responsible for their accuracy. These, in the first place, include police districts or stations, which are required to provide the authorities responsible for maintaining voters' lists with data on any registered person who has reached eighteen, any registration or cancellation of residence, any change of address for persons who have reached eighteen, any acquisition or termination of Croatian citizenship, and any change or cancellation of Personal Identification Number. Similarly, registry offices are obliged to furnish the authorities maintaining voters' lists with information on any deceased person who has reached eighteen, any contracted marriage, and any change of a person's name or sex. Municipal courts are required to furnish the authorities maintaining voters' lists with a copy of any final decision depriving a person of legal capacity. The authorities responsible for updating voters' lists are accountable for timely fulfilment of their obligations, and any failure to complete the required tasks by any such time as may be stipulated by law constitutes a serious breach of official duty.

In addition to the aforementioned authorities, the efforts to update voters' lists also involve the participation of Croatia's diplomatic missions and consular offices in foreign countries, which, acting *ex officio*, provide the relevant authorities in Croatia with copies of foreign death certificates for Croatian nationals, provided that they have received them from the responsible authority of the country where such Croatian citizens died.

All persons who have lost their right to vote are deleted from voters' lists. The right to vote is lost as a result of death, the termination of Croatian citizenship or the deprivation of legal capacity. Those who have lost their right to vote are deleted from voters' lists on the basis of death notifications delivered by registry offices, notifications of the

termination of Croatian citizenship, which are sent by the competent police districts or stations, or copies of final court decisions on the deprivation of legal capacity.

Data on the residence of voters entered in voters' lists are based on residence records, whose maintenance is not the responsibility of the authorities keeping voters' lists.

If the records serving as a basis for the entry of a voter in the voter's list contain no data on his/her ethnic affiliation, such data are entered based on a declaration made by the voter before the competent authority in compliance with Article 13 of the Voters' Lists Act, which provides that each citizen is entitled to review his/her entry in the voters' list and seek its update or correction throughout the year and, once the elections are called, no later than 14 days before the date for which the elections are scheduled. Written or oral requests for entries in, or updates or corrections of, voters' lists are made to the authorities responsible for their maintenance. If any such request has been made orally, the competent authority is required to make an official note thereof. If the competent authority maintaining the voters' list finds that such request is legitimate, it will make the required entry in, or update or correction of, the voters' list.

#### *Paragraph 28*

With respect to the remarks on unsatisfactory functioning of the councils of national minorities at the local level and the allegation that the legitimacy of the councils of national minorities remains questionable, we note that, from a total of 253 councils of national minorities elected in the second regular elections for the councils and representatives of national minorities held on 17 June 2007 (206 with full membership and 47 with more than half of the expected membership), 221 were constituted and entered into the National Minorities Register by the end of September 2010. Thirty-two elected councils have not been entered in the Register because they have not managed to constitute themselves or have failed to apply for entry in the Register to the Ministry of Public Administration.

In order to establish a system enabling the councils and representatives of national minorities to exercise their specific rights and increase the level of their efficiency and activity in the territories of their local and regional self-government units, the Croatian Government has, under its Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities, envisaged the implementation of an initiative for the Education of Local Staff and Executive Officers in Local and Regional Self-Government Units on the Roles and Powers of the Councils and Representatives of National Minorities through regional lectures and consultations.

As another novelty, the Constitutional Act Amending the Constitutional Act on the Rights of National Minorities, adopted in June 2010, provides for the possibility and methods of acquiring legal personality by coordinating bodies of the councils of national minorities throughout the territory of the Republic of Croatia.

#### **Use of minority languages**

##### *Paragraph 32*

With respect to the remark that the usage of a minority language in relations with administrative authorities varies from one region to another, we note that in May and June 2010, as a measure laid down by the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities, the Ministry of Public

Administration organized four regional lectures and consultations, for the education of local staff and newly elected local executives, on the achievement of the right to equality in the official use of minority languages and scripts at the level of local and regional self-government units. The seminars were held in Topusko, Bizovac, Zadar and Pula.

In the forthcoming period, the Ministry of Public Administration will continue to carry out regular and targeted administrative inspections to ensure that the charters of local self-government units are consistent with the provisions of the Constitutional Act on the Rights of National Minorities, and to monitor and supervise the exercise of linguistic rights by national-minority members in practice.

Yet another measure under the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities is to be carried out by the end of 2010, namely that providing for the organisation of seminars on the right of national-minority members to equality in the official use of their languages and scripts. The implementing agencies for this measure include the Ministry of Public Administration, the Government's Office for National Minorities and the Council for National Minorities.

In mid-2010, the Ministry of Public Administration also commenced the implementation of another measure laid down under the aforementioned Action Plan: specifically, that pertaining to the preparation of instructions to ensure effective application of the Act on the Use of Languages and Scripts of National Minorities in the Republic of Croatia. The plan is to complete the dissemination of instructions, i.e. action guidelines, to government administration bodies at the central level, government administration offices at the county level, local and regional self-government units and legal entities vested with public authority by the end of 2010.

### *Paragraph 33*

In relation to the remark that the same level of protection is not afforded to other minority languages and scripts in the areas inhabited by persons belonging to other minorities, in particular to the Serbian and the Hungarian minorities, we note that in July 2010, at the request of the Ministry of the Sea, Transport and Infrastructure and in compliance with the relevant legislation, the Ministry of Public Administration delivered its comments with regard to the consistent use of bilingual (i.e. Croatian and Italian) road signs in Istria County.

