

**ECRI CONCLUSIONS ON THE IMPLEMENTATION
OF THE RECOMMENDATIONS
IN RESPECT OF CROATIA
SUBJECT TO INTERIM FOLLOW-UP**

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¹ Any developments which occurred after 3 November 2014, date on which the response of the Croatian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on Croatia (fourth monitoring cycle) published on 25 September 2012, ECRI recommended that the authorities increase their efforts to ensure appropriate initial and continuous training to judges, prosecutors, lawyers and police on applying the new Criminal Code provisions on combating racism and racial discrimination¹ as well as the Anti-Discrimination Act.*

The authorities have informed ECRI, as concerns judges and prosecutors, that the Judicial Academy organised the following in-service training sessions: Together against LGBT discrimination (2011, attended by 20 judges and seven deputy state prosecutors); Application of the Anti-Discrimination Act (three sessions in 2012, for 69 judges and 16 deputy state prosecutors); Combating hate crime (2013, attended by six judges); and Anti-Discrimination Act and Gender Equality Act (six sessions in 2014, no data on attendance). No information has been provided as to initial training on the new Criminal Code and the Anti-Discrimination Act. There is also no indication that prosecutors have received training in applying the new hate crime provisions of the Criminal Code.

Regarding lawyers, the Croatian Bar Association organises professional training for its members, such as a seminar on the new Criminal Code and interpretation of the provisions on hate crime. It appears that no training has been provided on the Anti-Discrimination Act since ECRI's fourth report.

Concerning police, promotion of human rights and combating racial discrimination² feature in both initial and in-service training. Under the OSCE-ODIHR's TAHCLE (Training for Law Enforcement against Hate Crime) Programme, and in cooperation with the Croatian Ministry of Interior, the Police Academy ran a course on hate crime in 2012 for 526 police officers; in 2013 the course was organised for 41 officers. In addition, under a "train the trainers" model another 99 police officers of the criminal police received similar training. The overall objective is to improve police skills in recognising, understanding and investigating hate crime.

The authorities also highlighted several training projects involving police and NGOs. For example, LGBT associations organised training for police, through interactive workshops and lectures, as part of the project on Prevention and Suppression of Hate Crime against LGBT. Three such sessions were held in 2013 and they continued in 2014.

Some of the training for the above target groups was held with the support of the Ombudsman within the framework of the office's projects to raise awareness about anti-discrimination. During the training, lacunae were identified in knowledge and understanding of certain provisions of the Anti-Discrimination Act (for instance, the shifting of the burden of proof).

ECRI welcomes the training provided for police, especially regarding hate crime. However, in view of the gaps highlighted above in the continuous training of judges, prosecutors and lawyers on non-discrimination, ECRI considers that its recommendation has been partially implemented.

¹ According to ECRI's General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination, "racism" shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. "Racial discrimination" shall mean any differential treatment based on a ground such as race, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

² ECRI recalls that the Croatian Anti-Discrimination Act provides for civil, criminal and misdemeanour liability.

2. *In its report on Croatia (fourth monitoring cycle), ECRI strongly recommended that the authorities improve the Law on Free Legal Aid, in close dialogue with all stakeholders, so that vulnerable groups are not denied access to justice on account of complex procedures and prohibitive costs.*

Following the Government's analysis of the 2011 Free Legal Aid Law and wide consultation in 2013 with relevant stakeholders (the Ombudsman, civil society, legal clinics³ and the public), the new Free Legal Aid Law was enacted and entered into force on 1 January 2014.

The most significant amendment is that access to primary legal aid⁴ for any legal matter has been simplified; applicants may address directly the providers of primary legal aid (so far 39 civil society organisations, one trade union and two law clinics have been registered as authorised providers). The requirements to qualify for free legal aid have been eased; there are broader categories of possible beneficiaries, the means test has been lowered and the overall procedure simplified. Access to secondary legal aid,⁵ which is provided by lawyers following an application procedure, has also improved; the financial requirements have been reduced and the procedure simplified compared to the previous law.

ECRI notes that it is generally agreed that the new Free Legal Aid Law is a significant improvement and should facilitate access to legal aid for vulnerable groups. However, concerns have been raised over the funding of the new system; without increased and continuous financial support allocated to the providers of free legal aid, the scheme will not function properly.

ECRI considers that, although the question of funding remains to be resolved, its recommendation to improve the Law on Free Legal Aid, in close dialogue with all stakeholders, has been implemented.

3. *In its report on Croatia (fourth monitoring cycle), ECRI strongly recommended that the authorities adopt a comprehensive strategy for migrants, asylum seekers and refugees, paying particular attention to regulating the care of unaccompanied minors. This should be done in close cooperation with the UNHCR and relevant NGOs.*

ECRI welcomes the Croatian Parliament's adoption of a Migration Policy for 2013-2015. It has seven chapters on: visa policy; status issues (permits for entry, stay and employment of foreigners); Croatian citizenship; asylum; integration policy; irregular migration; and Croatian diaspora. An Action Plan for removing obstacles to the integration of foreigners was also adopted, with a focus on refugees and beneficiaries of subsidiary protection.

The Migration Policy deals with the care of unaccompanied minors - both asylum-seeking and irregular. Concerning unaccompanied asylum-seeking minors, the policy provides that the Reception Centre for Asylum Seekers in Kutina will be converted to accommodate vulnerable groups of asylum seekers, including unaccompanied children. Psycho-social and other support will be organised and special emphasis will be placed on activities and support for these minors, such as study assistance and play groups. The creation of a list of special guardians is being considered, as is providing appropriate training for them.

³ The Faculties of Law of the University of Split and the University of Zagreb.

⁴ Primary legal aid includes legal advice, drafting submissions to and representation in proceedings before government agencies, and legal assistance in out-of-court amicable settlements.

⁵ Secondary legal aid includes legal advice, drafting submissions in court proceedings, representation in court and legal assistance in the settlement of disputes, as well as exemption from payment of litigation costs and court fees.

As for irregular unaccompanied migrant minors, the policy acknowledges that the current conditions of their accommodation in institutions for children with behavioural disorders are not appropriate to meet their complex needs. Therefore, the Government will adopt a new *Protocol on the treatment of alien children separated from their parents* which will, among other things, regulate the accommodation of unaccompanied children in appropriate facilities, respecting the needs of the children as well as international standards.

According to information from various sources, security issues related to the prevention of irregular migration and asylum regulation are the central focus of the policy. The emphasis on the administrative and legal aspects of migration and the lack of a human rights approach have been criticised. Moreover, a comprehensive analysis of the situation is missing, as are concrete allocations of funding for specific measures and deadlines for implementation. ECRI calls on the authorities to bear the above in mind when evaluating and revising the policy for the next period after 2015.

ECRI notes also that there is no indication in the policy itself nor from information provided by the authorities of any consultation with the UNHCR or relevant NGOs in the development of the Migration Policy. While this is regrettable, ECRI nevertheless considers that its recommendation to adopt a comprehensive strategy for migrants, asylum seekers and refugees, paying particular attention to regulating the care of unaccompanied minors, has been implemented.

