

REPORT TO THE UN COMMITTEE AGAINST TORTURE

REPUBLIC OF CROATIA

NGOs written information for the examination of the State party's report

(Submitted on 17 October 2014)

The 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 the 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

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

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Introduction

1. This report is a joint contribution to the 53rd session of the Committee against Torture 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 112.¹ The current report reflects the List of Issues Prior to Reporting set out by the Committee against Torture (CAT/C/HRV/4-5).

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

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

The Republic of Croatia has ratified almost all relevant international conventions and optional protocols concerning the protection of human rights. The main issue remains poor or non-implementation of international human rights obligations, especially at Croatian courts since judgments never quote or relate to international standards. Government also fails to report regularly and on time to the treaty bodies. The lack of consultations with civil society organisations has been witnessed on too many occasions. Consequently, Croatian citizens are not aware of the obligations arising from the ratification of international obligations and treaties and of the importance to assess the implementation of the recommendations made by international human rights bodies.

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 UN bodies demand that Croatia continues to develop and consolidate its national human rights institutions, opposite trends may be detected. The 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 protection of human rights. In particular, the new Government Office lost its proactive role in creating and coordinating development and implementation of public policies and legislation regulating the protection of human rights in Croatia. All in all, the Government does not have an effective infrastructure for the promotion and the protection of human rights.²

The Government of Croatia undertook several initiatives to upgrade the capacity and the status of the Ombudsperson, including the introduction of the new People's Ombudsman Act,³ the possibility for

¹ 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-zahitjeva-za-drugaciju-hrvatsku>). Member CSOs of this ad hoc coalition regularly published their monitoring reports which are all available on the organisations' web sites.

² *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)

³ Official Gazette No. 76, 2012

the People's Ombudsman to carry out National Preventive Mechanism's tasks,⁴ the establishment of the Council of the People's 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. Citizens do not perceive Ombudsman Offices as institutes which can effectively protect their rights due to the fact that their recommendations and rulings are not perceived by state institutions as obligatory (Ombudsman for Gender Equality stated that only approximately 30% of her recommendations were implemented immediately by state institutions).

Articles 1 and 4

1. Croatian Parliament passed the new Criminal Code which came into force on January 1, 2013, and which defines, in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "torture" as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in official capacity.⁵ However, the implementation has remained too often problematic.

Article 2

2. The office of the People's 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.⁶ However, whenever during the previous mandate the People's Ombudsman Office issued annual reports which stressed irregularities and demanded changes, they were not approved by the Croatian Parliament,⁷ but only taken note of.

3. People's Ombudsman's office can visit places of detention without prior notification, but, as far as we know, rarely does that, especially not upon receiving a complaint from a detained person. In the case of Z.K., case which will be repeatedly referred to in this report, we were pleading the People's Ombudsman Office to go and visit her at the Psychiatric Hospital Vrapče in Zagreb, but they rejected, claiming that written communication is sufficient. A Human Rights House/B.a.B.e. activist and a lawyer were regularly visiting the detained woman until she was released.

The Ombudsman's recommendations remain just recommendations that too many institutions do not find binding for implementation.⁸ When we compare CSOs resources, we think that Ombudsman's

⁴ 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).

⁵ Criminal Code, Article 104, Official Gazette 125/11, 144/12

⁶ From 8 May to 20 August 2014, the Ministry of Justice launched a public discussion/consultation about draft of the Amendments to the Act on National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM).

⁷ Annual reports for the years 2009 and 2010, Minutes of the sessions of the Croatian Parliament

⁸ Therefore, their last annual report (2013) has several recommendations on 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>

office is sufficiently equipped with human, technical and financial resources necessary to carry out its mandate. However, the People's Ombudsman claims that her office lacks sufficient human and financial resources to fully and seriously implement its mandate.⁹

4. Detained persons should, according to the law, be afforded fundamental legal safeguards from the very outset of detention, including the right to a lawyer, the right to inform a relative and to be informed of their rights. However, it does not always happen that these safeguards are implemented properly.

Detained foreigners have the right to a lawyer, but in most cases they do not get one. Free legal aid is available to detainees only in the second instance procedure in front of the Administrative Court. Free legal aid is provided to irregular migrants in the process of expulsion. It is available only at request and is provided by the attorneys and lawyers from CSOs registered at the Ministry of the Interior. The cost of free legal aid is covered by the Ministry of the Interior. To our best knowledge, the list of lawyers was not to be found on the wall of the Detention Centre (DC). There is only information about legal aid provided by the Croatian Law Centre (HPC)¹⁰ to asylum seekers. Free legal aid is not provided in procedures related to the decision on detention in the DC, both for asylum seekers and irregular migrants. Foreign nationals detained in Ježevo are in most cases caught in illegal border crossing and transported to the Detention Centre.¹¹ However, asylum seekers are also detained in the Detention Centre Ježevo. In most cases, the decision about whether or not the applicant should be relocated to an open-type facility (because they are entitled to freedom of movement) is taken arbitrarily by the Ministry of the Interior. Although this issue was addressed numerous times by CSO Centre for Peace Studies, an appropriate solution has not been delivered. Detention of asylum seekers should be the last resort, for the shortest time possible and only when alternatives are not available.

a) The practice of summoning persons to the police station and engaging them in so-called “informative talks” for several hours before formally declaring them criminal suspects (on the basis of an arrest warrant which had previously been issued against them) and before allowing them to contact a lawyer has continued to exist. Only in 2013, B.a.B.e. and HRHZ had twenty clients who were summoned to the police station for informative talks, and then informed that they were actually arrested. Three months ago, a woman was invited to an informative talk by phone, and she showed up at the police station the next morning. After a couple of hours, she was informed that she was arrested and then was escorted to a detention centre. She left three children at home (aged nine and six, and a two year old baby she was still breastfeeding).

