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The progress of the Assembly's monitoring procedure (October 2014-August 2015)

Periodic review report of countries not under the monitoring procedure sensu stricto or engaged in a post-monitoring dialogue:

Croatia

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe
(Monitoring Committee)

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1. See also [Doc. 13868 Part 1](#), [Part 2](#), [Part 3](#) and [Part 5](#).



Explanatory memorandum by Mr Schennach, rapporteur

1. Introduction

1. Croatia, which has 4.4 million inhabitants, has been a member of the Council of Europe since 6 November 1996. It was subject to the monitoring procedure until 2000. In 2003, in the light of the progress made, the Bureau of the Assembly, on the proposal of the Chairperson of the Monitoring Committee, decided to close the post-monitoring dialogue, which notably addressed the enforcement of all court judgments, the rights of minorities, freedom of expression, full and non-discriminatory implementation, at both central and local level, of laws regarding access to reconstruction assistance, repossession of property to encourage sustainable return and improve inter-ethnic reconciliation, prompt and flexible implementation of the citizenship law, transparent application of the amnesty law and impartial prosecution of war crimes, and the need to ensure that international financial assistance was granted for Croatia to carry the economic burden of reconstruction and sustainable development in the areas of return.²

2. Croatia is a parliamentary, unicameral democracy. The Croatian parliament (*Sabor*) has 151 members who are elected for a four-term mandate through proportional representation conducted in 10 geographical constituencies electing 14 parliamentarians each. In addition, there is one constituency for national minorities (eight seats are reserved for ethnic minorities)³ and one for the diaspora.

3. The last parliamentary elections were held in 2011, with a turnout of 54.32%. The Social Democratic Party-led KUKURIKU coalition (that comprised the SDP, the Croatian People's Party (HNS), the Croatian Pensioners' Party (HSU) and the Istrian Democratic Assembly (IDS)) won 80 seats. The coalition led by the Croatian Democratic Union (HDZ), comprising the HDZ, the Democratic Centre (DC) and the Croatian Civic Party (HGS) obtained 47 seats. The remainder went to small parties. Eight members representing ethnic minorities announced that they would back the KUKURIKU coalition.⁴ Women represent 25% of all parliamentarians. The next parliamentary elections should be held in 2016.

4. On 11 January 2015, Ms Kolinda Grabar-Kitarović, from the Croatian Democratic Union (HDZ), was the first woman to be elected President of the Republic, with a narrow margin: she collected 50.74% of the votes, while Mr Ivo Josipović from the Social-democratic party SDP obtained 49.26% (with a turnout of 59.05%). Ms Grabar-Kitarović won about 32 000 more votes, in particular those of the diaspora in Bosnia and Herzegovina, where she won 33 737 votes, and Mr Josipović only 3 391 votes.

5. The country is now experiencing political "cohabitation", with a right-wing President and a left-wing government, which has given rise to political tensions⁵, in particular with regard to the current economic situation and policies to be followed. The President said that the Prime Minister should resign. She also evoked possible early elections should the government fail to propose remedies to the difficult economic situation. On 27 February 2015, as a result of the deteriorating economic indicators, the European Commission decided to activate the Excessive Imbalance Procedures⁶ and submit Croatia to a strict monitoring procedure in this regard.

6. In the referendum organised on 22 January 2012, 66.27% of the voters voted in favour of European Union accession. On 1 July 2013, Croatia became the first country of south-east Europe to become a member of the European Union. At the same time, Croatia is still working on a regional reconciliation process, where past wounds often resurface: in her victory speech, President Grabar-Kitarović said that she would fight to improve the rights of minorities in Croatia and seek "the same approach for Croats" in the region⁷ and that she would work towards the resolution of open issues with neighbours, whom she called upon to do the same.⁸

2. See [Resolution 1223 \(2000\)](#) on honouring of obligations and commitments by Croatia.

3. The distribution of these seats is as follows: Serbian minority 3; Czech and Slovak minorities 1; Italian minority 1; Hungarian minority 1; Austrian, Bulgarian, German, Polish, Roma, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Vallachian and Jewish minorities: 1; Albanian, Bosnian, Montenegro, Macedonian and Slovenian minorities: 1.

4. www.ipu.org/parline-e/reports/2077_E.htm.

5. On 23 February 2015, the President, Ms Kolinda Grabar-Kitarović, demanded the resignation of the Prime Minister, Zoran Milanović, while the authorities were to discuss how to address the economic problems of the country. On 25 February 2015, further to an electoral commitment, Ms Grabar-Kitarović sent the law on seizure of assets to the Constitutional Court, claiming some of its provisions were unconstitutional as they do not help debtors stay in their homes.

6. Excessive imbalances, which require specific monitoring and decisive policy action, concern France, Croatia, Italy, Bulgaria and Portugal. See http://ec.europa.eu/economy_finance/economic_governance/macroeconomic_imbalance_procedure/index_en.htm.

7. In this respect, Ms Grabar-Kitarović's reference to Voivoina separate from Serbia sparked some controversy.

Her visit to Bosnia and Herzegovina on 3 March 2015 was also followed with attention, as the President had taken position both in favour of Bosnia and Herzegovina's EU aspirations, and the creation of a separate Croat entity.

7. This periodic report was drafted in line with [Resolution 2018 \(2014\)](#) and the explanatory memorandum approved by the committee on 17 March 2015.⁹ It was discussed at committee level on 17 March 2015 and 3 September 2015, taking into account the comments presented by the Croatian delegation, whom I warmly thank for its valuable contribution, presented jointly by committee members Mr Gvozden Srećko Flego, Head of the delegation (for the majority) and Mr Frano Matusić (for the opposition).¹⁰ This report will review the challenges faced by Croatia in the field of rule of law, democracy and human rights, based, *inter alia*, on the most recent findings of the Council of Europe monitoring mechanisms, on the reports of the Parliamentary Assembly and the Commissioner for Human Rights and, when relevant, on the reports prepared by other international instances and representatives of civil society and NGOs. Considering the recent history of Croatia, and the consequences of the 1991-1995 war which still influence domestic politics, I have decided to include, under the rule of law section, a particular section on transitional justice.

2. Rule of law

2.1. Transitional justice: recent developments and remaining challenges

8. Contemporary history is still marked by the legacy of the past and the aftermath of the Yugoslav conflict that affected Croatia from 1991 to 1995. Post-war justice continues to be an issue at domestic level. The temporary release, on 12 November 2014, on health grounds, of Mr Šešelj, a Serb Radical party leader, accused of war crimes and crimes against humanity during the Yugoslav war by the International Criminal Tribunal (ICTY), and his inflammatory remarks after his release sparked many reactions in the region, including in Croatia.¹¹ On 26 February 2015, the ICTY refused to release, on the same ground, Goran Hadžić, President of the self-proclaimed "Serbian Autonomous District of Slavonia, Baranja and Western Srem" and subsequently President of the self-proclaimed "Republic of Serbian Krajina". He is facing 14 counts of war crimes and crimes against humanity over his alleged involvement in the forced removal and murder of thousands of civilians from Croatia between 1991 and 1993. On 30 March 2015, the ICTY appellate judges ruled that Mr Šešelj had violated the terms of his release and ordered him to return to ICTY custody, which he has so far failed to do.

9. In its judgment of 3 February 2015,¹² the International Court of Justice (ICJ) rejected the claims of genocide lodged by both Croatia and Serbia¹³ while recognising that atrocities had been committed by both sides.

10. Concerning the handling of post-war cases at domestic level, as recalled by the Assembly in 2013,¹⁴ there are still a number of noteworthy judgments of the European Court of Human Rights concerning the lack of effective and independent investigation into crimes committed during the 1991-1995 war.¹⁵ This was confirmed in a number of cases, the execution of which are under the supervision of the Committee of

8. The issue of disappeared persons during the 1990s was raised during the electoral campaign. See www.euractiv.rs/english/8254-serbia-croatia-relations-not-to-decline.

9. Document AS/Mon (2015) 12.

10. Document AS/Mon (2015) 24.

11. Mr Šešelj returned to Belgrade after eleven and a half years of detention pronounced by The Hague Tribunal. In addition to his inflammatory rhetoric, his anti-EU messages prompted the European Parliament to adopt a [resolution](#) on 27 November 2014. The Hague prosecutor requested, unsuccessfully, the United Nations court to revoke his temporary release. On 30 March 2015, the Chamber of Appeals of the ICTY revoked the temporary release of Vojislav Šešelj, ordering his immediate return to custody in The Hague, as he was found to have eroded the essential preconditions for provisional release. See www.icty.org/x/cases/seselj/acdec/en/150330.pdf.

