

# **2nd CYCLE UNIVERSAL PERIODICAL REVIEW**

## **REPUBLIC OF CROATIA**

**(Submitted on 15 September 2014)**

**Croatian NGO coalition report prepared and submitted by the following independent human rights NGOs:**

- Human Rights House Zagreb (HRHZ)
- B.a.B.e. Be active. Be emancipated (member of the Human Rights House Zagreb)
- Center for Peace Studies (member of the Human Rights House Zagreb)
- Documenta - Centre for Dealing with the Past (member of the Human Rights House Zagreb)
- Civic Committee for Human Rights (member of the Human Rights House Zagreb)
- Svitanje – Association for Protection and Promotion of Mental Health (member of the Human Rights House Zagreb)
- UPIM – Association for Promotion of Equal Opportunities for People with Disabilities (member of the Human Rights House Zagreb)
- Serbian Democratic Forum
- Association for Self-Advocacy

With the support of and in cooperation with the Human Rights House Foundation.

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*(Submission of 5'629 words without footnotes.)*

## Introduction

1. This report is a joint contribution to the 22<sup>nd</sup> session of the Universal Periodic Review (UPR) for the Republic of Croatia and it was prepared by a joint ad hoc coalition of civil society organisations from Croatia. This coalition has significant experience in working together on monitoring and reporting the state of human rights within the Human Rights House Network and the coalition Platform 1121. The current report provides an assessment of the status of the implementation of the 80 recommendations addressed to Croatia during its first Universal Periodic Cycle and new recommendations on their further implementation.

2. The NGO's coalition is composed by the following organisations: Human Rights House Zagreb (B.a.B.e. Be active. Be emancipated, Center for Peace Studies, Documenta - Centre for Dealing with the Past, Civic Committee for Human Rights, Svitanje – Association for Protection and Promotion of Mental Health, UPIM – Association for Promotion of Equal Opportunities for People with Disabilities), Serbian Democratic Forum and Association for Self-Advocacy with the support of and in cooperation with the Human Rights House Foundation.

### Scope of international obligations

*Recommendations P-98.1,2,3,22; A-97.1,16; A-96.7,8;*

3. The Republic of Croatia has ratified almost all relevant international conventions and optional protocols concerning the protection of human rights<sup>2</sup>. Some of the main issues remain the poor or non-implementation of international human rights law as well as the lack of a regular reporting to the treaty bodies system and the insufficient participation/ consultations of CSO in the country. Croatian citizens are not aware of the obligations arising from the ratification of international obligations and treaties and of the importance to assess and to implement the recommendations made by international human rights bodies, including the Human Rights Council's universal periodic review.

### Institutional and human rights infrastructure

*Recommendations A-96.1; A-97.3, 4, 5, 6, 7*

4. The national institutions responsible for the protection of human rights have an increased relevance since Croatia is no longer under the monitoring mechanism of the EU. Although several recommendations demand that Croatia continues to develop and consolidate its national human rights institutions, opposite trends may be detected. Merging of the Government Office for Human Rights with the Office for National Minorities resulted in the deterioration of the Government's capacity to advance the protection of human rights. In particular, the new Government Office lost its proactive role in creating and coordinating the development and the implementation of public policies and legislations

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<sup>1</sup> Human Rights House Zagreb (as a network) published Report on the State of Human Rights in the Republic of Croatia for 2012 and 2013 (available at: <http://www.kucaljudskihprava.hr/tekstovi/izvjestaji>); Platform 112 published several joint monitoring reports (all available at: <http://www.kucaljudskihprava.hr/tekstovi/112-zahtjeva-za-drugaciju-hrvatsku>). Member CSOs of this ad hoc coalition regularly published their monitoring reports which are all available on organisations' web sites.

<sup>2</sup> Croatia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

dealing with human rights. Thus, the Government does not have any longer an effective infrastructure for the promotion and the protection of human rights<sup>3</sup>.

5. The Government of Croatia undertook several initiatives to upgrade the capacity and the status of the Ombudsperson, including the introduction of the new Ombudsman Act<sup>4</sup>, the possibility for the Ombudsman to carry out National Preventive Mechanism's tasks<sup>5</sup>, the establishment of the Council of the Ombudsman for Human Rights and the conclusion of the Agreement on Inter-Institutional Cooperation between three specialised ombudsman offices (gender equality, people with disabilities, children). However, the work of all four new established offices is still not sufficiently recognised and valued by the Croatian Parliament and Government institutions, as well as by the citizens.

6. Among all the aforementioned institutions, the Government Office for Gender Equality remains the least visible and successful. Defined as a “service and advisory body” of the Government<sup>6</sup>, the Office never received the authority to implement any measures independently. The Office also failed in executing the tasks envisioned by the Gender Equality Act<sup>7</sup>. Moreover, the Office itself, or better to say its Head, did not raise any debate or issue any statements related to the lack of support. On the contrary, the office of the Ombudsperson for Gender Equality has grown steadily and has put significant efforts to increase its visibility and influence. However, too often the Government’s bodies and institutions don’t accept the recommendations and warnings issued by the Ombudsperson.

### **Judicial independence and Access to Justice (Free Legal Aid)**

*Recommendations A- 97.47, 48, 49, 50, 52, 53; A-98.10,11*

7. The introduction of the Integrated Curriculum Management System (automatic case allocation) increased the independence of the judiciary and contributed to diminish corruption. However, the system has not been introduced for war crimes and USKOK (Bureau for Combating Corruption and Organized Crime) cases.