A special aspect of ethnic discrimination in police proceedings regarding informative talks is related to Serb refugees and returnees. Current Act on Areas of Special State Concern prescribes that returnees whose houses have been renovated cannot leave their premises for more than six months. If they leave for a period longer than six months, they have to pay back to the state the cost of renovation. In post-conflict areas police often performs filed checks at the time the majority of people are not at home and then produces official statements. State authorities then initiate proceedings demanding compensation

⁹ Therefore, their last annual report (2013) has several recommendations on 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>

¹⁰ More information is available in their electronic publications and research (<http://www.hpc.hr/cpage.aspx?page=sitemap.aspx&PageID=7>)

¹¹ Ježevo Center is a closed-type detention facility for irregular immigrants approximately 30 km from the capital city Zagreb.

of funds for renovation. Police authorities in those areas do not have sensibility for returnees who are, due to special circumstances, living at two or more addresses (often in two or more states).

b) Asylum seekers do get their papers both in Croatian and their native language. Papers are given to them by the prison staff and there is reasonable doubt that they are even read. However, none of the detainees complained. Complaints were mostly focused on not having the possibility to talk to a lawyer at all. Detainees informed us that they had difficulty contacting a lawyer. Hiring a lawyer was also a problem as they do not have money assets at disposal. Foreigners are due to cover the expenses for the forced removal procedure, including accommodation in the DC Ježevo. The Ministry of the Interior, besides holding the detainees' assets which could be intended for engaging legal aid, is also working to fulfil the aim of charging most of the costs as indicated in the Working plan for 2014.¹²

c) Detained persons still do not have the right to access a doctor of their own choice. This is especially problematic in cases where they are diagnosed as mental health patients and detained at the Psychiatric Unit of the Jail Hospital. During the reported period, Serbian Democratic Forum received several complaints from detained persons of Serb ethnicity regarding discrimination in detention units. The complaints mainly focused on the lack of adequate medical care, coming mostly from Slavonia (Osijek). Female Z.K. from Osijek complained to the HRHZ and B.a.B.e., among other things, that male police officers were present during medical exam in the psychiatric hospital and also when she was forced to undress and change into the hospital sleeping gown.¹³

Regarding the foreign nationals, the ambulatory room is situated in the same building where persons are detained (in Ježevo Centre) and police officers have access to the premises. Medical data are kept inside the building as well, while all the info is forwarded to the Ministry of Health. Since 2013, detained foreigners, both irregular migrants and asylum seekers, have only the right to emergency health care. Since February 2014, there was no regular presence of a doctor at the Detention Centre. In the case of emergency, detainees were taken to an Emergency service or an Ambulance Vehicle came to the Detention Centre. The lack of special treatment for psychological or mental health issues remains a problem. The Ordinance which regulates health provisions to vulnerable groups has not been adopted yet.

5. At the end of 2013, a new and significantly improved Free Legal Aid Act (FLA) was passed by the Croatian Parliament due to continuous advocacy work of human rights CSOs. The law may ensure access to justice to vulnerable groups if implemented properly. However, Croatia invests only 0.001% of its budget per capita for FLA, which is far below European average, and despite the fact that more than 30% of its citizens are at risk of poverty.¹⁴ Consequently, the access to justice is still denied to the majority of poor and socially marginalized citizens, especially in remote areas. Moreover, 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. CSOs and citizens often witness opposing opinions and controversial judgments on similar issues of two judicial counsels at

¹² Working plan is available at:

http://www.mup.hr/UserDocsImages/Dokumenti/GODISNJI%20PLAN%202014/GODISNJI_PLAN_RADA_ZA_2014.pdf

¹³ More information about this case is available on the Report on the State of Human Rights in the RoC for 2013, pg. 78 and 79., published by the Human Rights House Zagreb, (http://issuu.com/milanaromic/docs/izvjestaj_kljp_2013_en/0)

¹⁴Source:

http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/People_at_risk_of_poverty_or_social_exclusion

the same court. Regarding the system of free legal aid to detained persons, according to the Criminal Procedure Act detained persons have the right to a court-appointed lawyer. Many detainees complain that court-appointed lawyers do not communicate with them and very often fail to inform them about legal proceedings.

6. Albeit there are indications that the Government succeeded in reducing the length of pre-trial detention, we have detected a new and very serious problem which should be addressed by the CAT. During the last 12 months Human Rights House Zagreb and B.a.B.e. have dealt with several cases in which detainees have been transferred from pre-trial detention to the Jail Hospital (Svetošimunska street, Zagreb), then diagnosed with very serious mental diseases and evaluated as posing danger to themselves or others. They were held for months in different psychiatric hospitals for forensic evaluation. The case of M.F. is exemplary¹⁵ – the police came to his apartment with a search warrant, took him to custody, afterwards changed grounds for his detention, transferred him to the Jail Hospital, where he was promptly diagnosed with paranoid schizophrenia although he had no previous medical records. The psychiatrist concluded that due to detected risk the patient posed to others, he should be kept in the hospital's closed unit. He spent nine months in different psychiatric units, completely deprived of freedom of movement, and was then released without any diagnosis, as a fully healthy person. The procedure was initiated after he had published on his Facebook profile a status saying that he dreamt that the Minister of the Interior was hanged from a tree.

Article 3

9. Since the previous report, the Centre for Peace Studies received information and was engaged in several refugees' extradition cases. Especially in 2012, great interest of civil society organisations and general public was elicited by several cases of violation of the rights of refugees in the procedure of extradition. In the first case **A.A.K.** (Chechen ethnicity, Russian citizenship with refugee status in Austria) has spent more than six months in detention during which the County Court in Zagreb, and subsequently the Supreme Court of the Republic of Croatia, have been implementing extradition procedure; or more precisely, deciding whether all preconditions (according to the Law on international legal aid in criminal matters) for extradition have been fulfilled. The Courts on both instances have found that all preconditions have been fulfilled and that **A.A.K.** can be extradited to Russia. The Court didn't take into account the fact that **A.A.K.** has refugee status granted in Austria and that extradition would represent a violation of Article 3 of the European Convention on Human rights and a violation of the UN Convention on the status of refugees. Nevertheless, the final decision on extradition has to be signed by Minister of Justice who can decide not to extradite a person regardless of courts' judgements. After a public reaction of UNHCR, Centre for Peace Studies and Austrian government, the Minister didn't sign extradition and **A.A.K.** was returned to Austria. During the procedure all requests of his lawyer for abolition of detention have been denied by courts despite the argument that the European Convention on Human rights, Croatian constitutional provisions on non-refoulement and the 1951 Convention relating to the Status of Refugees and the 1967 Protocol have supremacy over the legal act regulating extradition which should be interpreted in line with international law and the Constitution of Republic of Croatia. After such judicial decision the Centre for Peace Studies prepared and sent to the Supreme Court an analysis of the decision and repercussions in relation to international treaties which are part of the legal system in Croatia; prof. Rodin from the

¹⁵ More information about this case is available on the Report on the State of Human Rights in the RoC for 2013, pg. 79-84., published by the Human Rights House Zagreb, (http://issuu.com/milanaromic/docs/izvjestaj_kljp_2013_en/0)

Faculty of Law has published an article¹⁶ on the issue and delivered training to the Supreme Court judges.

