



**Center for Peace, Legal Advice
and Psychosocial Assistance**

SHADOW REPORT ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR PROTECTION OF NATIONAL MINORITIES IN THE REPUBLIC OF CROATIA

**Third monitoring cycle
2004 – 2010**

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CONTENT

I	Information on the Center for Peace, Legal Advice and Psychosocial Assistance	2
II	Introductory Remarks on the Shadow Report	3
III	Application of the Convention Article by Article	6
	Article 3	6
	Article 4	8
	Article 5	15
	Article 6	16
	Article 7	19
	Article 8	19
	Article 9	20
	Articles 10 and 11	23
	Articles 12, 13 and 14	28
	Article 15	30
	Article 16	39
IV	Action Plan of the Republic of Croatia for the Implementation of the Constitutional Law on the Rights of National Minorities, June 2008	40
V	Concluding Remarks and Recommendations	42

I Information on the Center for Peace, Legal Advice and Psychosocial Assistance – Vukovar

Center for Peace, Legal Advice and Psychosocial Assistance is local, nongovernmental, non-political, non-partisan, nonprofit, humanitarian association that works on protection and promotion of human rights, development of democracy and interethnic relations in the Republic of Croatia.

The Center was established on and works since 1 August 1996.

Main activities of the Center:

- Provision of free legal advices and free legal aid,
- Reporting on and analyzing human rights situation, with special attention paid to the rights of refugees, displaced persons and persons belonging to national minorities in the Republic of Croatia,
- Provision of informative and technical support to citizens, civil initiatives and economy development initiatives,
- Campaigning and advocacy,
- Monitoring of the work of courts of law and state administration bodies,
- Organization of conferences, seminars, trainings, workshops, roundtables and public discussions,
- Cooperation with relevant governmental and nongovernmental organizations in the Republic of Croatia as well as foreign and international nongovernmental organizations, and international organizations.

Beneficiaries of the Center's services are all citizens regardless of their gender, culture, mental or physical abilities, ethnicity or religion, etc.

The Center is a founder and the member of the Coalition for Promotion and Protection of Human Rights in the Republic of Croatia.

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II Introductory Remarks on the Shadow Report

The Government of the Republic of Croatia produced their 3rd Report on the implementation of the Framework Convention for Protection of National Minorities in June 2009. The Report was produced within the 3rd cycle of monitoring of the implementation of the Framework Convention in the Republic of Croatia. The Government submitted their report to the Secretary General, that is, the Committee of Ministers of the Council of Europe in accordance with the obligation set by the Article 25 of the Convention.

In July 2004, within the 2nd monitoring cycle, the Center for Peace – Vukovar in cooperation with the Community of Serbs – Rijeka produced the Shadow Report on the implementation of the Framework Convention in the Republic of Croatia for the period 1999 – 2004.

This Shadow Report, covering the period 2004 – 2010, the Center for Peace produced within the 3rd cycle of monitoring of the implementation of the Framework Convention in the Republic of Croatia. The Report is a compilation of information collected from alternative, nongovernmental sources relevant for monitoring the implementation of the Framework Convention. However, the Report also points at particular information from relevant documents of the Government of the Republic of Croatia. This Shadow Report is not a comprehensive source of information on the situation of persons belonging to national minorities. It does not elaborate on all information significant to each national minority in the Republic of Croatia. The Report does not contain, that is, does not repeat relevant information and details included in the Report of the Government of the Republic of Croatia. That is why this Shadow Report should be considered along with the 3rd Report on the implementation of the Framework Convention for Protection of National Minorities. The Shadow Report is mostly focused on examination of issues that, according to the opinion and findings of the Center, deserve more attention.

