



# Генеральная Ассамблея

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**Совет по правам человека**  
**Сорок шестая сессия**  
22 февраля — 19 марта 2021 года  
Пункт 6 повестки дня  
**Универсальный периодический обзор**

## **Доклад Рабочей группы по универсальному периодическому обзору\***

### **Хорватия**

#### **Добавление**

**Соображения в отношении выводов и/или рекомендаций,  
добровольные обязательства и ответы, представленные  
государством — объектом обзора**

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\* Настоящий документ выпускается без официального редактирования.



1. **Республика Хорватия глубоко привержена универсальному периодическому обзору** и приветствует рекомендации по итогам интерактивного обсуждения с заинтересованными странами, организованного 10 ноября 2020 года в Женеве в виртуальном формате. В соответствии с установленными правилами Хорватия имеет честь представить свои ответы.
2. Хорватия внимательно **рассмотрела 224 рекомендации** в тесном сотрудничестве со всеми соответствующими органами.
3. Хорватия **приняла 194 рекомендации**.
4. Остальные **30 рекомендаций были приняты к сведению**. С учетом формулировок этих рекомендаций, касающихся обращения полиции с мигрантами, Хорватия считает, что этот сложный вопрос нуждается в дополнительном разъяснении. В этом смысле Хорватия решила принять к сведению все рекомендации в рамках тематического блока «Мигранты, беженцы, просители убежища».
5. **Хорватия разбила настоящее добавление по группам вопросов**, которые соответствуют основным темам, вызвавшим интерес в ходе обсуждения. Такой подход также способствовал процессу внутренних консультаций всех соответствующих органов, которые в силу своей общей ответственности участвовали в третьем цикле универсального периодического обзора по Хорватии.

## Процесс ратификации и отчетности

- 137.1 Принята, в ходе выполнения.
- 137.2 Принята, в ходе выполнения. Мы рассматриваем возможность ратификации.
- 137.3 Принята, в ходе выполнения.
- 137.4 Принята, в ходе выполнения.
- 137.5 Принята, в ходе выполнения.
- 137.6 Принята к сведению. Хорватия по-прежнему считает, что правовая защита мигрантов могла бы быть надлежащим образом обеспечена на национальном уровне с учетом того, что основные принципы и наивысшие стандарты прав человека должны быть частью внутреннего законодательства. На данный момент ратификация указанной конвенции не входит в число наших приоритетов<sup>1</sup>.
- 137.7 Принята к сведению (см. 137.6).
- 137.8 Принята к сведению (см. 137.6).
- 137.9 Принята к сведению (см. 137.6). В Хорватии домашние работники полностью защищены трудовым законодательством и пользуется теми же правами, что и любые другие работники, без какой-либо дискриминации. Они имеют право на выплаченные социальные взносы, перерывы для отдыха, ежегодный отпуск и оплату труда.
- 137.10 Принята к сведению (см. 137.9).
- 137.224 Принята к сведению. Хорватия не является участником Конвенции, однако в ее законодательстве закреплены основные принципы и наивысшие стандарты прав человека в этой области.
- 137.11 Принята, в ходе выполнения.
- 137.12 Принята и уже выполнена. В 2003 году Хорватия направила постоянное приглашение всем тематическим специальным процедурам, и она готова оказать поддержку и принять участников посещения, включая Специального докладчика по вопросам меньшинств.
- 137.13 Принята, в ходе выполнения.

137.14 Принята. Доклады по МКЛРД и КИР уже представлены. Готовится доклад по линии МПЭСКИ.

137.15 Принята, в ходе выполнения.

137.16 Принята к сведению. Договор о запрещении ядерного оружия не входит в компетенцию Совета по правам человека ООН.

## Нормативная и институциональная основа

137.17 Принята, в ходе выполнения.

137.18 Принята, в ходе выполнения.

137.19 Принята, в ходе выполнения.

137.20 Принята.

137.21 Принята.

137.22 Принята.

137.23 Принята.

137.24 Принята.

137.25 Принята, в ходе выполнения.

137.26 Принята, в ходе выполнения.

137.27 Принята.

137.28 Принята, в ходе выполнения.

137.29 Принята, в ходе выполнения.

137.30 Принята, в ходе выполнения.

137.31 Принята, в ходе выполнения.

137.32 Принята.

137.33 Принята.

137.34 Принята к сведению. Принятие единого закона о выборах не является надлежащим решением, поскольку не может привести к единообразию процедур и органов по проведению выборов и не может представлять собой единственные рамки для совершенно разных типов политических выборов<sup>2</sup>.

137.35 Принята, в ходе выполнения.

137.125 Принята, в ходе выполнения.

137.126 Принята, в ходе выполнения.

137.127 Принята, в ходе выполнения.