The second case was B.S.D., a Turkish citizen, subjected to persecution by the Turkish government due to activism (she was participating in protests and was convicted to 6 years of imprisonment). Law on Terrorism in Turkey substantially restricts the freedom of speech and freedom of assembly. Her arrest and detention were based on a Turkish Interpol red flag. B.S.D. has been living in Germany since 2008, has residence permit and was married in Germany. As she regulated her residence on the ground of her family status, she did not request asylum in Germany, therefore this case was even more risky with high probability of extradition. Therefore, parallel with extradition procedure, B.S.D. lodged asylum application in Croatia and due to high public pressure, monitoring of the case on behalf of UNHCR and the Centre for Peace studies, the asylum was granted in a very efficient procedure (2,5 months). As asylum was granted in Croatia, the extradition request was denied and B.S.D. returned to Germany.

On July 25, 2012, V.Ö. was arrested on the basis of a Turkish Interpol's arrest warrant while entering Croatia, despite the fact that she has had refugee status in Germany since 2005. During the nineties, V.Ö. was arrested in Turkey for participating in demonstrations against the repressive measures of the Turkish government aimed at suppressing freedom of speech. In the wake of those events, Germany granted V.Ö. refugee status and declined to extradite her to Turkey. In September 2012 the County court in Dubrovnik decided that all preconditions (according to the Law on international legal aid in criminal matters) for extradition have been fulfilled. Her lawyer submitted an appeal to the Supreme Court of the Republic of Croatia. Meanwhile, after spending 55 days in custody and prison hospital in Croatia, V.Ö. was released from custody (the investigative judge of the County Court in Dubrovnik abolished custody and defined the precaution measure) because of her extremely bad health condition and re-traumatisation caused by detention. The visit and evaluation report published by the National Preventive Mechanism had a major role in deciding on precaution measures. V.Ö. was a direct victim of the massacre in Turkish prisons known as the 'Back to Life' operation that took place between 19 and 22 December 2000, during which 28 prisoners and convicts died, while 237 were wounded and hospitalised. As medical and judicial evidence clearly and unambiguously revealed that V.Ö. had been repeatedly and brutally beaten and subjected to extreme torture such as electroshocks and long isolation in Turkish prisons, demand was issued to reject Turkey's request for extradition and to enable her to return to Germany. In December the Supreme Court reversed the first instance judgment finding a limitation of legal proceedings for that offense. Despite the fact that the lawyer referred to her refugee status due to survived torture, the Supreme Court did not refer to those facts in its decision.

These three cases demonstrate that the Ministry of the Interior and courts competent in the procedures of extradition failed to implement international human rights treaties governing principle of non-refoulement, which are in force in the Republic of Croatia, as well as Article 140 of the Constitution of the Republic of Croatia. Such actions may lead to severe and irreversible human rights violations, including a violation of the human right to freedom of torture and non-legal killing of people who were extradited to the requesting state.¹⁷

¹⁶ Rodin, Siniša, „Načelo non-refoulement u hrvatskom pravu, *Informator, instruktivno-informativni list za ekonomska i pravna pitanja*. 60 (2012), 6048; 1-3.

¹⁷ Human Rights House Zagreb devoted special attention to this problem in the Report on the State of Human Rights in the RoC for 2012 (available at: <http://www.kucaljudskihprava.hr/tekstovi/izvjestaji>).

During 2013 we received information on three cases (all Turkish citizens having refugee status in Germany) on demand for extradition, but all of them were decided within three months maximum. County courts judges were educated on ECHR, CAT and Geneva Convention and applied that knowledge in their decisions, all positive for refugees.

10. For the timeframe between 2010 and 2013 there are no publicly available data on age and sex of asylum applicants. In 2014 the Ministry of the Interior finally published on their website detailed statistics on asylum applicants.¹⁸ It is considered that those changes were brought due to frequent demands for statistical data and requirements that such information be available to the public. Considering detainees in detention centre Ježevo, there were no age determination procedures applied although there were cases when asylum seekers claimed they were minors.

Lack of specialized treatments organised by state institutions and the lack of application of the identification procedure remains a serious problem. State programs of care and support to survivors of human rights violations such as torture, trafficking and related violence are not accessible to asylum seekers and refugees. Victim determination procedures are dealt with only within projects of CSOs, which does not secure systematic and continuous help and support.

The Asylum Act had entered into force on 1 January 2008, but amendments were adopted in 2010 and then in 2013. They affected and declined the scope of health care for immigrants and asylum seekers. The previous law provided asylum seekers with the right to urgent medical care and necessary treatment of illness, but since 2013 immigrants in detention and asylum seekers are entitled only to urgent medical assistance. There is no presence of medical staff (either just a nurse, or a nurse and a doctor) in the Detention centre in Ježevo. From February till September 2014 there was no medical staff in the open Reception centre for asylum seekers Porin in Zagreb too. During that period the right to health care was violated to several asylum seekers: a pregnant woman did not receive appropriate care, a person with glaucoma was not treated, as well as a person with epilepsy, etc. Now the medical staff is present every day for just a few hours.

