



**International covenant  
on civil and  
political rights**

Distr.  
GENERAL

CCPR/C/HRV/2  
2 December 2008

Original: ENGLISH

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Second periodic report of States parties**

**CROATIA\***

[28 November 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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### **Introduction**

1. The International Covenant on Civil and Political Rights is an international legal instrument of the United Nations, dating from 1966 (hereinafter: “the Covenant”). The Organisation of United Nations adopted the Optional Protocol in 1976. It thereby recognised the competence of the Human Rights Committee to receive and consider complaints by nationals of state parties to the Covenant, who claimed that they were the victims of a violation of a right protected by the Covenant. The Protocol established the procedure for submitting complaints and was therefore one of the guarantees that the state parties would be more responsible in the realisation of the rights and freedoms from the Covenant.
2. States parties to the Covenant are required, by laws and other measures, to make possible everything necessary for the recognition and realisation of human rights, to provide effective remedy for everyone whose rights and freedoms (established by the Covenant) have been violated. Even in a state of public emergency, no limitations or abolition are permitted of the basic rights of man, which are recognised or exist in a state.
3. The Republic of Croatia is a member of the Covenant on the basis of notification of succession (Official Gazette [hereinafter: “OG”] 12/93 - International Agreements).
4. The Initial Report on the application of the Covenant was submitted by the Republic of Croatia in 1999 to the Human Rights Committee. The Human Rights Committee did not consider the Initial Report until the end of 2002 and on that occasion Concluding Observations by the Committee were delivered.
5. In 2003 the Republic of Croatia sent the Human Rights Committee its observations on individual points of the Concluding Observations on the application of the Covenant. In line with the request by the Human Rights Committee, some recommendations or points of the Concluding Observations were also covered in the Initial Report. These Concluding Observations also set 1 April 2005 as the day for submitting the Second Report on the application of the Covenant.
6. The second report on the application of the Covenant was written according to the methodology which stated that periodic reports must be structured following the articles of the Covenant, and show the way each article is being put into practice. The report covers the period from 2000 to 2006.
7. In the period from the submission of the Initial Report up until the submission of the Second Report, eight years passed. In this period of time, the Republic of Croatia recorded significant progress in the realisation and protection of human rights. The Republic of Croatia strengthened its administrative capacity and created the legislative framework for the realisation and protection of human rights.
8. In line with the commitment of the Republic of Croatia to be a country which will realise the full scope of human rights, in the period from the submission of the Initial Report to the present day, the Government of the Republic of Croatia founded the following: in 2001, the Office for Human Rights, in 2004 the Office for Gender Equality, in 2003 the Office of the Ombudsperson for Gender Equality, in 2003 the Office of the Children’s Ombudsman, in 2005

the Human Rights Centre and other institutions charged with tasks aimed at improving human rights (more is said about these and other institutions in the text of the Report). In relation to the legislative framework for the protection of human rights, in the period of eight years a significant number of laws and national policies, strategies and programmes were adopted. The purpose of adopting these documents was to strengthen the protection of vulnerable social groups who were assessed as needing special protection in realising their rights.

9. The existing legislative framework is also made up of the following pieces of legislation:

#### **Constitution and constitutional laws**

Constitution of the Republic of Croatia (OG 56/90, 135/97, 8/98 - revised text, 113/00, 124/00 - revised text, 41/01 - revised text, 55/01 - corrigendum, 41/01)  
Constitutional Act on the Rights of National Minorities (OG 155/02)  
Constitutional Act on the Co-operation between the Republic of Croatia and the International Criminal Tribunal (OG 32/96)  
Constitutional Act on the Constitutional Court (OG 49/02)

#### **Laws**

Family Act (OG 116/03, 17/04, 136/04)  
Police Act (OG 129/00)  
Children's Ombudsman Act (OG 96/03)  
Act on the Right of Access to Information (OG 172/03)  
Act on the Application of the Statute of the International Criminal Tribunal and on Prosecutions of Criminal Offences against the International Military and Humanitarian Law (OG 175/03)  
Ombudsman Act (OG 60/92)  
Labour Act (OG 38/95, 54/95, 65/95, 17/01, 82/01, 114/03, 123/03, 142/03, 137/04)  
Gender Equality Act (OG 116/03)  
Social Welfare Act (OG 73/97, 27/01, 59/01, 82/01, 103/03, 44/06)  
Juvenile Courts Act (OG 111/97, 27/98, 129/00)  
State Administration System Act (OG 190/03 - revised text and 199/03)  
Associations Act (OG, 88/01, 11/02)  
Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia (OG 51/00, 56/00 - corrigendum)  
Act on Protection from Family Violence (OG 116/03)  
Act on the Protection of Persons with Mental Disorders (OG 111/97, 27/98, 128/99, 79/02)  
Health Care Act (OG 121/03, 44/05, 48/05, 85/06)  
Act on the Health Care for Foreigners in the Republic of Croatia (OG 114/97)  
Defence Act (OG 33/02, 58/02, 100/04)  
Act on the Service in the Armed Forces of the Republic of Croatia (OG 33/02, 58/02, 175/03, 136/04)  
Youth Councils Act (Official Gazette, number: 23/07)  
Act on Areas of Special State Concern (OG 26/03)  
Islands Act (OG 34/99, 32/01, 33/06)  
Act on Hilly and Mountainous Areas (OG 12/02, 32/02, 117/03, 42/05, 90/05)  
Mining Act (OG 190/03)

Concessions Act (OG 89/92)  
Civil Procedure Act (OG 53/91, 91/92, 112/99, 88/01, 117/03)  
Criminal Code (OG 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06)  
Criminal Procedure Act (OG 62/03, 115/06)  
General Administrative Procedure Act (OG 53/91, 103/96)  
Courts Act (OG 150/05)  
Act on the Protection of Patients' Rights (OG 169/04)  
Act on the Execution of Prison Sentences (OG 128/99, 55/00, 129/00, 59/01, 67/01)  
Enforcement Act (OG 7/96, 29/99, 42/00, 73/03, 194/03, 115/04, 88/05)  
Act on the International Legal Assistance in Criminal Matters (OG 78/04)  
Asylum Act (OG 103/03)  
Croatian Nationality Act (OG 53/91, 70/91, 28/92, 113/93, 4/94)  
Mediation Act (OG 163/03)  
Companies Act (OG 11/93, 34/94)  
Civil Obligations Act (OG 35/05)  
Institutions Act (OG 76/93, 76/93, 27/97, 47/99)  
Personal Data Protection Act (OG 113/03, 118/06)  
Act on the Legal Position of Religious Communities (OG 83/02)  
Act on Public Holidays, Memorial Days and Non-Working Days in the Republic of Croatia  
(OG 136/02, 112/05, 59/06)  
Civilian Service Act (OG 25/03)  
Media Act (OG 59/04)  
Croatian Radio Television Act (OG 25/03)  
Electronic Media Act (OG 122/03)  
Protection of Data Confidentiality Act (OG 108/96)  
Civil Servants Act (OG 92/05, 142/06)  
Public Assembly Act (OG 128/99)  
Political Parties Act (OG 76/93, 111/96, 164/98, 36/01)  
Act on Financing Political Parties, Independent Lists and Candidates (OG 1/07)  
Same-Sex Civil Unions Act (OG 16/03)  
Personal Names Act (OG 69/92, 26/93, 29/94)  
Population Registers Act (OG 96/93)  
Act on the Election of the President of the Republic of Croatia (OG 22/92, 42/92, 71/97)  
Act on the Election of Members of the Croatian Parliament (OG 69/03, 44/06)  
Local and Territorial (Regional) Self-Government Act (OG 33/01, 60/01, 129/05)  
Act on the Election of Members of Representative Bodies of Local and Territorial (Regional)  
Self-Government Units (OG 33/01, 10/02, 155/02, 45/03, 43/04, 40/05, 44/05 - revised  
text, 44/06)  
Act on Education in the Languages and Scripts of National Minorities (OG 52/02)  
Personal Identity Card Act (OG 11/02, 122/02, 136/06)  
Museums Act (OG 142/98)  
Libraries Act (OG 105/97, 5/98, 104/00)  
Archival Material and Archives Act (OG 105/97, 64/00)  
Act on the Method of Determining the Representation of Trade Union Associations of a Higher  
Level in Tripartite Bodies at the National Level (OG 19/99)  
Internal Affairs Act (OG 29/91, 73/91, 19/92, 76/94, 161/98, 53/00)

**National strategies, programmes and policies**

National Plan of Activities for the Welfare, Rights and Interests of Children 2006-2012  
National Policy for the Promotion of Gender Equality in the Republic of Croatia 2001-2005  
(OG 112/01)  
National Strategy for an Integral Policy for People with Disabilities 2003-2007 (OG 13/03)  
National Strategy for Protection from Family Violence for the period 2005 to 2007  
National Family Policy  
National Population Policy  
National Programme of Action for Young People  
National Programme for the Accession of the Republic of Croatia to the European Union  
(OG 30/03, 37/04, 2006)  
National Programme for the Suppression of Misuse of Narcotic Drugs for 2003)  
National Programme for the Suppression of Corruption 2006-2008 (OG 39/06)  
National Programme for the Fight Against Corruption  
National Programme for the Roma  
National Policy for the Promotion of Gender Equality in the Republic of Croatia from 2006  
to 2010  
National Programme for Suppressing Trafficking in Persons 2005-2008  
National Programme for Suppressing Trafficking in Children 2005-2007  
Project of Return of Croatian Refugees of Serbian Ethnic Origin  
Project to Promote the Fight Against HIV/AIDS in Croatia

10. Some other laws and documents have also been adopted, which are mentioned in connection with the relevant articles in the text.

11. By establishing special bodies, adopting special documents and improving its legislative framework relating to the rights referred to in the Covenant, the Government of the Republic of Croatia shows that Croatia is a country with high standards in the realisation and protection of human rights. The problems with which it is faced are a challenge, as they indicate that in certain areas additional efforts have to be made to find better solutions.

12. Everything the Republic of Croatia has undertaken and is still undertaking identifies it as a country committed to democracy and endeavouring to achieve full realisation of the highest values of its constitutional order. "Freedom, equal rights, national equality and equality of genders, love of peace, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law, and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia and the ground for interpretation of the Constitution."

13. The way the provisions of the Covenant are applied is presented in the Report in the form of observations on the relevant articles.

**Article 1**

14. The provisions of Article 1 of the International Covenant on Civil and Political Rights are built into the Constitution of the Republic of Croatia (OG 56/90, 135/97, 8/98 - revised text, 28/01 - modification of the Constitution) as a constitutive legal act. The Republic of Croatia

is a sovereign democratic state, in which equality, freedom and the rights of man and citizens are guaranteed and put into practice, economic and cultural progress are promoted, and social well-being. In the Republic of Croatia, power derives from the people and belongs to the people as a community of free and equal citizens. The Republic of Croatia, in line with international law, exercises sovereign rule and jurisdiction over its territory. The Croatian Parliament and people directly, independently, in line with the Constitution and the law, decide on the economic, legal and political order in the Republic of Croatia, the preservation of its natural and cultural wealth and disposal of that wealth.

15. The highest values of the constitutional order are: freedom, equal rights, national equality, gender equality, love of peace, social justice, respect for human rights, the inviolability of ownership, conservation of nature and the environment, the rule of law, and a democratic multiparty system. Particular protection is given by the Republic of Croatia to the sea, seashore and islands, waters, air space, mineral wealth and other natural resources, as well as land, forests, fauna and flora, other parts of nature, real estate and goods of special cultural, historic, economic or ecological significance which are specified by law to be of interest to the Republic of Croatia. The law prescribes how goods of interest to the Republic of Croatia may be used and exploited by bearers of rights to them and by their owners.

16. The Republic of Croatia, due to the consequences of the Homeland War pays particular attention to the areas which were directly affected by the war. The Act on Areas of Special State Concern (OG 26/03 - revised text) establishes the areas in which the Republic of Croatia takes special care and establishes incentives for their reconstruction and development.

17. The areas of special state concern were established in order to rectify the aftermath of the war, to hasten the return of the population that lived in those areas before the Homeland War, to promote demographic and economic progress and to achieve the more balanced development of all areas of the Republic of Croatia.

18. The rights from this Act are exercised by natural persons who have permanent or temporary residence in the areas of special state concern, and legal entities with their seat in the area of special state concern.

19. The areas of special state concern are classified in three groups. The criteria for classification in the first and second groups arise from the consequences of the occupation and aggression inflicted on these areas and the Republic of Croatia. The criteria for classification of the third group are: economic development, structural problems, demographic criteria, and special criteria.

20. According to the special criteria, the areas of special state concern include municipalities which are assessed to be areas of the Republic of Croatia which are backward in terms of development. The evaluation procedure is founded on four criteria of development:

- The criterion of economic development - areas are defined which are economically backward; indicators are measured such as: income of population, income of the unit of local self-government and other available indicators

- The criterion of structural problems - relates to defining areas with extreme difficulties in terms of unemployment, industrial and agricultural restructuring; indicators are measured such as: employment and unemployment, special indicators of the development of industrial, urban and rural areas and other available indicators
- Demographic criteria - relate to defining areas with extremely poor demographic indicators; indicators are assessed/measured such as: density of population, general trends of population movements, the vital index, the age and educational structure of the population and other available indicators
- Special criteria are applied to border municipalities, who with the change of the republic borders to state borders are faced with additional developmental difficulties and to municipalities in areas affected by mines, which do not meet the criteria for the first two groups of areas of special state concern

21. A decision on meeting the criteria is made on the basis of the opinion of the ministry responsible for financial affairs, the ministry responsible in the field of the economy, and the ministry responsible for agriculture and forestry.

22. Apart from areas of special state concern, the Republic of Croatia pays special attention to the protection and development of its islands. The Islands Act (OG 34/99, 32/01, 33/06). Article 1 of this Act prescribes that the islands are Croatia's natural wealth, and real estate on the islands is of special national, historical, economic and ecological importance and interest for the Republic of Croatia, and enjoy its special protection.

23. The Act on Hilly and Mountainous Areas (OG 12/02, 32/02, 117/03, 42/05, 90/05) regulates incentive measures for demographic renewal, economic growth and sustainable development and for creating the conditions to resolve social problems and raise the living standards of the population of hilly and mountainous areas. The hilly and mountainous areas for the purposes of this Act are taken to be areas whose altitude, gradient, exposure, effective fertility, climate and other natural characteristics mean that the life and work of the population is more difficult. Hilly and mountainous areas are established as areas of interest and are under the special protection of the Republic of Croatia in order to promote their demographic renewal, resettlement, the creation of conditions for the best possible use of natural and similar resources for the economic development of those areas and the Republic of Croatia as a whole. Here it is necessary to raise the level of ecological protection of the natural wealth and living space of people and all living beings, and the improved and more equal resolution of social problems and economic growth and development of all areas of the Republic of Croatia.

24. The Mining Act (OG 190/03 - revised text) prescribes that mineral resources are of interest for the Republic of Croatia, they have its special protection and are exploited under the conditions and in the manner prescribed by this Act. Mineral resources are the possession of the Republic of Croatia. Concessions are granted according to equal criteria as stated in the Initial Report by the Republic of Croatia. Alongside the Concessions Act (OG 89/92), in 2004 the Ordinance on the organisation and management of the Concessions Register was adopted (OG 164/04).

## Article 2

25. Everyone in the Republic of Croatia enjoys rights and freedoms, regardless of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All are equal before the law (Articles 14 and 15 of the Constitution of the Republic of Croatia).

26. The new Constitutional Act on the Rights of National Minorities (OG 155/02) was adopted in 2002 (hereinafter: “the Constitutional Act”). Article 4 of the Constitutional Act provides that every national of the Republic of Croatia has the right to express freely that he or she is a member of a national minority in the Republic of Croatia, the right to exercise, alone or together with other members of that national minority or with members of other national minorities, the rights and freedoms stipulated by this Constitutional Act and other minority rights and freedoms stipulated by special laws. Members of national minorities exercise the rights and freedoms stipulated by the Constitution of the Republic of Croatia and laws in the equal manner as other citizens of the Republic of Croatia. Any discrimination based on affiliation to a national minority is forbidden. Members of national minorities are guaranteed equality before the law and equal legal protection. It is prohibited to undertake measures which change the proportion among the population in the areas inhabited by persons who belong to national minorities, and which are directed at hindering the exercise or restricting the rights and freedoms stipulated by the Constitutional Act and special laws.

27. Article 20 of the Constitution provides that anyone who violates the provisions of the Constitution concerning the human rights and fundamental freedoms may not be exculpated by invoking a superior order.

28. The legislative framework for sanctioning discrimination is made up of the provisions of the Criminal Code (OG 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03 - Decision by the Constitutional Court of the Republic of Croatia, 105/04, 84/05 - corrigendum, 71/06) and, in particular Article 106 - violation of the equality of citizens, and Article 174 - racial and other discrimination. (The contents and description of these criminal offences is given below.)

29. In October 2006, the definition of hate crime was introduced in the Criminal Code. Hate crime is any offence committed against a person that is motivated by the offender’s hatred of someone because of their race, colour, gender, sexual orientation, language, religion political or other belief, national or social origin, property, birth, education, social status or other characteristics. This demonstrates a clear commitment to sanctioning every conduct which, in whatever manner and for whatever motives, is aimed at placing another person/persons in an unequal position.

30. Compared to the previous reporting period, the provisions of Article 174 of the Criminal Code have been brought in line with Article 6 of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The Republic of Croatia has signed this instrument.

31. It is necessary to stress that, in comparison with the mentioned period, the Criminal Code of the Republic of Croatia was also subject to some other important amendments, which introduced some new criminal offences and extended the range of sentences for the existing criminal offences. The objective of these amendments was to bring the criminal legislation in line with international standards, and thus offer individuals greater guarantees in the exercise and protection of human rights.

32. The mentioned amendments to the criminal legislation are based on the following legal sources:

- The Rome Statute of the International Criminal Court (OG 5/01 - International Agreements, ratified on 28 March 2001).
- The United Nations Convention against Transnational Organised Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organised Crime (OG 14/02 - International Agreements, ratified on 7 November 2002).
- The Criminal Law Convention on Corruption (OG 11/00 - International Agreements, ratified on 6 October 2000).
- The International Convention against the Recruitment, Use, Financing and Training of Mercenaries (OG 12/99 - International Agreements, ratified on 24 September 1999).
- The International Convention for the Suppression of the Financing of Terrorism (OG 16/03 - International Agreements, ratified on 1 October 2003).
- The Convention on Cybercrime (OG 9/02 - International Agreements, ratified on 3 July 2002).
- Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, the Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings, and the Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin (OG 13/03 - International Agreements, ratified on 14 July 2003).

### **The right of appeal**

33. The Constitution of the Republic of Croatia guarantees the right of appeal against the first instance decisions made by courts or other authorities. The right of appeal may exceptionally be excluded in cases specified by law, if other legal remedies are ensured (Article 18 of the Constitution).

34. The right of appeal is ensured by the Civil Procedure Act (OG 53/91, 91/92, 112/99, 88/01, 117/03). This Act provides that parties may lodge an appeal against a judgment rendered by a court of first instance within 15 days from the date when a copy of the judgment is served, unless the Act provides for another time limit. In disputes involving checks and bills of exchange the time limit is eight days. A timely appeal prevents the judgment from becoming legally effective in the part challenged by the appeal. An appeal against judgment is decided by the court of second instance.

35. The Criminal Procedure Act (OG 62/03 - revised text, 115/06), provides that authorised persons may take an appeal from a judgement rendered at first instance within a term of fifteen days from the day the copy of the judgement is served. If the judgement is served on both the accused and on his or her defence counsel, but on different days, the term for appeal is to commence on the later date. An appeal filed in due time by an authorised person stays the execution of the judgement.

36. The General Administrative Procedure Act (OG 53/91, 103/96), as the basic piece of legislation governing the administrative procedure, provides that a party has the right of appeal against an administrative decision rendered in first instance proceedings. The appeal is to be lodged within fifteen days unless otherwise specified by law, and if no appeal is permitted, an administrative dispute may be instituted by filing a lawsuit. (More details on legal remedies are given below.)

37. The right of appeal is also guaranteed by other laws regulating specific areas. In addition to the appeal, which is an ordinary legal remedy, parties also have the possibility of lodging extraordinary legal remedies.

38. Having exhausted all the available legal remedies, one can lodge a constitutional complaint, and file an application with the European Court of Human Rights in Strasbourg. The Constitutional Act on the Constitutional Court (OG 49/02 - revised text) provides that everyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the individual act of a state body, a body of local and regional self-government, or a legal person with public authority, which decided about his or her rights and obligations, or about suspicion or accusation of a criminal offence, has violated his or her human rights or fundamental freedoms guaranteed by the Constitution, or his or her right to local and regional self-government guaranteed by the Constitution (hereinafter: "constitutional right"). If some other remedy is provided against violations of constitutional rights, the constitutional complaint may only be lodged after this remedy has been exhausted. In matters in which an administrative dispute or a request for revision on points of law in the civil or *ex parte* proceedings are allowed, remedies are deemed to have been exhausted after a decision has been rendered upon these legal remedies as well.

39. The Constitutional Court shall initiate proceedings in response to a constitutional complaint even before all legal remedies have been exhausted in cases when the court of justice did not decide within a reasonable time about the rights and obligations of the party, or about suspicion or accusation of a criminal offence, or in cases when the disputed individual act grossly violates constitutional rights and it is completely clear that grave and irreparable consequences may arise for the applicant if Constitutional Court proceedings are not initiated.

40. As regards the Concluding Observations by the Human Rights Committee relating to the insufficient training for judges in the field of international human rights law, we would like to state as follows:

- In 2004, the Judicial Academy was established, and since its establishment the Academy has been systematically implementing professional training programmes for judicial officials and staff in the field of human rights.
- In 2005, a training programme was implemented on the subject “The European Convention on Human Rights - Basic Rights and Examples from the Domestic Case Law”. The training programme consisted of five workshops, four of which were organised by the Judicial Academy, and one was co-organised with the Embassy of France. The workshops were attended by a total of 8 participants (judges and public prosecutors).
- In 2006, a training programme was implemented on the subject “The Protection of the Right to Trial within a Reasonable Time”, after the entry into force of the new *Courts Act* (OG 150/05). In the first 6 months of 2006, a seminar for 56 judges was held, and in September 2006 a roundtable entitled “The Convention for the Protection of Human Rights and Fundamental Freedoms and its Impact on Everyday Work of Public Prosecutors and Judges” as part of the CARDS 2003 “Professional Training for Public Prosecutors.”

41. The roundtable was attended by representatives of courts, the Public Prosecution Service of the Republic of Croatia, the Office for the Fight against Corruption and Organised Crime (USKOK), the Ministry of Justice, the Delegation of the European Commission, representatives of the embassies of France and Spain, and representatives of the French and Spanish justice systems (as lecturers), representatives of the Croatian and Spanish academic communities, and advisers in the mentioned CARDS 2003 Project for USKOK.

### **Article 3**

42. In comparison with the preceding reporting period, the Republic of Croatia has made a significant step forward in ensuring a comprehensive legal regulation of these provisions of the Covenant.

43. The amendments to the Constitution of the Republic of Croatia of 2001, which introduced gender equality as one of the highest values of the constitutional order of the Republic of Croatia, demonstrated the highest legislative body’s political determination to see Croatia among democratic countries, building their political systems through recognition and promotion of the equality of women and men, which is an indispensable condition for the sustainable development. This confirmed the political principle of parity democracy, as the only genuine democracy, and laid the foundations for further legislative regulations, aimed at creating an environment of equal opportunities for both genders, and for consistent application of these regulations in practice.

44. In 1997, the National Policy for the Promotion of Gender Equality was adopted, which gave an overview of the current situation (for instance, insufficient participation of women in public and political life), and which contains specific measures for the improvement of the position of women. With the adoption of the National Policy, a policy was accepted which emphasised the need of undertaking various measures for the improvement of the position of women and the achievement of gender equality. Funds were provided for the work of the Commission on Gender Equality, necessary for the implementation of the National Policy for the Promotion of Gender Equality. Funds were increasing each year, which enabled the expansion of the Commission's activities. Collaboration was initiated between the Commission and non-governmental organisations dealing with the rights and position of women. Non-governmental organisations were involved in the work of the Commission on Gender Equality in institutional terms. The Commission on Gender Equality organised, in conjunction with non-governmental organisations, a number of joint conferences and forums to discuss the issues relating to the position of women. A conference on the representation of women in political life and on violence against women was organised, which confirmed that the Government and non-governmental organisations should work together to address the issues relating to the improvement of the position of women. The Commission began to provide financial support for NGO projects relating to the implementation of the Beijing Platform. This has made possible for expanding the circle of those participating in the realisation of the goals of the National Policy. The establishment of the Commission on Gender Equality and the adoption and implementation of the National Policy have helped raise the awareness of the need to take actions aimed at achieving the equality of women and men. Many measures have been undertaken to advance the position of women, and forums have been organised at which non-governmental organisations participated. These organisations implemented some very useful actions and projects on their own as well.

45. All the activities that have been undertaken have not been sufficient to create a general climate in which further democratisation of society should lead to attaching greater importance to systematic promotion and achievement of gender equality. During the implementation of the National Policy it was noticed that the realisation of the planned goals is closely related to the provision of funds for the implementation of specific measures, that is to say, that some of the planned measures have not been implemented due to the lack of funds. The provision of additional funds is also necessary to co-finance NGO projects which will enable the inclusion of more people in the realisation of the goals set by the National Policy and the Beijing Platform. Another shortcoming observed is the lack of quality statistical indicators, which would make it possible to clearly and systematically monitor the trends in this area and evaluate the results achieved. There is also the problem of the lack of qualified staff in the civil service, who would be systematically engaged in the promotion of the policy for balanced participation of women and men in all aspects of state policy.

46. After the parliamentary elections in January 2000, the number of female Members of Parliament significantly rose (from 5.7 per cent to 23.5 per cent), and this resulted in the establishment of the Parliamentary Committee on Gender Equality. The Government of the Republic of Croatia set up the Commission for Gender Equality, thus showing its firm commitment to dealing with the issue of equality of women and men in Croatian society in a systematic manner. The Deputy Prime Minister was appointed as the chair of this Commission. At the proposal of the Commission, on 5 June 2000 the Republic of Croatia signed the Optional

Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Croatian Parliament ratified the Protocol on 27 January 2001, and on 7 March 2001 the Deputy Prime Minister deposited the instrument of ratification of the Protocol at the Secretariat of the United Nations.

47. Due to the deficiencies observed in the application of the National Policy up to 2000, the Commission of the Government of the Republic of Croatia entered into dialogue with the non-governmental sector on further actions that need to be taken in the Republic of Croatia in the field of gender equality, through the creation of a new policy. In 2000, a national conference was organised for this purpose on the subject "Women in Croatia 2001-2005" at which representatives of the Croatian Parliament, the Government, women's non-governmental organisations, political parties, trade unions and scientific institutions assessed the work done in the field of gender equality in the Republic of Croatia in the period 1995-2000. The areas to be covered by the new national policy are: women and education, women in positions of power and decision-making, women and health, institutional mechanisms, violence against women, human rights of women, women and armed conflict, women in the media, women and the economy, and women and the environment.

48. In 2003 the Gender Equality Act (OG 16/03) was passed, which establishes the general foundations for the protection and promotion of gender equality as one of the fundamental values of the constitutional order of the Republic of Croatia, and defines and regulates the protection against gender-based discrimination and the creation of equal opportunities for women and men.

49. Gender equality means that women and men are equally present in all spheres of public and private life, that they have equal status, equal opportunities to exercise all their rights, and equal benefit from the achieved results. Discrimination on the basis of gender means any normative or actual, direct or indirect differential treatment, exclusion or limitation based on one's gender which renders more difficult or denies equal recognition, enjoyment or exercise of human rights of men and women in political, educational, economic, social, cultural, civil and any other sphere of life.

50. Any discrimination on the basis of one's marital or family status and sexual orientation is forbidden. Any incitement of another person to discrimination is to be considered an act of discrimination.

51. The same Act also prescribes the tasks of the Office for Gender Equality, as a professional body responsible for carrying out the tasks relating to the attainment of gender equality. The Office for Gender Equality carries out professional and other tasks, by:

- Coordinating all the activities aimed at achieving gender equality, including the provision of professional assistance in the implementation and application of this Act and other regulations relating to gender equality
- Approving the implementation of action plans of government bodies, legal persons vested with public authority, and legal persons whose majority shareholder is the state or a unit of local and territorial (regional) self-government, referred to in the Act

- Proposing to the Government of the Republic of Croatia and to government bodies the adoption or amendments of laws and other regulations, and the adoption of other measures
- Developing a national policy for the promotion of gender equality and monitoring its implementation
- Conducting research and analyses, and reporting to the Government of the Republic of Croatia every two years on the implementation of the national policy
- Monitoring the level of harmonisation and implementation of laws and other regulations on gender equality with international documents
- Preparing national reports on the fulfilment of international obligations in the area of gender equality
- Collaborating with non-governmental organisations active in the field of gender equality, and ensuring partial financing for their projects or activities
- Promoting the knowledge and awareness of gender equality
- Receiving petitions about violations of this Act and other regulations
- Reporting to the Government of the Republic of Croatia each year on its activities during the previous year, no later than the end of April

52. In addition, under the Gender Equality Act, the institution of the Ombudsperson for Gender Equality has been established. The Ombudsperson and his or her deputy must be of different genders and one of them must have a law degree. The Ombudsperson acts autonomously and independently, monitors the implementation of this Act and other regulations relating to gender equality, and at least once a year submits a report on his or her work to the Croatian Parliament.

53. The Ombudsperson also handles the cases involving violations of the principle of gender equality, cases of discrimination against individuals or groups of individuals committed by government bodies, bodies of the units of local and territorial (regional) self-government or other bodies vested with public authority, by employees of these bodies and other legal and natural persons. Everyone is entitled to approach the Ombudsperson and report violations of the provisions of the Act, regardless of whether or not this person is directly harmed, unless the victim expressly objects to it.

54. While carrying out the tasks that fall under his or her scope of work, the Ombudsperson is entitled to issue warnings, proposals and recommendations. The Ombudsperson is entitled to request reports from various bodies, and if this request is not met, the Ombudsperson may require their supervisory authority to carry out inspection of their work. If, in the course of his or her work, the Ombudsperson learns that a violation of the provisions of the Gender Equality Act contains elements of a criminal offence, he or she will file a report to the competent public prosecution office.

55. The Ombudsperson has the right to file a motion with the Constitutional Court to initiate the proceedings for a review of the constitutionality of laws, and the conformity of other regulations with the Constitution and the law, if he or she believes that the principle of gender equality has been violated. Where the Ombudsperson finds that the principle of gender equality has been violated due to the lack of conformity of a legal regulation with the Gender Equality Act, he or she will initiate proceedings to amend this regulation. In the course of his or her work, the Ombudsperson may request professional assistance from scholars and professionals, and from scientific and professional institutions.

56. Government bodies, legal persons vested with public authority, and legal persons whose majority shareholder is the state or a local and territorial (regional) self-government unit are obliged to apply special measures and adopt action plans for the promotion and establishment of gender equality. Special co-ordinators for gender equality have been appointed in state administration bodies at the level of state functionaries.

57. In 2006, the new National Policy for the Promotion of Gender Equality 2006-2010 (OG 114/06) was adopted as the basic strategic document of the Republic of Croatia, whose aim is to eliminate discrimination of women and establish genuine equality, through the implementation of the equal opportunities policy, in the period 2006-2010.

### **Situation analysis**

58. The employment rate for women is significantly lower than the employment rate for men (45.1 per cent). Of the total number of officially registered unemployed persons, women account for 59 per cent, although the proportion of women in the total number of self-employed persons is growing (from 32.1 per cent in 2002 to 40 per cent in 2004). There are several factors responsible for the continuing rise in unemployment of women, including above all the resistance of employers against hiring women who have or who could have obligations as mothers. An important factor is also the high cost of child care, in view of the level of salaries. Moreover, for many families crèches and kindergartens are unavailable as they are filled to capacity, with long waiting lists. The studies undertaken show that women on average earn 20 per cent less than men, and according to the official figures from the Central Bureau of Statistics for 2004, the percentage proportion of women's salaries to men's salaries was 89.5, or HRK 456 less than the average men's salary (the average net salary for a woman was HRK 3,885 and for a man HRK 4,341). The proportion of women in business is not more than 30 per cent and the number of women on management boards in the public and private sectors is also very low (there are only 6 per cent women in management positions in the 100 largest companies in the Republic of Croatia). In order to strengthen women in business, the ministries, local government bodies and NGOs are running programmes to strengthen women in business and the economic empowerment of women. One of the goals of the operational plan to encourage small and medium sized enterprises for 2006 includes the creation of the conditions for the quick inclusion of women, as a target group, by allocation of loan subsidies. For instance, of the total number of the requests received for financial support in 2005, the Ministry of the Economy, Labour and Entrepreneurship approved 256 requests, or 61.08 per cent of the total of 419 requests sent by women in business. To this end, HRK 2,893,788.00 was allocated from the

budget, where most of the projects approved were in the field of incentives for introduction of new technologies and the application of know-how in technological development. Women had a share of 27 per cent in the total incentives given by the Ministry of the Economy, Labour and Entrepreneurship.

59. The process of reconciling private and professional life is hindered by the need to remove the inequalities in the social positions of men and women. Less than 1 per cent of men use paternity leave, although there is a slight increase in comparison with last year. Similarly, there is not a sufficient number of child care and educational institutions and other social institutions which meet the needs and interests of the family with what they offer. However, it should be mentioned here that the implementation of social policy measures has a major influence on the overall economic condition of the country.

60. In terms of equal treatment of women and men, the most important laws prohibiting discrimination on the basis of gender related to employment and status on the labour market, are the Labour Act and the Gender Equality Act, according to which discrimination in the field of employment and work is prohibited in the public and private sectors. The provisions of the Labour Act relate to conditions of employment, career advancement, access to professional training, working conditions and membership and involvement in employees' and employers' associations. The scale of various forms of discrimination of women in the process of finding employment and at the work place is not proportional to the complaints and petitions received by the competent authorities. One of the causes of the small number of complaints received and processed is the lack of efficiency of the judiciary in the field of anti-discrimination provisions, and the declarative nature of the law which makes its application and the protection of rights impossible in specific situations. In this sense, it is necessary to undertake further action in order to educate and acquaint women with the possibilities of legal protection contained in the national legislation.

61. Women are still under-represented in positions of authority on a national and local level, and there is a noticeable smaller proportion of women in local representative and executive bodies when compared to their share in the Croatian Parliament and the Government of the Republic of Croatia. Although there is a clear gradual increase in the number of women who are political representatives, we cannot be satisfied with the dynamics of the growth. Since the first multiparty elections in 1990, the number of women in the Croatian Parliament has increased from 4.6 per cent through 7.1 per cent in 1995 to stabilise after the elections in 2000 and 2003 at around 21 per cent. Of the five vice-presidents of the Croatian Parliament, two are women. The representation of women in the parliamentary working bodies/committees ranges from 12 per cent women representatives who chair committees, through 28 per cent vice-presidents, to 22.7 per cent women as members of parliamentary committees. The largest increase in political involvement by women has occurred in positions of executive power at the state level: the proportion of women in the Government of the Republic of Croatia has moved from 10.5 per cent in 2000, through 20 per cent in 2002 to 29 per cent in 2003 and 31 per cent in 2005/2006. The number of women state functionaries and high ranking state and public officials also rose from 20 per cent in 2000 to 26.5 per cent in 2005, as did the number of women ambassadors, from 8 per cent in 2000 to 15 per cent in 2005.

62. The proportion of women who hold positions of authority on a local level is worryingly low - in Croatia there are only 11 per cent women mayors, and the rise in the total number of women councillors after the local elections in May 2005 in comparison with 2001 followed the distribution shown below (where the average proportion of women councillors in 2001 was 11.5 per cent and in 2005 12.9 per cent).

**Proportion of women members of county assemblies in %**

	2001	2005
Women members of county assemblies	13.4	14.5
Women members of town councils	14.0	15.7
Women members of municipal councils	7.0	8.4

63. There is a noticeable and major imbalance in political participation by women in certain county assemblies, for example: from only 2.4 per cent in the Šibenik-Knin County, 4.9 per cent in the Varaždin County, to 27 per cent in the Istria and Međimurje Counties and the City of Zagreb (Source: Central Bureau of Statistics, 2006).

64. Although in the Act on the Election of Members of Representative Bodies of Local and Territorial (Regional) Self-government Units there is a provision in Article 15 by which the political parties as proposers of lists are obliged to take gender equality into account, and the Gender Equality Act also prescribes that all political parties are obliged to define methods for the promotion of balanced representation of women and men in the lists of candidates for elections to the bodies of units of local and territorial (regional) self-government, the results of the research undertaken show without doubt that these regulations are not being applied and that no legal sanctions are prescribed for these violations. On the other hand, we are faced with the over-representation of women in the judicial power. In most first instance courts in the Republic of Croatia, women are in the majority: they account for about 65 per cent of the total number of municipal court judges, 54 per cent of commercial judges, and 74 per cent of misdemeanour judges. Women constitute a majority at the Administrative Court of the RoC (71 per cent) and at the High Misdemeanour Court (62 per cent). At the Supreme Court of the RoC there are 50 per cent women, in the Constitutional Court, 30.8 per cent.

65. The proportion of women judicial trainees also indicates the continuation of the trend of feminisation of the judicial function.

66. Although from the statistical indicators it appears that there is no gender discrepancy/discrimination regarding the approach to education, in the area of educational content there are still today traditional stereotypes regarding the gender roles of men and women present.

67. Figures indicate that there is an equal proportion of girls and boys in elementary and high schools, but at enrolment in university there are more girls (54 per cent of the total enrolled students). In 2004 women accounted for 59.7 per cent of the total of university graduates with an extremely low proportion in the field of computing (20.4 per cent), and engineering (9.8 per cent) (Source: Central Bureau of Statistics, 2006). Differences also exist when it comes to the selection of high schools and colleges, which reflect on the continued presence of the division of labour into male and female occupations, because the female portion of the

population shows a greater tendency to choose the social and humanistic sciences. Here objective criteria should be borne in mind applicable for the type of profession the candidate has chosen. The realisation of this measure is also prescribed in the Gender Equality Act. In line with the Lisbon declaration, the Ministry of Science, Education and Sport has included in its programme goals for 2010 an increase in the number of graduate experts (both men and women) in the field of mathematics, science and technology, and especially an increase in the proportion of women in those professions.<sup>1</sup>

#### **Article 4**

68. Article 17 of the Constitution of the Republic of Croatia states: “During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian Parliament by a two-thirds majority of all members or, if the Croatian Parliament is unable to meet, at the proposal of the Government and upon the counter-signature of the Prime Minister, by the President of the Republic.”

69. The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of persons in respect of race, colour, gender, language, religion, national or social origin.