8. The amendments to the Constitution of the Republic of Croatia (OG 76/10), abolished the provision stipulating that judges and state attorneys are appointed for a period of five years in their first term - prior to their permanent appointment - which was considered a threat to judicial independence. Starting from the 1 January 2013, first time appointed judges to municipal, misdemeanour, commercial

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<sup>3</sup> Source: Civil Society Assessment Report of the Croatian Government Performance in view of 112 Requests (available at:

[http://gong.hr/media/uploads/20130326\\_platform\\_112\\_annual\\_assessment\\_report\\_of\\_croatian\\_government.pdf](http://gong.hr/media/uploads/20130326_platform_112_annual_assessment_report_of_croatian_government.pdf))

<sup>4</sup> Official Gazette No. 76, 2012

<sup>5</sup> According to the requirements stipulated in the Act on National Preventive Mechanisms against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM) and Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

<sup>6</sup> Gender Equality Act, Article 18 (1) (available at: <http://www.ured-ravnopravnost.hr/site/the-act-on-gender-equality-nn-8208.html>)

<sup>7</sup> Gender Equality Act, Article 18 (2): “The Office shall perform technical and other tasks by: 1. coordinating all activities aimed at ensuring gender equality, developing an integrated system of protection and promotion of gender equality in the Republic of Croatia and monitoring its efficiency, 2. approving action plans of the bodies and entities referred to in Article 11 of the Act, 3. submitting proposals to the Government of the Republic of Croatia for the adoption or amendments of laws and other regulations, and the adoption of other measures, 4. developing the national policy for the promotion of gender equality and monitoring its implementation, 5. conducting surveys, developing analyses and submitting two-yearly reports to the Government of the Republic of Croatia on the implementation of the national policy, etc. (available at: <http://www.ured-ravnopravnost.hr/site/the-act-on-gender-equality-nn-8208.html>)

and administrative courts, as well as new deputy state attorneys appointed in municipal state attorneys' offices, can be selected only among candidates who have completed the State's School for Judicial Officials at the Judicial Academy. In order to safeguard the independence of the judiciary, the decisions on the nomination or dismissal of judges or their career advancements, are published on the web site<sup>8</sup> of the Judicial State Council. However the publication of the decisions lack sufficient explanations and the same procedure should be applied for the nomination or dismissal of prosecutors.

9. The Act on Courts<sup>9</sup> introduced several amendments aiming at improving the efficiency of the judiciary and to reduce backlog of cases, but their implementation is still not visible in practice. In addition, the obligation of the President of the Supreme Court to submit an annual report to the Croatian Parliament remains extremely problematic. The request of the Parliament to evaluate the work of the Judiciary doesn't respect a strict division of the judicial, executive and legislative powers.

10. At the end of 2013 the Government of Croatia passed a new and significantly improved Free Legal Aid Act (FLA) addressed to ensure access to justice for vulnerable groups, but it's implementation has not started yet. Consequently, the access to justice is still denied to poor and socially marginalised citizens. Moreover, Croatia invests only the 0.001% of their budget per capita for FLA, which is far below the European average, and despite the fact that more than the 30% of its citizens are at risk of poverty<sup>10</sup>. The constant changes of laws generate chaos in the judiciary and prevent the creation of a steady jurisprudence, at the same time causing legal uncertainty and thus undermining the rule of law. CSO often witness opposite opinions and judgments on the same issues, issued by two judicial counsels at the same court.

### **Recommendations:**

- Take necessary financial measures to guarantee anyone's access to legal aid;
- Implement the automatic case allocation in all criminal courts;
- Invest significant efforts in the creation of a steady jurisprudence.

### **Discrimination, discrimination based on gender in the labour market, hate crime, racism and xenophobia**

*Recommendations A - 97.10, 17,18, 20, 27, 30, 65, 73; A-98.15,16*

11. The Anti-Discrimination Act (ADA)<sup>11</sup> was amended in 2012, but the recommendations provided by CSOs were not included in the new text. Furthermore, ADA mechanisms are being used only sporadically, and there are only few relevant anti-discrimination case law<sup>12</sup>. Since 2014, the office of the ombudsman publishes a report on discrimination as an integral part of its annual report. Human

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<sup>8</sup>Available at:

[http://www.dsv.pravosudje.hr/index.php/dsv/odluke\\_dsv\\_a/odluke\\_110\\_sjednice\\_drzavnog\\_sudbenog\\_vijeca](http://www.dsv.pravosudje.hr/index.php/dsv/odluke_dsv_a/odluke_110_sjednice_drzavnog_sudbenog_vijeca)

<sup>9</sup> Official Gazette No. 28, 2013

<sup>10</sup>Source:

[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/People\\_at\\_risk\\_of\\_poverty\\_or\\_social\\_exclusion](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/People_at_risk_of_poverty_or_social_exclusion)

<sup>11</sup>Available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/340327.html> (last accessed on August 26<sup>th</sup> 2014)

<sup>12</sup> Especially, CSOs don't use mechanisms such as joint legal/associational complaint mechanism that would be valuable for creating case law as CSOs usually don't have the funds to raise cases before the courts. There are few examples from the past period: CSOs Zagreb Pride, Queer/Domino Zagreb, LORI and CPS vs Franjo Jurčević, CSOs Zagreb Pride, Queer/Domino Zagreb, LORI and CPS vs Vlatko Marković, CSOs Zagreb Pride, Queer/Domino Zagreb, LORI and CPS vs Zdravko Mamić – all cases of discrimination on the ground of sexual orientation by ADA.

rights CSOs published separate annual reports in which they elaborate important case studies, and presented recommendations on how the policies and legislation should be improved and implemented<sup>13</sup>.

12. The National AD Plan failed to accomplish the envisioned results<sup>14</sup>. The definition of discrimination, as well as the objectives and measures set to eradicate discrimination in the country were not adequate and realistic to be accomplished (no indicators, time frame, exact implementers, etc.), and the document was not harmonised with other relevant documents. Therefore, the NADP failed in its implementation and in achieving the envisioned objectives.<sup>15</sup>

13. CSOs and State Institutions conducted many awareness-raising campaigns against discrimination. Those campaigns targeted the general public and demanded a change of attitude of the whole society towards vulnerable groups, including LGBT<sup>16</sup>, Roma<sup>17</sup>, persons with disabilities, women victims of violence, etc. which too often face discrimination in Croatia. Educational trainings of state officials, state attorneys, judges and police were executed too, with emphasis on discrimination towards LGBT persons, as CSOs working on LGBT rights were utmost active during the reporting period. The Ombudsman Office organised educational trainings on ADA for employees in the state administration together with the State School of Public Administration<sup>18</sup>. The Ombudsman Office also implemented campaigns and educational trainings on general ADA provisions<sup>19</sup> for different target groups. Nevertheless, researches proved that Ombudsman Office is still not visible among the general public.