137.160 Принята к сведению. Лечебные учреждения обязаны обеспечить проведение аборта по просьбе обращающегося лица. Если врач-специалист выражает отказ по соображениям совести, он должен передать данное лицо своему коллеге в этом же медицинском учреждении. Учитывая важность вопроса, Министерство здравоохранения отслеживает данную ситуацию и особенно тщательно и внимательно подходит к этой теме.

137.111 Принята и уже выполнена.

137.128 Принята, в ходе выполнения.

137.67 Принята, в ходе выполнения<sup>3</sup>.

137.66 Принята<sup>4</sup>.

137.68 Принята<sup>5</sup>.

## **Изменение климата**

- 137.69 Принята.
- 137.70 Принята.
- 137.71 Принята.

## **Борьба с дискриминацией, преступлениями на почве ненависти и языком ненависти**

- 137.60 Принята<sup>6</sup>.
- 137.62 Принята.
- 137.57 Принята, в ходе выполнения.
- 137.39 Принята.
- 137.40 Принята, в ходе выполнения.
- 137.42 Принята.
- 137.43 Принята, в ходе выполнения.
- 137.44 Принята, в ходе выполнения.
- 137.61 Принята, в ходе выполнения.
- 137.58 Принята, в ходе выполнения.
- 137.56 Принята, в ходе выполнения.
- 137.59 Принята, в ходе выполнения.
- 137.64 Принята, в ходе выполнения.
- 137.54 Принята, в ходе выполнения.
- 137.53 Принята, в ходе выполнения.
- 137.63 Принята, в ходе выполнения.
- 137.45 Принята.
- 137.55 Принята, в ходе выполнения.
- 137.105 Принята, в ходе выполнения.

## **ЛГБТКИ**

- 137.41 Принята, в ходе выполнения.
- 137.46 Принята, в ходе выполнения.
- 137.47 Принята.
- 137.48 Принята, в ходе выполнения.
- 137.49 Принята, в ходе выполнения.
- 137.50 Принята, в ходе выполнения.
- 137.51 Принята, в ходе выполнения.
- 137.52 Принята, в ходе выполнения.
- 137.65 Принята, в ходе выполнения.
- 137.112 Принята к сведению. В отношении существующего или будущего законодательства следует рассмотреть вопрос о приведении всего законодательства в соответствие с международно признанными обязательствами, т. е. с европейскими

нормами, особенно с Европейской конвенцией о правах человека и прецедентным правом Европейского суда по правам человека.

137.113 Принята к сведению (см. 137.112).

## **Торговля людьми**

137.73 Принята, в ходе выполнения.

137.72 Принята, в ходе выполнения.

137.74 Принята, в ходе выполнения.

137.75 Принята, в ходе выполнения.

137.76 Принята, в ходе выполнения.

## **Журналисты и свобода средств массовой информации**

137.95 Принята, в ходе выполнения.

137.101 Принята, в ходе выполнения.

137.107 Принята, в ходе выполнения.

137.97 Принята, в ходе выполнения.

137.103 Принята, в ходе выполнения.

137.110 Принята, в ходе выполнения.

137.100 Принята, в ходе выполнения.

137.96 Принята, в ходе выполнения.

137.98 Принята, в ходе выполнения.

137.104 Принята, в ходе выполнения.

137.106 Принята, в ходе выполнения.

137.102 Принята, в ходе выполнения. Обеспечена общая защита журналистов от запугивания<sup>7</sup>. Уголовный кодекс (далее по тексту УК) предусматривает в статье 127 уголовное преступление «нарушение свободы мысли и выражения мнений»<sup>8</sup>.

137.109 Принята, в ходе выполнения (см. 137.102). Законодательство о диффамации было пересмотрено в Законе о внесении изменений в Уголовный кодекс (2019 год)<sup>9</sup>.

137.108 Принята к сведению. Диффамация является уголовным преступлением, отраженным в УК. С другой стороны, Гражданский кодекс регулирует возможность и условия, на которых может быть присуждено возмещение ущерба стороне, претендующей на него по основаниям, связанным с клеветой. Предпосылки, изложенные в Гражданском кодексе, в целом применимы ко всем искам о возмещении ущерба.

## **Отправление правосудия**

137.93 Принята, в ходе выполнения.

137.99 Принята, в ходе выполнения.

137.94 Принята, в ходе выполнения.

137.86 Принята.

137.87 Принята, в ходе выполнения.

137.80 Принята, в ходе выполнения.

- 137.81 Принята, в ходе выполнения.
- 137.82 Принята, в ходе выполнения.
- 137.83 Принята, в ходе выполнения.
- 137.84 Принята, в ходе выполнения.
- 137.85 Принята, в ходе выполнения.