12. [Judgment of the International Court of Justice](#) of 3 February 2015, No. 118, Case concerning application of the Convention on the prevention and punishment of the crime of genocide (Croatia vs. Serbia).

13. The ICJ recalled that Croatia contended in 1999 that Serbia was responsible for breaches of the Genocide Convention committed in Croatia between 1991 and 1995. Serbia lodged a counter-claim in 2010 contending that Croatia was responsible for breaches of the Convention committed in 1995 in the "Republika Srpska Krajina", an entity established in late 1990.

14. [Resolution 1953 \(2013\)](#), The progress of the Assembly's monitoring procedure (June 2012 – September 2013).

15. A coalition of NGOs noted that the number of unprosecuted war crimes is still high: out of 490 registered cases, only 115 have been prosecuted with final judgments passed. The number of applications filed by family members of the victims injured/killed during the war has significantly increased after judgments were passed by the European Court of Human Rights ordering Croatia to pay just satisfaction to the applicants due to the omission to conduct adequate investigations of

Ministers of the Council of Europe. I would like to recall three cases recently handled down, and which required general measures to be taken, as mentioned by the Committee of Ministers, which is supervising the execution of these leading cases.

10.1. Recently, on 12 June 2014, the European Court of Human Rights ruled, in the case *Jelić v. Croatia*,¹⁶ that Article 2 of the Convention had been violated by Croatia in the absence of adequate investigation into the death of a Croatian of Serbian origin, who had been arrested during the war in Croatia in November 1991 in the Sisak area and was subsequently killed by the Croatian police. The *Jelić v. Croatia* case was considered as a repetitive case which was placed under enhanced supervision, in relation to the *Skendzic and Krznaric v. Croatia* leading case,¹⁷ for which Croatia was requested to take general measures:

- in September 2014, the Committee of Ministers noted with interest the amendments introduced in the Criminal Procedural Code to ensure that investigations into war crimes are concluded expeditiously;
- it expected further information on the content of the draft legislative amendments aimed at ensuring the independence of investigations into war crimes and a calendar for their adoption;
- in view of the large number of pending investigations into war crimes at domestic level and of the risk of new applications being brought before the Court, the Committee of Ministers also urged the Croatian authorities to intensify their efforts with a view to accelerating progress on and completion of these investigations, in accordance with the relevant Convention standards;¹⁸

10.2. In 2014, the European Court of Human Rights communicated to the government 27 cases submitted by applicants, alleging violations of the right to life due to the failure of the State to carry out effective investigations into the killing or disappearance of their relatives.¹⁹ At the same time, I note that the Court declared, in a number of cases, that there had been no violation of Article 2.²⁰

10.3. On 27 May 2014, the Court ruled on the case *Marguš v. Croatia*, where Mr Marguš, who had benefited from the 1997 General Amnesty Act, complained about being brought before a court twice for the same charges. The Court based its reasoning on a wide range of international sources emanating from several international conventions, bodies and courts, including the International Criminal Court and the Inter-American Court of Human Rights.²¹ The Court observed that, according to its well-established case law, granting amnesty in respect of the killing and ill-treatment of civilians would run contrary to the State's obligations under Articles 2 and 3 since it would hamper the investigation of such acts and lead to impunity for those responsible, in breach of the protections guaranteed by these articles of the Convention.²² The Court therefore considered that Croatia's fresh indictment against Mr Marguš and his conviction for war crimes against the civilian population were in compliance with the requirements of Articles 2 and 3 of the Convention. The Court unanimously declared that there was no violation of Article 6 of the Convention (right to a fair trial) nor of Article 4 of Protocol No. 7 to the Convention, as regards Mr Marguš' right not to be tried or punished twice in respect of the charges dropped by the prosecutor in January 1996.²³

10.4. In March 2014, the Croat Army Officer Božo Bačelić became the first person to be convicted in national courts for war crimes committed during Operation Storm in 1995. In November 2014, an indictment was issued against a former member of the Croatian armed forces for crimes committed

the crimes (right to life, prohibition of torture). [Joint contribution](#) of a coalition of Croatian NGOs (headed by the Human Rights House Zagreb) to the 22nd session of the Universal Periodic Review (UPR) for the Republic of Croatia (September 2014), sent in March 2015, p. 15 [hereafter: "Joint contribution of NGOs"].

16. Application No. 57856/11, [final judgment](#) of 13 October 2014. A detailed analysis of this case was proposed by the Court in its [2014 Annual Report](#), pp. 94-96.

17. *Skendzic and Krznaric v. Croatia* (Application No. 16212/08).

18. [Decision](#) adopted by the Ministers' Deputies at their 1208th meeting (23-25 September 2014).

19. Amnesty International 2014/2015.

20. In its decisions *Nikolić v. Croatia* (Application No. 5096/12) of 25 January 2015, and *Meleusnić and Mileusnić-Espenheim v. Croatia* (Application No. 66953/09) of 19 February 2015, the Court concluded that there was no violation of Article 2. The Court declared that, in relation with Article 2 of the Convention, cases *Orić v. Croatia* (Application No. 50203/12) of 13 May 2014, and *Bekić and Others v. Croatia* (Application No. 67499/12) of 30 September 2014, were inadmissible (as these applications had been lodged out of time and had to be rejected in accordance with Article 35 paragraphs 1 and 4 of the Convention).

21. European Court of Human Rights [2014 Annual Report](#), p. 123.

22. *Ibid.*, p. 124.

23. For further details on the issue of general amnesty and compliance with international treaties, see: <http://justsecurity.org/11112/ecthr-double-jeopardy/>.

during the same operation. Two further trials relating to war crimes committed during Operation Storm were still ongoing at the end of 2014, Amnesty International noted that in total eight members of Croatian military formations and 15 members of Serb formations stood trial for war crimes during the course of 2014.²⁴

11. However, Croatia needs to further address the issue of post-war justice. The European Court of Human Rights noted that Croatia had opened investigations into 3 436 alleged perpetrators of war crimes²⁵ against a background of 13 749 reported victims of war. The Court, in its 2014 Annual Report, stressed the Convention responsibilities of the authorities in a post-conflict/post-ratification context. “Whilst allowance may be made for the difficulties which confront new Contracting States emerging from conflict in establishing their capacity to create effective and independent investigative mechanisms and in dealing with numerous war-crimes, such difficulties cannot of themselves relieve the authorities of their procedural obligations under Article 2”, said the Court.²⁶

12. Croatia suffered destruction and loss of human lives during the war, and the issue of reparation remains open. The ruling of the Municipal Court in Knin on 23 January 2013, ordering the Croatian State to pay compensation to the children of Serb victims killed in the village of Varivode after Operation “Storm”, regardless of the fact that the perpetrators were unknown, is a positive step: for the first time it addressed a long-standing grievance relevant for other, similar, cases. This verdict could pave the way for a more systematic approach to the issue of compensation for the civilian victims of war crimes.²⁷ However, Amnesty International pointed out that Croatia continued to stall on the adoption of a comprehensive legislative framework that would regulate the status of, and access to reparation for all civilian victims of war. It noted though that in March 2014, the Ministry of Veterans’ Affairs presented a draft Act on the Rights of Victims of Sexual Violence in the Homeland War, which would grant victims access to psychosocial and medical support, free legal aid and monetary compensation.²⁸ The law adopted on 29 May 2015 stipulates, that “(1) the beneficiary may be entitled to a one-time pecuniary compensation in the amount of 100 000 Croatian Kunas (HRK) or 150 000 HRK²⁹ of increased pecuniary compensation. (2) In addition to the one-time pecuniary compensation or increased pecuniary compensation ..., the beneficiary may also be entitled to a monthly pecuniary compensation”.³⁰

2.2. Fight against corruption and money-laundering

13. The perception of corruption in the country remains high. In the wake of the aspiration to become an EU member, Croatia has undertaken significant steps to take action. In the 2014 Transparency International corruption perceptions index, Croatia ranks 61 out of 175 countries³¹, with a score of 48. Recent history has been marked by the arrest and conviction of leading political figures, among them the former Prime Minister, Ivo Sanader (former member of the HDZ), who was sentenced to eight and a half years in prison in June 2014 by the Supreme Court of Croatia, and the Mayor of the City of Zagreb, Mr Milan Bandić (former member of the SDP), who was arrested in October 2014 for alleged political corruption.³²

14. In June 2014, GRECO published its fourth evaluation round report on “corruption prevention in respect of members of parliament, judges and prosecutors”³³. GRECO first underlined the significant efforts made by the then EU candidate country Croatia to adapt and step up its legislative and institutional frameworks to meet those of its EU counterparts, while noting that it was now time to effectively embed them in working practices and culture. It stressed however that Croatian citizens’ trust in their key institutions remains low. This negative perception is particularly troublesome with respect to the judiciary (see below) and politicians.