Through its guidelines and comments, and by implementing measures set forth in the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities, the Ministry of Public Administration will, as appropriate, undertake similar initiatives aimed at achieving the guaranteed linguistic rights in other regions of the Republic of Croatia as well, i.e. within those local self-government units where the right to have bilingual topographical signs has not been achieved in an appropriate way.

## **CHAPTER II ARTICLE-BY-ARTICLE FINDINGS**

*Note: Responses are given only to those issues that have not been discussed in the preceding section.*

### **Article 3 of the Framework Convention**

#### **Scope of application**

##### *Paragraph 38*

With respect to the Advisory Committee's allegation that, during the reporting period, there has been no change as regards the scope of the application of the Framework Convention in the Republic of Croatia, i.e. that only ten national minorities are listed by name in the Preamble to the Croatian Constitution, we note that, in June 2010, the Croatian Parliament adopted amendments to the Croatian Constitution (as published in *Narodne novine* No. 76/2010). Instead of the ten indigenous national minorities, the background provisions of the Constitution now expressly state the names of all 22 national minorities in the Republic of Croatia.

### **Article 4 of the Framework Convention**

#### **Legislative developments in the field of combating discrimination**

##### *Paragraph 58*

In relation to the allegation that the wording of the provisions of the Criminal Code that provide for the sanctioning of discrimination on any grounds whatsoever is such that it is not possible to keep records of the crimes committed on the basis of the specific grounds for discrimination, we note that the notion of hate crime has been introduced into Croatia's legislation by the Act Amending the Criminal Code, adopted in October 2006 (as published in *Narodne novine* No. 71/06). It is defined as any criminal offence, referred to in this Act, which has been committed by reason of hatred towards a person on the basis of his/her race, skin colour, gender, sexual orientation, language, religion, political or other belief, national or social background, property, birth, education, social status, age, health condition or any such other attribute (Article 89(36) of the Criminal Code of the Republic of Croatia, as published in *Narodne novine* Nos. 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07 and 152/08 – hereinafter, PC).

Furthermore, Article 56(2) of the PC provides that racist or xenophobic motivation can be considered as an aggravating circumstance when determining the penalty for the committed crime.

These are general provisions of the Criminal Code which are, as such, applicable to all criminal offences referred to therein. Accordingly, any crime may be motivated by hatred, which in that case constitutes an aggravating circumstance to be considered as such when deciding on the sentence for the perpetrator.

Intensive efforts are underway to draft a new Criminal Code, with innovations being made in both general and special sections thereof. The drafters of the new Criminal Code bill have consulted the criminal legislation of Germany, Switzerland and Austria. The new Criminal Code will be further harmonized with the documents of the United Nations, the European Union's *acquis*, the Council of Europe conventions, the legal standards of the European Court of Human Rights and other international documents (GRECO and MONEYVAL recommendations, OLAF guidelines, the reports of the

Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, etc.).

In line with the foregoing, the efforts to draft the new Criminal Code include proposals for changes in the descriptions of certain criminal offences and improvements in the existing legal framework. Accordingly, with regard to Articles 106 and 174 of the Criminal Code, particular attention is being paid to the basic provisions of Article 1 of the Anti-discrimination Act, ECRI's Recommendation No. 7 to the extent it pertains to criminal law, and Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, especially in respect of the provision stipulating that organizations, as well as organized and all other propaganda activities which incite racial discrimination will be declared illegal and prohibited, and that participation in such organizations or activities will be recognized as an offence punishable by law. Special attention will be paid to the Advisory Committee's recommendations to consider the options for new methodologies and criteria for keeping records of crimes committed and, in particular, to record such crimes according to specific grounds for discrimination.

Pursuant to the relevant legislation (the Rules on Criminal Records, as published in *Narodne Novine* No. 92/09), records are maintained for all natural and legal persons that have been finally convicted of criminal offences in the Republic of Croatia, as well as for nationals of the Republic of Croatia and legal entities incorporated in the Republic of Croatia that have been finally convicted of criminal offences outside the Republic of Croatia, provided that the Ministry of Justice has been notified thereof. Criminal records contain the details of finally convicted persons, judgements, criminal offences, criminal sanctions and other measures, and changes in sentences. Consequently, it is not possible to keep records of crimes according to their underlying discriminatory grounds.

### **Former tenancy rights holders**

#### *Paragraph 71*

With respect to the Advisory Committee's recommendation that the processing of cases and allocation of housing units progresses without delay and without any discrimination as the delays in dealing with the restitution of tenancy/occupancy rights have a strong negative impact on the overall climate for sustainable minority return, it should be noted that tenancy rights no longer exist as a legal institute in the Republic of Croatia and, accordingly, cannot be subject to restitution. Furthermore, by their legal nature, they have never been deemed to constitute ownership or any other such title that would guarantee their former holders the right to restitution or any compensation. However, prompted by the humanitarian aspect of the situation faced by minority refugees and displaced persons who were tenancy rights holders, Croatia's Government has found a solution for these people within the existing legal system and positive legislation of the Republic of Croatia: specifically, through the Housing Care Programme.

### **Citizenship**

#### *Paragraph 80*

In relation to the allegation that the necessity to prove an adequate proficiency in using Latin script still inhibits the access of long-term Roma residents to acquiring citizenship, we note that the regular procedure for obtaining Croatian citizenship by naturalization is provided for in Article 8 of the Croatian Citizenship Act. This provision regulates the acquisition of Croatian citizenship by any person who has reached eighteen, has legal capacity, is proficient in the Croatian language and Latin script, has had a registered place of residence in the Republic of Croatia over an uninterrupted period of at least five

years, has furnished evidence of release from foreign citizenship, honours the legal system and customs persisting in the Republic of Croatia, and accepts Croatian culture.