Initial preparations for the production of this report started in 2005. During this reporting period, the Center for Peace, continuously, through relevant projects, programs, public discussions, situation analysis and production of publications, collected relevant information and communicated with representatives of different national minorities in the Republic of

Croatia. Details on the activities of the Center for Peace in period 2005 – 2010 are available at: www.center4peace.org

Structure of the Shadow Report, that is, the order of the information presented, are generally following the structure of the content and the order of information of the 2nd Opinion on Croatia accepted by the Advisory Committee for Framework Convention on 1 October 2004.

The Center for Peace is grateful to all organizations and individuals who contributed to better review of the situation of the rights of persons belonging to national minorities and production of this report by answering to and participating in the implementation of the Center's activities. The Center gratefully acknowledges the contribution of following individuals and organizations who sent their written responses used for the production of this Shadow Report: Darinka Janjanin, member of the Council of Serb National Minority of the City of Rijeka; Coordination of Councils and Representatives of Czech National Minority in the Republic of Croatia; Coalition for Promotion and Protection of Human Rights; Miladin Jakovljevic, member of the Council of Serb National Minority of the City of Pakrac and Pozesko-Slavonian County; Center for Support and Development of Civil Society „Delfin" from Pakrac; and Joint Council of Municipalities – Vukovar.

In its report, in relation to specific issues and situation of persons belonging to Roma national minority, the Center suggests to review the Shadow Report produced by representatives of Roma associations and Center for Implementation of European Union Integration that has been produced within the 3rd cycle of monitoring of the implementation of the Framework Convention in the Republic of Croatia. Namely, in the end of 2009 and the beginning of 2010, within a project, the Center maintained regular contacts and cooperated with number of Roma associations' representatives and was familiar with their activities on the production of special alternative report.

This report was produced within regional partnership program “Enhancement of the inclusion of vulnerable groups in Southeast Europe: Minority Rights Advocacy in Processes of European Union Integration”. The program is financed by UK DIFID and implemented by Minority Rights Group International, London, Great Britain, in cooperation with their local partners from Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Kosovo.

Content of this Shadow Report does not necessarily and in every detail present the collective view of all who contributed to its production.

III Application of the Convention Article by Article

Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

(1.) Preamble of the Constitution of the Republic of Croatia explicitly lists 10 national minorities (while further minorities come under “the others” category) has not been changed during the reporting period. However, the intention has been announced to re-include Bosniaks (at the time listed as Muslims)¹ and Slovenians, the two minorities that were explicitly listed in the Preamble of the 1990² Constitution and were deleted from that list later, within constitutional changes planned to be introduced in 2010. Suggestions and initiatives to include Roma in the Preamble of the Constitution are coming from certain political circles and representatives of Roma associations.³ Although perhaps these changes might be of just symbolic nature, they could positively affect additional identity affirmation of the persons belonging to the above national minorities in the Republic of Croatia.

(2.) Exercise of the rights guaranteed by the Constitutional Law on the Rights of National Minorities does not refer to the persons who are not Croatian citizens. At the same time, certain number of Serbs, Roma and Bosniaks, a longtime residents of the Republic of Croatia, has difficulties in exercising rights to Croatian citizenship thus the exercise of economic, social and political rights guaranteed to Croatian citizens. These persons are discriminated in comparison to non-citizens of Croatian origins in relation to the acquirement of Croatian citizenship. For example, the European Commission against Racism and Intolerance (ECRI)⁴ and the UN Committee for Elimination of

¹ Bosniaks were given the opportunity to declare their nationality only after international recognition of Bosnia and Herzegovina, 1992. Until then, they have largely declared themselves as Muslims.

² Official Gazette, no. 56/90

³ See: <http://www.slobodnadalmacija.hr/Hrvatska/tabid/66/articleType/ArticleView/articleId/73651/Default.aspx>; Center for Peace - Vukovar notes from seminars and workshops for representatives of Roma organizations (November 2009th - January 2010).

