

Council of Europe contribution for the 22nd UPR session regarding Croatia

Prevention of torture

2012 periodic visit

On 18 March 2014, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its visit to Croatia from 19 to 27 September 2012, together with the Croatian Government's response (both documents are attached below).

In the course of the 2012 visit, the CPT received only a few allegations of physical ill-treatment and verbal harassment by law enforcement officials either at the time of apprehension or during questioning at police stations. The report examines the application of the procedural guarantees contained in the 2009 Code of Criminal Procedure and recommendations are made aimed at strengthening the formal safeguards (access to a lawyer, access to a doctor) against ill-treatment of detained persons.

As regards prisons, the great majority of inmates met by the CPT's delegation indicated that they had been treated in a correct manner by custodial staff. However, some allegations of physical ill-treatment of inmates by prison officers were received in each of the prisons visited, including in the Hospital for Persons deprived of their Liberty in Zagreb. The allegations consisted primarily of slaps and punches to various parts of the body and often related to the time when inmates were being placed in padded cells (known also as "rubber rooms") as a temporary security measure. The deleterious effects of overcrowding affected the living conditions in the prisons visited, notably at Zagreb County Prison which was 225% over its 400 bed capacity. The report puts forward several recommendations to reduce overcrowding, improve material conditions and expand the programme of activities on offer to inmates. Recommendations are also put forward to increase health care staffing levels and to improve medical screening on admission and psychiatric care of prisoners. Further, the CPT is critical of the procedures in place for the placement of inmates in padded cells, as well as the safeguards surrounding disciplinary proceedings and the confidentiality of prisoners' complaints.

At the psychiatric hospital and two social care homes visited, the report states that staff-patient/resident relations were positive and the atmosphere in the institutions was relaxed. However, the living conditions in all three institutions were cramped, with beds in many dormitories touching one another and residents having no personal lockable cupboards. Further, the report is critical of the use of means of restraint at Rab Psychiatric Hospital and at the Stančić Centre for Rehabilitation. In this latter institution, the CPT's delegation observed a clear overuse of mechanical restraint, with approximately 40 residents, including children, fixed to beds and furniture for hours on end during the day and systematically at night without continuous monitoring. The isolation rooms were also totally unsuitable. The CPT recommends the adoption of a multifaceted strategy to substantially reduce or eradicate the use of means of restraint and isolation at the Stančić Centre for Rehabilitation.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.¹



2014-09-inf-eng.pdf



2014-10-inf-eng.pdf

¹ pp. 57-71.

Council of Europe Commissioner for Human Rights

On 17 June 2010, the Commissioner for Human Rights, Thomas Hammarberg released the report on his visit to Croatia from 6 to 9 April 2010.²

The Commissioner's report focuses on following major human rights issues:

- human rights of displaced persons and asylum seekers³
- proceedings relating to post-war justice⁴
- human rights of Roma⁵

The Commissioner provides specific conclusions and recommendations at the end of each section.⁶

Upon releasing his report, Thomas Hammarberg said that "Croatia has made important progress since its independence. However, solving serious human rights issues caused by the 1991-1995 war still require further determination".

The Commissioner underlined the fundamental right of all displaced persons to voluntary return in safety and dignity. He highlighted the urgent need to demine the parts of Croatia's territory still contaminated and to provide just and sustainable solutions to forced displacement. "Particular attention should be paid to the right of former occupancy/tenancy right holders, including those who either do not wish to or cannot return to Croatia. Lost or damaged property and the rights of displaced persons in this regard need to be dealt with promptly. Just solutions must be found also for displaced persons who need to convalidate pensionable years worked in areas not under government control."

Welcoming measures taken to enhance refugee protection, the Commissioner called for further improvements in asylum law and practice, in particular by ensuring free legal aid in first instance proceedings and allowing interviews in the accelerated procedures. "Specific care should be given to vulnerable groups of migrants, such as victims of torture and ill-treatment, victims of trafficking, and unaccompanied or separated children. A permanent reception centre for asylum seekers should be established to strengthen current limited capacities."

The Commissioner encouraged further efforts to effectively investigate the atrocities. "Victims should enjoy full access to justice and effective domestic remedies, including reparation." He welcomed the openness and determination shown by the authorities in this regard and urged them to strengthen their co-operation with the International Criminal Tribunal for the former Yugoslavia. Furthermore, underlining the importance of impartial history teaching for post-conflict countries, the Commissioner encouraged Croatia to strengthen the cooperation with neighbouring countries to enhance reconciliation and social cohesion.