14. Recommendations related to the elimination of discrimination based on gender in the labour market have not been taken into consideration. Women are the majority of unemployed population (in the last quarter of 2013, out of 21,1% of registered unemployed persons, women made the 52,9%<sup>20</sup>). There are several reported cases of women fired or degraded during a pregnancy leave as well as less paid than men for an equal work etc. Due to the un-effective judiciary, women workers remain unprotected. The recent change of the Labour Act has deteriorated the already poor working conditions of women, especially in the private sector, and has seriously affected their position as a working force.

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<sup>13</sup> Example: <http://www.cms.hr/suzbijanje-diskriminacije/report-on-implementation-of-the-anti-discrimination-act-in-2011-has-been-published> (last accessed August 26<sup>th</sup> 2014)

<sup>14</sup> Source: Report Umbrella against Discrimination – Analysis of Design of the National AD Plan and recommendations for improvement (2012) (available at: [http://www.centar-zamir.hr/uploads/2013/godisnje\\_izvjesce\\_za\\_2012.pdf](http://www.centar-zamir.hr/uploads/2013/godisnje_izvjesce_za_2012.pdf)) (last accessed August 26<sup>th</sup> 2014), pgs. 101 – 127

<sup>15</sup> In 2014, Office for Human Rights and Minority Rights to the Government of RoC will establish Expert working group that will draft and develop new NADP that will be adopted in 2015.

<sup>16</sup> Campaign „Because we care!“ by Zagreb Pride, Domino/Queer Zagreb and Centre for Peace Studies: [http://www.zagreb-pride.net/web/index.php?option=com\\_content&view=article&id=360&Itemid=59&lang=hr](http://www.zagreb-pride.net/web/index.php?option=com_content&view=article&id=360&Itemid=59&lang=hr) (last accessed on August 26<sup>th</sup> 2014), <http://youtu.be/Cq4TdRttniU>

Campaign „Equality“ by Kontra, <http://www.jednakost.hr/> (last accessed on August 26<sup>th</sup> 2014) and „Vote against“, <http://glasajprotiv.com/> (last accessed on August 26<sup>th</sup> 2014) by coalition of HR CSOs – both targeted on the referendum on amending Constitution of RoC to include provision on marriage as a union of a man and woman.

<sup>17</sup> Office for Human Rights and Minority Rights to the Government of RoC, [http://www.uljppnm.vlada.hr/index.php?option=com\\_content&view=article&id=46:odran-okrugli-stol-qromi-u-hrvatskoj-integracija-roma-u-hrvatsko-drutvoq&catid=2:novosti](http://www.uljppnm.vlada.hr/index.php?option=com_content&view=article&id=46:odran-okrugli-stol-qromi-u-hrvatskoj-integracija-roma-u-hrvatsko-drutvoq&catid=2:novosti) (last accessed on August 26<sup>th</sup> 2014)

<sup>18</sup> <http://ombudsman.hr/index.php/hr/top-stories/diskriminacija/340-zapocelo-odrzavanje-programa-provedba-zakona-o-suzbijanju-diskriminacije-u-drzavnoj-skoli-za-javnu-upravu> (last accessed on August 26<sup>th</sup> 2014)

<sup>19</sup> For example: <http://vimeo.com/88146409> and <http://ombudsman.hr/index.php/hr/zajavnost/publikacije/finish/36-publikacije/87-diskriminarni-ste-letak> (last accessed on August 26<sup>th</sup> 2014)

<sup>20</sup> *Monthly Statistics Bulletin*: Year XXVI/13: Croatian Employment Service at [http://www.hzz.hr/UserDocsImages/stat\\_bilten\\_12\\_2013.pdf](http://www.hzz.hr/UserDocsImages/stat_bilten_12_2013.pdf)

All amendments proposed by the Women's Front (Alliance of women's human rights groups and women's sections of trade unions) were rejected.

15. Through the reporting period, the Office for Human Rights and Minorities to the Government of RoC established a Task Force for monitoring hate crimes, which operates as an interdepartmental body under its coordination<sup>21</sup>. In 2011 the Task Force adopted a Protocol of Procedure for cases of hate crimes, which implies the urgent establishment of a cooperation amongst the authorities competent for the detection of the crime and the ones responsible for the treatment and follow-up of the results of proceedings. The Protocol is based on the commitments of the RoC established by the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe. The adoption of this document is based on the obligation of Croatia to establish a system of monitoring and management of statistical data on crimes of discrimination and criminal offenses related to hate crimes<sup>22</sup>

16. The Government invested efforts in combating racist and xenophobic attitude through the development of a better integration policy for foreigners. The Migration Policy of the Republic of Croatia for the period 2013-15 recognised that "for the successful integration of aliens into Croatian society it is very important to continuously implement the measure which secures - with the aim of preventing discriminatory practices and attitudes towards immigrants in the economic, social and cultural life - the right to an equal status in relation to Croatian citizens"<sup>23</sup>. The most important steps for combating racism and xenophobia are included in the Action plan for removing obstacles to the full exercise of rights in the field of integration<sup>24</sup>. One important case of a public reaction<sup>25</sup> against hate speech was also reported<sup>26</sup>.

### Recommendations:

- Amend the Anti Discrimination Act by re-defining the grounds of discrimination and exceptions from discrimination (Article 9);
- To draft a National Anti-Discrimination Plan in joint consultation with all relevant stakeholders (CSOs, ombudsman offices, local authorities, etc.) and in line with other AD policies, strategies, programs and/or plans and after experts have performed *ex-ante* evaluation;
- To develop a joint plan and to implement awareness raising campaigns targeting the general public or specific audience in cooperation with CSOs in order to disseminate shared values and messages.

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<sup>21</sup> <http://www.uljppnm.vlada.hr/> (last accessed on August 26<sup>th</sup> 2014)

<sup>22</sup> As established by Croatian negotiating position for Chapter 23 "Judiciary and Fundamental Rights", sub-measure 9.2.1. and in accordance with the objectives and measures of the National Programme for the Protection and Promotion of Human Rights 2008-2011 as well as the new National Programme for the period 2013-2016.