24. Amnesty International 2014/2015.

25. In 2015, this figure was 3 599, according to the database of the State Attorney’s Office of the Republic of Croatia. AS/Mon (2015) 24.

26. European Court of Human Rights 2014 Annual Report, p. 96.

27. http://ec.europa.eu/commission_2010-2014/fule/docs/news/20130326_report_final.pdf.

28. Amnesty International 2014/2015.

29. This amounts respectively to €13 200 € and €19 800 in June 2015.

30. Comments by Ms Mulić, AS/Mon (2015) 24.

31. <https://www.transparency.org/cpi2014/results>. In 2014, Croatia (48) scored better than Italy (43), Montenegro (42), Serbia (41) and Bosnia and Herzegovina (39), while Slovenia had a score of 58, and Hungary 54.

32. www.transparency.hr/en/article/the-arrest-on-suspicion-of-political-corruption/169.

33. *Greco Eval IV Rep (2013) 7E*, Fourth round evaluation report on Croatia adopted by GRECO at its 64th Plenary Meeting, Strasbourg, 16-20 June 2014, published on 25 June 2014.

15. While acknowledging the measures taken to enhance the transparency of the work of the parliamentarians and public participation in the legislative process, GRECO recommended developing a culture of prevention and avoidance of possible conflicts of interest by adopting a code of ethics and internal mechanisms for self-control and responsibility, paying special attention to integrity matters that may emerge when MPs are at the same time mayor and assume dual functions. Safeguarding an ethical culture in parliament is crucial for winning citizens' trust in the institution and ensuring full adherence to the concepts of political accountability and zero tolerance of corruption. It encouraged the parliament to step up its own capacity to address real and potential conflicts of interests, set up a credible supervision and enforcement mechanism and sanction those who fall short of acceptable standards of ethical conduct. It also recommended reassessing the technical and personnel resources of the Commission for the Prevention of Conflicts of Interest, which should display a more proactive approach in its preventive role with Members of Parliament.

16. I was informed that the Croatian Parliament had discussed the GRECO report. Subsequently, it initiated the drafting of a code of ethics for MPs and proposed measures at local level.³⁴ The parliament adopted on 27 February 2015 a national Anti-Corruption Strategy for the period 2015-2020. An Action Plan is being drafted, in particular to prevent and neutralise corruption risks. The National Council for Monitoring the implementation of the Anti-Corruption Strategy acknowledged that there was still room for improvement of the legislation, despite the adoption of "high legal standards of financial oversight for political parties, prevention of conflict of interest and a new strategy". While this Council considered that the prosecution system was satisfactory, it noted that preventive measures were less satisfactory, since occasional scandals indicate insufficient implementation of principles.³⁵

17. In its last report published in January 2014³⁶, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) called on Croatia to improve measures to effectively repress money laundering, for example by increasing the number of convictions and of confiscation measures. The anti-money laundering and anti-terrorist financing legislation mostly complies with international and European standards. The Penal Code includes an independent, autonomous offence of terrorist financing in line with international standards. The Anti-Money Laundering Office (AMLO) has sufficient structural and operational independence, and adequate resources to effectively prevent and detect money laundering and terrorist financing. Croatia has a well-established legal framework for international mutual legal assistance and co-operation.

18. MONEYVAL suggested some improvements in certain areas however. The report highlighted that most money laundering is considered to be of domestic origin. The main criminal offences which are the primary sources of money laundering are crimes such as abuse of power and authority, tax evasion, and abuse of drugs. The low number of convictions raises concerns about the overall effectiveness of money laundering criminalisation, given the level of proceeds-generating offences in Croatia (so far, no cases have been prosecuted in respect of third parties laundering on behalf of others). The complex legal framework applicable to confiscation and provisional measures should be harmonised. The level of confiscation is low. The authorities should place greater emphasis on identifying property that may become subject to confiscation in major proceeds-generating cases. Measures to establish that persons controlling and managing financial institutions are fit and proper should be extended further to guard against all possibilities of criminal infiltration. MONEYVAL will continue to monitor implementation of its recommendations by Croatia, which should submit a follow-up report by September 2015.

19. In the meantime, the authorities are preparing an Action Plan to prevent money laundering and financing of terrorism.³⁷ Money laundering remains a serious issue; I was informed that parliamentarians expect a higher level of co-operation with other countries, especially those which are in the process of lifting bank secrecy. Parliamentarians also expect better transparency of such data.³⁸

34. Comments made by the parliamentary Committee on justice, AS/Mon (2015) 24.

35. Ibid.

36. See [MONEYVAL\(2013\)15](#) and Annex [MONEYVAL\(2013\)15ANN](#).

37. This action plan should enhance administrative and technical capacities of financial intelligence unit, bodies of criminal prosecution and authorise prosecutors as well as keeping statistics on temporarily and permanently confiscated proceeds of crime (AS/Mon (2015) 24).

38. Comments made by the parliamentary Committee on justice, AS/Mon (2015) 24

2.3. Independence of the judiciary

20. Croatia has made important progress in securing the independence of the judiciary. These reforms were boosted by the EU accession procedure, and progress was acknowledged by the European Commission when Croatia completed the accession negotiations.³⁹ Independence of the judiciary is, overall, satisfactory, as is the functioning of the justice system. There are only a few cases where the European Court of Human rights found a breach of Article 6 of the Convention (right to a fair trial) (see below). The resolution of the extensive backlog of cases remains however an important challenge, particularly given that the economic crisis has triggered an increase in their number (for example bankruptcy proceedings). The authorities have undertaken to reduce the backlog by reorganising the networks of courts and State attorney offices. The new judicial network will enter into force before the end of 2015.

21. In its 2014 report, GRECO highlighted the public mistrust in the judiciary, although there is no evidence of structural corruption in the system. It considered that the credibility gap in the judicial system must be addressed as a matter of priority, including by making the public aware of the tangible reforms introduced to strengthen its independence and efficiency. The available mechanisms to preserve the independence of the judiciary, not only in law but also in practice, when confronted with political, non-evidence based defamation instances, could also be stepped up. There is still room for improvement of the relevant counselling and accountability mechanisms of judges and prosecutors to prevent corruption risks and to dispel shadows of doubt on the integrity and transparency of the judiciary. Such mechanisms would make unethical behaviour better to prevent, harder to commit and easier to detect and could ultimately recast public confidence in justice.⁴⁰

22. GRECO made some concrete recommendations to the Croatian authorities, notably to review the procedures of selection, appointment and mandate renewal of the President of the Supreme Court and of the Public Prosecutor General in order to increase their transparency and minimise risks of improper political influence, to adopt further measures to develop guidance and counselling for prosecutors on observing ethical principles in concrete situations, and for judges on ethics and the prevention of conflicts of interest. The authorities were also invited to continue in their endeavours to strengthen the scrutiny of financial declarations and develop a communication policy for the justice system, including general standards and rules of conduct on how to communicate with the press with the aim of enhancing transparency and accountability.⁴¹

2.4. Judgments of the European Court of Human Rights

23. Of a total of 69 900 applications pending before a judicial formation on 31 December 2014, 549 concerned Croatia. There were two resolutions adopted by the Committee of Ministers in 2013 and eight in 2014, and no Interim resolutions. The Court dealt with 1 524 applications concerning Croatia in 2014, of which 1 491 were declared inadmissible or struck out. It delivered 27 judgments (concerning 33 applications), 23 of which found at least one violation of the European Convention on Human Rights,⁴² which mostly concerned the right to a fair trial (8 violations) and the right to respect for private and family life (6).⁴³

24. During her recent visit to Croatia from 18 to 20 February 2015, Assembly President Anne Brasseur was informed that the Croatian delegation to the Assembly organised annual exchanges of views on the case law of the European Court of Human Rights with the participation of the competent committee chairs, the Minister of Justice, the Chief Justices of the Supreme and Constitutional Courts as well as the government agent to the Court, which should be seen as a positive step to ensure parliamentary oversight of the execution of the judgments of the European Court of Human Rights.⁴⁴ Although only 0.0078% of the applications to the Court concern Croatia, the parliamentary Committee on justice was concerned about the fact that national courts are unwilling to use Court practice and judgments, that there is an increase of new applications and a high number of inadmissible applications, which shows insufficient knowledge of the system and mistrust of State institutions.⁴⁵

39. COM(2013) 171 final, 26 March 2013, Communication of the European Commission to the European Parliament and the Council, Monitoring Report on Croatia's accession preparations.

