Response of the Croatian Authorities to the Report of the Commissioner for Human Rights of the Council of Europe, following his visit to Croatia from 25 to 29 April 2016

The Republic of Croatia would like to thank the Commissioner for Human Rights of the Council of Europe, Mr. Nils Muižnieks for his visit from 25 to 29 April 2016. Croatian authorities attach great importance to the promotion and protection of human rights as a reflection of continuous improvement of democratic processes in the country and genuine care for all its citizens. Commissioner's activities carried out pursuant to his mandate and constructive dialogue with national authorities are of great importance. Regarding the Report presented by the Commissioner, Croatia would like to submit additional comments, in accordance with the procedure, in order to present the facts about some of the issues stated in the Report in more comprehensive and objective manner. The position and observations made by the competent Croatian authorities refer to the basic topics of the Commissioner's visit to Croatia, as indicated below.

1. MAJOR ISSUES PERTAINING TO TRANSITIONAL JUSTICE AND SOCIAL COHESION

In the Report, under section 1.1.2., point 20, the conclusion is that the selection of cases has been disproportionately directed against ethnic Serbs and that a significant number of war crimes has remained uninvestigated.

It should be emphasized that since early beginnings of the prosecution of war crimes in Croatia, numerous activities with the aim to improve various aspects of war crimes proceedings were undertaken by the competent Croatian institutions. One of them was the adoption of "well-defined and objective criteria" by the State Attorney's Office. This resulted in the prosecution of war crimes irrespective of the ethnic origin or rank of the perpetrators.

Although crimes were committed by both sides, the majority of them were committed by Serb forces and it is not possible to expect that the number of cases against ethnic Serbs and ethnic Croats will be the same. The same is with regard to the cases before the UN International Criminal Tribunal for Former Yugoslavia, where the majority of cases are against ethnic Serbs. The responsibility of every state is to fight impunity and to prosecute all crimes regardless of ethnicity or the rank of perpetrators, and Croatia is firmly committed to efficient prosecution of all perpetrators of war crimes.

Croatia emphasizes that in order to prosecute war crimes, the only criterion is the condition of evidence in a case, i.e. the existence or non-existence of sufficient evidence to reasonably doubt that a person committed a criminal offence, not at all ethnical, ideological or any other basis regarding either the victim or the perpetrator.

Under section 1.1.2, point 21, some concerns are expressed regarding the lack of effective prosecution of war crimes committed by members of military and police forces during 1995 which is then connected to the judgments of the European Court for Human Rights (ECHR).

It is important to note that the crimes processed in the Republic of Croatia, referred to by the above mentioned ECHR judgments, are not the events from 1995 which might be characterized as war crimes, but these events occurred in 1991 and 1992. Furthermore, regarding the impartiality remark, i.e. the lack of independent investigations, it is important to note that in all such cases, after the stated ECHR judgments, the local competence has been transferred to the specialized state attorney offices. This also applies to the police station procedures so that any such future concerns can be removed.

It needs to be stressed that in the *Skendžić,* as well as in other cases in which the involvement of Croatian police officers in events possessing the elements of war crime is suspected, an independent criminal investigation by police officers from other organizational unit has been set up. Those criminal investigations are carried out upon the order of the competent State Attorney who monitors the carrying out of police investigation to provide the independence of criminal investigation.

During the first 9 months of 2016, 7 war crimes were identified. More than 20-25 years have passed and witnesses who could have information about criminal acts and perpetrators have either deceased or are not available to investigation, what makes the investigation of war crimes more difficult. Having 7 criminal acts identified represents the result of permanent work of police officers of the Ministry of Interior, that continue to gather information on criminal acts and perpetrators of war crimes in cooperation and coordination with competent State Attorneys' offices.

With regard to point 24, the working group of experts in criminal law established by the Ministry of Justice drafted the proposal of the amendments to the Criminal Procedure Act. Among other things, the proposed amendments refer to the provisions relating to the reopening of the case, as a result of judgments of the ECHR in the case *Sanader v. Croatia*.

In section 1.1.2.1., point 28, concerns are expressed about the granting of amnesty for „acts of torture", during wartime and in point 29 it recalls the ECHR case law, in particular the 2014 judgment in the case *Marguš v. Croatia.*

In relation to the stated remark and the quoted ECHR judgment, it should be stressed that the State Attorney's Office of the Republic of Croatia, upon the receipt of the stated judgment, requested from all County state attorney offices in the Republic of Croatia as the successors of former military prosecution offices, to review the cases of those prosecution offices in which the court suspended the proceedings pursuant to General Amnesty Act, which primarily refers to murder cases and cases regarding qualified act of armed rebellion from Article 236, point o) regarding Article 236 point f) of the Criminal Code of the Republic of Croatia, in order to verify if, in accordance with the newly expressed attitudes in the quoted ECHR judgment, there are any bases to reinitiate criminal proceedings in these cases. This is due to the fact that in the Grand Chamber judgement in the case *Marguš v. Republic of Croatia* , the Court found

that the principle *ne bis in idem* does not apply at all in the case of granting amnesty for war crime or some other criminal offence representing grave violation of human rights. Therefore, on the basis of this judgment and reinitiated review of stated cases, in one case in which the proceedings were suspended earlier pursuant to the General Amnesty Act, the case was re-opened and is currently in the phase of investigations and collection of evidence to determine if the perpetrator's acts contain elements of a criminal offence, regardless of the previous proceedings suspension.