<sup>23</sup> The Migration Policy of the RoC for the period 2013-5 (available at: [http://www.mup.hr/UserDocsImages/minstarstvo/2013/Migration%20policy%20RoC\\_en\\_2013%2002%2005.pdf](http://www.mup.hr/UserDocsImages/minstarstvo/2013/Migration%20policy%20RoC_en_2013%2002%2005.pdf))

<sup>24</sup> Available at: [http://www.uljppnm.vlada.hr/images/30092013/Integration\\_Action\\_Plan.pdf](http://www.uljppnm.vlada.hr/images/30092013/Integration_Action_Plan.pdf)

<sup>25</sup> Following the statement of the Centre for Peace Studies and the Ethic Committee of the Croatian Journalist Association, there was a positive public reaction against a racist and xenophobic article on asylum seekers written by the journalist Heidi Karakas Jakubin and published in daily Jutarnji list, This was the first case of a serious public reaction against racism or xenophobia.

<sup>26</sup> Source: <http://www.cms.hr/azil/teza-opomena-vijeca-casti-hrvatskog-novinarskog-drustva>

## National minorities, Return of the Refugees and Housing

*Recommendations A-96.4, A-97.21, 24, 25, 69, 70, 71, 72, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86; A-98.6,7,17,18,19,20,21*

17. Croatia failed in the full implementation of the Constitutional Act on Rights of National Minorities<sup>27</sup> (CARNM), which is the key document on minority protection. The most critical areas for national minorities, particularly Serbian minorities and Roma people, are the access to employment and the right to use own language<sup>28</sup>. IN 2013, the local authorities of Vukovar started the implementation of the provisions of CARNM regarding the use of Serbian language. This initiative led to violent protests by the Croatian nationalists, supported by right winged parties and the Catholic Church. Under the name “Defence Headquarters for Protection of Croatian Vukovar”, the group collected enough signatures to request a Referendum that would limit the right to use minority language<sup>29</sup>, thus undermining the level of protection of minority rights<sup>30</sup>. In August 2014 the Constitutional Court banned the referendum. However, in its decision, the Court transferred the responsibility to implement this aspect of minority rights to the local authorities, leading to legal uncertainty and new difficulties in the protection of minority rights. On the other hand, the Councils of National Minorities, which operates as a minority self-government at the local level, do not have the authority to influence decisions of local authorities nor adequate funds for work<sup>31</sup>.

18. Croatia did not invest significant effort to promote ethnic dialogue and this is most evident in the war-affected areas. The curricular school education does not promote cultural and ethnic dialogue. Minorities, especially ethnic Serbs, are still underrepresented in public administration (2,38%) and in the judiciary (2,11%) in comparison to their percentage in the population (4,3%). Even if the formal representation of minorities in the executive bodies and governance at local level is ensured through a Councils of National Minorities (CNM), the elections for those Councils are not aligned with the elections for Local/Regional Governments. This creates problems in the definition of common goals and policies, while the election’s turnout is very low due to a lack of information and the to the fact that those elections are hold during summer. There is still no effective track record regarding court cases on hate speech or violation of minority rights<sup>32</sup>.

19. 18 years after the conclusion of the war, the process of return of refugees and displaced persons, and their housing, is still far from being finalised<sup>33</sup>. Nearly 50,000 refugees from Croatia are still located in the region and the main reason can be identified in the discriminatory legislation and the inefficiency of the authorities responsible for the return and reconstruction. Despite the existence of an apposite State Office, more than 30,000 applications for housing still have not been solved. In course of 2013 the office only solved 8 cases from a list of priority<sup>34</sup>. According to UNHCR data, the average duration of the process of return is 8 years, and administrative expenses for a family of four mounts to

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<sup>27</sup> Official Gazette No. 155 2002, No. 47 2010, No. 93 2011

<sup>28</sup> This is best shown in Annual Government Reports on implementation of CARNM for 2013 [http://www.uljppnm.vlada.hr/images/16072014/izvjesce\\_o\\_provedbi\\_uzpnm\\_-\\_za\\_2013.pdf](http://www.uljppnm.vlada.hr/images/16072014/izvjesce_o_provedbi_uzpnm_-_za_2013.pdf)

<sup>29</sup> <http://www.balkaninsight.com/en/article/croatia-serbian-language-dispute-sparks-discord>

<sup>30</sup> <http://www.balkaninsight.com/en/article/far-right-rears-its-head-again-in-croatia>

<sup>31</sup> <http://revus.revues.org/2235>

<sup>32</sup> Biljana Šumonja from Ogulin filed first claim for national discrimination in RoC in 2011. See: <http://www.novilist.hr/Vijesti/Hrvatska/Prva-tuzba-za-nacionalnu-diskriminaciju-u-Hrvatskoj-Nakon-otkaza-1991.-ne-mogu-dobiti-ni-posao-peracice>

<sup>33</sup> [http://www.unhcr.hr/images/stories/pdf/minority\\_return\\_en.pdf](http://www.unhcr.hr/images/stories/pdf/minority_return_en.pdf)

<sup>34</sup> <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220264>

4500 EUR. Since 2011, Croatia has systematically reduced allocations for return and housing despite the large number of pending applications, while on the other hand Regional Housing Programme is characterised by delays and a small number of its true consumers<sup>35</sup>. Regional Program started in Croatia only in 2014, and not as planned in 2013. Number of estimated users in Croatia is 8529 which is far less than pending requests for housing.

20. The major obstacle is a systematic socio-economic negligence in the areas where returnees homes are located: there are no services available (health care, social welfare, etc.), and often not even basic life conditions are secured such as electricity, water or heating.. The Law on Areas of Special State Concern is the most discriminatory Law when it comes to housing and return. The regional cooperation implemented through the Regional Housing Programme is burdened with delays and lack of domestic funding. Serbian returnees struggle to obtain social and pension rights. With regard to pension rights, Serb returnees face problems to obtain the recognition of the years of work conducted in the occupied territories during the war. Unsolicited investment claims are still unresolved but Amendments to the Law on Areas of Special State Concern are step in the right direction. In regard to citizenship, the Law on Foreigners does not make difference between foreigners from third countries and refugees from Croatia which significantly complicates the return of refugees and the Ministry of Interior still holds a discretionary right to ban the entry on the basis of safety assessments. A significant number of refugees were deprived of the right to return with the official claim that they participated in the war against Croatia, but without any proof-based evidence.

