

# UNIVERSAL PERIODICAL REVIEW

## CROATIA

**9<sup>th</sup> Working Group Session**  
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This report is the result of the work done by an *ad hoc* coalition of civil society organisations. The coalition held several working meetings in order to make an integral review, and be able to report on the state and protection of human rights in the Republic of Croatia. Our goal is to point to areas of the most striking human rights violations with recommendations how the present situation could and should be improved.

The following organisations participated in the work of the coalition: Human Rights House Zagreb (B.a.B.e. - gender equality, human rights and gender based violence; , Centre for Peace Studies, Documenta – Dealing with the Past, Civic Committee for Human Rights, DAWN – mental health, UPIM – people with disabilities), Youth Network Croatia, GONG - , Green Action, CESI – Centre for education, counselling and research, Association for Self Advocacy, Association for Promoting Inclusion, Croatian Association of Deaf-blind Persons, Centre for Peace Osijek, Centre for Peace Vukovar, Coalition for promotion and protection of human rights, Kontra, and Queer Zagreb, with the support of the Human Rights House Foundation.

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## **I. BACKGROUND AND FRAMEWORK**

### **A. Scope of international obligations**

The Republic of Croatia has ratified almost all relevant international documents (conventions and optional protocols) concerning the protection of human rights. The European Convention on Access to Official Documents is waiting to be ratified.

Poor or no implementation of the ratified international documents remains the Republic of Croatia's largest problem. Although all international conventions are "superior" to the national legislation, references to these important international human rights protection mechanisms rarely appear in court rulings. The Republic of Croatia does not report on a regular basis to the treaty bodies.

#### **Recommendations:**

- Ensure quality education for persons in charge of implementing international protection mechanisms – especially judges, attorneys and state.
- Sensitize citizens on the importance and consequences of ratifying international documents, and on their fundamental rights.

### **B. Constitutional and legislative framework**

The Constitution of the Republic of Croatia, after several amendments already, is currently in the process of a fourth revision. However, it is impossible to reach an agreement on some important articles. CSOs took active part in debates, and submitted several amendments.

As regards human rights protection and the prohibition of discrimination, the Constitution is the fundamental national document. Article 3 of the Constitution provides that: "Freedom, equal rights, national equality and gender equality, love of peace, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law, and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia and the ground for interpretation of the Constitution." Article 14 states that "Everyone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law."

As regards the definition of discrimination in national legislation, the Anti-discrimination Act (2008), the Gender Equality Act (2003 and 2008) and the Labour Act (2009) can be singled out as especially important.

The equality of Croatian citizens belonging to national minorities is guaranteed in the Constitution of the Republic of Croatia and the Constitutional Act on the Rights of National Minorities in the Republic of Croatia (2000 and 2003). The Same Sex Union Act (2003) prohibits discrimination based on sexual orientation.

The implementation of these international obligations remains an ongoing problem. Court rulings and proceedings very rarely refer to existing legislation aimed at the protection of citizens' human rights, especially those of vulnerable groups.

The Convention on Access to Official Documents, adopted by the Council of Europe (2008), establishes minimum standards that every signatory country must obey. The Croatian Act on Access to Information (2003) currently satisfies only three out of the six standards envisaged. Causing turbulent discussions because of the order against disclosure of the Registry of Veterans, which the Government refuses to reveal contrary to the wishes of most citizens

Although the prohibition to discriminate is incorporated in the Constitution of the Republic of Croatia, it is elaborated through concrete provisions of the Anti-discrimination Act. In certain ways, the Anti-discrimination Act is very advanced, but some of its provisions allow for unacceptable exceptions. When applying certain broad provisions, control mechanisms must be strengthened to prevent exceptions being used to conceal discrimination. But, combating dis-

crimination goes beyond legislative framework. It relates also to in-depth and comprehensive efforts and towards creating equal and egalitarian opportunities in life. Effective realisation of this goal requires the active engagement of CSOs, as well as the participation of labour and employers' unions, religious organisations and the Council for National Minorities.