## **Женщины**

- 137.161 Принята, в ходе выполнения.
- 137.162 Принята, в ходе выполнения.
- 137.163 Принята, в ходе выполнения.
- 137.164 Принята, в ходе выполнения.
- 137.165 Принята, в ходе выполнения.
- 137.166 Принята к сведению. Право на гарантированное минимальное пособие или другие социальные льготы имеют все пользователи, отвечающие установленным законом требованиям, независимо от пола.
- 137.167 Принята, в ходе выполнения<sup>10</sup>.
- 137.170 Принята, в ходе выполнения.
- 137.149 Принята, в ходе выполнения.

## **Дискриминация на рабочем месте**

- 137.114 Принята, в ходе выполнения.
- 137.115 Принята, в ходе выполнения.
- 137.116 Принята, в ходе выполнения.
- 137.117 Принята, в ходе выполнения.
- 137.118 Принята, в ходе выполнения.
- 137.119 Принята, в ходе выполнения.
- 137.120 Принята, в ходе выполнения.
- 137.121 Принята, в ходе выполнения.
- 137.122 Принята, в ходе выполнения.
- 137.123 Принята, в ходе выполнения.
- 137.168 Принята, в ходе выполнения.
- 137.135 Принята, в ходе выполнения.

## **Семейно-бытовое и гендерное насилие**

- 137.137 Принята, в ходе выполнения.
- 137.138 Принята, в ходе выполнения<sup>11</sup>.
- 137.139 Принята, в ходе выполнения (см. 137.138).
- 137.140 Принята, в ходе выполнения (см. 137.138).
- 137.141 Принята, в ходе выполнения.
- 137.142 Принята, в ходе выполнения.

- 137.143 Принята, в ходе выполнения<sup>12</sup>.  
137.144 Принята, в ходе выполнения.  
137.145 Принята, в ходе выполнения (см. 137.60).  
137.146 Принята, в ходе выполнения (см. 137.143).  
137.147 Принята, в ходе выполнения (см. 137.143).  
137.148 Принята, в ходе выполнения.  
137.150 Принята, в ходе выполнения.  
137.152 Принята, в ходе выполнения<sup>13</sup>.  
137.154 Принята, в ходе выполнения<sup>14</sup>.  
137.156 Принята, в ходе выполнения.  
137.157 Принята, в ходе выполнения.  
137.158 Принята, в ходе выполнения.  
137.159 Принята, в ходе выполнения.  
137.136 Принята, в ходе выполнения.  
137.169 Принята, в ходе выполнения.  
137.37 Принята, в ходе выполнения.  
137.151 Принята, в ходе выполнения.  
137.153 Принята.

## **Дети**

- 137.171 Принята, в ходе выполнения.  
137.172 Принята, в ходе выполнения.  
137.173 Принята, в ходе выполнения.  
137.174 Принята, в ходе выполнения.  
137.176 Принята и уже выполнена.  
137.177 Принята и уже выполнена.  
137.178 Принята и уже выполнена.  
137.132 Принята, в ходе выполнения.  
137.131 Принята, в ходе выполнения.  
137.175 Принята, в ходе выполнения.  
137.133 Принята, в ходе выполнения<sup>15</sup>.  
137.36 Принята.  
137.129 Принята, в ходе выполнения.  
137.130 Принята, в ходе выполнения.

## **Инвалиды**

- 137.202 Принята.  
137.205 Принята, в ходе выполнения.  
137.207 Принята, в ходе выполнения<sup>16</sup>.

- 137.155 Принята, в ходе выполнения.
- 137.206 Принята, в ходе выполнения.
- 137.134 Принята, в ходе выполнения.
- 137.200 Принята.
- 137.204 Принята, в ходе выполнения.
- 137.203 Принята, в ходе выполнения.
- 137.201 Принята, в ходе выполнения.

## **Национальные меньшинства**

- 137.38 Принята, в ходе выполнения.
- 137.199 Принята, в ходе выполнения.
- 137.183 Принята, в ходе выполнения.
- 137.184 Принята, в ходе выполнения.
- 137.185 Принята к сведению. Хорватия инкорпорировала и внедрила наиболее актуальные правовые документы и механизмы Организации Объединенных Наций и Совета Европы, которые гарантируют защиту прав меньшинств. Кроме того, Хорватия выполнила ряд соответствующих постановляющих документов ОБСЕ и многочисленные рекомендации международных учреждений и экспертов в целях достижения подлинной интеграции меньшинств и высокого уровня защиты прав меньшинств.
- 137.192 Принята, в ходе выполнения.
- 137.197 Принята, в ходе выполнения.
- 137.198 Принята, в ходе выполнения.
- 137.193 Принята, в ходе выполнения.
- 137.179 Принята, в ходе выполнения.
- 137.181 Принята.
- 137.187 Принята, в ходе выполнения.
- 137.180 Принята, в ходе выполнения.
- 137.182 Принята.
- 137.189 Принята, в ходе выполнения<sup>17</sup>.
- 137.195 Принята, в ходе выполнения.
- 137.190 Принята, в ходе выполнения.
- 137.191 Принята, в ходе выполнения.
- 137.188 Принята, в ходе выполнения.
- 137.194 Принята и уже выполнена.
- 137.196 Принята, в ходе выполнения.
- 137.186 Принята.