70. Not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of the Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offences and punishments, or on freedom of thought, conscience and religion. Article 100 of the Constitution of the Republic of Croatia relates to the authority of the President of the Republic of Croatia to issue decrees during a state of war with the force of law if the Croatian Parliament is not able to assemble. In this way the Constitution prescribes a solution for extraordinary circumstances and situations in which the country may find itself during a state of war.

#### **Article 5**

71. In terms of the content of this provision of the Covenant, we can mention the following constitutional provisions:

- Article 16 of the Constitution of the Republic of Croatia by which freedoms and rights may only be restricted by law in order to protect the freedoms and rights of others, public order, public morality and health. Every restriction of freedoms or rights shall be proportional to the nature of the necessity for restriction in each individual case.

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<sup>1</sup> The information is taken from the National Policy for the Promotion of Gender Equality 2006-2010.

- Article 17, paragraph 3 of the Constitution of the Republic of Croatia which prescribes that not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offences and punishments, or on freedom of thought, conscience and religion.
- Anyone who violates the provisions of the Constitution concerning the human rights and fundamental freedoms shall be held personally responsible and may not be exculpated by invoking a superior order.

72. Alongside the above, in the Initial Report by the Republic of Croatia it is mentioned that Article 140 of the Constitution of the Republic of Croatia prescribes that an international agreement concluded, ratified and made public is above the law in terms of legal effects. Therefore if a law is contrary to the provisions of international agreements, the implementation of international agreements may be ensured before the Constitutional Court in proceedings to assess the constitutionality of the law. Furthermore, the direct application of the Covenant on Civil and Political Rights is possible.

#### **Article 6**

73. As mentioned in the Initial Report, in the Republic of Croatia there is no death penalty, and every human being has the right to life. Man's freedom and personhood are inviolable, no one may take away or limit freedom, except when this is prescribed by law, as decided by a court.

74. In the light of its commitment against the death penalty, in March 2005 the Government of the Republic of Croatia initiated the organization of a round table on the subject "The Justification of the Death Penalty?" The aim of the public and scholarly discussion on the subject of the death penalty was to consider and open up the debate on the justification and/or purposefulness of imposing the death penalty and to exchange a variety of experiences and legislative solutions by abolitionist (the Republic of South Africa, Italy, the Republic of Côte d'Ivoire, the Slovak Republic, Poland, Slovenia and the Ukraine) and retentionist (Iran, Japan, the Arab Republic of Egypt) countries. The discussion were attended by: guests from Italy - Mrs Emma Bonino, member of the European Parliament, Mrs Elisabetta Zamparutti, member of the "Hands off Cain" society, and head of the "Africa" project, Mrs Marina Szikora, member of the Transnational Radical Party (TRP), representatives of 8 diplomatic offices and 2 honorary consuls in the Republic of Croatia, and university teachers, independent experts, civil servants, representatives of judicial bodies, civil society organisations, students from the Zagreb Law Faculty and others. This debate and the exchange of experience between legislative practice of abolitionist and retentionist countries contributed to the basic idea of holding the round table, for representatives of diplomatic offices to pass on the initiative to their home countries and the conclusions of this expert discussion, and the intention for dialogue between differing viewpoints and in the end, to introduce a moratorium on the death penalty on a global level.

75. The Criminal Code of the Republic of Croatia (Article 156) defines and sanctions the criminal offence of genocide. It is to be punished with a prison sentence of at least ten years or a long-term prison sentence for persons who, with intent to destroy in whole or in part a national, ethnic, racial or religious group, orders the killing of members of such a group, or orders serious

bodily injury to be inflicted on them, or orders the physical or mental health of the members of such a group to be impaired, or orders the forcible displacement of the population, or conditions of life to be inflicted on the group which are calculated to bring about its physical destruction in whole or in part, or orders measures to be imposed which are intended to prevent births within the group, or orders the forcible transfer of children of the group to another group, or whoever with the same intent commits any of the foregoing acts.

76. There is no statute of limitations on the execution of sentences imposed on perpetrators of the criminal offence of genocide from Article 156, the criminal offence of war of aggression from Article 157, crimes against humanity from Article 157a, command responsibility from Article 167a, war crimes from Articles 158, 159 and 160 of the Criminal Code and other criminal legislation which is not subject to the statute of limitations according to international law.

77. In view of the concern expressed by the Human Rights Committee in relation to the violations of the provisions of Articles 6 and 7 of the Covenant committed during the Homeland War, we mention that in 2003 the Republic of Croatia adopted the Act on the Application of the Statute of the International Criminal Tribunal and on Prosecutions of Criminal Offences against the International Military and Humanitarian Law. This Act regulates: the application of the Statute of the International Criminal Tribunal which the Republic of Croatia ratified by the Act on the Ratification of the Rome Statute of the International Criminal Tribunal (OG 5/01 - International Agreements), the cooperation of the Republic of Croatia with the International Criminal Tribunal and the special nature of prosecution of criminal offences prescribed in Article 5 of the Statute, for criminal offences against values protected by international law from Articles 156-168, 187, 187a and 187b of the Criminal Code and for other criminal offences from the jurisdiction of international criminal courts and prosecution of criminal offences against international justice.

78. The Act on the Application of the Statute of the International Criminal Tribunal also makes it possible, at the proposal of the Chief Public Prosecutor of the Republic of Croatia, for the president of the Supreme Court to approve the transfer of proceedings from one to another court with subject-matter jurisdiction, when this is appropriate for the circumstances of the criminal offence and the needs of conducting the proceedings. Apart from processing war crimes, this Act also prescribes a special investigative department in 4 county courts: in Zagreb, Rijeka, Split and Osijek, comprised of judges with experience in investigating the most serious criminal offences and graduate criminologists. Alongside the provisions mentioned on the organisation of courts, the Judicial Academy of the Ministry of Justice of the RoC, in cooperation with the ICTY, organised a series of specialised seminars to train Croatian judges and public prosecutors. The training of Croatian judges has been completed successfully. The former president of the ICTY, Mr Theodor Meron, on his working visit to Croatia at the beginning of November 2004, after visiting judicial institutions, stated that he was impressed with their professionalism. By these measures the concentration of the best and most experienced staff has been assured, which will certainly result in an even higher level and quality of war crimes trials.

79. The Public Prosecution Service of the Republic of Croatia continuously examines indictments and requests for investigations instituted during and immediately after the war, to avoid conducting possibly unfounded proceedings for criminal offences of war crimes. The

Public Prosecution Service of the RoC issued recommendations not to conduct proceedings for war crimes in the absence of the accused. The Public Prosecution Service of the Republic of Croatia has concluded agreements on cooperation in pre-investigative proceedings for the most serious forms of crime, including war crimes, with public prosecution services of Bosnia and Herzegovina, Serbia and Montenegro. The concluding of these agreements has resulted in intensive cooperation between these bodies. An agreement is being prepared between the Republic of Croatia and neighbouring countries on ceding criminal cases involving war crimes. The agreement should make it easier in future for the signatories of the agreement to cede criminal cases against persons who are resident in other countries and enable the judicial bodies of those countries to conduct the proceedings.

80. Since April 2006 working meetings have been held between the Minister of Justice of the Republic of Croatia, the Chief Public Prosecutor of the Republic of Croatia and representatives of the Supreme Court of the Republic of Croatia, with the OSCE mission, representatives of the Council of Europe and the ICTY, where a wide range of subjects were discussed in relation to trying war crimes. There is also on-going cooperation with the OSCE Mission which is monitoring war crime trials in the Republic of Croatia before domestic courts. The OSCE Mission will supervise trials in cases which the ICTY has ceded to the Republic of Croatia and in cases which it will cede to Croatia.

81. According to figures from the Public Prosecution Service of the Republic of Croatia, a total of 1,703 persons have been accused of war crimes. Proceedings are pending against 1,162 persons. Proceedings have been concluded with a legally effective judgment against 611 persons. A total of 505 persons were acquitted or the Public Prosecution Service dropped the charges. Proceedings were discontinued before bringing charges against 1,342 persons.

82. In the alignment of the Criminal Code with the Rome Statute of the International Criminal Tribunal, the provisions of Article 158 of the Criminal Code were supplemented, and two new criminal offences were prescribed in Article 157a - crimes against humanity and in Article 167a - command responsibility. The criminal offence of obstruction of evidence from Article 304 of the Criminal Code is also amended in paragraphs 1 and 2, for the sake of alignment with the international law commitments made by the Republic of Croatia and, in particular, with the United Nations Convention on Transnational Organised Crime and the Rome Statute of the International Criminal Tribunal.

83. The definition was amended of "criminal organizations" in Article 89, paragraph 23 of the Criminal Code. Also the latest amendments to the Criminal Code (OG 71/06) introduced "extended confiscation of pecuniary gain" (Article 28). Pecuniary gain is taken to also be gain which is acquired by a group of people or criminal organization which is linked in time with the commission of a crime and pecuniary gain for which there is a reasonable suspicion that it originates from that criminal offence since its legal origins cannot be established. The title and main characteristics of the criminal offence from Article 175 are also amended, that this is now the criminal offence of "trafficking in human beings and slavery". For the criminal offence of "transfer of persons over the state border" in Article 177 of the Criminal Code, new qualifying circumstances are prescribed for the sake of alignment with the Protocol against the Smuggling of Migrants by Land, Sea and Air.

84. In accordance with the commitment of criminal policies to penalise more severely criminal offences of discrimination, especially those committed with the motive of hatred, the Public Prosecution Service, as the body responsible for prosecuting these criminal offences, has adopted special instructions on the work on criminal offences committed out of hatred (hate crime) and keeping records of hate crimes. According to these instructions, all criminal offences can be committed from the motive of hatred, and, insofar as the conditions are met for the definition of a hate crime, this criminal offence will be seen as having been committed under aggravating circumstances. The Public Prosecution Service (according to these instructions) must approach with special attention a crime whose motive was hatred. After receiving a report or notice, the Public Prosecution Service is obliged to contact the competent police official immediately and agree with him or her how to proceed in conducting the investigation further. These cases must be resolved urgently. Special records will be kept of these cases.

### Article 7

85. The Constitution of the Republic of Croatia in Article 23 prescribes: “No one shall be subjected to any form of maltreatment or, without his or her consent, to medical or scientific experimentation”. Article 17, paragraph 3 and Article 29, paragraph 2 of the Constitution also relate to the rights established in Article 7 of the Covenant.

86. The Criminal Code in Article 126 - extortion of statements by coercion, Article 127 - maltreatment in the execution of duty or public authority, Article 176 - torture or other cruel, inhuman or degrading treatment, Article 241 - unauthorized medical treatment, and Article 242 - illicit transplantation of parts of the human body, prescribes criminal law protection of the rights and freedoms established in Article 7 of the Covenant.

87. From 2001 to 2005, the police discovered and reported to the Public Prosecution Service criminal offences related to the violation of these rights and freedoms from Article 7 of the Covenant. The criminal offences are presented in the table, with a statistical presentation of the reports.

88. The police offer citizens protection of their basic constitutional rights and freedoms, but also protection of other values protected by the Constitution, making no distinction on the basis of religion, gender or race. There are provisions on this protection in the current regulations, of which the Police Code of Ethics should be mentioned. The Police Code of Ethics is a binding group of principles on the professional, dedicated, confidential, tolerant, and just behaviour of police officers.

89. Prevention of inappropriate police behaviour is conducted in line with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: “the CPT”) and in line with the recommendations of the Committee of Ministers of the Council of Europe. Prevention is conducted by organising the police, staffing, training of police officers, and implementation of the guidelines for police conduct with the emphasis on developing a feeling of responsibility in the use of police authority and supervision of the police at all levels. Moreover, in May 2004 a handbook was published entitled “Principles and Procedures”, which was the result of co-operation between experts from the Ministry of the Interior and the ICITAP (International criminal investigative training assistance program) and is available to all police officers.

CC of the RoC	2001			2002			2003			2004			2005		
	Offences		Perpetr.												
	Report.	Solved		Report.	Solved		Report.	Solved		Report.	Solved		Report.	Solved	
Art. 126	5	3	5	1			2	1	1	3	2	1	1	1	1
Art. 127	15	14	10	7	7	7	16	16	9	7	7	7	7	7	10
Art. 176															
Art. 241															
Art. 242							7	7							

90. The Police Directorate (*Ravnateljstvo policije*), in cooperation with the Internal Control Department, reacts, checks, assesses and takes all the necessary measures related to reports against police officers suspected of abusing and torturing people. If any excessive use of force is established, the appropriate proceedings will be initiated against the police officer (disciplinary, misdemeanour or criminal). Also, police heads at all levels are obliged to supervise the work of their subordinates (internal hierarchical supervision).

91. Through a programme of regular training - continuous professional training and inclusion in general and specialised courses, seminars, workshops and similar forms of education, the Ministry of the Interior has made it possible for police officers to be trained to carry out their work in a correct, professional and expert manner, not to behave in an inappropriate manner or come under disciplinary or criminal responsibility.

92. The protection of the rights and interests of citizens and legal persons, related to unlawful behaviour by police officers, is guaranteed at several levels. That is to say, apart from the right to submit petitions, physical and legal persons in the Republic of Croatia have the right to request the competent body to examine the criminal and civil law responsibility of police officials, and the responsibility of the competent ministry for harm caused by unlawful or incorrect work by police officials.

93. Apart from external forms of supervision, supervision of the work of the police is also conducted by internal services of the Ministry of the Interior according to the lines of work, and by the specialised internal control service within the minister's office (the Internal Control Department), whose basic function is to establish and process serious irregularities and criminal offences and misdemeanours committed by the staff of this ministry (exceeding official authority, abuse in service, etc.).

94. In line with the recommendations of the CPT, the Police Directorate in December 2004 sent instructions to all heads of police departments that they should give this issue special attention and organise professional training for all police officers on the CPT, the CPT standards, ways of preventing abuse and on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this context, all training programs are continuously monitored and developed, and revisions are made of the curriculum in line with requests. In order to adapt programs and the organisation of various levels of police training (basic police training, professional training and specialisation, higher professional training and university education) to the real needs of police work and the community in which the police are working, work is in progress on a final model of police training.

#### **Prohibition of medical and scientific experiments without permission**

95. The rights of patients or beneficiaries of health care services are regulated in the Republic of Croatia comprehensively and in detail by the entire system of health care. Apart from the basic Health Care Act, the right to free choice is established in the Act on the Protection of Patients' Rights (OG 163/04), the Act on the Protection of Persons with Mental Disorders (OG 111/97, 27/98, 128/99, 79/02), and the Code of Medical Ethics and Deontology.

96. For scientific research on patients and inclusion of patients in medical teaching the express informed consent of the patient is required. Consent means written, dated consent signed by the patient, given on the basis of precise and understandable information to the patient on the nature, importance and consequences of the research.

97. Mentally capable and conscious patients, who are well informed, have the right to consent or refuse individual doctors or recommended medical assistance. If the patient is not capable of making a decision, his or her legal representative may decide, or if the representative is not present, the doctor, if making a decision cannot be delayed, will use the best form of treatment according to his or her knowledge.

98. Examination and giving medical assistance to children and minors will be undertaken by doctors with the consent of their parents or guardians or older, close, adult members of the family, except in urgent cases. The doctor will use the most appropriate procedure, and deny requests by lay persons which may endanger the health or life of minor persons. If there is any suspicion of abuse or maltreatment of children, the doctor is obliged to inform the competent bodies, with consideration for preserving the privacy and interests of the child or minor person in general.

99. The doctor will inform the patient as appropriate about diagnostic procedures and tests, their risks and dangers, the results and all possible forms of treatment and their likely success. The doctor is obliged to offer the necessary information to the patient in an appropriate manner so the patient is able to make the right decision on diagnostic procedures and the treatment proposed. In the case of minors or those who cannot make their own decisions, the doctor will refer to the patient's parents or legal representatives, and if this is not possible, the responsibility will be shared, in consultation with other doctors.

100. The patient has the right to know the truth and to examine the full medical records on his or her illness. As an exception to this rule, if the doctor assesses that this would cause the patient's health to deteriorate, he or she is not obliged to tell the patient the truth or allow him or her to examine the medical records. Also, the patient's desire not to be informed about his or her illness will be granted.

101. If a patient who is well informed about his or her condition and able to make an independent decision does not behave according to the needs of his or her treatment and prevention of illness, the doctor is exceptionally permitted to refuse him or her further care, under the condition that he or she previously directs the patient to another doctor or health institution. A doctor may act in the same way towards a patient who consciously behaves in an inappropriate manner, is insulting or threatening, unless in these cases the patient's life is in danger - then the doctor is obliged to help him.

102. Doctors, who work in closed type institutions, shall take particular care of patients' rights in both a physical and mental sense, and take particular care of their personal dignity. Forced treatment and feeding are only permitted in cases when the patient is not capable of making a conscious decision about this. If a mentally healthy and adult person refuses food, the doctor must respect this. A doctor will never take part in violence against a person.

103. In June 2006 the National Strategy for Development of the Health Care Service from 2006 to 2011 was adopted (OG 72/06) aimed at improving and developing the entire health care system.

### **The prison system**

104. The provisions of Article 7 of the Covenant also relate to prisoners: prisoners serving prison sentences, detained prisoners, prisoners serving in juvenile prisons, and persons sent to correction facilities.

105. The prohibition of torture in Croatian legislation is prescribed in the following:

The Act on the Execution of Prison Sentences (OG 128/99, 55/00, 129/00, 59/01, 67/01, 190/03 - revised text) guarantees respect for the human dignity of prisoners during the service of their prison sentences, and forbids punishment in which the prisoner is subjected to any form of torture, abuse or degrading behaviour, or medical or scientific experiments.

106. Prison sentences and juvenile prison sentences are served in seven penitentiaries and fourteen prisons, and juvenile correctional measures are executed in two separate correction facilities aimed at implementing correctional measures. In order to achieve the purpose of execution of prison sentences and preventing bad interpersonal influence, prisoners are sent to penitentiaries or prisons according to the character of their crime or other characteristics. Prisoners serve their sentences separated according to:

- Gender (male and female persons)
- Age (young adults and adults)
- Previous convictions (first conviction and recidivists)
- Prisoners convicted of misdemeanours are separated from prisoners who have been convicted of criminal offences

107. The prison hospital in Zagreb is for treating sick prisoners. The security measure of mandatory psychiatric treatment is also implemented there when it is imposed along with a prison sentence.

108. In terms of security levels, penitentiaries are divided into closed type (Lepoglava Penitentiary and Glina Penitentiary and Zagreb Prison Hospital), semi-open (Požega Penitentiary, Turopolje Penitentiary, and Lipovica Penitentiary) and open (Valtura Penitentiary). All prisons, in terms of the level of security, are closed.

109. Prisons are primarily intended for the implementation of detention measures, for service of prison sentences imposed in misdemeanour proceedings for petty crimes, and for prison sentences imposed in criminal proceedings of up to six months.

110. All convicted persons who have received a prison sentence of six months or more, or whose remaining sentence is of six months or more, are sent to the Department for Diagnostics and Programming at Zagreb Prison, where the prisoners undergo medical, social, psychological,

educational and criminological examination. On the basis of these examinations, an individual programme for execution of the prison sentence is drawn up for each prisoner and a proposal regarding which prison or penitentiary the prisoner should be sent to.

111. The criteria for choice of penitentiary for prisoners is the length of prison sentence imposed, or the remainder of the sentence: prisoners sentenced to five years or more, as a rule, are sent to closed penitentiaries, whilst prisoners with sentences of less than five years are sent to semi-open and open penitentiaries. Here it is necessary to take into account the criminology characteristics of the prisoner and the probability that he or she will not abuse the lower level of security in penitentiaries in the sense of escape or repeated commission of the criminal offence. In prisons with a department for execution of prison sentences (prisons in Zagreb, Gospić, Pula and Šibenik), prison sentences of longer than six months may be served.

112. People, whom the court has ordered to be detained during the investigation or criminal proceedings, are held in one of the fourteen prisons, in the closest one to the seat of the court which ordered detention. Detainees are housed apart from prisoners serving prison sentences, regardless of whether they have received sentences in criminal or misdemeanour proceedings. During the service of detention, detainees are separated in terms of sex (men are separated from women) and age (juveniles are separated from adults and younger adults are separated from older adults).

### **Treatment of prisoners**

113. Treatment of prisoners is regulated by the Act on the Execution of Prison Sentences. The new Act on the Execution of Prison Sentences was adopted in 1999. Its text has been changed several times. In relation to the earlier reporting period, the new legal solution more clearly defines the rights of prisoners, the principles of implementing prison sentences, the standards which must be met during the service of prison sentences, and the new institution of executing judge is introduced. The Act defines that executing judges are to be employed in the county court for the area of its territorial jurisdiction. The role of the executing judge is to protect the rights of prisoners, supervise legality in the procedure for executing prison sentences and ensure equality and fairness for prisoners before the law (Articles 41 and 42 of the Act on the Execution of Prison Sentences).

114. Some principles on the execution of prison sentences prescribed in the Act on the Execution of Prison Sentences are worked out in detail in a series of subordinate acts by the Ministry of Justice. Subordinate acts work out measures and ways of rendering individual decisions and ways of protecting the prisoners to whom the decisions relate, with the aim of completely removing discretionary decision-making by responsible officers in the process of execution of prison sentences.

115. The Act on the Execution Prison Sentences precisely defines the rights of prisoners:

- The right to a minimum standard of accommodation in terms of health, hygiene and spatial needs and climate conditions - a separate bed, a clean, dry and sufficiently large room, for each prisoner in the dormitory at least 4 m<sup>2</sup> and 10 m<sup>3</sup> space, day and artificial light which allow for reading and work without eye strain, suitable sanitary facilities,

and constant supplies of drinking water for each prisoner, and prisoners with physical disabilities are given accommodation suitable for the type and degree of their disability.

- Penitentiaries or prisons provide inmates with underwear, clothing, shoes and bed linen, but prisoners may wear their own underwear, clothes and shoes, and use their own bed linen.
- The right to eat food at regular intervals of suitable quality and quantity, appropriate for age, health, type of work the prisoners do and according to the religious and cultural demands of the prisoners.
- The right to health care - treatment and regular care provided for physical and mental health, the right to request an examination by a specialist doctor if this form of examination is not prescribed by the prison doctor, and the penitentiary or prison shall inform the person the prisoner names or members of his or her family of any serious illness he or she has, if he or she is not able to do so himself or herself.
- For the protection of maternity - pregnant women and mothers with babies born during the service of their prison sentence will receive complete health care related to pregnancy, birth and maternity; births take place in specialised health institutions; the child may stay with the mother on the maternity ward in the penitentiary at the mother's request and on the basis of a decision by the centre for social welfare up to its third birthday - the penitentiary or prison provides for time spent by the child in a pre-school institution outside the penitentiary.
- The right to education - elementary and vocational education is provided as well as the acquisition of additional skills for prisoners; elementary education is organised up to twenty-one years of life for prisoners who have not completed elementary school, and literacy classes are organised regardless of the prisoner's age; prisoners are able to study for higher and university education qualifications at their own expense if the education programme can be adjusted for security reasons.
- The right to work in the penitentiary or prison - with their personal consent, prisoners may work outside the penitentiary or prison for another employer; when the sentence is less than six months, the prisoner may in certain circumstances continue working with the employer he or she worked for when free; also the prisoner may continue to engage in independent economic or other work if the sentence is shorter than six months, where the prisoner bears the costs of accommodation and doing the work; during the working period, the prisoner has the right to working hours, daily, weekly and annual leave, according to general regulations, to receive pay for his or her work, from which he or she may pay contributions for pension and disability insurance if he or she is not insured on some other basis; the prisoner has some of his or her pay put aside as obligatory savings, whilst he or she may freely dispose of the remainder.
- Inmates without income or those older than sixty-five years of age, or inmates who are permanently unable to work or unemployed for no fault of their own for more than three successive months, receive financial support, and prisoners who regularly complete their obligations in education receive monetary support.

- The right to professional legal assistance and legal remedies for the protection of their rights - prisoners have the right to file complaints against procedures and decisions by prison staff; in cases when the procedures or decisions deny or limit prisoners' rights from the Act on the Execution of Prison Sentences, prisoners have the right to lodge a request for judicial protection, a decision on which is rendered by the executing judge.
- The right of contact with the outside world through visits by family members twice a month and on holidays, for at least one hour, and under aged children may visit their prisoner parent every week and on holidays; the right to visits by their counsel, and for foreign citizens visits by consular and diplomatic representatives; other persons may visit prisoners with the governor's approval.
- The right to unlimited correspondence at their own expense - in prisons and closed penitentiaries the content of letters is controlled; the right to correspond with their attorney, bodies of state authority and international organisations for the protection of human rights without limitation or supervision.
- The right to receive parcels with permitted items at least once a month and on holidays.
- The right to receive and send money by the mediation of the penitentiary or prison.
- The right to profess one's faith using their own religious literature and items for religious use, the right to contact religious officials of their own religious community.
- The right of protection of their personhood and guarantee of secrecy of their personal data.
- The right to spend time in the open air in the penitentiary or prison for at least two hours a day.
- The right to get married in the penitentiary or prison.
- The right to vote at general elections.
- The right to submit a plea for a pardon, conditional release, to lodge complaints about violation of rights.
- The right to be informed of a motion for the institution of disciplinary proceedings and evidence, and the right to fair decision-making on the prisoner's guilt; in disciplinary proceedings for disciplinary violations for which the disciplinary measure of solitary confinement may be imposed, the prisoner may have the defence counsel of his or her choice and must be informed of this.

116. Prisoners have special limitations on their freedom on reception and whilst serving their sentence, in that a personal search is made of prisoners, along with procedures to establish identity - taking photographs and finger printing, and for disciplinary measures, of which the most severe is solitary confinement for up to twenty-one days.

**Solitary confinement, medical treatment and accommodation of prisoners**

117. The Act on the Execution of Prison Sentences reduced the time of the disciplinary punishment of solitary confinement - instead of the previous thirty days, solitary confinement may be imposed for no more than twenty-one days. This disciplinary measure may be imposed by the governor of the penitentiary or prison after disciplinary proceedings have been conducted in which the prisoner, when the disciplinary proceedings are instituted, is informed that he or she has the right to a defence counsel.

118. The execution of the disciplinary measure of solitary confinement is the exclusion of the prisoners from joint activities with other prisoners in their free time or for the entire day and night. Before the execution of the disciplinary measure, a medical examination is obligatory and during the execution of the disciplinary measure of solitary confinement, the supervision of a doctor is mandatory at least once in each twenty-four hour period. The prisoner in solitary confinement must have unlimited access to drinking water and sanitary facilities, he or she may read and write and must be provided with time in the open air for at least one hour a day, without contact with other prisoners.

119. A prisoner who is a serious threat to safety by his or her behaviour may be isolated continuously for no longer than three months, and in one calendar year this measure may be used no more than twice. Isolation may be executed in that the prisoner may be allowed to work in the rooms where the measure is executed, to make use of permitted personal items, read the daily press and books, write letters and listen to the radio. Isolation is undertaken under the constant supervision of a doctor who is obliged to examine the prisoner at least twice a week.

120. Prisoners may not be subjected to any medical or other experiment even if they are in agreement with this and treatment will not be applied without the prisoner's consent even when there are medical indications for it, except in cases prescribed by regulations in the field of health care. A prisoner who becomes mentally ill during the service of his or her prison sentence or shows signs of serious mental disturbance may be sent to a psychiatric institution by the executing judge, on the basis of the reasoned opinion of the expert team of the prison hospital.

**Article 8**

121. The Constitution of the Republic of Croatia has decreed that human liberty and individuality are inviolable and that forced or compulsory labour is prohibited.

**Prohibition of slavery and trafficking in persons**

122. As stated in the Initial Report of the Republic of Croatia, trafficking in persons is a criminal offence according to the provisions of the Criminal Code. Compared to the previous reporting period, this criminal offence has been aligned in the legal sense with European standards. In the area of the criminal offence of trafficking in persons, the legislature of the Republic of Croatia has been aligned with the United Nations Convention against Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, particularly women and children, and the Protocol against the Smuggling of Migrants by Land, Sea or Air, supplementing the United Nations Convention against Transnational Organised Crime (OG 14/02 - International Agreements, ratified 7 November 2002). This criminal offence

has been modified and supplemented by the most recent amendments to the *Criminal Code* (OG 110/97, 27/98, 50/00, 129/00, 51/00, 111/03, 190/03, 105/04, 84/05 - corrigendum, 71/06) dated 2006. The description of this criminal offence now reads:

*Trafficking in Human Beings and Slavery*

*Article 175*

(1) *Whoever, in violation of the rules of international law, by the use of force or threat to use force or by fraud, kidnapping, abuse of position of defencelessness or authority or in any other way solicits, purchases, sells, hands over, transports, transfers, encourages or mediates in the buying, selling or handing over, conceals or receives a person in order to establish slavery or a similar relationship, forced labour or servitude, sexual abuse or illegal transplantation of parts of a human body, or who keeps a person in slavery or in a similar relationship shall be punished by imprisonment for one to ten years.*

(2) *Whoever in violation of the rules of international law solicits, purchases, sells, hands over, transports, transfers, encourages or mediates in the buying, selling or handing over, conceals or receives a child or a juvenile in order to establish slavery or a similar relationship, forced labour or servitude, sexual abuse, prostitution or illegal transplantation of parts of a human body, or whoever keeps a child or a juvenile in slavery or in a similar relationship shall be punished by imprisonment not less than five years.*

(3) *If the criminal offence referred to in paragraphs 1 or 2 of this Article is committed while the perpetrator is a member of a group or a criminal organization, or if it is committed against a larger number of persons or has caused the death of one or more persons, the perpetrator shall be punished by imprisonment for not less than five years or by long term imprisonment.*

(4) *Anyone who discovers that a person is a victim of trafficking in persons, forced labour or servitude, sexual abuse, slavery or seminal relationship, prostitution or illegal transplantation of parts of a human body, and exploits that person's position or permits others to exploit that person's position, shall be punished by imprisonment of between three months and three years.*

(5) *Whether or not a person has acceded to forced labour or servitude, sexual abuse, slavery, to a relationship similar to slavery or to unlawful transplantation of the parts of his or her body is of no relevance for the existence of the criminal offence referred to in paragraphs 1 and 2 of this Article.*

123. As a result of the above, and bearing in mind the complexity of the problem of trafficking in persons representing the most serious form of violation of human rights, bearing in mind the problem of migration, illegal work, "money laundering" and many other forms of criminal activity, the Republic of Croatia has acceded to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against the Smuggling of Migrants by Land, Sea and Air (OG 14/02 - International Agreements).

124. Recognising the existence of trafficking in persons, particularly women, the Government of the Republic of Croatia has approached the construction of an integrated system for suppressing the above occurrences by developing a national mechanism for suppressing trafficking in persons and by strengthening international co-operation.

125. Although the Republic of Croatia has been mentioned up to now as a transit country, some indicators show that Croatia is both a source country and a destination for trafficking in persons. Apart from this, Croatia is surrounded by countries in which trafficking in persons for sexual purposes, particularly women, is developed and extensive.

126. Trafficking in women for sexual purposes is the most common form of the criminal offence of trafficking in persons, therefore it is necessary to pay particular attention to the position of women in society, that is to the problems of poverty, unemployment and violence against women.

127. On 9 May 2002 the Government of the Republic of Croatia formed a National Committee for Suppressing Trafficking in Persons, after which the National Plan for Suppressing Trafficking in Persons was drawn up in 2002, followed by the National Programme for Suppressing Trafficking in Persons 2005 - 2008, with an operational plan for each year. Thus the Government has joined, at the national and international level, the organised fight against trafficking in persons. To date, the Government of the Republic of Croatia has adopted operational plans for 2005, 2006 and 2008.

128. The victims, most often women, have been offered psychological, social, health and legal aid as well as accommodation in the official shelter set up according to the most modern international standards, or in adequately equipped institutes of alternative safe accommodation, the costs of which are borne by the Government.

129. The education of target groups involved in activities concerning the suppression of trafficking in persons (particularly women and children) is an important factor in improving the efficacy of suppression. The goal is to create theoretically and practically trained officials who will be able to multiply their knowledge in the realm of trafficking in persons and produce expert materials in accordance with the standards of the European Community.

130. The majority of activities of the Government of the Republic of Croatia concentrate on strengthening the capacities of national NGOs, for the purpose of exchanging experiences and information concerning the activities of the NGOs themselves and creating better co-operation with government institutions and international organisations.

131. Within the framework of the National Committee, a special Working Group for Suppressing Trafficking in Children has been established. The Government of the Republic of Croatia's National Programme for Suppressing Trafficking in Persons 2005-2008 is committed to paying special attention to suppressing trafficking in children and maintains that children are a special, particularly vulnerable group. The Working Group has prepared the National Plan for Suppressing Trafficking in Children, covering the period October 2005 to December 2007. The Government of the Republic of Croatia has adopted the National Plan for Suppressing

Trafficking in Children 2005 - 2007. The Ministry of the Interior has actively participated in implementing the Operational Plan for Suppressing Trafficking in Persons by intensifying co-operation with other ministries, NGOs and international organisations.

132. In July 2005 the two-year multi-modular project under the directive of the Police Directorate, entitled "Suppressing Trafficking in Persons" was completed, and it was implemented in co-operation with the Public Prosecution Service of the Republic of Croatia and the International Organization for Migration Mission of the Republic of Croatia. Twenty-six police officers engaged in suppressing trafficking in persons were involved in the project. At the end of June, when the project came to an end, a press conference was held, at which the public were acquainted with the professional content of the Programme to Prevent and Suppress Trafficking in Persons (published on the Ministry of the Interior website). The police officers took part in many television and radio programmes on the subject of preventing the crimes of trafficking in persons, which undoubtedly contributed to public awareness of the problem and also to increased awareness among the potential victims of trafficking in persons.

133. In accordance with the Optional Protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution and child pornography, the sale of children is taken to mean any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration. The Protocol, which is in force in the Republic of Croatia, in defining trafficking in children, prohibits the sale of children, child prostitution and child pornography, and adheres to the minimum standards laid down by the Protocol.

134. As it follows from the definition of trafficking in children given in the Protocol, it is irrelevant whether or not trafficking in children takes place by means of force, abduction, violence, threat, fraud or the abuse of authority or positions of helplessness, nor is the consent of the child to a particular form or exploitation considered relevant.

135. Trafficking in children is closely related to their further exploitation jeopardising their dignity and human rights. Unfortunately, the increase in the demand for services by which children are abused and become the victims of trafficking in persons is the main cause of this phenomenon. Children who become the victims of international and domestic trafficking in persons tend to come from socially vulnerable, less educated families, in which they are often left to their own devices. Children who are the victims of trafficking in persons and their parents do not have access to sufficient information in order to recognise the possible dangers.

136. The National Plan for Suppressing Trafficking in Children was adopted for the period 1 October 2005 to 31 December 2007. The sections of the Plan are: legal framework; identifying the victims; detecting, processing and sanctioning those who carry out the crime of trafficking in persons; help and protection for victims; prevention; education; international co-operation and co-ordination of activities.

137. The principles of the National Programme, based on the Convention on the Rights of the Child and other international documents, are:

- The child's best interests: this is the starting point for all activities envisaged and obliges all participants (relevant authorities, civil society organisations and international organisations) to act in the best interests of the child, who at all times must be at the centre of attention.
- Non-discrimination: children who are the victims of trafficking in persons must be offered the same rights as children who are nationals of the Republic of Croatia.
- The child's active participation: it is necessary to involve the child actively in all proceedings, according to his or her age and maturity, to accept his or her views and wishes, in accordance with his or her best interests.
- Communication in the child's own language: children who are victims of trafficking in persons must be allowed to communicate in their own language; a translator must be provided for all conversations with child victims of trafficking, when they take part in individual procedures and also when they are offered particular services.
- Protection of the child's personal information: no personal information about the child may be disclosed which may threaten him or her or members of his or her family.
- Taking into account the child's long-term interests: in making decisions about the child who is the victim of trafficking in persons, the child's long-term interests should be defined, and decisions should be made taking into account these interests.
- Efficacy and urgency: decisions should be taken quickly and effectively, in order to minimise the child's suffering, insecurity and sense of loss.
- The child's right to information: a child who is the victim of trafficking in persons must be told, in the most appropriate manner, of the situation in which he or she finds himself or herself, the kind of protection and assistance to which he or she is entitled, the possibility of being reunited with his or her family and the possibility of repatriation.
- Right to protection: it is the duty of state institutions to protect the child and help him or her ensure his or her safety.

138. The Government of the Republic of Croatia, in connection with raising public awareness of the problem of trafficking in persons, particularly women and children, carried out a media publicity campaign in 2004 and 2005, entitled "Stop Trafficking in Persons".

139. An international conference entitled "Stop Trafficking in Persons", organised by the Office for Human Rights and the OSCE Mission to the Republic of Croatia, was held in 2005 in Cavtat. The conference was held five years after the signing of the United Nations Convention against Transnational Organized Crime and its protocols, and shortly after the signing of the Council of Europe Convention on Action against Trafficking in Human Beings. The aim of the conference was to present the current mechanisms for suppressing trafficking in persons, which were developed during the five preceding years.

140. One hundred and forty delegates representing individual states, state government bodies, international organisations, diplomatic and consular offices in the Republic of Croatia, institutes of higher education and NGOs took part in the conference.

141. From the beginning of the systematic monitoring of information in 2002 to 1 April 2007, 61 victims of trafficking in persons were identified, as follows:

	2002	2003	2004	2005	2006	Total
Nationals of the Republic of Croatia	2	2	6	3	2	15*
Nationals of Bosnia and Herzegovina	0	1	2	1		4
Nationals of Bulgaria				1	3	4
Nationals of Cameroon	0	1	0			1
Nationals of Morocco	0	0	1			1
Nationals of Moldova	3	1	2			6
Nationals of Romania	0	0	3	1	1	5
Nationals of the Russian Federation	0	1	0			1
Nationals of Slovakia	0	1	0			1
Nationals of Serbia and Montenegro	0	1	3		1**	5
Nationals of Ukraine	2	0	2		2	6
Persons of no nationality	1	0	0			1
Total	8	8	19	6	9	50

\* The majority of victims who are citizens of the Republic of Croatia are victims of so called internal trafficking.

\*\* At the time of identification, the State was called Serbia and Montenegro.

142. Croatian criminal legislation envisages sanctions for trafficking in persons, regardless of the form of exploitation. Article 175 of the Criminal Code sanctions trafficking in persons, delivering, transporting and mediating in the sale of persons for slavery or similar relationship, forced labour and servitude, sexual abuse, prostitution, illegal human organ transplant, holding people in slavery and similar states. The exploitation of children is defined as an aggravated form of this criminal offence. Whether or not a person consents to forced labour, servitude, sexual abuse, slavery or similar, or to illegal human organ transplant, is irrelevant for the existence of the criminal offence. Scientific research onto the monitoring of trafficking in persons since the establishment of a system for suppressing trafficking in persons in 2002 to the present day is drawing to a close. The research should present a precise insight into the causes, forms and modalities of the development of this type of crime. We are convinced that the results of this research will contribute greatly to eliminating the causes which render individuals vulnerable and place them in a subordinate position, opening the doors to various forms of criminal activity. We maintain that, along with the development of strategies, plans and policies

for suppressing trafficking in persons, it is necessary to invest special efforts in eliminating causes such as poverty, unemployment, lack of education and discrimination on whatever grounds.

