

Submission to the United Nations Committee the Elimination of Racial Discrimination on List of
Themes for the Combined Ninth to fourteen Periodic Report of the Republic of Croatia

Submission by the Ombudswoman
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The Ombudswoman¹ as the status A NHRI prepared this submission. It is based on complaints the institutions worked on, field work, research as well as data gathered from different stakeholders: public authorities, CSOs, trade unions, employers, universities and many others.

I. NON-DISCRIMINATION

1. The ADA² entered into force 14 years ago - there are 17 grounds based on which discrimination is prohibited, with the ORC being the central body for the fight against discrimination (equality body) as well as the body dealing with complaints on 12 out of the 17 grounds (including racial or ethnic origin, as well as age, religion, socio-economic status etc.). The complaints on the other 5 discrimination grounds are dealt with by specialised ombudsmen (the Ombudswoman for Persons with Disabilities deals with complaints of discrimination based on disability, the Ombudswoman for Gender Equality deals with discrimination based on sex, sexual orientation, gender identity and expression and marital or family status and the Ombudswoman for Children deals with complaints of discrimination of children). Looking at all the grounds of discrimination the number of complaints has been increasing through the years (in 2021 there were all together 1281 complaints). The majority of them refer to discrimination on the grounds of sex, disability, racial or ethnic origin (in ADA as race, ethnicity or skin colour and national origin), followed by complaints on the grounds of health status and sexual orientation, as well as other grounds. Discrimination is most common in the area of labour and employment, followed by social care, access to goods and services, public administration and public information and the media.
2. When it comes to strategic documents on non-discrimination, even though National Anti-Discrimination Plan was in force from 2017 to 2022, the operational Action Plan for the period 2020 to 2022 was never adopted. At the moment, draft National Plan for Protection and Promotion of Human Rights and Suppression of Discrimination 2022 -2027 and two Action Plans (one referring to anti-discrimination) have gone through a public discussion and are expected to be adopted at the end of first quarter of 2023. However, the ORC pointed out that the proposed document, particularly the Action Plan for Suppression of Discrimination lack concrete measures and activities, as the current ones do not address all the identified needs and problems to the sufficient degree.
3. In the context of ORC area of work, which is the independent institution (equality body) responsible for dealing with complaints on 12 grounds of discrimination³, the largest number of complaints is traditionally received in relation to discrimination of relevance to CERD,

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² Anti-discrimination Act

³ In line with ADA and its Article 1 the law prohibits discrimination on the basis of race or ethnic affiliation, colour, gender, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic inheritance, gender identity and expression, sexual orientation. The ORS is responsible for the following 12 grounds: race or ethnic affiliation, colour, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, age, health condition, genetic inheritance.

namely on the ground of racial or ethnic origin, which has constitutently been the number one ground of discrimination complains looking at the grounds in our mandate since 2009. Within this ground the most vulnerable to discrimination are representatives of Roma and Serbian national minority and migrants.

4. Members of the Serbian national minority are still exposed to prejudices and negative sentiments in the public. Serbs who returned to their pre-war residences are vulnerable to discrimination, often on the grounds of their national origin, age and socio-economic status as they are often older, with low income and live in underdeveloped rural areas (even basic services such as water and electricity remain a challenge in these areas).
5. Migrants remain exposed to prejudice and discrimination, linked to their racial or ethnic origin. Croatia still does not have a migration or integration public policy in place, as the last valid one, related to the integration of persons granted international protection in Croatia, expired in 2019. There is a lack of systematic integration measures, including in providing Croatian language courses, housing issues, access to employment and education, as well as health care system.
6. Labour/work and employment has been most common area in which the ORC has been receiving complaints about discrimination ever since the application of the ADA started. We continued to receive more and more complaints from foreigners, third-country nationals (mostly Bosnia and Herzegovina, Serbia, Ukraine and the Philippines) related to their work, including complaints regarding working without a work permit, disorderly record of work shift, illegal and unpaid overtime. Foreign workers are often not familiar with ways of protecting their rights and have insufficient or no knowledge of Croatian and/or English language, which makes it even more difficult for them to take action to protect their rights. Additionally, in the context of discrimination, when seeking court protection and making complaints to the ORC or reporting to the Inspectorate or just thinking whether to do this, the fear of victimization is mentioned. The new challenge identified in this area refers to platform workers, which the recent amendments of the Labour Law recognize for the first time. Due to technological developments, digital platforms apply new business models that prevent adequate protection of rights of workers, which can lead to discrimination.
7. If we observe statistical data on discrimination related civil proceedings provided by MJA⁴, number of final judgments, in particular those granting the claims, is still low. Statistical data on misdemeanour cases related to discrimination indicate these proceedings are still most often initiated related to Article 25 of the ADA (related to harassment), and perpetrators are mostly sentenced to monetary fines. Criminal cases related to discrimination are still sparse and are mostly related to the crime of public incitement to violence and hatred (criminally prohibited hate speech) from Article 325 of the Criminal Code, as well as (other) hate crimes about which we write about in more detail below.
8. In the first years of the ADA's application, CSOs more often used the possibility of collective protection, but during the last few years such practice didn't continue. As collective