As compared to the citizenship legislation of other European countries as well as the provisions of the European Convention on Nationality, the Croatian Citizenship Act provides for less stringent criteria for obtaining citizenship with regard to the duration of residence within the Republic of Croatia. In the registered cases of ethnic Roma applying for Croatian citizenship, not a single applicant has been rejected by reason of inadequate proficiency in the Croatian language and Latin script since 30 August 2007, regardless of his/her age. According to the records of the Ministry of the Interior, 171 persons belonging to the Roma national minority were admitted to Croatian citizenship between the aforementioned date and 13 September 2010. Twenty-eight applicants received guarantees of their admission to Croatian citizenship provided that they furnish the Ministry of the Interior with evidence of release from their previous citizenship within two years of the receipt thereof. The fact-finding procedure is underway for 73 applicants. When it comes to establishing the fulfilment of the Croatian language and Latin script proficiency requirement for the purposes of granting permanent residence, the National Programme for the Roma provides that due consideration should be given to specific living and social circumstances of persons belonging to the Roma national minority, as well as the fact that they constitute a category of aliens of poor literacy.

#### **Article 6 of the Framework Convention Judiciary and war crimes trials**

##### *Paragraph 108*

With respect to the remark that ethnic bias is reportedly still widespread in the ongoing war crimes trials, we note that the operation of the Croatian judiciary bodies shows that when processing war crimes (or any other criminal offences), the only criterion employed is the existence of sufficient facts and proofs unequivocally pointing to the conclusion that the specific person committed certain illegal actions that bear the characteristics of a war crime, or of some other criminal offence, which is prosecuted *ex officio*. The Ministry of Justice has made an analysis of the number of convicted persons in war crimes trials on the basis of verdicts passed between 2005 and 2009. This analysis has resulted in the following data:

Of 146 convicted persons given final court verdicts, 24 were members of the Croatian Army (hereinafter: HV), that is, 16% of the total number of convicted persons, while 122 were members of the Yugoslav People's Army (hereinafter: JNA), which corresponds to 84% of the convicted persons.

Of 49 convicted persons whose court judgements are still not final, 23 were members of the HV (47%), and 26 were members of the JNA (53%).

It is significant that the Supreme Court has passed an opinion wherein it stated that participation in the Croatian War has never been automatically taken as a mitigating circumstance for any defendant accused of having committed criminal offences. The relevant court considered, in each individual criminal trial, whether to take participation in the Croatian War as a mitigating or as an aggravating factor for the defendant, and in some cases the participation in the war had neither positive nor negative impact on the sentence that was pronounced.

In addition, Croatian courts have not taken the defendant's ethnic affiliation as an aggravating circumstance, whereas crimes committed with low motives (e.g. where the



injured party's ethnicity is different from that of the defendant) have been taken as aggravated criminal offences.

As regards war crimes trials, the impartiality of Croatian courts is additionally ensured by specialized war crimes courts that have been established at the County Courts in Zagreb, Osijek, Rijeka and Split. The State Attorney's Office of the Republic of Croatia has the option of a trial before such a specialized court in all those cases in which it has doubts that, for any reason, the trial of a specific case is not progressing in the way that is prescribed by the procedural rules.

### **Ethnically-motivated incidents**

#### *Paragraph 111*

The section of the Third Opinion in which the situation concerning ethnically-motivated incidents in the territory of the Vukovar-Srijem Police District is described as "catastrophic" and the mention of "attacks with explosive devices" against members of the Serbian national minority are deemed exaggerated.

More precisely, the Ministry of the Interior has monitored the trends concerning criminal activities and offences against public law and order in the territories of the 1<sup>st</sup> and 2<sup>nd</sup> groups of Areas of Special Government Concern, which include a large portion of the territory that falls under the competence of the aforementioned police district. Although the analysis confirms a higher share of ethnically-motivated incidents in this territory as compared to the territories of other police districts (10 of them in total), it does not reveal any growing tendency relating to such incidents, and especially not of any occurrences that could be described as attacks with explosive devices.

For example, in 2009, in the territories of the 1<sup>st</sup> and 2<sup>nd</sup> groups of Areas of Special Government Concern throughout the Republic of Croatia, a total of 45 different incidents were registered that contained features of ethnic intolerance, and in which both Croats and persons belonging to national minorities participated, either as perpetrators or as injured parties. Of the total number, 26 incidents (or 57.8%) occurred in the territory of the Vukovar-Srijem Police District.

During the first half of 2010, in the territories of the 1<sup>st</sup> and 2<sup>nd</sup> groups of Areas of Special Government Concern throughout the Republic of Croatia, a total of 11 different incidents were registered that contained features of ethnic intolerance. Of this number, 7 incidents (63.6%) occurred in the territory of the Vukovar-Srijem Police District.

In none of these incidents were any explosive devices or firearms used, and in only one case, occurring in 2009, was a weapon (a pistol, unlawfully held and carried) used to threaten. In all these cases police officers have carried out urgent measures and activities aimed at identifying and prosecuting the perpetrators for criminal/misdemeanour offences.