## **Мигранты, беженцы и просители убежища**

- 137.208 Принята к сведению. На границах между Республикой Хорватия, Республикой Сербия и Боснией и Герцеговиной находятся тысячи мигрантов, которые неоднократно пытались незаконно въехать в Хорватию через внешнюю границу ЕС.



В соответствии с пунктом 2 статьи 13 Шенгенского пограничного кодекса хорватская полиция препятствует их въезду<sup>18</sup>.

137.209 Принята к сведению. При обращении с мигрантами сотрудники полиции проявляют уважение к их основным правам и достоинству и предоставляют им доступ к международной системе защиты в соответствии с общими документами по правам человека, законодательной базой ЕС и национальным законодательством<sup>19</sup>.

137.210 Принята к сведению. Министерство внутренних дел предоставляет доступ к своим объектам и данным учреждениям и организациям, которые осуществляют независимую проверку действий сотрудников полиции в отношении мигрантов, в соответствии с национальным законодательством и соглашениями, заключенными с этими организациями. Омбудсмен имеет право на получение всей информации, необходимой для выполнения возложенных на него задач, в объеме и порядке, которые предусмотрены законодательством, регулирующим сферу его компетенции<sup>20</sup>.

137.211 Принята к сведению. На нескольких уровнях Министерства внутренних дел создана система внутреннего контроля для отслеживания законности действий сотрудников полиции, начиная с полицейских участков и полицейских управлений и заканчивая канцелярией Министра. Все жалобы на действия сотрудников полиции проходят несколько этапов проверки, независимо от того, поступили они от граждан или о нарушениях сообщили старшие сотрудники полицейских управлений или полицейских участков<sup>21</sup>.

137.212 Принята к сведению (см. 137.211).

137.213 Принята к сведению (см. 137.209).

137.214 Принята к сведению. Хорватия является единственным государством — членом ЕС, которое ведет независимое наблюдение за действиями полицейских в отношении мигрантов через так называемый механизм пограничного контроля. Он был создан в 2008 году в сотрудничестве с УВКБ и Хорватским юридическим центром — НПО по защите прав человека<sup>22</sup>.

137.215 Принята к сведению (см. 137.211).

137.216 Принята к сведению (см. 137.209).

137.217 Принята к сведению (см. 137.214).

137.218 Принята к сведению. В 2019 и 2020 годах в сотрудничестве с рядом НПО были проведены различные учебные курсы для сотрудников полиции по вопросам обращения с мигрантами<sup>23</sup>. В отношении права ходатайствовать и просить убежища в пунктах пересечения границы не существует никаких правовых ограничений<sup>24</sup>.

137.219 Принята к сведению. Министерство внутренних дел наладило активное сотрудничество с рядом НПО, а также осуществляет с ними совместные проекты в области защиты прав мигрантов<sup>25</sup>.

137.220 Принята к сведению (см. 137.209).

137.221 Принята к сведению (см. 137.208).

137.222 Принята к сведению (см. 137.211).

137.223 Принята к сведению. В 2018 году правительство приняло новый протокол об обращении с несопровождаемыми несовершеннолетними, предусматривающий процедуры обращения с несовершеннолетними мигрантами и лицами, обращающимися за международной защитой<sup>26</sup>.

## **Вопросы, касающиеся Отечественной войны**

137.77 Принята, в ходе выполнения.

137.78 Принята, в ходе выполнения.

137.88 Принята, в ходе выполнения.

- 137.89 Принята, в ходе выполнения.
- 137.90 Принята, в ходе выполнения.
- 137.91 Принята, в ходе выполнения.
- 137.92 Принята.
- 137.79 Принята и уже выполнена.
- 137.124 Принята, в ходе выполнения.

## Примечания

<sup>1</sup> The new Aliens Act entered into force on 1 January 2021. It is aligned with a total of 21 directives, recommendations, decisions and resolutions, thus transposing into the Croatian legislation both Council Rec. of 27 September 1996 on combating the illegal employment of third-country nationals (OJ C 304, 14. 10. 1996.) and Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261, 6. 8. 2004.).

The Aliens Act prescribes that temporary stay on humanitarian grounds will be granted to third-country nationals if they have accepted, as victims of trafficking in persons to be part of the assistance and protection programme, if they are a minor who has been abandoned or is a victim of organised crime or is otherwise left without parental protection, guardianship or is left unaccompanied, and if they cooperate with the competent authorities and it is indispensable that they participate in criminal proceedings brought against the employer who illegally employed them.