40. Greco Eval IV Rep(2013)7E, press release.

41. Greco Eval IV Rep(2013)7E. In their comments, the parliamentary Committee on justice indicated that all these requirements have been fulfilled. See AS/Mon (2015) 24.

42. Extract of Press country profile Croatia, January 2015.

43. European Court of Human Rights 2014 Annual Report, p. 174.

44. <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5438&lang=2&cat=15>.

45. AS/Mon (2015) 24.

3. Human rights

3.1. Refugees and internally displaced persons (IDPs) in the regional context

25. In 2014, there were still 49 056 refugees from Croatia registered in the region, almost all ethnic Serbs.⁴⁶ On 4 April 2014, the Office of the United Nations High Commissioner for Refugees (UNHCR) underlined that the circumstances that triggered displacement have fundamentally changed: regional co-operation has intensified, voluntary returns have taken place, different ethnic groups have proven able to peacefully co-exist and economic and political progress is increasingly visible. Therefore it recommended implementing, from 2015, the “cessation clause” contained in the 1951 Refugee Convention, all States hosting refugees from Croatia having the option to extend it until the end of 2017 based on their own assessment of the situation in the country of origin.⁴⁷ In practice, displaced persons of Croatian origin will no longer be considered as refugees.

26. At regional level, the integration of refugees and IDPs in their host country, or their voluntary return to their country of origin are guiding principles. The return of Serb refugees remains difficult due to socio-economic constraints⁴⁸. However, Croatia’s active participation in the “Sarajevo Process on Refugees and Displaced Persons” launched in 2005 should be commended. In April 2012, Bosnia and Herzegovina, Croatia, Montenegro and Serbia reasserted their commitment to finding lasting solutions for refugees and IDPs during a donors’ conference. The Council of Europe Development Bank has been involved in the “Regional Housing Programme” (RHP) aimed at providing the most vulnerable refugees and IDPs with durable housing solutions. This initiative covers Bosnia and Herzegovina, Croatia, Montenegro and Serbia and should benefit some 74 000 people.⁴⁹

27. According to the latest information from the Ministry of Veterans’ Affairs, there are still 1 606 missing persons and 424 persons whose death is established but whose remains have not yet been found.⁵⁰ In August 2014, Croatia signed a regional declaration on missing persons, and committed to pursuing measures to establish the fate and whereabouts of the persons still missing in Croatia. Croatia has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and there is no law on missing persons, which is undermining the rights of the relatives of missing persons.⁵¹

3.2. Torture and ill treatment

28. The CPT⁵² published its most recent report in March 2014. During its periodic visit to Croatia in September 2012, the CPT received only a few allegations of physical ill-treatment and verbal harassment by law-enforcement officials. As regards prisons, the great majority of inmates met by the CPT’s delegation indicated that they had been treated in a correct manner by custodial staff. The staff-patient/resident relations were considered as positive and the atmosphere relaxed in the psychiatric hospital and social care homes visited.

29. The CPT recommended strengthening the formal safeguards (access to a lawyer, access to a doctor) and procedural guarantees contained in the 2009 Code of Criminal Procedure against ill treatment of detained persons. The Croatian authorities committed themselves to addressing the material deficiencies in the temporary detention cells that were raised in the CPT’s report. The CPT received some allegations of physical ill treatment of inmates by prison officers in each of the prisons visited, including in the hospital for persons deprived of their liberty in Zagreb. The CPT noted the deleterious effects of overcrowding which affected the living conditions in the prisons visited, notably at Zagreb County Prison. According to the figures provided to me by the authorities, there were about 900 inmates in September 2012 in the Zagreb prison while the total accommodation capacity was 594 beds, meaning that the prison was around 150% over its bed capacity. The CPT thus made recommendations, *inter alia*, to reduce overcrowding to improve material conditions and to expand the programme of activities on offer to inmates. In response to the CPT’s further observation on

46. UNHCR figures of 4 April 2014, www.unhcr.org/533e73ff9.html.

47. www.unhcr.org/533e73ff9.html.

48. NGOs cite the lack of basic services (health care, social welfare) or facilities (electricity, water or heating) in the areas where returnees’ homes are located, and difficulties for returnees to obtain social and pension rights. In: Joint contribution of NGOs, p. 8.

49. See Doc 13507 and Resolution 2026 (2014) on alternatives to Europe’s substandard IDP and refugee collective centres, adopted on 18 November 2014.

50. Comments by Ms Mulić, AS/Mon (2015) 24.

51. Amnesty International 2014/2015.

52. The visit report and the government response are public and available on the CPT’s website: www.cpt.coe.int.

procedures in place, the Croatian authorities vowed to take measures to improve material conditions in the prisons to ensure a strict application of the existing rules in relation to security measures, such as the placement of inmates in padded cells.

30. Concerning the situation of the psychiatric hospital and two social care homes visited, the CPT noted cramped living conditions, the use of means of restraint at Rab Psychiatric Hospital, a clear overuse of mechanical restraint at the Stančić Centre for Rehabilitation, including on children, and totally unsuitable isolation rooms. The CPT recommended the adoption of a multifaceted strategy to substantially reduce or eradicate the use of means of restraint and isolation at the Stančić Centre for Rehabilitation. Further to the recommendations made by the CPT, the Croatian authorities provided information on the plans for the de-institutionalisation and transformation of the social welfare institutions visited and announced the development of a comprehensive policy on the use of means of restraint at Stančić Centre for Rehabilitation in the course of 2014.

3.3. Fight against trafficking in human beings

31. Croatia ratified the Convention on Action against Trafficking in Human Beings (CETS No. 197) on 5 September 2007 and underwent the 1st evaluation Round.⁵³ The Committee of the Parties adopted, on 30 January 2012, its Recommendation,⁵⁴ identifying areas where further action was required in order to improve the implementation of the Convention, in particular by raising public awareness to overcome the existing prejudice against victims of trafficking, adopting specific economic and social measures in respect of persons and groups vulnerable to trafficking, ensuring a proactive approach on the part of law-enforcement agencies and other relevant actors in the identification of victims of trafficking, implementing targeted policy measures for the identification of trafficked children and persons trafficked for the purpose of labour exploitation; providing victims of trafficking systematically with information, ensuring their access to legal aid and enforcing legislation on compensation from the State; providing better training for judges, prosecutors and other relevant professionals on trafficking and the relevant criminal law provisions to ensure that traffickers are prosecuted and receive sentences commensurate with the seriousness of this offence. In this respect, the organisation in 2014-2015 of training seminars by the Judicial Academy, and of preventive activities organised by the Croatian institutions, especially the Ministry of the Interior, should be welcomed.⁵⁵

32. In its reply published on 29 January 2014, the government highlighted that a number of activities had been undertaken to implement the GRETA recommendations, including new public campaigns targeted at potential users of services provided by victims of trafficking, and training in schools, universities, and law-enforcement agencies. A new Protocol on Data Collection and Exchange was in preparation in 2013. This should facilitate the collection of relevant data and information provided to the Office for Human Rights and Rights of National Minorities, the identification of the victims, the elaboration of anti-trafficking policies and allocation of resources. Positive steps included the adoption of a new Criminal Code on 21 October 2011 which upgraded the definition of “trafficking in human beings”; the implementation of a Protocol on Integration/Re-integration of Victims of Trafficking in Human Beings (including measures targeted at their economic empowerment); and the adoption of the Act on Pecuniary Compensation to Victims of Criminal Offences which will pave the way for victims of trafficking in human beings to claim damages. This act is currently being revised to bring the legislation into line with the European Convention on the Compensation of Victims of Violent Crimes, which was ratified by Croatia on 23 May 2008. It should enable all victims of trafficking in human beings, irrespective of their nationality or residence status, to be granted the right to this compensation, as recommended by GRETA.⁵⁶ The authorities underlined that victims of human trafficking in Croatia may assert the right to compensation in an ordinary way, i.e. in a court procedure or in a special administrative procedure in line with the provisions of the Act on Pecuniary Compensation to Victims of Criminal Offences.⁵⁷

53. All documents can be found at the following link: www.coe.int/t/dghl/monitoring/trafficking/docs/profiles/croatiaprofile_EN.asp.

54. See Recommendation CP(2012)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia, adopted at the 7th meeting of the Committee of the Parties on 30 January 2012.

55. More than 5 000 persons were included in education programmes and 10 000 persons were sensitised on the issue of human trafficking through topical surveys. Information provided by the Croatian delegation, March 2015.

56. The 2011 Criminal Code and the Act on Pecuniary Compensation to Victims of Criminal Offences entered in force on 1 July 2013, on the day of EU accession, CP(2014)3, report submitted by the Croatian authorities on measures taken to comply with Committee of the Parties' Recommendation CP(2012)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, received on 29 January 2014.