Law on the Obligatory Health Insurance and Healthcare of Foreigners in the Republic of Croatia is relevant in this area too. Article 17, which provides a general reference for the right to health care for undocumented migrants, refers to “foreigners who reside illegally in the Republic of Croatia”. However, such definition is further narrowed in Article 19. par.1. point 10. to certain categories of undocumented migrants which are: foreigners detained, foreigners whose forceful removal is postponed, and foreigners who are given deadline for voluntary return, as this definition is further used when defining scope of health care in Article 24. This article specifies in paragraph 1 that foreigners who reside illegally in the Republic of Croatia have the right to “emergency health care” (defined in the article 8, paragraph 2 of this Law as providing diagnostic and therapeutic procedures that are necessary in order to avoid immediate dangers for life and health). In paragraph 2 it is specified that a foreigner who was given a deadline for voluntary return also has the same health protection as is specified in paragraph 1 (emergency health care). Paragraph adds that the expenses of the health protection from paragraphs 1 and 2 need to be paid by foreigners themselves. If a foreigner is not able to pay the expenses, the Ministry of Health covers them. Unaccompanied minors are treated as insured by the public health insurance system, while other immigrants' or asylum seekers' children are entitled only to emergency health care.

According to the Ministry of the Interior's statistics the average length of detention is 43 days. Detention of migrants is regulated by the Aliens Act and the Asylum Act. According to the article 124 of the Aliens Act, migrants can be detained for 3 months, if their presence is required to ensure their

¹⁸ Source: http://www.mup.hr/UserDocsImages/statistika/2014/azil/azil_do_20.5.2014..pdf

deportation from the territory of Croatia, if he or she presents a danger for national security or if he/she has been convicted for a criminal offence. Further, the article 125 allows for a further prolongation of 6 months if more time is needed for organizing deportation. And finally, according to the article 126, a further 12 months prolongation is allowed in cases when the migrant refuses to give his personal data, gives fake personal data or in other way tries to stop or delay his or her deportation, or if it is reasonably expected that the documents necessary to organize the deportation will be obtained.

Migrants can be detained as asylum seekers according to the article 74 of the Asylum Act for maximum 6 months. Cases in which they can be detained are: if they have tried to leave Croatia before the end of their asylum procedure, if their detention is needed to protect the life or property of other people, if they are a threat to national security, if they sought asylum during the procedure of deportation with the aim to avoid deportation, if it is temporarily impossible to take their fingerprints due to intentionally damaged fingers.

If asylum seeker who is detained in Ježevo after 6 months in detention gets executive negative decision or his application is rejected, he/she may remain detained for another 6 months if forced removal cannot be executed immediately. Exceptionally, a foreigner may remain in detention for another 12 months due to postponed delivery of personal documents required for the forced removal, or if a foreigner refuses to give personal or other relevant data or gives fake data. That person can theoretically remain in detention up to 24 months. The same is with persons whose freedom is limited through the so called “preparatory detention” which may last up to 3 months for the purpose of securing presence in the procedure of bringing decision on expulsion, if a foreigner is a threat to national security, or is convicted for a criminal act which is persecuted by official duty. Although the Ministry of the Interior provides asylum seekers with information in several languages, asylum-seekers are still insufficiently informed as it contains misinformation (right to work) or no information on some issues (right to health protection). Apart from that, they are not provided with the addresses of relevant organisations focused on protection of refugees’ rights. Institutions claim that they deliver such information orally.

Article 5 and 7

13. Despite the obligation of Croatian judiciary and other authorities to demonstrate straightforwardly that all defendants and victims are treated in an equal and unbiased manner, the courts continue to assess participation in the Homeland War as extenuating circumstance when determining the sentence no matter of the deed (family violence, theft, murder, etc.). Additionally, extremely high defence expenses of certain members of Croatian formations are covered by the State Budget.

Despite the fact that state attorney’s offices on several occasions conducted internal reviews of cases and requested re-opening of certain proceedings which were completed with final verdicts, or abandoned further investigations or indictments against individual defendants, certain proceedings against members of Serb formations are even today burdened with poorly conducted investigations and indictments not substantiated with evidence. In such cases, it remains questionable whether the actions constitute all significant characteristics of a war crime. In at least 1/5 trials/criminal proceedings the Supreme Court of the Republic of Croatia quashed the previously delivered first-instance court judgements and reversed the cases for retrial.

14. According to the available data,¹⁹ from 1992 to 2000 national courts issued 134 judgements against 578 accused, 497 of which had been on trial in absentia (86%). Most of them were finalised with convictions. The trials were held with minimum of fair standards. Adoption of the new Criminal Procedure Act in 2008 rendered it possible to re-open proceedings which were previously completed with final verdicts upon request filed by state attorney's offices. Therefore, the County State Prosecutor initiated revision/renew the proceedings for 94 persons in absentia. All of the accused were members of Serb para-military formation. However, trials in absentia of the accused are currently ongoing in several cases where the accused are not available to the Croatian judiciary and the court decided that there were justifiable reasons to hold the trial. Now defendants have individual defence lawyer (one lawyer represent one defendant) and in several cases the defendants are informed that the trial is ongoing (received the summons). However, we strongly recommended better regional cooperation, mainly by handling trials in the state where defendants are currently residing.

In judicial system ethnic bias is most evident in cases regarding war crimes. According to the data of the State Attorney's Office, from 1991 to 2004 an investigation was commenced for 3232 persons, indictment was started for 1,400, and convicted were 602 persons (almost 80 percent in absentia). With rare exceptions, these are mostly members of Serb troops. In fact, until 2001, only seven members of Croatian units were indicted, and by 2004 that number was increased by 5. Members of Serb minority received unusually high penalties, often without objective evidence while at the same time Croats received extremely low penalties for war crimes due to their involvement in defense of the Country (as judiciary officials stated). Attorney's Office has also compiled a list of approx. 900 people of Serbian nationality who are suspected of committing war crimes and who do not reside in Croatia. Given that the names on the list are an official secret, it is not clear whether it encompasses those accused of committing war crimes or if suspects are listed too. Such legal uncertainty remains significant obstacle to the return process.

Article 9

15. Croatia continues to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and to process war crime cases. During the last few years cooperation with the ICTY turned its course in opposite direction - now Croatian prosecutor needs to repeatedly send requests to the ICTY in order to finally obtain collected investigation material.

Official number of Serb civilian casualties in "Operation Storm" is 214.²⁰ So far no one has been finally convicted for those war crimes. During and immediately after the "Operation Storm" 24 war crime cases were recorded in which criminal proceedings were not initiated (not processed) because the State Attorney Office did not file legal action against unknown persons.