The Free Legal Aid Act (2008) should have represented an important protection mechanism, but the complicated procedure and restrictive conditions do not in practice make free legal aid accessible for most citizens. The existing free legal aid system is bureaucratic, and too complicated to be comprehended by less educated citizens. Experience from the first year of implementation point to the conclusion that this Act failed to establish an effective free legal aid system and failed in its main purpose: to grant poor citizens equal access to administrative and judicial bodies.

**Recommendations:**

- Constitutional amendments: along with strengthening freedom of expression, it is necessary also to incorporate a guarantee of the right to access to information possessed by public authorities, because that ensures transparency of the institutions' work. It is also necessary to incorporate the prohibition to discriminate based on sexual orientation in all articles prohibiting discrimination.
- Revise the Anti-discrimination Act with very specific definition of exceptions, and introduction of hierarchy between bases of discrimination.
- Ensure education of judges and attorneys that will lead to a more effective implementation of the Anti-discrimination Act.
- Conduct an education-based discrimination prevention program in the school system and public media services.
- Urgently amend the Free Legal Aid with provisions that guarantee facilitation of the process to obtain the aid.
- Ensure that CSOs dealing with human rights protection can provide legal aid through qualified lawyers/attorneys.

**C. Institutional and human rights infrastructure**

Formally, Croatia always hastily implements all instructions of the international community, especially those given by the European Commission when it conditions accession to the European Union on passing certain laws or amending existing ones.

Additionally to the legal framework, at the institutional level, there is a broad infrastructure consisting of bodies and institutions that should protect human rights. Some of these bodies and institutions do not have significant legal authorities and will to execute their tasks. Besides this, there are no public invitations for the recruitment of key personnel for these important institutions and bodies; instead, the Government and Parliament invite and nominate those they find appropriate.

The People's Ombudsman Act (1992) establishes the institution of the people's ombudsman. In 2003, Croatia introduced specialized ombudsmen – the Ombudsman for Children and the Gender Equality Ombudsman, and in 2008 the Ombudsman for persons with disabilities. These bodies are invisible in public. The very thorough and critical reports of the People's Ombudsman Office are not granted confirmation by the Croatian Parliament, but have for two years in a row been simply taken note of which proves that the Government has difficulties with accepting criticism.

**Recommendations:**

- Make the People's Ombudsman Office more visible in public, especially through public media services.
- Conduct an evaluation of the work of all ombudsman offices based on clearly-set indicators.

- Select key persons in institutions and bodies dealing with human rights protection through public tenders with clearly stated criteria.

#### **D. Policy measures**

Financial means for the implementation of strategies and programs are usually not stated, there are no clear indicators for measuring the success of implementation, and there are no mechanisms for monitoring and evaluation, so it is largely impossible to estimate whether strategy measures have been implemented in practice and to what extent.

Croatia is a quite centralised state that has unevenly developed its capital relative to most other regions. Insufficient attention is devoted to the implementation of measures relating to the protection of human rights at the local and regional levels.

Recommendations:

- Ensure passage to the local level of strategies with precisely stated and measurable indicators of the adopted measures' implementation.

## **II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS**

### **1. Freedoms of expression and assembly**

Freedom of expression and undisturbed access to information is pillars of developed democracies. Given a firm media cartel linked to political and economic elites, media withhold relevant information the citizens need to be able to understand the social and political situation they live in. Public media services are half state-controlled, and at the moment there is an attempt to transform them into exclusive state ownership. The failure of the ruling coalition to nominate a member into the Program Council, and the instruction given to a portion of the Council not to nominate a new director, point towards an anarchy that will eventually necessitate state intervention, which The Government has been actually looking for. The new Croatian Radio and Television Act introduces a strict hierarchy by giving too much authority to one person nominated by the Government, and envisions new bodies appointed by the Government that will have power of control and decision making. Investigative journalism does not exist, and the journalists who attempt to engage in it more seriously undergo threats and physical violence. According to the Freedom House freedom of the press index, Croatia has fallen 30 positions lower on the scale of media freedom realisation since 2008<sup>1</sup>.