57. Further details were provided by the Ministry of Justice, see AS/Mon (2015) 24.

33. Croatia will be further monitored by GRETA. A delegation visited Croatia from 9 to 12 March 2015 to assess progress in the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings since the first evaluation in 2011 (GRETA report on Croatia).⁵⁸ The replies provided by the Croatian authorities to GRETA's questionnaire were also published in February 2015.⁵⁹

34. More generally, in relation to the protection of human rights, notably those of migrants, ECRI, in its June 2015 conclusions, welcomed the adoption by the Croatian Parliament, of a Migration Policy for 2013-2015, thus considering that its request to adopt a comprehensive strategy for migrants, asylum seekers and refugees, paying particular attention to regulating the care of unaccompanied minors, was implemented. Croatia also adopted a new Free Legal Aid Law which, according to ECRI, is a significant improvement and should facilitate access to legal aid for vulnerable groups. Even though some concerns over the funding of the new system remain (in particular the need to allocate increased and continuous financial support to providers of free legal aid), ECRI considered that its recommendation to improve the Law on Free Legal Aid, in close dialogue with all stakeholders, had been implemented.⁶⁰

3.4. Protection of national minorities

35. According to the 2011 census, national minorities represent 7.67% of the Croatian population. Croatia ratified the Framework Convention for the Protection of National Minorities (ETS No. 157) on 11 October 1997. Following the adoption of the constitutional amendments in June 2010, 22 national minorities living in the Republic of Croatia were mentioned in the Constitution,⁶¹ thus expanding the scope of the application of the Framework Convention and other regulations to these national minorities.⁶² Political representatives of minorities have actively participated in the work of representative bodies. Elections of the councils of national minorities were held in June 2015. These councils ensure the formal representation of minorities the executive bodies and governance at local level. Civil society representatives, however, regret that these elections do not take place in the same time as those of local and regional authorities (to ensure a higher turnout), and that these councils do not have the authority to influence decisions of local authorities or adequate funds to carry out their activities.⁶³

36. In July 2011, the Committee of Ministers adopted its Resolution CM/ResCMN(2011)12⁶⁴ (3rd cycle) on the implementation of the Framework Convention. The following were listed as areas of concern: cases of discrimination of persons belonging to the Serbian minority and the Roma, ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and Roma, difficulties faced by a considerable number of persons belonging to national minorities (in particular elderly Serbian returnees, Bosniaks and the Roma living in Croatia) in obtaining Croatian citizenship, unsatisfactory functioning of the councils of national minorities and living conditions of Roma. In December 2014, the Croatian Government Office for Human Rights and Rights of National Minorities, in co-operation with the National Minorities Council, organised a seminar on the implementation of the Framework Convention for the Protection of National Minorities and the implementation of the European Charter for Regional or Minority Languages (existing impediments to its implementation, participation of national minorities in the decision-making process, educational and linguistic rights of national minorities, cultural autonomy and access of national minorities to the media, etc.). It is hoped that this will pave the way to new initiatives, in the light of the recommendations of the Committee of Ministers.

37. In 2011, the Committee of Ministers requested immediate action to:

- complete promptly and without any discrimination all pending cases concerning the repossession and reconstruction of private property and continue the implementation of the “Housing Care Programme for Refugees – Former Tenancy Right Holders (FTRH) who wish to return to Croatia”;

58. See [Press release](#), GRETA's second evaluation visit to Croatia, 18 March 2015.

59. See [GRETA\(2015\)7](#).

60. ECRI Conclusions on the implementation of the recommendations in respect of Croatia, subject to interim follow-up, adopted on 19 March 2015 and published on 9 June 2015, [CRI\(2015\)22](#).

61. Namely “Austrians, Czechs, Germans, Hungarians, Italians, Jews, Rusyns, Serbs, Slovaks, Ukrainians, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs and Albanians”. Information provided by the Croatian delegation, March 2015

62. Information provided by the Croatian delegation, March 2015.

63. Joint contribution NGOs, pp. 7/8.

64. [Resolution CM/ResCMN\(2011\)12](#) on the implementation of the Framework Convention for the Protection of National Minorities by Croatia, adopted by the Committee of Ministers on 6 July 2011 at the 1118th meeting of the Ministers' Deputies.

- prevent, identify, investigate, prosecute and sanction, as necessary, all racially and ethnically motivated or anti-Semitic acts; take decisive action against racist and anti-Semitic acts perpetrated prior to, during and after football matches, in the spirit of the Committee of Ministers' Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport;
- review the procedures applicable to the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises, in conformity with Article 22 of the Constitutional Act on the Rights of National Minorities; observe stricter monitoring and enforce possible sanctions, in order to ensure the full and effective implementation of this provision at all levels;
- review legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view to eliminating the identified shortcomings, as regards the representativity of these organisations, their funding and their co-operation with local authorities.

38. The Committee of Ministers further recommended:

- continuing the dialogue with the group of persons identifying themselves as “Muslims” by nationality regarding the possibility of including them in the scope of application of the Framework Convention;
- reviewing the provisions on the acquisition of dual citizenship in order to avoid unequal treatment based on ethnic origin;
- prosecuting and adequately punishing perpetrators of discriminatory acts;
- reviewing the demand for the introduction of bilingual topographical signs and for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to national minorities and ensuring that the right to use a minority language and script in relations with the administrative authorities is respected in all bodies of local self-government where the law is applicable.

39. Croatia submitted its fourth report on the implementation of the Framework Convention for the Protection of National Minorities on 11 September 2014.⁶⁵ It reiterated its commitment to safeguarding and securing national minority rights. The authorities highlighted the adoption, in April 2011, of an Action Plan for Implementation of the Constitutional Act on the Rights of National Minorities for the period from 2011 to 2013.⁶⁶ The adoption of a National Human Rights Protection and Promotion Programme from 2013 to 2016 aims at fostering tolerance for differences and combating discrimination and improving the protection and promotion of human rights in Croatia, one of the priority areas being national minority rights.⁶⁷ The Croatian Government Office for Human Rights and Rights of National Minorities has also organised seminars to raise the awareness of the members of the national minorities' councils, and allocated funds from the State budget to develop specific programmes for the councils and elected representatives of national minorities in economically less-developed towns and municipalities, and to foster capacity-building of the national minority councils. This is to be welcomed.⁶⁸

40. The promotion of the rights of the Serb minority is still an issue. The results of the 2011 Croatian census showed that Serbs in Vukovar make up more than one third (34.8%) of Vukovar's total population. The implementation of bilingual policy thus became mandatory in this city. In April 2013, some 20 000 Croats protested in Zagreb, threatening to prevent the introduction of Cyrillic signs in Vukovar. In September 2013, after the government decided to install signs in Serbian Cyrillic in Vukovar, angry war veterans protested – and 500 people gathered on 3 September 2013, as they saw the bilingual signs as reminiscent of the Yugoslav bloodshed of the nineties.⁶⁹

41. The Croatian Government said it strongly condemned these incidents as Croatia has the obligation to ensure the rights of national minorities and consistent implementation of the Constitutional Act on the Rights of National Minorities throughout its territory and it would undertake proactive measures aimed at ensuring complete exercise and promotion and protection of the language rights of national minorities at all levels.⁷⁰

65. [ACFC/SR/IV\(2014\)012](#), Fourth report submitted by Croatia pursuant to Article 25, paragraph 2, of the Framework Convention for the Protection of National Minorities, received on 11 September 2014.

66. *Ibid.*, p. 110. The Croatian authorities gave an extensive overview of the measures taken in 2001-2012 in their fourth report, see MIN-LANG(2014)PR 2, pp. 7-19.

67. [ACFC/SR/IV\(2014\)012](#), p. 110.

68. Information provided by the Croatian delegation, March 2015

69. www.euractiv.com/culture/croats-tear-signs-cyrillic-vukov-news-530203.

70. [ACFC/SR/IV\(2014\)012](#), p. 110.

42. The current law on minority rights sets the threshold to introduce bilingualism at one third of the population. The organisation “Headquarters for the Defence of Croatian Vukovar”, a Croat veteran group, submitted a referendum petition to the parliament with a view to restricting the use of minority language rights to local self-government units where at least half of the population is from an ethnic minority. It specifically sought to ban the use of bilingual public signs in the Cyrillic (Serb) alphabet in Vukovar.⁷¹ This initiative was declared unconstitutional by the Constitutional Court in August 2014⁷², which calmed the situation. It is also to be noted that there were no similar problems and incidents in other areas: on the contrary, the implementation of bilingual policy has been firm there (for example, Istra and Daruvar).⁷³ However, I can only regret the decision taken on 17 August 2015 by the City Council of Vukovar to amend the City Statute so that it does not have to provide bilingual signs in Latin and Cyrillic scripts for official buildings, institutions, squares and streets of Vukovar.⁷⁴ We hope that the Croatian authorities will take the necessary steps to reconsider this decision and to fully implement the provisions of the European Charter for Regional or Minority Languages (ETS No. 148).