⁴ ECRI: Third report on Croatia, Adopted on 17 December 2004, items 15 – 20

Racial Discrimination (CERD)⁵ are pointing at this problem. The UN Committee for Human Rights (CHR), at the end of 2009, encouraged Croatian authorities to make additional efforts to facilitate equal access to citizenship for persons belonging to minorities.⁶ It is unclear if the provisions of the new Law on Combating Discrimination⁷ also apply to non-citizens.

- (3.) It seems that collection, registration and presentation of data on national minority qualification, that is, data divided on the basis of ethnicity, still represent a serious problem. Reliability and accuracy of the existing data also seem to be uncertain. In the beginning of 2009, CERD, recommended Croatia to “provide information on its methods of data collection, including whether and how they reflect the principle of self-identification.”⁸

The third report of the Republic of Croatia on the implementation of the Framework Convention states that, for example, the Ministry of Justice currently employs 14 persons belonging to either national minorities or undeceived. These data are followed by the exact number of those belonging to particular minorities and those being undeceived. It is, however, unclear why the number of persons belonging to national minorities and those being undeceived are presented together. It is also uncertain if joint data presentation on representation within some other bodies (in numbers or percentages) that are not divided by particular national minority qualifications in details are including the “undeceived” or the “unknown”.

Center for Peace – Vukovar, registered number of complaints by persons belonging to particular national minorities against records maintenance on permanent residence in registry books and lists of voters, which point at certain problems in expressing or recognizing affiliation with a national minority.

- (4.) The issue of the position of persons who declared themselves as „*Muslims*” remained unsolved. As the “*Muslims*” do not have a national minority status, they do not exercise rights of persons belonging to national minorities guaranteed by the Constitutional Law on the Rights of National Minorities (for example the right to proportional

⁵ CERD: See Concluding Observations of the CERD on the sixth, seventh and eighth periodic report of the Republic of Croatia, 5 March 2009, point 17

⁶ CHR: Concluding Observations of the Committee for Human Rights on the second periodic report of the Republic of Croatia, 29 October 2009, point 16

⁷ „Official Gazette”, no 85/08

⁸ Concluding Observations on the sixth, seventh and eighth periodic report of the Republic of Croatia, 5 March 2009, point 10

representation in the bodies of state administration or justice; or, for example, the right to elect their national minority councils or representatives).

Authorities' attitude towards the "Muslims" as a *national* minority proved to be exceptionally unclear in case of the elections for national minorities' councils and representatives in units of local Self-governments held in June 2007. Namely, by their Decision on Convening Elections for Members of National Minority Councils⁹, that is the Decision on Convening Elections for Representatives of National Minorities¹⁰, the Government prescribed that, exceptionally, at these elections, Croatian citizens listed as Muslims in the voters' list can vote for representatives of Bosniak national Minority. By these decisions, the Government recognized active voters' rights to the "Muslims" to elect members and representatives of Bosniak national minority while, at the same time, they were not recognized the right to be candidates at these elections. It is also unclear why these decisions, exceptionally and exclusively, refer only to the 2007 minority elections.

Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

(5.) After amending the Labour Act and the Penal Code in 2003 and 2004, the Republic of Croatia continued building and improving its national antidiscrimination framework. Comprehensive Law on Combating Discrimination has been adopted in mid 2008 and came into power on 1 January 2009. Practical application of the Law is the best way to review its quality. Appropriate assessment is not possible yet due to the short time distance from the beginning of the Law implementation.

⁹ See „Official Gazette“, no. 49/07

¹⁰ Ibid.

This reporting period is marked by very poor court practice in reference to the number of lawsuits and procedures initiated for discrimination. Allegations on discrimination of especially Serbs and Roma were present as well as during the previous FCNM implementation monitoring cycle. The lack of and problems in relation to reliable and updated information were an issue for reviewing discrimination situation (*more about this under items 3.,7.,42.,43.,44.,47.*). In 2009, both, the CERD and the HRC concluded that there were certain developments achieved. However, they have pointed at the existing cases of *de facto* discrimination of Serbs and Roma.¹¹ Areas of alleged discrimination were various, such as education, employment, housing, recognition of property and other acquired rights, reconstruction of housing units damaged during the war, sustainability of minority returns, health and social protection, police proceedings, etc.