#### *Paragraph 116*

With respect to the recommendation of the Advisory Committee that the authorities prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically-motivated or anti-Semitic acts, and that authorities must carry out systematic monitoring of these acts and intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues, we note that the amendments to the Criminal Code of 1 October

2006 introduced the notion of hate crime (Art. 89 of the Criminal Code), whereby any criminal offence listed in the Criminal Code shall be identified as a hate crime if committed out of hatred towards a person due to his/her race, skin colour, sex, sexual orientation, language, religion, political or other belief, national or social background, property, birth, education, social status, age, health status or other attribute. In line with this, in the Republic of Croatia there have been several rounds of the OSCE/ODIHR Law Enforcement Hate Crime Training Programme, and continuous training is provided to enable police officers to identify criminal offences of this type and to act efficiently on their prevention and detection.

In addition, immediately after the previously mentioned Criminal Code amendments came into force, the Police Directorate issued an instruction and distributed it to all of its organizational units. The instruction provides a detailed description of the prescribed method of operation and collection of data concerning hate crime.

Furthermore, within its remit, the Police Directorate continually implements various activities aimed at monitoring and analysing incidents that bear characteristics of national or religious hatred and intolerance. In this regard, every police district in the Republic of Croatia systematically monitors, collects and analyses data on all actions relating to hate crimes, including those provoked by hatred on the basis of religious, ethnic or other grounds. Information on each recorded incident is urgently passed to special sections established at the level of police districts or to police officers, who then become directly involved in the processing of such criminal offences.

In order to secure quality monitoring of issues relating to hate crimes, specialized police officers register all those incidents that the criminal or misdemeanour investigation identifies as having been motivated by hatred towards a person or group for reasons listed in Article 89 of the Criminal Code (hate crime), or where the circumstances in which the offence was committed give rise to suspicion of such motivation.

## **Article 8 of the Framework Convention**

### **Religious communities**

#### *Paragraph 121*

In relation to the remark that no significant progress has been achieved as regards the restitution of property to the Serbian Orthodox Church and the Jewish Community, we note that the issue of restitution of property should be viewed in the light of the Compensation for Property Taken During the Yugoslav Communist Government Act (Official Gazette Nos. 92/96, 39/99, 42/99, 92/99, 43/00, 131/00, 27/01, 65/01, 118/01, 80/02 and 81/02, hereinafter: the Compensation Act), since the application of that piece of legislation is the foundation for the restitution of property in the Republic of Croatia.

As regards the restitution of property to religious communities, it is worth mentioning that the possibility of restitution and compensation is regulated in the same manner for all religious communities as legal entities, which implies that the legal personality has no legal connection to the religious grounds.

The problem that has been highlighted relates to two of the larger religious communities in Croatia (the Serbian Orthodox Church, the Jewish Community) and it was probably caused by the fact that these communities had submitted a higher number of applications for compensation for property taken, with some applications possibly containing compensation claims for several properties. One such application can yield several partial decisions, bearing in mind that in line with a special piece of legislation (the

General Administrative Decision Act), separate decisions can be made on individual types of properties and compensations.

As concerns the Advisory Committee's recommendation that all procedures of restitution of property to religious communities be completed without any further delay, we would like to mention that the procedures of restitution of, or compensation for, property taken during the Yugoslav communist government are very complex, and for this reason the processing of applications submitted by any applicant, including religious communities, demands more time.

However, it is also worth noting that one of the reasons for delays has often been the inactivity of the applicant (missing documents, unspecified claim submitted by the applicant etc.). This problem has been raised on several occasions by the Ministry of Justice at meetings with representatives of religious communities who often addressed the Ministry in relation to particular applications.

## **Article 9 of the Framework Convention**

### **Broadcasting for minorities in the electronic media. Printed media.**

With respect to Article 9 of the Framework Convention, we note that within the framework of its News Programme, Croatian Television (HTV) has broadcast, for the past 17 years, the weekly multinational magazine *Prizma*, a show for and about persons belonging to national minorities. The goal of the magazine is to inform members of national minorities about a variety of topics, ranging from minority associations' activities and institutions to systematic awareness-raising concerning their rights stemming from their minority affiliation. At the same time, the *Prizma* magazine addresses, on a weekly basis, issues relating to violations of minority rights. On the other hand, by promoting prominent members of minority communities and the specific features of their culture/language/religion, the programme promotes understanding and tolerance between the majority population and minorities, and among different minorities.

Since 2 May 2010, Croatian Television has been producing and broadcasting a programme in minority languages called *Manjinski mozaik (Minority Mosaic)*. This show, of documentary-reportage type, places one national minority in its focus each week, and provides detailed analysis of a topic relating to that national minority. Each programme is produced entirely in a minority language, with Croatian subtitles.

Both these shows are produced by journalists who are themselves minority members and/or speakers of minority languages. The shows' editorial boards have daily contact with national minority associations and institutions in their endeavour to come up with relevant and topical content.

In 2010, Croatian Television has participated in the implementation of the international project producing the *Roma People in Europe* documentary series. Within this project, 10 European public television companies, members of the EBU (European Broadcasting Union), produced and aired 10 half-hourly episodes on the most numerous European minority. This successful co-production was a continuation of the *Muslims in Europe* series, yet another EBU co-production consisting of 14 half-hourly episodes filmed in 2007, also with the participation of Croatian Television.

Apart from these specialized programmes, minority topics are also covered in daily news programmes, depending on their newsworthiness and editorial judgement – in news bulletins, the main news programme *Dnevnik*, magazine programmes *Dobro jutro, Hrvatska* (Good morning, Croatia) and *Hrvatska uživo* (Croatia Live) and in *Vijesti iz culture* (Culture News).