⁴ Ministry of Judiciary and Administration

protection against discrimination requires sufficient capacities, CSOs should be strengthened.

9. In December 2022 ORC conducted a research on citizens' opinions and perception, and notions of discrimination occurrences. This is a periodic research, first time conducted in 2009 when the ADA came into force, and repeated in 2012, 2016 and 2022.⁵
10. The research results speak of both positive and negative societal shifts. Positive are related to attitudes regarding some groups, most pronounced in relation to persons granted asylum, LGBTIQ persons and elderly. For instance, the number of those who hold persons granted asylum should not be employed has decreased, as well as the number of those who state they would be uncomfortable if they learned some of their co-workers or neighbours are gay or lesbian, and those who feel older generations are less capable than young ones. At the same time, the research has demonstrated that the stereotypes levels towards some other groups has increased, so now 55% of persons interviewed hold that most of the Roma live on social welfare and do not wish to work, in comparison to 48% in 2016. Also, the number of those who support stereotypes on female and male social inequality has increased – now a quarter of persons interviewed hold this position, while earlier only a fifth held it.
11. Although stereotypes and prejudice do not, of course, represent discrimination, they can amount to it, since they influence our behaviour towards others and in the context of discrimination research, it is most useful to know which groups are prone to more be exposed to significant social distance. According to the research when citizens were asked which groups are most at the risk of discrimination, majority recognized Roma as such group. The research also demonstrates a more comprehensive understanding of the notion of discrimination. Although most persons still find belittling and humiliation (without being connected to any discrimination ground) to be discrimination, the trend of rise of those who hold discrimination to be different treatment due to a certain characteristic continues, which is an understanding closer to the notion of discrimination as set in the ADA. In terms of areas of life where discrimination occurs most often, citizens again point out the area of work and employment. This area has been pointed out as the leading area of discrimination in every round of research conducted to date, and work and employment is the area within which ORC receives the highest number of complaints since the ADA came into force. The research also points to certain problems. A large number of citizens are still not aware of legal prohibition of discrimination, nor do they know who to turn to when they are exposed to unequal treatment. In terms of personal experience, it is visible that the number of persons who have been discriminated in the last 6 years increased to 28%. Additionally, these results need to be taken cautiously as they can be interpreted in two manners – by an increase of discrimination in society, but also by an increase of understanding of discrimination and its

⁵ ORC commissioned the research from the research agency Ipsos, using the same questions and methodology as in previous researches, and the publication presents their research report. Results for each research question are presented in comparison to previous results, and the closing chapters of the publication contain results relating to socio-demographic characteristics of the interviewees.

easier recognition, which would be a shift in a positive direction. But it is concerning that the number of those who have undertaken actions to stop discrimination has dropped (60%), and citizens still hold reporting it would not change anything, that the proceedings are complicated and long, or are concerned taking action might exacerbate their current situation.

Suggested questions:

- How will the State ensure to inform continuously citizens about the prohibition of discrimination and protection mechanism?
- What measures will the state take to train the professional public on anti-discrimination (police, judiciary, civil servants, social workers, health care professionals, employers, unions)?
- How will the state provide sufficient funding for civil society organizations for anti-discrimination activities?
- When will the state adopt (at least) an Action Plan for the Integration of persons granted international protection, or, preferably, a migration and integration policy?