The case of Green Action, a CSO engaged in environmental protection, demonstrated how the state violates these rights. In 2009, Green Action/FoE Croatia organized a peaceful protest (performance), following which the Ministry of Environmental Protection, Physical Planning and Construction filed a lawsuit for violation of the Waste Act and threatened an unsuitable fine.

In February 2010 around 100 riot police arrested 23 activists from Zelena akcija and the Right to the City initiative in Zagreb in the night raid on peaceful protest against the destruction of Zagreb pedestrian zone. The raid took place just hours after 4000 people turned out in snowy conditions to protest against turning part of the pedestrian zone into a ramp for an underground garage planned as part of the Cvjetni shopping centre and luxury flats development in the old part of Zagreb. The police also hacked to pieces a five-metre high wooden Trojan horse which had been brought to the site for the protest as a symbol of private interests and corruption presented as urban development.

**Recommendations:**

- Regulate by legislation the minimum professional standards of the media.
- Make the activities of the Electronic Media Council transparent; ensure external evaluation of the Council's activities.

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<sup>1</sup> Global Press Freedom 2009, Freedom House, 2010

- Pass a new Croatian Radio and Television Act which will enable its functioning as a public media service, monitored solely by the public.
- Ensure that all media public services function without the direct influence of political parties.
- Respect citizens' freedoms of expression and assembly through peaceful protests and eliminate repressive measures.

## **2. Right to access to information**

The implementation of the right to access to information remains problematic. According to CSO's (GONG) yearly monitoring report for 2009, 39% of citizens' inquiries were replied to within legal deadlines, which means that over 60% of public authority bodies did not obey the basic legal provisions. The situation has worsened since 2008, when 49.4% of inquiries were responded to within deadlines.

It is easier to access information that is not of a sensitive and/or financial nature. Public authorities are not prone to disclose documentation (copies of contracts, receipts, etc.). There is a strong need for an independent institution (e.g. trustee, ombudsman) who would promptly implement public interest tests – evaluations of all arguments for and against disclosure. The Administrative Court, currently the final instance in these issues, usually considers only the formal procedure when granting or denying requests for information disclosure, without carrying out public interest tests.

The process of accessing more complicated and sensitive information remains complicated, long (usually around 6 months) and linked to significant costs for the inquirer. The public authorities are allowed to charge administrative fees for inquiries, regardless of the way in which they deliver the information (in writing, personal insight, etc.). The Law does not foresee a public interest test or the proportionality test envisaged by the Convention on Access to Information. Proceedings initiated by civil-law suits and appeals procedures are lengthy and expensive. Although Croatia has still not signed the Convention, there is a strong need for the implementation of the minimum standards it envisages.

### **Recommendations:**

- Establish a trustee for information, possibly by adding the stated function to one of the existing national human rights protection institutions (e.g. the Ombudsman).
- State must ratify the European Convention on Access to Official Documents.

## **3. Public participation in decision-making processes**

The Code on consulting the interested public in decision making, as well as adoption of legislation and implementation processes, was adopted in a closed Government session, without a public discussion on the final text. It significantly reduced the obligation to include relevant participants in the legislation adoption processes. Moreover, the system according to which the public is included in the processes and the monitoring and evaluation of the code is not precise enough.

### **Recommendations:**

- Adopt Directives for the implementation of the Code, whereby they should definitely be developed based on wider public consultations.
- Submit yearly evaluation reports.

## **4. Corruption and civil rights**

Although the Government pays special attention to the legal and institutional framework of the combat against corruption, it remains a serious problem. There is insufficient regulation of the aspects of anti-corruption policy concerning the financing of political parties and election campaigns, and conflict of interest;

**4.1. Financing of political parties/campaigns** – The existing legislation is reduced to a defective Act on Financing the Election Campaign for the Election of the President of the Republic of Croatia and the Act on Financing Political Parties. The legal and institutional framework is insufficient for an adequate monitoring of political party finances.

**4.2. Conflict of interest** – The understanding of the notion of conflict of interest is absent of the government and public administration's way of work. The public is not well enough informed on this notion.

**4.3. Whistleblowers** – Persons who point to corruption in their working environments most often, instead of being rewarded, are harassed or even dismissed. The first known whistleblower who signalled a huge corruption problem in a state-controlled company has not been returned to her position to date, although the corruption was proven (the charged director died), and she had to attend 56 hearings for defamation law suits filed against her by the responsible persons.