Commissioner Hammarberg stressed that further action is needed to increase Roma representation in political life, public administration and the judiciary, as well as to better education, employment and housing. He urged the Croatian authorities to take additional measures to facilitate Roma access to citizenship, especially for children, and to reinforce free legal aid for the regularisation of their legal status.

Finally, whilst acknowledging the positive developments regarding anti-discrimination and anti-hate crime legislation, the Commissioner remained concerned about the persistence of anti-

² A summary of the report appears on pp. 2-3.

³ paras. 10-52.

⁴ paras. 70-93.

⁵ paras. 105-141.

⁶ paras. 53-69, 94-104, 142-155.

Roma manifestations, including violence, and recommended correcting the failures of the justice system and ensuring effective investigations.

The Commissioner's report on his 2010 visit to Croatia, to which is attached the response of the Croatian authorities, appears below.



Report 2010.pdf

On 11 April 2013, the Commissioner for Human Rights, Nils Muižnieks, published his letters addressed to the Prime Minister of Public Administration of Croatia, Mr Arsen Bauk, and the Chairperson of the Parliamentary Gender Equality Committee, Ms Nansi Tireli. In the context of the ongoing reform of the Croatian Registries Act, the Commissioner called on the Croatian authorities to take advantage of this occasion to clarify the legal framework governing the official recognition of trans persons' preferred gender.

The Commissioner's letters to the Croatian Minister of Public Administration and Chairperson of the Parliamentary Gender Equality Committee are attached below.



Letter Minister
2013.pdf



Letter Committee
Chairperson.pdf

Fight against racism and intolerance

On 25 September 2012, the European Commission against Racism and Intolerance (ECRI) published its fourth report on Croatia.⁷ ECRI's Chair, Mr Jenö Kaltenbach, said that, despite positive developments, there were issues of concern, such as the impact on inter-ethnic relations of the under-representation of persons belonging to national minorities in the public administration and the courts, and in particular the low number of Serbs in the police at local level, and the fact that many Roma still do not have personal identity or citizenship documents.

Since ECRI's previous report, the new Criminal Code defines hate crime and hate motivation can be an aggravating circumstance in the determination of the penalty. The Anti-Discrimination Act of 2008 designates the Ombudsman as the central body for the suppression of discrimination. Significant resources have been invested in addressing inequalities faced by Roma; pre-school facilities are now available to all Roma children and measures are being taken to put an end to separate Roma-only classes.

However, the drop-out rate among Roma pupils is still high. Integration is a problem for refugees; language classes are provided only at two licensed centres and access to employment and housing is difficult. Failings in the care of unaccompanied migrant minors include lack of appropriate medical screening, age-assessment testing, recording and tracing.

The report contains findings and recommendations regarding the following issues:

- Existence and implementation of legal provisions⁸
- Discrimination in various fields including education, employment, housing and administration of justice⁹
- Racism in public discourse¹⁰
- Racist violence¹¹
- Vulnerable/target groups including returnees, national/ethnic minorities, refugees and asylum seekers and other non-nationals¹²

⁷ A summary of the report can be found on pp. 7-8.

⁸ paras. 1-58.

⁹ paras. 59-107.

¹⁰ paras. 108-123.

¹¹ paras. 124-130.

- Antisemitism¹³
- Conduct of law enforcement officials¹⁴
- Education and awareness-raising¹⁵
- Monitoring racism and racial discrimination¹⁶

The following three recommendations were selected for priority implementation to be revisited two years later:

- Ensure appropriate training to the judiciary and police on applying the new Criminal Code provisions on combating racism and racial discrimination as well as the Anti-Discrimination Act;
- Improve the Law on Free Legal Aid so that vulnerable groups are not denied access to justice;
- Adopt a comprehensive strategy for migrants, asylum seekers and refugees, paying particular attention to unaccompanied minors.

ECRI's report on Croatia, which includes Government observations, is attached below.



