



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the third periodic report of Croatia

#### Addendum

### Information received from Croatia on follow-up to the concluding observations\*

[Date received: 5 April 2017]

*Below please find additional clarification regarding information contained in paragraphs 11, 13 and 23 of the Concluding Observations of Croatia's report adopted in March 2015:*

#### **In relation to victims of the Homeland War as well as the beneficiary structure and the scope of reparative rights granted to them by law:**

1. There are several categories of the beneficiaries who exercise reparative rights in Croatia today on grounds of participation or trauma suffered in the Homeland War, and whose rights are regulated by different regulations. There are three such laws within the Ministry of Veterans of the Homeland War scope.
2. The Act on the Rights of Croatian Homeland War Veterans and Members of their Families includes Croatian war veterans and their families. Pursuant to the same Act and programs carried out under the same Act, the beneficiaries are provided with health care, psychosocial support, primary legal assistance, labour rights (promotion and preference in employment, vocational rehabilitation) and education (free textbooks, scholarships, priority of accommodation in pupil and student dormitories), financial assistance in the event of a grave life/financial circumstances and monthly allowance based on participation in the Homeland War (Croatian war veterans) and suffered damage to the body (personal disability benefit) or monthly allowance to the family members of a deceased Croatian war veteran (family disability benefit, survivor's pension). Members of this population are also provided with the right to housing, as well as special care and evaluation of the contribution of Croatian war veterans to defending the sovereignty of the Republic of Croatia.
3. The second category includes civilian victims who exercise their rights on grounds of the Act on the Protection of Military and Civilian War Invalids. The same rule applies to returnees from peacekeeping missions, civilian victims of the Homeland War, and to their family members. Today, the beneficiary structure includes mostly civilian victims of the Homeland War and their families. Beneficiaries receive monthly salaries on various grounds, more specifically as sole beneficiaries based on established consequence/trauma (damage to the body) from the Homeland War or as family members of a deceased person

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\* The present document is being issued without formal editing.



(family disability benefit, survivor's pension). In addition, they are granted labour rights (vocational rehabilitation, preference in employment) and education (textbooks, scholarships, accommodation in pupil and student dormitories), as well as the right to financial assistance in case of grave financial circumstances.

4. Up to the end of 2016, the Ministry had registered 2,277 beneficiaries as victims of the Homeland War (2,089 sole beneficiaries with physical damage to the body and 188 family members). Although not strictly prescribed by legal provisions, the civilian victims were granted access to primary legal and psychosocial assistance within Regional Units, more specifically at the Ministry's psychosocial assistance centres which are located in each county and which offer field assistance to all war victims in Croatia.

5. Due to the specifics of experienced trauma and vulnerability issues, and having their rights granted and regulated by a special legislation in 2015, victims of sexual violence as a special category of civilian victims of the Homeland War are provided with health care, psychosocial and primary legal aid, monthly allowance and a one-time remuneration as a kind of compensation for twenty years of "waiting for justice." Family members of sexual violence victims are provided with access to psychosocial help. Given the lapse of time after the Homeland War and the time of adopting the stated Act, if a sexual violence victim died before the stated Act entered into force, a (one-time) financial compensation is granted to the victim's heirs. Up to the end of 2016, the Ministry had registered 115 beneficiaries exercising rights on grounds of sexual violence suffered.

6. With regard to the legal framework for civilian war victims, the Ministry's task apart from the above is to improve the Act on the Protection of Military and Civilian War Invalids, which comprehensively regulates the rights of civilian war victims, and which has been in force for 25 years and subject to a number of amendments, but essentially has not changed for a long time. The above is planned for 2017, and has already been included in the Annual Plan on Normative Activities of the Croatian Government 2017.

7. Although most of the Homeland War victims are already included in the state care system in a way, not all are nor can all be provided for in the same way, primarily because they do not have the same needs/consequences, nor the same grounds of suffering. Croatia has made a significant breakthrough in relation to sexual violence victims of the Homeland War by applying international recommendations, instruments and standards in shaping legal regulations and procedures of executing reparatory rights. Extensive activities are being performed to improve the legal framework for the veteran and victim population, and the plan is to include all the other civilian victims of the Homeland War.

8. Moreover, 19 criminal offences were in total registered from the group of criminal offences against humanity and human dignity (war crimes), while in 2015 51 criminal offences were registered. 39 persons in total were reported in 2016, out of which 1 person was brought before the custody officer, while in 2015 40 persons were reported, out of which 2 persons were brought before the custody officer. 80 damaged persons were enclosed in criminal offences in 2016, while in criminal offences from 2015, 307 damaged persons were enclosed.