Homeland War was fought on the 54% of the Croatian territory and it caused a great demographic loss in the war-stricken areas. Despite the fact that the war ended 20 years ago, war consequences can still be observed in the demographic and social structure of the Croatian society.

According to the data of the Ministry of Veterans' Affairs, 502.678 Croatian war veterans participated in the Homeland War, 30.141 were wounded or injured, and due to consequences of participating in the Homeland War 57.895 Croatian war veterans have physical impairment of more than 20% and the recognized status of the Croatian Disabled Homeland War Veterans (HRVI). During the Homeland War, in the period from 1990 to 1996, 7.597 war veterans were killed, and from January 1991 to June 2016 2.889 Croatian Homeland War Veterans committed suicide. The aggression on the Republic of Croatia caused exposure of approximately 25% of all Croatian citizens to direct war stress, and in addition to significant material destruction, it is difficult to measure traces in the health status of war veterans and war victims, their family members, and the civilian population.

It is important to underline that the events from 1991 to 1995 is necessary to address as the aggression against Croatia. Declaration on the Homeland War, which was adopted in 2000, defines the Homeland War as *"fair and legitimate, defensive and liberating, not aggressive and conquering against anyone, in which the Republic of Croatia defended its territory from greater Serbian aggression, within its internationally recognized borders*". Through the Declaration all citizens, government and social institutions, as well as trade unions, NGOs and media are committed to protect the basic values and the dignity of the Homeland War. As stated in the Declaration the moral dignity of the Croatian people and all Croatian citizens is kept and the honor, reputation and dignity of all soldiers and citizens who participated in the Homeland defense are protected. Declaration also stipulates that in accordance with the fundamental principles of justice and solidarity, Croatia will within its possibilities ensure all Croatian war veterans, families of fallen soldiers and victims of the Homeland War, full protection, dignity and care.

The Act on the Rights of Croatian Homeland War Veterans and their Family Members regulates material and other rights, but Croatian Homeland War Veterans have pointed out many times that valorization of their traumatic war experience as well as treating them with dignity are key categories for them. In this regard, Ministry of Veterans' Affairs attaches great importance to the general opinion of the community towards the war veterans, giving the fact that it is very important for their reintegration into the society.

Regarding the effective and adequate reparation for civilian war victims, Law on the Rights of Victims of Sexual Violence during Armed Aggression against the Republic of Croatia in the Homeland was adopted in 2015. Moreover, regarding the implementation of the Law on the Protection of Military and Civilian War Victims, Ministry of Veterans' is considering solutions for its improvement.

With regard to point 35, Ministry of Justice allegedly reported the intention to the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) to prepare a draft law on the rights of all civilian victims of war. However, it was the Ministry of Veterans' Affairs that expressed this intention.

Croatia is fully aware of the importance of continuous training of judges and prosecutors in the fields of antidiscrimination, fight against crimes motivated by hatred, racial or ethnic discrimination, as well as the continuous training related to asylum law. In the preparation of its annual program, taking into account Croatia's obligations stemming from various national strategies and higher standards in these fields, the Judicial Academy is planning the following activities:

- The series of seminars "Measurement of (in)equality in Croatia - Mind the Gap", in cooperation with the Center for Peace Studies for judges of criminal and civil courts and public prosecutors,
- Workshops "Anti-discrimination legislation" for judges of administrative courts,
- Seminar "Combating hate crimes and Directive 2012/29/EU" in cooperation with the association "Zagreb Pride", for judges of criminal and misdemeanor courts and prosecutors.

With regard to point 36 of the Report (missing persons), Ministry of Veterans' Affairs emphasizes that after the war ended, there are no records on forceful disappearances due to human rights and fundamental freedoms breach. However, as a country with direct experience with mass disappearances due to imposed aggression and war 1991 – 1995, the Republic of Croatia wants to contribute to the further suppression of forceful disappearances in all circumstances. In that sense, Croatia was among the first countries to sign the accession to the International Convention for the Protection of All Persons from Enforced Disappearance of the United Nations General Assembly (Paris, February 2007). Activities regarding the ratification of the Convention in the Republic of Croatia are under way.

Regarding the Convention itself, it is needed to point out the existing compatibility with the criminal law in Croatia. The procedures which the Convention describes as a forceful disappearance regarding the breach of the codex of international rights as a part of wide or systematical assault against civil population, as well as denial of freedom, has been criminalized by the Criminal law. After the ratification of the Convention possible need for further harmonization of the national Criminal law will be considered.