### **Recommendations**

- Establish an independent body to oversee the implementation of positive discrimination policies of national minorities in the employment sector and in the civil service;
- Adopt a new action plan for the implementation of CARNM based on an independent evaluation and audit of the previous Action Plan;
- Promote a culture of dialogue and tolerance and eliminate discrimination at all levels and educate citizens and members of ethnic minorities on minority rights;
- Abolish discriminatory legal provisions that prevent the return of certain groups of refugees (primarily the Serbian minority);
- Improve the housing system in order to resolve pending requests and speed up the administrative process of return;
- Put additional efforts and provide resources for the revitalisation of neglected areas to ensure sustainable return.

### **Violence against Women and Domestic Violence**

*Recommendation A-97.31, 32 , 34*

21. As reported<sup>36</sup> in November 2012 by Rashida Manjoo, UN Special Rapporteur on Violence against Women, its Causes and Consequences, during her ten-day fact-finding visit to Croatia, “domestic violence affects as many as one in three families, and up to 40 percent of Croatian citizens know at least one victim of domestic violence”. According to police statistics, 45 cases of domestic violence are reported every day in Croatia, with the number rising to 60 on holidays, when family

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<sup>35</sup> <http://reliefweb.int/report/serbia/refugees-issue-still-pending-balkans>

<sup>36</sup> See also : UN Report A/HRC/23/49/Add.4

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-49Add-4\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-49Add-4_en.pdf)

tensions often run high. Croatia adopted several progressive legislation and international conventions on gender-based violence, but observed numerous shortcomings in their implementation. The republic Croatia signed, but did not ratify the Istanbul Convention, most probably due to its obligations in the area of sheltering and support to victims. As reported by the UN independent expert, the State authorities tended to focus on preserving the unity of the family, she noted, rather than protecting the victim's human rights. Courts and law enforcement officials seldom employed protection measures, leaving victims at the mercy of perpetrators and often forcing them to flee their family homes.<sup>37</sup>

### **Recommendations:**

- To urgently ratify the Istanbul Convention.
- To establish a sustainable cooperation between the Ministry of Interior Affairs and CSOs dealing with domestic and gender based violence.

### **Freedom of the press, protection and working conditions of journalists**

*Recommendations A-97.60, 61, 62*

22. Croatia ranks 65<sup>th</sup> in the 2014 World Press Freedom Index of the media watchdog of Reporters Without Borders. As stated in their report, six years of negotiations with the EC led to significant positive changes, such as the inclusion of references to media freedom and the right of access to information in the Constitution<sup>38</sup>. But still, many things remain unsolved. While the infrastructure is technologically highly developed<sup>39</sup>, the Ministry of Culture failed to develop media strategy and consistent policies to the present day in order to ensure a democratic contribution of the media. Facts show that in response to digitisation, mainstream journalism has become increasingly tabloid, while there are uncertainties in regard to the sustainability of media of public interest. Progresses in this direction are also prevented by a lack of transparency and accessibility of relevant data regarding the media industry.

23. Due to long and serious economic crisis and concentrated media ownership, the journalist profession has eroded significantly. According to the study *Media integrity in Croatia* (2014), being a journalist in Croatia implies a precarious work and a job position with a low level of autonomy. Since 2010, the number of unemployed journalists has considerably risen. According to information of the Croatian Employment Service, the number of unemployed journalists in 2013 was 729<sup>40</sup>. Fear of job loss, with no perspective in finding a new employer, results often in self-censorship. Consequently, journalists frequently fail to maintain commitment to public interest. A positive aspect of this situation is the steady growth of non-profit media, predominantly on Internet. However, albeit being professionally tailored and of extreme importance for citizens, non-profit media have poor funding opportunities and are not sustainable.

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37 <http://www.hr.undp.org/content/croatia/en/home/presscenter/articles/2012/11/24/on-international-day-un-calls-for-an-end-to-violence-against-women.html>

38 Source: <http://rsf.org/index2014/en-eu.php>

<sup>39</sup> Croatia has the highest free-to-air digital terrestrial coverage in Europe, exceeding 99% of national territory.

<sup>40</sup> Source: Popović, Helena (2014) *Media integrity in Croatia* (available at: [http://mediaobservatory.net/sites/default/files/croatia\\_0.pdf](http://mediaobservatory.net/sites/default/files/croatia_0.pdf))

24. Serious threats to freedom of media are represented by the new provisions of the Penal Code<sup>41</sup>, entered in force on 1 January 2013, which re-introduced defamation and prosecution of journalists even for publishing true and verified facts and information. As result of this law, a first recent judgment found a journalist guilty for publishing facts about corrupt and illegal actions of one company<sup>42</sup>. The judge found that the truth was of no public interest although one Ministry was involved in the case. The decision was then rejected by the Appeal court but the provision has not been removed from the law. Even worse is a most recent judgment of the Court, which found RTL program guilty for broadcasting a live interview with the Prime Minister who criticised the Mayor of the city of Zagreb, Mr. Milan Bandić. the Mayor of Zagreb sued RTL and all media who informed the public about the statement of the Prime Minister statement, and not the Prime Minister himself. The Judgment states: "RTL television should not have aired interview without pre-editing (!)", which means that media are not supposed to have any live programs.

### **Recommendations:**

- To amend the legislation regulating defamation and to conduct trainings for judges on the basic principles of freedom of expression;
- To create a working group formed by all relevant stakeholders with the aim to develop a five years media strategy;  
To secure sustainable financial support to non for profit media in order to ensure independent and professional information;

### **Torture and Other Cruel Inhuman or Degrading Treatment or Punishment<sup>43</sup>**

*Recommendations A-97,28,29,36*

25. The office of the Ombudsman has the responsibility to supervise the implementation of the Act on the National Preventive Mechanism against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment<sup>44</sup>, Despite a first engagement, the office lack sufficient human and financial resources to fully and seriously implement its mandate<sup>45</sup>.