**Recommendations:**

- Adopt legislation on the financing of political parties and campaigns.
- Raise public awareness on the conflict of interest concept.
- Conduct effective nonpartisan monitoring of anti-corruption processes.
- Ensure effective protection of whistleblowers, and identify them as positive role models.

**5. National minorities**

The realization of specific rights of members of national minorities, as guaranteed by the Constitution and other relevant Acts, remains problematic in practice, with certain legal provisions being disobeyed. While the rights of certain minorities are being respected in their entirety, the Serbian minority and the Romani encounter numerous problems, especially at the local level. In some localities, there are still examples of effective participation of minorities in public life and in decision making processes being prevented. The provision on the right to use one's own script and language (writing in the Cyrillic script, location signboards, etc.) is rarely respected, and there is a lack of reliable and updated data on particular rights – the right to employment, appropriate presence and sustainability of minority returns. There are still examples of ethnic intolerance and conflicts in particular multinational communities, and their perpetrators are rarely sanctioned. The statutes of most local administrative units are not aligned with the Constitutional Act on National Minorities, causing inadequate minority representation.

**Recommendations:**

- Enable harmonized implementation of the existing legislation regulating the rights of members of national minorities at all levels.
- Undertake measures aimed at ensuring effective participation and inclusion of national minority members in public life and decision-making processes at all levels.
- Give consideration to the problems which affect the sustainability of minority returns and create the necessary economic and other prerequisites for the sustainability of the return of those who wish to return.
- Undertake effective and transparent measures for combating all forms of discrimination and ethnic intolerance in society, and ensure sanctioning of the responsible persons.
- Consistently implement the Constitutional Act on National Minorities and harmonize local administrative units' statutes with the Act.

**6. Rights of persons with disabilities**

Discrimination of persons with disabilities persists in Croatia, especially of particular groups. Persons with intellectual difficulties and mental problems are the group of disabled persons most often subject to institutionalization. Many people with intellectual difficulties in Croatia spend their lives in in-patient social care institutions, with no possibility to influence the

change of their place of living. Permanently imposing a particular place and mode of living on a person represents a violation of human rights rather than a form of care of that person. Moreover, Croatian in-patient institutions daily disrespect the rights to privacy, private property and personal dignity. Property embezzlements and electoral right cancellations of hospitalized persons are frequent. The rights of persons with intellectual difficulties to social security and to adequate standards of living are endangered.

Persons deprived of legal capacities have no opportunity to seek legal aid and protection themselves, because the state considers that their rights are sufficiently protected by their trustees, social care institutions and the institutions in which they are accommodated. There is no adequate control over the penalty system implemented by the institution staff. There is no case in Croatian case law where an intellectually disabled person, or another person on his or her behalf, has sued an institution and was granted damages from the state, not even for such extreme phenomena as endangerment of life and physical integrity.

**Deafblindness** has not yet been recognized in the Republic of Croatia. Deafblind persons have two basic needs: communication support/sign language interpretation and movement support/intervention. That support has not been ensured at the state or the local level, representing a violation of the rights of deafblind persons, depriving them of the access to all systems, goods and services. There is a multiple and permanent discrimination of deafblind persons in the Republic of Croatia. There is no equality of access to the regular educational system for children with development difficulties (children with poor hearing or deaf, partially seeing and blind children, deafblind children, and those with intellectual difficulties), nor is there a support system to integrate those children. At the state level, sign language interpreters in the educational system are not secured.

**Recommendations:**

- Terminate the practice of protecting persons with intellectual difficulties and mental problems through legal capacity deprivation and develop new protection modalities which will be harmonized with the Convention on the Rights of Persons with Disabilities; Through amendments of the Social Care Act, ensure that such persons can choose their place of living, as a personal freedom of every individual that must be so treated in all legal documents.
- Harmonise the Family Act and the Social Care Act with Article 12 of the Convention on the Rights of Persons with Disabilities, and do not protect the intellectually disabled through depriving them of legal capacity. Form an independent court unit to list, and determine how to protect and dispose of, the property of persons deprived of legal capacity.
- Enable the organisations dealing with human rights protection to freely enter the institutions and contact the persons accommodated in them. Enable free legal aid for people accommodated in the institutions.
- Recognize Croatian Sign Language as a valid minority language.
- Legalize an unlimited scope of support realization (not e.g. conditional on a limited monthly schedule) and a right to a sign language interpreter and intervener, to equalize opportunities and achieve equal inclusion in all aspects of social life.