An employer must not employ a third-country national staying in Croatia illegally nor benefit from his/her work. The following categories of third-country nationals may work in Croatia without a stay and work permit or a work registration certificate: those who have been granted temporary stay for the purpose of family reunification with a Croatian national, a third-country national who has long-term residence, permanent stay, or who has been granted asylum or subsidiary protection in line with the legislation governing international protection, those who have been granted temporary stay for the purpose of life partnership with a Croatian national, a third-country national on long-term residence, permanent stay, or who has been granted asylum or subsidiary protection in line with the legislation governing international protection, or those who have been granted asylum or subsidiary protection, or who are applicants for international protection in line with the legislation governing international protection.

<sup>2</sup> Electoral rules differ according to the type of elections and are regulated by various special laws – the Act on the Election of the President of the Republic of Croatia, the Act on Elections of the Representatives to the Croatian Parliament, the Act on Elections of Members from the Republic of Croatia to the European Parliament, the Act on Local Elections, the Act on the Right of Citizens of Other Member States of the European Union in elections for representative bodies of local and regional self-government units. The diversity of elections is the result of fundamentally different political and social goals for which they are conducted and significantly different powers and competencies of those elected in such elections (state officials, members of representative bodies of local and regional self-government units, members of the European Parliament).

<sup>3</sup> The new anti-corruption strategy aims is to build strong and functional anti-corruption mechanisms in the public and private sectors. This will be achieved by meeting the specific objectives and by coordinated implementation of policies in five priorities: strengthening the institutional and legislative framework for the fight against corruption, strengthening transparency of the work of public administration bodies, strengthening the integrity of the conflict of interest management system, strengthening the anti-corruption potentials of the public procurement system and raising public awareness of the damage of corruption.

<sup>4</sup> The Anti-corruption Strategy 2021-2030, is currently being drafted. In formulating the specific objectives of the Strategy, the identified areas of corruption risk from international assessment documents, including the fifth round of the GRECO evaluation report on Croatia, were also taken into account.

<sup>5</sup> Efforts are underway to develop a national strategy in the area of business and human rights and corporate social responsibility, following the UN Guiding Principles on Business and Human Rights.

<sup>6</sup> The Criminal Code (further in text: CC) prescribes “Hate crime” in Article 87 paragraph 21, as follows: “A hate crime shall mean a criminal offence committed on account of a person's race, colour, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity”. Unless a more severe punishment is explicitly prescribed, such conduct shall be taken as an aggravating circumstance. The CC prescribes certain criminal offences where the motive “out of hatred” is integral part of the legal description of the criminal offence (such as, for example Aggravated Murder, Bodily Injury, Serious Bodily Injury...) and a more severe punishment is explicitly prescribed by the CC. For all other criminal offences, the legal description of which does not explicitly contain the motive “out of hatred” alongside with a more severe punishment, the fact that it was committed out of hatred shall be taken as an aggravating circumstance when determining the sentence. By Act on Amendments to the Criminal Code (2019) a number of criminal offences containing the motive “out of hatred” had their prescribed sentences made stricter (for example Bodily Injury, Serious Bodily Injury). More strict sentences were also prescribed for criminal offences Domestic Violence (Article 179a), Rape (Article 153), Sexual Harassment (Article 156), Lewd Acts (Article 155), Serious Criminal Offences against Sexual Freedom (Article 154). Also, the concept of the criminal offence Rape was changed in a way that any non-consensual sexual