9. Currently criminal investigations are being carried out by the competent police districts related to war crimes in 2 cases at national and 52 cases at regional level, which are harmonised by police districts and the competent State Attorney's Offices, as well as in cases in which perpetrators are not detected, and who are not on the list of priority.

10. The General Police Directorate is taking all available measures for the purpose of suppression of all kinds of attacks and intimidation of journalists in the Republic of Croatia. Criminal offences, which are directed towards journalists, especially the attacks on their physical integrity and personal security, are treated with utmost seriousness and professionalism. Apart that those attacks on journalists represent the attacks to the freedom of speech and information, such cases are often characterised as aggravated criminal offences, which in the framework of a Penal Code request additional engagements by the police and all competent institutions.

11. Depending on the safety assessment, in certain cases one can apply the special measures for personal protection of journalists. Attacks on journalist resulted so far in

criminal charges against the known or unknown perpetrators, while indictments were submitted against perpetrators who are qualified as misdemeanours. Police are still intensively working on solving the so far unsolved cases of attacks on journalists in the Republic of Croatia.

12. According to available records of the General Police Directorate, from the moment of Final consideration of the UN Human rights committee, in the report of the Republic of Croatia from the 31st of March 2015 till the end of 2016, 30 cases which were reported to the police were registered in the Republic of Croatia, or one learned about them through the operative work, and the initial information indicated to the existence of elements of punishable activities for which a procedure is initiated ex officio or according to proposal and cases were in direct or indirect connection with performing of journalist vocation/activity.

13. Out of that number, 21 cases were characterised as criminal offence, out of which 18 criminal offences of threat (perpetrators of 9 criminal offences were established), 1 criminal offence of violent behaviour (perpetrator was established), 1 criminal offence of attempt of aggravated theft (perpetrator unknown), and 1 criminal offence of attempt of aggravated bodily injury (perpetrator was established). 5 perpetrators of misdemeanour against public peace and order were established, in 3 cases there were no elements of punishable activities, which are prosecuted ex officio, while in 1 case the damaged person did not want to submit a proposal for criminal prosecution.

### **Paragraph 13**

14. In order to facilitate the resettlement and return of refugees, returnees and internally displaced persons, Central State Office for Reconstruction and Housing Care (CSORHC) regularly cooperates with all County State administration offices responsible for passing first-instant decisions on the right for housing care inside and outside of the Areas of Special State Concern. Also, CSORHC continuously conduct registration and records for the obtaining decision on the right on housing care. Therefore, we would like to emphasise that 63 decision on the right for housing care have been recorded during 2016.

15. Although the great progress has already been made, according to the official data submitted by State administration offices, there are still 1.792 applications of the former occupancy on housing care that are still not solved and 542 cases according to Act on the reconstruction.

16. In order to effectively resolve the remaining unresolved cases of former tenancy right holders as well as the applications for reconstruction, CSORHC is planning further cooperation with Serbian National Council, which is based on the approved financial support within Country Housing Project: CHP Support — Financial support to co-fund the operating expenses of the Implementing Structure.

17. According to relevant project, SNC hired 8 local coordinators who are located in the City of Knin, City of Karlovac, City of Zagreb, Sisak-Moslavina County, Lika-Senj County, Zadar County and Split- Dalmatia Count with the aim to provide administrative support and assistance to State administrative office for obtaining the decision on housing care, provision of assistance in completing the application to the potential beneficiates and suggesting beneficiaries how to efficiently solve their issues. They are also trying to find current addresses of beneficiaries when this information is not available in the data base.

18. In the upcoming period, local coordinators will be engaged in order to speed up the process of obtaining decisions on housing care that are still unresolved.

19. Therefore, an Official letter was submitted to all County State administrative offices with request to submit a report on implemented activities among local coordinators and State Administrative office as well as their recommendations how to efficiency resolve this issue. Also, in the upcoming period CSORHC will organize jointly meetings with respective Offices, SNC and local coordinators.

20. Additionally, due to presence of even greater need for extra care of people who even after 25 years still have not managed to solve their housing problem, in June last year CSORHC proposed the expansion for two existing projects: "Purchase of flats for 101

potential users” and “Renovation, reconstruction or construction of 62 family houses” as well as a new Sub-project “Organized renovation (roof, exterior doors and facades)” to improve the quality of housing and living conditions of refugees, displaced persons and returnees, that are currently in poor condition.