In addition, the national minorities of the Republic of Croatia, their religious, cultural and other identities, and the preservation and protection of their cultural properties and traditions, are also covered by other programming units of Croatian Television: the Culture Desk (Popular and Traditional Culture Desk), Religious Culture Desk, Children and Youth Desk, Science and Education Desk and, to a lesser extent, the Entertainment Desk. National minority activities and creative endeavours are presented by these desks in various television formats and genres, music shows, reports on specific events and festivals, documentaries and live or delayed television coverage.

For years, HTV's Religious Desk has been producing and broadcasting programmes for minority religious communities: *Duhovni izazovi* (Spiritual Challenges) and *Ekumena*. *Ekumena* has raised the issue of interreligious and social processes with the goal of creating an atmosphere of pluralism. *Duhovni izazovi* is an interreligious news magazine that reports on the lives and activities of the 42 registered minority religious communities in the Republic of Croatia.

Within its Special Projects segment, HTV regularly provides live coverage of the annual liturgies/celebrations of religious communities: the Ramazan Bairam, the Kurban Bairam, Reformation Day, the Orthodox Christmas, the Orthodox Easter, and Holocaust Remembrance Day – Yom HaShoah.

The Croatian Cultural Heritage series, in line with its title, presented the rich cultural heritage of the territory of Croatia, and thus also the cultural heritage of its national minorities.

In addition, films on individual national minority representatives and their lives and work in Croatia are broadcast throughout the year, produced by HTV's Documentary Desk.

Croatian Radio airs a regular weekly 55-minute programme, *Multikultura* (Multiculture), covering the lives and activities of national minorities. The 55-minute programme *Agora* is broadcast twice a month.

The radio-stations Radio Osijek, Radio Rijeka and Radio Pula belong to Croatian Radio.

Within the scope of its responsibilities, the Electronic Media Council systematically supervises the operation of television and radio media service providers, and, in line with the provisions of the Electronic Media Act (OG No. 153/09), undertakes all actions prescribed by law in order to eliminate possible promotion of ethnically-based hatred in the programmes of media service providers. In 2009 and 2010, the Council reacted on several occasions by pressing charges or issuing warnings to media service providers that broadcast programmes that were favourable for the promotion of ethnically-based intolerance or hatred.

As regards the Fund for the Promotion of Pluralism and Diversity in the Public Media, the method employed by the Fund to distribute funding is laid down in the Electronic

Media Act and subordinate regulations, so the Council is unable to earmark any special funding for programmes intended for national minorities, nor can it influence television and radio media service providers that participate in public tender for the allocation of the Fund's resources. However, in their first bid for the Fund's resources, the publishers nominate separately their programmes for the category that regards national minorities in the Republic of Croatia. For example, in 2009, radio broadcasters received a total of HRK 1,154,972 (which corresponds to 7.62% of the total amount allocated) for their programmes for national minorities, and television broadcasters received a total of HRK 1,541,190 for the same purpose, which makes up 10.17% of the total allocated amount.

## **Article 12 of the Framework Convention**

### **Availability of textbooks in minority languages**

In relation to the availability of textbooks in languages of national minorities used within the education system, in the period between the two rounds of monitoring of the implementation of the Framework Convention for the Protection of National Minorities, the Ministry of Science, Education and Sports addressed the issue of availability of textbooks in minority languages as a priority issue, especially for their use in primary schools, but also in part for their use in secondary schools. This involves translation of approved textbooks into minority languages and approval of the use of textbooks published in minorities' kin states.

Since the submission of the Third Report, which contained data for the school year 2007/2008, significant progress has been achieved in relation to the increased number of textbook titles in languages of national minorities which are now available for use in primary and secondary schools.

For the school year 2008/2009, the Ministry approved the import of 294 textbooks from national minorities' kin states, and these were as follows:

- 137 textbooks for teaching in the Italian language in secondary schools,
- 33 textbooks for teaching in the Italian language in primary schools,
- 47 textbooks for teaching in the Serbian language in primary schools,
- 7 textbooks for teaching in the Serbian language in secondary schools,
- 47 textbooks for teaching in the Hungarian language in primary and secondary schools,
- 12 textbooks for teaching in the Czech language in primary schools, and
- 11 textbooks for teaching in the Czech language in secondary schools.

The imported textbooks were financed by the Ministry of Science, Education and Sports or by the kin states of individual national minorities.

Minority representatives selected, from among a number of approved textbooks in Croatian, those textbooks that would be translated into their respective minority languages, and in certain cases persons belonging to national minorities were themselves textbook authors. The financial resources needed for the preparation of translated textbooks (from translation to print) and production of original textbooks were earmarked in the Central State Budget, under the item for education in languages and scripts of national minorities. Thus, for the school year 2008/2009, the funds were secured in the Central State Budget (for textbooks imported from kin states):

- for 30 textbooks for teaching in the Czech language, of which 3 were original textbooks,
- for 24 textbooks for teaching in the Hungarian language,
- for 97 textbooks for teaching in the Serbian language,

- for 33 textbooks for teaching in the Italian language, of which 8 were original textbooks
- for 4 original textbooks for teaching in the Slovak language.

A total of 188 textbooks have been translated or written by persons belonging to national minorities, and if this number is added to the number of textbooks imported from kin states, it makes a total of 482 textbooks. The money from the Central State Budget spent on these textbooks and their being made available to pupils in 2007 amounted to HRK 9,630,090.54, and in 2008 to HRK 7,136,750.74.