- intercourse or sexual act equated with it shall be considered a criminal offense of Rape, even when there is no use of force or threat to the life and body of the raped or other person.
- <sup>7</sup> It is provided by prescribing a range of criminal offences, such as: Stalking (Article 140), Bodily Injury (Article 117), Serious Bodily Injury (Article 118) and Particularly Serious Bodily Injury (Article 119). Additional protection of the journalistic profession is provided through the criminal offence Threat (Article 139), by which the legislator prescribed as a qualifying circumstance the fact that the threat was committed against a journalist in connection with his work and for which, in that case, the prosecution shall be initiated ex officio, and a prison sentence from six months to five years is prescribed.
- <sup>8</sup> Whoever denies or limits the freedom of speech or public expression, the freedom of the press or other media of communication or the free establishment of mass media institutions, shall be punished by imprisonment not exceeding one year. The same sentence shall be imposed on whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limits this freedom. The same punishment shall be inflicted on whoever unlawfully prevents the publication, sale or distribution of books, magazines, newspapers or other printed matter, or the production and broadcasting of radio and television programmes, news agency programmes or the release of other media content.
- <sup>9</sup> By this Act the criminal offence Serious defamation, which was prescribed by Article 148 of the CC was omitted from the CC, leaving the injured person with the possibility to claim damages in civil lawsuit. This change in the CC was made due to statistical data showing that only a small number of criminal proceedings were initiated for the above mentioned criminal offence, and they mostly ended in acquittals. Consequently, at this moment there are only two criminal offences against honour and reputation prescribed by the CC: Insult (Article 147) and Slander (Article 149), both punishable solely by fine. Criminal proceedings for these criminal offences are initiated by a private lawsuit. Also, Article 148a prescribes the exclusion of illegality for criminal offence of Insult if the perpetrator performed its characteristics in public information or in journalistic work, and he did so in the public interest or for other justified reasons.
- <sup>10</sup> In order to improve the environment and financial conditions for families, the legislation regulating maternity and parental benefits has been improved. The last amendments to the Maternity and Parental Benefits Act increased the maximum amount of salary compensation paid during the use of parental leave for employed and self-employed parents from 120% of the monthly budget base (the current limit of HRK 3,991) to 170% of the budget base (HRK 5,654). This represents a significant step forward, since the maximum amount of salary compensation was extended for the second time in the previous mandate of the Government. Also, a new draft of Maternity and Paternity Act, will be prepared especially bearing in mind the obligation of alignment with the *acqui* – implementation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.
- <sup>11</sup> Thus, the Act on Amendments to the Criminal Code (2019 introduced more strict punishments for criminal offences Bodily Injury (Article 117), Serious Bodily Injury (Article 118) and Particularly Serious Bodily Injury (Article 119) when committed out of hatred (including based on gender or gender identity) and also for criminal offence Domestic Violence (Article 179a).
- <sup>12</sup> Criminal offence Domestic Violence, described in the Article 179a of the CC is prosecuted ex officio. According to the Criminal Procedure Act (further in text: CPA) unless otherwise provided by law, the State Attorney shall initiate criminal proceedings if there are reasonable grounds for believing that a particular person committed a criminal offence prosecuted ex officio and there are no statutory obstacles to the prosecution of the said person. Proceedings shall be conducted without procrastination. In the case of proceedings in which the defendant has been temporarily deprived of liberty, the court and state bodies shall proceed with particular urgency. According to the CPA, the victim has, among other: the right to access services providing support to victims of criminal offences, the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of criminal offences as provided for by law, the right to protection from intimidation and retaliation and the right to protection of the dignity of the victim when testifying. Before questioning the victim, the body conducting the questioning shall carry out, in cooperation with the bodies, organisations or institutions providing assistance and support to victims of criminal offences, an individual assessment of the victim. The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones (special method of questioning the victim, use of communication technology so as to avoid visual contact between the victim and the perpetrator and other measures provided for by law). Where the victim of a criminal offence is a child, it shall be presumed that special protection measures need to be taken and it shall be established which ones. The individual assessment of a victim shall take into account the personal characteristics of the victim, the type or nature of the criminal offences and the circumstances of the criminal offence. In this context particular attention shall be paid to victims who have suffered considerable harm due to the severity of the criminal offence, victims of a criminal offence committed with a bias related to

their personal characteristics and victims whose relationship to the perpetrator makes them particularly vulnerable. In the same terms, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence and exploitation, hate crime and victims with disabilities shall be duly included in the individual assessment. The victim of an intentional crime of violence is entitled under a special act to compensation from the state budget. If the victim has won a civil claim, the amount awarded shall be taken into account when determining the amount of compensation. If the victim has already been awarded state compensation, the court shall act likewise when determining the amount to be awarded on the basis of the civil claim made. According to the Law on Protection against Domestic Violence, the victim of the domestic violence has, among others, the right to access services providing support to victims of domestic violence, the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of domestic violence, the right to protection from intimidation and retaliation and the right the right to protection of the dignity of the victim when testifying.