Regarding point 39 of the Report, Croatia continuously pleads for the strengthening of bilateral and regional cooperation as a key mechanism, in order to ensure valid and correct information about missing persons and unregistered tombs. The cooperation should include military archives access, pro-active approach in research of cases dealing with mass or individual disappearances and by all means activities which will ensure that within the investigations of war crimes whose victims are presumed missing, the places of mass and individual tombs are determined as well.

Croatia has been searching since 1991/92 for 931 person, mostly of Croatian nationality and their disappearance is the responsibility of the former Yugoslav National Army (data records from 27 September 2015). Precondition towards progress in resolving these cases is the opening of military archives of the Republic of Serbia and delivery of the findings which are at their disposal. For now, however, there is no progress in this area.

Regarding unidentified remains, the competent authorities are continuously devoted to the identification of remains wherein the most modern methods are used (method of genome and mitochondrial DNA etc.). In this context, the common project which the Ministry of Veterans' Affairs is administrating along with the renowned International commission for missing persons (ICMP), is founded on equal and partnership terms.

Croatia has successfully identified 82% of the bodies while remaining bodies have been processed by DNA analysis (process of the 93% remaining bodies is now finished). In order to increase efficiency, Ministry of Veterans´ Affairs is continuously working on collecting samples and using the newest technological solutions. It is a very complex and active process and its efficiency and duration depends on many different factors.

It should be noted that the exhumation activities are continuously conducted. Criteria that determine priorities in the process of exhumation activities are:

- Requirements of the national and international judicial bodies (Mechanism for International Criminal Tribunal - earlier ICTY, County State Attorneys' Offices). Exhumation activities of mass graves, individual or collective graves are conducted under Criminal Procedure Code.

- Available technical resources (including storage capacity for unidentified remains).

- Agreement with the other regional states and their authorities (Republic of Serbia, Bosnia and Herzegovina) and taking into account the fact that there are many families of missing persons from the Republic of Croatia that are living on territory of those states.

- Conclusions of Regional Coordination of NGO´s, association of families, families of missing persons and other people from the former Yugoslavia. Priorities are mortal remains that are fragile (for example found on the surface of the ground) and unregistered graves.

Ministry of Veterans´ Affairs informs International Commission on Missing Persons[1] and other competent international organizations about the process of exhumation, in order to ensure transparency of all exhumation activities during the process. In some cases, based on bilateral agreements, representatives from Serbia and Bosnia and Herzegovina are invited to monitor the process of exhumation.

The process of exhumation in Croatia started after the liberation of the occupied territories in 1995 during the peaceful reintegration of the occupied territories of Croatian Podunavlje, as precondition for ensuring availability of mass and individual tombs. 149 mass tombs and more than 1.200 individual tombs were found during the period from 1995 to 2016. The result was 3.978 exhumed bodies, mostly of Croatian nationality that were killed in 1991.

The remains of 1.081 people were exhumed, mostly of Serbian nationality, casualties of 1995 military operations "Flash" and "Storm" and had been buried in accordance with the Geneva Conventions for the Protection of War Victims and their Additional Protocols. According to collected data, exhumation of the remains of 130 people from the mentioned period is planned.

It is necessary to point out that the process of searching for missing persons in the Republic of Croatia takes place regardless of the origin of the victims, their ethnicity, religion and other characteristics. Since 2001, 60% of the total number of exhumed persons are of Serbian nationality, while of the total number of persons identified in the same period the proportion of persons of Serbian nationality is 49%. All identified persons are buried according to the wishes of their families, while all funeral expenses are covered by the Republic of Croatia.

The legal framework was established in order to regulate the issues related to recognition of status, as well as material and socio-economic rights of the families of missing persons. This was done in order to ease the situation for the families of missing persons, to ensure a certain compensation for the suffering and the caused damage, and in order to preserve the dignity of the victims.

On the basis of their status, family members of missing Croatian war veterans acquire material, socio-economic rights, health care, social welfare and other. The rights of missing civilians' families are ensured by a special law and are in a narrower scope, but the procedure of improving the legal framework for this group of victims is in process.

[1] Due to positive assessment international organizations and observing mechanisms have ended their monitoring process in the Republic of Croatia. International Committee of the Red Cross has no longer its office in Zagreb since 2006 and all competence is now left to the Republic of Croatia.

Only a small part of statutory rights (inheritance rights) are subject to general acts, particularly to the Law on Declaring the Missing Person Deceased and Proof of Death. Due to the long duration and complexity of the proceedings of proclaiming a missing person deceased, the possibilities for improving the legal framework is being considered. In addition to legal aid, the families of missing persons are provided by psychological and social assistance.

The issue of missing persons is one of the most important open questions of war consequences in Croatia and other countries of former Yugoslavia. Ministry of Veterans' Affairs suggests that during the next visit Commissioner visit relevant authorities for missing persons in order to get a complete and objective insight into the efforts the Republic of Croatia has undertaken to resolve the issue of missing persons.