II. HATE CRIME

12. An important tool for adequate and comprehensive monitoring of hate crimes, the Procedural Protocol for Hate Crime Cases has been adopted in 2021, with the aim to ensure pre-requirements for an effective and overarching work of authorities involved in detecting, processing and monitoring of hate crime related proceedings, in order to improve their suppression, prosecution and statistical overview. The Protocol also defines composition and authorities of the Working Group on Hate Crime Monitoring, which is in charge of coordinating hate crime data collection, monitoring and analysis of their occurrences, coordinating inter-sectoral cooperation and preparing recommendations on how to improve the system in combating hate crimes. Its added value lies in the fact that its members, besides representatives of bodies in charge of hate crimes prosecution and academia, also include civil society organizations' representatives, who meet hate crimes victims in their work or are involved in fight against hate crimes, as well as ORC representatives. Observing statistical indicators during a longer period, there is a trend of light but consistent increases of crimes motivated by hatred. As comparison, in 2017 Mol acted in 28 such cases, in 2018 in 33, in 2019 in 51 and in 2020 in 87 hate crime cases, including public incitement to violence and hatred.
13. Similar to previous years, according to Mol data, crimes most often motivated by hatred are crimes of threat (40), damage to property (16), followed by bodily harm and violent behaviour, 15 cases both. It may be of particular interest to CERD that perpetrators of these acts are still in most cases motivated by the victim's ethnicity. Namely, out of 101 crimes recorded by Mol, including hate speech, as many as 67 were motivated by national origin, followed by sexual orientation (13), race or skin colour (12) and religion (8). Furthermore, out of 39 proceedings initiated before courts, the largest part of them, as many as 27, are related to crimes committed due to national origin, while other grounds appear in singular cases.

Suggested question:

- How will the State conduct raising awareness among and building the capacity of criminal justice officials to address hate crimes?

III. FREE LEGAL AID

14. Complaints we have received during 2021, which are related to free legal aid, mostly pertain to lengthy proceedings related to appeals against free legal aid decisions. We are including this information on free legal aid as well, since racial or ethnic origin may intersect with the socio-economic ground and so as (potential) victims of racial or ethnic discrimination that do not have funds to pay for legal aid (primary or secondary) must have easy access to justice which in case of low-income individuals and families occurs via free legal aid. Appeals proceedings still last unreasonably long, as the MJA states the average appeal is solved within 3 years. Also, lengthy appellate proceedings challenge the purpose of free legal aid, which is equality in access to justice. Still a large number of citizens are not familiar with the possibility to contact primary free legal aid providers directly, or what are the conditions under which one can realize the right to be represented by an attorney, or to have court expenses and fees waived.
15. Increase in the number of free legal aid provided in 2020 was not accompanied by increase in the free legal aid funding, moreover the funds for free legal aid providers were decreased in 2021. Allocated funds are not sufficient to ensure continuous work of the providers, who at the same time are not able to apply to other state bodies public calls, as the free legal aid system is funded exclusively by MJA and local and regional self-administration units. However, a large number of local and regional self-administration units are not, due to uneven regional development, able to fund free legal aid providers, in spite of this provided for in the Free Legal Aid Law, so the inhabitants of the underdeveloped areas are at a disadvantage.
16. The issue of free legal aid has become particularly important in the context of reconstruction, after an earthquake hit Croatia in 2020, including in the areas of Sisak-Moslavina County, still recovering from war related consequences, inhabited by a significant number of returnees. Earthquake stricken population needs to have access to timely and comprehensive legal aid, due to which additional funds to authorized free legal aid providers need to be allocated.

Suggested questions:

- Will the state provide additional funds for free legal aid providers in earthquake-stricken areas?
- Which activities will the state undertake in order to inform the citizens on free legal aid available?