HRV-CbC-IV-2012-04
5-ENG.pdf

Protection of minorities

Framework Convention for the Protection of National Minorities

On 6 July 2011, the Committee of Ministers adopted a resolution on the protection of national minorities in Croatia (attached below). The resolution contains conclusions and recommendations, highlighting positive developments¹⁷ but also mentioning issues of concern¹⁸. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I¹⁹ and II²⁰ of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

Issues for immediate action²¹

- complete promptly and without any discrimination all pending cases concerning the repossession and reconstruction of private property;
- continue the implementation of the "Housing Care Programme for Refugees – Former Tenancy Right Holders (FTRH) who wish to return to Croatia";
- prevent, identify, investigate, prosecute and sanction, as necessary, all racially and ethnically-motivated or anti-Semitic acts; take decisive action against racist and anti-Semitic acts perpetrated prior to, during and after football matches in the spirit of the Committee of Ministers' Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport;
- review the procedures applicable to the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary,

¹² paras. 131-212.

¹³ paras. 213-218.

¹⁴ paras. 219-225.

¹⁵ paras. 226-229.

¹⁶ paras. 230-234.

¹⁷ Part 1.a) of the resolution.

¹⁸ Part 1.b) of the resolution.

¹⁹ paras. 6 - 35 of the third Opinion of the Advisory Committee on the Framework Convention on Croatia.

²⁰ paras. 36 - 193 *ibid*

²¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

local government and public enterprises, in conformity with Article 22 of the Constitutional Act on the Rights of National Minorities; observe stricter monitoring and enforce possible sanctions, in order to ensure the full and effective implementation of this provision at all levels;

- review legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view to eliminating the identified shortcomings, as regards the representativity of these organisations, their funding and their co-operation with local authorities.

Further recommendations²²

- continue the dialogue with the group of persons identifying themselves as “Muslims” by nationality regarding the possibility of including them in the scope of application of the Framework Convention;
- review the provisions on the acquisition of dual citizenship in order to avoid unequal treatment based on ethnic origin;
- undertake further efforts to prevent, to combat and to sanction the inequality and discrimination suffered consistently by the Roma; thoroughly investigate any complaint of alleged discrimination of Roma in access to employment and provision of goods and services;
- prosecute and sanction adequately perpetrators of discriminatory acts; step up efforts, in particular at local level, to improve the living conditions of Roma and promote their inclusion into society;
- review the demand for the introduction of bilingual topographical signs and for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to national minorities and ensure that the right to use a minority language and script in relations with the administrative authorities is respected in all bodies of local self-government where the law is applicable;
- put an end, without further delay, to the continued segregation of Roma children in schools and redouble efforts to remedy other shortcomings faced by Roma children in the field of education.

The Committee of Ministers’ resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on Croatia²³. The concluding remarks, contained in Section III²⁴, serve as the basis for the Committee of Ministers’ Resolution. The Opinion of the Advisory Committee is also attached below.



CM Croatia.doc



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European Charter for Regional or Minority Languages

On 8 December 2010, the Committee of Ministers made public the fourth report on the application of the European Charter for Regional or Minority Languages by Croatia. The report drawn up by the Committee of Independent Experts, which monitors the application of the Charter, is contained in the attachment below.

On the basis of this report, the Committee of Ministers in its Recommendation on the application of the European Charter for Regional or Minority Languages by Croatia recommends the authorities to:

- continue efforts to promote awareness and tolerance vis-à-vis the regional or minority languages and the cultures they represent as an integral part of the cultural heritage of Croatia, both in the general curriculum at all stages of education and in the media;
- take measures to ensure that speakers can use in practice their regional or minority languages in relations with the relevant branches of the State administration;

²² *Idem.*

²³ A summary of the report can be found on pp. 2 - 3.

²⁴ paras. 194 - 208.

- improve the system of regional or minority language education to make it more easily accessible;
- strengthen, and where relevant, introduce the teaching of Slovak, Ruthenian and Ukrainian at all appropriate stages of education in co-operation with the speakers;
- continue efforts to introduce equal and official use of regional or minority languages in those areas where there is a sufficient number of speakers, and to ensure the implementation of local self-government statutes, if necessary with appropriate assistance.



CroatiaECRML4_en.pdf

Action against trafficking in human beings

On 30 November 2011, the Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation report on Croatia²⁵, together with the final comments of the Croatian Government. Both documents are contained in the attachment below.