With regard to point 52 of the Report, it should be noted that national minorities in Croatia, in accordance with valid regulations, have the right of priority in employment, other requirements being the same for all candidates, in state administration, judicial, and local and regional self-government bodies. In order to exercise that right, they merely need to invoke the right in their vacancy application. National minority members are recruited to said bodies even without invoking the right of priority and persons who have not stated their ethnicity may also be recruited, so it is not possible to determine the exact number of persons recruited in this manner.

As regards the regulation of stay of returnees (chapter 1.1.5.3., point 54) in the Republic of Croatia it should be noted that persons with residence in Croatia on 8 October 1991 and who, in line with the then regulations were considered Yugoslav nationals and did not have the nationality of the then Republic of Croatia, acquired the status of aliens with permanent residence in the Republic of Croatia. The said category of aliens could have regulated their permanent stay status until 30 June 2005.

By passing the Aliens Act in force (OG, No. 130/11 and 74/13), further steps have been taken in facilitating the regulations of returnees' status. Thus, returnees may regulate their temporary stay on humanitarian grounds if covered by the reconstruction or return or housing care programs. When submitting their application, they have to enclose a valid travel document and the certificate issued by the competent authority confirming their status as beneficiaries of the reconstruction or return or housing care programs.

Permanent stay may be granted to returnees without previously regulating temporary stay provided they had residence in the Republic of Croatia on 8 October 1991, they are beneficiaries of the reconstruction or return or housing care programs, and that their intention to live permanently in Croatia has been established. They are not required to meet the conditions prescribed for other aliens. Therefore, when submitting their application they only have to provide the copy of their travel document and the certificate of their status as beneficiaries of the reconstruction or return or housing care programs.

With regard to points 55 – 60 and the point 87 of the Report, it should be emphasized that a decision of the Constitutional Court of the Republic of Croatia is pending on the petition of

the Croatian Parliamentary Committee on Human and National Minority Rights whether the Statutory Decision on Amendments to the Vukovar City Statute of 17 August 2015, and the Statutory Decision on the Exercise of Equal Official Use of the Language and Script of the Serbian National Minority of 17 August 2015 are in accordance with the Constitution of the Republic of Croatia (OG no. 85/10 – consolidated text, and 5/14 – decision of the Constitutional Court of the Republic of Croatia no.: SuP-O-1/2014 of 14 January 2014), the Constitutional Act on the Rights of National Minorities (OG155/02, 47/10, 80/10 and 93/11), and the Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia (OG 51/00 and 56/00 - correction).

Croatian Government will continue with efforts to implement the Constitutional Act on the Rights of National Minorities, as well as recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities and the Committee of Experts of the European Charter for Regional or Minority Languages.

Regarding section 1.1.5.4., point 60, Government's Office for Human Rights and Rights of National Minorities (OHRRNM) stresses that the project "Support to the Councils of National Minorities at the local level" is implemented under the IPA 2012 Component I: Transition Assistance and Institution Building, and aims at strengthening the implementation of the Constitutional Act on the Rights of National Minorities (CARNM) and the role of the Councils for National Minorities (CNMs), through cooperation with local stakeholders. The project encompasses the analysis of CNMs capacities to engage in their roles as defined by the Constitutional Act, creation of web interface for on line monitoring of the implementation of the Constitutional Act from CNMs perspective and education of CNMs members and representatives of national minorities regarding data entry procedure. Project activities started on February 1, 2016, being the duration of the project 18 months.

In terms of other major pending issues adversely affecting social cohesion, Croatia strongly condemns every hate crime and hate speech incident and OHRRNM will continue with efforts in preventing these types of crime by systematically collecting hate crime data and coordinating the work of the Hate Crime Monitoring Working Group, which is one of the models included in the Compendium of the best practices in the EU developed by the European Union Agency for Fundamental Rights (FRA).

In 2015 the Ministry of Interior recorded 24 cases, State Attorney acted in 47 cases, including cases from previous years, while 7 court cases ended with final judgements. These figures include cases of public incitement to violence and hatred (i.e. hate speech). Comparing with 2014, when Ministry of Interior reported 22 cases of hate crime and the State Attorney's Office acted in 60 cases, including cases from the previous period, figures show that the hate crime rate is similar regarding reported incidents to the police and decreasing when it comes to the State Attorney's Office statistics.

Having in mind that anti-discrimination legal and institutional frame has an important prevention role regarding hate crimes and hate speech, the OHRRNM together with an expert working group is currently developing a draft of the new National anti-discrimination plan. The intention of the expert working group is to implement measures related to seminars on the

Criminal Code articles regarding hate crime that will be organized for judicial experts (judges, state attorneys, lawyers), police officers and NGOs in order to raise their expert knowledge on recognizing and prosecuting hate crime. Further measures planned to develop by the working group are related to support for the victims of hate crime, prevention of hate speech in sports, developing guidelines for media broadcasting in cases of hate speech and finally hate crime data publication. The National Anti-discrimination Plan will be enacted by the Croatian Government by the end of 2016.