143. The Operational Plan for Suppressing Trafficking in Persons for 2007 elaborated the programme goals outlined in the National Programme, and built on the system set up by implementing previous operational plans.

144. In structure, the Operational Plan follows the National Programme for Suppressing Trafficking in Persons 2005-2008 and contains the following chapter headings:

- Introduction
- Identifying victims, detecting, processing and sanctioning perpetrators of offences in relation to trafficking in persons
- Victim help and protection
- Prevention
- Education
- International co-operation
- Co-ordination of activities

145. Measures to be taken during 2007 are priorities set out by state administrative bodies, NGOs and international organisations involved in all activities outlined in the Operational Plan. Funds for implementing these measures have been allocated in the amount of HRK 2,460,000. For individual measures, funds have been allocated from CARDS and PATS programmes and from international donations.

146. According to the national system of referral of the Republic of Croatia, the Ministry of Health and Social Welfare and civil society organisations are responsible for offering protection and aid to the victims of trafficking in persons, particularly in cases in which the victim is a child. In accordance with this, victims of trafficking in persons are guaranteed the right to safe housing in two existing national shelters financed by the Government of the Republic of Croatia, which are run by civil society organisations.

147. Within safe houses, victims are offered psychological and social assistance, health services and educational courses. On the basis of directives from the Minister of the Interior concerning the regulation of their stay, the victims of trafficking in persons may be accommodated in the territory of the Republic of Croatia, regardless of whether or not they co-operate with the police and judiciary, for a maximum period of two years. After assessing each individual's readiness to return to his or her country of origin, he or she is guaranteed a safe return, in accordance with the procedure ratified in the system of referral.

148. It should be emphasised that civil society organisations are involved in the integral system of suppressing trafficking in persons.

### **Prohibiting forced or compulsory labour, and work of persons sentenced to prison**

149. Work of persons sentenced to prison is regulated by the Act on the Execution of Prison Sentences, the Ordinance on work and occupational training, the list of jobs and job descriptions for prisoners, and remuneration for such work, and the Ordinance on the arrangements of serving prison sentences whereby prisoners continue working with their employers or carrying out self-employment activities. Work of persons committed to juvenile prison is regulated by the Act on Implementing Criminal and Misdemeanour Sanctions.

150. Prisoners who are serving a prison sentence or juvenile imprisonment are allowed to work within the penitentiary or prison, or to be employed by an employer outside the penitentiary or prison, according to their health, abilities, education and interests and according to the needs of the penitentiary or prison. Allocation to such work is carried out after gaining the written consent of the prisoner that he or she is willing to work.

151. The types of work and occupational training are organised taking into consideration the needs of prisoners and the opportunities afforded by the penitentiary or prison. According to the complexity of jobs they may carry out, prisoners are divided into six groups with appropriate coefficients of complexity, which form the basis for the remuneration they receive for their work. The complexity of a job performed by a prisoner is determined on the basis of the National Classification of Occupations (OG 111/98). For jobs to which production quotas can be assigned, an hourly rate for prisoners is determined, but this may not be greater than the minimum standard determined by general regulations.

152. In principle, prisoners work in the following work units: production of various items from various materials; production of agricultural products; trade and craft services; physical, intellectual and technical assistance services. Work is carried out according to the technological standards determined for each type of work. The purpose of such work is to allow prisoners to achieve, maintain or extend their work capabilities, work habits and professional knowledge.

153. While prisoners are at work, safety measures are enforced according to general regulations. The length of time a prisoner may work, break times, and daily and weekly rest periods are determined according to general regulations. Prisoners are allowed annual holiday of 18 to 30 working days, depending on the length of work carried out while serving their sentence, work conditions and complexity of the job they are doing.

154. Prisoners receive remuneration for work carried out in a penitentiary or prison in accordance with the complexity co-efficient of the work and the base for calculating the remuneration. The base amounts to 20 per cent of the gross base used to calculate the salaries paid to civil servants and civil service employees.

155. If the prisoner consents, he or she may work outside the penitentiary or prison with another employer, or may continue self-employment activities on the basis of a contract which the employer signs with the penitentiary or prison, and which must be approved by the Central Office of the Directorate for the Prison System. Continuation of a prisoner's work or self-employment can only be approved if it is carried out between the hours of rising and retiring as laid down by the prison house rules, and only if, on returning from work, the prisoner is able

to carry out other duties set out in his or her individual programme for the execution of prison sentence. Prisoners' wages paid by outside employers are determined according to employers' general regulations, and prisoners are paid 25 per cent of the going wage.

156. All prisoners engaged in work are insured against accidents in the workplace and occupational diseases.

157. Realising financial gain from prisoner's work should not be to the detriment of the purpose of serving a prison sentence.

158. A prisoner who excels in work may be extraordinarily rewarded once every six months, in the amount of 20 per cent of the remuneration for regular, full-time prison work.

159. Prisoners receive extra remuneration for overtime work, work on non-working days and public holidays, shift work and night work, according to the general regulations governing civil servants and civil service employees.

### **Articles 9 and 10**

160. Personal security and freedom are basic principles of the Republic of Croatia: "Individual freedom and personality shall be inviolable. No one shall be deprived of his liberty, nor may his liberty be restricted, except upon a court decision in accordance with the law." (Article 22 of the Constitution).

161. Unlawful restriction of liberty and the manner of proceeding with anyone who is arrested is regulated by the following laws: the Criminal Procedure Act (Articles 1, 6, 20, 94, 95, 97, 98, and 99, paragraphs 2, 3, and 4; 101, 102, 106, 109 and 111, paragraphs 2 and 4), the Misdemeanours Act (Articles 145 and 147) and the Police Act and the Ordinance on police procedures.

162. Apart from Article 22 of the Constitution of the Republic of Croatia, personal freedom of citizens is guaranteed by articles 23, 24, 25, 26, 28 and 29.

163. The Police Act (OG 121/00) is based on European standards. It takes as its basis the Constitution of the Republic of Croatia and sources of international law on human rights. An essential part of the new Act relates to conditions applying to police authority. It is important to emphasise that the Act does not list or regulate areas of police authority, except those areas of authority concerned with carrying out typical police work which are not regulated by other laws. The Police Act affirms the principle of proportionality, which was awarded an appropriate position by changes to the Constitution (Article 16, paragraph 2). According to this principle, the application of police authority must be in proportion to the need to exercise it. In applying his or her authority a police officer must behave humanely, respecting the dignity of each individual, and most importantly, must strive to obey the Police Code of Ethics.

164. On the basis of the Police Act and the Criminal Procedure Act, the Ordinance on police procedures was adopted in May 2003, which prescribes methods of police proceedings and the application of police authority prescribed by law. Several provisions of the Police Act (Articles 32, 33, 34 and 35) relate to rights in Articles 9 and 10 of the Convention, as does Article 96 of the Ordinance on police procedures.

165. Between 2001 and 2005 the Police detected and reported to the Public Prosecution Service criminal offences committed in the area of criminal law protection of the rights and liberties prescribed in Articles 9 and 10 of the International Covenant, as shown in the table.

166. Between May 2004 and 2006 the Police Directorate distributed two written memoranda to all organisational units of the police, one in December 2004 and the other in September 2005, in relation to the application of the above regulations.

167. The memorandum of December 2004 contained the accepted observations from the report of a delegation of the Committee for the Prevention of Torture and the following recommendations:

- All persons detained or arrested in accordance with the legal regulations of the Republic of Croatia in force (the Misdemeanours Act, the Criminal Procedure Act, the Police Act and the Ordinance on police procedures) must be immediately acquainted with the reasons for their detention or arrest.
- Regardless of the legal basis for detention and regardless of whether or not it is carried out according to regulations governing the criminal or misdemeanour procedure at the time of the detention, the person must be acquainted with his or her rights; if the person has been arrested, he or she must be acquainted with his or her rights to professional assistance from a defence counsel, the right to request a medical examination, the right to remain silent and the right to request information about the arrest to be given to family members or other persons named by the person arrested.
- The arresting officer is required to complete the forms provided concerning the detention, arrest or bringing in of a person.
- Objects which may assist attack, escape or self-injury, as well as unnecessary objects which may negatively affect the detained person, must be removed from official premises to which the subject is brought.
- Evidence must be kept of all persons who, for whatever reason, have been in official police premises (whether detained, brought in, arrested, invited or other); the times of arrival and departure from the offices of police officials dealing with such persons must be recorded, as must possible complaints made by such persons.
- Appropriate measures and procedures should be planned and undertaken in order to make the rooms used for detention conform to recommendations from the CPT, which means that such premises must be “of reasonable proportions” (four square metres per person), that they are sufficiently lit (sufficient for reading, apart from after lights out), that they must have access to daylight and ventilation, rest facilities (e.g. a fixed chair or bench), running water and the use of toilet facilities with hygienic conditions; a person who is detained overnight must be given appropriate requisites (clean bedding, a mattress and blanket), food and other articles; in rooms used for detention minor faults which do not require major material or financial investment should be repaired (cleaning, painting, lock repairs, clean bedding, changing worn-out installations and lights, etc.).

CC of the RoC	2001			2002			2003			2004			2005		
	Offences		Perpetr.												
	Report	Solved		Report.	Solved										
Art. 124	35	34	42	66	64	93	62	58	73	70	68	93	75	70	76
Art. 126	5	3	5	1			2	1	1	3	2	1	1	1	1
Art. 177	15	14	10	7	7	7	16	16	9	7	7	7	7	7	10

- In the Ježevo Reception Centre it is necessary to take measures to create extra activities for inmates, in order to make the time they spend there before extradition more bearable.

168. The second memorandum, sent in September 2005, relates to the accommodation of arrested persons in detention facilities. According to the memorandum, a person arrested on suspicion of committing a crime or misdemeanour may, exceptionally, be accommodated in detention facilities until brought before an investigating judge or judge in a misdemeanour court:

- When there is justifiable reason for not bringing the person arrested immediately before the competent body (the need to wait for a search warrant; the need to wait for a defence lawyer before interrogating the arrested suspect or the need to complete a search of the arrested suspect; the need to draw up the documentation necessary to complete a criminal report or request to initiate misdemeanour proceedings; the need to establish the identity of the person arrested; identification or another justified reason because of which the person arrested cannot be brought without delay before a competent body).
- When objects which could be used for attack or self-injury are temporarily removed from the person arrested before putting him or her in detention facilities.
- When the person arrested is under partial or continuous surveillance by a police official (immediate supervision or video surveillance) in detention facilities, and other reasons.

169. The Amendments to the Criminal Procedure Act of October 2006 (OG 115/06) introduced changes to provisions regarding the length of detention. The following was prescribed: “Detention ordered by the ruling of the investigating judge or detention ordered for the first time in the course of investigation by the ruling of the chamber may last no longer than one month from the date the detainee was deprived of his or her liberty. Every deprivation of liberty shall be included in the duration of detention. If there are justifiable reasons, the investigating judge, either alone or on the motion by the public prosecutor, may prolong detention in the course of investigation, first for a term not longer than two months and then for another term not longer than three months. The total duration of detention in the investigation, including the time of the deprivation of liberty before the ruling on detention is rendered, may not be longer than six months and on the expiry of this term the detainee must be released immediately. Before a motion to indict is submitted in summary proceedings, detention may last as long as it is necessary to carry out investigatory actions, but no longer than sixty days.”

170. The Republic of Croatia is a party to the following conventions: The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Protocols 1, 4, 6, 7 and 11, in force since 5 November 1997, Protocol 12, in force since 2005 and Protocol 13 concerning the abolition of the death penalty in all circumstances, in force since 2003.

171. The European Committee for the Prevention of Torture (CPT) carried out periodical visits to the Republic of Croatia in 1998 and 2003 and stressed in its reports the good level of co-operation with the Croatian authorities in accordance with Article 3 of the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

172. The standards of the European Committee for the Prevention of Torture were applied during the design and building stages of new detention facilities for the Zagreb Police Authority. Observations regarding existing capacities made by CPT delegates after their visit to Croatia in 2003 were also taken into account.

173. The Act on the Execution of Prison Sentences prescribes that the main aim of serving a prison sentence is to equip the person serving the sentence for a life of liberty according to legal and social rules, while treating him or her in a humane way, with respect for his or her personal dignity. Prison sentences are carried out in such a way as to guarantee the prisoner respect for his or her human dignity. Procedures submitting the prisoner to any form of torture, abuse, degradation, or medical or scientific experiments are prohibited.

174. A psychological and social diagnostic evaluation of each prisoner is carried out at the beginning of his or her prison sentence. Thus information is gained about persons who may be potential abusers or the victims of abuse, according to their psychological/social profile. This information is taken into account when determining the actual penitentiary or prison to which the prisoner is to be sent, and in deciding upon specific programmes for serving the sentence.

175. In each penitentiary and prison a team of experts regularly carries out assessments, and if abuse occurs, the prisoner is moved to another ward, or another penitentiary or prison. Every prisoner is offered the necessary psychological and social help. Disciplinary measures are taken against abusers and criminal charges are brought against them.

176. The Ordinance on house rules for detention prisons states that prisoners must be treated in accordance with ratified international conventions and with provisions of the Constitution and laws regulating the legal status of persons deprived of their liberty before the legal effectiveness of the court decision. Detention must be carried out in such a way as to avoid abusing the person or dignity of the detainee, safeguarding his or her physical and mental health, while taking into account the need to impose order and discipline in the prison. The detainee's liberty and rights may be limited to the extent necessary to the achievement of the purpose for which he was detained, to prevent escape, to prevent him or her committing another criminal offence, or to remove him or her as a danger to the life and health of other people. No detainee may be subjected to torture, forced labour, or cruel and inhuman treatment.

177. The Police Directorate, in co-operation with the Department for Internal Control, has up to now undertaken the measures required to verify and collect information concerning allegations made against police officers suspected of abusing persons under police authority. The written and oral allegations of certain persons have been verified, anonymous allegations and other sources of information concerning individual police officers suspected of abusing or overstepping police authority, thus subjecting citizens to abuse, have also been verified.

178. All cases of the use of force on the part of police officers are also verified and assessed, and appropriate proceedings (disciplinary, misdemeanour, criminal) are instituted against officers who are reasonably suspected of having tortured or abused persons under police authority on the basis of the information collected.

179. If illegal actions on the part of officers are proven, disciplinary measures against them are instigated, and if there are elements of criminal offence, criminal charges are brought before the competent public prosecutor.

180. A prisoner may lodge a complaint without censorship against a prison officer with various institutions, bodies and associations concerned with human rights. A prisoner may deliver his or her complaint to the prison governor, the Central Office of the Directorate for the Prison System at the Ministry of Justice, the executing judge and the Ombudsman, who may, within his or her jurisdiction, and without previous warning, visit the prisoner to monitor the legality of treatment he receives. A prisoner may lodge a complaint without censorship against a prison officer with the public prosecutor. In order to monitor the legality of treatment received by persons in detention, the presidents of county courts visit prisons in which prisoners are in detention at least once a week. Communication with detainees is carried out in the absence of prison officials.

181. In order to prevent potential inhuman or degrading treatment, every prisoner must be acquainted with his or her rights and the means of safeguarding and exercising those rights upon beginning his or her sentence. He is given the text of the Act on the Execution of Prison Sentences and the text of implementing regulations in force and is guaranteed free legal aid.

182. Prison staff are regularly trained to be acquainted with regulations concerning the treatment of prisoners, and the contents of training courses include international conventions, standards and rules concerning the treatment of prisoners. The governor's duty to report every instance of the use of force can also be considered a preventive measure. Reports are analysed at the Central Office, particularly concerning the legality or necessity of using force.

183. The Central Office of the Directorate for the Prison System constantly monitors prisoner treatment in penitentiaries and prisons by carrying out administrative supervision and inspections. The Ministry of Health and Social Welfare monitors the health services available to prisoners and the Ministry of Science, Education and Sport monitors their training.

184. The Criminal Procedure Act prescribes the procedure for awarding compensation to and exercising other rights of persons unjustly sentenced or arrested without cause. Compensation claims are made against the Republic of Croatia. If a case concerning an unjust conviction or unfounded deprivation of liberty is reported in the media, damaging the person's reputation, the court will, at the person's request, publish a public notification in the newspapers or other media, concerning the decision which resulted in the unjust former sentence or unfounded arrest. If the case has not been reported in the media, the person may request that such notification is delivered to his or her employer. After the death of a convicted person, the right to make this request passes to his or her partner or marriage partner, children, parents and siblings. This request may be made even if compensation is not being sought.

### **Article 11**

185. The Croatian legal system does not provide for any possibility of imposing a prison sentence merely on the ground of inability to fulfil a contractual obligation. Contractual obligations are fulfilled on a voluntary basis or, failing this, it is possible to file a lawsuit seeking the fulfilment of a contractual obligation and damages, and institute special enforcement

proceedings pursuant to the Enforcement Act (OG 7/96, 29/9, 42/00, 173/03, 194/03, 151/04, 88/05), which makes it possible to carry out enforcement on the enforcement debtor's property. In the reporting period, these proceedings have been made quicker and simpler, and they are now conducted before notaries public, which makes it easier to collect one's claim or secure the fulfilment of contractual obligations.

### **Articles 12 and 13**

186. Article 32 of the Constitution of the Republic of Croatia provides for the right to move freely and choose one's residence, and the right to leave the State territory at any time and settle abroad permanently or temporarily, and to return to one's homeland at any time. The provisions of this Article also specify that the right to enter or leave the Republic of Croatia and the right to move freely within the territory of the Republic of Croatia may be restricted by law only by way of exception, if this is necessary to protect the legal order, or health, rights and freedoms of others. Article 33 of the Constitution of the Republic of Croatia sets out the rights enjoyed by foreign nationals during their stay in the territory of the Republic of Croatia.

187. Criminal-law protection of these rights is guaranteed through the provisions of the Criminal Code and, in particular, those on the criminal offences of violation of the equality of citizens (Article 106) and unlawful deprivation of freedom (Article 124).

188. The conditions for the entry, movement and stay of foreigners in the Republic of Croatia are regulated by the Foreigners Act (OG 109/03). This Act provides that, while moving and staying in the Republic of Croatia, foreigners must obey the regulations and decisions issued by state bodies. They are not allowed to establish political parties, but they may establish civil associations under separate regulations. This Act also provides for the arrangements for the expulsion of foreigners from the Republic of Croatia, their temporary or permanent residence, the work of foreigners, and penalty provisions on the offences committed by violation of the provisions of the Foreigners Act. Preparations are made for drawing up amendments to this Act.

189. The procedure for extradition of perpetrators of criminal offences is regulated by the Act on International Legal Assistance in Criminal Matters (OG 178/04). It sets out the cases in which a domestic competent body may grant a request for international legal assistance, and those in which it must refuse such a request.

190. A domestic competent body may refuse a request for international legal assistance:

- If the request concerns a criminal offence considered a political criminal offence or a criminal offence connected with a political criminal offence
- If the request concerns a fiscal offence
- If the execution of the request is likely to prejudice the sovereignty, security, public order, or some other vital interest of the Republic of Croatia

- If it can be reasonably assumed that the person whose extradition is requested would, if extradited, be subject to criminal prosecution or punished on the grounds of his or her race, religion, nationality, belonging to a certain social group or on the grounds of his or her political opinion, or that his or her position would be aggravated on any of these grounds
- If the case concerns an insignificant criminal offence

191. Criminal offences or attempted criminal offences against the values protected by international law and participation in the commission of such offences may not be the grounds for refusing a request for international legal assistance within the meaning of paragraph 1, item 1 of this Article.

192. A request for international legal assistance concerning a fiscal offence referred to in paragraph 1, item 2 of this Article may not be refused solely on the ground that it concerns an offence deemed to constitute a fiscal offence under domestic law.

193. A domestic judicial body shall refuse a request for international legal assistance:

- If the accused has been acquitted of the same criminal offence in the Republic of Croatia on substantive grounds, or if proceedings against him or her have been discontinued, or if his or her sentence has been remitted, or if the sanction has been executed or if it can not be executed under the law of the state in which the judgement was rendered
- If criminal proceedings are conducted against the accused in the Republic of Croatia for the same criminal offence, except when the granting of the request is likely to result in a decision to release the accused
- If criminal prosecution, the execution of the sanction or of a security or protective measure under domestic law would be excluded on the grounds of absolute statute of limitations

194. The provisions of paragraph 1, items 1 and 3 of this Article are not applicable in situations where a legally effective judgement in the requesting state has been subject to revision on points of law.

195. A decision to refuse a request for international legal assistance must be explained, unless otherwise specified by an international agreement (Articles 12 to 14 of the Act).

196. The provisions of the Asylum Act (OG 103/03) sets out the principles, conditions and procedure for granting asylum or for approving temporary protection, the status, rights and obligations of asylum seekers, those who have been granted asylum and foreigners who have been approved temporary protection, and the conditions and procedure for cancelling the status of an asylum seeker and for termination of temporary protection for a foreigner in the Republic of Croatia.

197. In procedures involving deportation of foreigners from the Republic of Croatia, the Ministry of the Interior proceeds on the basis of international conventions and regulations in force, which provide for the protection of human rights and fundamental freedoms of every individual, according to high standards.

198. Expulsion or deportation procedures may only be executed on the basis of a legally effective court decision rendered in proceedings in which the right to personal participation in proceedings and the right to a counsel and certified interpreter were fully protected. The right of appeal is available for any decision on the deportation of a foreigner, and in appellate proceedings the lawfulness of the first instance decision is reviewed.

199. It is forbidden to deport a foreigner to a country where his or her life or freedom are in danger due to his or her race, religion or ethnicity, or due to his or her affiliation to a specific social group, or due to his or her political opinion, or where he or she may face torture or inhuman or degrading treatment or punishment, and to a country where he or she risks deportation to such a country.

200. It is forbidden to deport a minor foreigner, if this would be contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention against Torture and Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

201. The Ministry of the Interior is responsible for handling status-related issues for citizens, and, from the point of view of the protection of human rights and freedoms, a very important issue is that of granting Croatian nationality. This issue is regulated by the Croatian Nationality Act (OG 53/91, 70/91, 28/92, 113/93 and 4/94), whose provisions are in line with the Convention on the Elimination of All Forms of Racial Discrimination, especially in so far as it relates to preventing any possibility of a person being left without nationality, which is consistently put in practice on the basis of these provisions. The Act's provisions governing the termination of nationality are designed in such a way as to exclude any possibility of leaving a person without nationality. Since the implementation and application of the Croatian Nationality Act is within the scope of work of the Ministry of the Interior, this Ministry keeps the relevant records of the requests received and resolved.

202. Other status-related issues falling within the competence of the Ministry of the Interior are solved on the basis of the Permanent and Temporary Residence Act, the Asylum Act, the Foreigners Act and the Personal Identity Card Act.

#### **Article 14**

203. As already mentioned, the equality before the courts is guaranteed by the Constitution. All nationals of the Republic of Croatia and foreigners are equal before the courts, government bodies and other bodies vested with public authority.

204. The Courts Act provides that courts protect the legal order of the Republic of Croatia as established by the Constitution and laws, and provide for the uniform application of laws and equality of all before the law. Everyone is entitled to have an independent and impartial tribunal established by law decide fairly and within a reasonable time on his or her rights and obligations,

or on his or her being suspected or accused of a criminal offence. The Courts Act introduced a new concept “the protection of the right to trial within a reasonable time”. According to this concept, a party in court proceedings who believes that the court having jurisdiction has failed to decide on his or her right or obligation, or about suspicion or accusation of a criminal offence within a reasonable time, may file a request for the protection of his or her right to trial within a reasonable time with the immediately superior court. Where such request concerns proceedings pending before the High Commercial Court of the Republic of Croatia, the High Misdemeanour Court of the Republic of Croatia or the Administrative Court of the Republic of Croatia, it shall be decided by the Supreme Court of the Republic of Croatia, and these proceedings shall be urgent. Should the court deciding on the protection of the right to trial within a reasonable time find the applicant’s request well-founded, it shall fix a time limit within which the court before which proceedings are pending must decide on the applicant’s right or obligation or suspicion or accusation of a criminal offence, and award the applicant appropriate compensation for violation of his or her right to trial within a reasonable time. This compensation is to be paid from the State Budget within 3 months of the date when the party filed an application for its payment. An appeal may be lodged against the ruling on the request for the protection of the right to trial within a reasonable time, within 15 days. The appeal shall be lodged with the Supreme Court of the Republic of Croatia. No appeal shall be permitted against a ruling passed by the Supreme Court of the Republic of Croatia, but it may be challenged by a constitutional complaint lodged with the Constitutional Court of the Republic of Croatia.

### **Criminal procedure**

205. As stated in the Initial Report, the Constitution of the Republic of Croatia provides that no one shall be arrested or detained without a written court warrant issued on the basis of law. Such a warrant shall be read and served on the person being arrested. The police may arrest a person without a warrant when the person is reasonably suspected of having committed a serious criminal offence defined by law. The arrested person shall be promptly informed, in understandable terms, of the reasons for the arrest and of his or her rights determined by law. Any person arrested or detained shall have the right to take proceedings before a court, which shall decide without delay on the legality of the arrest. All arrested and convicted persons shall be treated humanely and their dignity shall be respected. Anyone who is detained and accused of a criminal offence shall have the right to be brought before the court within the shortest term specified by law, and to be acquitted or sentenced within the statutory term. A detainee may be released on legal bail to defend himself or herself. Any person who has been illegally deprived of liberty or convicted shall, in conformity with law, be entitled to damages and a public apology.

206. In the case of suspicion or accusation for a criminal offence, the suspected, accused or prosecuted person shall have the right:

- To be informed in detail, and in the language he or she understands, within the shortest possible term, of the nature and reasons for the charges against him or her and of the evidence incriminating him or her
- To have adequate time and opportunity to prepare his or her defence
- To a defence counsel and free communication with him or her, and to be informed of this right

- To defend himself or herself in person or with the assistance of a defence counsel of his or her own choice, and if he or she lacks resources to engage a counsel, to have a free counsel under the terms specified by law
- To be tried in his or her presence if he or she is accessible to the court
- To interrogate or have the prosecution witnesses interrogated and to demand the presence and hearing of the defence witnesses under the same circumstances as for the witnesses for the prosecution
- To free assistance of an interpreter if he or she does not understand the language used in the court

207. The suspected, accused and prosecuted person shall not be forced to confess his or her guilt. Evidence illegally obtained shall not be admitted in court proceedings. Criminal proceedings shall only be initiated before the court of justice upon the demand of an authorised prosecutor.

208. Pursuant to the Criminal Procedure Act, a defendant may be represented by a defence counsel at any stage of the proceedings as well as before their commencement when prescribed by that Act. The defendant may be represented by a defence counsel in the procedure of the execution of the sentence, the execution of precautionary measures, security measures or correctional measures in accordance with special regulations.

209. If the defendant is mute, deaf or otherwise incapable of defending himself or herself, or if the proceedings are carried out for an offence punishable by long-term imprisonment, the defendant must have a defence counsel already at his or her first interrogation. If the defendant is in detention, he or she must have a defence counsel as soon as detention is imposed and throughout the time he or she is in detention. After the indictment has been preferred for a criminal offence punishable by imprisonment for a term of eight years, the defendant must have a defence counsel at the time the indictment is served. A defendant tried in his or her absence (Article 322 paragraphs 5 and 6) must have a defence counsel as soon as the ruling on the trial in absence is rendered.

210. The court shall inform the defendant or other procedural participant, who is likely to omit to perform an action or fail to exercise his or her rights due to ignorance, of the rights to which he or she is entitled according to this Act as well as about the consequences of omission.

### **The trial**

211. The trial is to be held in open court. From the opening of the session to the conclusion of the trial the chamber may at any time, by virtue of the office or on the motion of the parties, but always after hearing their statements, exclude the public from the whole or part of the trial if this is necessary for:

- The protection of the security and defence of the Republic of Croatia

- Keeping the confidentiality of information which would be jeopardised by a public hearing
- Keeping public order and peace
- The protection of the personal or family life of the defendant, the injured person or of another procedural participant
- The protection of the interests of a minor

212. Exclusion of the public does not relate to the parties, the injured person, their representatives or the defence counsel.

213. No one shall be tried again for an offence for which he or she has already been convicted by a legally effective court decision. Criminal proceedings against a person who was acquitted by a final court decision may not be reopened.

214. A person who was unjustifiably convicted or arrested shall be entitled to full rehabilitation, compensation from the State Budget funds, and other rights established by law.

### **Ordinary judicial remedies**

215. Authorised persons may make an appeal from a judgement rendered at first instance within a term of fifteen days from the day the copy of the judgement is served. An appeal filed in due time by an authorised person stays the execution of the judgement.

216. A judgement may be challenged:

- For substantive violation of the criminal procedure provisions
- For violation of the Criminal Code
- For erroneous or incomplete establishment of facts
- In regard to the decision on criminal sanctions, confiscation of pecuniary benefit, costs of criminal proceedings, claims for indemnification as well as the decision to publish the judgement in the media

### **Extraordinary judicial remedies under the Criminal Procedure Act**

#### *1. Reopening of criminal proceedings*

##### *Article 418*

*Criminal proceedings completed by a final ruling or a final judgement may be reopened on the request of an authorised person only in cases and under conditions prescribed by this Act.*

*Article 419*

- (1) *A final judgement may be revised even without the reopening of criminal proceedings:*
- (1) *if in two or more judgements relating to the same convicted person several punishments were imposed without the subsequent fixing of an aggregate sentence for offences committed in concurrence;*
  - (2) *if, when imposing an aggregate sentence by the application of provisions on concurrence, a punishment which was already encompassed within the punishment imposed according to the provisions on concurrence by a previous judgement was taken as established;*
  - (3) *if a final judgement imposing an aggregate punishment for several offences is partially unenforceable due to an act of amnesty, pardon, or for other reasons.*

217. Mitigation of a punishment imposed by a final judgement is permitted when, after the judgement becomes final, circumstances appear which did not exist at the time the judgement was rendered or did exist but were unknown to the court, provided that they would clearly lead to a more lenient sentence (Article 431). A request for extraordinary mitigation of punishment may be submitted by the convicted person and, subject to his or her consent, by his or her defence counsel, as well as by his or her relatives authorised to take an appeal from the judgement to his or her benefit. A request for extraordinary mitigation of punishment does not stay the execution of punishment unless the president of the chamber at first instance decides otherwise for justifiable reasons.

*Request for the protection of legality*

*Article 435*

- (1) *The Public Prosecutor of the Republic of Croatia may submit a request for the protection of legality against a final court decision and against judicial proceedings which preceded such final decisions if there was a violation of law.*
- (2) *The Public Prosecutor of the Republic of Croatia shall submit a request for the protection of legality against a court's decision rendered in proceedings and in a manner which presents a violation of basic human rights and liberties guaranteed by the Constitution, domestic and international law.*
- (3) *A request for the protection of legality may not be taken from a decision which decided on a request for the protection of legality.*

*Request for the extraordinary review of final judgment*

*Article 442*

(1) *In cases prescribed by this Act, a defendant sentenced by a final judgement to imprisonment or juvenile imprisonment may submit a request for the extraordinary review of the final judgement due to a violation of law.*

(2) *A request for the extraordinary review of a final judgement shall be submitted within a term of one month from the day the defendant receives the final judgement.*

(3) *A defendant who does not take an appeal from the judgement is not entitled to submit a request for the extraordinary review of the final judgement unless the judgement at second instance imposed a punishment of imprisonment instead of a remission of punishment, suspended sentence, judicial admonition or fine, or unless it imposed a juvenile imprisonment sentence instead of a correctional measure.*

(4) *A request for the extraordinary review of a final judgement may not be submitted against a judgement of the Supreme Court of the Republic of Croatia.*

*Article 443*

*The Supreme Court of the Republic of Croatia shall decide on a request for the extraordinary review of the final judgement.*

**Civil procedure**

218. Civil procedure is regulated by the Civil Procedure Act, which is the basic piece of legislation governing the rules for the conduct of civil proceedings. In civil contentious proceedings, courts decide within the limits of the claims put forward in the proceedings. The court may not refuse to decide on a claim falling within its jurisdiction.

219. The parties may freely dispose of the claims put forward by them in the proceedings. They may waive their claims, admit their adversary's claims and reach a settlement. The court shall not admit dispositions by the parties, which are contrary to *jus cogens* and the rules of public morality. Courts decide claims on the basis of oral, direct and public trials.

220. The court shall give an opportunity to every party to enter his or her plea regarding the claims and allegations made by the opposing party. The court is authorised to decide on claims about which the opposing party was not given the opportunity to enter his or her plea. The court is obliged to ensure that the proceedings are conducted without delay, within a reasonable time limit, with as little expense as possible, and render impossible any misuse whatsoever of the rights belonging to the parties in the proceedings.

## **Remedies under the Civil Procedure Act**

### *Appeal against judgement*

#### *The right of appeal*

#### *Article 348*

*Parties may lodge an appeal against a judgment rendered by a court of first instance within fifteen days from the date when a copy of the judgment is served, unless this Act provides for another time limit. In disputes involving checks and bills of exchange such time limit shall be eight days. A timely appeal prevents the judgment from becoming legally effective in the part challenged by that appeal. An appeal against judgment shall be decided by a court of second instance.*

#### *Article 378*

*A ruling issued by a court of first instance may be challenged by an appeal, unless this Act specifies that appeal is not permitted.*

*If this Act explicitly provides that a separate appeal is not permitted, the ruling issued by the court of first instance may only be challenged by an appeal against the final decision.*

*In cases when, under this Act, a separate appeal is permitted against rulings by which the proceedings before the court of first instance are not ended, the court of first instance shall copy the record and furnish a copy of the record, together with the appeal, to the court of second instance, and shall continue the proceedings to resolve the issues to which the appeal does not relate.*

## **Public character of trial**

221. Trial is public. Only persons who have attained the age of majority may attend a trial. Persons attending a trial may not carry weapons or dangerous instruments. The court may exclude the public during the whole trial or during one part of the trial if this is required in the interests of morality, public order or state security, or to guard military, official or business secrets, or for the protection of the private life of the parties, but only to the extent which in the opinion of the court would be unconditionally necessary in special circumstances in which the public could be harmful to the interests of justice. The court may also exclude the public if the measures for maintenance of order provided for by this Act are not sufficient to ensure an undisturbed course of the trial. Exclusion of the public shall not apply to parties, their legal representatives, agents and interveners. The court may allow that a trial from which the public is excluded be attended by particular official persons, as well as scientific and public workers, if that would be of interest for their service and scientific or public activity, respectively. At a party's request, the chamber may allow the attendance at the trial of not more than two persons designated by him or her.

222. The judge shall instruct the persons attending the trial from which the public is excluded that they are obliged to treat as a secret anything they come to know during the trial and draw

their attention to the consequences of disclosing such secret. The court decides on the exclusion of the public by a ruling that must be reasoned and must be made public. No separate appeal is permitted against a ruling on the exclusion of the public. (Articles 306-309 of the Civil Procedure Act).

### **Remedies against legally effective decisions under the Civil Procedure Act**

#### Revision on points of law

*Parties may file a motion for revision on points of law against a second instance judgment:*

1. *if the amount in controversy in the challenged part of the judgment does not need HRK 100,000,*
2. *if the judgment was rendered in a dispute initiated by a worker against a decision on termination of his or her contract of employment.*

*In cases when parties may not file a motion for revision on points of law against a second instance judgment under the provision of paragraph 1 of this Article, they may file such motion if the court of second instance specified in the operative part of this judgment that a motion for revision against it is permitted.*

*The court of second instance may decide so if it assesses that the decision in the dispute depends on the settlement of a substantive-law or procedural-law issue which is important for providing a uniform application of the law and the equality of citizens. In the statement of reasons for the judgment, the court of second instance shall indicate the legal matter for which it permitted the motion for revision on points of law and set out the reasons why it considered it to be important for providing a uniform application of the law and the equality of citizens.*

*A timely appeal shall stay the execution of the ruling, unless otherwise provided by this Act. A ruling against which no separate appeal is permitted may be executed immediately.*

#### Retrial

#### *Article 421*

*The proceedings that have been ended by a legally effective decision may be repeated on a motion of a party:*

- (1) *if a judge who had to be disqualified according to the law (Article 71, paragraph 1, subparagraphs 1 to 6) or who was disqualified by the court's ruling took part in the rendering of the decision or if a person who does not have the status of a judge took part in the rendering of the decision,*
- (2) *if, because of unlawful actions, and especially because of failure to make service, any of the parties were not given opportunity to be heard by the court,*

- (3) *if a person who may not be a party in the proceedings participated in the proceedings in the capacity of a plaintiff or respondent, or if the party which is a legal person was not represented by an authorised person, or if a party without the capacity to litigate was not represented by his or her legal representative, or if the legal representative or counsel did not have appropriate powers to conduct litigation or to take specific actions in the proceedings, unless the conduct of litigation or taking of actions in the proceedings was subsequently approved,*
- (4) *if the court's decision was based on a false testimony given by a witness or by an expert witness,*
- (5) *if the court's decision was based on a document that had been falsified or in which false statements had been affirmed,*
- (6) *if the court's decision was the result of a criminal offence committed by the judge, the party's legal representative or counsel, the opposing party or a third party,*
- (7) *if the party has gained the possibility to have recourse to a legally effective court decision that had been made earlier with regard to the same parties on the same claim,*
- (8) *if the court's decision was based on another decision made by a court or another body and such decision has been reversed, set aside or annulled,*
- (9) *if the competent body subsequently settled the preliminary issue by a legally effective decision (Article 12, paragraphs 1 and 2) on which the court decision is based,*
- (10) *if the party has learned about new facts or has been given or has gained a possibility to have recourse to new evidence on the basis of which a more favourable decision could have been made for the party had such facts or evidence been used in the previous proceedings.*

### **Juvenile legislation**

223. Juvenile perpetrators of criminal offences are subject to the Juvenile Courts Act (OG 111/97, 27/98, 12/02), which, amongst other things, provides as follows:

*Sanctions to be imposed on minors for the offences committed are correctional measures, juvenile imprisonment and security measures. Only correctional measures may be applied against a minor who at the time when he or she committed the offence was between fourteen and sixteen years of age (junior minor). A minor who at the time of the commission of the offence was between sixteen and eighteen years of age (senior minor) may be imposed a correctional measure and, under the conditions provided for by this Act, he or she may be sentenced to juvenile imprisonment. Security measures may only be applied to minors under the conditions provided for by this Act.*

### **The purpose of correctional measures and juvenile imprisonment**

224. Within the general purpose of criminal law sanctions, the purpose of juvenile sanctions is to influence a minor offender's education, development of his or her entire personality and strengthen his or her personal responsibility by offering him or her protection, care, assistance and supervision, as well as opportunities for general and professional education.

