

# Croatia

Head of state **Ivo Josipović (replaced Stjepan Mesić in February)**  
Head of government **Jadranka Kosor**  
Death penalty **abolitionist for all crimes**  
Population **4.4 million**  
Life expectancy **76.7 years**  
Under-5 mortality (m/f) **8/7 per 1,000**  
Adult literacy **98.7 per cent**

## Background

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**Despite pressure from the international community, progress prosecuting crimes committed during the 1991-1995 war continued to be slow. Many crimes allegedly committed by members of the Croatian Army and police forces remained unaddressed. Some political efforts were undertaken by the President to deal with the wartime past. However, both the government and the judicial authorities failed to take targeted action to resolve the issue of war crimes. Discrimination against Roma, Croatian Serbs and LGBT people continued.**

## Background

Accession negotiations with the EU progressed and several negotiation chapters were successfully closed. In June, negotiations on justice and fundamental rights were opened and specific benchmarks were set by the EU. In the December report to the UN Security Council, the Chief Prosecutor for the International Criminal Tribunal for the former Yugoslavia (the Tribunal) stated that Croatia continued to fail to submit all outstanding military documents related to “Operation Storm”, a large-scale military operation conducted by the Croatian Army in 1995.

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## Justice system – crimes under international law

Progress prosecuting crimes committed during the 1991-1995 war continued to be slow.

The capacity of the Croatian justice system to prosecute war crimes remained low. On average, fewer than 18 cases were completed each year. Hundreds of cases, especially those in which the victims were Croatian Serbs and those allegedly responsible were members of the Croatian Army and police forces, remained unaddressed. The courts adjudicating in those cases continued to apply the 1993 Basic Criminal Code which was not in accordance with international standards. The Code lacked clear definitions of crucial criminal concepts such as the principle of command responsibility, war crimes of sexual violence and crimes against humanity. Its application resulted in impunity for many crimes.

Witness intimidation in the courtroom continued. Measures to provide victims and witnesses with support and protection remained inadequate. Only four courts in Croatia had the facilities and staff to provide witness support. Legislation adopted in 2003, aimed at addressing the issues that prevent war crimes prosecutions, remained largely unimplemented. The political will to implement justice system reforms and tackle impunity was largely missing.

The authorities failed to provide victims of war crimes and their families with access to reparation.

- In July, the Supreme Court upheld the conviction of Branimir Glavaš and five others, who in 2009 were found guilty by the Zagreb County Court of crimes committed against Croatian Serbs in Osijek during the war. However, the sentence was reduced by the Supreme Court, based on the extensive application of

mitigating factors. Some mitigating factors such as the accused being in the service of the Croatian Army were in contravention of international standards.

Previously in May 2009, Branimir Glavaš, who held a Bosnian passport, had fled to Bosnia and Herzegovina (BiH). In September 2010, the July verdict of the Supreme Court of Croatia was confirmed by the State Court of BiH, which resulted in the arrest of Branimir Glavaš on 28 September. In October 2010, an investigation was launched by the Office for the Suppression of Corruption and Organized Crime against five people, including a member of the Croatian Parliament. In June and July, the group had allegedly tried to recruit people to bribe judges adjudicating in the Branimir Glavaš case in order to secure a more favourable sentence.

- In March, the Supreme Court of Croatia upheld the conviction of Mirko Norac and the acquittal of Rahim Ademi which had been handed down by the Zagreb County Court in 2008. The accused were both indicted for war crimes, including murder, inhumane treatment, plunder and wanton destruction of property, against Croatian Serb civilians and prisoners of war during military operations in 1993. In its verdict, the Supreme Court of Croatia reduced the sentence against Mirko Norac from seven to six years' imprisonment, based on the application of mitigating factors, many of which were in contravention of international law. Factors included the crimes being committed during a lawful military action by the Croatian Army and his participation in the war for independence.

In June, the Council of Europe Commissioner for Human Rights urged the Croatian authorities to take effective measures to ensure that war crimes cases were prosecuted in an unbiased manner, independent of the alleged perpetrator's ethnic or other background and in accordance with the general prohibition of discrimination. He concluded that service in the Croatian Army or police forces should not be drawn on as a mitigating circumstance for serious human rights violations.

In November the European Commission, in its progress report on Croatia, observed that impunity for war crimes remained a problem, especially when victims were ethnic Serbs and alleged perpetrators were members of the Croatian Army.

- On 10 December, Tomislav Merčep was arrested in Zagreb. In a report published the day before, Amnesty International had identified him as one of several high-profile individuals suspected of war crimes. The investigation against Tomislav Merčep included his alleged command responsibility for the unlawful killing and enforced disappearance of 43 individuals in Zagreb and Pakračka Poljana during the 1991-1995 war.