Hate Crime Monitoring Working Group is planning to initiate new campaign on local levels focusing on raising awareness about presence and destructive impacts of ethnic hate crime on a society, based on the analyses of annual data.

OHRRNM will continue to provide annual financial support for NGO projects related to hate crime countering and cooperate with them through their inclusion in the Hate Crime Monitoring Working Group and by other means.

OHRRNM will keep on participating in working groups under relevant European agencies and institutions with focus on practice exchange and developing effective tools to struggle with hate incidents and discrimination as a whole. OHRRNM will actively take part in the High Level Group on Combating Racism, Xenophobia and other Forms of Intolerance as well as in the HLG sub-groups related to methodologies for recording and collecting data on hate crimes and countering hate speech online.

Regarding the chapter of the Report referring to access to legal aid (chapter 1.1.5.6, point 65), the following should be noted: Pursuant to the Aliens Act and based on the Return Directive, aliens who are the subjects of return procedures are entitled to free legal aid which includes assistance in drafting lawsuits and representation before an administrative court. In the course of the Schengen evaluation, the European Commission evaluators established that only in a small number of cases has the Republic of Croatia granted free legal aid to aliens who are the subjects of return procedures. Future amendments to the Aliens Act will prescribe new criteria for granting free legal aid and legal advice.

2. HUMAN RIGHTS OF IMMIGRANTS, REFUGEES AND ASYLUM SEEKERS

In relation to the comment that the law defines the assistance to illegal migrants as an illegal activity (chapter 2.1., point 91), Croatia emphasizes that the said comment has no grounds: Article 1(2) of the Council Directive 2002/90/EC of 28 November 2002, defines assisting in unauthorized entry, transit and stay as breach of law.

Regarding chapter 2.2 Overview of the asylum law and practice framework, point 96, the main reason for a low rate of granting protection in Croatia in 2015 can be attributed to the fact that applicants for international protection leave before the procedure becomes final. It is important to take into consideration that the largest rate of persons who had left Croatia before the procedure became final, precisely includes nationals of countries of origin with the largest

rate of granted protection. Out of 3178 procedure suspensions in the period from 2007-2015, the largest number referred to the nationals of Afghanistan - 1093, Somalia – 454, Syria – 284, Pakistan – 322, Iran – 100, Eritrea – 46.

In relation to chapter 2.3.1 Asylum seekers' access to reception facilities, point 102, Ministry of Interior emphasizes that just prior to the visit of the Commissioner a larger number of applicants for international protection was transferred from Slavonski Brod Winter Transit Centre to the Reception Centre for Asylum Seekers. Applicants for international protection accommodated are on a daily basis provided by psychological counselling and psychosocial support provided from employees and volunteers from the Croatian Red Cross, Rehabilitation Centre for Stress and Trauma and the Society for Psychological Assistance.

During the Commissioner's visit, two hours a week of Croatian language lessons were available to applicants for international protection. A large number of applicants were transferred to the Reception Centre for Asylum Seekers from transit and detention centers just prior to the Commissioner's visit, the planned Croatian language workshops did not start with their work yet.

Croatian language at the Reception Centre for Asylum Seekers is taught currently by employees and volunteers from the Croatian Red Cross, Centre for Peace Studies and International Organization for Migration at different time from Monday to Friday. Apart from the Croatian language, English and German lessons are also available to applicants.

Children, who at the time of the Commissioner's visit did not go to school, were included in the process of testing for their future integration into the education system.

As regards the comment about two buildings in Ježevo, the old one being overcrowded and the new one empty (chapter 2.3.2., point 107), at the time of the Commissioner's visit, the said comment was taken into account and migrants are now accommodated in both buildings.

In relation to point 108 and the comment that migrants are detained in Ježevo for too long (point 109), Ministry of Interior emphasizes that migrants are detained for a period of time stipulated by Articles 124-126 of the Aliens Act. Aliens may be detained at the Reception Centre up to 6 months, which can in exceptional circumstances be extended to 12 months. Article 126 clearly states three conditions for the extension of regular detention in the Centre.

Following the comment about aliens paying by themselves for their accommodation in Ježevo and their transfer, it should be noted that payment for accommodation and transfer is a common practice in most EU Member States, which is stipulated in Croatia by Articles 133 and 134 of the Aliens Act.

In relation to chapter 2.3.4 Social integration of migrants, point 118, particularly the judgment in Pajić v. Croatia case, it is necessary to note that since 1 July 2013 title X of the Aliens Act providing for temporary stay of same-sex couples applies to family members of Croatian nationals. Act on the Amendments to the Aliens Act, now before the Croatian Parliament,

foresees regulation of temporary stay also for same-sex couples who are third country nationals.