An additional 98 textbooks (both translated and imported from kin states) were secured for the school year 2009/2010, and they were:

- 15 textbooks for teaching in the Czech language (12 of them translated and 3 original textbooks),
- 6 translated textbooks for teaching in the Hungarian language,
- 20 textbooks for teaching in the Serbian language (16 of them imported from the kin state and 4 original textbooks),
- 57 textbooks for teaching in the Italian language (4 of them translated and 53 imported from the kin state).

Textbooks that have been imported from kin states are not only those intended for language courses, but also other textbooks that have been approved by the Ministry of Science, Education and Sports for use in teaching in minority languages, both in primary and secondary schools. The priority titles to be translated or imported are determined by schools that provide schooling in a national minority language, in co-operation with minority associations. Such priority titles are then proposed to the Ministry of Science, Education and Sports for its co-financing of translation and printing. In 2009, the amount spent by the Ministry on the co-financing of publishing or import of the above textbooks for the school year 2009/2010 was HRK 2,813,696.14.

### **Education of Roma children and contact between pupils from different communities**

With respect to the education of Roma children and contacts between pupils from different communities, we note that the integration of members of the Roma national minority at all levels of the education system has been a continuous educational policy of the Republic of Croatia, aimed at improving their social and economic status and their inclusion in society. The efforts invested have yielded results that have been observed during the monitoring of implementation of various measures from the Action Plan for the Decade of Roma Inclusion 2005-2015 and the National Programme for the Roma.

As regards the judgement of the European Court of Human Rights in the case *Oršuš et al. versus Croatia*, in June 2010 measures to enforce the judgement were adopted, including: (1) improvement of the legislative framework with a view to learning the Croatian language and setting up classes; (2) development of an educational model for children/pupils who are members of the Roma national minority with the aim of promoting their successful acquisition of the Croatian language and their scholastic and extra-scholastic socialization and integration. The adoption of the *National Curriculum for Pre-School Education and General Mandatory and Secondary Education* in July 2010 enabled a more flexible organization of classes and monitoring of individual pupils' achievements. In combination with the external evaluation of Roma educational

results, this will make it possible to adequately assess problems and improve the education of members of the Roma national minority. (3) The involvement of all factors that have a direct or indirect impact on the education of children/pupils who are members of the Roma national minority will result in an increase in their primary-school completion rate, and, thereby, the secondary education enrolment rate. The Ministry of Science, Education and Sports provides scholarships for all Roma students attending secondary schools and institutes of higher education. (4) A database on the integration of members of the Roma national minority in the education system has been developed. The data are regularly updated at the beginning and end of each school year.

Since the school year 2010/2011, a measure concerning the inclusion of all children in the pre-school programme has been implemented in Medimurje County. The measure, which provides a daily pre-school programme, including transport and a meal, in the period between 15 September 2010 and 15 June 2011, will encompass all Roma children who will enrol at primary school in the school year 2011/2012.

The remark made by the Advisory Committee that Roma children are unable to attend school because of lack of identity documents, or that they are expelled from schools for the same reason, is simply unfounded. The educational inspection service has not received any report or complaint of any such violation of the right to education, and the school authorities would like to have every specific case reported.

In relation to fostering Roma language, culture and tradition, and the languages and cultures of other national minorities in the Republic of Croatia, the abovementioned National Framework Curriculum includes guidelines pertaining to the development of respect towards minority languages, histories and cultures as integral parts of Croatian cultural heritage, and of respect towards all peoples living in the Republic of Croatia. Within the school subject of history, the recognition and appraisal of influence exerted by national minorities and other European nations upon the formation of Croatian society and culture are promoted, while the notion of minority rights is discussed within a wider topic concerning the political system, democracy and human rights within the framework of multicultural societies. In addition, the traditional and local cultures are taught within the subject of the arts as a separate model that includes national minority cultures.

## **Article 14 of the Framework Convention**

### **Availability of minority language education**

We welcome the Advisory Committee's assessment that a well-developed system of minority language education exists in Croatia, based on the Act on Education in Languages and Scripts of National Minorities.

The continuous reviewing of minority needs in relation to the education provided in minority languages has been carried out in co-operation with members of national minorities, and it is inseparable from their exercising of the right to education in their minority language pursuant to one of the models provided. The selection of the model of education in the minority language and script depends primarily on the requests voiced by national minority members.

What remains to be secured is the supply of teaching of Roma language and culture. Certain advances have already been made with the completion of a project to develop and print a Romani-Croatian and Croatian-Romani dictionary, which has been published

by the Department of Oriental Studies of the Croatian Philological Society and the Kali Sara association for the promotion of Roma education (edition: *Bibliotheca orientalis*, Zagreb, 2008). Some of the contributors to the dictionary are renowned experts and also members of the Roma national minorities of Croatia and neighbouring countries. The celebration of Romani Language Day has also been initiated with a view to promoting Romani language and culture. This event has been co-financed by the Ministry of Science, Education and Sports. However, the initiative has met with resistance and disapproval from a section of the Roma community in the Republic of Croatia, which makes it even more difficult for the education authorities to provide their constructive support to the development of a method for teaching Roma language and culture in Croatian schools. The education authorities will make the teaching materials developed by the Language Policy Division of the Council of Europe in cooperation with the European Roma and Travellers Forum available in Croatian, and this will assist in developing a teaching model for Roma language and culture.