43. With respect to the European Charter for Regional or Minority Languages, ratified on 5 November 1997, Croatia submitted its fifth periodical report⁷⁵ in January 2014. In its last recommendation of 2010, the Committee of Ministers had notably invited Croatia to continue efforts to introduce equal and official use of regional or minority languages in those areas where there was a sufficient number of speakers, and to ensure the implementation of local self-government statutes, if necessary with appropriate assistance.⁷⁶ The fifth report produced by Croatia presented an extensive list of activities taken to implement the Charter. The efforts invested in co-operation with the local authorities “in order to raise their awareness of national minority rights, international documents and domestic legislation from which those rights arise, first of all in regard to the exercise of the right of minorities to their language and script”, “at the level at which they are to be exercised, namely the local self-government level” is to be welcomed, despite “the difficulties and lack of understanding encountered in the process of the full application of the laws”.⁷⁷

44. In 2015, based on the Committee of Experts’ evaluation report (5th cycle) adopted in September 2014,⁷⁸ the Committee of Ministers⁷⁹ underlined that the Council of Europe appreciates the positive climate of dialogue with the Croatian authorities on minority language protection, and the extension of the application of the Charter to the German, Slovenian and Roma languages. It welcomed the adoption by the Croatian authorities of a new Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities as a useful framework for the achievement of concrete and measurable objectives in the field of minority language promotion.

45. The Committee of Ministers also recommended that the Croatian authorities take account of all the observations and recommendations of the Committee of Experts and, as a matter of priority:

“1. continue these efforts to promote awareness and tolerance vis-à-vis the minority languages, in all aspects, including usage of signs and traditional local names with inscriptions in Cyrillic script, based on the conclusions of the Committee of Experts,⁸⁰ and the cultures they represent as an integral part of the cultural heritage of Croatia, both in the general curriculum at all stages of education and in the media;

2. take measures to ensure that speakers can use their minority languages in relations with relevant state, county and local authorities in practice, and that these authorities use the respective minority languages within the framework of their work;

71. Amnesty International 2014/2015.

72. Decision of the Constitutional Court of Croatia, Number U-VIIR-4640/2014, Zagreb, 12 August 2014.

73. Comments made by the parliamentary Committee on justice, AS/Mon (2015) 24.

74. See the [Press release](#) of the Council of Europe of 21.08.2015, “Council of Europe supports use of minority languages in official signage”.

75. [MIN-LANG\(2014\)PR2](#), Fifth periodical report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter.

76. [Recommendation RecChL\(2010\)8](#) of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Croatia (adopted by the Committee of Ministers on 8 December 2010 at the 1101st meeting of the Ministers’ Deputies).

77. [MIN-LANG\(2014\)PR 2](#), paragraph 204.

78. [ECRML\(2015\)2](#) (published in April 2015).

79. [Recommendation CM/RecChL\(2015\)2](#) of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Croatia (adopted by the Committee of Ministers on 15 April 2015 at the 1225th meeting of the Ministers’ Deputies).

80. See paragraphs 398 and 410 of the report [ECRML\(2015\)2](#).

3. review the existing threshold and increase efforts to introduce equal and official use of minority languages in those areas where there is a sufficient number of speakers;
4. take proactive measures encouraging the minority language speakers to make use of minority language education;
5. increase the broadcasting time and the regularity of television programmes in each minority language.”

46. At this stage, it is also useful to recall the findings of ECRI in 2012, which had highlighted the impact on inter-ethnic relations of the under-representation of persons belonging to national minorities in public administration and the courts, and in particular the low number of Serbs in the police at local level.⁸¹ According to NGOs, minorities, especially ethnic Serbs, are still under-represented in public administration (2,38%) and in the judiciary (2,11%) in comparison to their percentage in the population (4,3%).⁸²

3.5. Fighting discrimination against Roma people

47. In 2011, the Committee of Ministers identified cases of discrimination of persons belonging to the Roma in various sectors, lack of access to schools for some Roma children because they lack a regularised status, ethnically motivated incidents against persons belonging to national minorities, in particular the Roma, and difficulties faced by a considerable number of persons belonging to national minorities, including Roma, in obtaining Croatian citizenship.⁸³ In 2012, ECRI also underlined that many Roma still did not have personal identity or citizenship documents.

48. The Committee of Ministers therefore made specific recommendations to Croatia to undertake further efforts to prevent, combat and sanction the inequality and discrimination suffered consistently by the Roma; thoroughly investigate any complaint of alleged discrimination of Roma in access to employment and provision of goods and services; step up efforts, in particular at local level, to improve the living conditions of Roma and promote their inclusion in society; put an end, without further delay, to the continued segregation of Roma children in schools and redouble efforts to remedy other problems faced by Roma children in the field of education.

49. The authorities indicated that they had adopted the National Strategy for Roma Inclusion for the period from 2013 to 2020 and aligned their legislation with the EU framework for national Roma inclusion strategies, along with the Action Plan for its implementation, in order to improve the socio-economic status of the Roma national minority and their complete integration into society.⁸⁴ The authorities stressed that they seek to further improve the legal situation of Roma people. They conducted an analysis in 2014, reporting that rare cases of public expression of hatred and intolerance were accompanied by public denouncement (for instance, protest of parents against the inclusion of Roma children in the pre-school programme in Gornje Hrašće) and bills of information (for instance, against the Head of the Municipality of Škabrnja). A court ruling was given for the first time in the case of traineeships for two young female Roma; in April 2013, the verdict was confirmed in second instance.⁸⁵

50. Roma, however, continue to face multifold discrimination in Croatia. In its last report, Amnesty International noted that many Roma continued to live in segregated settlements without security of tenure and with limited access to basic services such as water, electricity, sanitation and transport facilities. Many Roma children were still attending segregated classes, despite the 2010 judgment of the European Court of Human Rights in the case of *Oršuš and Others v. Croatia*. Discrimination in the labour market contributed to significantly higher rates of unemployment among Roma compared with other ethnic groups. Those living in rural areas and young women were particularly disadvantaged.⁸⁶

81. [Doc. 13304](#).

82. Joint contribution of NGOs, p. 8.

83. Resolution CM/ResCMN(2011)12. The Croatian delegation indicated to me in March 2015 that the only criterion for obtaining Croatian citizenship is the fulfilment of the legal requirements stipulated by the provisions of the Croatian Citizenship Act. In the procedure for obtaining Croatian citizenship on the grounds of naturalisation of persons who declared themselves members of the Roma national minority, the more difficult living and social circumstances were taken into account and members of the Roma national minority were, within the scope of the applicable legal provisions, granted the necessary legal aid and it was ensured that such administrative procedures for obtaining Croatian citizenship were handled as a matter of priority and conducted in a legal manner.

84. ACFC/SR/IV(2014)012, p. 110.

85. Information provided by the Croatian delegation, March 2015.

86. Amnesty International 2014/2015.

51. In relation to the *Oršuš and Others v. Croatia* case, I need however to stress that the Committee of Ministers, which is supervising the execution of the judgments of the Court, noted with satisfaction that the Croatian authorities had taken a number of measures to address the problem of poor school attendance and the high drop-out rate of Roma children. The Committee of Minister therefore decided, in the light of these developments, to continue the supervision of this case under the standard (and no longer enhanced) procedure with a view to assessing at a later stage the impact of the measures that are currently being taken by the Croatian authorities, including the concrete results obtained in abolishing “Roma-only” classes.⁸⁷ I was informed that there are schools attended predominantly by Roma children (for example a school in Međimurje is attended only by pupils of Roma origin, or another school where Roma children represent approximately 85% of the pupils), where it might be impossible to form so-called “mixed” classes.⁸⁸

52. The Croatian authorities should continue their efforts to promote the rights of the Roma. In this respect, I welcome the celebration of the International Roma Day in the Croatian Parliament at the initiative of a Roma MP, the introduction of a course of Roma language at the Faculty of Humanities and Social Sciences of the University of Zagreb and the adoption of a Strategy for Education Science and Technology in 2014 to provide support to children and pupils of Roma in all areas of education to encourage high school Roma pupils to continue their education at university level.⁸⁹