In its concluding remarks²⁶ GRETA welcomed the importance and place that is given to action against trafficking in human beings (THB) by the Croatian authorities, as well as the comprehensive framework which has been set up to combat this phenomenon. However, to bring all anti-trafficking measures into full compliance with the human rights-based approach adopted by the Convention, GRETA considered that the Croatian authorities should take further steps in the areas of prevention, identification of victims and providing them with assistance and protection. In GRETA's view, carrying out research on THB trends, including on gender aspects of trafficking and trafficking in children, as well as undertaking an independent evaluation of the effectiveness of anti-trafficking measures, will reinforce the human rights-based approach.

Further, GRETA considered that the application of the criminal legislation could be improved, in particular by providing adequate training to legal professionals in order to secure sentences for traffickers, which are commensurate with the gravity of this offence. The Croatian authorities should also take steps to ensure that victims of trafficking have effective access to legal redress and compensation, regardless of their nationality and the types of injuries suffered.

In its report, GRETA provides a complete list of proposals to the Croatian authorities.²⁷



GRETA_2011_20_FG_R_HRV_en.pdf

Preventing and combating violence against women and domestic violence

Croatia has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure under this Convention.

Fighting corruption

On 6 December 2013, the Group of States against Corruption (GRECO) published its Second Compliance Report on Croatia within the Third Evaluation Round covering two distinct themes, namely "Incriminations" and "Transparency of party funding". In its report GRECO concluded that Croatia has implemented satisfactorily all of the eleven recommendations contained in the Third

²⁵ A summary of the report can be found on p. 7.

²⁶ paras. 139 - 142.

²⁷ Appendix I.

Round Evaluation Report.²⁸ The Second Compliance Report on Croatia from 2013 is attached below.



GrecoRC3(2013)28_
Second_Croatia_EN.r

On 25 June 2014, the Group of States against Corruption (GRECO) published its Evaluation Report on Croatia within its Fourth Evaluation Round dealing with “Corruption prevention in respect of members of parliament, judges and prosecutors”.. In its report GRECO gives credit to the efforts made by Croatia to fight corruption in public life. However, despite the many encouraging steps taken, Croatian citizens’ trust in their key institutions remains low. This negative perception is particularly troublesome with respect to the judiciary and politicians.

The credibility gap in the judicial system must be addressed as a matter of priority, including by making the public aware of the tangible reforms introduced to strengthen its independence and efficiency. There is still room for improvement of the relevant counselling and accountability mechanisms of judges and prosecutors to prevent corruption risks and to dispel shadows of doubt on the integrity and transparency of the judiciary.

GRECO positively values the measures introduced to enhance openness of parliamentary work and to prompt public participation in law and policy making. It encourages Parliament to step up its own capacity to address real and potential conflicts of interests and to sanction those who fall short of acceptable standards of ethical conduct.

The implementation of the 11 recommendations addressed to Croatia will be assessed by GRECO in the first half of 2016 through its compliance procedure. The Fourth Round Evaluation report on Croatia is attached below.



GrecoEval4(2013)7_
Croatia_EN.pdf

Execution of judgments and decisions of the European Court of Human Rights

At 31 December 2013, there were 158 cases against Croatia pending before the Committee of Ministers for supervision of their execution. 55 of these cases were a “leading case”, i.e. raising a new structural/general problem and requiring the adoption of general measures, the other cases being “repetitive cases” concerning issues already raised before the European Court of Human Rights. The main case or group of cases revealing such structural problems is listed below:

- ❖ Lack of effective and independent investigations into crimes committed during the Croatian Homeland War (1991-1995) - *Skendzic and Krznaric and other similar cases*, No.16212/08, Judgment final on 20/04/2011

The document attached presents a brief description of the violations and the latest detailed decisions taken by the Committee of Ministers and the responses given thereto by the respondent state.



Status execution
judgments Croatia.pc

²⁸ Conclusions in Section III of the report, paras. 20-25.

Social and economic rights

Croatia ratified the European Social Charter as well as the Additional Protocol to the Charter on 26/02/2003. It has accepted 40 of the Charter's 72 paragraphs, and 3 of the 4 articles of the Additional Protocol.

Croatia ratified the Amending Protocol to the Charter and the Additional Protocol providing for a system of collective complaints on 26/02/2003. It has not made a declaration enabling national NGOs to submit collective complaints.

Croatia signed the Revised European Social Charter on 6 November 2009, but has not yet ratified it.

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

▶ Article 1§1– Right to work - Policy of full employment

Employment policy efforts have been inadequate in combatting unemployment and promoting job creation.