## **Article 15 of the Framework Convention**

### **Participation within the administration and the judiciary**

#### *Paragraph 178*

With respect to the remark made by the Advisory Committee that the implementation of Article 22 of the Constitutional Act on the Rights of National Minorities has not improved, we note that when developing any proposal for the Civil Service Recruitment Plan, the Ministry of the Interior has borne in mind the application of Article 22 of the above Act. In line with this, and with respect to the relevant legal provisions, the Recruitment Plan proposal for each year has specified the number of members of national minorities. Moreover, when vacancies for civil service posts have been announced in line with the approved Recruitment Plan, persons belonging to national minorities, including members of the Serbian national minority, have regularly been employed by the Ministry of the Interior. In addition, on the basis of tenders for enrolment in the Secondary Education Programme for Adults for the profession of police officer, members of national minorities have regularly been enrolled in the Programme.

In relation to the claims that the number of persons belonging to national minorities is decreasing in judiciary bodies, because ethnic Croats are hired to replace persons of minority background upon their retirement, it is worth pointing out that this finding is partially correct. However, what is at play here is not a violation of the provisions of Article 22 of the Constitutional Act on the Rights of National Minorities, but rather the fact that a relatively small number of candidates for judicial duties who are members of national minorities invoke their right as guaranteed by the Constitutional Act. In 2009, only six candidates belonging to national minorities invoked their right to precedence, of which number five as members of the Serbian national minority, and one as a member of the Hungarian national minority. On that occasion, a total of 759 candidates applied for 60 vacant posts as judges.

## **Article 16 of the Framework Convention**

### **Sustainable return**

#### *Paragraph 192*

With respect to the claim of the Advisory Committee, quoting a UNHCR survey according to which 30% of returnees are unemployed, which far surpasses the overall unemployment rate in the Republic of Croatia of approximately 10%, what was not



taken into consideration is the fact that, for example, in 2007, the average unemployment rate in Vukovar-Srijem County was 28.4%, in Sisak-Moslavina County 26.2% and in Karlovac County 24.5% (*Analytical Bulletin of the Croatian Employment Service, year IX, No. 4, Zagreb, 2007*). When these statistical data are taken into consideration, a more realistic picture of the unemployment rate among the returnees is obtained.

## CHAPTER III CONCLUSIONS

### Issues for immediate action

➤ With respect to issues for immediate action relating to the prompt completion, without any discrimination, of all pending cases concerning the repossession and reconstruction of private property and the allocation of housing units, we note that, by its Conclusion adopted on 25 June 2008, the Government of the Republic of Croatia approved the Action Plan for an Accelerated Implementation of the Housing Programme within and outside the Areas of Special Government Concern. The Programme was aimed at refugees – former tenancy rights holders – who wished to return to the Republic of Croatia.

In the course of 2009, the efforts to provide housing were slowed down as a result of the economic crisis. Since a considerable number of the commitments made under the Action Plan for 2009 could not be fulfilled, a proposal to adopt a Revised Action Plan was submitted to the Government of the Republic of Croatia.

At its session held on 24 June 2010, the Government of the Republic of Croatia adopted a Conclusion approving the Revised Action Plan for an Accelerated Implementation of the Housing Programme for refugees – former tenancy rights holders – wishing to return to the Republic of Croatia, either within or outside the Areas of Special Government Concern. The said Action Plan was adopted as a component of the negotiations on Croatia's accession to the European Union in order to meet the criteria to close Chapter 23 of the *Acquis Communautaire* – Judiciary and Fundamental Rights.

The deadline for the submission of applications for housing in the Areas of Special Government Concern (hereinafter, ASGCs) has never been set, whereas that for the submission of applications for housing outside the ASGCs elapsed on 30 September 2005. To date, a total of 14,006 housing applications have been received from former tenancy rights holders, of which 9,416 have been submitted for the ASGCs and 4,590 for areas outside them. The administrative procedure has been completed for 11,088 applications from former tenancy rights holders (7,720 for housing within the ASGCs and 3,368 for housing outside them). Of this total, 7,853 applications have been accepted (6,294 for housing within the ASGCs and 1,559 for housing outside them), and 3,235 have been rejected (1,426 for housing within the ASGCs and 1,222 for housing outside them). Of the total number of cases still pending, 1,270 applications are currently being processed (1,145 for housing within the ASGCs and 125 for housing outside them).

Pursuant to the provisions of the Regulation on Conditions for the Purchase of State-Owned Family Houses or Flats in the Areas of Special Government Concern (as published in the Official Gazette of the RoC, *Narodne novine* Nos. 48/03 and 68/07), former holders of tenancy rights in the Areas of Special Government Concern may buy state-owned flats or houses on favourable terms. In accordance with the Act on the Areas of Special Government Concern, former tenancy rights holders having the status of Croatian war veterans are entitled to receive state-owned flats or houses free of charge. To date, a total of 709 flats and houses have been granted free of charge or sold to former tenancy right holders in the ASGCs.

Furthermore, at its session of 2 September 2010, the Croatian Government adopted the Decision on the Disposal of Flats Owned by the Republic of Croatia (as published in *Narodne novine* No. 109/10). Pursuant to that Decision, tenants and their immediate family members occupying state-owned flats on the basis of lease agreements and other

such instruments will be enabled to apply for the purchase of such flats within one year following the effective date of the said Decision or – in the case of state-owned flats that are located outside the ASGCs and are managed by the Ministry of Regional Development, Forestry and Water Management, and for which no lease agreements have been concluded with their tenants as yet – within one year following the conclusion of such agreements.