In connection with the comment about the lack of the right of access to a first instance legal aid for the seekers of international protection (chapter 2.4., point 120), Croatia highlights that its legislation has been harmonized with the international and the existing *acquis communautaire* of the EU, implying automatically the right of access to legal aid of the seekers of international protection. The Act on International and Temporary Protection regulates that the seekers of the international protection would be provided with legal and procedural information about granting of the international protection, taking into account the circumstances of a concrete request in the first instance, while in the second instance, that is, in the proceedings before administrative courts, they have the right of legal aid. Legal counselling is conducted by the UNHCR implementation partners and the preparations for the legal counselling project are underway, chargeable to the state budget.

Regarding the Commissioner's comment referring to migrant integration policy, OHRRNM would like to stress that Draft Action plan for integration of the third country nationals that encompasses three year integration measures, as well as Draft Protocol on the treatment of persons granted international protection, have been developed. Two documents will enter the Government procedure as soon as possible.

Through IPA 2012 FFRAC project, the OHRRNM has envisaged formative evaluation of the Draft Action Plan for Integration with an aim to adjust ongoing measures and/or tailor new implementation measures that will better fit migrant needs. The project is currently in the evaluation phase and the contract is expected to be signed by the end of November 2016, with the procurement value of the project: 400.000,00 EUR.

OHHRNM has envisaged a nationwide campaign with an aim to raise awareness of the general population as well as targeted groups (professionals that are going to be involved in direct work with migrants) and a number of public and social activities in order to support and nurture successful integration. The project also includes in-depth research of the attitudes toward migrant population that will enable recognition of the regional differences. Regional differences together with the regional/local needs assessment regarding migrant integration will be taken into account in future planning. The planed value of the project is: 250.000,00 EUR.

In the area of asylum (point 97) the importance of education on this issue is recognized. Taking into account the number of cases and judges who deal with this topic and financial capabilities, the program of Judicial Academy includes education on this subject and in this regard relies on the cooperation with international organizations and partners.

Croatian judicial officials regularly participate in international seminars on antidiscrimination organized by the Academy of European Law; antidiscrimination frequently appears as one of the topic issues in the projects financed from the EU programs in which the Judicial Academy has participated. It provides an opportunity for Croatian judges to learn about the application of the EU Charter of Fundamental Rights to both asylum and antidiscrimination cases. Within

the scope of that project, a national seminar will be organized in Zagreb in May 2017 focusing on effective judicial protection, i.e. the application of Article 47 of the Charter.

3. FREEDOM OF THE MEDIA

With regard to points 129 and 152 of the Report, dealing with the issue of decriminalizing defamation, Croatia would like to underline the following:

The Criminal Code of the Republic of Croatia (2013) is fully harmonized with modern European criminal law and provides for solution adopted by other European legislations which distinguishes defamation and insult.

By the Act on Amendments to the Criminal Code (2015), the criminal offense of defamation was amended (the word "severe" was added to the criminal offense of defamation). The purpose of the amendments was to stipulate more clearly the preconditions for exclusion of unlawfulness for the criminal offences of defamation.

The provision on the exclusion of unlawfulness for the criminal offence of defamation has been simplified. Now it is required that the perpetrator proves that the factual claims made or propagated by him or her are true or that there existed a serious reason why he or she believed them to be true.

The amendments introduce a new article, stipulating the exclusion of unlawfulness for the criminal offences of insult and serious defamation. There shall be no criminal offences of insult and serious defamation if the elements of the said offences were fulfilled in an academic, technical or literary piece, work of art or public information, or while the perpetrator was performing a function laid down by law, or engaging in a political or other public or social activity, or doing journalistic work or defending a right, provided this was done in the public interest or for other justified reasons. The scope of the criminal offence of serious defamation has been narrowed. Only the most severe violations of honor and reputation result in criminal liability.

It is important to emphasize that criminal offences against honor and reputation, which include a criminal offense of serious defamation, are the only offences punishable solely by a fine, which means they are treated as misdemeanors. Prescribing them as offenses in the Criminal Code indicates their increased social danger, as opposed to misdemeanors.

With regard to violence committed against individual journalists, the investigation by the competent authorities is being carried out in accordance with current regulations in order to sanction such acts and prevent violence in the future, as well as to ensure an environment in which journalists can freely and professionally carry out their journalistic work.

Regarding the remarks on Croatian Radio-Television, Croatia emphasizes that Article 4 of the Media Act (OG No. 59/04, 84/11 and 81/13) expressly prohibits censorship and prescribes that no one has the right to influence the program content of the media by coercion or abuse

of position, nor in any other way illegally limit the freedom of the media. The court shall decide on violations of freedom of expression and freedom of the media.

With regard to the dismissal of the members of the Council for Electronic Media as a regulatory body performed by the Croatian Parliament, the Government only gave its opinion on the Report of the Council for Electronic Media and the Agency for Electronic Media in 2014, with remarks on certain deficiencies in terms of execution of their legal obligations. Croatian Government considered that the Report is not eligible to be accepted before the Croatian Parliament because of the obvious and particularly serious breaches of legal obligations of the Council and the Agency.