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## International justice

Several cases related to crimes under international law committed on Croatian territory during the 1991-1995 war were pending before the Tribunal in The Hague.

- Between July and September, the Tribunal's Prosecutor and the defence teams delivered their final briefs in the case against three retired Croatian generals, Ante Gotovina, Ivan Čermak and Mladen Markač. They were indicted on nine counts of crimes against humanity and violations of the laws or customs of war allegedly committed against the Serb population in 14 municipalities in the southern part of Croatia during "Operation Storm" in 1995. The judgement was expected to be announced in 2011.

Controversy remained around Croatia's willingness to co-operate with the Tribunal Chief Prosecutor's Office. In July, the Trial Chamber emphasized that the Croatian authorities were obliged to co-operate yet it had rejected the Tribunal Prosecutor's application for an order to the authorities to produce evidence relating to the case. The Trial Chamber observed that due to the nature of the proceedings it was unable to establish whether the authorities were in a position to comply with the order if it had been issued. The Trial Chamber also refrained from deciding whether the documents sought existed.

- The trial proceedings against Vojislav Šešelj, who was accused of crimes in BiH, Croatia and Serbia (Vojvodina), continued. He was indicted on several counts related to crimes against humanity such as persecutions on political, racial or religious grounds, deportation and inhumane acts. The indictment included violations of the laws or customs of war such as murder, torture, cruel treatment, wanton destruction of villages, or devastation not justified by military necessity, destruction or wilful damage done to institutions dedicated to religion or education, and plunder of public or private property.
- The trial of Momčilo Perišić, which included charges related to the shelling of Zagreb in May 1995, continued before the Trial Chamber of the Tribunal. In November, the Trial Chamber allowed the Prosecutor's motion for new evidence to be presented in the case.
- The trial of Jovica Stanišić and Franko Simatović continued. Charges included racial and religious persecution, murder, deportation and inhumane acts against the non-Serb population in the Serb-controlled areas of Croatia during the 1991-1995 war. In October, new evidence was added to the case. During the year the Trial Chamber made adjustments to the trial schedule to accommodate Jovica Stanišić's poor health. The death of the lead counsel for Franko Simatović in 2009 also caused delays.
- In December, the conviction of Veselin Šljivančanin for aiding and abetting the murder of 194 prisoners of war after the fall of Vukovar in November 1991 was revised by the Tribunal Appeals Chamber. As a result the Chamber reduced Veselin Šljivančanin's sentence from 17 to 10 years' imprisonment.

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## Freedom of assembly

Concerns were raised about the right to freedom of assembly when at least 140 people were detained for a short time during a peaceful demonstration in Zagreb on 15 July.

The protests were organized by the civil society initiative Pravo na Grad (Right to a City) in order to protect Varšavska Street in the historic part of Zagreb from being partially destroyed during the construction of a shopping centre entry-exit ramp. The construction works involved cutting down several trees and turning a public walkway into an entry to a private property.

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## Discrimination

### Ethnic minorities

Roma continued to face discrimination in access to economic and social rights, including education, employment and housing. Measures undertaken by the authorities remained insufficient.

In March, the Grand Chamber of the European Court of Human Rights announced its judgement in the case of *Oršuš and Others v. Croatia*. The Grand Chamber concluded that the placement, in 2002, of 14 Romani schoolchildren in separate classes based on their command of the Croatian language amounted to discrimination on the basis of ethnicity.

In particular, the Grand Chamber concluded that rather than assessing their language skills as the government had claimed, the tests that were supposed to determine the placement of children in Roma-only classes assessed only their general psycho-physical conditions. Once placed in Roma-only classes the children were not provided with any measures to address their alleged lack of knowledge of the Croatian language. Subsequently, there was no system in place to monitor the children's progress in learning Croatian. The curriculum taught in Roma-only classes was significantly reduced and had 30 per cent less content than the curriculum followed in mainstream classes.

In June 2010, the Commissioner for Human Rights of the Council of Europe reported that "de facto segregation" of Roma pupils persisted in some schools in the country.

In July, the UN Special Rapporteur on adequate housing visited Croatia and concluded that the current housing situation was strongly shaped by the legacy of armed conflict and by the transition from a socially owned housing

model to the private market. This affected the most vulnerable groups, including Roma and Croatian Serbs. The Rapporteur also expressed concern at the living conditions in Roma settlements. Furthermore, she observed that more than 70,000 Croatian Serbs were still refugees residing in neighbouring countries, at least 60,000 of whom were in Serbia.

#### **Rights of lesbian, gay, bisexual and transgender people**

On 19 June, the Zagreb Pride took place. Some 500 people who participated were protected by the police and no major incidents were recorded. However, when the main event had finished two participants were physically attacked by a group of young men. An investigation was opened to identify those responsible but, at the end of the year, it had failed to yield results.

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