For example, there are many allegations on discrimination in employment of Serbs on which the ECRI says: „...“*Discrimination apparently occurs at several levels, both when it comes to passing a competitive examination for entry into the civil service and when a person is to be reinstated in their post following unfair dismissal. Some ethnic Serbs who applied for a post for which they were fully qualified did not obtain it, even where no one else met the requirements for the post. In such cases the post remained vacant. In other cases it would appear that ethnic Croat candidates are given preference over better qualified ethnic Serb candidates.*“¹² Further on, for example, allegations on discrimination in recruiting Serbs for police officers are publicly spoken: *“Sportsmen are failing physical ability tests, great-grandmothers’ whereabouts during the last war of some candidates are questioned as part of security checks while others are asked about their fathers’ engagements and political parties’ affiliations. In the end, the candidates are not explained in writing about the reasons for the Ministry of Interior to reject their applications for the police training. All of these candidates have mentioned that they were ethnic Serbs in their applications.*”¹³

In May 2007, the European Court for Human Rights passed the verdict on, among other, violation of the Article 14 of the European Convention for Protection of Human Rights and Fundamental Freedoms in claim filed in 2002 by a man belonging to Roma national minority.¹⁴ In his claim, he stated that local authorities failed to conduct serious

¹¹ See Concluding Observations of the Committee on the Elimination of Racial Discrimination on the sixth, seventh and eighth periodic report of the Republic of Croatia, point 14; and Concluding Observations of the Committee for Human Rights on the second periodic report of the Republic of Croatia, points 5 and 19

¹² ECRI: Third report on Croatia, items 74

¹³ See "Novosti – independent Serbian weekly, February 12, 2010, pages 6 and 7

¹⁴ See case Secis vs. Croatia; Claim No. 40116/0; Verdict from May 31, 2007

and thorough investigation of the assault against him. Further on, he stated that he was discriminated for his Roma origin. The European Court, among other, explained that *"The Court considers it unacceptable that, being aware that the event at issue was most probably induced by ethnic hatred, the police allowed the investigation to last for more than seven years without undertaking any serious steps with a view to identifying or prosecuting the perpetrators"*.

Serious intolerance and racism cases against Serbs and Roma still exist. At the beginning of September 2009, almost all Croatian media reported on the case of a medical doctor who allegedly refused to provide emergency medical assistance to a patient of Serb ethnicity. Patient's friends, who came to take him to the nearest hospital had a verbal argument with the doctor who told them that *"he had enough of these Vrhovljani¹⁵ Chetnik bastards"*¹⁶ The police filed adversarial motion against the doctor to the Magistrates Court for violation of public order and peace.¹⁷ At the beginning of February 2010, the media reported on the *"Do not touch Rom - they are infected."* sign found at the cash office of the main bus station in Zagreb. The Head of the bus station condemned this event justifying it by inappropriate Roma behaviour that *"beg, pull, spit on and curse other passengers"*. It has been announced that the officer who was on duty at the time the sign was placed will be served a warning notice.¹⁸

HRC¹⁹ and CERD²⁰ also point at the allegations on unequal proceedings by Croatian authorities in processing war crime cases before domestic courts. In that respect, the CERD suggests the state to *„strengthen its efforts to ensure that all war crimes trials conducted at the national level are carried out fairly and in a non-discriminatory manner and that all cases of war crimes are effectively investigated and prosecuted, irrespective of the ethnicity of the victims and the perpetrators involved."*²¹

Not de-politicized and unprofessional public administration and judiciary significantly affected and still affect elimination of discrimination against national minorities in a negative way.