225. Correctional measures include:

- Court reprimand
- Special obligations
- Referral to a correctional centre
- Intensified care and supervision
- Intensified care and supervision with daily stay in a correctional facility
- Referral to a correctional facility
- Referral to a reformatory
- Referral to a special correctional facility

226. Juvenile imprisonment is the punishment involving deprivation of liberty that has some particularities with regard to the conditions in which it is imposed, its duration, purpose and substance.

227. Juvenile imprisonment can be imposed on a senior minor for a criminal offence for which the law provides a five-year prison sentence or a more severe punishment, if it is necessary to impose this punishment because of the nature and seriousness of the offence and because of the high degree of guilt.

228. In the proceedings against a minor perpetrator of a criminal offence who, at the time when the proceedings were instituted was under twenty-three years of age, the provisions of the Juvenile Courts Act are applicable, as are the provisions of the Criminal Code unless they are contrary to the provisions of the Juvenile Courts Act.

229. When, during the proceedings, it is established that a person concerned was, at the time when the criminal offence was committed, under fourteen years of age (a child), criminal proceedings are to be dropped and the information on the offence and on the perpetrator are to be submitted to the centre for social welfare.

230. For all criminal offences, criminal proceedings against a minor are only instituted at the request of the public prosecutor.

231. A minor may not be tried in absentia. In interrogating a minor or in taking other actions in the presence of a minor, special consideration shall be given to making sure that the conduct of the criminal proceedings is, in view of the level of mental development and personal traits of the minor, not detrimental to the development of his or her entire personality.

232. A minor may have a defence counsel when the public prosecutor makes non-institution of proceedings conditional upon the minor's fulfilment of a specific obligation. A minor must have a defence counsel already at the first interrogation, if proceedings are conducted for a criminal offence carrying the punishment of imprisonment longer than three years. As to other criminal offences carrying a more lenient punishment, the minor will have a defence counsel if the juvenile judge assesses that he or she needs a defence counsel.

233. If the minor himself or herself, his or her legal representative or members of his or her family do not hire a defence counsel, the juvenile judge shall ex officio provide one to him or her. When no conditions exist for mandatory defence, the juvenile judge may provide a defence counsel to the minor whose income status is such that he or she is unable to cover the costs of defence by himself or herself. The judge shall do this at the request of the minor or of the minor's legal representative or a member of the minor's family. If possible, a defence counsel is to be appointed from among the licensed attorneys who have strong inclinations towards, and basic knowledge about, the upbringing and welfare of young persons. A minor may only be defended by a licensed attorney.

234. A minor is summoned through his or her parents or legal representative, save when this is not possible because of the need to take urgent actions or of other circumstances.

235. Juvenile courts inform centres for social welfare when the facts and circumstances established during criminal proceedings indicate that it is necessary to undertake measures for the protection of the minor's rights and well-being.

236. Sanctions imposed on minors for the offences they have committed include correctional measures, juvenile imprisonment and security measures.

237. In the proceedings against a minor, the representative of a centre for social welfare, as well as exercising the powers explicitly provided for by this Act, also has the right to be informed about the course of the proceedings, and during these proceedings he or she is entitled to make proposals and give warnings about the facts and evidence which are important for making a right decision. The public prosecutor shall notify the competent centre for social welfare of any proceedings instituted against a minor.

238. No one may be exempted from the duty to give evidence about the circumstances needed in order to assess the level of a minor's mental development and provide information on his or her personality and circumstances in which he or she lives.

239. The authorities participating in the proceedings against a minor, as well as other authorities and institutions from which information, reports or opinions are requested are obliged to act with maximum urgency in order that the proceedings may be brought to an end within the shortest possible term.

240. No information on the course of the criminal proceedings against a minor or decision issued in these proceedings may be disclosed without the court's approval.

241. It is only allowed to disclose the information about the part of the proceedings, and the part of the decision for which approval has been given. However, in that case it is not allowed to state the minor's name and other information on the basis of which the identity of the minor concerned can be revealed.

242. Juvenile perpetrators of criminal offences are subject to the Juvenile Courts Act and the Ordinance on the methods for executing the correctional measure of referral to a correctional facility. A long-standing lack of adequate legislative framework when it comes to the execution of sanctions imposed on juvenile perpetrators of criminal offences and misdemeanours will be overcome with the adoption of the Act on the Execution of Sanctions Imposed on Minors for Criminal Offences and Misdemeanours, which is currently at the stage of being sent to the Government of the Republic of Croatia for consideration. The principles of the execution of sanctions, laid out in this Act, specify that during the execution of sanction the minor must not be placed in an unequal position because of his or her race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. This Act also provides for the right of minors to meet the needs of their religious and spiritual life during the execution of sanctions. This clearly shows consistent respect for the prohibition of any form of discrimination against minors sentenced for criminal offences and misdemeanours.

243. The Criminal Procedure Act provides for a greater protection of the interests of children and minors, especially in its provisions on giving testimonies, aimed at protecting children victims of criminal offences, as especially vulnerable witnesses (Article 238, paragraphs 4 and 5). To safeguard the child's interests, the adversarial interrogation is not used in pre-trial proceedings and investigation. Special methods of interrogation of children are intended to efficiently protect children from secondary victimisation in proceedings. The participation of experts in interrogations of children victims of a criminal offence is relevant for solving the question of how to carry out interrogations (in terms of contents and communication) and makes it possible to use the expert's testimony in proceedings. The contents of the interrogation are determined by the court, whilst interrogation methods are the responsibility of the expert, which is to be taken as a general approach. Interrogation may be carried out by using special forms of communication with the witness, but also special methods of presenting one's testimony (for instance, by a drawing, by mimicking one's motions, showing objects). The Act provides that interrogation of a child victim of a criminal offence is always carried out with the assistance of a psychologist, educator or other expert person.

244. In the Directorate for the Prison System of the Ministry of Justice there are three institutions for persons under 18 years of age and, in particular:

- Turopolje Correctional Facility, located in Turopolje near Velika Gorica, can house up to 98 minors; the correctional measure executed in Turopolje Correctional Facility is the correctional measure of referral to a correctional facility, imposed by the court on male offenders

- Požega Correctional Facility, located in Požega, can house up to 50 minors; the correctional measure executed in Požega Correctional Facility is the correctional measure of referral to a correctional facility, imposed by the court on female offenders
- Juvenile Section of Požega Prison, located in Požega, can house up to 20 minors; in the Juvenile Section the correctional measure of juvenile imprisonment is executed in respect of male minors

245. As regards the protection of minors, some changes have been made to the criminal legislation since the submission of the Initial Report, by which the criminal legislation of the Republic of Croatia has been brought in line with the Convention on the Rights of the Child and other international documents.

246. The Act on Amendments to the Criminal Code of July 2004, in Article 197a, created a new offence - child pornography in a computer system or network. In view of the particular danger inherent in the distribution of pornography on the internet, it was felt justified to criminalise child pornography in a computer system or network by introducing a special Article. This Article provides that whoever by using a computer system or network, offers, distributes, procures for oneself or another, or whoever in the computer system or on a computer-data storage media possesses pornographic material that depict children or minors engaged in a sexually explicit act or focused on their genitals is to be punished by imprisonment from one to ten years. Whoever, through the computer system, network or computer-data storage media, makes accessible to a child, pictures, audio-visual materials or other items of pornographic content, is to be punished by a fine or imprisonment not exceeding three years.

247. This has supplemented the incriminations contained in Articles 196 and 197 of the Criminal Code, which has thus been brought in line with the Convention on the Rights of the Child and the Convention on Cybercrime.

248. Article 175 of the Criminal Code, which sets out the criminal offence of “trafficking in human beings and slavery”, in paragraph 2 creates an aggravated form of this offence if the victim is a child or a juvenile, which is fully in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

249. Article 178 of the Criminal Code, which sets out the criminal offence of “international prostitution”, provides for a greater protection of children and a more severe sanction (up to 15 years of imprisonment).

250. Article 158 of the Criminal Code, setting out the criminal offence of “war crimes against the civilian population”, is in line with the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; the age limit for the recruitment of children was raised from fifteen to eighteen years.

251. Two commissions operate at the Ministry of Justice:

- The Commission for Monitoring and Improving the Work of the Bodies Responsible for the Criminal Procedure and Juvenile Sanctions

- The Commission for Monitoring the Work of Criminal and Misdemeanour Procedure Bodies, and Those Responsible for the Execution of Sanctions Relating to the Protection from Domestic Violence

252. A number of provisions of the Criminal Code provide for a greater criminal law protection of children and juveniles in relation to the following criminal offences: rape (Article 188, paragraphs 4 and 5), sexual intercourse with a child (Article 192), lewd acts (Article 193), satisfying lust in the presence of a child or a juvenile (Article 194), pandering (Article 195, paragraphs 1 and 5), exploitation of children or juveniles in pornography (Article 196), introducing pornography to children (Article 197), child pornography in a computer system or network (Article 197a).

### **Compensation of damages for unjustifiable convictions**

253. The Criminal Procedure Act lays down the procedure for seeking compensation of damages and realisation of other rights of unjustifiably convicted or illegally arrested persons (Articles 494-502).

254. The right to compensation of damages for unjustifiable conviction is held by a person against whom a criminal sanction was imposed by a final decision or who was pronounced guilty but whose punishment was remitted, and subsequently, upon an extraordinary judicial remedy, the proceedings were reopened and finally discontinued or the convicted person was acquitted by a final judgement or the charge was rejected. The right to compensation of damages is not realised if the proceedings were discontinued or the charge rejected because in the new proceedings the subsidiary prosecutor or private prosecutor desisted from prosecution or if the injured person withdrew his request on the basis of an agreement with the defendant. A convicted person is not entitled to compensation of damages if he or she deliberately caused his or her conviction through a false confession or otherwise, unless he or she was forced to do so.

255. The period of limitation to claim the right to compensation of damages expires in three years from the day the first instance judgement of acquittal or judgement rejecting the charge became final or from the day the first instance ruling discontinuing the proceedings became final, and if a higher court decided on an appeal, from the day of receipt of the decision of the higher court. Before bringing a civil action for the compensation of damages, the injured person is bound to submit his or her request to the Ministry of Justice in order to reach a settlement on the existence of damage and the type and amount of compensation.

256. If the request for the compensation of damages is not accepted or if the court does not decide on it within a term of three months of the request being submitted, the injured person may bring a civil action for the compensation of damages with the court having jurisdiction. If a settlement was only reached about one part of the claim, the injured person may bring a civil action regarding the rest of the claim. A civil action for the compensation of damages shall be brought against the Republic of Croatia.

257. Heirs only inherit the right of the injured person to compensation of pecuniary damage. If the injured person has already filed a claim, the heirs may only resume the proceedings within the limits of the claim for compensation of pecuniary damage already filed. After the injured

person's death, his or her heirs may resume proceedings for the compensation of damages or institute proceedings provided that the injured person died before the period of limitation expired and provided that the injured person did not waive his or her claim.

258. Entitlement to compensation of damages also belongs to the person:

- Who was detained and criminal proceedings were not instituted or were discontinued by a final ruling, or who was acquitted by a final judgement or where the charge was rejected
- Who served his or her prison sentence and, upon an extraordinary judicial remedy, the court subsequently imposed a sentence of a shorter duration than the sentence served or where a non-custodial sentence was imposed or if he or she was pronounced guilty when the punishment was remitted
- Who, due to an error or the unlawful action of state authorities, was arrested or detained without legal grounds, or was provisionally confined, detained or kept in prison or institution for a longer period of time than is prescribed by law
- Whose time spent in detention exceeded his or her sentence

259. A person arrested without legal ground is entitled to compensation of damages if detention was not ordered against him or her or if the time during which he or she was arrested was not included in the punishment for the offence or misdemeanour.

260. If a case concerning an unjust conviction or unfounded deprivation of liberty is reported in the media, damaging the person's reputation, the court will, at the person's request, publish a public notification in the newspapers or other media, concerning the decision which resulted in the unjust former sentence or unfounded arrest. If the case has not been reported in the media, the person may request that such notification is delivered to his or her employer. After the death of a convicted person, the right to make this request passes to his or her partner or marriage partner, children, parents and siblings.

261. Regardless of the conditions provided for by the Act, a request for compensation of damages may also be submitted when the legal qualification of the offence was altered upon an extraordinary judicial remedy, if, due to the legal qualification in the original judgement, the reputation of the convicted person was damaged. The request is to be submitted to the court at first instance within a term of six months. The request is decided by the chamber.

262. The court at first instance shall by virtue of the office render a ruling which annuls the entry of an unjustifiable conviction into the criminal register. This ruling is delivered to the Ministry of Justice. After the entry has been annulled, data from the criminal registry shall not be available to anyone.

263. A person whose employment or social security was terminated due to an unjustifiable conviction or illegal arrest shall have the same years of service or years of social security recognised as if he or she had been employed during the time of the loss of years of service due

to an unjustifiable conviction or illegal arrest. Periods of unemployment shall also be included in the years of service or social security if caused by the unjustifiable conviction or illegal arrest rather than by the guilt of this person.

264. If the authority or institution at which a person is employed fails to take into account the years of service or social security recognised by the provisions mentioned, the injured person may request that the competent court finds that recognition of this period has occurred by force of law. A civil action is brought against the authority or institution which contests the recognition of years of service or social security and against the Republic of Croatia.

### **Comments on the Concluding Observations**

265. As regards the Concluding Observations by the Human Rights Committee on the need to provide training for judges and court staff and on the need to speed up the justice reform, we would like to point out that the responsibility for training for judges and other judicial officials, court advisers, and judicial and public prosecution trainees lies with the Judicial Academy of the Ministry of Justice. At the Judicial Academy, the Department for Judicial and Public Prosecution Trainees has been established, which is responsible for the development of an integrated training system at courts for judicial and public prosecution trainees.

266. In 2005 the Judicial Academy, at the request of Zagreb Municipal Court, the largest court in the Republic of Croatia, organised a cycle of 5 workshops for newly hired trainees and advisers. These workshops were attended by 31 persons. In 2006, a cycle of 3 workshops was organised for 15 attendees. The goal of these workshops was to teach the participants the basic knowledge about the substantive law and procedural techniques and to inform them about the manner and methods of work of the Judicial Academy. Interactive workshops were led by judge-lecturers, who had previously received training of trainers (ToT).

### **In-service training and life long learning**

267. For the most part, training is held on a decentralised basis, within the integrated training system at courts, specifically, at 5 regional centres of the Judicial Academy (in the largest judicial centres, in Zagreb, Rijeka, Osijek, Split, Varaždin). Specialist programmes are also implemented on a centralised basis, depending on the number of participants. Training material is prepared for each new topic at the Judicial Academy and the training kit includes a manual for workshop leaders, a manual for participants and a CD. The training material contains a mix of theory and practice, and is focused on examples from the case law and hypothetical examples. The material is jointly prepared by judges and/or public prosecutors and scholars.

268. Based on the manuals prepared, interactive workshop-style training is held at Judicial Academy's regional centres for groups of 15 to 25 participants. Training is, as a rule, implemented by people working in the practice - experienced county court judges or judges of the Supreme Court of the Republic of Croatia, who are paid for this work on the basis of a contract for services. When training is not exclusively of a legal nature (e.g. relating to the work of spokespersons at courts), legal professionals are replaced by other relevant professionals (experienced journalists, communication professors, etc.). Participants in each of these activities evaluate the performance of the training provided, training leaders and teaching materials, and give proposals for the improvement of training. Training is analysed by the Academy's Research

and Planning Department. On the basis of this analysis, the authors of the training material and workshop leaders, together with professionals from the Academy, put forward recommendations for further work. Each lecturer and workshop leader previously receive what is called “training of trainers”, that is training on modern adult education didactic and teaching methods.

### **In-service training**

269. In-service training (life-long learning) includes standard training activities intended for judges and public prosecutors (e.g. the provision of information on new procedural rules and the substantive law), and specialist programmes (only for judges and public prosecutors pursuing certain matters).

270. Training programmes cover all branches of law and the law technique. In 2005 and 2006 most of the programmes were about the civil justice, as the majority of judges handle these matters. Constant attention is being given to the programmes for teaching judges and public prosecutors on European Community law and the case law of the ECHR and the European Court of Justice from Luxembourg. Training programmes are organised on a half-day, one-day and two-day basis, and are held during the working week.

271. Judges who will attend a particular programme are selected by court presidents or competent public prosecutors. Participants are given certificates of attendance and training, which they provide to court presidents for evaluation purposes. Also, a database is maintained at the Judicial Academy of all participants, lecturers and authors of training materials for Judicial Academy programmes. The information on participation in the activities organised by the Judicial Academy is provided to judges’ councils, at their request, in the procedure for the election of candidates for judges.

272. In the period between 1 January 2005 and 20 September 2006 the Judicial Academy implemented a series of educational activities on various branches of the law. These activities were conducted mostly in the form of workshops, but also as lectures, seminars and roundtables. The activities were for the most part conducted for judges and public prosecutors at all instances. In particular, ad hoc workshops were organised, as necessary, for court advisers who had taken office at Zagreb Municipal Court, and one workshop was also held for court staff on preparation of the court-annexed mediation procedure. The following activities were conducted, by particular branches of the law.

### **European law**

273. When it comes to the field of European law, workshops were held on the following subjects: European Human Rights Conventions, The Introduction to EU Law Through the Case Law; The Introduction to the *Acquis Communautaire* and the EU Justice System; The Essentials of the Negotiating Process in the EU and the Diplomatic Protocol; EU Judicial Co-operation in Civil Matters; Competition Law in the EU; Corporate Competition Law and Intellectual Property; Environmental Law and Consumer Protection Law; Hidden Cartels; Judicial Co-operation in Criminal Matters; The Protection of Competition in the Context of EU Law; Monopolies; The Protection of Human Rights through the ECHR Case Law; European International Conventions on Corruption; Competition Law and Consumer Protection; Public Procurement and Competition Law; Proceedings before the European Court of Justice.

### **Capacity-building for war crime trials**

274. The topics were as follows: Witness Protection - International Experiences; Witness/Victim Protection - Practical Considerations; Massacre - Investigation Techniques.

### **International legal assistance**

275. The topics were as follows: Extradition and International Legal Assistance, The Hague Convention on the Civil Aspects of International Child Abduction.

### **Criminal law**

276. The topics were as follows: Illegal Evidence in Criminal Procedure; Criminal Abuse of Economic Power; Detention - Grounds and Procedure; Preparation and Conduct of Trial in Criminal Cases; The Prevention of Computer Crime; Processing Offences Related to the Trafficking in Human Beings; Combating Organised Crime; Imposition and Execution of Criminal Sanctions - Community Service and Suspended Sentence with Supervision; The Use of Video Link in Criminal Proceedings.

### **Civil and commercial law**

277. The topics were as follows: Techniques of Writing Civil Judgements; Enforcement on Immoveable Property; Termination of Employment Contracts; Transfer of Ownership and Legal Passing of Ownership; Preparation and Conduct of Trial in Civil Proceedings; Service in Civil Procedure; Civil Proceedings Costs and Determining the Amount in Controversy; Enforcement - Securing Claims, Intellectual Property; Measures for the Protection of Personal Interests of the Child in the Light of Changes to Court Jurisdiction; Liability for Damage and New Civil Obligations Act; Amendments to the Enforcement Act with Special Reference to Enforcement on Moveable Property; The International Scientific Conference on German and Croatian Bankruptcy Law.

### **Skills and techniques**

278. The topics were as follows: Witness Interrogation Techniques and Psychological Aspects of the Trial; Psychological Aspects of Interrogation of Children Victims of Crime; Capacity Building for Financial Investigation Aimed at Confiscation of Proceeds from Crime; Mediation Techniques; Searching *Intellectio Iuris - Legal Files* databases, French Language Course. Along with that, professional training was provided to spokespersons of certain courts and spokespersons of public prosecution offices.

### **State professional examination for judicial officials**

279. The state professional examination is an examination testing the acquired professional knowledge and skills of a judicial official, necessary for the performance of the job to which he or she was assigned. All judicial officials in judicial bodies are obliged to take this examination.

280. The requirements for taking the state professional examination, and the programme and arrangements for taking this examination are prescribed by the Ordinance on Judicial officials and employees, passed by the Minister of Justice, pursuant to Article 117, paragraph 3 of the

Courts Act. The programme of the state professional examination consists of the general section including the subjects: Constitutional Organisation, Justice System, Civil Service Relations, General Administrative Procedure and Administrative Disputes, Internal Operation of Courts and Judicial Bodies, and Court Fees, and the special section, which is closely related to the tasks the civil servant actually performs and for which it is necessary to test his or her knowledge and capabilities, required for the performance of these tasks. The state professional examination is taken before the State Examination Commission, established at the Ministry of Justice, whose members are judges or deputy public prosecutors or civil servants with long working experience on specific jobs in judicial and other state bodies.

281. Persons admitted into the civil service with no working experience, that is, in the capacity of a trainee, may not take the state professional examination before the expiration of their traineeship. The duration of traineeship is prescribed depending on the type of job and ranges from 12 months for jobs for which secondary school qualifications are required to 18 months for jobs for which university qualifications are required. Persons admitted into the civil service in judicial bodies, who have working experience in their profession, are obliged to pass the state professional examination within 6 months of the expiration of their six-month trial period. During traineeship or as part of the preparations for taking the state professional examination, the civil servant, under the supervision of his or her supervisor, is trained for the performance of the job to which he or she was assigned in the judicial body, through practical work and learning. As part of the preparations for taking the state professional examination, judicial bodies, independently or in co-operation with immediately superior judicial bodies, provide civil servants with special forms of professional assistance in the form of lectures, seminars and workshops.

282. Pursuant to Article 109b, paragraph 2 of the Land Registers Act, for a land registry clerk to be able to act independently and issue rulings in land registry proceedings, he or she is obliged to pass a special professional examination for an authorised land registry clerk. This type of professional examination may be taken by civil servants who, in addition to the prescribed type and level of education, have at least 5 years of working experience in the land registry service.

283. The programme and the manner of taking the professional examination and the requirements for taking this examination are prescribed by the Ordinance on the taking of the professional examination and the appointment of authorised land registry clerks, which was passed by the Minister of Justice pursuant to Article 109b of the Land Registers Act. This special professional examination tests the knowledge and skills acquired through the performance of tasks of land registry clerks. The examination consists of a written examination whereby the applicant has to draw up one or more land registry rulings and perform the accompanying actions until the ruling becomes legally effective, and an oral examination testing the applicant's knowledge of the following subjects: land registry law and real estate cadastre, *in rem* rights on immovable property, legal arrangements on immovable property and procedural regulations. Members of the State Examination Commission, set up at the Ministry of Justice, are exclusively judicial officials with a long working experience in the land registry service.

284. The Judicial Academy is supposed to be in charge of training of judicial and public prosecution trainees. For this purpose, preparations are currently underway for approving the 2005 PHARE programme. This Project should result in adopting a draft strategy for professional training for trainees, a draft of the new Trainees Act or amendments to the law currently in force,

the plan and programme of training for judicial trainees, and a pilot project in which the training plan and programme are to be tested. This project will require further institutional development of the Judicial Academy and, in particular, its Trainees Department, and further co-operation with the regional training centres.

285. In its further institutional development, the Judicial Academy must also ensure all conditions for the work of the Advisory Council, and harmonise programme reporting, planning and evaluation methods.

286. In collaboration with the Advisory Council, the Judicial Academy must also establish and organise working methods of various programme groups, which will provide assistance in the development of professional training programmes.

287. The Judicial Academy also expects further institutional development of its regional centres, which should have a greater influence on the implementation of Judicial Academy programmes in their respective areas, and on the planning of training needs in their areas. It is only then that the Judicial Academy can work at its full capacity and meet all professional training needs.

288. The Judicial Academy has prepared an analysis of professional training needs of judges, public prosecutors, court and public prosecution advisers, trainees and court clerks. This analysis was prepared on the basis of the following: the Strategy of the Reform of the Justice System in the Republic of Croatia, various national strategies, the planned legislative activities, the survey carried out at commercial courts in the Republic of Croatia, suggestions of the Croatian Bar Association, the data provided by the Public Prosecution Service of the Republic of Croatia within the twinning 2003 CARDS Project "Professional Training for Public Prosecutors", and the information received by participants in the activities organised by the Academy.

289. As to the observations relating to the need to speed up the justice reform, amongst other things through training for judges and court staff in efficient case management, we would like to mention that the Judicial Academy has systematically conducted its standard professional training programmes contributing to a greater efficiency in court case management.

290. In 2005 the training included workshops on the following topics:

- Service in Civil Procedure
- Illegal Evidence in Criminal Procedure
- Preparation and Conduct of Trial in Civil Cases
- Preparations for Trial in Criminal Cases
- Psychological and Legal Aspects of Witness Interrogation and Psychological Aspects of Trial
- Techniques of Writing First Instance Civil Judgements

- Civil Proceedings Costs and Determining the Amount in Controversy
- Transfer of Ownership and Legal Passing of Ownership

291. In the year 2005 a total of 27 workshops were held on the above topics, which were attended by 494 participants - judges, court advisers and public prosecutors.

292. In 2006 professional training programmes were organised on the following topics:

- Preparation and Conduct of Trial in Civil Cases
- Techniques of Writing First Instance Civil Judgements
- Preparation and Management of Trial in Criminal Cases
- Transfer of Ownership and Legal Passing of Ownership
- Psychological and Legal Aspects of Witness Interrogation
- Illegal Evidence in Criminal Proceedings
- Civil Proceedings Costs and Determining the Amount in Controversy

293. In the year 2006, a total of 28 workshops were held on the above topics, which were attended by 637 participants - judges, senior court advisers, court advisers and public prosecutors, and judicial and public prosecution trainees.

294. In the first six months of 2007 plans have been made for the implementation of the Module "Management Issues within the CARDS 2003 Project - Professional Training for Public Prosecutors". This training activity will include four two-day workshops for about eighty public prosecutors.

295. With a view to increasing the efficiency of the Croatian justice system, the Government of the Republic of Croatia has undertaken a number of legislative and practical measures since 2004.

296. The reduction of court workload and the speeding up of proceedings have been facilitated by the provisions of the new Courts Act (OG 150/05), the Amendments to the Enforcement Act (OG 88/05), the Amendments to the Civil Procedure Act (OG 117/03), the new Succession Act (OG 48/03, 163/03, 35/05), the Amendments to the Land Registers Act (OG 100/04), and the Mediation Act (OG 163/03).

297. As well as legislative measures, the Strategy of the Reform of the Justice System was also adopted with the aim of building an efficient justice system, and work is currently in progress on the establishment of an integral IT system for judicial bodies. The reform of the land registry system is being implemented on the basis of several parallel activities, as is the Action Plan for the Reduction of Backlog in Enforcement Cases. Anti-corruption and criminal policies are also being carried out in a systematic manner, and, as already mentioned, a new system of professional training for judicial staff has been put in place.

298. To speed up the resolution of court cases, the Courts Act has provided that the president of the Supreme Court of the Republic of Croatia may issue rulings to transfer certain cases or groups of cases from courts with a heavy workload to courts with a smaller number of cases falling within the same subject-matter jurisdiction. On the basis of this statutory authority, in the period from the beginning of 2004 to September 2006 a total of 39,016 cases were transferred from courts with a heavy workload to those with a lighter workload.

299. The amendments to the Civil Procedure Act and the new Courts Act have broadened the powers of court advisers in that now they may handle less complicated cases and thus relieve judges of certain routine and administrative tasks, which, in combination with the increase in the number of court advisers in the court system by 177 (since 2005), has had a direct influence on the reduction in the number of unresolved cases and increase in the efficiency of courts.

300. To improve the efficiency of courts, the new Courts Act has introduced a new model of administrative supervision, namely, by the establishment of the judicial inspection within the Ministry of Justice, which is responsible for supervising the performance of court and public prosecution administration tasks, but does not have any powers to interfere with the independence and impartiality of these institution in the carrying out of their functions laid down in the Constitution.

301. To address the problem of the length of court proceedings, the Courts Act has regulated the protection of the right to trial within a reasonable time in such a way that a party may seek this protection from the immediately superior court, and a ruling on the request for the protection of the right to trial within a reasonable time may be challenged by lodging an appeal with the Supreme Court of the Republic of Croatia.

302. The Act on Amendments to the Civil Procedure Act, which entered into force in December 2003, has simplified the civil procedure and made it more efficient, which has, amongst other things, been achieved by the introduction of the principle of a monocratic trial in first instance proceedings and partly also in proceedings instituted upon remedies, by the introduction of efficient instruments for combating the misuse of procedural authorities, by limiting the possibilities of stalling the proceeding on competence grounds, by reforming the service arrangements and by redefining the concept of the assistant.

303. On the basis of the Succession Act, which has been applied since October 2003, notaries public handle and decide undisputed cases, and where a case involves a dispute between the parties, the notary public returns the case to the court for further proceeding.

304. In this way, courts have been relieved of the duties relating to undisputed cases and their greater involvement in the resolution of disputed cases has been made possible, and the parties enjoy judicial protection (in terms of reviewing a notary public's decision) in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

305. The Amendments to the Enforcement Act, which were adopted in July 2005, have made possible the largest reduction in the court workload, by transferring the duty of issuing enforcement rulings on the basis of a trustworthy document (an invoice, a bill of exchange, an excerpt from business books, etc.) to notaries public. In this case as well, courts will only handle objections against decisions issued by notaries public.

306. Another novelty, aimed at speeding up and simplifying the enforcement procedure, has been introduced in relation to the enforcement on moveable property: the sale of moveable property through what are called “commission shops” has been introduced, as has been the establishment of the register of immovable property and moveable property of high value, which are being sold in enforcement proceedings, and can be viewed over the internet.

307. Since enforcement cases accounted for 32 per cent of the total number of pending cases in the Republic of Croatia, the Ministry of Justice, in addition to the already mentioned legislative amendments, has also adopted the Action Plan for the Reduction of Backlog of Enforcement Cases. The Plan provides for training for judges and bailiffs, the drawing up of uniform forms for certain procedural actions, the provision of the necessary IT equipment, adequate staffing, systematic statistical and analytical monitoring, and a proposal of special measures for Zagreb Municipal Court.

308. At the time when the Action Plan was launched there were 599,334 pending cases, and on 30 June 2006 their number was reduced to 292,371; the reduction amounted to 51.22 per cent.

309. The amendments to the Land Registers Act of July 2004 introduced authorised land registry clerks in land registry offices, who are licensed to issue court rulings, as well as land registry clerks responsible for drawing up court decisions for land registry judges.

310. Along with these legislative amendments, on 1 September 2004 the Ministry of Justice started the implementation of the land registry system reform by carrying out several parallel activities: clearing the backlog and ensuring up-to-dateness of land registry courts on a daily basis, the conversion of land registers into the digital form, the verification of the land registry files that have been converted, the harmonisation of land-registry and cadastre data, the establishment of a land database. All the land registry courts (107) are networked and the data that have been converted into the digital form is available to all interested users.

311. The Mediation Act (OG 163/03) has also been adopted with the aim of reducing the workload of courts by means of alternative dispute resolution arrangements, and by providing the legislative framework for these arrangements. For the purposes of the implementation of this Act, many measures have been planned whose objective is to encourage parties to settle their disputes in an amicable manner. These measures include on-going training and introducing the criteria for the selection of persons who can qualify as mediators, informing the public and all those involved about the advantages of amicable dispute resolution, the media coverage and promotion of mediation, and the establishment of a network of mediation centres.

312. Mediation is carried out in some ten organisations and associations. As part of the pilot project “Court-Annexed Mediation”, which is currently implemented at Zagreb Commercial Court, 58 cases were concluded through mediation of the total of 215 cases received by the Court until 31 July 2006.

313. In 2006 the Ministry of Justice concluded with the Croatian Employers’ Association, the Croatian Chamber of Commerce and the Croatian Chamber of Trades and Crafts an agreement on joint participation in the PHARE 2005 programme “Enhancement of Mediation as an Alternative to Court-Based Dispute Settlement”. The basic purpose of this agreement is to develop mediation as an alternative method of resolution of disputes between parties.

314. To increase the efficiency of the justice system, in late 2005 the Supreme Court of the Republic of Croatia drew up a programme for the clearance of old cases of all types. This programme has yielded good initial results. All criminal cases older than 3 years were included in the category of old cases, as were all civil cases older than 5 years. The work on clearing old cases and reducing the backlog is monitored in several segments.

315. The efficiency of the work of courts is also enhanced by building an IT and communication structure of the justice system, and by introducing an automated system, and this is the result of the allocation of more budgetary funds for the computerisation of courts.

316. The development of the Integrated Court Case Management System (ICMS) started with the financial and professional assistance of the World Bank and the European Commission, which will cover all court business cycles. The aim of this project is to create an automated system at the national level which will make it possible to track down a case throughout court proceedings and perform case management tasks. The implementation of the project started on 1 January 2007. The project is currently being implemented at 4 courts, and in early 2008 it will be rolled out into other courts.

### **Article 15**

317. Article 31 of the Constitution of the Republic of Croatia provides that no one shall be punished for an act which before its commission was not defined as a punishable offence by law or international law, nor may he or she be sentenced to a penalty which was not defined by law. If a less severe penalty is determined by law after the commission of an act, such penalty is to be imposed. No one may be tried anew nor punished in criminal proceedings for an act for which he or she has already been acquitted or sentenced by a final court judgment in accordance with law. The cases and reasons for the renewal of court proceedings may be provided only by law, in accordance with the Constitution and an international agreement.

318. Here, we can repeat the basic provisions of the criminal legislations referred to in the previous Report, relating to the determination of penalties by statute and the application of more lenient law, in the event of changes of the law which was in force at the time when the offence was committed. Everyone is presumed innocent and may not be considered guilty of a criminal offence until his guilt has been proved by a final court judgment.

319. Pursuant to the provisions of the Criminal Code, criminal offences and criminal sanctions shall be prescribed only for acts threatening or violating personal liberties and human rights, as well as other rights and social values guaranteed and protected by the Constitution of the Republic of Croatia and international law in such a manner that their protection could not be realised without criminal law enforcement.

320. The prescribing of specific criminal offences, as well as the types and the range of criminal sanctions against their perpetrators, shall be based upon the necessity for criminal law enforcement and its proportionality with the degree and nature of the danger against personal liberties, human rights and other social values.

321. The provisions of the Criminal Code of the Republic of Croatia define the basic rules applicable to perpetrators of criminal offences in the Republic of Croatia.

*The principle of legality*

*Article 2*

*Criminal offences and criminal sanctions may be prescribed only by statute. No one shall be punished, and no criminal sanction shall be applied, for conduct which did not constitute a criminal offence under a statute or international law at the time it was committed and for which the type and range of punishment by which the perpetrator can be punished has not been prescribed by statute.*

*Mandatory application of more lenient law*

*Article 3*

*The law in force at the time the criminal offence is committed shall be applied against the perpetrator. If, after the criminal offence is committed, the law changes one or more times, the law that is more lenient to the perpetrator shall be applied.*

*Principle of culpability*

*Article 4*

*No one shall be punished, and no criminal sanction shall be applied, unless the perpetrator is found culpable of the committed offence.*

**Article 16**

322. In the Republic of Croatia, as already stated in the Initial Report on this Article of the Covenant, all nationals of the Republic of Croatia and foreigners are equal before courts and other state and other bodies vested with public authority.

323. Legal capacity is acquired at birth and expires at death. For instance, the acknowledgement of the paternity of a conceived but still unborn child will produce legal effect if the child is born live (Article 60 of the Family Act).

324. A natural person acquires capacity to act upon attaining the age of majority, unless otherwise specified by law. With a view to safeguarding the rights and interests of individuals in the exercise of various rights, the Act on the Protection of Persons with Mental Disorders (OG 11/97, 27/98, 128/99, 79/02) and the Family Act contain provisions protecting children and persons with mental disorders, and some categories of adults who are unable to undertake certain actions without prejudice to the exercise of their rights. As already stated, minors become criminally liable, i.e. responsible for the criminal offences committed, at the age of 14, provided that they are capable of understanding the consequences of the offence committed.

325. Legal persons acquire legal capacity pursuant to the laws governing the area in which the particular legal person is being established. The Companies Act (OG 11/93, 34/94) provides that a company or a sole trader acquires legal personality by registration in the Company Register.

326. The Institutions Act (OG 76/93, 27/97, 47/99) provides that an institution acquires legal personality by registration in the Register of Institutions.

327. The Civil Obligations Act (OG 35/05) contains the following provisions on legal capacity and capacity to act:

*Legal capacity*

*Article 17*

- (1) *Any natural and legal person is capable of being a holder of rights and obligations.*
- (2) *It shall be deemed that a conceived child is born, wherever it is the question of its benefits, provided it is born alive.*
- (3) *It shall be deemed that a child is born, unless it is established otherwise.*
- (4) *In the case of a doubt as to which of several persons died first, it shall be deemed that they died concurrently, unless it is established that one person died before the other.*
- (5) *A legal person shall acquire legal capacity on the date of its establishment as provided by special laws.*

*Capacity to act*

*Article 18*

- (1) *A person with capacity to act may produce legal effects by means of its declarations of intention.*
- (2) *A natural person acquires capacity to act when it becomes of age and a legal person on the date of its establishment, unless otherwise provided by law.*
- (3) *A person that is under age may produce only those legal effects as provided by law.*
- (4) *Instead of a person lacking capacity to act, its legal representative or guardian shall declare its will.*
- (5) *In the case of a legal person, its bodies express its intentions in legal transactions and actions taken in such capacity.*
- (6) *In the case of doubt as to whether a person under paragraph 5 above acted in the capacity of a body of a legal person, it shall be deemed so, provided that a third party neither knew nor, in view of the circumstances, had a reason to doubt that this person acted in such capacity.*

*Rights of personality*

*Article 19*

- (1) *Any natural or legal person is entitled to the protection of its personality rights under the conditions provided by law.*
- (2) *Within the meaning of this Act, personality rights are taken to be the right to life, to physical and mental health, reputation, honour, dignity, name, privacy of personal and family life, freedom, and other.*
- (3) *A legal person has all the stated personality rights, other than those related to the biological character of a natural person, in particular, the right to reputation and a good name, honour, name or firm name, business secrecy, freedom to conduct business, and other.*

**Article 17**

328. Everyone shall be guaranteed respect for and legal protection of personal and family life, dignity, reputation and honour. As indicated in the Initial Report, the Constitution of the Republic of Croatia provides that homes are inviolable. Only a court may order the search of a home or other premises, issuing a warrant with the statement of reasons, in conformity with law. A search aimed at finding or securing evidence for which there is grounded probability to be found in the home of the perpetrator of a criminal offence may only be carried out in the presence of witnesses. Everyone is guaranteed respect for and legal protection of personal and family life, dignity, reputation and honour. Freedom and privacy of correspondence and all other forms of communication are also guaranteed. Restrictions necessary for the protection of the State security and the conduct of criminal proceedings may only be prescribed by law. Everyone is guaranteed the safety and secrecy of personal data. Without consent from the person concerned, personal data may be collected, processed and used only under conditions specified by law. Data protection and supervision of the work of information systems in the State are regulated by law. The use of personal data contrary to the purpose of their collection is prohibited.