Following the Government's negative assessment of the Report, and in accordance with the highest democratic standards, Croatian Parliament passed a decision to replace Electronic Media Council members due to serious omissions in the execution of their legal obligations. The Report was incomplete, and neither the Council nor the Agency met their legal obligations or obligations from the work program. They did not perform their envisaged obligations in best public interest by securing separate accounting records of revenues and expenses related to the public and commercial activities of the national broadcaster HRT.

Croatia fully supports the view that the non-profit media gives positive contribution to pluralism, promotion of democracy, democracy and multiculturalism. It should be emphasized that state subsidy for the media in Croatia is not abolished considering that these media receive funding for their programs from the Fund for the Promotion of Pluralism and Diversity of Electronic Media (hereafter: Fund), as a part of the Agency for Electronic Media. Non-profit media continue to receive government support.

The draft text of Media policy was delivered to the Croatian Government 2016 and since it didn't have elements of strategy or of strategic document containing the operational plan of implementation, it wasn't adopted.

Croatian media legislation is in line with EU regulations and it contains standards that are applied to EU member states. The provisions of Articles 26 to 30 of the Media Act refer to the protection of journalists' rights, including the adoption of the Statute of the media, the right of journalists to express their point of view, the right of journalists to refuse to perform the tasks, the reputation of journalists and the protection of sources of information. Regarding media literacy, the Fund regularly finances development programs and encourages media literacy, in accordance with Article 64 of the Law on Electronic Media. Encouraging of the development of the media pluralism including the independence of the community media regularly takes place through programs financed by the Fund. As to the rules on advertising by the State, Article 33 of the Electronic Media Act stipulates that government bodies and legal persons predominantly owned by the Republic of Croatia are required to spend 15% of the annual amount intended for the promotion of their services on advertising in the audiovisual or radio programs of regional and local television broadcasters and/or radio. The implementation of this provision is overseen by the Council for Electronic Media, as an independent regulator.

Freedom of expression and freedom of the media are guaranteed by Article 38 of the Croatian Constitution, and by the Croatian media legislation (the Law on Media, the Law on Electronic Media and the Law on the Croatian Radio-television), which prohibit censorship and prescribes respect and full protection of journalists in performing their responsible work in accordance with the rules of the journalist profession and ethics. The Ministry of Culture as the central government body is responsible for administrative affairs in the field of public information and legislative activities related to the development of media legislation and has a clear position on the protection of freedom of expression and freedom of the media, especially when it comes to protecting journalists from violence and other forms of threats and prevention of professional and expert journalistic work. Croatia fully condemns such violence, which also applies to the case of Ante Tomić, related to the event from 1 April 2016.

It should be emphasized that the Law on Croatian Radio-television was adopted unanimously in 2010 by the Croatian Parliament, with the consensus of all political parties and positively evaluated by the European Commission. However, in 2012 the Government proposed amendments to this Act and the Croatian Parliament, regardless of the criticism from the entire international community and especially of the EBU (European Broadcasting Union), passed a new law which exclusively authorizes the Croatian Parliament to appoint the Director-General of Croatian Radio-television.

In March 2016, due to irregularities in the work of the Director General of Croatian Radio-television, the Croatian Parliament, in accordance with the above mentioned law, dismissed him and appointed an Acting Director-General of the HRT.

Ministry of Culture considers the claims that the new leadership of the HRT in two months dismissed or resolved 70 directors, editors, journalists and professional staff unfounded. The changes performed at certain positions were made solely to improve the operations and efficiency of the HRT in fulfilling its public mission and had no political connotation, or improper and negative influence on the work of editors and journalists. These were all based on the Statute and internal acts, which prescribe that at the end of the mandate of the Director-General, directors of main business units (Article 22 and 25 of the Statute), the editors in chief (Articles 30 and 31 of the Statute) and heads of units, shall become interims.

Regarding the termination of the co-financing of non-profit media by the Ministry of Culture, it is necessary to recall that the co-financing of non-profit media began as an activity following the decision of the Minister of Culture, dated 17 April 2013, establishing the Expert Commission for the non-profit media, on the basis of the Law on the Organization and Scope of ministries and other central state administration bodies (TOG, no. 150/11 and 22/12) the Regulations on the selection and confirmation of public needs in culture (OG, nos. 69/12 and 44/13). The practice for the Ministry of Culture as central government body to co-finance programs of the media within the scope of the Law on the financing of public needs in culture, i.e. an executive regulation for the implementation of this Act, was introduced for the first time. Since 2013, during the period of implementation of the program of co-financing of

the media and the distribution of funds to non-profit media a number of irregularities occurred, that ultimately led to the conflict of interest confirmed by the competent authority.

Due to the contradictions related to the implementation of the program for co-financing a non-profit media, on the basis of the decision of the Minister of culture of 27 January 2016 the Expert Commission for the non-profit media was resolved. The professional activities related to the implementation of the program in progress was taken over by the professional services of the Ministry of Culture.