- (6.) The issues of the restitution of private houses owned by exiled and displaced Serbs have been resolved to a large extent but not entirely. During the reporting period, the

¹⁵ Vrhovine, municipality in Lika with majority of ethnic Serb

¹⁶ See <http://dnevnik.hr/vijesti/hrvatska/90-posto-vrhovljana-zele-da-mujkanovic-vise-ne-lijeci.html>

¹⁷ See <http://www.vecernji.hr/vijesti/protiv-doktora-mujkanovica-podnesen-optuzni-prijedlog-clanak-17349>

¹⁸ See http://www.javno.com/hr-zagreb/ne-dirajte-rome---zarazeni-su_292820

¹⁹ HRC: Concluding Observations of the Committee for Human Rights on the second periodic report of the Republic of Croatia, points 10 and 11

²⁰ CERD: See Concluding Observations of the Committee on the Elimination of Racial Discrimination on the sixth, seventh and eighth periodic report of the Republic of Croatia, point 15

²¹ Ibid

authorities continued applying discriminatory practice against exiled and displaced Serbs whose housing units were temporarily occupied by displaced or at that time even not displaced persons belonging to majority population. Namely, the authorities gave interests of the user Croats preference over the interests of Serb owners in restitution of temporary occupied property proceedings. However, this was not the case in vice versa cases. The issue of the compensation for prolonged usage of the occupied properties that was to be paid to the owners by the state still exists. Even the European Court for Human Rights decided on the violation of property rights in favour of the owners in several cases (for details, please see, for example, cases *Kunic vs. Croatia*²² and *Radanovic vs. Croatia*²³).

However, the Government took no measures and did not consider the issue of restitution of the movables to be problematic. „[...] *the government has not established any administrative mechanisms regulating the restitution of movable property of displaced persons, placed under the Republic of Croatia's temporary administration... [...] the authorities were legally bound to appoint a commission to make an inventory of the movable property found in abandoned real assets in the private ownership of displaced persons or in the flats of occupancy/tenancy right holders, and to prevent the destruction of or damage to such movable property. It has been noticed that the unavailability of such movable property inventories potentially leads to difficulties in presenting evidence in court proceedings and that it discourages owners as injured parties from claiming their property before a court of law.*“²⁴

(7.) The problem of securing accommodation, that is, housing for the displaced former tenancy rights holders of Serb ethnicity, who have decided to return to Croatia, essentially begins to solve in 2007/2008. Excluding the City of Vukovar for its very specific situation, by the end of 2006, non-governmental organizations recorded very few cases of provision of housing care to displaced former tenancy rights holders of Serb ethnicity.²⁵ Implementation of the program of provision of housing care to the above-mentioned categories is still characterized by insufficient transparency and certain administrative, legal and political obstacles. In that sense, at the beginning of 2009, the CERD „*continues to be concerned about a substantial number of unresolved*

²² Claim No. 22344/02; Verdict January 11, 2007

²³ Claim No. 9056/02; Verdict December 21, 2006

²⁴ Regional Legal Assistance Program “A study on Access to Pertaining Rights and (Re)integration of Displaced Persons in Croatia, Bosnia and Herzegovina and Serbia in 2006 - National Political-Legal Frameworks and Their Implementation in Practice” March 2007, page 7., See http://www.osce.org/serbia/item_11_23473.html