329. Homes are inviolable and any interference with a person's home is punishable. The criminal-law protection is prescribed by the Criminal Code through the criminal offence from Article 122 - infringing the inviolability of a person's home, Article 123 - unlawful search, Article 130 - violating the privacy of correspondence and other pieces of mail, Article 131 - unauthorised recording and eavesdropping, Article 133 - unauthorised use of personal data. In the preceding five-year period, the police discovered and reported to the Public Prosecution Service the following offences:

CC of the RoC	2001			2002			2003			2004			2005		
	Offences		Perpetr.												
	Report.	Solved		Report.	Solved		Report.	Solved		Report.	Solved		Report.	Solved	
Art. 122	144	132	146	129	114	141	126	116	162	144	134	161	126	115	108
Art. 123	1			1											
Art. 130	2	2	2	4	4	3	3	2	2	15	15	4	4	4	4
Art. 131	7	7	3	7	7	8	2	2	1	2	2	1	10	9	9
Art. 133	3	3	3							1		1			

In the year 2006, the following criminal offences were recorded:

Criminal Code	2006	
	Offences	
	Reported	Resolved
Art. 122	195	184
Art. 123	-	-
Art. 130	3 009	3
Art. 131	2	13
Art. 133	13	-

330. Compared to the time of the submission of the Initial Report, the Republic of Croatia has significantly improved the protection of personality of individuals and the protection of the family, as the basic unit of society. As well as providing for criminal-law protection, that is, punishment of all those who infringe the home and privacy of a person without authorisation, in 2003 the Personal Data Protection Act (OG 103/03, 118/06) was passed. The purpose of the protection of personal data is to protect one's private life and other human rights and fundamental freedoms in the collection, processing and use of personal data.

331. The Act regulates the protection of personal data on natural persons and the oversight of the collection, processing and use of personal data in the Republic of Croatia. The protection of personal data in the Republic of Croatia is assured for every natural person regardless of nationality and residence, and regardless of his or her race, colour, gender, language, religion, political or other belief, national or social background, property, birth, education, social standing or other characteristics.

332. Personal data is any information related to an identified natural person or a natural person who can be identified (hereinafter: "the subject"); a person who can be identified is one whose identity may be ascertained whether directly or indirectly, especially on the basis of one or more characteristics specific to his or her physical, psychological, mental, economic, cultural or social identity.

333. Personal data may be collected and further processed if the subject has given consent or in cases defined by law. Where personal data are collected and processed with the subject's consent, they may only be collected and further processed for the purpose for which such consent was given.

334. Personal data may be collected and further processed without the subject's consent:

- For the performance of legal obligation of the personal data filing system controller (*voditelj zbirke osobnih podataka*)
- To protect the life or physical integrity of the subject or another person in cases when the subject is physically or legally unable to give his or her consent
- If data processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the personal data filing system controller

- If the subject has himself or herself made the data public

335. A special body was established under the Personal Data Protection Act - the Agency for the Protection of Personal Data. The Agency monitors and oversees the protection of personal data. The Agency is managed by the director, who is appointed and recalled by the Croatian Parliament upon proposal of the Government of the Republic of Croatia. In April 2004, the director and deputy director of the Agency were appointed.

336. The Agency carries out the following activities as part of its public authority:

- Supervises the implementation of personal data protection
- Indicates the violations observed during personal data collecting
- Compiles a list of states and international organisations which have appropriately regulated personal data protection
- Handles requests for determining possible violations of the rights guaranteed by this Act
- Maintains the Central Register

337. The Agency may publish some of its important decisions in the Official Gazette of the Republic of Croatia. The Agency supervises the implementation of personal data protection upon request of the data subject, upon proposal of a third party or by virtue of office. The Agency is obliged to consider all requests pertaining to possible violations of rights in the processing of personal data, and inform the requesting party about the measures undertaken. The Agency has the right to access personal data stored in the personal data filing systems, regardless of whether or not records of these files are kept within the Central Register, it moreover has the right of access to files and other documentation pertaining to personal data processing, and to electronic data processing equipment, and has the right to collect all the information necessary for carrying out its supervisory tasks, regardless of the confidentiality level. The personal data filing system controller, user or processing official are obliged to allow the Agency access to files and other documentation and to electronic data processing equipment, and to submit the requested files and other documentation to the Agency, at the Agency's written request.

338. The Agency for the Protection of Personal Data carries out supervision. In supervision procedures conducted so far, the Agency has found irregularities relating to the provisions of the Personal Data Protection Act and the Decree on the manner of maintaining the records and the form of the records used in personal data filing systems (OG 105/04) and the Decree on the manner of storing and special measures of technical protection (OG 139/06), and has undertaken the prescribed measures.

339. As well as the tasks under Article 32 of this Act, the Agency also performs the following tasks:

- Follows the regulations applied for the protection of personal data in other countries, and cooperates with the bodies responsible for personal data protection in other countries

- Monitors the taking of personal data out of the Republic of Croatia
- Develops methodological recommendations for the advancement of the protection of personal data and delivers them to the personal data filing system controllers
- Advises in connection with the establishment of new collections of personal data, especially in cases of the introduction of new information technology
- In the event of doubt, gives opinion whether a certain group of personal data is considered to be a personal data filing system within the meaning of this Act
- Follows the application of organisational and technical measures for the protection of data and proposes improvements to these measures
- Issues proposals and recommendations for the advancement of the protection of personal data
- Co-operates with the relevant state authorities in drawing up proposals of regulations relating to the protection of personal data
- After receiving a notice from the personal data filing system controller, gives a preliminary opinion as to whether certain ways of personal data processing entail specific risks for the rights and freedoms of data subjects; in the event of doubt regarding the existence of specific risks, the personal data filing system controller must request the Agency opinion
- Carries out any other activities as defined by law

*Article 34 of the Personal Data Protection Act*

*In so far as the Agency, in the course of the activities within its competence, ascertains that the provisions of this Act governing the processing of personal data have been violated, it has the right to warn or admonish the personal data filing system controller, the user or the processing official the data about the irregularities in the personal data processing and issue a decision:*

- *ordering that these irregularities be removed within a certain time limit*
- *temporarily forbidding the collection, processing and use of personal data which are being collected, processed or used in violation of the provisions of this Act*
- *ordering the deletion of personal data collected without legal basis*
- *forbidding the taking of personal data out of the Republic of Croatia or personal data being given for the use of other users if the personal data are being taken out of the Republic of Croatia or if they are being given to other users to be used in violation of the provisions of this Act*

- *forbidding the entrustment of the tasks of collecting and processing of personal data to processing officials where the processing officials do not comply with the conditions regarding the protection of personal data, or where the entrustment of these tasks has been carried out in violation of the provisions of this Act*

340. Activities are continually being taken with the aim of raising awareness of the need for the protection of personal data by means of public promotion of the Personal Data Protection Act and the Agency as an institution. In this way the individual citizens are informed about the importance of the rights deriving from the legislation and relating to the protection of personal data, and about the consequences that may arise from this.

341. The Agency has published appropriate brochures for the public and for personal data filing system controllers. The brochures present the basic principles of the protection of personal data in a popular way which appeals to the general public.

342. In their status as candidates for full membership of the EU, the countries of Central and Eastern Europe established a permanent conference of supervisory bodies for the protection of personal data, with the aim of providing assistance to each other in the accomplishment of the tasks relating to the protection of personal data. This conference continued its work even after the majority of these countries joined the EU, and has been offering support to the remaining candidates.

343. Croatia will be the host of the 9<sup>th</sup> conference, which will be held in Zadar from 4 to 6 June 2007, under the auspices of the President of the Croatian Parliament. Since, judging by the number of participating countries and observers, this will be the largest conference so far, a series of activities will be undertaken in the forthcoming period to ensure full success of the Conference.

344. When it comes to the protection of personal data in broader terms, it should be pointed out that in the period after the submission of the Initial Report certain forms of infringement of secrecy of the data available in computer systems or programs have been sanctioned by the Criminal Code.

345. Thus, the following criminal offences have been sanctioned: infringement of secrecy, integrity and accessibility of computer data, programs and systems, computer forgery, computer fraud, insult, defamation, reproach for a criminal offence, exposure of personal or family conditions.

*Infringement of secrecy, integrity and accessibility of computer data, programs and systems*

*Article 223*

*(1) Whoever, despite the protective measures, without authorisation accesses the computer system shall be punished by a fine or by imprisonment not exceeding one year.*

- (2) *Whoever on purpose renders unusable or hinders the work or the use of computer, data or programs, computer system or communication shall be punished by a fine or by imprisonment not exceeding three years.*
- (3) *The punishment referred to in the paragraph 2 of this Article shall be inflicted on whoever without authorisation damages, alters, deletes, destroys or in some other way renders unusable or inaccessible the computer data or programs of another.*
- (4) *The punishment referred to in the paragraph 2 of this Article shall be inflicted on whoever intercepts or records the non-public transmission of computer data not intended for his or her use, from a computer system or within it, including the electromagnetic transmissions of data in the computer system, or whoever enables an unauthorised person to access these data.*
- (5) *If the criminal offence referred to in paragraphs 1, 2, 3 or 4 of this Article is committed in connection with the computer data, program or system of a governmental body, a public institution or a company of special public interest, or if significant damage is caused, the perpetrator shall be punished by imprisonment for three months to five years.*
- (6) *Whoever, without authorisation, produces, procures, imports, distributes, sells, possesses or makes available to another person special devices, equipment, computer data or programs created or adapted for the perpetration of the criminal offence referred to in paragraphs 1, 2, 3 or 4 of this Article shall be punished by a fine or by imprisonment not exceeding three years.*
- (7) *Special devices, equipment, computer data or programs created, used or adapted for the perpetration of criminal offences, which were actually used for the perpetration of the criminal offence referred to in paragraphs 1, 2, 3 or 4 of this Article shall be forfeited.*
- (8) *Whoever attempts to perpetrate the criminal offences referred to in paragraphs 1, 2, 3 or 4 of this Article shall be punished.*

*Computer forgery*

*Article 223a*

- (1) *Whoever, without authorisation, develops, installs, alters, deletes or makes unusable computer data or programs that are of significance for legal relations in order for them to be used as authentic, or whoever uses such data or programs shall be punished by a fine or by imprisonment not exceeding three years.*
- (2) *If the criminal offence referred to in paragraph 1 of this Article is committed in connection with the computer data or programs of a governmental body, a public institution or a company of special public interest, or if significant damage is caused, the perpetrator shall be punished by imprisonment for three months to five years.*

(3) *The punishment referred to in the paragraph 1 of this Article shall be inflicted on whoever, without authorisation, produces, procures, sells, possesses or makes available to another person special devices, equipment, computer data or programs created or adapted for the perpetration of the criminal offence referred to in paragraphs 1 or 2 of this Article.*

(4) *Special devices, equipment, computer programs or electronic data created, used or adapted for the perpetration of criminal offences and which are used to perpetrate the criminal offence referred to in paragraphs 1 or 2 of this Article shall be forfeited.*

(5) *Whoever attempts to commit the criminal offences referred to in paragraphs 1 and 3 of this Article shall be punished.*

*Computer fraud*

#### *Article 224a*

(1) *Whoever, with an aim to procure unlawful pecuniary gain for himself or a third party, enters, uses, alters, deletes or renders unusable electronic data or computer programs or disables or hampers the work or use of the computer system or program causing thereby damage to another shall be punished by imprisonment for six months to five years.*

(2) *Whoever commits the criminal offence referred to in paragraph 1 solely with the purpose of causing damage to another shall be punished by imprisonment for three months to three years.*

(3) *Whoever, without authorisation, produces, procures, sells, possesses or makes accessible to another special devices, equipment, computer programs or electronic data created and adapted for the perpetration of the criminal offences referred to in paragraphs 1 or 2 of this Article shall be punished by a fine.*

(4) *Special devices, equipment, electronic data or computer programs created, used or adapted for the perpetration of criminal offences that were used to perpetrate the criminal offence referred to in paragraphs 1 or 2 of this Article shall be forfeited.*

(5) *Whoever attempts to perpetrate the criminal offence referred to in paragraphs 2 and 3 of this Article shall be punished.*

346. In addition to the protection of home and personal data, the Republic of Croatia also ensures the protection of honour and reputation of an individual. Where an individual considers that his or her honour and reputation have been violated, he or she may use the legal remedies available. A private action may be brought against the perpetrator of these offences in criminal proceedings, whereas in civil proceedings damages may be sought under the Civil Obligations Act.

347. The Criminal Code provides for sanctions for the following criminal offences: insult, defamation, exposure of personal or family conditions.

*Insult*

*Article 199*

- (1) Whoever insults another shall be punished by a fine of up to one hundred daily incomes.*
- (2) Whoever insults another through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the insult becomes accessible to a large number of persons shall be punished by a fine of up to one hundred and fifty daily incomes.*
- (3) If the insulted person returns the insult, the court may remit the punishment for both perpetrators.*

*Defamation*

*Article 200*

- (1) Whoever, in relation to another, asserts or disseminates a falsehood which can damage his or her honour or reputation shall be punished by a fine of up to one hundred and fifty daily incomes.*
- (2) Whoever, in relation to another, asserts or disseminates a falsehood which can damage his or her honour or reputation through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons shall be punished by a fine.*
- (3) If the defendant proves the truth of his allegation or the existence of reasonable grounds for belief in the veracity of the matter he or she has asserted or disseminated, he or she shall not be punished for defamation, but may be punished for insult (Article 199) or for reproaching someone for a criminal offence (Article 202).*

*Exposure of personal or family conditions*

*Article 201*

- (1) Whoever exposes or disseminates a matter concerning the personal or family life of another which can damage his or her honour or reputation shall be punished by a fine.*
- (2) Whoever exposes or disseminates a matter concerning the personal or family life of another which can damage his or her honour or reputation through the press, radio, television, in front of a number of persons, at a public assembly or in another way in which the exposure of personal or family conditions becomes accessible to a large number of persons shall be punished by a fine.*

(3) *Whoever exposes or disseminates a matter concerning the personal or family life of a child which can make the child the subject of scorn by his or her peers or other persons or because of which the child suffers severe mental disorders, shall be punished by imprisonment from six months to three years.*

(4) *Whoever commits the offence referred to in paragraphs 1, 2 or 3 of this Article against a child, in the discharge of his or her official duty or professional activity, shall be punished by imprisonment from one to three years.*

*Reasons for the exclusion of unlawfulness of criminal offences against honour and reputation*

#### *Article 203*

*There shall be no criminal offence in the case of the insulting content referred to in Article 199 and Article 200, paragraph 3, the defamatory content referred to in the Article 200 paragraphs 1 and 2, the content concerning personal or family conditions referred to in Article 201, and reproach for a criminal offence referred to in the Article 202, which is realised and made accessible to other persons in scientific or literary works, works of art or public information, in the discharge of official duty, political or other public or social activity, or journalistic work, or in the defence of a right or in the protection of justifiable interests, unless if, from the manner of expression and other circumstances, it clearly follows that such conduct was aimed at damaging the honour or reputation of another.*

348. In situations of violation of one's honour and reputation, the Civil Obligations Act also provides that persons whose honour and reputation have been violated are entitled to compensation for pecuniary damage in the event of violation of honour and disclosure of false information, and to redress for non-pecuniary damage, to the disclosure of judgement or its modification, and to just pecuniary compensation.

*Compensation for material damage in the event of violation of honour and disclosure of false information*

#### *Article 1098*

(1) *A person who has compromised reputation of another person, stated or disclosed false information on another person's past, knowledge, competence, or similar, and is aware or should be aware that they are false, thereby causing material damage to that person, shall compensate for that damage.*

(2) *Nevertheless, the person shall not be liable for damage caused if the false information has been disclosed to another without knowledge that it is false, if either of the parties had serious interest in that.*

*Disclosure of judgement or its modification*

*Article 1099*

*In the event of violation of personality rights, an injured party may request, at the expense of the defendant, a disclosure of the judgement or its modification, withdrawal of statement which has caused damage, or similar action which may attain the purpose of achieving a just pecuniary compensation.*

*Just pecuniary compensation*

*Article 1100*

*(1) In the event of violation of personality rights, the court shall, where it finds that this is justified by the seriousness of the violation and circumstances, award a just pecuniary compensation, irrespective of the compensation for material damage and in the absence of the latter.*

*(2) In deciding on the amount of just pecuniary compensation, the court shall take into account the degree and duration of the physical and emotional distress and fear caused by the violation, the objective of this compensation, and the fact that it should not favour the aspirations that are not compatible with its nature and social purpose.*

*(3) In the event of compromised reputation and other personality rights of a legal person, the court shall, if it assesses that this is justified by the seriousness of the violation and the circumstances, award to that legal person a just pecuniary compensation, irrespective of the compensation for material damage and in the absence of the latter.*

349. The individual and the family enjoy a high degree of protection. Any interference with one's private and family life is forbidden, as is any disclosure of information that can harm the person's honour and reputation. If these incidents nevertheless occur, the individual enjoys legal protection.

**Article 18**

350. The Constitution of the Republic of Croatia guarantees freedom of conscience and religious belief and the free and public practice of religious or other convictions. All religious communities are equal before the law and separated from the state. Religious communities are free, in conformity with the law, publicly to perform religious services, found and govern schools, educational and other institutions, social and charitable institutions, and shall in their activities enjoy the protection and assistance of the state.

351. The legislative framework which governs the area of rights to safeguarding religious beliefs is provided by the Act on the Legal Status of Religious Communities (OG 83/02). According to Article 2 of this Act, a religious community may freely and independently organise its own affairs, governing bodies, hierarchy and areas of authority, bodies and persons who

represent it and its organisational forms, the content and manner of the practice of its religious beliefs, the maintenance of contact with its headquarters and other religious communities, as well as other questions concerning its activities in conformity with the Constitution of the Republic of Croatia.

352. On the basis of Article 10 of the said Act, religious communities are free to carry out religious rites in their own or rented premises and facilities which, according to special regulations, meet the conditions required for assembling larger numbers of people, or in the grounds of religious buildings, or in graveyards.

353. Religious communities are granted funds from the State Budget, depending on the type and importance of their religious buildings (culturally, historically, artistically, etc.) and depending on the activities of the religious community in the areas of education, social action, health care and culture, as well as their contribution to national culture, and depending on the humanitarian or public benefit activities of the religious community. This is governed by treaties with religious communities as mentioned later in this text.

354. According to Article 17, paragraph 3 of the same Act, a religious community may receive a special grant from the State Budget, unit of local self-government budget, or unit of territorial (regional) self-government budget, particularly for the purpose of building or restoring buildings belonging to the religious community.

355. Religious communities may carry out the activities of public information according to special regulations. Religious communities have the right of access to media owned by the Republic of Croatia, in accordance with the agreement entered into with legal persons engaged in public information activities.

356. Everyone has the right to freedom of thought, conscience and religious belief. This right includes the freedom to have or to accept a belief or conviction by one's own free choice, to practise one's belief or conviction individually or in association with others, publicly or privately, through religious services, rites, practical tasks or study.

357. The right of patients to freedom or choice regarding religious services within health care institutions is allowed expressly by the right prescribed by the Health Care Act, by which every person has the right to carry out religious rites in specially assigned areas during his or her stay in a health care institution.

358. The same freedoms and rights apply to social welfare institutions (homes for the elderly and incapacitated). The founders of such institutions are required to assign a suitable area for the practice of religious rites, which is, as a rule, used by beneficiaries of different religious beliefs.

358. On the basis of Article 9, paragraph 1 of the Act on the Legal Status of Religious Communities, the Government of the Republic of Croatia signed treaties concerning matters of common interest with the following religious communities:

- The Serbian Orthodox Church in Croatia, that is, its organic part in the Republic of Croatia, consisting of the Zagreb-Ljubljana, Upper Karlovac, Dalmatian, Slavonian, Osječko Polje and Baranja eparchies

- The Islamic Community in Croatia (treaty signed on 20 December 2002, OG 196/903)
- The Lutheran Church in the Republic of Croatia and the Reformed Christian Church in Croatia (treaty signed on 4 July 2003, OG 196/03)
- The Evangelical (Pentecostal) Church in the Republic of Croatia, the Christian Adventist Church in the Republic of Croatia and the Baptist Union of Churches in the Republic of Croatia; this treaty includes four more religious communities: the Church of God, the Union of Christ's Pentecostal Churches, the Reformed Seventh Day Adventist Movement and the Church of Christ (treaty signed on 4 July 2003, OG 196/03)
- The Bulgarian Orthodox Church, that is, its organic part in the Republic of Croatia, on the basis of a ruling by the Holy Synod of the Bulgarian Orthodox Church, no 1208, dated 30 September 2003, the Croatian Old Catholic Church and the Macedonian Orthodox Church, that is, its organic part in the Republic of Croatia, on the basis of a ruling by the Holy Archiepiscopal Synod of the Macedonian Orthodox Church no 301, dated 26 September 2003 (treaty signed on 29 October 2003, OG 196/03)
- The Government of the Republic of Croatia adopted a Conclusion on 10 October 2003 to accept a treaty between the Government of the Republic of Croatia and the Jewish Community in the Republic of Croatia
- On the basis of Articles 40 and 41 of the Constitution of the Republic of Croatia, Article 9, paragraph 1 of the Act on the Legal Status of Religious Communities, both the Bulgarian Orthodox Church in Croatia and the Macedonian Orthodox Church in Croatia, according to Article 24, paragraphs 2 and 3 of the Treaty Concerning Matters of Common Interest signed between the Government of the Republic of Croatia and the Bulgarian Orthodox Church in Croatia, the Croatian Old Catholic Church and the Macedonian Orthodox Church in Croatia, signed Annex 1 to the Treaty Concerning Matters of Common Interest on 23 September 2004 (Annex 1, Treaty OG 141/04)
- The Treaty between the Holy See and the Republic of Croatia Concerning Legal Matters was ratified by the Act on the Ratification of the Treaty between the Holy See and the Republic of Croatia Concerning Legal Matters, signed in Zagreb on 18 December 1996 (Act and Treaty, OG 3/97 - International Agreements)
- The Treaty between the Holy See and the Republic of Croatia Concerning Economic Matters was ratified by the Act on the Ratification of the Treaty between the Holy See and the Republic of Croatia Concerning Economic Matters and the Treaty was signed on 9 October 1998 in two original and equally authentic copies, in Croatian and Italian (Act and Treaty OG 18/98 - International Agreements)
- The Act on the Ratification of the Treaty between the Holy See and the Republic of Croatia Concerning the Pastoral Care of Catholic Believers, Members of the Armed Forces and Police Forces of the Republic of Croatia (OG 2/97 - International Agreements)

- The Act on the Ratification of the Treaty between the Holy See and the Republic of Croatia Concerning Co-operation in the Areas of Education and Culture (OG 2/97 - International Agreements)

360. Treaties have been signed with individual religious communities for the purpose of managing relations in the areas of education, culture, and the pastoral care of believers in penal institutions, prisons, educational institutions, hospital and health care institutions and social welfare institutions. Religious communities are guaranteed the freedom to print, publish and distribute books, newspapers and magazines and to engage in other activities in connection with their work. The cultural and artistic heritage of religious communities, i.e. churches, and numerous documents kept in church archives and libraries form a valuable part of Croatian cultural heritage as a whole.

361. The treaties have allowed the abovementioned heritage to be made available for study and use to all interested citizens. They envisage the formation of mixed commissions for the implementation of provisions of the treaties mentioned and the provisions of the Act on the Legal Status of Religious Communities, particularly concerning legal, educational and economic matters, as well as matters concerning the preservation of ecclesiastical cultural and artistic heritage.

362. In public elementary and secondary schools, religious education is carried out by all the churches and religious communities with whom a treaty has been signed. Religious education is within the framework of the national curriculum and plan - two lessons per week. The curricula and plans for religious education for public elementary and secondary schools and the curricula for religious education in public pre-school institutions are compiled and approved by the governing bodies of the religious communities, and adopted or approved by the minister responsible for pre-school, elementary and secondary education, in accordance with the Act.

363. The Act on Public Holidays, Memorial Days and Non-Working Days in the Republic of Croatia (OG 33/96, 96/01, 13/02, 136/02 - revised text, 112/05, 59/06) prescribes in Article 3 that citizens of the Republic of Croatia who celebrate Christmas on 7 January, those of the Islamic faith who celebrate Bairam Ramadam and Kurban-Bairam and those of the Jewish faith who celebrate Rosh Hashana and Yom Kippur, have the right not to work on those days.

364. In accordance with the Family Act (OG 116/03, 17/04, 136/04) members of religious communities can be married solely according to a religious rite, and such marriages have the same status as civil marriages. Children's education must be appropriate to their age and maturity and in accordance with their right to freedom of conscience, religious or other convictions.

365. This Act also prescribes that parents have the duty and right to bring up their child as a free, humane, patriotic, moral, diligent, compassionate and responsible person, respecting the principles of gender equality, in order to prepare him or her for harmonious family and social life, and having a positive attitude towards nature.

### **Conscientious objection**

366. As mentioned in the Initial Report, Article 47, paragraph 2 of the Constitution allows for conscientious objection on the part of those who, because of their religious or moral views, are not prepared to take part in military service in the armed forces. Such persons are obliged to carry out other duties determined by the law.

367. In accordance with this provision, the Republic of Croatia has passed the Civilian Service Act (OG 25/03), by which the rights and duties are laid down for persons who carry out their civic military service duty through civilian service. Civilian service may be carried out by persons who, because of their religious or moral views are not prepared to take part in military service within the armed forces of the Republic of Croatia. Such persons are obliged to carry out other duties determined by this Act. A person carrying out civilian service may be any male who is capable of military service, who is registered in the military register of the authorised office of defence (recruit, regular or reserve), and whose application to serve civilian service has been approved by the Commission for Civilian Service. Recruits must state in their applications whether or not they wish to apply for civilian service for religious or moral reasons.

368. The Commission may refuse applications for civilian service for the following reasons:

- If a legally effective court decision shows that the applicant has committed a criminal offence using a weapon or force
- If the applicant possesses a weapon, unless he also possesses a valid gun licence entitling him to keep a weapon as memorabilia
- If the applicant has not mentioned whether or not he is requesting civilian service for religious or moral reasons, and if he fails to declare himself about this within the deadline given to him by the Commission for the purpose of completing his application
- If the application for serving civilian service is not made on the grounds of religious or moral views

369. Civilian service is carried out in the service of legal persons engaged in scientific, educational, culture, sporting, social, health, sanitary or humanitarian activities in the Republic of Croatia, and in state bodies and in the institutions of local and territorial (regional) self-government.

370. The Civilian Service Act regulates the procedure of submitting an application to serve civilian service and rendering the decision to send the recruit for civilian service, the rights of those serving civilian service, and the manner of keeping evidence of such recruits. The Act stipulates that civilian service shall last 8 months and each 8-hour working day counts as one day of civilian service. The recruit serving civilian service has the right to 15 days leave during his term serving civilian service. If he demonstrates exceptional effort in carrying out the duties assigned to him, he may be granted a further 5 to 10 days leave.

371. Civilian recruits have the right to extraordinary leave lasting five days in the following circumstances:

- For the purpose of marriage
- Upon the birth of a child
- For the purpose of taking examinations
- Upon the death of a close family member

372. During their time of serving civilian service, civilian recruits are entitled to health care, health insurance and rights should they be injured, fall ill or experience failing health during their civilian service, according to regulations regulating the rights of persons carrying out military service in the Armed Forces of the Republic of Croatia. During their term of service, civilian recruits have rights connected with work, social welfare, unemployment, pension and disability insurance and other rights to which persons serving military service are entitled.

373. Article 44 of the Civilian Service Act states that during their time of service, civilian recruits are prohibited from organising or participating in strikes, or from making any kind of public declaration about the legal person or body with whom they are serving. Any information which the civilian recruit gains about the legal person or body with whom they are serving or any information related to them, apart from information which is in the public domain (information recorded in public documents, etc.) is considered a business or official secret. The civilian recruit is also obliged to observe confidentiality after completing his term of civilian service.

374. In accordance with Article 1, paragraph 1, of the Civilian Service Act, civilian service may be carried out by persons who because of their religious or moral views (conscientious objection) are not prepared to participate in military service in the Armed Forces of the Republic of Croatia. Accordingly, conscientious objection arises from the religious, moral, ethical or humanitarian convictions of a person; conscientious objection is the refusal to kill or take part in killing, or to carry and use a weapon, which is the most common reason given by recruits in their applications to serve civilian service.

375. The Ordinance determining the legal persons and bodies with whom civilian service is served in the Republic of Croatia (OG 84/03), passed by the minister responsible for social welfare affairs, regulates the legal persons, state bodies and institutions of local and territorial (regional) self-government with whom civilian service may be served. There are 89 such bodies in total. They are engaged exclusively in scientific, educational, cultural, sporting, social, health, sanitary or humanitarian activities in the Republic of Croatia, and they are non-profit-making bodies. Civilian service may also be served with associations which have been promoting and safeguarding human rights for at least three years, safeguarding health and advancing the quality of life, caring for people with disabilities, caring for children, promoting protection of the environment and sustainable development, associations which are involved in social welfare, promoting youth activities, promoting democracy and the development of civil society and culture. Such associations must have their own premises, at least two employees and a programme of activity in the local community, as well as transparent financial management.

376. The procedure of approving an application for civilian service is carried out by the Commission for Civilian Service, which delivers a decision regarding the application. The Commission mostly sends recruits to homes for the elderly and incapacitated, hospitals, schools which practice the integration of disabled pupils by helping them get to and from school, associations for the deaf and blind, social welfare homes, associations for youth activities and centres for care and assistance.

377. Alongside reasons for the application, the Commission for Civilian Service seeks the certificate issued by the competent Police Administrations of the Ministry of the Interior showing that the person applying for civilian service does not possess a registered weapon and has never submitted an application for a gun licence.

378. If this is not the case, this is a reason for rejecting the application for civilian service instead of military service. In the past five years, five such applications have been rejected.

379. At the end of the term of civilian service, the legal person issues a statement confirming that the civilian recruit has completed his service, often with the observation that the civilian recruit has performed his service conscientiously and in an orderly manner. The legal person may, in accordance with Article 29, request the transfer of a civilian recruit to another legal person or other body. Since legal bodies often request a transfer because they are unable to provide tasks for the civilian recruit in accordance with the provisions of the Civilian Service Act, rather than because of dissatisfaction with the recruit's work, it is considered that the goals and point of civilian service as a means of carrying out socially useful work have been met.

380. The table shows the number of applications to serve civilian service from 2000 to 2005.

Year	Number of applications submitted
2000	680
2001	4 009
2002	8 556
2003	9 711
2004	10 302
2005	10 180

### Article 19

381. Freedom of thought and expression of thought and the freedom to found media are guaranteed by Article 38 of the Constitution of the Republic of Croatia. Freedom to express thought particularly encompasses freedom of the press and other means of public communication, freedom of speech and public performance, and the freedom to form all institutions for public communication. Censorship is prohibited, and journalists have the right to report freely and access information freely.

382. These institutional guarantees are particularly implemented in legislation concerning the Croatian media. The Media Act (OG 59/04) and the Electronic Media *Act* (OG 122/03) guarantee freedom of expression and the freedom of the media, and guarantee in particular complete freedom for electronic media in creating programmes.

383. In the Republic of Croatia there are developed networks in various types of media. In the area of television, are active 2 broadcasters at national level, 20 broadcasters at local level, 1 public television network - Croatian Television.

384. In the area of radio, are active 3 broadcasters at national level, 150 broadcasters at local level, 1 public radio broadcaster - Croatian Radio.

Newspapers and other periodicals:

- 14 daily newspapers
- 72 weekly newspapers
- 28 newspapers published twice weekly
- 234 monthly newspapers
- 86 newspapers published twice monthly
- 77 quarterly newspapers
- 113 periodicals

385. There are 337 news publishing houses in the Republic of Croatia.

386. Freedom of the media particularly concerns: the freedom to express thoughts, media independence, the freedom to collect, research, publish and distribute information, for the purpose of informing the public, pluralism and media diversity, the free flow of information and media openness to various opinions and convictions, and to a variety of content, access to public information, respect for human personality, privacy and dignity, the freedom to form legal bodies to carry out activities of public information, printing and distributing press and other media, at home and abroad, producing and broadcasting radio and television programmes and other electronic media, autonomy of editors, journalists and other authors of programme contents in conformity with the principles of the profession.

387. No one has the right to use force or abuse his or her position in order to influence the programme content of the media, nor in any other way illegally restrict the freedom of the media. The courts will rule on violations of freedom of expression and freedom of the media (Article 4 of the Act on the Media).

388. Furthermore, Article 5 of the above Act establishes the obligations of the state, for the advancement of pluralism and media diversity. Support is envisaged to encourage the production and broadcasting of programmes whose contents relate to exercising the right to public information, or to informing members of national minority groups in the Republic of Croatia. Support is also offered for launching new printed media, particularly local, non-profit-making media, and media produced by NGOs.

389. Article 8, paragraph 1, subparagraph 1 of the Croatian Radio and Television Act (OG 25/03) prohibits encouraging, facilitating the encouragement of, and spreading ethnic, racial

or religious hatred and intolerance, anti-Semitism and xenophobia, or inciting discrimination or enmity towards individuals or groups because of their background, colour, political convictions, world view, state of health, gender, sexual or other orientation or characteristic.

390. According to Article 5 of the above Act, Croatian Radio and Television is obliged to produce and/or broadcast programmes focussing on providing information for members of national minority groups in the Republic of Croatia. Croatian Radio and Television has implemented this provision of the Act and deals with themes relating to national minorities in a special programme, "Prizma" and in most other parts of its schedule, in accordance with the content and genre of individual programmes.

391. A Contract concerning financial support for producing programmes in the languages of national minorities has been signed with Croatian Radio and Television, in accordance with the provisions of Article 18 and Article 35, paragraph 3 of the Constitutional Act. Special funds are earmarked in the state budget for launching the broadcasting of programmes on local, non-commercial radio stations in the languages of national minorities: Serbian, Roma, Ukrainian, Czech, Slovakian and Hungarian, and a contract has been signed with TV Čakovec for the production of programmes in the Roma language for the Roma national minority.

392. These earmarked funds are allocated by the Council for National Minorities on the basis of the Constitutional Act on the Rights of National Minorities.

393. Contracts on financial support have been concluded for the following local radio stations:

- Radio Brod, for broadcasting programmes for members of the Roma, Ukrainian and Czech national minorities
- Radio Osijek, for a programme in Slovakian
- Radio Našice, for a programme in Slovakian
- Radio Ilok, for a programme in Slovakian
- Radio Borovo, for a programme broadcast for members of all national minorities in the Vukovar-Srijem County and in part of the Osijek-Baranja County
- Radio Pitomača, for a programme in the Roma language for the Roma national minority
- Radio Banska Kosa d.o.o. and Radio Beli Manastir for programmes in Serbian
- Radio Pula for a programme in the Roma language
- Radio Karlovac for a programme in Serbian
- The Town of Ogulin for a programme in Serbian

394. The Republic of Croatia last introduced changes to criminal legislation in 2006. Up to then, prison sentencing was envisaged for the criminal offence of insult and defamation. Amendments to the Criminal Code in July 2004 included changes to the provision on the reasons for excluding

unlawfulness for criminal offences against honour and reputation (Article 203) and significant steps forward were taken in terms of safeguarding the freedom of expression and information. The law explicitly states in this provision that no criminal offence has been committed if, among other things, the matter concerns “defamatory content from Article 200 of the Criminal Code, which is realised and made accessible to other persons in scientific or literary works, works of art or public information, in the discharge of official duty, political or other public or social activity, or journalistic work, or in the defence of a right or in the protection of justifiable interests, if, from the manner of expression and other circumstances, it clearly follows that such conduct was not aimed at damaging the honour or reputation of another.” The burden of proof is transferred from the defendant to the prosecutor, who must demonstrate by due process that the perpetrator acted with the sole purpose of damaging his or her honour and reputation, and this has resulted in significantly diminishing the criminal-law zone of what is called “journalistic defamation”. Thus journalistic defamation has been *de facto* decriminalised. The new construction of Article 203 of the Criminal Code indicates that the prosecutor, as a rule, will find it difficult to prove that anyone concerned with the article (journalist, literary critic, etc.) acted “with the sole purpose of damaging his or her honour or reputation”. The amended Article 203 of the Criminal Code guarantees exceptionally broad freedom of expression.

395. Article 107 of the Criminal Code prescribes the criminal offence of “violating the freedom of expression of thought”. This criminal offence is thus defined, “Whoever denies or limits freedom of speech or public appearance, the incorporation of companies, funds or institutions of public communication, freedom of the press or other media of communication, shall be punished by a fine or by imprisonment not exceeding one year.

396. The same punishment as referred to in paragraph 1 of this Article shall be imposed on a person who orders or implements censorship or denies or restricts a journalist’s access to information or his or her freedom of reporting, unless there is a question of a state, military or official secret.”

397. The table shows information from the Central Bureau of Statistics for 1999 to 2005.

**Persons accused and sentenced for the criminal offence of insult,  
article 199 of the Criminal Code, 1999-2006**

	Accusations	Sentences
Total	2 989	1 015
1999	500	139
2000	324	101
2001	341	126
2002	365	136
2003	422	155
2004	425	143
2005	321	120
2006	291	95

**Persons accused and sentenced for the criminal offence of defamation,  
article 200 of the Criminal Code, 1999-2006**

	Accusations	Sentences
Total	2 673	398
1999	419	123
2000	272	31
2001	316	40
2002	330	47
2003	352	46
2004	311	59
2005	320	52
2006	353	44

398. In 2003 the Act on the Right of Access to Information (OG 172/03) was passed, by which access to information in the possession, domain or supervision of bodies of public authority is regulated, the principles concerning the right of access to information are set out, as well as exemptions from this right, and the procedure for exercising and safeguarding the right of access to information. The aim of this Act is to enable and ensure the exercise of right of access to information on the part of natural and legal persons, through the open, public activities of bodies of public authority, in accordance with this and other laws.

399. All information held, disposed or supervised by bodies of public authority must be made accessible to the interested beneficiaries of the right to information. The right of access to information can be restricted only in certain cases, in the manner prescribed by the Act.

400. Information given or published by bodies of public authority must be complete and accurate. All beneficiaries of the right to information have equal rights of access, under equal conditions, and they are considered equal in exercising this right. Bodies of public authority may not put any beneficiary of the right to information (beneficiary) in an advantageous position by allowing him or her premature access to information.

401. The right of access to information containing personal data is exercised in the manner prescribed by other laws.

**Methods of exercising the right of access to information**

402. Bodies of public authority are obliged to allow access to information: by regularly publishing particular information as prescribed by special laws or other general provisions, under the condition of publishing once a month, in an appropriate, accessible manner, in order to acquaint the public, by providing information directly to the beneficiary who has so requested, by allowing access to documents and creating copies of documents containing the information requested, by delivering to beneficiary copies of documents containing the information requested, or in other ways through which the right of access to information is exercised.