3.6. Rights of the lesbian, gay, bisexual and transgender (LGBT) persons: recent developments

53. A Gay Pride Parade was successfully organised in Split in May 2013, in presence of the Minister of Foreign Affairs, Ms Vesna Pusić, the Minister for Administration, Mr Arsen Bauk, and the Mayor of Split. This march was escorted by 200 police officers, and no incident was reported, unlike during the previous march organised in 2011.⁹⁰ Three safe and successful Pride marches were held in Split, Zagreb and Osijek. In March 2014, Croatia granted asylum to a gay man from Uganda who had sought protection following the criminalisation of homosexuality in the country.⁹¹

54. A referendum was organised on 1 December 2013 at the initiative of a conservative group (backed by the Catholic Church) called “In the Name of the Family”, which had gathered almost 750 000 signatures on the issue of same-sex marriage. 65% of the voters answered “yes” to the referendum question “Are you in favour of the constitution of the Republic of Croatia being amended with a provision stating that marriage is matrimony between a woman and a man?”, and 34% voted “no”. The Social Democratic Prime Minister had campaigned for a “no” vote. This referendum paved the way to the amendment of the Croatian Constitution, which now defines marriage as between a man and woman. Council of Europe Human Rights Commissioner Nils Muižnieks, however, urged Croatia to avoid any action that may discriminate against the country’s LGBT persons. He referred on that occasion to the case law of the European Court of Human Rights, while recalling that there were no common standards in Europe on this issue.⁹²

55. The Croatian authorities indicated that all rights and legal aspects of cohabitation, as well as same-sex union, will continue to be regulated by the legislation in force. In this respect, an Act on Registered Civil Partnership of Same-Sex Persons was adopted in July 2014 to regulate same-sex unions comprehensively, to remove the existing obstacles to their social equality, based on the best European standards and practices, to provide same-sex unions with the same statutory rights as those provided for married couples, including the right to inherit and rights and obligations deriving from pension and medical insurance schemes, etc.⁹³ The law introduced the institution of “partner-guardianship” to allow parents in same-sex partnerships to extend the full range of parental rights and obligations in relation to their children to their partners. The first same-sex partnership was registered in September 2014.⁹⁴

87. Decision of the Deputies taken at their 1136th meeting (6-8 March 2012).

88. Information provided by the Croatian delegation, March 2015.

89. Comments made by the parliamentary Committee on justice and the Committee on education, science and culture, AS/Mon (2015) 24.

90. www.ilga-europe.org/home/guide_europe/country_by_country/croatia/ministers_mayor_join_croatia_gay_march

91. Amnesty International 2014/2015.

92. www.humanrightseurope.org/2013/11/croatia-muiznieks-warns-against-lgbt-discrimination/. The Commissioner recalled that the European Court of Human Rights gave a pretty wide margin of manoeuvre to member States regarding same-sex marriages.

93. Doc. 13450 of 24 March 2014, Prohibition of same sex marriage in Croatia, Reply to Written question No. 647 (Doc. 13369).

94. Amnesty International 2014/2015.

3.7. Social rights

56. Croatia ratified the European Social Charter in 2003. It signed the European Social Charter (revised) (ETS No. 163) on 6 November 2009 but has not ratified it. The Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) was ratified on 26 February 2003.

57. The European Committee for Social Rights published, in January 2013, the conclusions⁹⁵ related to the thematic group “Employment, training and equal opportunities”⁹⁶ and, in March 2014, the conclusions⁹⁷ in respect of the accepted provisions relating to Thematic Group 2 “Health, Social Security and Social Protection”.⁹⁸ The Committee noted that most of the conclusions were in conformity with the Charter, except in the following areas:

57.1. With regard to “Employment, training and equal opportunities”:⁹⁹

- the list of jobs which are barred to foreign nationals is too broad;
- employment policy efforts have been inadequate in combating unemployment and promoting job creation;
- it has not been established that either the right to vocational guidance or the right to specialised guidance and training for persons with disabilities are guaranteed;
- it has not been established that the right to vocational guidance is guaranteed equally to nationals of other States Parties.

57.2. With regard to “Health, Social Security and Social Protection”:¹⁰⁰

- it has not been established that means of subsistence are guaranteed to persons in need, whose social assistance is withdrawn as a penalty for having refused a job offer¹⁰¹; the level of social assistance is manifestly inadequate; nationals of other States Parties are subject to an excessive length of residence requirements to be eligible for social assistance;
- it has not been established that all non-resident foreign nationals in need – whether legally present or in an irregular situation – are entitled to emergency medical and social assistance.¹⁰²

95. [Conclusions XX-1 \(2012\)](#) of the European Committee of Social Rights, Articles 1 and 9 of the 1961 Charter and Article 1 of the 1988 Additional Protocol, January 2013.

96. The provisions of the articles belonging to the thematic group “Employment, training and equal opportunities” that were accepted by Croatia are the right to work (Article 1) and the right to vocational guidance (Article 9), as well as Article 1 of the Additional Protocol.

97. [Conclusions XX-2 \(2013\)](#) of the European Committee of Social Rights, Articles 11, 13 and 14 of the 1961 Charter, March 2014.

98. The provisions of the articles belonging to the thematic group “Health, Social security and Social protection” that were accepted by Croatia are the right to protection of health (Article 11), the right to social security (Article 12) and the right to social and medical assistance (Article 13). The reporting period for these conclusions was 2008-2011.

99. These conclusions of non-conformity refer respectively to Article 1.2 related to freely undertaken work (non-discrimination, prohibition of forced labour, other aspects), Article 1.1 related to the policy of full employment, Article 1.4 pertaining to vocational guidance, training and rehabilitation and Article 9 related to the right to vocational guidance.

100. These conclusions of non-conformity refer respectively to Articles 13.1 related to the right to social and medical assistance/adequate assistance for every person in need and Article 13.4 related to specific emergency assistance for non-residents.

101. The Ministry of Social Policy and Youth confirmed this and provided details about the Social Welfare Law, which stipulates that “if a single person or a member of a household capable or partially capable of work, who is a beneficiary of the guaranteed minimum allowance refuses the offered job, qualification, requalification, additional training or arbitrarily terminates the employment contract, his/her right to the guaranteed minimum allowance shall be revoked and, respectively, the guaranteed minimum allowance for a household shall be reduced by the member’s corresponding share”. This is also the case if this person “does not respond to the call by the local or regional self-government unit to participate in community service without remuneration”, the purpose of these provisions being “to encourage individuals to actively seek employment or undertake measures to find employment more easily”. AS/Mon (2015) 24.

102. The Ministry of Social Policy and Youth indicated that, under the Social Welfare Law, “a foreign national living in Croatia, provided that he/she does not exercise any other rights in the social welfare system under the conditions stipulated by this Law and a special regulation, may exceptionally exercise the right to a one-off allowance and temporary housing under the conditions stipulated by this Law, if this is required due to the living conditions in which the person has found him-/herself”. AS/Mon (2015) 24.

58. In the light of the progress made with respect to the “Right to equal opportunities and equal treatment in employment and occupation without sex discrimination” (Article 1 of the Additional Protocol to the 1961 Charter), the Committee welcomed the adoption of the 2009 Gender Equality Law, the 2009 Employment Act, the 2010 anti-discrimination law and, pending information on the gender pay gap, concluded that the situation in Croatia is in conformity with the Additional Protocol (Article 1) of the Charter.

59. In its *Statileo v. Croatia* judgment of 10 July 2014, concerning property issues, the European Court of Human Rights found a violation of Article 1 of Protocol No. 1. The case concerned legislation introduced in 1996 to reform the housing sector in Croatia. The applicant, Mr Statileo, who was the landlord of a flat which was formerly part of a specially protected tenancy scheme under the Socialist regime, complained in particular that, under the new legislation, he was unable to use his flat, rent it to the person of his choice or charge the market rent for its lease.

60. There are no other major specific concerns raised by the monitoring mechanisms relating to the protection and promotion of human rights, rule of law and democracy in Croatia.

4. Conclusions and recommendations

61. Overall, the functioning of democratic institutions in Croatia complies with Council of Europe standards. Croatia can be considered as globally honouring its membership obligations to the Council of Europe. While the EU accession procedure was a push factor in accelerating and consolidating democratic reforms, Croatia still has to address post-war challenges, in particular post-war justice, and should further contribute to a much-needed reconciliation process in the region.