Article 10

16. a) From 1 January 2013 on, first time appointed judges to municipal, misdemeanour, commercial, and administrative courts, as well as new deputy state attorneys in municipal state attorneys' offices, may be strictly selected only among candidates who have completed the State School for Judicial Officials programme at the Judicial Academy. The Judicial Academy also regularly organises trainings and education for members of the judiciary and prosecutors, but we seriously doubt that

¹⁹ Court documentation in possession by Documenta, obtained from the Ministry of Justice or National Court.

²⁰ Source: <http://www.dorh.hr/PodaciOPrijavama2>

specific focus is given to obligations under the Convention as we have not witnessed any judgment which quotes and calls upon provisions of the Convention.

b) On January 1th 2013, Committee for Civilian Oversight of Police comprised of three persons started its mandate on voluntary basis. The Committee deals with the complaints of citizens who are dissatisfied with the results of the investigation of all previous instances. When it receives such a complaint, the Committee does not conduct investigations independently, but analyses documents of citizens and documents, which were collected by the Ministry of the Interior. Albeit their work boils down to checking within the police system, so there is actually no real independence, very few complaints addressed ill-treatment on the part of police. However, Human Rights House and B.a.B.e. dealt with cases where detained persons were sent to the Prison hospital in Zagreb or Psychiatric hospital in other cities, and there diagnosed with serious mental illnesses with the conclusion that they represent a serious threat either to themselves or others. All cases point to a possible misuse of power.

For example, in 2009 citizen D.P. reported his suspicion about a chain of prostitution where minor girls from Osijek Home for Children without Adequate Parental Care were involved. The investigation lasted one day, and the Ministry of the Interior announced publicly that those were false allegations. D.P. was invited to "an informative talk" and then arrested with the accusation that he tried to blackmail influential people in Osijek by forcing minor girls from the institution they lived in to report sexual abuse and forced prostitution. He was taken by the police to misdemeanour court and judge sentenced him to 14 days of imprisonment. After 14 days, the judge issued a decision for his mental health evaluation. After a 5 minute conversation, the appointed psychiatrist concluded that he was mentally ill and should be sent to the psychiatric unit of Jail Hospital in Zagreb. All in all, he spent five months and 11 days detained, until finally an expert team of psychiatrists concluded that he did not have any mental disease and should be let out. No investigation or procedures were undertaken to reveal who was responsible for that unjust detention.

The case of B.K., who is famous for his actions against corruption related to de-mining in Croatia, was in 2013 invited to "an informative talk", and then escorted to Psychiatric hospital Vrapče, where he was forced to take medication. They threatened him that he would be tied and injected if he refused to take the medication himself. The excuse for such treatment was his threat of committing suicide if police and prosecutors would not finally take action against corruption. However, before publicly announcing his "decision", he signed a statement at the notary office which showed that he did not have any intention of hurting himself, but just planned to, once again, demand institutions to react to exposed corruptive practices. When taken to the police, he had that signed statement and his medical record showing he did not have any mental issues prior to the announcement. Due to public protests, he was released after three days.

The case of Z.K. was already partially presented, but it is important to stress that the judge of misdemeanour court contacted her husband, head of USKOK department of the Court (dealing with cases related to corruption) in Osijek in the middle of court hearing, and after a phone conversation decided to send Z.K. to Psychiatric hospital. When once again the media and CSOs raised their voices, the hospital's female unit was even locked down and all visits prohibited. Even her lawyer could not talk to her for two days. Then she was secretly transferred to Zagreb Psychiatric Hospital Vrapče. It is important to stress that their marriage was deeply disturbed and her husband had been talking to everyone that his wife was mentally ill before the incident. Again, nobody was found responsible and no serious investigation was conducted afterwards.

Article 11

17. There have been no new interrogation rules introduced. However, the problem remains with the treatment of the police towards non-violent activists. The police uses force and arrests non-violent citizens instead of only removing citizens from the spot of sit-in demonstrations. In May 2010, notably 150 activists were arrested during peaceful protests against a corrupt project that Green Action and the Right to the City organized in Zagreb. Many of those arrested were from HRH Zagreb. In 2011 the president of the Dalmatian Committee for Human Rights, Split, was arrested by the police and escorted to Zagreb Psychiatric hospital Vrapče against his will. He rejected to talk to psychiatrists as the decision of the criminal county court was ridiculous. He was protesting against the slowness and inefficiency of the Croatian judiciary, and they decided to evaluate his mental health condition. Human Rights House and media reacted loudly, and he was then released.

18. Overcrowded jails are a reality in Croatia, and conditions have not improved significantly. The description of jails may be found in the Ombudsman Office reports. Especially problematic remains a fact that only one jail exists for female convicts. The geographic location of the prison makes family visits (especially small children) almost impossible to many – travelling from Dalmatia is time-consuming and expensive.

Among findings of the Special Rapporteur Rashida Manjoo on violence against women, its causes and consequences, following her visit to Croatia from 7 to 16 November 2012, we may read under the section Women in detention facilities: "The Special Rapporteur... was concerned by the differential treatment of inmates and the categorization in terms of wards – which was conducted in a diagnostic unit in Zagreb before serving the sentence, and which impacted significantly on the experiences of the inmates. For instance, women in the closed ward were not allowed to have their personal effects with them in their rooms, they could not leave the building and they had no access to educational opportunities which were accessible to inmates under a different regime... While prisoners generally had access to medical care, medical personnel were not present full-time, thereby creating deficiencies in health care. Access to sufficient psychiatric services and specialists was also problematic, due to the remote location of the detention facility." Poor conditions of the Jail Hospital in Zagreb have not been changed so far. Especially poor conditions are to be found at the Psychiatric Unit of the Hospital which we described in Human Rights House annual report for the year 2013, and we present only some of the highlights: ruined building with cracks in the walls and ceiling causing dampness and short circuits; only two dirty toilets without doors at the section for acute psychiatric patients; overcrowded rooms with six instead of four planned beds without any water or toilet; non-smokers do not get separate rooms; out of two hours that should be spent outside locked rooms, one is spent in a narrow slippery outdoor corridor (5x15 m) without proper daylight, and the other in a closed hospital smoky corridor (1,5x15m); nothing is adjusted to the needs of people with physical disabilities, and only inmates help them to go to the toilet or manage to go to bed; minors (15 to 17 years old) are placed together with adults, etc.