403. A beneficiary acquires the right to access information by submitting an oral or written request to the competent body of public authority. If the request is oral, a record is written and if it is made by telephone or other telecommunications device, an official note will be made. A

written request must contain the name and headquarters of the body of public authority to whom the request is being made, details pertinent to the information required, the name and address of the natural person submitting the request, or the company name or name of the legal person who is seeking the information, and its seat. The applicant is not obliged to give reasons for requesting access to information. The applicant may specify the manner in which he or she desires to have the information delivered by the body of public authority.

404. On the basis of an oral or written request, the body of public authority is obliged to provide access to the information within 15 days of receiving the request.

405. If the request is incomplete or unclear, the body of public authority will invite the applicant to correct it within three days. If he or she does not do so in a suitable manner, the body of public authority will issue a decision dismissing the request as unclear or incomplete. If the body of public authority does not possess, dispose or oversee the information requested, but knows of a competent body which does so, it is obliged, without delay, and within a maximum of 8 days from receiving the request, to forward it to a body of public authority which possesses, disposes or oversees the information, and to inform the applicant of this procedure.

406. A body of public authority need not make a special decision regarding acceptance of a request for access to information, but will make an official note of it. A body of public authority is obliged to make a ruling if a request is rejected:

- If it concerns cases from Article 8, paragraphs 1 and 2 of the Act on the Right of Access to Information
- If the body of public authority does not possess, dispose or oversee the information, nor has any knowledge as to where the information can be found
- If the beneficiary has been granted access to the same information within 60 days of submitting the request

407. If the information has already been made public, the body of public authority is obliged, without delay, to inform the applicant where, when and how the required information has been published. If the beneficiary considers, on the basis of evidence available, that the information supplied on the basis of his or her request is inaccurate or incomplete, he or she may demand correction or supplementation. The body of public authority is obliged to make a special decision rejecting such a request on the grounds that there is considered to be no basis for supplementing or correcting the information supplied. The applicant may lodge an appeal against the decision of the body of public authority with the head of the competent body of public authority, within a period of 8 days from receiving the decision. A second instance decision following an appeal must be made and served without delay, and within a maximum of 15 days from when the appeal was lodged. The applicant may initiate proceedings in the administrative court, in accordance with provisions of the Administrative Disputes Act against a second instance decision, or a final first instance decision rejecting a request by a body of public authority. The appeal proceedings are treated as urgent.

408. A body of public authority is obliged to keep a special, official register of requests, proceedings and decisions concerning right of access to information, in accordance with provisions of this Act. The organisation, content and means of keeping the official register are regulated by secondary regulations drawn up by the minister responsible for general administrative affairs.

409. A body of public authority has the right to claim compensation from the beneficiary for expenses incurred while finding and delivering the information requested.

410. Regardless of individual applications through which access to information is requested, bodies of public authority are obliged to reveal in particular, in an appropriate manner, in official publications or information technology media:

- Their decisions and measures affecting the interests of beneficiaries, with the reasons for adopting them
- Information about their work, including details of activities, organisation, expenses and sources of funding
- Information about requests submitted, petitions, proposals and other activities on the part of beneficiaries towards the body of public authority
- Information about tenders and tender documentation for public procurement in accordance with the Public Procurement Act

411. Bodies of public authority are obliged in their general acts to ratify conditions which will allow the public direct insight into their work. They must publish notices of the agendas and times of meetings, the working methods of the body of public authority and the opportunities for direct insight into their work, and the number of people who may at one time be allowed direct insight into the work of a body of public authority, for which the order of applications must be taken into account.

412. Bodies of public authority are not obliged to allow direct insight into their work in questions for which the public is excluded by law, that is, in questions concerning information exempted from the right to access of information according to the provisions of the Act on the Right of Access to Information.

413. To ensure access to information, a body of public authority is obliged to render a decision designating a special official person, with authority to decide on the exercise of the right of access to information (the information officer), and to acquaint the public with official data on the information officer, and on the manner in which he or she works.

414. By their own special decision, bodies of public authority shall organise a catalogue of information which they possess, dispose or oversee. The catalogue shall contain a systematic overview of information with a description of contents, assignment, means of securing the information and the times when the right to access may be exercised. The information officer shall take all due actions and measures for the orderly keeping of the catalogue, for which he or she is directly responsible to the head of the body of public authority. An information officer,

who, in good faith, for the purpose of informing the public in an accurate and complete manner, goes beyond the bounds of his or her authority in allowing access to particular information, cannot be held responsible, if access to such information is not subject to restriction.

### **Exemptions from the right of access to information and their duration**

415. Bodies of public authority shall deny the right to access information if that information is declared by law, or on the basis of criteria established by law, to be a state, military, official, professional or business secret, or if it is protected by the law governing the area of the protection of personal data. Bodies of public authority may restrict the right to access information if there are grounds for suspecting that publishing it might:

- Prevent measures and actions from being taken to prevent and detect criminal offences, or to prosecute the perpetrator of a criminal offence
- Prevent the effective, independent and unbiased conducting of court, administrative or other legal proceedings, the enforcement of a court ruling or sentence
- Prevent the work of the body carrying out administrative supervision, or supervision of the legality of proceedings
- Cause serious damage to the life, health and safety of people or the environment
- Prevent the implementation of economic or monetary policy
- Jeopardise the right to intellectual property, unless the express written consent of the author or owner has been given

416. Information which is restricted to access for reasons given in paragraph 2, item 6 of this Article becomes part of the public domain when those who could be damaged by its publication so order, but within a maximum of 20 years from the time when the information first came into existence, unless a longer term is provided by the law or other provision. Bodies of public authority shall approve access to those parts of the information which they may publish, considering their content. Information becomes part of the public domain when the reasons for which the body of public information sought restriction to access no longer apply.

417. The Act on the Right of Access to Information contains penal provision according to which a legal person with public authority who, contrary to the provision of the Act, repeals or restricts the right to access information, shall be fined for misdemeanour, and the most serious form of violating the right to access information is punishable by a short prison sentence.

418. The Act on Secret Data Protection (OG 108/96) prescribes the notion, types and degrees of secrecy and the procedures for establishing, using and protecting secret data. Data may be state, military, official, business or professional secrets and the degrees of secrecy are state secret, top secret and confidential. The heads of bodies of public bodies and authorised officials of the Republic of Croatia shall, by special ruling, within the boundaries of their authority and in accordance with the law and other provisions or general acts of the competent body, confirm the

type and degree of data secrecy, order particular measures to protect it and determine those who will be acquainted with its contents. By this Act it is prescribed which data may be state or military secrets and which are considered official secrets.

419. State secrets, within the meaning of the Act, are particularly data relating to:

- Military, political, economic or other assessments of particular importance to the defence, national security or national interests of the Republic of Croatia
- Defence plans, mobilisation plans and the wartime administration of the Republic of Croatia
- Defence plans of companies and other legal persons of particular significance to the defence of the Republic of Croatia, plans for the production of weapons, war technology and munitions, and detailed plans concerning their implementation
- The type, total quantity and distribution of reserves of goods necessary in case of war and the opportunities for war production
- The military command analyses and assessment of the state of readiness for defence of the Republic of Croatia
- Plans for preparing and organising state territory for the purpose of defending the Republic of Croatia
- Buildings of particular significance for the national security and defence of the Republic of Croatia
- Scientific and technical inventions of particular significant to the national security and defence of the Republic of Croatia
- The assessments, analyses and individual activities of intelligence bodies and security services of particular significance to the national security and defence of the Republic of Croatia
- The organisation of the system of cryptological protection, cryptological systems, plans, means, regulations and procedures for implementing cryptological protection, for the needs of public bodies and other legal person of particular significance to the Republic of Croatia
- Data on the overall state of mining reserves of strategic significance to the Republic of Croatia; reserves of coloured, rare and precious metals, radioactive elements, gas and oil
- Discoveries or inventions of great military, scientific or economic significance
- Data concerning the organisation, composition, number, quality of equipment available to, and distribution of intelligence agents, members of the armed forces and police authorities of the Republic of Croatia

420. Military secrets are data classified as military secrets by laws, other regulations, general acts and acts issued by competent bodies on the basis of the law.

421. Military secrets which are classed as “Top Secret” within the meaning of the Act are data relating particularly to:

- The defence and mobilisation plans of units of local government and self-government, and of units of local self-government
- The defence plans and wartime administration of public bodies and other legal persons of particular significance to defence
- The organisation of the service, plans, means and system of war communications
- Plans for the organisation and activities of gathering and disseminating intelligence
- The types, total quantity and distribution of reserves of goods for units of local government and self-government, and units of local self-government
- Research into the geological composition of the earth, geomagnetism, hydrological characteristics of the terrain and parameters of the sea, or particular significance to defence
- Scientific and technological inventions and discoveries of significance to defence
- The analyses and assessments of the state of readiness of individual public bodies, companies and other legal persons of particular significance to defence
- Reports of inspections on the state of readiness for defence
- War ordinances and other ordinances of significance to defence
- Planned removal, destruction or disabling of buildings, material, technical and other means
- Duties and positions of particular significance to defence which must be protected by applying special security measures

422. Military secrets which are classed as “Secret” within the meaning of the Act are data relating in particular to:

- Issues of maps of particular significance to defence
- Aerial photographs of particular significance to defence
- Buildings of particular significance to defence
- Duties and positions of particular significance to defence

423. In the Republic of Croatia there are a great number of written and electronic media and there are no barriers to the freedom of expression. This freedom is only restricted when it interferes with the rights and freedom of others, or when there is a need to protect specific information for the purpose of protecting national security, public order, health or morals.

#### **Article 20**

424. Pursuant to the Constitution of the Republic of Croatia, any call for or incitement to war, or resort to violence, national, racial or religious hatred, or any form of intolerance is prohibited and punishable by law.

425. In accordance with the Croatia's commitment to pacifism and in accordance with the provisions of the international criminal law, along with the existing criminal offences mentioned in the Initial Report, the Republic of Croatia has also implemented into its criminal legislation several new offences. The new criminal offences in the Criminal Code are: crimes against humanity, recruitment of mercenaries, planning criminal offences against values protected by international law, command responsibility, subsequent assistance to the perpetrator of a criminal offence against values protected by international law. All these offences are punishable by imprisonment from one year to long-term imprisonment.

#### *Crimes against humanity*

#### *Article 157a*

*Whoever in violation of the rules of international law within an extensive or systematic attack against the civilian population and, with knowledge of such an attack, orders the killing of another person, for total or partial extermination orders the infliction of conditions of life to some civilian population which could lead to its annihilation, orders trafficking in human beings, in particular of women and children, or the enslavement of a person for sexual abuse or in any other way so that some or all of the powers originating in property rights are exercised over such person, forces another person to prostitution, deprives a person without his or her consent and without justifiable medical reasons of his or her biological reproductive ability, orders the forceful displacement of persons from areas where they lawfully reside and through expulsion or other measures of coercion, illegally incarcerates or in any other way illegally deprives of liberty, orders that a person deprived of liberty or under supervision be tortured by intentionally inflicting severe bodily or mental harm or suffering, orders that a person be raped or subjected to some other violent sexual act or that a woman who has been impregnated as a result of such violent act be intentionally kept in detention so as to change the ethnic composition of some population, orders the persecution of a person by depriving him or her of the fundamental rights because this person belongs to a particular group or community, orders the arrest, detention or kidnapping of some persons in the name of and with the permission, support or approval of the state or political organisation and subsequently does not admit that these persons have been deprived of their liberty or withholds information about the fate of such persons or the place where they are kept, or orders within an institutionalised regime of systematic oppression and domination of one racial group over another racial group or*

*groups that an inhumane act described in this Article be committed or an act similar to any of these offences so as to maintain such a regime (the crime of apartheid), or whoever commits any of the foregoing offences shall be punished by imprisonment for not less than five years or by a long-term imprisonment.*

*War crimes against the civilian population*

*Article 158*

*(1) Whoever in violation of the rules of international law in time of war, armed conflict or occupation orders an attack against the civilian population, settlements, individual civilians or those hors de combat resulting in death, severe bodily harm or serious damage to people's health, orders an indiscriminate attack harming the civilian population, orders the killing, torturing or inhuman treatment of civilians, orders civilians to be subjected to biological, medical or other scientific experiments, their tissues or organs taken for transplantation, orders civilians to be subjected to great suffering impairing the integrity of their bodies or health, or orders their resettlement, displacement or forceful loss of ethnic identity or conversion to another religion, orders rape, sexual oppression, forced prostitution, pregnancy or sterilisation or other sexual abuse, orders measures of intimidation or terror, hostage taking, collective punishment, unlawful deportations to concentration camps or illegal detention, deprives people of the rights to a just and unbiased trial, forces them to serve in hostile armed forces or in the information services or administration of a hostile power, subjects them to forced labour, starvation, confiscates property or orders that the population's property be plundered or illegally and wantonly destroyed or its large-scale appropriation where there is no justification by military needs, or imposes illegal and disproportionately large contributions and requisitions, or decreases the value of the domestic currency or unlawfully issues it, or orders an attack against persons, equipment, materials, units or vehicles involved in humanitarian aid or a peace mission pursuant to the Charter of the United Nations, or orders that the rights and actions of the citizens of a hostile country be prohibited, suspended or pronounced unlawful in court proceedings, or injures personal dignity or orders civilians and other protected persons to be used to shield certain places, areas or military forces from military operations, or orders the recruitment of children under eighteen years of age for the national armed forces or their active participation in hostilities, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by long-term imprisonment.*

*(2) The same punishment as referred to in paragraph 1 of this Article shall be imposed on whoever in violation of the rules of international law in time of war, armed conflict or occupation orders an attack against objects protected by international law, against works or powerful installations such as dams, dykes and nuclear power plants, indiscriminate attacks against civilian objects protected by international law, against undefended places and demilitarised zones or orders an attack which results in an extensive and long-lasting damage to the environment and may impair the population's health or survival, or whoever commits any of the foregoing acts.*

(3) *Whoever, as an occupying power, in violation of the rules of international law, in time of war, armed conflict or occupation, orders or carries out the resettlement of parts of the civilian population of the occupying power to an occupied territory shall be punished by imprisonment for not less than five years.*

*Command responsibility*

*Article 167a*

(1) *A military commander or another person acting in effect as a military commander or as a civilian in superior command or any other person who in a civil organisation has the effective power of command or supervision shall be punished for the criminal offences referred to in Articles 156 through 167 of this Code if he or she knew that his or her subordinates had committed these criminal offences or were about to commit them and failed to take all reasonable measures to prevent them. The application of this Article excludes the application of the provision contained in paragraph 3, Article 25 of this Code.*

(2) *The persons referred to in paragraph 1 of this Article who had to know that their subordinates were about to commit one or more criminal offences referred to in Articles 156 through 167 of this Code and failed to exercise the necessary supervision and to take all reasonable measures to prevent the perpetration of these criminal offences shall be punished by imprisonment for one to eight years.*

(3) *The persons referred to in paragraph 1 of this Article who do not refer the matter to competent authorities for investigation and prosecution against the perpetrators shall be punished by imprisonment for one to five years.*

*Recruitment of mercenaries*

*Article 167b*

(1) *Whoever in violation of rules of international law recruits, uses, finances or trains mercenaries for the participation in an armed conflict or a concerted act of violence aimed at overthrowing a Government, undermining the territorial integrity of a State or jeopardizing its constitutional order, shall be punished by imprisonment for one to eight years.*

(2) *Whoever as a mercenary directly participates in an armed conflict or a concerted act of violence with the purpose of acquiring material benefit shall be punished by imprisonment for six months to five years.*

*International terrorism*

*Article 169*

(1) *Whoever aims to cause major fear among the population, to force foreign states or international organisations to do or not to do something or suffer, or who aims to seriously jeopardise the fundamental constitutional, political or economic values of a foreign state or an international organisation, who commits a criminal offence referred to in*

*Articles 170 through 172, and Articles 179 and 181 of this Code, who causes an explosion or fire, or by a generally perilous act or means creates a dangerous situation for people or property, who kidnaps a person or commits another violent act which can seriously harm a foreign state or an international organisation shall be punished by imprisonment for not less than five years.*

*(2) Whoever seriously threatens to commit a criminal offence referred to in paragraph 1 of this Article shall be punished by imprisonment for one to five years.*

*(3) If, by the criminal offence referred to in paragraph 1 of this Article, the death of one or more persons is intentionally caused, the perpetrator shall be punished by imprisonment for not less than ten years or by long-term imprisonment.*

*(4) If, by the criminal offence referred to in paragraph 1 of this Article, the death of one or more persons or large-scale destruction is caused, the perpetrator shall be punished by imprisonment for not less than ten years.*

*(5) In order to initiate criminal proceedings for the criminal offence referred to in this Article, an approval from the Public Prosecutor of the Republic of Croatia is required.*

426. The provisions of the Criminal Code also prescribe sanctions for planning criminal offences against values protected by international law, and subsequent assistance to perpetrators of these criminal offences.

### **Prohibition of discrimination**

427. The prohibition of discrimination is a constitutional category. The Constitution of the Republic of Croatia prohibits discrimination on the grounds of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. The prohibition of discrimination is also provided for by the Criminal Code (OG 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06) and the Labour Act (OG 38/95, 54/95, 65/95, 102/98, 17/01, 82/01, 114/03). Under the Gender Equality Act (OG 116/03), discrimination is prohibited in the field of employment and labour in the public and private sector, including state bodies, in relation to requirements for employment, self-employment or practising a profession in any branch of activity and at all levels of professional hierarchy and career advancement. The Same-Sex Civil Unions Act (OG 116/03) prohibits any discrimination, including unequal treatment, on the ground of living in a same-sex civil union and on the ground of one's sexual orientation.

428. The Civil Servants Act (OG 92/05, 142/06) also prohibits discrimination and preferential treatment. In their work, civil servants must neither discriminate against, nor accord preferential treatment to citizens based on age, nationality, ethnic or territorial affiliation, linguistic and racial origin, political or religious beliefs or affinities, disability, education, social status, gender, marital or familial status, sexual orientation, or on any other grounds contrary to the Constitution or rights and freedoms established by law.

429. Pursuant to Article 15, paragraph 2, subparagraph 1 of the Electronic Media Act, in programme contents, it is not allowed to incite, spread and act in the manner conducive to raising national, racial or religious hatred and intolerance, anti-Semitism and xenophobia, ideas of fascist, Nazi or other totalitarian regimes, as well as incite discrimination or hostility against individuals or groups, due to their origin, colour, political conviction, view of life, health condition, gender, sexual or other preferences or characteristics.

430. Article 3, paragraph 4, of the Media Act regulates that it is prohibited to transmit programme contents in the media which incite or glorify ethnic, racial, religious, gender or other inequality or inequality on the basis of sexual orientation, as well as ideological and state entities on the basis of such foundations, and to provoke ethnic, racial, religious, gender or other hostility or intolerance, hostility or intolerance on the basis of sexual orientation, to incite violence and war.

431. Since the previous reporting period the sanctioning of discrimination by criminal legislation has experienced important changes. In this regard, Article 174 has been supplemented several times. The statutory description of the criminal offence has been significantly broadened. The list of the grounds for discrimination has been expanded to include the following characteristics: religion, language, political or other belief, property, birth, education, social position, sexual orientation or other characteristics. This Article has also been brought into line with Article 6 of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

432. Article 174 of the Criminal Code of the Republic of Croatia now reads as follows:

*(1) Whoever, on the basis of a difference in race, religion, language, political or other belief, gender, property, birth, education, social position or other characteristics, or on the basis of colour, national or ethnic origin, violates fundamental human rights and freedoms recognised by the international community shall be punished by imprisonment for six months to five years.*

*(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever persecutes organisations or individuals for promoting equality between people.*

*(3) Whoever publicly states or disseminates ideas on the superiority or subordination of one race, ethnic or religious community, gender, nation or ideas on superiority or subordination on the basis of colour or sexual orientation, or other characteristics, for the purpose of spreading racial, religious, sexual, national and ethnic hatred or hatred based on colour sexual orientation, or other characteristics, or for the purpose of disparagement, shall be punished by imprisonment for three months to three years.*

*(4) Whoever for the purpose referred to in the paragraph 3 or this Article puts into circulation or in any other way makes accessible to the public by the computer system materials in which the criminal offence of genocide or crime against humanity is denied, diminished, approved or justified, shall be punished by a fine or by imprisonment for six months to three years.*

433. The Criminal Code also provides for punishing anyone who organises a group of people or in some other way joins three or more persons in common action with the purpose of committing the criminal offences referred to in Article 174 - racial and other discrimination, and the minimum sentence for this is imprisonment for at least three years.

434. In addition, Article 106 of the Criminal Code has sanctioned violation of the equality of citizens.

435. As already stated, in October 2006 the concept of hate crime was introduced in the criminal legislation. The Public Prosecution Service of the Republic of Croatia has issued special instructions whereby these types of crime should be handled with special care, and special records of these criminal offences must be kept, with the aim of preventing these phenomena in society as effectively as possible.

436. As well as creating the legislative framework for fighting discrimination in society, the Republic of Croatia has so far also adopted a number of plans and programmes aimed at combating discrimination against certain social groups and at promoting equality. These documents are prepared for vulnerable social groups identified as being in need of additional protection through the implementation of special measures. So, for instance, the following documents have been adopted so far: the National Programme for the Roma, the National Employment Action Plan, the Strategy for Adult Education, the National Plan of Activities for Rights and Interests of Children, the National Programme of Action for Young People, the National Family Policy, the National Policy for the Promotion of Gender Equality, the National Strategy for the Protection from Domestic Violence, the National Programme for Suppressing Trafficking in Persons, the National Policy for the Promotion of Gender Equality 2006-2010, the Human Rights Education Programme, the National Strategy for an Integral Policy for People with Disabilities, the National Strategy for the Development of the Health System, and the National Strategy for Migration Policies.

437. We can also mention that in 2006, at the initiative of the European Commission, the European Monitoring Centre for Racism and Xenophobia - EUMC, invited Croatia to appoint its representative with the observer status to the Management Board of the Centre. Professor dr. sci. Josip Kregar was appointed as the representative of Croatia.

### **Article 21**

438. The Constitution of the Republic of Croatia guarantees the right of public assembly and peaceful protest, as one of personal and political freedoms, within the protection of human rights and fundamental freedoms. Specifically, Article 42 of the Constitution reads as follows: "Everyone shall be guaranteed the right of public assembly and peaceful protest, in conformity with law."

439. This is one of the explicit constitutional provisions relating to personal and political freedoms and the right to public, open and visible promotion and expression of one's political, social and national beliefs and objectives by means of public assembly.

440. The Public Assembly Act (OG 128/99), which entered into force on 8 December 1999, is the basic piece of legislation governing the concept of public assembly, and the rights, obligations and responsibilities of organisers of, and participants in, a public assembly. According to the fundamental provisions of this Act (Articles 1, 2, 3 and 4), the right of public assembly is guaranteed to everyone under the conditions prescribed by law.

441. Pursuant to the provisions of Article 2, paragraph 2, of the Police Act, the police force provides to the citizens the protection of their fundamental constitutional rights and freedoms, and the protection of other values protected by the Constitution. Article 95 of this Act specifies that police officers are not allowed to form political parties or act politically within the Ministry of the Interior. Also, police officers are not allowed to attend party or other political gatherings in uniform, unless they are on duty.

442. The criminal-law protection of the mentioned right is guaranteed by the Criminal Code, through the criminal offence set forth in Article 108 - violating the right to public assembly and peaceful protest - and, in the past five years, the police has reported to the Public Prosecution Service of the Republic of Croatia only one offence under this Article, and this was in 2004.

443. The table below gives information on public assemblies in the past five-year period.

Public assemblies	Total					
	2001	2002	2003	2004	2005	
Reported	17 920	15 984	16 058	13 914	16 333	
Banned	23	21	17	8	20	
Delayed	210	158	120	159	153	
No. of incidents	199	222	200	217	255	
Filed	Crime reports	54	41	48	223	62
	Misdemeanour reports	434	435	755	927	914

## Article 22

444. Everyone is guaranteed the right to freedom of association for the purposes of protection of their interests or promotion of their social, economic, political, national, cultural and other convictions and objectives. For this purpose, everyone may freely form trade unions and other associations, join them or leave them, in conformity with law. The exercise of this right is restricted by the prohibition of any violent threat to the democratic constitutional order and independence, unity and territorial integrity of the Republic of Croatia.

445. The Associations Act (OG 88/01, 11/02) regulates the founding of associations. For the purposes of that Act, an association is any form of free and voluntary association of natural or legal persons which, in order to protect their interests or promote the protection of human rights and freedoms, and environmental, humanitarian, informative, cultural, ethnic, pronatalist, educational, social, professional, sports, technical, health care, scientific and other convictions and objectives, and without the intention of gaining profit, submit themselves to the rules that regulate the organisation and activities of that form of association. An association acquires legal personality upon registration in the Register of Associations.

446. Associations that do not have the status of a legal person are subject to the legislation governing partnerships.

447. Any natural with capacity to act and legal person may, under the same conditions established by this Act and the statute of the association, become a member of an association. Persons deprived of capacity to act or with limited capacity to act may become members of an association without decision-making power in the association's bodies. The manner in which they may participate in the work of the association's bodies is prescribed by the statute of the association. An association shall keep a record of its members.

#### **Activities of an association**

448. An association may from the moment of its establishment perform those activities that serve the realisation of its statutory goals. In addition to these activities, an association may engage in activities for the purpose of gaining profit, in conformity with law. An association is independent in the realisation of its statutory goals. An association must not perform its activities for the purpose of gaining profit for the association's members or a third person. If in performing its activities the association gains profit, such a profit is to be used exclusively for the performance and furtherance of the association's activities that serve the realisation of its statutory goals (Articles 3 to 5 of the Act).

449. As well as by the Constitution of the Republic of Croatia, which protects human rights and fundamental freedoms, the matters covered by Article 22 of the International Covenant on Civil and Political Rights are in the Republic of Croatia also regulated by the following laws: the Labour Act (OG 137/04 - revised text), the Act on the Method of Determining the Representation of Trade Union Associations of a Higher Level in Tripartite Bodies at the National Level (OG 19/99), the Internal Affairs Act (OG 29/91, 73/91, 19/92, 33/92, 76/94, 161/98, 53/00). The secondary legislation includes the Ordinance on the registration of associations (of employers and trade unions) (OG 14/96), the Decision determining the representation of trade union associations of a higher level in tripartite bodies at the national level (OG 29/04), the Agreement on the Social and Economic Council and Other Forms of Social Partnership in the Republic of Croatia (OG 88/01 - revised text).

450. Article 43 of the Constitution of the Republic of Croatia guarantees everyone the right to freedom of association for the purposes of protection of their interests or promotion of their social, economic, political, national, cultural and other convictions and objectives. So, citizens may freely form trade unions and other associations, join them or leave them. The exercise of the right to freedom of association is restricted by the prohibition of any violent threat to the democratic constitutional order and independence, unity and territorial integrity of the Republic of Croatia.

451. In Chapter 3 entitled "Economic, Social and Cultural Rights", Article 59 regulates in more detail the right to organise by stating that in order to protect their economic and social interests, all employees have the right to form trade unions and are free to join and leave them. Employers also have the right to form associations and are free to join or leave them. However, formation of trade unions in the armed forces and the police may be restricted by law.

452. Article 59 of the Constitution of the Republic of Croatia also provides that trade unions may join international trade union organisations. Based on this provision of the Constitution, the Labour Act, in its Article 170, provides that associations and higher-level associations have the right to freely join federations and co-operate with international organisations founded for the purpose of the promotion of their common rights and interests.

453. In the Republic of Croatia the following associations are currently registered with the Ministry of the Economy, Labour and Entrepreneurship:

- 24 higher-level trade union associations
- 3 higher-level employers' associations
- 253 trade union associations
- 41 employers' associations

454. The Act on the Method of Determining the Representation of Trade Union Associations of a Higher Level in Tripartite Bodies at the National Level governs the procedure for determining the representation of higher-level trade union associations in the bodies at the national level, consisting of representatives of the Republic of Croatia, trade unions and employers.

455. On the basis of this Act, by 1 October 2003, six higher-level trade union associations filed applications, accompanied with enclosures, seeking the establishment of their compliance with the mentioned Act. Pursuant to Article 5 of this Act, on 7 July 2003 the minister responsible for labour affairs rendered a decision appointing the Commission for the Establishment of Compliance with the Requirements for Representation in National Tripartite Bodies by Higher-Level Trade Union Associations (hereinafter: "the Commission"), composed of 14 members and issued the Instructions for Compiling and Submitting Information about Employees from Whose Salaries Trade Union Fees are Withheld. According to the information established by the Commission, under the provisions of the Act, the minister responsible for the affairs relating to the economy, labour and entrepreneurship in 2004 rendered a decision in which it established that 6 higher-level trade union associations meet all the requirements prescribed by the Act on the Method of Determining the Representation of Trade Union Associations of a Higher Level in Tripartite Bodies at the National Level: Croatian Trade Unions Association (*Hrvatska udruga sindikata*), Association of Croatian Public Services Trade Unions (*Matica sindikata javnih službi*), Independent Trade Unions of Croatia (*Nezavisni hrvatski sindikati*), Union of Autonomous Trade Unions of Croatia (*Savez samostalnih sindikata Hrvatske*), Association of Workers' Trade Unions of Croatia (*Udruga radničkih sindikata Hrvatske*) and Services Trade Union UNI-CRO, Zagreb (*Sindikata usluga UNI-CRO*).

456. Under the provisions of Article 189 of the Labour Act, the employer is obliged to make it possible for a trade union representative or commissioner to, timely and effectively, realise the protection and promote the rights and interests of trade union members, and provide him or her access to information necessary for the exercise of this right.

457. The employer must not take into consideration membership of a trade union and participation in trade union activities when rendering a decision on whether or not to conclude an employment contract, on the assignment of a worker to another job or to another place of work, on professional training, promotion, pay, social benefits and termination of his or her employment contract. The employer, chief executive or another body, as well as the employer's representative, must not use coercion in favour of or against any trade union.

458. In accordance with the Labour Act (Article 109), during the trade union commissioner's performance of his or her duty and six months after the termination of this duty it is not allowed to cancel the trade union commissioner's employment contract, to assign the trade union commissioner to another job, or to place the trade union commissioner in a less favourable position than other workers in any other way, if the trade union has not given its consent to that effect. This protection is enjoyed by at least one trade union commissioner, whereas the maximum number of trade union commissioners with an employer who enjoy protection is determined by applying the Labour Act provisions governing the number of members of the workers' council, as appropriate.

459. Collective bargaining and collective agreements are specific sources of labour law. It is through them that the protection of workers and rights and obligations arising from employment is established at a level above basic levels established by the Labour Act or special laws. Collective bargaining and the collective agreement, as the outcome of the bargaining process, resolve many issues of mutual interest for the parties to the collective agreement, provide for social dialogue and, through co-operation between employers and trade unions, basic foundations are laid for wage-setting autonomy.

460. In the Republic of Croatia there are 22 areas for bargaining and conclusion of collective agreements, as agreements of particular branches (areas) or sectors of economic activity. These are: mining and non-metal sector; oil and chemical sector; food industry, agriculture and forestry in Croatia; textiles and leather; wood, paper and furniture; publishing and printing industry; metals and non-metal products; manufacture of machines and means of transportation; electrical, medical and optical equipment; construction industry; trade; hospitality sector and services; transport and storage; financial transactions; food, beverages and tobacco; utilities; culture, leisure and sports; communications; professional and technical activities; public administration; education; health.

461. With the aim of encouraging and promoting full development of bargaining and establishing conditions of employment by collective agreements, the previous practice whereby the general provisions of the law of civil obligations were applicable when a particular issue was neither regulated by autonomous sources of labour law nor by regulations on labour relations was made statutory by the provisions of Article 10 of the Labour Act.

462. Thus, Article 10 of the Labour Act now reads as follows: "The general rules of the law of civil obligations shall apply to the conclusion, validity and termination of employment contracts or to other issues related to employment contracts, collective agreements or agreements between the workers' council and the employer, which are not regulated by this or another Act, in accordance with the nature of these contracts."

463. A collective agreement may be concluded for a definite or an indefinite period. A collective agreement concluded for an indefinite period may be cancelled. A collective agreement concluded for a definite period may only be cancelled if it contains a cancellation clause. A collective agreement concluded for an indefinite period and a collective agreement concluded for a definite period containing a cancellation clause must also contain clauses on the grounds for cancellation and cancellation periods.

464. It is important to point out that, in accordance with the provisions of Article 199 of the Labour Act, a collective agreement is binding on all the persons who have concluded it, and on all the persons who, at the time of the conclusion of this agreement, were or subsequently became members of the association which concluded the collective agreement. The same applies to the persons who acceded to a collective agreement or subsequently became members of the association which acceded to this collective agreement. The resolution of collective labour disputes is regulated by the Labour Act, which provides for mediation and arbitration mechanisms.

### **Mediation (Articles 213 to 217 of the Labour Act)**

465. Mediation is conducted in the event of a dispute related to concluding, amending or renewing a collective agreement or other similar dispute which could result in a strike or other form of industrial action, and non-payment of salary or salary compensation, if they have not been paid within 30 days of their maturity date (“collective labour dispute”).

466. Where the parties to a dispute have not reached an agreement on alternative dispute resolution, the mediation procedure prescribed by the Labour Act must be carried out. The mediation procedure is conducted by the person selected by the parties to a dispute from the list established by the Economic and Social Council or determined by mutual agreement (“the mediator”).

467. The Economic and Social Council also adopts an ordinance regulating the methods for the selection of mediators, the conduct of the mediation procedure and the performance of administrative work necessary for this procedure. Unless otherwise agreed by the parties to a dispute, the mediation provided for by the Labour Act must be completed within five days following the submission of information about the dispute to the Economic and Social Council, or to the county office responsible for labour affairs.

468. Parties may either accept or reject the mediator’s proposal. A proposal accepted by the parties has the legal force and effects equivalent to those of a collective agreement. The Economic and Social Council establishes the list of mediators and adopts an ordinance regulating the methods for the selection of mediators and the conduct of the mediation procedure. It also promotes the concept of tripartite cooperation among the Government, trade unions, and employers’ associations in resolving economic and social issues and problems, and encourages amicable resolution of collective disputes. Some of the functions of the Economic and Social Council in this regard are performed by the Office of the Government of the Republic of Croatia for Social Partnership in the Republic of Croatia, which also performs administrative and other tasks for the Economic and Social Council.

### **Arbitration (Articles 218 to 220 of the Labour Act)**

469. Parties to a dispute may agree to bring their collective labour dispute before an arbitration body, by mutual agreement. The appointment of an individual arbitrator or an arbitration board and other issues related to the arbitration procedure may be regulated by a collective agreement or by an agreement of the parties made after the dispute has arisen.

470. In their agreement to bring a dispute before an arbitration body, the parties will define the issue to be resolved. The arbitration body may only decide upon the issues brought before it by the parties to a dispute. If a dispute concerns interpretation or application of law, another regulation or collective agreement, an arbitration body will base its decision on this law, another regulation or collective agreement, and if a dispute concerns the conclusion, amendment or renewal of a collective agreement, the arbitration body will base its decision on equitable grounds. Unless the parties to a dispute specify otherwise in the collective agreement or in the agreement to bring a dispute before an arbitration body, an arbitration award must include a statement of reasons. No appeal is permitted against an arbitration award. If a dispute concerns the conclusion, amendment or renewal of a collective agreement, an arbitration award has the legal force and effects of such an agreement.

471. The Mediation Act also governs mediation in civil law disputes, including disputes in the field of commercial, labour and other property relations in the matters in which parties have the freedom of disposal, unless something else has been provided for some of these disputes by a special law.

472. Pursuant to the provisions of the Labour Act, trade unions and their associations have the right to call and undertake a strike in order to protect and promote the economic and social interests of their members or on the ground of non-payment of salary or salary compensation within 30 days of their maturity date. A strike must be announced to the employer, or to the employers' association, against which it is directed, whereas a solidarity strike must be announced to the employer on whose premises it is organised.

473. A strike may not begin before the conclusion of the mediation procedure, when this procedure is required under that Act, or prior to the completion of other amicable dispute resolution procedures agreed upon by the parties. A solidarity strike may begin even if the mediation procedure has not been conducted, but not before the expiration of two days from the date of commencement of the strike in whose support it is organised.

474. The letter announcing a strike must state the reasons for the strike, the place, date and time of its commencement (Article 213 of the Labour Act).

475. Employers may engage in a lockout only as a response to a strike already in progress, but the lockout must not commence prior to the expiration of eight days from the date of the commencement of the strike and the number of workers locked out from work must not be higher than one half of the workers on strike.

476. Article 43 of the Constitution guarantees everyone the right to freedom of association for the purposes of protection of their interests or promotion of their social, economic, political, national, cultural and other convictions and objectives.

477. The Associations Act regulates the founding, organising, legal position and dissolution of associations with the status of a legal person, and the registration and termination of activities of foreign associations in the Republic of Croatia, unless otherwise regulated by a special law. The provisions of this Act are not applicable to political parties, religious communities, trade unions and employers' associations. Criminal-law protection of this right is guaranteed by Article 109 of the Criminal Code, through the regulation of the criminal offence of "violation of the freedom of association". In the past five years, the police has detected and reported to the Public Prosecution Service of the Republic of Croatia one such criminal offence (in 2004).

#### **Association and the foundation of trade unions in the Armed Forces**

478. By the provisions of Article 129 of the Defence Act (OG 33/02, 58/02) it is prescribed that civil servants and civil service employees and active military personnel are appointed for service in the Ministry of Defence to the positions defined in the Ordinance on the internal order of the Ministry of Defence. Active military personnel and civil servants and civil service employees are appointed to serve in the armed forces in the positions defined in the books of organization of the commands, units and institutions of the Armed Forces, and the rights, obligations and responsibilities of the persons appointed to serve in the Armed Forces are regulated by a separate law.

479. Civil servants and civil service employees are forbidden to participate in any political activities in military facilities and buildings belonging to the Ministry of Defence, meaning: founding political parties, holding political meetings and demonstrations, and public appearances related to relations and the situation within the Ministry of Defence, without the approval of the minister of defence or a person he or she authorises.

480. The provisions of Article 11 of the Act on Service in the Armed Forces of the Republic of Croatia (OG 33/02, 58/02, 175/03, 136/04) prescribe that members of the Armed Forces realise the rights from this Act under equal conditions, and that:

- They are forbidden to participate in any political activities, found political parties, hold political meetings and demonstrations in the facilities and units of the Armed Forces
- They are forbidden to take part in political meetings and demonstrations and public appearances related to the situation and relations within the Armed Forces without the authorisation of the minister of defence or a person he or she authorises
- Active military personnel are not allowed to be members of political parties, and active military personnel, civil servants and civil service employees are not permitted to be candidates for representative bodies of citizens, representative bodies of units of local and territorial (regional) self-government and the Croatian Parliament

481. Moreover, the Act on Service in the Armed Forces of the Republic of Croatia prescribes that active military personnel are not permitted to organise trade unions, whilst civil servants and civil service employees may join trade unions in line with the general labour regulations.