IV. ROMA

17. Roma are among the most discriminated in Croatia, especially when considering racial or ethnic discrimination. Although the National Roma Inclusion Plan 2021 – 2027 is a comprehensive document of high quality, the Action Plan which should have made it operational does not follow in the same ambitious approach for the National Plan. Namely, as much as 30% of measures are not accompanied by any planned activities, and the section on Improved Roma Health and Efficient, Equal Access to Quality Health Services contains no planned activities for as much as 75% of measures. The only measure planned in this section is to implement the project of the Government Office for Human Rights and Rights of National Minorities, which should be co-funded from the ESF Plus, which has no funds planned in 2022, so, for instance, more funds are planned for preserving Roma traditional culture than for health, which is not in line with needs that were identified.
18. According to the relative poverty rate, 92.3% of Roma in the Republic of Croatia are poor, while about 70% of Roma minority families live in extreme poverty. Roma still face significant social exclusion, prejudices and obstacles to their education, employment, housing and health protection. This was further exacerbated by COVID-19. As many as 46% of Roma still live in spatially isolated and segregated Roma settlements, with much poorer housing conditions and no availability of utility and infrastructural services, and content suitable for children and young people unfortunately mostly don't exist.
19. Segregation in housing, with segregated Roma settlements, leads to segregation in education in nearby schools. Currently one fifth of Roma children are educated in completely ethnically segregated classes, additional 12.8% in mixed classes in which majority is made up of Roma students. Regional differences are significant, and this problem is most visible in Međimurje County, where almost half of Roma children attend ethnically segregated classes as well as in Varaždin and Brodsko-posavska county.
20. The schools cite the insufficient proficiency of the Roma children in the use of the Croatian language, the organization of the transportation of the children living in the isolated Roma settlements, and similar reasons as justifications for the establishment of the segregated classes. Another contributing factor is the fact that the parents tend to move their children to other schools that are attended by less Roma children. However, neither of the cited reasons should be used as justifications for ethnically segregated education. Instead, they must be treated as an indicator of issues which should be addressed with the aim of desegregation, while at the same time minding the necessity of integration from the young age. Early integration of Roma children through their inclusion in kindergarten programmes is key for ensuring that Roma children learn Croatian prior to starting school.
21. Apart from the fact that large numbers of Roma children are currently not being provided with integration opportunities, common assertions that the quality of education provided to the so-called Roma classes is lower in comparison with the mainstream ones needs to be mentioned as well. These are indirectly confirmed by the data gathered as part of the empirical research on the inclusion of the Roma, which point to a conclusion that segregated education contributes to lower educational attainment. More specifically, in the cited

research earlier lower educational attainment was more commonly cited as the reason for dropping out from the educational system by those children and young people living in isolated localities, who are also those most commonly being placed into segregated classes. It is especially concerning that only 31% of the Roma youth in the RC aged 15-18 attend secondary education (36% of the Roma boys and 26% of the Roma girls).

Suggested questions:

- What actions does the government intend to take to include additional activities in the next Action Plan for Roma inclusion with the aim of contributing to the implementation of the goals of the National Plan for Roma Inclusion?
- When will the state develop an analysis and action plan on elimination of Roma pupils' segregation, as ORC recommended?

V. MINORITY REPRESENTATION

22. RC has 22 national minorities listed in its Constitution. While people belonging to all ethnicities/representatives of all national minorities can be discriminated against in particular contexts, generally speaking representatives of all national minorities are not equally vulnerable to discrimination. As before mentioned, more vulnerable to discrimination are people belonging to the Roma and Serb national minority.
23. There are a number of positive action for members of national minorities in the RC, one of them being the proportional representation of national minority members among the employees of the public administration bodies, LRGU administrative bodies and the judiciary (based on the Constitutional Act on the Rights of National Minorities). That is also among the minority rights (from an anti-discrimination point of view positive action measures for members of national minorities) most difficult to exercise. According to the data from the 2021 Census, their share in the total population of the Republic of Croatia amounts to 7,67%; however, their share among the employees of the public administration bodies and the expert services, and the offices of the Government of the RC in 2021 is 3,03 % and is continually decreasing.
24. According to the Ministry of Justice and Public Administration's data, in 2021 the share of the national minority members among court officials amounted to 2,86% and among the officials employed at state attorney's offices it stood at 3,62%.
25. Members of the Serb national minority and the CSOs representing them often point to their low share among the employees of the Ministry of the Interior. According to Mol's data, members of all national minorities in 2021 make up 3,89% of its total workforce, while the share of the members of the Serb national minority in it amounts to 2,3%, thus not being proportionate to their share in the total population (3,2%). Moreover, according to Mol, this institution uses its Unique Registry of the Mol Workforce as the source of the data on the nationality of its employees. In relation to this, it needs to be pointed out that in the Registry the nationality of some of the employees (such registries include aggregated/anonymous data and cannot be linked to individual persons) is entered as „unknown „or „prefers not to

disclose". When it comes to the police administrations in the areas of RC where members of the Serb national minority make up a significant share in the total population, only the Osijek-Baranja Police Administration has achieved the appropriate level of their representation in their workforce, the Vukovar-Srijem Police Administration has achieved their partial representation, while in the rest of the police administrations in the RC they are significantly underrepresented.