Properties that were placed in temporary possession and granted for temporary use have been repossessed, with 19 repossession cases still pending. Since all administrative means of property repossession have been exhausted, all of the cases have been referred to the relevant State Attorney's Offices in order for them to bring eviction actions before the competent courts.

Regarding the reconstruction of private property, a total of 147,356 housing units damaged or demolished during the war have been reconstructed or repaired through all the models that have thus far been used for that purpose, with a total of some HRK 16.2 billion (around EUR 2.3 billion) having been spent from the central budget to that effect. In addition, approximately 10,000 housing units, mostly those that suffered lower levels of damage, have been repaired through international grants.

The plan for 2010 is to reconstruct and repair homes for some 1,000 eligible households, with central budget appropriations already having been made for that purpose.

All beneficiaries whose eligibility has been established are being included in organized reconstruction programmes and financial support schemes, enabling them to repair their properties without having to be put on any waiting lists before they can exercise their rights.

Since the ethnic origin of reconstruction-programme beneficiaries is not specified as a separate item in any records or documents, it is impossible to present any data on their ethnic structure.

Over the past two years, progress has been made in processing appeals against first-instance decisions made by state administration offices responsible for reconstruction affairs, with the completion of all appeal procedures (about 5,970 cases) being expected in the first half of 2011.

Also, problems in the conduct of appeal procedures lie partly in the fact that the appellants often reside outside the territory of the Republic of Croatia, as well as in unsettled property rights relations and inheritance procedures.

Of the applications submitted earlier for the reconstruction of family houses damaged or demolished during the war, state administration offices responsible for reconstruction affairs are yet to process some 600 applications, which is to be completed by the end of 2010.

➤ With respect to issues for immediate action relating to the prevention, identification, investigation, prosecution and sanctioning, as necessary, of all racially and ethnically-motivated or anti-Semitic acts; and taking decisive action against racist and anti-Semitic acts perpetrated prior to, during and after football matches, we note that the Government of the Republic of Croatia upholds all initiatives aimed at combating discrimination, racism and xenophobia. To overcome prejudice against ethnic minorities,

in particular the Roma, the Government's Office for National Minorities and the Ministry of Science, Education and Sports, in co-operation with the World Roma Organisation against Racism, Discrimination and Poverty, organized humanitarian football matches between representatives of Croatia's Government and the Roma football team, which took place in Zagreb on 18 and 19 October 2010.

### **Responses by national minority associations**

#### Union of Albanian Communities in the Republic of Croatia

As far as the acquisition of Croatian citizenship is concerned, the Union of Albanian Communities in the Republic of Croatia points out that, since the declaration of Kosovan independence and its recognition by the Republic of Croatia, the state authorities of the Republic of Croatia have requested proof of release from Kosovan and Serbian citizenship, which is a problem for a large number of Albanians who are unable to enter Serbia and obtain a release from Serbian citizenship.

Furthermore, it is necessary to amend the Act on the Elections of Representatives to the Croatian Parliament, with a view to securing, for all national minorities, the opportunity to be elected to the Croatian Parliament.

#### Community of Macedonians in the Republic of Croatia

In the part concerning citizenship, the Community of Macedonians in the Republic of Croatia would like to point out that the procedure for qualification for, and acquisition of, citizenship is too complex, and extensive documentation is required, which is not the case with applications submitted by ethnic Croats returning to the Republic of Croatia. On top of this, frequent amendments to the Croatian Citizenship Act have created an atmosphere of insecurity among national minority members.

As regards minority representation in the Croatian Parliament, the position of the Community of Macedonians in the Republic of Croatia is that current electoral legislation makes it impossible for those national minorities that have a smaller share in the Croatia's population to be elected into the Croatian Parliament and that legislative amendments are needed in order to correct this shortcoming.

With respect to councils and representatives of national minorities, the Community of Macedonians in the Republic of Croatia agrees with the Advisory Committee's finding that "The functioning of the councils of national minorities, established under the Constitutional Act on the Rights of National Minorities is, in many self-government units, unsatisfactory", and urges that legal provisions stipulate precisely the obligation of local self-government units in relation to financing the councils' operation, the method to be employed to determine the amount of funding necessary for their activities etc.

#### Union of Slovaks of the Republic of Croatia

In its response to the Third Opinion of the Advisory Committee, the Union of Slovaks of the Republic of Croatia discusses the position of the Slovak national minority in the context of the implementation of the Framework Convention for the Protection of National Minorities. The Union points out that the level of representation of the Slovak national minority in bodies of local and regional self-government units is adequate, and that their participation through councils and representatives of national minorities is equally adequate. Additional efforts should be invested in informing the public about the role of councils and representatives of national minorities.

As far as the use of the language and script of the Slovak national minority is concerned, it is fully implemented in the Republic of Croatia.

Representatives of the Slovak national minority would like to emphasize that great progress has been achieved in the way in which national minorities exercise their right to access public media, but the level of representation of national minorities in public television programmes is still insufficient.

Significant progress has been made in the field of education in the language and script of the Slovak national minority. The conditions have been met for the organization of teaching in the Slovak language in the localities inhabited by members of this national minority.

*Note: Paragraphs 2-7 (Citizenship, paragraph 24, pp 7-8). The Government of the Republic of Croatia has provided its response to the reports of the Community of Macedonians in the Republic of Croatia and the Union of Albanian Communities of the Republic of Croatia concerning the acquisition of Croatian citizenship.*