482. It is also prescribed that active military personnel are prohibited to go on strike, whilst civil servants and civil service employees are allowed to strike, except in specifically prescribed cases, which are:

- A state of war or a state of direct threat to the Republic of Croatia
- If the strike is directly related to measures to prepare for civil and military defence
- If the strike is directly related to the combat readiness of the Armed Forces
- If the strike threatens the vital functions of the Armed Forces

483. The Political Parties Act (OG 76/93, 111/96, 164/98, 36/01) prescribes that political parties, by being founded freely, are an expression of the democratic, multi-party system as the highest value of the constitutional order of the Republic of Croatia. The legal position, conditions, manner and procedure for founding, registering and terminating the work of political parties are regulated by this Act. The Act also prescribes the manner of proceeding if the programme of the political party has the aim of undermining the free democratic order or threatening the existence of the Republic of Croatia. In this case, the central body of state administration responsible for general administrative affairs, will propose the institution of proceedings to assess constitutionality before the Constitutional Court of the Republic of Croatia, and will stop the decision-making process for registration of the political party. If the Constitutional Court of the Republic of Croatia renders a decision that the political party's programme is against the Constitution, the ministry responsible for administrative affairs will refuse its application for registration in the register.

484. Financing the work of political parties, independent lists and candidates is regulated by the Act on Financing Political Parties, Independent Lists and Candidates (OG 1/07).

### **Article 23**

485. Article 61 of the Constitution states that families enjoy the particular protection of the state. Marriage and legal relationships within marriages, common-law marriages and families are regulated by law. The state protects motherhood, children and young people and creates the social, cultural, material and other conditions for the promotion of realising the right to life with dignity.

486. The Family Act is the basic legislation regulating marriage, relationships between children and parents, adoption, fostering, the effects of common-law relationships between men and women, and the proceedings of the competent bodies concerned with family relationships and custody.

487. Family relationships are regulated on the basis of these principles:

- The equality of men and women and mutual respect and assistance between family members

- The protection of the wellbeing and rights of children and the responsibility of both parents to raise and bring up children
- Appropriate guardianship for children without parental care and for adults with mental disorders

488. Marriage is the life union of a man and a woman, regulated by law. Marriage is contracted by both the man and woman by expressing their consent in a civil or religious ceremony.

489. Civil marriages are contracted before a registrar, and marriages conducted according to a religious rite which carry the effects of civil marriage are contracted before an official of the religious community with which the Republic of Croatia has regulated the appropriate legal relationship.

490. Within marriage spouses are equal. Spouses must be faithful to each other, assist each other, respect each other and maintain harmonious marital and family relationships. They agree mutually about where they shall live, having and bringing up children and about the division of tasks within the family. Each spouse chooses his or her job and occupation independently.

491. Common-law marriages which have lasted at least three years, or less, if a child has been born, produce the same effects as marriages.

492. Since all are free to choose a marriage partner and marriage contracts entered into under duress do not produce the legal effects of marriage, marriages can be dissolved if the court ascertains one of the following:

- That marital relations are difficult and have broken down permanently
- That more than a year has passed since the marriage unit ceased to function
- That both partners mutually request the marriage to be dissolved

493. One marriage partner may sue the other for divorce, or both may mutually request a divorce. A marriage partner does not have the right to sue for divorce while a woman is pregnant, nor before the first birthday of the child.

494. On 24 November 2006 the Croatian Parliament passed the National Population Policy, which in its general and particularly in its implemental segments respects all the principles of human rights. Respecting the integrity of life and the dignity of each person are principles built into the National Population Policy, in accordance with the Constitution of the Republic of Croatia and the recommendations of the Universal Declaration of Human Rights: free volition, free, responsible parenthood and gender equality. The National Population Policy covers the following areas of activity: sustainable economic development, basic and developmental preconditions, the system of family support, tax allowances, the harmonisation of family life and work, child care, health care for mothers and children, awareness raising and providing information.

495. Family centres were founded by the Act on Amendments to the Social Welfare Act (OG 44/06). Within their remit, family centres carry out advisory, preventive and other professional activities relating to:

- Marriage and relationships between parents and children, maintenance and other family circumstances requiring professional support and help
- Bringing up children, adoption and the prevention of all forms of addiction among children and young people
- Disability problems
- Inclusion in daily life after long periods in a correctional institution
- Encouraging responsible parenthood and care for family members
- Improving the quality of life for children, young people and families
- Organised learning for children
- Accommodation in pre-school institutions
- Encouraging and developing community work programmes, voluntary work and the work of citizens' associations offering support to parents, families, children, young people and other socially vulnerable groups
- Development and advancement of non-institutional forms of support for families, children, young people and other socially vulnerable groups
- Encouraging and implementing programme activities aimed at teaching and promoting family values

496. Family centres carry out professional and analytical tasks within their remit, as well as informative, advisory, preventive, therapeutical, educational, promotional and other professional tasks related to offering support to families, children and young people.

497. Following constitutional designations concerning special protection of families, the Government of the Republic of Croatia has taken significant steps, by which it aims to help families, with the goal of creating overall policies focussing on protecting and promoting the family as a life unit, and in the past few years has adopted the following documents.

498. The National Family Policy promotes measures which enhance the quality of family life at all levels. Family policy unites various aspects of education, health, employment, housing and social policies and is thus significantly interdepartmental.

499. The Act on Protection from Domestic Violence (OG 116/03) in Article 4 defines violence in the family as “any application of physical force and psychological coercion upon personal integrity, any act on the part of one family members which may cause or risk the cause of physical or mental pain, the provocation of fear or feelings of personal danger, or insults to

dignity, physical attack, whether resulting in physical injury or not, verbal attack, insult, cursing, the use of derogatory names and other means of causing distress, sexual harassment, spying and other means of causing harassment, illegal isolation or restriction of freedom of movement and communication with third persons, and damage or destruction of property, whether actual or attempted". For the first time in Croatian legislation, the same Act describes in great detail all forms of violence, extending the circle of potential offenders and introducing a series of protective measures, from prohibiting harassment to removing the violent person from the home.

500. The Act on Amendments to the Criminal Code (OG 129/00) introduces a new offence into the criminal law system of the Republic of Croatia - violent behaviour within the family (article 215), the legal description of which is, "A family member who puts another family member in a degrading position by the use of violence, abuse or particularly rude behaviour".

### **The National Strategy for Protection from Family Violence 2005-2007**

501. Starting from the fact that violence within the family represents a form of discrimination and bearing in mind that most often the victims of such violence are women, but that it is necessary to secure protection for all victims of family violence, whatever their gender, the National Strategy for Protection from Family Violence 2005-2007 (OG 182/04) obliges all competent bodies to carry out research, prevent and process duly all kinds of violence within families. The basic aims of the National Strategy for Protection from Family Violence 2005-2007 are: suppressing violence within families in all its forms, alleviating the consequences of family violence, creating a multidisciplinary approach to the victims of family violence, improving co-operation and co-ordination between competent bodies, educating and raising awareness among experts and the wider public regarding the problem of family violence, ensuring the organisation and work of a sufficient number of experts in the state bodies of authority of the Republic of Croatia, which are concerned with the problems of violence within families, and contributing to the creation of policies of gender equality.

502. In order to fulfil the aims of the National Strategy for Protection from Family Violence 2005-2007, 27 short-term and long-term measures are envisaged, in the implementation of which all the competent bodies of state administration, units of local and territorial (regional) self-government and NGOs whose activities are focussed on the promotion of human rights, particularly the protection of victims of family violence, are involved. The Analysis of Criminal and Misdemeanour Legislation has been drawn up in conformity with the National Strategy for Protection from Family Violence 2005-2007; the Analysis attempts to point out deficiencies in current legislative arrangements or proposed amendments and makes suggestions for their improvements and harmonisation with international documents, legislative arrangements and practice in other countries, particularly those which are members of the EU (the Analysis has been published on web sites). A directory of all institutions, organisations and other bodies providing help, support and protection to the victims of family violence has been created and printed, as has a publicity leaflet aimed at victims, and a brochure about non-violent patterns of behaviour and conflict solving.

503. Alongside the National Strategy for Protection from Family Violence 2005-2007, a Protocol for Handling Family Violence Cases has been adopted. The Protocol defines the obligations and means of proceeding of all competent bodies and others involved in detecting and suppressing violence, offering help and protection to those exposed to violence in the family.

The aim of the Protocol is to ensure the conditions necessary for the effective, complete work of the competent bodies, to advance protection and help to the victims of violence in the family and help offenders to change their patterns of behaviour and system of values, with the goal of achieving non-violent conflict solution and respect for gender equality. Amendments this Protocol were adopted in 2006.

504. In 2003, the Republic of Croatia passed the Same-Sex Civil Unions Act (OG 16/03). In the sense of the Act, a same-sex civil union is a life union of two persons of the same sex (further referred to as partners), who have not contracted a marriage nor entered into common law marriage or other same-sex union, whose relationship has lasted at least three years and is based on the principles of equality of the partners, mutual respect and assistance and the emotional connection between the partners.

505. A same-sex civil union is considered to be a life union entered into by persons who - are older than 18, have not been deprived of the capacity to act, and are not blood relatives in the direct line nor related in the collateral line to the fourth degree.

506. The legal effects of the creation of a same-sex civil union are: the right to maintain one of the partners, the right to exercise and regulate interpersonal relationships regarding property, and the right to mutual assistance.

507. The Criminal Code defines the following as criminal offences: bigamy, allowing a prohibited marriage to take place, failing to fulfil family obligations, failing in the duty to maintain another person, abducting a child or minor, changing family status, abandoning a child, neglecting and abusing a child, extramarital cohabitation with a minor, hindering or failing to carry out measures to protect a child or minor, and as already mentioned, violent behaviour within the family.

#### **Article 24**

508. Article 62 of the Constitution directs that parents are obliged to bring up, support and educate their children and have the right and freedom to make independent decisions about their children's upbringing. Parents are responsible for ensuring the right of their children to a full and harmonious development of their personalities. A child who is physically or mentally disabled or socially neglected has the right to special treatment, education and care. On the other hand, children are obliged to care for their elderly, incapacitated parents. The state offers special care to minors without parents or to those who parents do not take care of them.

509. Compared to the period when the Initial Report was submitted, the Republic of Croatia has improved the status and rights of children and protection of the family, through a new legal framework. The most important changes, compared to the previous Family Act, are measures to safeguard the rights and welfare of the child, which were formerly within the competence of social welfare centres, but which have now been transferred to the courts. The measures are:

- Repealing a parent's right to live with his or her child and bring him or her up
- Entrusting a child with behavioural difficulties to a social welfare institution

- Denying a parent or grandparent who does not live with the child unauthorised access to the child or the opportunity to distress the child

510. Measures for removal of parental authority were within court jurisdiction also according to the previous law.

511. From now on, decisions regarding with which parent the child will live will be taken by the courts. According to the previous Family Act, the courts only took such decisions in cases of marital dispute and, where possible, in paternity disputes, whereas in all other situations, decisions were made by the social welfare centre (if such a decision was requested and the parents were still married, in cases concerning children born out of wedlock, in cases requiring new decisions to be made on the basis of changed circumstances, etc.).

512. The reasons for this transfer of subject-matter jurisdiction from social welfare centres to the courts are based upon the need to harmonise the Family Act with the European Convention for the Protection of Human Rights and Fundamental Freedoms (and with Article 9, paragraph 1 of the Convention on the Rights of the Child), which brought into question all procedures by which decisions concerning civil rights, including those concerning family matters and falling within the competence of social welfare centres as administrative bodies, are reached in administrative proceedings as.

513. The second important change is that a child has the right to have a special guardian to safeguard his rights and interests not only in situations according to the earlier Family Act, but also in the following situations:

- In procedures for establishing and challenging maternity or paternity, at all times
- In procedures for repealing the right of a parent to live with his or her child and bring him or her up
- In procedures involving the entrusting of a child with behavioural difficulties to a social welfare institution
- In procedures for removing parental authority from both parents of the child or from the child's single parent

514. In relation to adoption, significant changes have occurred, by which two forms of adoption have been discontinued and a new form of adoption established. Adoption cannot be cancelled, for the better, permanent, surer protection of the adopted child. Further, the possibility of adopting siblings together is encouraged, by regulations enabling adoptive parents who fulfil the preconditions for adopting a single child to adopt his or her siblings, whether or not this results in an age difference greater than that which the law prohibits. This option exists regardless of whether the siblings are adopted at the same time or later.

515. The protection of confidentiality pertaining to adoption in respect of third persons has been greatly improved. Biological parents may give their consent to their child's adoption only if the adoptive parents remain anonymous, and biological parents are excluded as parties from the

procedure after giving consent or when the adoption is approved without their consent, on the basis of the Act, so they have no right to see the adoption file or the population register entry for the child. In this way the adoptive family is better protected from possible interference by the biological parents.

516. In the section regarding guardianship, changes have been adopted by which a minor ward, according to his or her age and maturity, must be appropriately acquainted with the salient circumstances of his or her case; a minor ward has the right to be given advice and express his or her views and be notified of the possible consequences of having his or her views taken into account in decisions concerning his or her rights.

517. In regard to the procedure of establishing maternity or paternity, a provision has been suggested which instructs the court on how to shorten this procedure, and instructs the parties on the consequences of their failure to appear at, or of their obstructing the introduction of evidence by medical expert evaluation.

518. Children who cannot live in their families are cared for by the state by means of the following: adoption, guardianship and accommodation in homes for children without adequate parental care.

519. Eighteen homes for children without adequate parental care have been established in the Republic of Croatia, of which 14 (state homes) have been founded by the Republic of Croatia, and 4 have been founded by other bodies. Details of the number of children placed in such homes, along with the capacity of the homes, the type of accommodation, the legal basis of the accommodation, the reasons for discontinuing accommodation and the structure of those placed within them according to age and gender, are provided below.

520. The Act on Amendments to the Social Welfare Act (OG 59/01) provides for young adults up to the age of 21 to be placed in children's homes, in other words to be given accommodation while continuing their education, and often allows for a certain period after education ceases, until the young person finds employment or alternative accommodation. The abovementioned Act provides for the accommodation of children within accommodation units, with the aim of preparing young people for independent life outside institutions. Such accommodation units consist of smaller numbers of children (two to four). They conduct the household themselves, while receiving professional support as they prepare for further independent life. Usually children remain in such units for short periods (6 to 12 months), until they find employment or achieve the basic preconditions for living independently.

521. At the moment this type of accommodation is offered in Zagreb (five flats), Osijek (two flats), Split (two flats), Lovran (three flats), Pula (two flats), and Vinkovci (one flat). The total capacity of these accommodation units is sufficient for 40 beneficiaries.

522. Housing areas for these accommodation units (apart from one, which was founded by an association) have been provided by local authorities or councils, and the costs of accommodating all beneficiaries are met by resources provided by the Ministry of Health and Social Welfare.

523. This type of child welfare is in line with the orientation of the Republic of Croatia regarding the deinstitutionalisation of the social welfare system in the Republic of Croatia, and experience so far in implementing it has shown very good results, in terms of preparing children for independent life, so that it is planned to extend the network of new accommodation units in the places mentioned and in other towns.

524. The placing of children in foster homes should be a temporary measure. At the same time, social services should co-operate with biological families in solving problems, so that they can take back their estranged children at the earliest possible moment. Unfortunately, experience so far shows that too little is being done in this area, and that in practice children stay in foster homes until the end of their formal education or until gaining independence.

525. Adoption is a particular form of care and protection for children without adequate parental care under the family law, which allows adopters to be parents. On adoption, adoptive parents acquire parental authority.

526. Guardianship is a form of protection for minors without adequate parental care, for adults who are not able to care for themselves and for others who, for other reasons, are unable to safeguard their own rights and interests.

### **Personal name**

527. The Personal Names Act (OG 26/93, 29/94, 69/02) regulates the procedure for determining personal names and the procedure for changing the personal names of Croatian nationals.

528. Parents determine the personal name of a child by mutual agreement. Parents may decide that the child will take the surname of one or both parents. A child's surname is conditionally determined firstly by the common parental surname, and only if the parents have different surnames can they determine that the child will take the surname of one or both parents. If only one parent asserts parental rights, the child's surname may only be that of the single parent.

529. The same Act prescribes the possibility of changing the personal name of a minor, or of an adult Croatian citizen in administrative procedure. In order to change a personal name, a public announcement concerning the proposal to change the personal name must be issued, and the body responsible for the procedure must confirm the decision justifying the proposal and suggested new name.

530. The Act imposes a minimum period of five years from the last change on changing a personal name, and limits the use of the name in legal transactions: every person may have an unlimited number of forenames and surnames, but for use in legal transactions he or she may have forenames and surnames each consisting at the most of two words.

The Population Registers Act (OG 96/93) prescribes that Population Registers are records of the personal status of citizens, entering the details of their birth, marriages and deaths. Details of the personal status of citizens arising in the Republic of Croatia are entered before the competent body in the area in which they arise, and details of the personal status of Croatian citizens arising abroad are entered according to their permanent residence within the Republic of Croatia. If the person has no permanent residence within the Republic of Croatia, the entry is

made according to place of birth, if he or she was born in the Republic of Croatia. If the person has no permanent residence in the Republic of Croatia and was not born there, the entry is made in the City of Zagreb Population Register.

### **Children's nationality**

531. Croatian nationality is prescribed by the Croatian Nationality Act, and can be acquired by descent, birth on the territory of the Republic of Croatia, naturalisation, or under an international agreement.

532. A child acquires Croatian nationality by descent if both parents were Croatian nationals at the time of his or her birth; one parent was a Croatian national at the time of his or her birth and the birth took place in the Republic of Croatia; one parent was a Croatian national at the time of his or her birth; the other parent is of unknown or no nationality, and the child was born abroad.

533. Croatian nationality by descent can also be acquired by the child of a foreign national or person of no nationality, if, according to special provisions of the law, he or she has been adopted by Croatian nationals in a closed-type adoption. Such a child is considered a Croatian national from birth.

#### *Croatian Nationality Act*

#### *Article 4*

*A child born abroad may acquire Croatian nationality by descent if one parent was a Croatian national at the time of his or her birth and if he or she is registered before the age of 18 as a Croatian national with the competent body of the Republic of Croatia abroad, or within the Republic of Croatia, or if he or she settles in the Republic of Croatia.*

534. In 2003, the Republic of Croatia, in accordance with its constitutional provisions concerning the special protection of children, founded the Office of and nominated a Children's Ombudsman, in accordance with the Children's Ombudsman Act (OG 96/03).

535. The office of the Children's Ombudsman was established with the aim of safeguarding, monitoring and promoting the rights and interests of children, based on the Constitution of the Republic of Croatia, international agreements and laws. The Ombudsman acts independently and autonomously, adhering to the principles of justice and morality. No one may give him or her instructions or orders on how to carry out his or her work. The Ombudsman is appointed for a period of eight years and is acquitted of duty by the Croatian Parliament at the proposal of the Government of the Republic of Croatia. For the purposes of the Children's Ombudsman Act, a child is considered to be any person under the age of 18.

536. The Children's Ombudsman:

- Monitors harmonisation of the law and other regulations in the Republic of Croatia, in matters concerning the protection of children's rights and interests, with the provisions of the Constitution of the Republic of Croatia, the Convention on the Rights of the Child and other international documents pertaining to the protection of children's rights and interests

- Monitors the fulfilment of the obligations arising from the Convention on the Rights of the Child and other international documents pertaining to the protection of children's rights and interests by the Republic of Croatia
- Monitors the implementation of all regulations pertaining to the protection of children's rights and interests
- Monitors violations of individual children's rights and studies the general occurrence and forms of violation of children's rights and interests
- Lobbies for the protection and promotion of the rights and interests of children with special needs
- Proposes the implementation of measures for constructing an integrated system for safeguarding and promoting children's rights and preventing harmful acts which may jeopardise children's rights and interests
- Informs the public about the situation regarding children's rights
- Carries out other duties prescribed by this Act

537. The Children's Ombudsman acquaints children with and advises them on means of achieving and safeguarding their rights and interests. The Ombudsman co-operates with children, encourages them to express and respects their views, initiates public activities aimed at improving the status of children and participates in these activities, and proposes measures to increase the influence of children in society. The Ombudsman may participate in the process of drawing up proposals for regulations concerning the rights of children, or those governing the issues of significance concerning children.

538. In monitoring the situation within his remit, the Ombudsman may encourage the passage or amendment of acts and other regulations concerning the rights and interests of children, if he or she believes this to be necessary. In carrying out duties within his remit, the Ombudsman is authorised to caution, suggest and make recommendations. He or she is authorised to propose the enactment of measures aimed at preventing harmful actions, which may jeopardise the rights and interests of children, to the competent bodies of the state administration, local and regional government bodies, legal and natural persons.

539. Although the previous family legislation achieved a high degree of protection of children's rights, the new Family Act goes a step further, and along with already recognised children's rights, provides for improvement in safeguarding children's rights through the implementation of existing arrangements. From 1 January 2006 all the provisions of the Family Act have been applied, as prescribed by the Act. Up to that date, some provisions of the Family Act, i.e. those relating to the transfer of jurisdiction from the social welfare centres to the courts, were deferred.

540. Changes to the new Family Act which regulate the relationship between parents and children are:

(a) Every child has the right to a special guardian who will safeguard his rights and interests, including, among others, in the procedure for repealing the right of a parent to live with his or her child and bring him or her up; the procedure for entrusting a child with behavioural difficulties to a social welfare institution; the procedure for removing parental authority from both parents of the child or from the child's single parent.

(b) The following measures for safeguarding the rights and welfare of the child which have been transferred to court jurisdiction:

- Repealing the right of a parent to live with his or her child and bring him or her up
- Entrusting a child with behavioural difficulties to a social welfare institution
- Denying a parent or grandparent who does not live with the child unauthorised access to the child and the possibility of causing the child distress

(c) The measure for removing parental authority was within court jurisdiction according to the former Family Act, and remains so according to the new Act.

541. The reasons for the changes under point (a) are based on the need for better, more objective protection of children in the situations outlined, otherwise in situations referred to in the first and third indent, there could be a conflict of interests between the parents and the child, if a procedure was initiated against both parents of the child or the child's single parent. In the case referred to in the second indent, there could also be a conflict of interests between the parents and child, because these cases too most often involve parental negligence, so it cannot be expected that the parent will correctly represent the interests of the child.

542. The reasons for the changes given in points (b) and (c), i.e. the transfer of subject matter jurisdiction from social welfare centres to the courts, are based as already mentioned on the need to harmonise the Family Act with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

543. The Social Welfare Act prescribes that social welfare rights are guaranteed to Croatian nationals and persons with no nationality who are permanently resident in the Republic of Croatia. Foreign citizens who are permanently resident in the Republic of Croatia enjoy social welfare rights to which they are entitled under this Act and international agreements. Other persons may temporarily gain social welfare rights under the conditions laid down by the Social Welfare Act, if the living conditions in which they find themselves so require. It should be emphasised that the social welfare rights may be claimed by all persons in need of social protection, i.e. socially vulnerable groups of citizens, regardless of gender, race, colour, ethnic or social background, genetic characteristics, language, religion or convictions, political or any other opinion, national minority affiliation, property, birth, disability, age or sexual orientation.

544. The system of social assistance and welfare is part of an integrated system of social security, and is aimed at eradicating poverty, social deprivation and exclusion.

545. Although the life of the child within his or her own family is in principle the most appropriate means of caring for and bringing him or her up, there are certain situations in which

the child's interests are served by him or her being cared for by a social welfare institution or another person, i.e. a foster family. Sometimes a child with no parents is affected and may be cared for in this manner.

546. On the basis of the Social Welfare Act, children whose parents are emotionally attached to them and who are responsible for their children, but whose situation in life temporarily prevents them from living with their child within the family unit (because of serious, chronic or infectious illness, lack of accommodation and other negative circumstances), may have such a child placed in a children's home or foster family. Based on the text of this law, separating the child from his or her family should be considered a temporary measure, after which parents are expected to create suitable conditions for life with their child. In the intervening period, parents should be in constant contact with the child and carry out other parental responsibilities. They must consent to their child being thus accommodated and may at any time discontinue the arrangement and take the child back into their own care. If parents are unable to create suitable conditions for the child's return to the family, the procedure to remove parental authority may be initiated.

547. On the basis of the Social Welfare Act, children with developmental problems (physical or mental) may also be placed in social welfare homes, if this is in the interests of their rehabilitation or education, or if the parents are unable to offer the children appropriate care.

548. According to the Family Act, separating a child from his or her family and placing him or her in a social welfare institution or foster family is linked to measures limiting or excluding parental authority. It should be emphasised that the courts may prescribe measures to repeal the rights of parents to have their child living with them and instruct the child to be placed in an educational institution for a maximum period of one year, after which the efficacy of the prescribed measures must be assessed, in the interests of the child, before the same or other protective measures are prescribed.

549. A child may be removed from his or her parents if by a court decision parental authority is withdrawn. The court will enact such a decision if the parent has grossly neglected or abused his or her parental duties. Children who are removed from their families are placed in social welfare institutions (homes for children without adequate parental care, homes for children with behavioural difficulties, homes for children with special needs) or in foster homes.

550. Within the network of social welfare in the Republic of Croatia there are 14 homes for children without adequate parental care, founded by the Republic of Croatia, and 4 homes founded by others. The tendency in this area is to reduce the number of children accommodated in children's homes and increase the number placed in foster homes. The desired ratio is 20:80 in favour of foster home placements. On 31 December 2005 there were 1,479 children accommodated in children's homes, and the average length of stay was three and a half years. The capacity of the existing homes is between 40 and 50 in each location. There is also a tendency to avoid placing preschool children in homes, particularly before the age of 3. Further, in order for children placed in homes to be prepared for independent life, separate accommodation units attached to children's homes for children aged 16 upwards have been opened in co-operation with local authorities. At the moment there are 26 such units catering for 88 young people. The Minister of Health and Social Welfare has also approved financial support for students who have formerly lived in children's homes, and in 2005 40 such young people received financial support.

551. It is necessary to transform the present institutions into smaller capacity institutions, in which higher standards would be guaranteed, group sizes reduced, individual approaches strengthened, better relationships fostered with local communities and the civil sector, and the rights of children better respected and observed.

552. The courts may, by virtue of office or at the request from a parent or guardian, place a child with behavioural difficulties in a social welfare institution on a half-day, daily, weekly, or longer basis, if the parents or foster parents are unable to manage the child adequately.

553. In connection with the protection of children with behavioural difficulties, it should be mentioned that in the Republic of Croatia the criminal legislation differentiates between children (persons up to the age of 14, who cannot be held criminally responsible) and juveniles (persons between the ages of 14 and 18, who can be held criminally responsible).

**Number of children and juveniles in social service centres  
as a result of behavioural difficulties**

Year	No. of children	No. of juveniles	Total
2001	2 365	4 596	6 961
2002	2 496	4 872	7 368
2003	2 578	4 468	7 046
2004	2 500	4 198	6 698
2005	2 442	3 903	6 345
2006	1 132	997	2 109

554. In the Republic of Croatia, special care is given to disabled children. The Council for Children and the Commission of the Republic of Croatia for Disabled Persons are the expert, advisory bodies of the Government of the Republic of Croatia. Within their remit these bodies offer expert assistance in settling questions concerning the status, protection and rehabilitation of disabled children and their families, promote the rights of disabled children, monitor the implementation of existing regulations and propose measures and legislation to improve the quality of life of such children.

555. The Government of the Republic of Croatia has passed a document entitled National Strategy for Equalising Opportunities for Disabled Persons 2007 - 2015, by which, within the framework of various social security systems, special attention is paid to disabled children.

556. As provided for by the Social Welfare Act and other regulations, disabled persons may claim all the social welfare rights available to other people who need them. By this we mean the right to receive counselling, help in overcoming particular difficulties, other forms of assistance and services intended particularly for disabled person: benefits for assistance and care, assistance and care in the home, disability benefit, programmes to facilitate independent life and work, travel expenses for the beneficiaries of such programmes, unemployment benefit and care outside the family.

557. With the aim of guaranteeing quality of life for disabled children accommodated in social welfare homes, measures are being taken to implement contemporary rehabilitation programmes

and procedures in line with the needs, interests and abilities of beneficiaries, in order to meet all their needs and respect their rights. The application of such programmes is reflected on the quality of the work, particularly the effects of rehabilitation.

558. In the Republic of Croatia there are 23 state social welfare homes founded by the Republic of Croatia which accommodate disabled children: one is for visually impaired persons, 3 are for hearing impaired persons, 2 are for persons with physical disabilities, and 17 for mentally retarded persons. Within these institutions, which offer different forms of institutional care, 1,513 disabled children are accommodated. Most of them are permanent or weekly residents, while others attend on a half-day or daily basis. Of these homes, 13 offer elementary and high school curricula. There are various reasons for placing disabled children in institutions and one of the most significant is the impossibility of including the child in the educational facilities of the area in which he or lives.

559. In Croatia children with developmental difficulties are cared for within the framework of 6 social welfare homes not founded by the Republic of Croatia. These institutions have been founded by religious communities, territorial (regional) authorities, associations or private individuals. These institutions care for 469 children altogether, of whom a third attend on a daily basis. One institution offers care in the home (home visits) for 20 children with visual impairment and multiple disability.

560. The length of time disabled children spend in social welfare homes differs according to the type of care offered by each home. So, for example, elementary school age children who are placed in a home because of its educational facilities will on average remain there for eight years, which is the length of elementary school education. Children in institutions offering high school education will stay for four years in principle. If the child has no parents or inadequate parental care, he or she may stay longer. Where children are included in various rehabilitation programmes, the length of stay depends on the type and length of the programme offered.

561. During the past few years various forms of non-institutional care have played an increasingly significant role. This means the development of various services in the local sector, such as institutional day care for children, specialised fostering schemes, help and care in the home, professional help for children and parents and help for teachers and children included in regular education through mobile professional services, accommodation units, playgroups, advisory centres and other services.

562. Recently the fostering scheme has been extended, and specialised fostering is carried out through social welfare centres in co-operation with professional teams from social welfare homes and NGOs. Individual social welfare homes offer specific non-institutional services within the framework of their activities. These services relate to the integration of visually impaired children in regular education, thanks to the mobile services for visually impaired children attached to social welfare homes. These services offer professional support to pre-school and elementary teachers within regular pre-school and educational institutions. This integration service was set up with the task of creating and carrying out programmes to secure conditions within the family optimal for the development of the visually impaired child, and his or her successful inclusion and education in regular pre-school or school programmes.

563. Disabled children are offered professional support services in the family, within the framework of the social welfare system. This form of support is supplied by professionals from individual social welfare homes for disabled children. Professional support is aimed at encouraging the child to develop his or her abilities, facilitating his or her integration into society, offering help to families in order to improve understanding of the difficulties attached to disability, and offering specific instructions on how to work with the child. At the same time, this form of support aims to keep the child in his or her family, without the need for institutionalisation.

564. Parents of children with severe developmental problems have the right to take leave from work until the child's seventh birthday, or the right to work half-time. A parent may exercise one of these rights in order to care for the child and during the period when he or she is not working, in which case he or she will receive salary reimbursement.

565. Regarding the choice of foster families, it is important to point out that this procedure is supervised by social welfare centres and their professional teams (social workers, psychologists and legal advisers). The professional team carries out a detailed analysis of the conditions in the potential foster family. Apart from material and social conditions, the character of the foster carer is examined (his or her attitude towards children, motives for wishing to foster a child, level of education, i.e. to what extent he or she is likely to be able to help the child, nurturing characteristics, housing conditions, material status, etc.). Whenever possible, a child should be placed in a family as similar as possible to his own background, in terms of religion, nationality, language, etc. (in accordance with the Convention on the Rights of the Child).

566. The professional staff of social welfare centres are required to supervise the process of adaptation of the child into the foster family and regularly monitor his or her health, development and education within such a family.

567. If there is any concern that the child's residence in the foster family is detrimental to his development or education, the social welfare centre will set aside its decision and take suitable measures to place the child elsewhere, particularly if it is established that the foster family's motivation for taking the child is exclusively financial gain.

568. It must be emphasised that placing children in foster homes or children's homes is a temporary measure, to be undertaken only until such time as conditions are met for the child to return to his or her own family, or become a candidate for adoption.

569. Today in Croatia a significant number of associations concerned with protecting socially vulnerable groups are active in the area of social welfare and humanitarian aid. Along with Croatian and foreign associations, endowments, foundations, religious communities and others are also active in this area. Their activities are focussed on offering psycho-social help (psychological assistance and help in social adaptation) and social services aimed at integrating those they help, by giving them knowledge and teaching them skills in order to help them help themselves overcome social exclusion. Most of these associations have been formed by members of socially vulnerable groups whose interests are represented by individual associations.

570. A child of foreign nationality who is found unaccompanied in the Republic of Croatia will be appointed a special guardian. In the period 1 January 2005 to 31 December 2005, 206 such

guardians were appointed. Of these, 41 were professional staff from social welfare centres. 165 guardians were adult members of the same group as the minor found unaccompanied in the Republic of Croatia. In the period 1 January 2005 to 31 December 2005, 33 such special case guardianships were terminated.

571. Minors found unaccompanied in the territory of the Republic of Croatia are accommodated in the area in which they are found, i.e. in the nearest children's home or home for young people with behavioural difficulties. In exceptional cases, such as mothers with young children, if the male partner or the father of the child is serving a prison sentence for illegally crossing the state border, the mother and child/children may be accommodated in the nearest children's home according to the place where they were found.

572. Table 1 shows the number of children and juveniles offered protective measures by a social welfare centre; in the majority of cases unaccompanied children were discovered by police officers, whether the children of Croatian or foreign nationals, and had absconded from their families, children's homes or foster homes.

**Children of foreign and Croatian nationals found unaccompanied  
by adults, guardians or teachers**

Year	2004	2005
Foreigners	318	279
Croatian nationals	585	553
Total	903	832

**Financial allowances for socially vulnerable persons**

Socially vulnerable schoolchildren <sup>1</sup> - no. of children	2003	2004	2005	2006
11. Training for independent life and work (11.1. to 11.3.)	6 270	6 329	6 179	
11.1. Training for independent life	550	592	536	415
11.2. Training for independent work	2 119	2 096	1 991	1 598
11.3. Pre-employment benefit	3 601	3 641	3 652	3 582
12. Help and care in the home	680	726	634	519
13. Accommodation of children and young people in foster homes	2 484	2 331	2 244	2 148
14. Accommodation of adults and elderly persons in foster homes	3 066	3 457	3 628	2 148
15. Accommodation of children and young people in social welfare homes <sup>2</sup>	5 921	5 915	5 799	
16. Accommodation of adults and elderly people in social welfare homes <sup>2</sup>	8 414	8 104	7 957	
17. Costs of accommodation in students' hostels	20	275	389	365

**Local and regional assistance**

1. Assistance for housing costs (single persons and families)	25 922	27 484	27 355	16 628
2. Heating allowance (single persons and families) <sup>1</sup>	45 930	42 820	43 566	12 994

### State assistance

Type of assistance/allowance	2003	2004	2005	2006
1. Maintenance support				
1.1. Total support (single persons and families)	52 656	52 513	52 272	50 199
1.2. No of persons included	121 515	120 916	119 470	112 938
2. Personal disability benefit	11 714	13 005	14 046	14 587
3. Allowance for help and care	48 804	61 471	69 725	72 359
4. Salary reimbursement for the parent of a child with severe developmental problems on leave or working half-time in order to care for his or her child	4 703	4 685	5 298	5 994
5. One-off payment (single persons and adults) <sup>1</sup>	72 803	71 7963	71 6603	117 202
6. Assistance for personal needs of beneficiaries of permanent accommodation (pocket money) (6.1. + 6.2.)	12 210	12 523	12 805	12 420
6.1. In social welfare homes	8 336	8 399	8 302	7 938
6.2. In foster homes	3 874	4 124	4 503	4 482
7. Food allowance	1 058	1 175	770	810
8. Allowance for clothing and footwear <sup>1</sup>	1 194	1 016	980	721
9. Allowance for funeral expenses <sup>1</sup>	1 390	1 266	1 366	856
10. Allowance for purchasing schoolbooks (elementary and high school)	215 174	241 834	235 194	13 063

*Source:* Ministry of Health and Social Welfare (statistics compiled on the basis of information collected from social welfare centres and homes).

#### Methodology employed:

- The number of beneficiaries shown reflects the situation at the end of the year, apart from one-off payments, for which the total number during the year in question is shown
- Funds for those claiming the benefits shown (state assistance) are guaranteed by the ministry responsible for social welfare activities. Housing benefits are financed from the budgets of municipalities, towns and the City of Zagreb. Heating allowances are financed by the counties
- The same beneficiary may be granted various types of allowance simultaneously, if he/he fulfils the prescribed requirements

#### Notes

<sup>1</sup> Number of one-off payments for the year in question.

<sup>2</sup> Number of beneficiaries for whom the state pays fully or in part accommodation expenses (statistics from social welfare centres).

<sup>3</sup> Total number of one-off payments less number of such payments made for purchase of compulsory textbooks for socially vulnerable schoolchildren.

<sup>4</sup> Number of children who received one-off payments for purchase of compulsory textbooks. Textbooks for children resident in social welfare homes are included in the material expenses of these homes.

**Number of children and young people by age (children of foreign nationals found unaccompanied in the territory of the Republic of Croatia in 2005)**

Age	No. of children
Under one year	4
7	1
14	7
15	8
16	31
17	104
18	51
Total	206

**Children and young people**

573. One of the priorities of Croatian society is safeguarding children from abuse, gross neglect, violence and all forms of discrimination, by creating conditions for preventive action, and developing means and methods of working professionally to treat abused children. The Programme of Activities for Preventing Violence among Children and Young People has been adopted with the aim of putting this priority into practice; the Programme focuses on preventing violence among children and young people, training the profession and raising awareness in the wider social community.

574. The aim behind the adoption of the Programme is to raise awareness among professionals, parents, children and young people, to put in place systematic arrangements to prevent and stop violence among children and young people, and to mitigate or eradicate the consequences of such violence. The aims of the Programme are: to prevent the occurrence of new cases of violence among children and young people; to train professionals working with children and young people; to raise awareness among parents, children and young people of the problem of violence among children and young people; to offer a support system to children and young people, the victims of violence, and to research the occurrence of violence among children and young people. Almost all bodies of the state administration are involved in individual Programme measures, as are schools, children's homes and other institutions who work with children and young people.

575. In accordance with the Programme of Activities for Preventing Violence among Children and Young People, the Protocol for Handling Cases of Violence among Children and Young People has been adopted, in which the duties, forms, means and nature of co-operation between the competent state bodies, educational institutions, social welfare centres, police departments and others engaged in preventing, detecting and suppressing violence among children and young people, are defined.