**6. Environmental rights (Aarhus Convention)**

The weakest point of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters implementation is access to justice in cases of environmental rights violations, given the lack of case law, lack of legal experts specialized in environmental issues, too-costly legal aid and lack of free legal aid, lengthy trials, inadequate implementation of the law, lack of the preliminary injunction mechanism, etc.

**Recommendation:**

- Fully implement the provisions of the Aarhus Convention and bring judgements on environmental issues in urgent court proceedings. The course of proceedings should be precisely defined, there should be final deadlines for court hearings, and attorney tariffs and prices of expert opinions for "environmental law suits" should be minimized or borne by the losing party. Education, e.g. specialisation in environmental law of judges and attorneys, is necessary.

**7. Gender equality**

In spite of a significant shift in bill passing and institutional mechanisms, the principle of introducing gender sensitive policies has not been introduced in all public policies (gender mainstreaming). Statistical data for most social areas: violence against women, labour market, women in the political sphere, presentation of women in media, gender dimension in the educational process, reproductive rights, etc. witness ineffectiveness of the existing legislative and institutional framework. Women are more badly hurt at the labour market during the recession period, still earn less than men, are underrepresented at top decision making positions and in politics, especially at the local level, remain victims of violence, etc.

**Recommendations:**

- Amend the Gender Equality Act so as to establish a central mechanism, an independent body actively included in the work of the Government, whose basic activities would be: to initiate gender analyses for all public policies, including the Croatian state budget; and to give opinions and recommendations to the Government on the gender dimension of all regulations and public policies, thereby influencing gender equality and women's status in Croatia on a long-term basis.
- Make topics related to gender equality issues an integral part of the educational system.
- Conduct a gender analysis of complete public media programs and introduce gender education for all editors and journalists in public media.
- Severely sanction sexist media content, whether in public or in private media.

**8. Youth rights**

More than 900,000 persons between 15 and 30 years old – defined as young people – live in Croatia (21% of the population). The basic act for systematically raising the quality of life of young people in Croatia is the Youth National Program 2009-2013, which addresses areas such as education, computerisation, employment, entrepreneurship, social policy, health policy, sexual and reproductive health, active participation of youth in society, mobility, culture, informing and counselling. This program supplements the National Human Rights and Democratic Citizenry Program, but in both cases measures are to a significant extent not implemented or are subject to selective choice – e.g., youth councils have been established in only one third of the administrative units, despite the provision rendering their establishment obligatory. General characteristics of the Croatian youth: the most unemployed group (around 34% among youth); young women are less equal (a more unfavourable position in politics, economy, labour market); youth with poorer opportunities bear consequences in the educational system, in the labour market and remain a problem of both social and health policies; opportunities for significant youth participation in society are not abundant; violent behaviour among the young and against the young is ever more frequent. Democratic citizenry education is not conducted in quality manner at all educational levels. Programs aimed at the young are often not granted significant funds necessary for implementation, there is a noticeable lack of monitoring and evaluation of the implementation. Generally, the young represent a systematically neglected, i.e. discriminated social group that is not being raised as a social resource, in spite of the high expectations set before it.

Youth with fewer opportunities are all those who, for educational, social, economic, mental, physical, cultural or geographical reasons, cannot realize their full potential, i.e. to whom many opportunities are unattainable. Most often, this group risks social exclusion. Although the legal regulation is significant and there are positive examples, there still exists a clear problem relating to the implementation of the regulations and an inadequate territorial distribution, as well as the problem of financial support to programs aimed at the children and the young with behavioural disorders. Children and youth are insufficiently included in the planning process. Children and youth with behavioural disorders are those towards whom measures are implemented, and, in spite of that, they are extremely rarely included in the creation of the measures, which prevents a full insight into the problem and leaves many resources unused by the young.