19. Persons under the age of 18 should not be detained in Ježevo detention centre. However, we are aware of a case when a person was claiming he was under the age of 18, but the detention centre staff wrote different age and placed him with adults. Underage migrants who cross the border illegally are accommodated in Zagreb, within the Institution for Re-education of Children and Juveniles. However, by the end of the year 2014, a special space for unaccompanied minors will be built within the walls of detention centre Ježevo. According to the Ministry of the Interior, they will have access to social life and freedom of movement. Human rights activists strongly disagree with such a solution for minors

and have doubts on the future quality of social inclusion and proper care for unaccompanied minors. According to the Centre for Peace studies findings, there will be a separate building, but the same staff will work with both groups – minors and adults.

20. The types of physical restraint used in Croatia's psychiatric hospitals include straps (usually leather or canvas) that are fastened with buckles or magnetic locks that cannot be undone without a key, thereby attaching patients to beds. These are usually applied to the wrist, ankle, or across the chest. Restriction of limbs is achieved by using shoulder restraints, waist belts, or thigh, hand, and foot restraints. In Croatia, straightjackets are used; these are a material shaped like a back-to-front jacket with over-long sleeves that are designed to be tied to the back of the jacket so that the arms are kept close to the chest and reach around towards the back, thereby restricting the movement of arms. Seclusion is also used in Croatian psychiatric hospitals. MDAC monitors concluded in their report: "At all institutions, monitors were told that the use of restraint and seclusion is exceptional; however, there is evidence that the exception becomes the rule, especially in environments where the staff are not trained regarding the alternatives to these practices. There was a general lack of understanding that restraint and seclusion are measures of last resort, and should therefore not be thought of as being part of the package of care and treatment. The monitoring team was concerned about this practice in the hospitals where newly admitted patients are put, as a matter of course, into seclusion. This is a practice that has nothing to do with care and treatment, but rather, is a means of the patient to the regime of the hospital – a way to make clear where the power lies and what will happen if the rules are not complied with. As such, this is seclusion without a therapeutic purpose – a practice that could well amount to torture, inhuman, and degrading treatment or punishment". In case of Z.K., restriction was used without any justifiable reason. She was forced to undress in front of male policemen, then told to lie on a bed, and then tied with straps, which she obeyed without any protest.

21.. Albeit the Croatian Parliament passed a new Law on Protection of Persons with Mental Disorders (coming into force on January 1, 2015), which brings improvements, we have serious doubts about its successful future implementation since we have encountered too many cases of violation of existing legislation and no will on the part of leading psychiatrists to accept any criticism delivered by human rights defenders. Head of Psychiatric hospital Vrapče even openly warns patients and members of their families not to dare contact the Human Rights House Zagreb. The existing Law has permitted psychiatrists to deprive people of their liberty if they meet the legal criteria for detention – the most important one: a person may be detained against his/her will if there is valid suspicion that a person may harm herself/himself or other persons. Specifically, the Law states, a person may be detained in a psychiatric hospital and forced to receive treatment if she/he “shows symptoms of a severe mental disturbance, and as a result poses a serious and imminent threat to the life, health or security of themselves or others”. Consequently, while in detention, the Law allows for forced psychiatric medication to be administered without the patient's consent, albeit the UN Special Rapporteur stated in 2009 that „guaranteeing informed consent is a fundamental feature of respecting an individual's autonomy, self-determination and human dignity, and confirming the central role which State must play in safeguarding an individual's ability to exercise informed consent in health, and protecting individuals against abuses.“ However, too often legal criteria have not been met, and albeit those misdeeds were brought to public sphere and criticised, no sanctions have been administered to psychiatrists or hospitals. The state of affairs was confirmed also by the report Out of Sight, compiled and edited by the Mental Disability Advocacy Centre, which was based on monitoring of human rights standards in several Croatian psychiatric hospitals in June 2010. As they state in the report, according to the existing Law on Protection of Persons with Mental Disorders, for instance, only verbal (and not written) consent is required, leaving „open the risk of coercion by medical

practitioners, without any written trace of the process.“ The same report stresses that Croatian law fails to separate out psychiatric detention from psychiatric treatment, meaning that if someone meets the criteria for detention, they also lose the right to consent or refusal of treatment. Croatian legislation provides a court review as a check against arbitrary detention and treatment of involuntary patients. From the time of admission, hospitals have 72 hours to decide whether a person should continue to be involuntarily detained or released. There is no legal requirement for the hospital to notify a court within these initial 72 hours, or additional 12 hours permitted for the delivery of a psychiatric opinion. Altogether, it makes 84 hours (three and half days), to keep a person without court intervention. Furthermore, the law permits that a judge visits a patient during up to 72 hours upon receiving notice on compulsory detention (84+72 hours = 156 hours = six and half days). A court must review at least every six months (!). During these six months, involuntary detained patients have the right to appeal the involuntary hospitalisation order only within three days of the decision. If their attorney fails to meet this time frame, there are no opportunities to challenge detention for a further six month period, which bluntly contradicts international standards that emphasise the importance of the right of a patient to actively seek judicial review of the detention. Furthermore, hospitals do not have a separate register where all forced detentions are recorded, but have only a statement on involuntary admission written in a patient’s personal medical record. Monitors of the MDAC found that those personal medical records disclose only conclusions such as “the patient is a danger to himself/herself”, and no provision of reasoning how and why such a conclusion was reached. They also often found a situation where a patient had his/her status switched from voluntary to involuntary, and again, without any information provided on how, why, when or for how long the patient had been demonstrating suicidal behaviour, the nature of such thoughts, or how those circumstances met the legal criteria for involuntary admission. These are just few of findings of the MDAC inspection team.