- <sup>13</sup> Croatia continues its efforts regarding legislative activities with the aim of improving protection of victims of domestic violence. The Law on Amendments to the Law on Protection against Domestic Violence (entered into force on 1 January 2020) has imposed higher fines and imprisonment sentences for all forms of domestic violence, with higher fines and imprisonment punishments for the perpetrator who repeats domestic violence or commits it in the presence of a child or person with a disability or of elderly age. Furthermore, physical violence was redefined in such a way that it was prescribed as the application of physical force resulting in no physical injury in judicial medical terms.
- <sup>14</sup> The CPA prescribes that the procedure must be carried out without any delay, and in proceedings in which the defendant is temporarily deprived of liberty, the court and state authorities will act in particular expeditiously.
- <sup>15</sup> Croatia promotes the integration of students with disabilities into the mainstream education system. In achieving above mentioned goal for the students with disabilities different activities are under the implementation: access to early identification and early intervention activities, providing appropriate curriculum, assistive technology, teaching assistants or professional communication mediator, co-financing the costs of transport, foods and didactic equipment, removing construction barriers including professional support during education as well as medical support for the students with serious level of disabilities.
- <sup>16</sup> National Plan for Equalization of Opportunities for Persons with Disabilities 2021-2027 will cover the topic of pandemic and other crisis situations.
- <sup>17</sup> Employment in the civil service is regulated in such a way as to ensure equal employment opportunities for all candidates, regardless of their nationality. At the same time, members of national minorities are provided with an advantage in employment under equal conditions. Also, as the ban on new employment in state bodies has been in force in the last few years, employment is possible only in exceptional and situations prescribed in advance. As a result, employment through regular admission to the civil service has become more difficult, which is reflected in the reduced possibility of new employment of persons belonging to national minorities in order to achieve their equal representation in these bodies/institutions.
- <sup>18</sup> The majority of them do not intend to stay in Croatia for a long period of time, and their only aim is to reach the desired Member State of the EU where they can lodge their application for international protection. Migrants are willing to use any means necessary to reach their goal, even if it means endangering their own lives and the lives of their family members, counting on the Croatian police to save them once they are in such danger. On the other hand, if they are prevented in their illegal entry attempt, they are capable of accusing the police of abuse and of preventing them from accessing the international protection system.
- Very often the activists of NGOs note the statements of migrants, present them to the media as facts, and the media publish them with sensationalist headlines, however NGOs reports omit mentioning real events that are documented in detail and published in a number of national and/or international media by independent journalists and can therefore be considered reliable.
- <sup>19</sup> The approach of the Republic of Croatia and the Ministry of the Interior to allowing access to international protection is clearly illustrated by the number of submitted applications for international protection, the number of applicants who were granted international protection, as well as the number of refugees who should, according to the plan and the epidemiological situation, be resettled, and the number of Syrian refugees from Turkey who have already been resettled to Croatia within the framework of the resettlement scheme (250). Croatia's experiences show that most applicants for international protection do not want to stay in Croatia and they regard it only as a country of transit - over 70% of applications are suspended due to the fact that applicants leave Croatia during the asylum procedure. Having in mind the responsibility of the country of first entry of migrants (in accordance with the valid Dublin III Regulation), in a large number of cases migrants themselves refuse to apply for

international protection in Croatia and to be fingerprinted for the Eurodac system. This way, Croatia becomes responsible for applicants for international protection, which is not in the interest of a large number of applicants. Statistics show that most applicants for international protection are not persons in need but merely economic migrants who misuse asylum system to reach the EU for different reasons. Croatia has also registered cases of individuals who were granted international protection but after some time went to other EU Member States.

The figures provided below show a significant increase in the number of applications for international protection made from 2016 to 2020 (increased migratory pressure), compared to the previous period: 2014 – 454 and 2015 – 210. The figures are: 2016 – 2,234; 2017 – 1,887; 2018 – 1,068; 2019 – 1,986; 2020 – 1,932. Please note, that out of 1,655 applications lodged in 2020, there were only 325 applicants for international protection in accommodation capacities in Croatia, which makes up only 19% of the total applications lodged.

The Dublin transfer to the Republic of Croatia from other EU Member States, as well as the number of applicants returned to Croatia from other EU MS within the framework of readmission, must be also taken into consideration. In accordance with the Dublin Regulation, Croatia received 6,567 requests for reception and readmission of asylum seekers from 2016 to 2018, out of which 1,074 were carried out. In 2019, Croatia received 1,702 requests (525 were carried out), and in 2020, there were 3,151 requests for reception and readmission of asylum seekers and 1,855 were carried out.

- <sup>20</sup> However, it is important to mention that pursuant to the National Preventive Mechanism Act unannounced visits are allowed only if foreigners whose freedom of movement has been restricted are present in a police station.

Furthermore, the Ministry has explained to the Ombudsman that the access to the Information System of the Ministry needs personal authorisation. According to the Instruction on the allocation of usernames and passwords of the IT Department of the Ministry, police officers must not share their password and username with other persons and they must not provide other persons, who do not have such authorisation, with access to the Information System. Non-compliance with this instruction represents a serious breach of official duty, pursuant to the Police Act. Pursuant to Art. 24 of the Ombudsman's Act, and in relation to Art. 5, item 5 of the NPM Act, the employees of the Ombudsman are allowed during field visits, to requests printouts from the Information System and this data will be delivered to them in writing, as soon as possible.

- <sup>21</sup> Since the beginning of the migrant crisis, complaints come from humanitarian organisations, certain institutions in Croatia and NGOs, on the basis of statements made by migrants most often located in the Republic of Serbia and Bosnia and Herzegovina who have already attempted to enter the Republic of Croatia illegally on several occasions, but were discouraged from doing so by the Croatian police. The accusations are made with no information which could be used to identify the supposed victims, and, in most cases, the locations and times of the alleged incidents are not even approximately stated. In spite of such vague information, the competent departments of the Ministry have checked every accusation to determine the lawfulness of police actions. However, due to this lack of information, it is oftentimes very difficult, if not impossible, to verify these accusations. The Ministry practices a zero tolerance policy for unlawful use of means of coercion, as well as a zero tolerance policy for non-processing of any criminal offence or misdemeanor committed by police officers. The Ministry has called, on several occasions, for any persons who might have any knowledge regarding potential illegal actions taken by police officers against migrants to communicate such information, so that it could be verified and so that all facts could be established.