26. Special attention must be particularly paid to the issue of "forced detention of persons in psychiatric institutions"<sup>46</sup>. The misuse of psychiatry is the worst form of torture and inhuman or

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<sup>41</sup> Official Gazette No 125 (2011) and 144 (2012)

<sup>42</sup> <http://www.hnd.hr/hr/arhiva/show/67694/>

<sup>43</sup> This ad hoc CSOs' coalition will submit a Report to the Committee against Torture (CAT) with more sources and information regarding the Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.

<sup>44</sup> From 8 May to 20 August 2014, the Ministry on Justice launched a public discussion / consultation about draft of the Amendments to the Act on National Preventive Mechanism.

<sup>45</sup> Therefore, their last annual report (2013) has several recommendations how to achieve better implementation. <http://www.ombudsman.hr/index.php/en/documents-3/ombudsman-s-reports/finish/15-ombudsman-s-reports/76-summary-annual-report-for-2013>

<sup>46</sup> Human Rights House Zagreb devoted special attention to this problem in the Report on the State of Human Rights in the RoC for 2013 (available at: <http://www.kucaljudskihprava.hr/tekstovi/izvjestaji>). In this Report, we paid special attention to three cases, although the Legal clinic in the Centre of Knowledge for Social Development and Protection and Promotion of Human rights from the Human Rights House received at least 15 complaints and reports from citizens for the protection against torture and inhuman or degrading behavior or punishment. Media sources are available at: <http://www.kucaljudskihprava.hr/novosti/stanje-ljudskih-prava-u-2013-godini>.

degrading treatment that has been present in Croatia for quite a long period of time. Albeit in 2014 Croatia passed the new Law on the Protection of Persons with Mental Disorders<sup>47</sup>, which comes into force on January 1, 2015, and brings certain improvements, CSO are already reporting several cases of violation of the law so far<sup>48</sup>.

27. Overcrowded jails and penitentiaries remain a continuous problem in Croatia, as well as the lack of adequate medical care for prisoners, and the practice to carry out medical examinations in the presence of judicial police officers as well as several reported cases of misconduct of police officers,

#### **Recommendations:**

- To ensure a prompt and impartial investigation into cases of torture and other cruel, inhuman or degrading treatment reported to human rights organisations and/or to the Ombudsman Office.
- To conduct human rights trainings for all professionals operating in prisons, psychiatric units and hospitals, as well as for judges and lawyers.

#### **Dealing with the past and War crime court proceedings**

*Recommendations A-97.51, 54, 55, 56, 57, 58, A-98.13,14*

28. In January 2013 the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of the Republic of Serbia (January 2013) signed the Protocol on cooperation in prosecuting perpetrators of war crimes, crimes against humanity and crimes of genocide, followed in June 2013 by the signature of the State Attorney's Office of Croatia and the Prosecutor's Office of BiH. Those protocols were necessary to accelerate the prosecution of war crimes. In the majority of cases, war crimes in Croatia were investigated, indictments were issued or judgments were passed in the absence of accused perpetrators. In order to increase the efficiency of the procedure, including the collection and exchange of evidence, and to ensure that perpetrators are convicted and serving their sentences, it is necessary to improve the cooperation between the judicial authorities of the countries in the region. Although the prosecutor's office of each country has the sovereign right to decide whether to initiate criminal prosecution for each individual case, different decisions, adopted in almost identical legal systems of Croatia and Serbia, raise doubts on the possibility that those decision are influenced by political interests.<sup>49</sup> It is need to create a system of monitoring of the implementation of the protocols.

29. With regard to war crimes, Croatia continues to cooperate with the ICTY and to process war crimes cases. During the last few years the situation has changed, and now Croatian prosecutors have to repeatedly send requests in order to obtain documents and investigation materials, from ICTY. According to the data provided by the State Attorney's Office of the Republic of Croatia, during 2013

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<sup>47</sup> The Ombudswoman Office demanded stronger mechanisms of control of the institute of forced detention: <http://www.ombudsman.hr/hr/novosti-iz-ureda/492-puka-pravobraniteljica-o-nacrtu-prijedloga-zakona-o-zatitiosoba-s-duevnim-smetnjama.html>

<sup>48</sup> A full report on the abuse of psychiatric cures in Croatia is currently on preparation by the current coalition and will be submitted in 15 October 2014 to the United Nations Committee against Torture in occasion of the review of Croatia at its 53 session.

<sup>49</sup> Source: [http://www.documenta.hr/assets/files/Godisnji20izvjestaji/MonitoringWarCrimeTrialsReport\\_2013.pdf](http://www.documenta.hr/assets/files/Godisnji20izvjestaji/MonitoringWarCrimeTrialsReport_2013.pdf)

the investigations were initiated in respect of 39 persons – 36 members of Serb military formations<sup>50</sup>. Unlike the past few years, when, during the process of intensification of accession negotiations between the Republic of Croatia and the European Commission, the investigations were conducted and indictments were issued for some of the most serious crimes committed by members of Croatian military formations, in 2013 not a single investigation was initiated nor any member of Croatian military formation or of the Ministry of the Interior of the Republic of Croatia were indicted.<sup>51</sup>

30. The need for additional independent inquiry in cases of torture or killing during the war still exists. The number of unprosecuted war crimes is still high (from registered 490, only 115 have been prosecuted with final judgments passed). During the past few years, the number of applications filed by family members of the victims injured/killed during the war (who claimed that the Republic of Croatia did violate their rights guaranteed by the Convention on protection of Human Rights and Fundamental Freedoms), has significantly increased after judgements were passed by the European Court of Human Rights<sup>52</sup> ordering Croatia to pay just satisfaction to the applicants due to omission of conducting adequate investigations of the crimes (right to life, prohibition of torture).