**Recommendations:**

- Include the young in creating youth strategies.
- Systematically monitor and evaluate national youth strategies.
- Create the co-management principle at all management and decision-making levels.

**9. Reproductive and social rights**

There is no systematic sexual education in Croatia as part of the obligatory school curriculum. CSO CESI, INTERIGHTS (London) and the Center for Reproductive Rights from New York have filed a complaint to the European Committee of Social Rights against the Republic of Croatia for supporting and attempting to introduce a discriminatory and scientifically incorrect sexual education program based on abstinence. The ECSR has determined that Croatia's curriculum discriminates on the basis of sexual orientation. The Committee noted that statements found in the curriculum "...stigmatize homosexuals and are based upon negative, distorted, reprehensible and degrading stereotypes...".

**Recommendations:**

- Ensure educational standards that do not support stereotypes and prejudices and do not contribute to social exclusion, discrimination and negation of human dignity;
- Ensure young people are sexually educated on scientifically-based and non-discriminatory principles, excluding censorship, withholding or intentionally distorting information, such as concerning contraception;
- Ensure full equality of persons with intellectual difficulties as regards sexual rights and secure adequate protection of their reproductive health.

**10. Rights of sexual minorities**

The number of reports on transgender human rights violations increased in 2009. The legislation covering the change of sex and name in personal documents contains no mechanisms for the protection of the right to privacy. Same-sex couples are still not guaranteed the same rights as heterosexual ones, and the Same Sex Union Act only guarantees two rights to same-sex couples. The educational system still contains no content which educates on homosexuality in an objective and non-discriminatory manner. The fascist protest "Antigay Protest against the Gay Parade – it is unacceptable that they impose their grotesque lifestyle on us", organised by the Croatian Pure Party of Rights and the Croatian Nationalists, did not take place in 2009. The protest organisers' standpoints were based on Nazi ideas of superiority of the white race, and web-pages of the organisers and protest announcements were equipped with fascist iconography and instructions on making weapons (Molotov cocktails). In spite of all this, the assembly was not prohibited.

**Recommendations:**

- Legally ensure equal rights to transgender and homosexual individuals.
- Ensure a legal right to privacy to transgender individuals.

- Sanction hate speech against transgender and homosexual persons.

### **11. War crime court proceedings in Croatia**

Court proceedings<sup>i</sup> against members of Croatian military formations are often burdened with support for the accused by the part of a portion of the public, veterans associations and politicians. The most vivid example is the escape from Croatia to Bosnia and Herzegovina by an accused parliament member, as a consequence of the fact that the Parliament denied to hold him in custody – a direct interference of the legislature in judicial competences. In spite of a declaratory emphasis put on the necessity to persecute and sanction all perpetrators, in proceedings against members of Croatian military formations, participation in the Croatian War of Independence is considered as a mitigating circumstance influencing the pronounced sanction, which raises the question of the equality of the accused. Members of Croatian military formations are only charged if the points at issue are events with gravest (deadly) consequences, while members of Serbian military formations are charged also for other (less serious) crimes. The judiciary is burdened with the consequences of earlier unprofessional and ethnically partial court proceedings against members of Serbian military formations held in the absence of the defendant. Since 2004, the State Attorney's Office withdrew charges or changed the criminal qualification to armed mutiny for around 750 members of Serbian formations. Since the amendments of the Criminal Procedure Act enabled the state attorney to request the reopening of criminal procedures in favour of absent convicts, the state attorney's office requested the reopening of procedures against 90 convicts<sup>ii</sup> in 2008 and 2009.

10-12 county courts judge in the first instance, some of which do not have a sufficient number of criminal judges, or technical prerequisites necessary for such proceedings. Not infrequently, council members are judges from county court civil departments. The (optional) competence of county courts in Zagreb, Osijek, Rijeka and Split is very rarely used.