21. With this proposal, Croatia remains committed to the objectives that would resolve the housing problems of returnees and former tenancy rights owners, and at the same time, including the actions that would additionally contribute to implementation of housing in accordance with appropriate minimum standards provided to beneficiaries and local integration in the places of displacement facilitated. Please note that within these three additional proposal 387 families will be provided with housing care.

22. According to relevant data, currently 200 families is waiting for reconstruction of home for which shall be provided 62.000, 00 kn. According to estimated budget for 2018 and 2019, this 200 cases should be completed in the upcoming period.

23. Despite the fact that a majority of beneficiaries are by now provided with housing care, according to data from the electronic database, in accordance with Article 7 of the Law on the status of displaced persons and refugees there are still 131 displaced persons, 41 returnees and 247 refugees, in total 419 persons.

24. Regarding the closure of organized facilities for refugees it should be noted that by May 1st 2017 a certain number of refugees will be reduced due to resettlement of refugees currently accommodated in refugee settlements Mala Gorica near Petrinja to the newly built resort in Dumače.

25. Also, upon the completion of the reconstruction and renovation of Home for elderly persons, 75 elderly people will be resettled from various refugee settlements. The beneficiaries should start to move in the Home for elderly persons during May 2017.

26. Besides this sub-project, CEB approved five more projects, which are in various phases of implementation. The first construction project in Korenica is completed and closed on February 1st 2017, while the remaining projects will be completed by the end of 2017. Within these six Sub-projects 326 families will be provided with housing care.

### **Paragraph 23**

27. “The new Criminal Code from 2011, stipulates the criminal offences against honour and reputation, in despite several efforts to decriminalize them which argued that the freedom of expression is narrowed by their prescription. The approach by which this issue should be regulated by civil law is a distinctive feature of the Anglo-American law, whereas in the European continental law, to which the Croatian legal system belongs, the violation of honour and reputation is sanctioned by the criminal law. The sanctions of the civil law (compensation of damages) shall remain within the boundaries of the private relationship between the perpetrator and the victim and they do not express social condemnation, as one of the purposes of sanctioning the perpetrator of the criminal offence. We point out that the Constitution of the Republic of Croatia (Official Gazette 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76 / 10, 85/10, 05/14) and several international documents (e.g. the European Convention on Human Rights and Fundamental Freedoms — IA 18/97, 6/99, 14/02, 13/03, 9/05, 1 / 06, 2/10) which are part of the internal legal order of the Republic of Croatia and their legal force are above the law, guarantee the freedom of thought and expression. These rights can be limited when, in accordance with the principle of proportionality, it is necessary for the protection of the reputation or the rights of others. Consequently, taking into account both the purpose of the sanctioning as well as the respect of the right to freedom of thought and expression, the legislator took approach not to decriminalize the criminal offences against honour and reputation. The new Criminal Code (CC/2011) has eliminated imprisonment for all the forms of their commission, which may be considered as a concession to the requests for decriminalization.

28. The amendments to the Criminal Code from 2015, introduce a new Article 148 a). It regulates the exclusion of the unlawfulness for the criminal offences of insult and serious defamation. Thus, it is prescribed that there shall be no criminal offences of insult and

serious defamation if the elements of the said offences were fulfilled in an academic, technical or literary piece, work of art or public information, or while the perpetrator was performing a function laid down by law, or engaging in a political or other public or social activity, or doing journalistic work or defending a right, provided this was done in the public interest or for other justified reasons. Article 148 a) particularly protects the freedom of the media, since the persons who appear in public life, including journalists, cannot be punished for insult and serious defamation, i.e. for defamatory factual claims for which it is not known whether they are false or the perpetrator is not aware of them, under the condition s/he acted in the public interest. The concept of public interest is not defined by the Criminal Code, neither in the mentioned cases, nor in any other case when the Criminal Code prescribes the existence of public interest as the reason for the exclusion of the unlawfulness (e.g. unauthorized audio recording, unauthorized disclosure of a professional secret, disclosure and unauthorized procurement of a business secret and disclosure of an official secret). The existence of the public interest, within the context of the reasons for the exclusion of the unlawfulness for the criminal offences of insult and serious defamation, shall be determined by the court in court proceedings, having in mind that the presentation of evidence shall be extended to all facts considered by the court and parties to be important for a correct adjudication (Article 418, paragraph 1 of the Criminal Procedure Act).”

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