31. Following the amendments to the Act on the Application of the Statute of the International Criminal Court, which in 2011 stipulated the exclusive competence of county courts in Osijek, Rijeka, Split and Zagreb to try war crimes cases, the majority of cases were transferred from other county courts to the four aforementioned courts during 2012 and 2013 (some remaining cases). War crimes departments were formally organised at those courts and they comprise, with the exception of the Zagreb County Court, of all judges from criminal departments of those courts. Given that the same judges were also appointed to the departments for USKOK cases, and that they also try other criminal cases, true specialisation for war crime cases did not occur. Special war crime departments have been established at the state attorney's offices, but the large number of non-prosecuted and incoming cases points to lack of human, material and spatial capacities. State attorney's budgets remained at the same level as those from previous years and allow only the performance of basic tasks.

### **Recommendations:**

- To intensify efforts to increase successfully the prosecution of war crimes and combat impunity for war crimes;
- To ensure the protection of witnesses with the ultimate goal of increasing their attendance and participation at war crimes trials, especially in cases relocated to the specialised chambers.

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<sup>50</sup> Out of them, nine persons have been available to the Croatian judicial bodies, and 3 members of the Croatian Defence Council (HVO), available to the Croatian judiciary, who have been charged with crimes committed against Bosnian civilians and members of the BandH Army captured on the territory of Herzegovina.

<sup>51</sup> Source:<http://www.dorh.hr/DrzavnoOdvjetnistvoRepublikeHrvatskeAzurirano>;

<http://www.dorh.hr/IzvjesceORaduDrzavnihOdvjetnistavaU>

<sup>52</sup> Cases: Jularić vs. Croatia, Skendžić et al. vs. Croatia, Jelić vs. Croatia.

## Persons with Disabilities (PWD)

*Recommendations A-96.2, A-97.11, 26, A-98.8*

32. Although positive steps have been taken to make Croatia a society where PWD can enjoy equal opportunities<sup>53</sup>, there are still many issues to be solved due to the slow implementation of obligations arising from the Convention on the Rights of Persons with Disabilities. There is not enough consciousness about, and consequently poor implementation, of universal design stressed by the article 2 of the Convention. The main problem is the lack of knowledge, and the second is the non-existence of proper oversight of plans and construction of buildings. One of the main issues concerning education of PWD is the outdated occupations for which PWD are educated<sup>54</sup>. There is a lack of new occupations, such as educational training for IT jobs, which would be competitive on the market or needed in the public sector. The employment of PWD is also insufficient due to the lack of sensibility and awareness of employers, as well as a lack of awareness of PWD themselves concerning their rights and subsidies for employment. Accessibility itself, as it is recognised by the UN Convention, is not developed in Croatia. Huge problem is lack of accessibility in public and private buildings.

33. The National Plan of Deinstitutionalisation<sup>55</sup> and Transformation of Social Welfare Homes and Other Legal Entities 2011-2016 (2018) set the ambitious objective to change the ratio of institutionalised children and young people (20% in institutional support programs and 80% placed in non-institutional support programmes). The enrolment in schools for young people with intellectual disabilities is still limited, and children with severe intellectual disabilities do not have the opportunity to attend regular schools. The policies of the Ministry of Science, Education and Sport insist on the preservation of a dualistic school model, which foresees regular and special schools. Educational assistants in Croatia are not equally accessible to all children who would like to attend classes within the regular education system because many local authorities lack the financial resources to finance assistants. The national legislation lacks ad hoc measures to regulate this kind of support in the workplace or a system of incentives to support the employment of people with disabilities. The threat of the permanent loss of certain social rights in case a person with disability gets a job is still present, like for instance losing the succession right to family pension. Persons with intellectual disabilities and mental health problems are still discriminated by the Ministry of Social Policy and Youth compared in comparison to people with physical disabilities and sensory impairments since they do not have the opportunity to get the personal assistant<sup>56</sup> as an important link for social inclusion.

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<sup>53</sup> Croatia has ratified the Convention on the Rights of Persons with Disabilities in 2007 [http://www.mspm.hr/djelokrug\\_aktivnosti/osobe\\_s\\_invaliditetom](http://www.mspm.hr/djelokrug_aktivnosti/osobe_s_invaliditetom); the National strategy for equal opportunities for PWD 2007-2015

[http://www.mspm.hr/media/files/nacionalna\\_strategija\\_izjednacavanja\\_mogucnosti\\_za\\_osobe\\_s\\_invaliditetom2](http://www.mspm.hr/media/files/nacionalna_strategija_izjednacavanja_mogucnosti_za_osobe_s_invaliditetom2)

<sup>54</sup> For example, the mostly outdated education for knitting or book binding, some steps have been taken to prequalify PWD with outdated occupations (see [http://www.hzz.hr/UserDocsImages/Study\\_hrv.pdf](http://www.hzz.hr/UserDocsImages/Study_hrv.pdf))

<sup>55</sup> Plan deinstitutionalizacije i transformacije domova socijalne skrbi i drugih pravnih osoba koje obavljaju djelatnost socijalne skrbi u Republici Hrvatskoj, 2011 - 2016 (2018)

<sup>56</sup> Ministry of Social Policy and Youth, responsible for co-financing of personal assistants for persons with disabilities, makes discrimination towards certain groups of persons with disabilities by co-financing exclusively assistants for persons with physical disabilities and partially for persons with sensory impairments. In *the Instructions for Application of the Projects of Associations that Provide Assistance Services to Persons with Disabilities and Children with Developmental Difficulties in the Republic of Croatia for Financial Support from the State Budget and Part of the Incomes from the Lottery in 2012, item 1.2. Conditions Related to Users of Personal Assistant* ([http://www.mspm.hr/djelokrug\\_aktivnosti/udruge\\_humanitarna\\_pomoc\\_i\\_volonterstvo/udruge/natjecaji\\_za\\_udruge/poziv\\_za\\_prijavu\\_projekata\\_udruga\\_koje\\_pruzaju\\_usluge\\_asistencije\\_za\\_osobe\\_s\\_invaliditetom\\_i\\_djeci\\_s\\_te](http://www.mspm.hr/djelokrug_aktivnosti/udruge_humanitarna_pomoc_i_volonterstvo/udruge/natjecaji_za_udruge/poziv_za_prijavu_projekata_udruga_koje_pruzaju_usluge_asistencije_za_osobe_s_invaliditetom_i_djeci_s_te))

34. The new Family Act, still prioritise the use of guardianship institute and the implementation of measures for deprivation of legal capacity, rather than the adoption of concrete solutions to provide PWD with support for independent decision-making. The authorities ignored the solutions proposed by the Ombudswoman for Persons with Disabilities and the Association for Self Advocacy, which would have provided solid basis for establishing supported decision-making without significant costs to burden the state budget. Thus, 18,712<sup>57</sup> persons deprived of legal capacity, out of which 16,620 completely and 2,092 partially deprived (mostly persons with intellectual and mental disabilities), remain second-class citizens without opportunity and support for independent decision-making about themselves and their lives.