62. In the light of the findings of the monitoring mechanisms of the main Council of Europe conventions, a certain number of issues however raise concerns and should be addressed by the authorities before the next reporting cycle. The following recommendations could be addressed to the authorities:

62.1. in the field of transitional justice, carry out effective investigations into the killing or disappearance of war-crime victims and adopt a comprehensive legislative framework regulating the status of, and access to reparation for, all civilian victims of war; and in particular:

- pursue measures to establish the fate and whereabouts of the 2 000 persons still missing in Croatia, improve the legal framework to address this issue, notably by ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, and adopt a law on missing persons, which would uphold the rights of the relatives of missing persons;
- following the judgments of the European Court of Human Rights, implement the general measures required by the Committee of Ministers to improve the investigation of war crimes, create effective and independent investigative mechanisms and accelerate the progress and completion of these investigations, in accordance with the relevant convention standards;

62.2. at regional level, further support the “Sarajevo Process on Refugees and Displaced Persons” and foster sustainable solutions for refugees and IDPs, keeping in mind the implementation, as from 2015, of the “cessation clause” contained in the 1951 Refugees Convention;

62.3. reinforce the fight against corruption, adopt the code of ethics for parliamentarians, currently in preparation, and internal mechanisms of self-control, take the necessary measures to detect risks of, and prevent, corruption, especially at local level; strengthen the technical and personnel resources of the Commission for the Prevention of Conflicts of Interest, in line with GRECO’s recommendations of 2014; take an active part in the Parliamentary Assembly’s anti-corruption platform;

62.4. following the recommendations made by MONEYVAL, improve measures to effectively repress money laundering, for example by increasing the number of convictions and of confiscation measures;

62.5. further to the recommendations made by GRECO, strengthen the trust in and transparency of the judiciary by reviewing the procedures of selection, appointment and mandate renewal of the President of the Supreme Court and of the Public Prosecutor General in order to minimise risks of improper political influence, and adopting further measures to develop guidance and counselling for prosecutors on observing ethical principles in concrete situations, and for judges on ethics and the prevention of conflicts of interest for judges;

62.6. implement the recommendations made by the CPT, in particular by addressing the material deficiencies in the temporary detention cells that were raised in the CPT's report, improving material conditions in the prisons to ensure a strict application of the existing rules in relation to security measures, develop and implement plans for the de-institutionalisation and transformation of the social welfare system, as well as a comprehensive policy on the use of means of restraint;

62.7. in line with the April 2015 recommendations of the Committee of Ministers related to the implementation of the European Charter for Minority or Regional Languages, continue to promote the rights of the 22 national minorities (namely 7.67% of the population), including the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises, further promote awareness and tolerance vis-à-vis minority languages and cultures, which are an integral part of the Croatian cultural heritage, and pay special attention to the situation and the promotion of the rights of the Serb minority;

62.8. undertake the necessary measures to improve the living conditions of Roma and promote their inclusion in society; put an end, without further delay, to the continued segregation of Roma children in schools and redouble efforts to remedy other problems faced by Roma children in the field of education;

62.9. ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210);

62.10. ratify the revised European Social Charter.

Appendix

Council of Europe conventions signed and/or ratified between 1 October 2013 and 28 July 2015 by Croatia

CETS No. 062: European Convention on Information on Foreign Law

Ratification or accession: 6/2/2014; Entry into force: 7/5/2014

CETS No. 127: Convention on Mutual Administrative Assistance in Tax Matters

Signature: 11/10/2013; Ratification or accession: 28/2/2014; Entry into force: 1/6/2014

CETS No. 178: European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access

Denunciation: 1/4/2014; Effect denunciation: 1/8/2014

CETS No. 208: Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters

Signature: 11/10/2013; Ratification or accession: 28/2/2014; Entry into force: 1/6/2014

Recent findings of Council of Europe monitoring mechanisms and other bodies as at 28 July 2015

European Court of Human Rights	European Convention on Human Rights (ETS No. 5) ratified in 1997 Protocol No. 1 (ETS No. 009) ratified in 1997 Protocol No. 2 (ETS No. 044) ratified in 1997 Protocol No. 6 (ETS No. 114) ratified in 1997 Protocol No. 12 (ETS No. 177) ratified in 2003 Protocol No. 13 (ETS No. 187) ratified in 2003 Protocol No. 14 (CETS No. 194) ratified in 2006 Out of a total of 69 900 applications pending before a judicial formation on 31 December 2014, 549 concerned Croatia. Resolutions adopted by the Committee of Ministers: 2 in 2013, 8 in 2014 and 5 in 2015. See Press country profile Croatia
Congress of Local and Regional Authorities	European Charter on Local Self-Government (ETS No. 122) ratified in 1997 Last monitoring report in October 2007, CG(14)21REP
Group of States against Corruption (GRECO)	Civil Law Convention on Corruption (ETS No. 174) ratified in 2003 Criminal Law Convention on Corruption (ETS No. 173) ratified in 2000, Additional Protocol (ETS No. 191) ratified in 2005 <i>Third evaluation round: second compliance report on Croatia: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of party funding"</i> adopted by GRECO at its 62 nd plenary meeting, Strasbourg, 2-6 December 2013, Greco RC-III(2013)28E <i>Fourth evaluation round: corruption prevention in respect of members of parliament, judges and prosecutors: evaluation report: Croatia</i> , adopted by GRECO at its 64 th Plenary Meeting, Strasbourg, 16-20 June 2014, Greco Eval IV Rep (2013)7E
Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) ratified in 1997 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) ratified in 2008 <i>Report on Fourth Assessment Visit: Anti-Money Laundering and Combating the Financing of Terrorism: Croatia</i> , adopted by MONEYVAL at its 42 nd Plenary, Strasbourg, 16-20 September 2013, MONEYVAL(2013)15 and AnnexMONEYVAL(2013)15ANN .

Commissioner for Human Rights	<p>Last report in June 2010, CommDH(2010)20</p> <p><i>Letter from the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to Ms Nansi Tireli, Chairperson of the Gender Equality Committee, Croatian Parliament, on the legal framework for the official recognition of trans persons' preferred gender, CommDH(2013)7 / 11 April 2013</i></p> <p><i>Letter from the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to Mr Arsen Bauk, Minister of Public Administration of Croatia, on the legal framework for the official recognition of trans persons' preferred gender, CommDH(2013)8 / 11 April 2013</i></p>
European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)	<p>Convention (ETS No. 126) ratified in 1997, Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152) ratified in 2000</p> <p>Last country visit: September 2012</p> <p>Publication of the last report: March 2014, CPT/Inf (2014)9</p>
Group of Experts on Action against Trafficking in Human Beings (GRETA) and Committee of the Parties	<p>Convention (CETS No. 197) ratified in 2007</p> <p>1st Evaluation Round:</p> <ul style="list-style-type: none"> - Evaluation visit in February 2011 - GRETA's Evaluation Report and Government's Comments published in November 2011, GRETA(2011)20 - Recommendation CP(2012)3 of the Committee of the Parties adopted in January 2012 - Government Reply to Recommendation received in January 2014, CP(2014)3 <p>2nd Evaluation Round:</p> <ul style="list-style-type: none"> - Reply to Questionnaire published in February 2015, GRETA(2015)7 - Evaluation visit in March 2015
Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and Committee of the Parties	<p>Convention on preventing and combating violence against women and domestic violence (CETS No. 210) signed in 2013 but not ratified</p>
European Commission against Racism and Intolerance (ECRI)	<p>The 4th report on Croatia was adopted in June 2012 and made public in September 2012, CRI(2012)45</p> <p>Conclusions adopted in March 2015 and published in June 2015, CRI(2015)22</p>
Venice Commission	<p>No recent opinion concerning Croatia</p>

Other Treaties:

Framework Convention for the Protection of National Minorities	<p>Convention (ETS No. 157) ratified in 1997</p> <ul style="list-style-type: none"> - Last Advisory Committee Opinion (3rd cycle) adopted in May 2010, ACFC/OP/III(2010)005 - Last CM Resolution (3rd cycle) on the implementation of the Framework Convention adopted in July 2011, CM/ResCMN(2011)12 - Last State Report (4th cycle) received in September 2014, ACFC/SR/IV(2014)012
European Charter for Regional or Minority Languages	<p>Convention (ETS No. 148) ratified in 1997</p> <ul style="list-style-type: none"> - Last State Periodical Report (5th cycle) submitted in January 2014, MIN-LANG(2014)PR2 - Last Committee of Experts' evaluation report (5th cycle) adopted in September 2014, ECRML(2015)2 - Last Committee of Ministers' Recommendation (5th cycle) adopted in April 2015, CM/RecChL(2015)2 - Next State Periodical Report (6th cycle) due in March 2017

European Social Charter	European Social Charter of 1961 (ETS No. 35) ratified in 2003 European Social Charter (revised) (ETS No. 163) signed in 2009 but not ratified Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) ratified in 2003 See Country factsheet Croatia
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