576. The National Programme of Action for Young People adopted in 2003 aims to improve the provision of social, educational, cultural, material and other conditions, for the lasting welfare of young people and their active, complete, responsible participation in the development of democratic society. The Government of the Republic of Croatia has outlined, in the National Programme of Action, several measures to encourage young people in society, among which is

the adoption of laws directed towards the creation of organisational bases which will serve young people and by which they will be able to promote their own interests and values in a simple, precise and accessible way (principle of youth participation) while solving problems of interest to young people.

577. The Youth Councils Act (OG 23/07) was passed in 2007. It regulates the formation and activities of youth councils, with the aim of actively including young people in the public life of local and territorial (regional) self-government units.

578. Institutional mechanisms which have been set up with the aim of advancing and promoting the rights of children and young people:

- Youth Council; an inter-departmental, professional advisory body of the Government of the Republic of Croatia, founded with the task of co-operating in the co-ordination and evaluation of the National Programme of Action for Young People
- Council for Children; in carrying out its duties it monitors how the Convention on the Rights of the Child and other international treaties concerned with child protection and promoting children's rights are implemented
- Commission for the Prevention of Behavioural Problems in Children and Young People; founded as an expert, advisory body to the Government of the Republic of Croatia, in order to offer professional help in discussions and decision-making in all problems in the area of implementing timely, necessary measures in the interests of children and young people, particularly those living in high-risk circumstances, and offering them appropriate care

579. In accordance with the above, the basic aims of the National Plan for the Welfare, Rights and Interests of Children 2006-2012 are:

- Advancing the quality of the way in which children's needs are met in all areas (health, education, protection from abuse and neglect, leisure time and culture, social welfare etc.)
- Advancing the rights of children in the Republic of Croatia
- Improving the status of children in the Republic of Croatia
- Defining the obligations of competent bodies and others who participate in safeguarding the rights and interests of children
- Regulating the form, means and content of co-operation between competent bodies and others who participate in safeguarding the rights and interests of children, and advancing partnership and harmony in the activities of competent state bodies and civil society organisations
- Establishing better co-operation in implementing measures in the local community

- Ensuring a sufficient number of professionals in the competent state bodies of the Republic of Croatia, who will work to safeguard the rights and interests of children
- Involving children in decision-making procedures linked to realising the rights and interests of children

### Article 25

580. As regards this Article of the Covenant, we can once again refer to the provisions of Articles 44 and 45 of the Constitution: Every citizen of the Republic of Croatia shall have the right, under equal conditions, to take part in the conduct of public affairs, and to have access to public services. Croatian nationals shall have universal and equal suffrage and this right is exercised through direct elections by secret ballot. In elections for the Croatian Parliament and for the President of the Republic, the Republic of Croatia shall ensure suffrage to its citizens who are abroad at the time of the elections, so that they may vote in the countries in which they are or in any other way specified by law.

581. Pursuant to the provisions of the Constitution (Article 15), besides the general electoral right, the special right of the members of national minorities to elect their representatives into the Croatian Parliament may be provided by law.

582. Pursuant to the Act on the Election of the President of the Republic of Croatia (OG 22/92, 42/92, 71/97), the President of the Republic of Croatia is elected by Croatian nationals who have attained 18 years of age (hereinafter: “the voters”) at direct elections by secret ballot for a period of 5 years. The person elected as the President of the Republic of Croatia must be a Croatian national who has attained 18 years of age (Articles 1 and 2).

583. The Act on the Election of Members of the Croatian Parliament (OG 69/03, revised text 44/06) prescribes that the term of office of representatives elected to the Croatian Parliament (hereinafter: “the Parliament”) is 4 years and can only be prolonged in the event of war or in the cases referred to in Articles 17 and 100 of the Constitution of the Republic of Croatia, that is, during a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters. The office of a Member of Parliament is not mandatory.

584. The freedom of voters’ choice and the secrecy of the ballot are guaranteed. A voter has the right and obligation to vote only once. No one may ask voters to disclose their electoral choice. No one may be called to account for the vote cast or for not casting a vote.

585. Members of Parliament are elected, on the basis of universal and equal suffrage by all Croatian nationals over the age of 18, except for those who have been divested of their capacity to act by a legally effective court decision. Any Croatian citizen over 18 years of age can be elected as a Member of Parliament (Article 4 of the Act on the Election of Members of the Croatian Parliament).

586. In 2003, 8 representatives of national minorities were elected to the Croatian Parliament.

587. The Local and Territorial (Regional) Self-government Act (OG 33/01) provides for the forms of direct participation of citizens in decision-making.

588. Citizens may directly take part in decision-making in local affairs by means of referenda and the local citizens assembly, in accord with law and the statute of the unit of local and territorial (regional) self-government. A referendum may be called to reach a decision on a proposal to amend the statute, a proposal of a general act or any other issue within the competence of the representative body and other issues defined by the law or statute. A referendum is called, on the basis of the law and statute, by a representative body upon a proposal submitted by one third of its members, upon the proposal of the local government, and in a municipality or town, upon the proposal of half the local councils in the territory of the municipality, or town, and upon the proposal of 20 per cent of the voters registered in the electoral roll of the municipality or town. The right to vote at a referendum is exercised by citizens who are permanently resident in the territory of the municipality, town or county and who are registered on the electoral roll. A decision made by a referendum is binding for the representative body. A municipal or town council may seek the opinion of the local citizens' assemblies on proposals of general acts or other issues within the competence of the municipality or town, and on other issues as regulated by the law or statute.

589. Citizens have the right to propose to the representative body the passing of certain acts or seek solutions for particular issues within its competence. The representative body must discuss such proposal if it is supported by the signatures of at least ten percent of the voters registered on the electoral roll of the municipality, town or county, and reply to the proposers within three months of receiving the proposal.

590. The bodies of units of local and territorial (regional) self-government are obliged to enable citizens and legal persons to submit petitions and complaints about their work and the work of their administrative bodies, and any irregular behaviour by employees in those bodies when approached for the realisation of any rights and interests or for carrying out any civic duties. The head of the body of the unit of local self-government or the administrative body of those units must reply to petitions and complaints submitted by the citizens and legal persons within 30 days of the submission of the petition or complaint. These bodies are obliged to ensure that the necessary technical and other means for submitting petitions and complaints (Complaints Book, etc.) are clearly visible in their offices and they must also allow oral expression of petitions and complaints.

591. Members of representative bodies are elected by Croatian nationals of at least 18 years of age, who are permanently resident on the territory of the unit for whose representative body the elections are being held.

592. The Act on the Election of Members of Representative Bodies of Units of Local and Territorial (Regional) Self-government (OG 44/05 - revised text, 44/06) provides that Croatian citizens of at least 18 years of age may be nominated and elected as members of representative bodies of units where they are permanently resident on the territory of the unit for whose representative body the elections are being held. Members of representative bodies are elected at direct elections (hereinafter: "elections") by secret ballot. Members of representative bodies are irrevocable and their rights and responsibilities begin on the day the representative body is constituted. A member of a representative body may not be held responsible for a criminal offence or a misdemeanour for words uttered nor for votes cast in the course of his or her work on the representative body. The mandates of members of representative bodies elected at regular elections continue until a decision is announced by the Government of the Republic of Croatia

calling elections or until the announcement of a decision by the Government of the Republic of Croatia dissolving the representative body in accord with the law regulating local and territorial (regional) self-government. The mandates of members of representative bodies elected at early elections continue until the expiration of the pending mandate of the representative body elected at regular elections. It should be noted that the Act on Referendum and Other Forms of Direct Participation of Citizens, mentioned in the Initial Report, is still in force.

### **National minorities**

593. As well as all other rights they equally enjoy, national minorities also have the right to have representatives in the Croatian parliament and in representative bodies of local and territorial (regional) self-government units. In order to improve, preserve and protect the position of national minorities in society, members of national minorities are entitled to elect, in the manner and under the conditions stipulated by the Constitutional Act, their representatives for the reason of participation in the public life and management of local affairs through the councils and representatives of national minorities in self-government units.

### **The right of national minorities to have representatives in the Croatian Parliament**

594. The Republic of Croatia guarantees members of national minorities in the Republic of Croatia the right to representation in the Parliament. Members of national minorities are entitled to elect eight representatives as Members of the Parliament. Members of the Serbian national minority elect three representatives to the Parliament, in accordance with the Constitutional Act on the Rights of National Minorities. Members of the Hungarian national minority elect one representative to the Parliament. Members of the Italian national minority elect one representative to the Parliament. Members of the Czech and Slovak national minorities jointly elect one representative to the Parliament. Members of the Austrian, Bulgarian, German, Polish, Roma, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Vlach and Jewish national minorities jointly elect one representative to the Parliament. Members of the Albanian, Bosniak, Montenegrin, Macedonian and Slovenian national minorities jointly elect one representative to the Parliament.

595. The right to propose candidates for minority Members of Parliament and their deputies is exercised by political parties, voters and associations of national minorities. Where voters propose a candidate for a minority Member of Parliament and his or her deputy, for this candidature to be valid they must collect 100 signatures of voters. Signatures of voters in the procedure for proposing candidates for minority Members of Parliament and their deputies in special electoral constituencies are collected on a prescribed form where the name and surname of the voter, his or her ethnic origin and the address of the proposed candidate, and the name, surname and address of the voter proposing the candidate must be given.

### **Representation of members of minorities in representative bodies of local and territorial (regional) self-government units**

596. The Constitutional Act lays down the right of national minorities to representation in representative bodies of local and territorial (regional) self-government units, and the right of members of the Croatian nation to representation in electoral constituencies where the majority of the population are members of national minorities.

597. The election procedure, conducted with the aim of realising this right, is subject to the provisions of the law regulating the elections for members of representative bodies of local and territorial (regional) self-government units, that is to say, the provisions of the Act on Amendments to the Act on the Election of Members of Representative Bodies of Local and Territorial (Regional) Self-Government Units.

598. Article 22, paragraph 1, of the Constitutional Act provides that members of national minorities are also guaranteed representation in the executive body of the local and territorial (regional) self-government units, if they have attained proportional representation in the representative body of that same unit, and paragraph 3 specifies that representation of members of national minorities in the state administration and judicial bodies is ensured in compliance with the provisions of a special law that governs the issues relating to local and territorial (regional) self-government, taking into account their acquired rights.

599. Proportional representation of members of national minorities in the representative body of a unit is regulated by Article 20 of the Constitutional Act, and is acquired by national minorities that participate in the population of the local self-government unit with at least 15 per cent or with more than 5 per cent in the population of the territorial (regional) self-government unit.

**The participation of members of national minorities in public life and management of local affairs through councils and representatives of national minorities, and Councils and representatives of national minorities**

600. In self-government units in the area of which members of an individual national minority participate with at least 1.5 per cent in the total population of the self-government unit, in local self-government units in the area of which more than 200 members of an individual national minority are living, and in territorial (regional) self-government units in the area of which more than 500 members of a national minority are living, members of each of these national minorities may elect the their Council of National Minority. Ten members of a national minority are elected to the Council of National Minority of a municipality, 15 members are elected to the Council of National Minority of a town and 25 members to the Council of National Minority of a county.

601. In cases when at least one of the conditions as per paragraph 1 of this Article for the election of the Council of National Minority has not been fulfilled, and there are at least 100 members of a national minority living in the area of the self-government unit, a minority representative shall be elected for the area of this self-government unit.

602. Candidates for members of the Council of National Minority and candidates for minority representatives may be proposed by associations of national minorities or by at least 20 members of a national minority from the area of a municipality, 30 members from the area of a town and 50 members from the area of a county.

603. Members of a Council of National Minority and minority representatives are elected directly, by secret ballot, for a four-year term, and the election procedure and other issues related to their election is governed, as appropriate, by the provisions of the law regulating the election of members of representative bodies of local self-government units.

604. A Council of National Minority in a self-government unit has the right to:

- Propose to the bodies of the self-government unit the measures for the improvement of the position of a national minority in the state or in an area thereof; submit proposals of general acts governing the issues of significance for a national minority to the bodies which adopt these acts
- Propose candidates for duties in state administrative bodies and bodies of self-government units
- Be informed about each issue which will be discussed by the working bodies of the representative body of the self-government unit, and which pertains to the position of a national minority
- Provide opinions and proposals with regard to the programmes of radio and television stations at the local and regional level intended for national minorities, or programmes which deal with minority issues

#### **Participation in the conduct of public affairs**

605. The provisions of Article 22, paragraph 2, of the Constitutional Act specify that members of national minorities must be ensured representation in the state administration and judicial bodies in compliance with the provisions of a special law, taking into account the share of members of national minorities in the total population at the level at which the state administration or judicial body was established, and the acquired rights. Paragraph 4 of this Article provides that members of national minorities have priority in the filling of these posts, under equal conditions.

606. Pursuant to Article 8 of the State Administration System Act (OG 75/93, 92/96, 48/99, 15/00, 59/01, 199/03), members of national minorities are ensured the right to representation in ministries and state administrative organisations, in proportion to their share in the total population of the Republic of Croatia, and in state administration offices in counties, in proportion to their share in the total population of the territorial (regional) self-government unit.

607. The provisions of Article 42, paragraph 2, of the Civil Servants Act (OG 92/05) prescribe that the civil service admission plan, amongst other things, ascertains the actual status regarding the posts in the civil service filled by members of national minorities, and plans the recruitment of the required number of civil servants who are members of national minorities, to achieve their representation in accordance with the Constitutional Act on the Rights of National Minorities, and the law governing the state administration system.

608. The provisions of Article 56a, paragraph 1 of the Local and Territorial (Regional) Self-government Act provide that members of national minorities who, according to the provisions of Article 20 of the Constitutional Act on the Rights of National Minorities, are entitled to proportional representation in representative bodies of local and territorial (regional) self-government units, are also entitled to representation in the executive and administrative bodies of these units.

609. The local government of a local unit is obliged to adopt a plan of admission to service establishing job vacancy rates of administrative bodies of local and territorial (regional) self-government units and planning the recruitment of the required number of members of national minorities, necessary to achieve the representation of national minorities in administrative bodies of the unit.

610. When filing an application in response to a job announcement for admission to service, members of national minorities are entitled to invoke the rights pertaining to them in accordance with the provisions of the Constitutional Act.

611. By provisions of its Article 74, paragraph 7, the Courts Act regulates that when appointing judges, account must be taken of the representation of national minorities, pursuant to the provisions of Article 22, paragraph 2 of the Constitutional Act, and paragraph 8 of that same article states that, when applying for a vacancy for a judge, members of national minorities are entitled to invoke the rights pertaining to them under the provisions of the Constitutional Act. The relevant provision has also been introduced in the Act on the Amendments to the State Judicial Council Act (OG 150/05), according to which the State Judicial Council is, when making appointments, obliged to take account of the ethnic structure of judges at a particular court.

#### **Article 26**

612. The provisions of Article 26 of the Covenant have been incorporated in Article 14 of the Constitution of the Republic of Croatia, which reads as follows: "Everyone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law."

613. The Courts Act, in Articles 3 and 4, provides that courts are obliged to protect the legal order of the Republic of Croatia as established by the Constitution and laws, and provide for the uniform application of laws and equality of all before the law and that everyone is entitled to have an independent and impartial tribunal established by law decide fairly and within a reasonable time on his or her rights and obligations, or on his or her being suspected or accused of a criminal offence.

614. Article 80 of the State Administration System Act provides that state administration bodies are obliged to enable citizens and legal persons to submit petitions and complaints about their work and the work of their administrative bodies, and any irregular behaviour by employees in those bodies when approached for the realisation of any rights and interests or for carrying out any civic duties.

615. The Constitution guarantees the right to appeal against the first instance decisions made by courts or other authorities. The right to appeal may exceptionally be excluded in cases specified by law, if other legal remedies are ensured. Individual decisions of administrative agencies and other bodies vested with public authority must be grounded on law. Judicial review of decisions made by administrative agencies and other bodies vested with public authority is guaranteed.

616. Article 2 of the Labour Act provides that a person seeking employment or an employee (worker, civil service employee, civil servant or other worker) must not be placed in a less favourable position than other persons on the grounds of race, colour, gender, marital status, family responsibilities, age, language, religion, political or other belief, national or social background, financial status, birth, social status, membership or non-membership in a political party or trade union, and physical or psychological difficulties.

617. The Ministry of the Interior has organised many training activities intended for police officers responsible for handling illegal migration cases and for the border police (seminars, workshops). Education on combating all forms of discrimination is provided to police officers. The training programme for police officers aimed at the fight against hate crimes was presented for the first time at the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance in June 2005 in Cordoba. The legislative framework providing sanctions for discrimination is presented in the text under Article 20 of the Covenant.

618. In 2005, the Government of the Republic of Croatia established the Human Rights Centre. The Decree establishing the Centre provides that its task is to:

- Monitor the state of human rights in Croatia
- Point to the need for further human rights protection
- Provide information and undertake educational activities in the field of human rights protection
- Organise public forums, round table discussions and lectures in the field of human rights protection
- Encourage co-operation among state administration bodies, civil society organisations, international organizations and academic institutions in the field of human rights protection
- Establish and maintain a specialised library in the field of human rights
- Support civil society organisations in the field of the protection of human rights
- Undertake publishing activities
- Undertake other activities aimed at achieving the goal for which the Centre was established, in conformity law

619. The Centre is managed by the Steering Board, which is composed of one representative of each of the following:

- The Ministry of Foreign Affairs and European Integration
- The Office for Human Rights of the Government of the Republic of Croatia

- The Ombudsman's Office
- The Office of the Gender Equality Ombudsperson
- The University of Zagreb
- The Faculty of Philosophy
- The Croatian Helsinki Committee
- Civil society organisations active in the promotion of gender equality
- National minorities

### **Article 27**

620. In the chapter entitled "Historical Foundations", the Constitution of the Republic of Croatia provides that the Republic of Croatia is established as the national state of the Croatian nation and the state of the members of autochthonous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians and Ruthenians and the others who are its nationals, and who are guaranteed equality with citizens of Croatian nationality and the realisation of national rights in accordance with the democratic norms of the United Nations and the countries of the free world.

621. In the Republic of Croatia national minorities enjoy special protection guaranteed by many laws governing the rights of national minorities with the aim of the preservation of their language, cultural and religious identity and ensuring their presence in all spheres of social life.

622. Since the submission of the Initial Report by the Republic of Croatia, the position of national minorities has significantly improved. Specifically, in 2000 and 2002 new laws were passed which are of particular importance for members of national minorities. In 2000, the Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia (OG 52/00, 56/00 - corrigendum) and the Act on Education in the Languages and Scripts of National Minorities (OG 52/00) were passed, and in 2002 the Constitutional Act on the Rights of National Minorities in the Republic of Croatia was passed. The Constitutional Act defines a national minority as a group of Croatian nationals, whose members have been traditionally settled in the territory of the Republic of Croatia, and who have ethnic, linguistic, cultural and/or religious characteristics which are different than those of other citizens, and who are guided by the wish for the preservation of those characteristics. The State ensures the following rights to members of national minorities:

- The use of their language and script, privately and in public use, and in official use
- Education in the language and script which they use
- The use of their signs and symbols

- Cultural autonomy by way of preservation, development and expression of one's own culture and the preservation and protection of one's cultural assets and tradition
- The right to profess one's religion and to establish religious communities together with other members of that religion
- Access to the media and the performance of activities of public information (receiving and disseminating information) in the language and script which they use
- Self-organising and association for the purpose of exercising mutual interests
- Representation in the representative bodies at the state and local level, and in administrative and judicial bodies
- Participation of members of national minorities in the public life and in management of local affairs through the councils and through representatives of national minorities
- Protection from any activity which endangers or may endanger their existence, the exercise of rights and freedoms

### **The use of the languages and scripts of national minorities**

623. The Constitutional Act guarantees the equal official use of the languages and scripts used by members of national minorities in the area of a local self-government unit in which members of a particular national minority comprise at least one third of the population. This right is also exercised when this is envisaged by international agreements which, under the Constitution of the Republic of Croatia, are part of the internal legal system of the Republic of Croatia, and when stipulated by the statute of a local self-government unit or by the statute of a territorial (regional) self-government unit in compliance with the provisions of Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia.

624. The Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia prescribes the conditions and manner of the official use of languages and scripts of national minorities in representative and executive bodies, and in proceedings before state administration bodies acting in the first instance, before first instance judicial authorities, in proceedings conducted by public prosecution offices, notaries public and legal persons vested with public authority.

625. The Act on the Use of the Languages and Scripts of National Minorities and/or statutes of local self-government units have envisaged the measures enabling the preservation of traditional names and markings in the areas traditionally or predominantly settled by members of national minorities, and naming settlements, streets and squares after persons and events of great significance for the history and culture of that particular minority in the Republic of Croatia. Article 10 of that Act provides that municipalities and towns in which the language and script of a national minority are accorded equal official status must have, in lettering of the same size, bilingual or multilingual traffic signs and other written notifications in traffic, street and square

names, and place and geographic site names. According to the statute of a municipality or town in which the language and script of a national minority are accorded equal official status, legal and natural persons engaged in public activity may write their titles bilingually or multilingually.

626. Members of national minorities exercise their right to be issued with public documents in a minority language. The Personal Identity Card Act (OG 11/02, 122/02) provides, in Article 8, for the possibility of issuing identity cards in the language and script of a national minority in cases when this is established by a separate law or an international agreement.

627. According to the data provided by the Ministry of the Interior, in the period from 1 January 2005 to 31 December 2005, personal identity cards were issued in the languages and scripts of the following national minorities:

In the language of the Italian national minority:	2,797 identity cards
In the language of the Serbian national minority:	60 identity cards
In the language of the Hungarian national minority:	7 identity cards
Total	2,864 identity cards

628. Of these, 15 personal identity cards were issued outside of the areas where there is equal official use of the language and script of a particular national minority. In this reporting period, the Ministry of the Interior issued 58 bilingual certificates and attestations in the Italian language on the facts about which the Ministry keeps official records.

### **Education of national minorities**

629. Education of members of national minorities in their own language is realised in pre-school, elementary school and secondary school education.

630. Elementary school education for members of a national minority is organised in educational establishments in which teaching is carried out in the language and script used by this national minority under the conditions and in the manner prescribed by the Act on Education in the Languages and Scripts of National Minorities. It is allowed to found educational establishments where teaching is carried out in the language and script of a national minority. They may provide education to a smaller number of students than that prescribed for educational establishments where teaching is provided in the Croatian language and the Latin script.

631. In the elementary education system, the following models of education for students who are members of national minorities are applied:

Model A - all instruction is carried out in the language and script of the national minority with mandatory learning of the Croatian language. As a rule, this instruction model is implemented in special establishments, but it can also be implemented in standard, Croatian-language establishments in special classes with instruction in the national minority language and script. Instruction under Model A is available to the Italian, Serbian, Hungarian and Czech national minorities.

Model B - instruction is carried out in the Croatian language and in the national minority language and script (what is called “bilingual instruction”). The natural sciences are taught in Croatian, whereas social or national curriculum is covered in the national minority language. This form of instruction is as a rule implemented in Croatian-language establishments but in special classes. Instruction under Model B is available to the Austrian and German national minorities.

Model C - “Fostering Language and Culture” is a special teaching programme implemented as a subject taught five lessons each week with the entire instruction being held in Croatian. The programme encompasses instruction on the language and literature of the national minority, its history, geography, music and arts. Instruction under Model C is available to the Serbian, Slovak, Czech, Hungarian, Ruthenian, Ukrainian and Albanian national minorities.

### **Museums, archives and libraries**

632. Pursuant to the provisions of the Constitution guaranteeing the right to cultural autonomy to members of national minorities, and in accordance with the provisions of the Constitutional Act on the Rights of National Minorities, members of national minorities may, with a view to preserving, developing, promoting and expressing their national and cultural identity, establish associations, foundations, endowments, institutions for the performance of public information activities, and cultural, publishing, museum, archival, library and scientific activities.

633. The legislative framework that deals with activities relating to museums, archives and libraries consists of the Museums Act (OG 142/98), the Archival Material and Archives Act (OG 105/97, 64/00) and Libraries Act (OG 105/97, 5/98, 104/00).

634. National minority associations can organise visits of professional and amateur cultural/artistic groups for their members, as well as arrange other cultural and artistic events and exhibitions which contribute to the enrichment of the culture and identity of national minorities. In such cases, foreign persons who participate in staging events and exhibitions are not obliged to have a work permit.

635. Museums, galleries and collections in the Republic of Croatia collect and process museum material and documentation relating to the culture, life and work of members of national minorities. In performing archival activities, the State Archives in the Republic of Croatia regularly collect, process and keep archival material related to national minorities.

636. For the needs of national minorities, library activities in the Republic of Croatia are carried out by the following central national minority libraries:

- Town Library, Beli Manastir - central library of the Hungarian minority
- Petar Preradović National Library, Bjelovar - central library of the Czech minority
- Ivan Goran Kovačić Town Library, Karlovac - central library of the Slovene minority
- Town and University Library, Osijek - central library of the Austrian minority

- Town Library and Reading Room, Pula - central library of the Italian minority
- Croatian National Library and Reading Room, Našice - central library of the Slovak minority
- Bogdan Ogrizović Library and Reading Room, Zagreb - central library of the Albanian minority
- Libraries of the City of Zagreb - central library of the Ruthenian and Ukrainian minority
- Serbian Cultural Society “Prosvjeta”, Zagreb - central library of the Serbian minority

637. With the adoption of the Constitutional Act on the Rights of National Minorities in December 2002, the rights of national minorities have been considerably improved. The Constitutional Act on the Rights of National Minorities established that national minorities are entitled to representation at the national level and guaranteed 8 seats in the Parliament. National minorities were also enabled to participate in the decision-making process in representative bodies at the local and regional level, through councils and representatives of national minorities. In this way, councils and representatives of national minorities have taken on an important role in promoting and monitoring the exercise of certain rights guaranteed to national minorities. In addition to minority councils and representatives, the Constitutional Act on the Rights of National Minorities has also introduced the Council for National Minorities, a national-level body, composed of representatives of national minorities. Members of the Council are appointed by the Government of the Republic of Croatia for a four-year term and they include: seven members of national minorities from among the ranks of persons proposed by councils of national minorities; five members of national minorities who are distinguished cultural, scientific, expert, religious employees elected from among the persons proposed by minority associations and other minority organisations, religious communities, legal persons and citizens who are members of national minorities. Eight representatives of national minorities in the Croatian Parliament are also members of the Council. The Council was established to facilitate the participation of national minorities in public life of the Republic of Croatia. The Council autonomously renders decisions on the allocation of funds provided from the State Budget for the needs of national minorities.

638. Before 2002, funds for programmes of associations and institutions of national minorities were allocated by the Government of the Republic of Croatia, at the proposal of the Office for National Minorities. Under the Constitutional Act of 2002, decisions on the allocation of funds are rendered by the Council for National Minorities.

639. The funds earmarked for the realisation of programmes aimed at fostering and developing the cultural and national identity of national minorities in the State Budget of the Republic of Croatia are increased from year to year. Funding has been provided for programmes related to information and publishing activities, cultural amateurism, cultural events, and those arising from bilateral agreements and for programmes whose aim is to create prerequisites for the realisation of programmes and, in particular: HRK 17,432,000 in 1999, HRK 19,738,076 in 2000, HRK 18,000,000 in 2001, HRK 19,796,000 in 2002, HRK 20,000,000 in 2003, HRK 22,000,000 in 2004, HRK 24,500,000 in 2005, HRK 29,700,000 in 2006 and HRK 35,000,000 in 2007.

640. With a view to improving, preserving and protecting the position of national minorities in society, members of national minorities have elected councils and representatives of national minorities for the reason of participation in the public life and management of local affairs. A total of 322 councils and 69 representatives of national minorities have been elected. The Central State Office for Public Administration has registered 274 councils of national minorities and, in particular: 13 councils of the Albanian national minority, 24 councils of the Bosniak national minority, 7 councils of the Montenegrin national minority, 13 councils of the Czech national minority, 29 councils of the Hungarian national minority, 4 councils of the Macedonian national minority, 3 councils of the German national minority, 20 councils of the Roma national minority, 4 councils of the Ruthenian national minority, 5 councils of the Slovak national minority, 9 councils of the Slovenian national minority, 119 councils of the Serbian national minority, 20 councils of the Italian national minority and 4 councils of the Ukrainian national minority. The term of office of these bodies is soon coming to an end, and new elections for councils and representatives of national minorities will be held in June 2007.

641. When it comes to the implementation of the Constitutional Act on the Rights of National Minorities in so far as it relates to councils and representatives of national minorities, the Office for National Minorities of the Government of the Republic of Croatia has so far organised, in conjunction with the Council for National Minorities of the Republic of Croatia, 23 seminars for councils and representatives of national minorities and representatives of local and territorial (regional) self-government units, with the aim to increase the efficiency of the inclusion of councils and representatives of national minorities in the decision-making process. All these seminars were also attended by members of the Croatian Parliament representing national minorities. A total of 1,200 persons participated in the work of seminars and workshops. Seminars were financially supported by the OSCE Mission to the Republic of Croatia.

642. It has been made possible for members of national minorities to take part in political life. According to the data about the elected members of representative bodies of local and territorial (regional) self-government units, 369 representatives of national minorities were elected at the local elections held on 15 May 2007 and specifically: 227 Serbs, 73 Italians, 26 Hungarians, 20 Czechs, 10 Slovaks, 6 Bosnians, 3 Roma, 3 Ruthenians and 1 Ukrainian. The term of office of these bodies is soon coming to an end, and new elections for councils and representatives of national minorities will be held in June 2007.

643. The improvement of the rights of national minorities in particular depends on the implementation of the Framework Convention for the Protection of National Minorities, and the Republic of Croatia was among the first countries to ratify it. The second report on the implementation of this Convention was submitted to the Secretary General of the Council of Europe in March 2004. A reply on the Opinion by the Advisory Committee of the Council of Europe was also provided. To enable members of all national minorities to participate in discussions about the implementation of this international treaty for the improvement of the rights of national minorities, three seminars have been organised so far on the implementation of the Framework Convention for the Protection of National Minorities, in co-operation with the Council of Europe. Seminars were organised in 2004 in Dubrovnik, in 2005 in Split and in 2006 in Peroj. The unanimous conclusion of participants in these seminars was that major improvements had been made with regard to the realisation of the rights of national minorities and praise was expressed for the measures and support offered by the Government of the Republic of Croatia in the realisation of rights of national minorities. Also, examples were given

of successful life together, mutual understanding and joint activities of members of different entities, and of support provided by local and regional government bodies, which all leads to achieving a high level of protection of rights of national minorities.

644. In 2003, the Government of the Republic of Croatia adopted the National Programme for the Roma with the aim of facilitating the exercise by Roma people of the rights guaranteed by the Constitution and the legal system of the Republic of Croatia, and removing all the forms of discrimination. The intention of the National Programme for the Roma is to help the Roma in a systematic manner to improve the life conditions, and to ensure the equality between members of the Roma national minority and other citizens of the Republic of Croatia. This Programme highlights the basic problems facing the Roma national minority and contains a number of short-term and long-term measures in the field of employment, education, health, social welfare, housing and the resolution of status-related issues; these measures are intended to contribute to the elimination of the problems mentioned and to a successful integration of the Roma in society.

645. The National Programme for the Roma includes the following measures: the inclusion of the Roma in social and political life, the preservation of the traditional culture of the Roma, the promotion of information and publishing activities, the promotion of Romany culture and creativity through the media, the resolution of status-related issues affecting Roma people (nationality), the prevention of discrimination (free legal aid), upbringing and education, mandatory pre-school programmes for Roma children, inclusion of Roma children in kindergartens, special measures to encourage the inclusion of Roma children in the educational system, increasing the number of Roma people attending high schools and universities, health care (special measures for health education for the Roma), vaccination of Roma children, improving conditions for the work of health visitors, fight against alcoholism, smoking and other addictions, monitoring the realisation of the right to health care, employment (special measure to enhance the employment and self-employment of the Roma, improve disabled people's quality of life, the protection of Roma families, especially children, the provision of humanitarian assistance), and town and country planning (legalisation and development of Roma settlements). The Government of the Republic of Croatia has established the Commission for Monitoring the Implementation of the National Programme for the Roma, chaired by the Deputy Prime Minister of the Government of the Republic of Croatia. As well as representatives of ministries and other state bodies, eight members of the Roma national minority have also been appointed to this Commission.

646. In 2005, the Government of the Republic of Croatia adopted the Action Plan for the Decade of Roma Inclusion 2005-2015. The measures proposed by the Action Plan will help eliminate the discrimination of the Roma national minority and eradicate their poverty. As part of the measures to be implemented during the Decade, living conditions of Roma people will be improved through the following: the development of settlements (connecting the utilities - water, electricity, sewage, the construction of access roads), the provision of free pre-school education, ensuring better access to the entire educational system, the improvement of health care, especially for women and children, and increasing employment opportunities. The Working Group for Monitoring the Action Plan for the Decade of Roma Inclusion 2005-2015 was established, and members of this Working Group, along with representatives of the competent authorities, are also four representatives of Roma people.

647. In the field of education, greater attention has been directed towards increasing the coverage of Roma children by pre-school education programmes, which is a prerequisite for the inclusion of Roma children into the regular educational system. In the field of health, activities have been undertaken, aimed at implementing some of the measures planned, in line with the earmarked funds. In the field of housing, studies of spatial development and characteristics of sites inhabited by Roma have been completed, and the work on county programmes and measures for site improvement and ensuring better living conditions is approaching completion. In the field of employment, the process of including Roma people in employment programmes has begun.

648. The Action Plan for the Decade of Roma Inclusion 2005-2015 was printed in the form of a separate booklet and sent to all ministries and other government bodies, municipalities, towns and counties where Roma people live, and also to all councils and representatives of the Roma national minority, and to all Roma associations in the Republic of Croatia, which were invited to be actively engaged in the implementation of its measures. A systematic monitoring of the implementation of the Action Plan has been organised, in collaboration with Roma representatives.

649. In compliance with the measures from the National Programme for the Roma, in 2004, 2005 and 2006 nine training seminars were organised for young Roma men and women and, in particular, on the following subjects: the implementation of the National Programme and the Action Plan for the Decade of Roma Inclusion, the provision of assistance for NGO management and project development, the participation in the decision-making process in the local and wider community, the exercise of the rights guaranteed to Roma people by the Constitution and the legal system of the Republic of Croatia, greater involvement of the Roma in social life, the promotion of Romany culture, rights and customs through the media, with a view to creating a positive image of Roma people, encouraging co-operation between various Roma associations and the acquisition of the principal oratorical skills.

650. As a result of the co-operation between state administration bodies (the Ministry of the Interior, the Ministry of Health and Social Welfare) and representatives of umbrella organisations of the Roma minority, the Office for National minorities prepared and printed the brochure entitled "My Rights" in the Croatian and the Romany language. The brochure, written in the popular style, contains the information on how the Roma national minority can exercise their rights in three important fields: status-related issues, health insurance and social welfare. The "My Rights" brochure was printed in 800 copies in the Croatian language and 800 copies in the Romany language, and it was distributed free of charge to all Roma associations registered in the Republic of Croatia.

651. From 16 to 18 December 2005, a two-day workshop was held in Opatija for journalists and editors, organised by the International Centre for Education of Journalists and the Office for National Minorities, on the subject of the affirmation of Roma people through the media. The purpose of the seminar/workshop was to raise awareness of journalists and editors of the need to cover topics and events related to members of national minorities, particularly, Roma. In this way, emphasis was given to the need for dispelling the stereotypes and prejudices towards national minorities and, in particular, towards the Roma.

652. The general belief is that a breakthrough has been achieved in the improvement of the living conditions of Roma people: conditions have been created for the development of some of the Roma settlements, whereas for the remaining settlements preparations are in progress, measures have been undertaken to solve status-related issues facing the Roma and to improve their health and social protection. Free legal aid was introduced to assist Roma in solving their status-related issues. Efforts have been made to improve Roma education, from pre-school education to university education, and to organise adult education. At the elections for councils and representatives of national minorities, 20 councils and seven representatives of the Roma national minority were elected, so now more than four hundred Roma are included in the decision-making process.

653. With a view to systematically monitoring the developments regarding the implementation of the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion, a web page for the Roma was launched, which was presented by the Deputy Prime Minister of the Government of the Republic of Croatia and the Chair of the Commission for Monitoring the Implementation of the National Programme for the Roma Mrs Jadranka Kosor. With the launching of this web page, the flow of information between state administration bodies and the Roma national minority was enhanced.

654. Each year the Government of the Republic of Croatia provides more funds for the implementation of the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion. In the 2006 State Budget about HRK 12,000,000 were provided for this purpose, which represented a 430 per cent increase in comparison with the previous year.

655. To improve the living conditions of the Roma national minority, the Office for National Minorities has proposed the Roma Support Project. This Project is planned to finance infrastructure development of Roma settlements in Međumurje County (the construction of roads, sewage, and water and electricity supply systems) and education programmes aimed at speeding up the integration of Roma children in the educational system of the Republic of Croatia. The Project will be financed from the European Commission PHARE programme. The European Commission has earmarked EUR 1,467,000 for this Project (the education and infrastructure components), whereas 30 percent matching funds will be contributed from the State Budget of the Republic of Croatia. The funds of the PHARE 2005 programme will be used for the complete restructuring of Parag I and Parag II settlements in the Municipality of Nedelišće in Međumurje County.

656. As part of the PHARE 2006 programme, funding will continue to be provided for a multi-year Roma Support Project in the amount of EUR 2,500,000, with 30 per cent matching funds being provided from the State Budget of the Republic of Croatia. The infrastructure development activities will cover three Roma settlements in Međumurje County.

657. With a view to improving the rights of national minorities, the Republic of Croatia has signed bilateral agreements with the neighbouring countries and, in particular: in 1995 it signed the Agreement on the Protection of the Hungarian Minority in the Republic of Croatia and the Croatian Minority in the Republic of Hungary, in 1996 it signed the Agreement on the Protection of Minorities with the Italian Republic, and on 15 October 2004 the Agreement Between the Republic of Croatia and Serbia and Montenegro on the Protection of the Serbian and Montenegrin Minority in the Republic of Croatia and the Croatian Minority in Serbia and

Montenegro. The Government of the Republic of Croatia appointed the members of the Inter-governmental Mixed Committee for the Implementation of the Agreement on the Protection of the Hungarian Minority in the Republic of Croatia and the Croatian Minority in the Republic of Hungary. Appointments have also been made to the Inter-governmental Mixed Committee for the Implementation of the Agreement between the Republic of Croatia and Serbia and Montenegro on the Protection of Minorities. Members of national minorities also have their representatives in these mixed committees. The tasks of inter-governmental mixed committees are to discuss the implementation of these Agreements, and provide their governments with guidelines relating to the implementation of the Agreements. Preparations are currently underway for the signing of a bilateral agreement with the Republic of Macedonia, which will guarantee special protection to the Macedonian national minority in the Republic of Croatia and the Croatian national minority in the Republic of Macedonia.

658. From everything outlined in this Report, it can be concluded that considerable progress has been achieved in the realisation and protection of human rights in all segments of society.

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