35. Croatia issued The National Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities 2011-2016<sup>58</sup>, which foresee the reduction of the number of adult persons with intellectual disabilities placed in institutions of the 30% by the end of 2016, and xx 2018 respectively. However, the Plan reserves a different treatment to people with mental disabilities to other categories of persons. For instance, persons with mental disabilities who end their permanence in a mental institute do not have the right to decide where to live, and in the worst cases, they are forcibly transferred from an institution to a foster care<sup>59</sup> centre in a remote rural area<sup>60</sup>. Neither the Plan nor the process is in line with the Convention. Most of people coming out of the institution don't have the final say on where and how they want to live. In a particularly bad situation are persons with mental disabilities whose deinstitutionalisation often means transfer from institution to a foster care in remote rural areas. Many internal bylaws (Ministries and institutions) rigidly determine the life of PWD including restriction of their freedom of movement or violation of their right to privacy.

**Recommendation:**

- To accelerate the process of implementation of the obligations arising from the ratification of the Convention on the Rights of Persons with Disabilities;
- To abolish the regulations that authorise institutions to restrict the rights of person who are using facilities and/or other social services.

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*skocama\_u\_razvoju*) is visible that the persons with intellectual and developmental difficulties do not fulfil the criteria of the Ministry for application to tender therefore they are denied of any possibilities for co-financing of the personal assistant costs. During these 6 years, Association for Self-Advocacy as well as the UNDP, the Ombudswoman for Persons with Disabilities and many other civil society organizations warned the Ministry about this unacceptable practice, but the Ministry still refuses to equalize the possibilities for persons with intellectual and mental disabilities to have personal assistants and therefore directly discriminates them.

<sup>57</sup> all data on the number of persons deprived of legal capacity accessed on 11 October 2012 by the Ministry of Social Policy and Youth on the basis of requests for access to the information sought by the association GONG

<sup>58</sup> Available on the web page of the Ministry of Social Policy and Youth:

[http://www.mspm.hr/djelokrug\\_aktivnosti/proces\\_transformacije\\_i\\_deinstitucionalizacije/o\\_transformaciji\\_i\\_deinstitucionalizaciji/nacionalni\\_okvir](http://www.mspm.hr/djelokrug_aktivnosti/proces_transformacije_i_deinstitucionalizacije/o_transformaciji_i_deinstitucionalizaciji/nacionalni_okvir)

<sup>59</sup> The Government is prone to foster adults because this way the costs get significantly reduced comparing to the placement in institutions or in the community.

<sup>60</sup> Generally, the very person is brought before a fait and must accept the agreement of the Ministry, the parent/guardian and the institutions on where the person would live.

## Right to Adequate Education (Civic education)

### Recommendation A-97.9

36. Various researches<sup>61</sup>, demonstrated a lack of awareness on human rights principles and democratic processes amongst the Croatian civil society. The Minister of Science and education and school approved the draft National curricular framework in 2011<sup>62</sup>, setting the ground foundation for the creation of a first national curriculum for civic education. The final version of the curriculum was approved in 2012 along with the decision to conduct a two years (2012 – 2014) experimental implementation in 12 primary and secondary schools<sup>63</sup>. The plan envisages the introduction of civic education as an independent subject in the final grade of the primary and secondary school by 2014/2015. However, the recently issued plan of implementation only envisions a cross-curricular introduction of civic education. This approach raises serious doubts about its effective implementation, including an appropriate preparation of teachers, an urgent revision of all topics (curricular reform) and the possibilities to conduct an effective monitoring and evaluation<sup>64</sup>.

### Recommendations:

- To raising public awareness about the importance of introducing civic education into the formal school system;
- To adopt a strategic plan in cooperation with all relevant stakeholders to incorporate civic education into the formal school system;
- To conduct trainings on civic and citizenship education for teachers and school staff as part of their formal education;
- To introduce civic education as an independent subject at school by stimulating the interdisciplinary approach in combination with school projects and hands-on activities.

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<sup>61</sup> Bagić, D. (ur.) (2011) *Odgaja li škola dobre građane? Studija o političkoj socijalizaciji hrvatskih srednjoškolaca*. Zagreb: GONG i FPZG; Ilišin, V. (et al.) (2013). *Mladi u vremenu krize*. Zagreb: IDIZ.

<sup>62</sup> Ministry of Education, Science and Sport. *National Curriculum Framework*. (2010) (Available at [public.mzos.hr/fgs.axd?id=17504](http://public.mzos.hr/fgs.axd?id=17504) )

<sup>63</sup> The results of monitoring and evaluation of the experimental process in six schools were compiled in a research report: Spajić-Vrkaš, V. (2014) *Eksperimentalna provedba kurikulumu građanskog odgoja i obrazovanja – Istraživački izvještaj*. Zagreb: Mreža mladih Hrvatske. Curriculum was then adapted according to the results and recommendations of the experimental implementation and a public debate was opened in 2014. The Curriculum that was tested during a two year period was bypassed without releasing the public debate inputs, a new document of substantially different quality was created in a short period (authors unknown to public!) and a new public debate started in July 2014.

<sup>64</sup> Also, various stakeholders, mainly CSOs, were informed through media that the Ministry does not plan to further involve them in the process of implementation, monitoring or evaluation of civics in schools, diminishing the capacity for collaboration with the sector which has been involved in creating HR and similar non-formal educational programmes for more than 20 years now and has great expertise in the field. This shows a great misunderstanding of the role of dialogue with citizens and CSOs in the democratic process.