Also, migrants who were discouraged by police officers from entering the Republic of Croatia or who were subject to other prescribed procedures of return to the country from which they illegally entered the Republic of Croatia often accuse police officers of violence, expecting that such unfounded accusations will help them in a new attempt to enter Croatia and in continuing their journey to the countries of destination.

During 2018 and 2019, the general police director issued two clear warnings to all police administrations and police stations stating that excessive use of force and unlawful confiscations of migrant property by police officers will not be tolerated and that, in every potential case where means of coercion are used, a full prescribed procedure will be carried out to assess the legality of their use. Also, whenever there is a complaint about illegal confiscation of property, the relevant procedure will be carried out to identify and process potential perpetrators. Also, several meetings were held with heads of police administrations and police stations where they were instructed to treat migrants with utmost consideration and with respect to human dignity, particularly children, women and the elderly and other vulnerable groups. They were also instructed on prohibition from disproportionate, inadequate and illegal use of force. The said instruction was enclosed to all letters of communication from the central level with police administrations regarding migration.

- <sup>22</sup> Their observers gain direct insight into the actions taken by police towards migrants. The project is entirely financed by UNHCR funds and was implemented from 2008 to 2014, as well as in 2018 and 2019. Likewise, Croatia is currently the only EU Member State that is working even now, in cooperation with the European Commission, Frontex, and the EU Agency for Fundamental Rights

(FRA), on the draft of the future independent monitoring mechanism of police treatment of migrants on the external EU border, in line with the Pact on Migration and Asylum which is still being negotiated on the EU level. According to the current text, the Ombudsman would also participate in the monitoring.

- <sup>23</sup> The following topics were covered in training organised by the Red Cross: IHL, Tracing service and restoring family links, Urgent first aid procedures, Understanding cultural differences, Vulnerable groups of migrants, Prevention of occupational stress and burnout, and Cultures and social situations in the countries of origin. The following topics were covered in training organised by IOM: Migration-related health risks, provision of aid in non-urban environments, Use of automated external defibrillators, CPR and use of automated external defibrillators, and Dealing with vulnerable groups. The following topics were covered in training organised by the Croatian Law Centre: Human rights of migrants, Access to the asylum system, Protecting vulnerable groups of migrants and asylum seekers, Police officer responsibility, and Treatment of applicants for international protection. Training organised by FRA was held on the topic of “Training on the Schengen Borders Code (Reg. (EU) No. 2016/399), fundamental rights and access to international protection”.
- <sup>24</sup> This is also confirmed by the number of expressed intentions, which has been relatively constant over the past few years (2016 – 2,234; 2017 – 1,887; 2018 – 1,068; 2019 – 1,986; 2020 – 1,932 applications made). Also, during this period of COVID, the number of expressed intentions did not fall despite travel restrictions.
- <sup>25</sup> Accordingly, training courses have been organised in cooperation with UNHCR, Croatian Red Cross, Croatian Law Centre, and the IOM and were held for police officers on the external border on the following topics: accessing the system of international protection and protecting the human rights of migrants, first aid and health protection, basics in humanitarian law, etc. Croatia is one of the few EU Member States that has transposed the provision on assisting irregular migrants for humanitarian reasons into its national legislation (Art. 53 of the Aliens Act) from the Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence (OJ L 328, 5. 12. 2002.). However, the said provision does not provide for assisting in illegal border crossings, except in cases of saving lives and preventing injuries, which is unacceptable to certain NGOs. Activists from certain NGOs are present in the areas of neighbouring countries along the Croatian border (on the most endangered parts of the border), where they advise migrants on how to cross the border illegally and who to contact after their illegal entry into Croatia (including cell phone numbers). All of these actions are considered as assisting in the illegal crossing of the state border, in line with the Aliens Act and cannot be considered as assistance within the meaning of the Art. 53 of the Aliens Act. In that sense, several court proceedings are being conducted.
- <sup>26</sup> Police officers in police administrations and police stations also cover the issue of treatment of unaccompanied minors in training which is organised regularly by the Ministry of the Interior. Likewise, this issue is one of the subjects in the basic course for border police. In 2019, four training courses were organised by UNHCR and held for police officers and staff of social welfare centers regarding the Protocol. Protection of vulnerable persons is prescribed by the Aliens Act, pursuant to which the best interest of the minor and the needs of other vulnerable persons must be taken into account when applying the measures for ensuring return, as well as family life and health condition of a third-country national who is subject to such measures. Likewise, pursuant to the Aliens Act, vulnerable persons have the right to free legal aid in the return procedure, in the form of free legal representation for submission of law-suits and representation before the Administrative Court.