However, the aforementioned decision of the Minister of culture has not stopped co-financing the program of non-profit media. The programs of non-profit media are co-financed on the basis of Article 64 of the Law on Electronic Media through the Fund. The non-profit media have been co-financed for several years by the Fund and the decision on the allocation of funds are made by the Council for Electronic Media. The Fund is not financed from the state budget, but from the public funds paid by Croatian Radio-Television in the amount of 3% per month of the collected funds for fees (about 32,000.000 00 kuna this year). However the Ministry of Culture awarded in 2013, 2014 and 2015 to the non-profit media about 3,000.000,00 kuna a year from the state budget. Since 2013, the Fund co-financed programs of non-profit television broadcaster and/or radio, non-profit providers of media services at the request, of the media service providers who have permission for satellite, Internet, cable and other forms of transmission of audiovisual and/or radio programs, non-profit providers of electronic publications, non-profit producers of audiovisual and/or radio programs, which are of public interest. The Fund also co-finances the programs of electronic publications that are defined under Article 2, paragraph 1 of the Law on Electronic Media as editorial program contents that are daily or periodically published on the Internet by the providers of electronic publications for the purpose of public information and education.

In co-financing the non-profit media the Ministry of Culture has mainly financed the electronic publications that have already been co-financed by the means of the Fund, so that it was an overlapping of jurisdiction, with the remaining open issues regarding this subsidy awarded by the Ministry and the awarding criteria. Consequently, the subsidy allocation to non-profit media by the Ministry of Culture has caused conflicts among users because of the vagueness of the criteria on the allocation of resources, and an arbitrary allocation of resources occurred, which resulted in the public intervention of the said Committee of Parliament for deciding on the conflict of interest. On that occasion, this body imposed appropriate sanctions.

In order to eliminate the influence of government bodies and thus political influence on media funding, it is reasonable that this model of co-financing through an independent media regulatory body (Council for Electronic Media, which is the body of the Agency for Electronic Media), should be consistently applied because it is transparent and effective in terms of ensuring media pluralism and diversity.

For all these reasons, the decision of the Ministry of Culture to abolish the Expert commissions for non-profit media was taken in order to harmonize the work of the Ministry to the current legislation, taking into account the Law on the Organization and Scope of

Ministries and other central state administration bodies (OG, no. 150/11, 22/12, 39/13, 125/13 and 148/13).

It should be recalled that the Ministry of Culture further co-finances the targeted non-profit media on the basis of the funding of public cultural needs in the context of programs for innovative artistic and cultural practices and magazines.

As for the use of EU funds for co-financing the program of media, the Ministry of Culture is preparing calls for more programs within the scope of the Operational program "Effective human resources 2014 to 2020" and an indicative annual plan is made in accordance with the preparedness and the complexity of the program. A call for proposals for the program "Development of community media" will be published in 2017, on an indicative amount of financial envelope of 30,600,000.00 kunas.

The employment status of journalists in Croatia is guaranteed by Article 2 of the Media Act, which defines a journalist as a person engaged in collection, processing, designing or classification of information for publishing through the media and is employed with the publisher on the basis of the employment contract or performs journalist business independently, in accordance with the law. The Ministry of Culture supports the employment of journalists on a permanent basis so that journalists do not have to be employed through a contract of employment. This stand was also accepted by the Croatian Constitutional Court (Decision No. UI-578/2013, 3 June 2016), refusing to allow the previously mentioned definition of journalists to be declared unconstitutional.

Independence of the Croatian Radio-television as a public television is guaranteed by the Law on the Croatian Radio-Television, Media Act and the Electronic Media Act. This legislation prohibits censorship and prescribes respect for editorial independence.

As for the guarantee of independence of the regulator in the field of electronic media (Council for Electronic Media), the Electronic Media Act contains the guarantee and it is respected in practice. Members of the Council for Electronic Media may be resolved of their duties only in cases prescribed by law. The provisions of this Act were approved by the European Commission, which means that the highest standards relating to the independence of regulator in terms of the Audiovisual Media Services Directive are respected.

Regarding chapter 3.2.1. (Protection of journalists from violence), Croatia emphasizes that violence against journalists is publicly condemned by government bodies and associations of journalists and every violation of journalists' rights is investigated by the competent authorities in order to sanction such behavior. Ministry of Interior stresses that, as far as all the attacks, threats and intimidations reported to the police are concerned, police officers have been conducting inquiries and have been searching for perpetrators of the mentioned offences and in cases where during the inquiries a reasonable suspicion has been established in connection with possible perpetrators, appropriate reports against them are being submitted to competent authorities. Certain attacks against journalists have been classified as violent crime (attempted murder, grievous bodily harm etc.) and thorough criminal investigations are being

conducted to trace the perpetrators of these crimes, according to the classification. Taking account of the protection of journalists from violence, the police are dealing with these matters with particular consideration and in cooperation with the State Attorney's Office and upon their order, they undertake all necessary activities and measures to trace the perpetrators and establish the circumstances of respective incidents.