²⁵ Ibid, page15

cases of returnees, in particular with regard to the restitution of property and tenancy rights”, stating further that the state should “*ensure the implementation of its policies and laws to solve all outstanding housing issues faced by property owners and former tenancy rights-holders, by the end of 2009 as envisaged*”²⁶. HRC, in the end of 2009, expressed its regret for the lack of information on access to provision of housing care to former tenancy rights holders, presented on basis of their ethnicity and gender.²⁷ Recognition of acquired (property) rights to purchase apartments under favourable conditions and facilitation of free and not preconditioned deciding of displaced former tenancy rights holders on their return to the Republic of Croatia remains problematic. Positions on this issue are not even reconciled within regional initiative²⁸ that aimed to create regional strategic framework for resolving remaining refugee issues by the end of 2006. In the only case of court termination of a tenancy right that has been examined before the European Court of Human Rights, the Grand Chamber of the Court brought a decision of incompetence since the final decision on this particular tenancy right termination was passed before the European Convention for Protection of Human Rights and Fundamental Freedoms came into power in the Republic of Croatia. (institute *rationae temporis*).²⁹ However, based on one individual address, the CHR has, among other, in its Views from 30 March 2009, concluded that was a violation of Article 17 in conjunction with Article 2, paragraph 1 of the International Covenant on Civil and Political Rights³⁰ in this particular case. The explanation of this particular conclusion says: “*Taking note of the fact that the author and his family belong to the Serb minority, and that the threats, intimidation and unjustified dismissal experienced by the author’s son in 1991 were confirmed by a domestic court, the Committee concludes that it appears that the departure of the author and his family from the State party was caused by duress and related to discrimination. The Committee notes that despite the author’s inability to travel to Croatia for lack of personal identification documents, he informed the State party of the reasons of his departure from the apartment in question. Furthermore, as ascertained by the Zagreb Municipal Court, the author was unjustifiably not convoked to participate in the 1995 court proceedings before the latter. The Committee therefore concludes that the deprivation of the author’s tenancy rights was arbitrary...*”

²⁶ CERD: See Concluding Observations on the sixth, seventh and eighth periodic report of the Republic of Croatia, point 19.

²⁷ HRC: Concluding Observations on the second periodic report of the Republic of Croatia, point 6.

²⁸ That initiative of the three OSCE Missions, UNHCR offices and Delegations of European Commission resulted in acceptance of Sarajevo Ministerial Declaration on regional refugee return, 31 January 2005. Regional Declaration was signed by the Republic of Croatia, Bosnia and Herzegovina, and Serbia and Montenegro

²⁹ Case Blečić vs. Croatia, Decision of Grand Chamber March 8 2006

³⁰ Case Vojnović vs. Croatia; Appeal No. 1510/2006; Views CHR April 28 2009

(8.) The issue that certainly deserves attention and further consideration refers to (non) sustainability of minority returns. One independent study from 2007 produced for the UNHCR states: „...we could conclude that between 44% and 50% of registered returnees do not permanently reside in Croatia. If we translate our findings to the whole population of 120,000 registered Serb (minority) returns, we arrive at a realistic estimate of 46,000 and 54,000 registered returnees living permanently in the country, of whom 42,000 to 49,000 reside in their place of origin.“³¹

HRC believes that the state should try to determine the number of displaced persons who do not wish to return and additionally explore on the reasons why these persons do not want to return.³²

(9.) The Law on Combating Discrimination establishes the Ombudsman as the main body for combating discrimination by which his role in protection of the rights of citizens is additionally reaffirmed and strengthened. However, it is the fact that Croatian Parliament just took note of the Ombudsman's report (the Parliament did not adopt the report), which points to certain level of disregard of the Ombudsman's work in the previous period.

(10.) The Third Report of the Republic of Croatia on the Implementation of the Framework Convention emphasizes the significance of the Law and the free legal aid system for facilitating access to justice and protection of the rights of persons of weaker financial situation that are being applied since 1 February 2009. However, exercise of the right to free legal aid proved to be very problematic, too complicated and insufficiently efficient. CERD, for example, „with concern reports on difficulties in obtaining legal aid, especially for members of minorities, due to the complexity of the procedures and functioning of local administrative and judicial bodies“.³³

Access to justice is often made difficult for high court fees and lawyers tariffs, as well as for, in some particular cases, lack of trust in judiciary and public administration.