Article 12 and 13

23. As stated in the report of the Special Rapporteur on violence against women: "The continuum of violence in the home is reflected in the increasing numbers of victims of femicide. In 2011, 22.9 per cent of all murder victims were women murdered by a male member of their families (husband, common law partner, former husband, son, brother-in-law)... In 2003, the Government adopted the Law on Protection against Domestic Violence. In theory it provides protective measures focused on victim safety as well as measures directed at offenders’ behaviour. However, there was overall consensus in interviews with civil society broadly, and with victims in particular, that the goals of victim safety and offender accountability were in practice not a reality. For example, the practice of dual arrests is implemented against the victim, regardless of the danger or threat that the perpetrator poses to the safety of the victim. A victim who has verbally insulted her offender can be prosecuted and held accountable alongside her abuser who has physically beaten her. Also, police officers do not systematically identify the primary aggressor in domestic violence cases, and instead of making determinations of the primary aggressor and defensive injuries, they generally defer the identification to judges and physicians, respectively. As a result, many victims not only face potential arrest when they call for help, but also ensuing charges and punishments for defending themselves against the assault. Domestic violence is handled by the law enforcement unit which is primarily responsible for juvenile delinquency and crimes against children. Therefore, some of those who respond to domestic violence cases at the police unit level do not have knowledge and training on the dynamics of violence against women, as their expertise is related to children. Furthermore, some misdemeanour judges see domestic violence as limited to violence against children, and this is also reflected in the State’s laws and practices, where courts commonly hold a victim responsible for her children witnessing domestic violence against her... The Family Law requires married couples (and their children) going through

divorce proceedings to complete mediation as part of the divorce process. ...Center for Social Welfare (CSW) employees conducting mediation do not screen for domestic violence in these cases, nor do they proactively offer separate mediation to mitigate the potential harm to a victim of domestic violence of being forced to meet with her abuser during mediation sessions. Moreover, even in cases when mediation was not stipulated as mandatory by the Family Law, CSW workers have reportedly mediated and encouraged victims to reconcile with their offender... Shelters face numerous challenges. First, the lack of bed capacity is a serious problem. A report by UNDP noted that Croatia's shelter capacity on a per capita basis was at least 20 per cent below the Council of Europe standards. Insufficient funding is another problem. The two funding schemes under the Ministry of Social Policy and Youth are complicated and pose challenges for organizations running these shelters. The Government's funding conditions generally fail to reflect the actual needs and operations of a shelter. Prescribed conditions, in turn, reduce shelters' autonomy, forcing them to follow strict and, at times, irrelevant criteria in order to obtain financing. Moreover, the per-bed basis does not reflect the reality that shelters' baseline operating costs are the same no matter how many residents they admit... Another barrier to safe refuge for victims is the referral system by CSWs. Public safe houses can only accept victims referred by the CSWs or police. Often, their staff will even redirect clients to the CSWs or police first. Shelters typically provide housing to victims for a limited period of time, often between six and twelve months. Many NGOs allow extended stays, but due to capacity constraints, shelters are unable to provide a long-term solution. Once they leave a shelter, victims' housing options are limited, as there is no State-subsidized housing specifically for victims of domestic violence, although the status of victims of violence can increase eligibility for some public housing."

25. Documenta – Center for Dealing with the Past and partner organisations are monitoring further developments in several cases of murdered civilians where the Amnesty Law was applied in 1992. Some of those cases are reopened, but this time qualified as war crimes. The legal standpoints for possibilities to reopen the criminal proceedings after wrongful implementation of the amnesty gave the ECHR in its judgement *Margus v. Croatia* (application nu. 4450/10). However, during the last four years, we noticed the implementation of the 1996 Amnesty Act, in several war crime cases, even during the trial, when the prosecutors have not prepared the indictment well. Due to the lack of evidence, the qualification from war crime was changed to armed rebellion and the case was suspended due to implementation of the amnesty. During 2013, there was a continued trend of dismissals of criminal proceedings against members of Serb military formations previously accused in absence, or convicted in absence, and subsequently extradited to Croatia or arrested (at a border-crossing) when entering Croatia. The stated information has pointed to the fact that not all unfounded previous accusations/convictions are being eliminated and that there is a certain need for additional investigations of war crimes and torture committed during the war.

Recently, Documenta monitored the trial for war crime against civilians (the accused Zeljko Cizmic), where the prosecuted re-qualified the charges from war crime to cruel treatment towards wounded, sick or prisoners of war (art. 128 Genral Penal Code), the crime in which the statute of limitations started.

27. We strongly recommend further development of the support system for victims and witnesses especially since we noticed delay in the development and resistance towards system expansion. Having established departments for victim-witness support at seven county courts (in Vukovar, Osijek, Zagreb, Zadar, Rijeka, Split and Sisak) in the past several years, in 2013 the victim-witness support system did not achieve required and expected progress. The victims and witnesses support system was improved in 2013 only by establishing the National Call Centre with a free phone line for the victims

to call and receive full information on their rights. Unfortunately, the National Strategy for the Victims and Witnesses Support has still not been prepared nor the support system has been extended to the county state attorney's offices and the police.

Article 14

28. Lack of a legally valid, final judgement and conviction of crime perpetrator(s) has resulted in the failure of victims' family members/plaintiffs who filed lawsuits against the Republic of Croatia for compensation of damages for the death/killing of their close family members. The plaintiffs have won only few lawsuits, based on accountability for the damage caused by the members of Croatian military formations and police units, which were preceded mainly by criminal proceedings in which the criminal responsibility of the perpetrator(s) had been established. However, during the past few years, the number of claims before the European Court on Human Rights filed by family members of the victims of torture/killed during the war (who claimed that the Republic of Croatia did violate their Convention rights), has significantly increased after the judgements were passed in 2011 by the European Court of Human Rights (cases Jularić vs. Croatia and Skendžić et al. vs. Croatia), ordering Croatia to pay the damage compensations to the plaintiffs due to omission to conduct adequate investigation of the crimes. Almost all claims have pointed to an ineffective investigation of the committed crimes (Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms – Right to Life) or have pointed to the violations of the right to protect from torture and inhuman or degrading treatment (Article 3 – Prohibition of Torture). However, Documenta registered and analysed 162 civil compensation proceedings, of which more than 70% of the cases have been rejected, regardless of ethnicity, age or sex of the applicants.