(Conclusions XX-1 (2012), p. 4)

▶ Article 1§2– Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

List of jobs which are barred to foreign nationals is too broad.

(Conclusions XX-1 (2012), p. 5)

▶ Article 1§4– Right to work - Vocational guidance, training and rehabilitation

-The right to vocational guidance is guaranteed;

-The right to specialised guidance and training for persons with disabilities is guaranteed.

(Conclusions XX-1 (2012), p. 4)

▶ Article 9– Right to vocational guidance

It has not been established that the right to vocational guidance is guaranteed equally to nationals of other States Parties.

(Conclusions XX-1 (2012), p. 6)

Thematic Group 2 "Health, social security and social protection"

▶ Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need

it has not been established that means of subsistence are guaranteed to persons in need, whose social assistance is withdrawn as penalty for having refused a job offer;

the level of social assistance is manifestly inadequate;

nationals of other States Parties are subject to an excessive length of residence requirement to be eligible for social assistance.

(Conclusions XX-2 (2013), p. 10)

▶ Article 13§4 – Right to social and medical assistance - Specific emergency assistance for non-residents

It has not been established that all non-resident foreign nationals in need – whether legally present or in an irregular situation – are entitled to emergency medical and social assistance.

(Conclusions XX-2 (2013), p. 13)

Thematic Group 3 "Labour rights"

► Articles 2§1 – Right to just conditions of work - Reasonable working time
Regulations permit daily working time of 14 hours over long periods in various seasonal occupations.

(Conclusions XIX-3 (2010), p. 14)

► Articles 2§2 – Right to just conditions of work - Public holidays with pay
It has not been established that the right to public holidays with pay is guaranteed.

(Conclusions XIX-3 (2010), p. 15)

► Article 6§1 – Right to bargain collectively – Joint consultation
It has not been established that joint consultation covers all matters of mutual interest.

(Conclusions XIX-3 (2010), p. 9)

► Article 6§2 – Right to bargain collectively – Negotiation procedures
It has not been established that civil servants are entitled to participate in the processes that result in the determination of the regulations applicable to them.

(Conclusions XIX-3 (2010), p. 11)

► Article 6§3 – Right to bargain collectively – Conciliation and arbitration
It has not been established that arbitration procedures exist in the public sector.

(Conclusions XIX-3 (2010), p. 11)

► Article 6§4 – Right to bargain collectively – Collective action
The right to call a strike is reserved only to trade unions the formation of which may take up to thirty days which is excessive.

(Conclusions XIX-3 (2010), p. 12)

► Article 2 of the 1988 Additional Protocol – Right of workers to be informed and consulted
It has not been established that legal provisions governing the information and consultation of workers cover all categories of workers and all undertakings.

(Conclusions XIX-3 (2010), p. 14)

Thematic Group 4 "Children, families, migrants"

► Article 7§4 – Right of children and young persons to protection – Working time for young persons under 16

Working hours for persons between the age of fifteen and sixteen are excessive.

(Conclusions XIX-4 (2011), p. 6)

► Article 7§5 – Right of children and young persons to protection - Fair pay
Apprentices do not enjoy a right to appropriate allowances.

(Conclusions XIX-4 (2011), p. 7)

► Article 7§6 - Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time

Time spent by young workers in vocational training is not considered as working time.

(Conclusions XIX-4 (2011), p. 8)

► Article 8§3 - Right of employed women to protection - Time off for nursing mothers
Breastfeeding breaks are not paid as normal working hours and that the amount of the benefits paid in lieu may result in loss of salary.
(Conclusions XIX-4 (2011), p. 12)

► Article 16 – Right of the family to social, legal and economic protection
Equal treatment of nationals of other States party in the payment of family benefits is not ensured because of excessive residence requirement
(Conclusions XIX-4 (2011), p. 18)

► Article 17 – Right of mothers and children to social and economic protection
Young imprisoned offenders are not in all circumstances separated from adults.
(Conclusions XIX-4 (2011), p. 20)

Please find attached below Conclusions XIX-3 (2010), XIX-4 (2011), XX-1 (2012), XX-2 (2013) regarding Croatia as well as the country fact sheet.



CroatiaXIX3_en.pdf



CroatiaXIX4_en.pdf



CroatiaXX1_en.pdf



CroatiaXX2_en.pdf



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