It is not to be expected that all crimes will be persecuted, however, the ratio of reported to processed cases is disturbing. 402 of the reported 703 cases are currently in the pre-investigative phase, given that the perpetrators are unknown.<sup>iii</sup>

Families of victims of war lose cases in which they sued the state for non-material damages. Proceedings following criminal convictions are an exception. After losing the case, plaintiffs are obliged to pay high procedural expenses. Although some of the plaintiffs are no longer charged with the expenses, expense compensation has yet not been completely settled.

In Croatia and other post-Yugoslav states, war crimes committed on the other side of the war are often pointed out and exaggerated, while there still exists a strong identification and solidarity with the accused of war crimes who come from one's own community, while the victims are neglected. The lack of political will for determining facts on all crimes incited the initiative for the foundation of an inter-state Regional commission with the mandate to determine and publicly reveal facts on war crimes and other severe human rights violations in former Yugoslavia (**REKOM**<sup>iv</sup>).

#### **Recommendations:**

- Put first instance proceedings under the exclusive competence of the county courts in Zagreb, Osijek, Rijeka and Split, and include only judges experienced in the gravest criminal cases on war crime councils.
- Strengthen the cooperation with judicial bodies of states in the region, for a more effective persecution of war crimes.
- Completely solve the issue of expense compensation in proceedings for compensation of damages for wrongful death of close family members; establish a legal mechanism for compensation of damages for wrongful death in accordance with the UN General Assembly Resolution "Basic Principles and Guidelines on the Right to a Remedy and

Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law".<sup>v</sup>

- Develop and construct a support system for victims and witnesses in courts, State Attorney Offices and the police.
- Secure support for the foundation of REKOM in society and governmental institutions.

## **12. Asylum seekers rights**

The Republic of Croatia has a relatively low number of recognised asylum statuses and subsidiary protections. Since 1997, the number of requests is disproportional to the number of granted asylums (none has been granted till 2006). Since 1997, the Republic of Croatia received more than 1,300 asylum requests. Only 3 of the total of 147 requests for asylum were granted in 2009. The new 2008 Asylum Act contains a provision on an accelerated procedure in "obviously unfounded cases", whereby Ministry of Internal Affairs officials have the right to discretionary interpretation, considering particular illegal migrants not to be 'true asylum seekers'. The frequent practice of the Reception Center for Foreigners Ježevo and the Ministry of Internal Affairs of preventing illegal migrants/asylum seekers to leave from the closed center to the open center (Reception center for asylum seekers in Kutina) should be considered a serious omission. The rights of asylum seekers accommodated in the Reception Center Ježevo guaranteed by the Asylum Act – the freedom of movement, social and psychological support, financial aid – are systematically limited.

### **Recommendations:**

- Develop transparent, coordinated and sustainable integration policies for persons who were granted the asylum and asylum seekers.
- State institutions dealing with asylum issues should open the decision-making process to CSOs, especially those engaged in human rights and social service provision, and enable them to work directly with asylum seekers.
- Standardise the procedure with asylum seekers in order to stop the locking-in practice and human rights violations.

## **13. Elections in the Republic of Croatia**

Certain election issues like contradictory and divergent legal frameworks that need to be harmonised, have not yet been settled. Especially important are the issues related to electoral rolls, voting from abroad and an unsatisfactory education of voters. The State Election Committee still does not function on a permanent basis, with professional members and employees.

### **Recommendation:**

- Adopt an Election Act and completely professionalize election bodies.

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<sup>i</sup> According to data from the Follow-up on War Crimes, Report for the Year 2009, [www.centar-za-mir.hr](http://www.centar-za-mir.hr), [www.documenta.hr](http://www.documenta.hr)

<sup>ii</sup> 464 persons in total have been convicted of war crimes in absence of the defendant

<sup>iii</sup> According to data from the Yearly report on the activities of State Attorney's Offices [www.dorh.hr/GodisnjeIzvjescjeO](http://www.dorh.hr/GodisnjeIzvjescjeO)

<sup>iv</sup> More on the initiative on the web page of the Coalition for REKOM [www.korekom.org](http://www.korekom.org)

<sup>v</sup> A/RES/60/147 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, <http://www2.ohchr.org/english/law/remedy.htm>