(11.) Adopting and undertaking of appropriate measures aiming at promoting full and efficient equality between members of the national minority and majority population has seemingly been the most significant in the field of employment. Implementation of

³¹ UNHCR: Sustainability of Minority Return in Croatia, 2007, page 30

³² HRC: Concluding Observations on the second periodic report of the Republic of Croatia, point 6

³³ CERD: See Concluding Observations on the sixth, seventh and eighth periodic report of the Republic of Croatia, point 13

affirmative measures of giving preferences at employing members of national minorities within administrative bodies and judiciary is considered under items 42 – 45 of this report. Special measures, however, do not exist in the field of employing members of national minorities in enterprises and institutions. In some areas, traditionally populated by minorities who then represent the majority, their members are significantly underrepresented and do not possess the appropriate approach to employing in public enterprises and institutions.

At the beginning of 2009 CERD repeated the recommendation from 2002, saying that the signatory state should increase efforts with the goal of enabling return and reintegration of refugees, especially those belonging to the Serb national minority, by adopting and implementing just and transparent measures aimed at creating sustainable conditions for return.³⁴

In relation to the Roma, the Parliament's Committee for Human Rights and Rights of National Minorities concluded that in the course of 2008 a significant progress has been accomplished in the implementation of the National Program for Roma and Action plan “Decade for Roma Inclusion 2005-2015”, especially by enlarged inclusion of Roma children into the educational system (from the preschool to higher-level educational institutions), improved health standards for the Roma population, resolving the housing issues, undertaken activities for employment and providing free legal assistance in resolving their status; it also stated the dynamics of their implementation had to be maintained in order to accomplish the set goals.³⁵

CERD acclaims the adoption of measures against discrimination and for the integration of Roma but it also repeatedly recommends the state to continue undertaking measures and investing additional efforts into controlling discrimination of Roma in the fields of education (including classes in Roma language and putting an end to *de facto* segregation of pupils), fight against prejudice, efficient employment policies, appropriate political representation, acquiring citizenship and housing and, to encourage the state to create conditions for Roma population to express themselves as the members of Roma minority.³⁶ A part of Roma associations' representatives points out various problems and priorities of Roma depending on the local environments they live in whereas they emphasize the key issues being education,

³⁴ Ibid, point 19

³⁵ See: Report of the Council for Human Rights and Rights of national Minorities from the discussion on the Report on Implementation of the Constitutional Law on the Rights of National Minorities and spent funds ensured in the State Budget of the Republic of Croatia for the needs of National Minorities in 2008, accepted on 3 February 2010, available at: www.sabor.hr/Default.aspx?art=32284

³⁶ Ibid, point 14.

employment and regulation of status.³⁷ *For more details about these specific issues see Shadow report about the implementation of the Framework Convention 2004-2009 by the representatives of Roma associations and the Center for Implementation of Integration into the European Union.*

Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

(12.) The reporting period notices the continuing enlargement of budget funds that are being allocated at various levels for realization of cultural autonomy of national minorities in the Republic of Croatia. This, inter alia, contributes to the continuing improvement for realization of cultural autonomy of national minorities. However, there are opinions that *„the issue of minority cultures in the Croatian society, i.e. culture of individual minority and ethnic communities and support to their development cannot and must not be brought down to the fact of Republic of Croatia, Government and local communities, year after year, allocate larger and larger funds for cultural autonomy of national minorities and their numerous cultural institutions. Equally important aspect is the problem of minority cultures not being promoted as integral parts of the majority culture but they rather present marginal cultures within the Croatian society while the intercultural dialogue is not integrated as one of the main principles of Croatian society's development. Croatia is a multicultural society (if that implies parallel existence of various national communities' cultures) but is not intercultural, if that means their dialogue and interaction. Such approach encourages not only the existing auto-ghettoization present in almost all the minority communities of Croatia but also forceful assimilation“*³⁸

(13.) The problem of assimilation performed against the will of national minorities has to be perceived in the sense of various forms of discrimination against members of national

³⁷ Note by the Center for Peace – Vukovar at the workshop for representatives of Roma Associations (30 January 2010)

³⁸ Darinka Janjanin, member of the Council of Serb National Minority of the City of Rijeka, February 2010

minorities; cases of racism, intolerance, segregation, problems linked to expression and acknowledgement of belonging to a certain national minority as well as awkwardness and fears of expressing minority affiliation. In the previous period the Government's bodies, Ombudsman office and non-governmental organizations undertook certain measures to raising citizens' awareness about the existence of discrimination. However, it appears that the existence of these problems has not been sufficiently considered and that the overall public awareness about their existence has not been built well enough at all levels and in all the local areas.