29. Some of the victims still face a problem of paying civil lawsuit costs and that problem has not yet been solved in a satisfactory manner. Many plaintiffs/victims' family members, mainly those of Serb ethnicity, who lost civil lawsuits in which they had requested from the Republic of Croatia to compensate them with the non-pecuniary damages incurred by torturing or killing of their close family members, will not be relieved of the burden of the obligation to pay the litigation costs since they do not fulfil the strict property criteria stipulated for the waiving of the debt. Moreover, a subject matter which has continuously caused our deep concern is a total lack of political will for the systematic solving of the issue of restitution of damages to all civilian victims of war. According to an analysis of the decisions issued by the Ministry of Finance, based on the Government Regulation adopted on 5 July 2012 pursuant to Article 68, paragraph 2 of the Budget Act (OG 87/08), the Regulation is not effective remedy for most civilian war victims or victims of torture during the war, since they rejected most of requests for annulment of the proceedings cost. The precondition stipulated in the Regulation can fulfil only social cases/persons without any income or properties.

30. Unfortunately, the Republic of Croatia has also missed this chance to have the category of victims/victims of war crimes or torture during the war compensated. However, according to the available data within the implementation period of one year from 44 received requests only few obtained some compensation (for funeral expenses).

31. Beside the right of victims of criminal offences to seek compensation for all other forms of suffered material and immaterial damages (pursuant to the general provisions of the Civil Obligations Act OG 35/05) from the perpetrator of the criminal offence, there are three fundamental laws in Croatia for the victims of torture committed during the war, war crimes victims, or victims of terrorist acts: the Law on the Protection of Military and Civilian Victims of War, which enables the realisation

of certain social rights for civilians with physical disabilities (at least 20% invalidity); the Law on Liability for Damage Caused by Terrorist Acts and Public Demonstrations, which allows compensation for damages to the injured; and, the Law on Liability for Damage Caused by the Croatian Armed Forces, during the war, which allows compensation for actions undertaken during the war within a specific period of time. All three laws are inadequate for redressing most of civilian victims since many categories are excluded or conditions for receiving compensation for material and non-material losses are very rigid. The governmental structures have not yet offered drafted law on compensation of all civilian victims of war being announced several times in past two years. Most of the public and media attention has been occupied recently with announcement of adopting the Law on Damage Compensation to Victims of Rape and Sexual Violence during the War Period, proposed by the Ministry of War Veterans. The adoption of the Law was postponed to the mid or end of 2014 since there have been difficulties in estimating the number of victims of sexual violence and based on that estimation of amount of financial help and other means of (non) material support. However, in this very moment, the law is in the parliament procedure.

Article 16

33. Croatia has not solved all outstanding issues related to the legacy of the war and the return of refugees and displaced persons, which is best illustrated by the data that the number of Croatian refugees in Serbia is 41724, Bosnia and Herzegovina 6726, and in Montenegro 567. Figures that speak in favor of this thesis are: 11,000 requests for reconstruction and housing is resolved positively but due to the absence of a means and /or housing units positively solved these items cannot be realized. Also, 30000 applications are still unsolved. During 2013, only 8 cases from priority lists for housing have been solved. The average duration of housing from entering Croatia until the end of a process is 8 years, and the average cost for a family of four is 4500 euros. With the existence of different legal framework for housing in different parts of Croatia, particularly discriminatory works the fact that Serb returnees, former tenancy rights holders have to pay extremely high prices of housing units, while at the same time another group of war victims - Croatian refugees from Bosnia and Herzegovina – are being donated housing units for free. High purchase prices, donation of housing units to only one group of war victims, ethnic discrimination, complete social indifference and the constant lack of political will to solve this problem, has led the category of war victims of Serbian nationality in the rough position of discrimination in which they do not have equal rights, equal opportunities and equal conditions as well as other Croatian citizens.

34. There have been no measures implemented to enhance the protection of investigative journalists and human rights defenders. Significant number of top journalists lost their jobs in privately owned mainstream media, and we may say that low, if any, level of investigative journalism on organised crime exists in Croatia. New Criminal Code undermines investigative journalism as, according to the law, a journalist can be prosecuted and fined even when publishing true facts if they may be defined as defamatory for a person and do not serve public interest. Recent judgment against a journalist, who published several texts about the evident corruption in one private medical clinic, involving the Ministry of Health too, proved that some judges do not understand what public interest means. The journalist was, according to the judgment of the first instance court, found guilty and fined. Prompt reaction of journalists and human rights defenders opened a debate, but the Ministry of Justice rejected to amend the law. The second instance court annulled previous decision, but a threat to journalists continues to exist. Human rights defenders also get poor support from the Government. Moreover, if they criticise any Government or Parliament decision, they are usually verbally counterattacked by politicians and decision makers and labelled as those who just spend tax payers' money and have no

serious role in the society. Luckily, we have witnessed so far only verbal and written threats, without any physical attacks. Walls of the Human Rights House building have been regularly covered with graffiti with symbols of the fascist regime and hate speech against the Serb minority. The police take notes, firemen cover graffiti with white paint, and then we wait until the next incident.

During 2013 and 2014 a series of protests and violent conduct against the implementation of the Constitutional Act on Rights of National Minorities were deployed primarily in Vukovar, but also in other parts of Croatia where significant number of Serb minority lives. The protests were organised by a group of War veterans named the Headquarters for Defence of Croatian Vukovar (HQ). Protest rallies began on 2 September 2013, with the placing of official signs, written both in Latin and Cyrillic scripts, was initiated by the Government in Vukovar. Parallel protests were held in Tovarnik, Bogdanovci, Lovas and Nuštar. A number of signs in Serbian Cyrillic alphabet were torn down, others were smashed with hammers, while protesters clashed with the police, leaving four officers slightly injured. One protester was severely injured. Several supporters, not directly involved with the HQ, organised an action of writing pro-fascist (Ustaše) graffiti on the Church of the Holy Annunciation in Dubrovnik and in Zadar. Protests culminated on 18.11.2013., the day of the fall of Vukovar, when protestors banned and stopped the Government and the President and prevented them from attending the Memorial Walk. Protests and violence spread through all war affected areas and 14 incidents were recorded. These incidents once again highlighted the reluctance of the majority towards true integration of the Serbian minority, and postponed once again their return process that had been already burdened by the ignorance and reluctance of Croatian authorities to execute procedures effectively.