26. According to the reports on the implementation of the Constitutional Act on the Rights of the National Minorities published in 2021, in 2019 and 2020 the public administration bodies and the expert services, and the offices of the Government of RC announced vacancies for the total of 2 023 positions. 80 of the candidates competing for those positions invoked their right to preferential employment based on national minority membership in line with Article 22 of the Constitutional Act on the Rights of the National Minorities. 11 of these candidates were employed, all based on the fact that they were best-ranked on the tests and the interviews, i.e. none of them were employed based on the preferential employment rule.
27. In 2020 the judiciary announced vacancies for the total of 559 positions. 28 candidates invoked the right to preferential employment. Three of those were employed: one based on being best ranked on the test and the interview and two based of the right to preferential employment
28. From the data cited above it can be concluded that the right to preferential employment (positive action measure) stemming from Article 22 of the Constitutional Act on the Rights of the National Minorities is applied extremely rarely and that it is not an effective mechanism for the achievement of the proportional representation of national minority members in the public administration and the judiciary sectors. A part of the general population still harbors the opinion that minorities are being favored and members of the majority discriminated against in the area of employment. Thus, additional efforts need to be invested into raising the awareness of the meaning and the aims of the preferential employment rule among the general public.

Suggested questions:

- What measures will the state take to increase the awareness of the meaning and the aims of the preferential employment rule in public administration bodies among minority members but also in the majority population?

VI. CITIZENSHIP

29. When it comes to citizenship, there were many recorded cases of persons whose citizenship of the former Socialist Republic of Croatia had not been ascertained or formally confirmed, which in practice has the same effect as statelessness, where the Mol insisted that the person who had spent their entire life in the RC and had never left it should first obtain the personal and travel documents of the country the citizen of which the Mol considered them to be, for which they would have to leave the RC and get separated from their families. Following

that, they would have to renounce the citizenship of that country, and submit an application for obtaining Croatian citizenship.

VII. HOUSING AND SUSTAINABLE RETURN

30. Croatia does not have a Housing Strategy, while the right to housing of different groups is need is regulated by special regulations, for example, victims of domestic violence, war veterans, returnees (in relation to the war), persons under international protection or for the poorest (the so-called social housing), and falls within the competence of different levels of the government.
31. In the context of the returnees and the former tenancy rights holders, the last collective centre closed down in 2018. Also, even though the benchmarks from the Action Plan for the Accelerated Implementation of the Housing Solutions for the Returnees and the Former Holders of Tenancy Rights in and Outside of the Areas of Special State Concern have been achieved, additional funds and housing units for beneficiaries are not available, resulting in the fact that some are still waiting for housing, even for more than a decade sometimes.
32. The areas most intensely damaged by the 1991-1995 war, especially those inhabited mainly by the returnees, are faced by the slower economic development and the lack of infrastructure. The earthquakes hitting the Sisak-Moslavina County have brought this situation to the fore and have made more visible the deep material deprivation of its population. The efforts to reverse the situation have so far not resulted in significant improvements, even though the new Act has just been adopted which should make reconstruction easier. The reconstruction and the re-electrification processes that have been ongoing for years have not been completed yet and electricity is still unavailable to some of the inhabitants of these areas. The ORC has also acted in cases related to the access to water, i.e. to the water supply infrastructure, in the areas inhabited mainly by the Serb population. For many of these places the plans for the construction of water supply systems are either in place or in the pipelines, but the moment of their realization is uncertain. According to the estimates, in RC approximately 6.5% of the population does not have access to the water supply network. This issue is expected to be resolved to a significant degree by the new National Resilience and Recovery Plan, which features the construction and the reconstruction of the water supply network as one of its priorities.

Suggested questions:

- Which measures will the government take in order to collect separate data on the field inspections of the legal use of the housing units targeted at the FTRHs?
- What activities does the government plan to take with the aim of ensuring harmonized regional development, specifically focusing on the areas inhabited by the returnees?

VIII. HATE SPEECH

33. Various statements stirring up hatred appear online, especially in social-media, but also in articles in some of the media outlets and in the readers' comments below them, which

contribute to tensions, including ethnic ones. At the same time, the concept of hate speech is not clear enough, so political speech and criticism are sometimes perceived as hate speech and at the same time freedom of expression is sometimes misinterpreted and hate speech is disseminated. There are still displays of symbols and expressions sympathising with the nature of the Independent State of Croatia (NDH) and the Ustaša regime during WW.

34. Minorities are especially targeted by hate speech transmitted by the media and that are present in the political discourse. The anti-minority rhetoric and prejudice especially target the Serb and the Roma national minorities.

Suggested questions:

- What measures is the State planning to undertake to facilitate the promotion of tolerance?
- What measures is the State planning to better address occurrences of hate speech?