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

(14.) Encouraging the spirit of tolerance and intercultural dialogue as well as affirmative statements and campaigns encouraged by representatives of authorities at the national level did not always and everywhere, in the appropriate way, reflect at the local levels. True intentions and wishes to strengthen inter-ethnic tolerance need to result in concrete changes, which in reality did not occur. Appraisal of the relevance of the undertaken measures and activities carried out by the authority institutions or supported by them in a financial or some other way, i.e. their realistic efficiency appears not to have been implemented by implementing objective indicators of successfulness in practice.

An event that took place in Vukovar recently indicates the high level of intolerance and low level of intercultural dialogue, understanding and cooperation in some local communities. Namely, the request of a part of Serb minority councillors (Independent Democratic Serb Party) for the written materials and invitations to councillors to be forwarded to them in the Serb language and Cyrillic script was strongly opposed by one, albeit minor political party and a few associations stemming from the war, whose membership is mainly Croatian. This is the right of the members of Serb national minority, which is prescribed in the Statute of the City of Vukovar. Some of the

statements included: „*This is outrageous. This implies some other requests that could follow thus provoking the entire public to stand up on its feet(...) Acceptance of this request would only mean the tip of the iceberg of further requests we would be showered with from issuing of public documents, printing forms used for official purposes, names of streets and squares, geographic localities and names of settlements that would be required to be written bilingually and in the Cyrillic script (...) We already have the situation where employees in the state services speak clearly Serb language(...) We would like to know what our parents were killed for , what the patriots fought for by defending Vukovar and why our city was destroyed...*“³⁹ These statements were published in the local media under the sensationalist title „*Shock and disbelief*“.

However, some self-government units took notice of positive examples against this type of intolerance. For instance, in January 2010 the appearance of swastikas on the houses and cars of the Roma national minority in the City of Vodnjan were condemned by all the minority communities while the harshest criticism came from the Vodnjan mayor.⁴⁰

(15.) It appears that the level of negative stereotypes about individual national minorities has somewhat been decreased in the relation to the previous reporting period.⁴¹ However, cases of intolerance and negative reporting and sensationalism are still significantly represented in the media at all levels.

Participants of a project⁴², having the “hate speech” monitoring of several printed and electronic media and websites in Croatia for its main activity in period 2005-2007, have noticed that the “hate speech” is equally expressed by all kinds of media: printed, electronic and, lately, mostly different websites, forums and blogs. We have concluded that there was almost no sanctioning at all of the authors or the media using the “hate speech” although such sanctioning is established by relevant laws. The number of websites, forums and blogs that are the main “hate speech” advocates has significantly increased regardless of the population or the group such hate speech refers to. Popular “hate speech” topics are in most cases persons belonging to national minorities, homosexuals and sports’ teams’ supporters. However, the project team registered also a number of cases of the true professional journalism, that is, the

³⁹ See Vukovarske novine on-line, <http://www.vukovarske-novine.com/vijest.php?id=6587>, Article „Šok i nevjerica“, from 28 January 2010

⁴⁰ See [http://www.hrt.hr/index.php?id=135&tx_ttnews\[tt_news\]=59398&tx_ttnews\[backPid\]=134&cHash=03758ea875](http://www.hrt.hr/index.php?id=135&tx_ttnews[tt_news]=59398&tx_ttnews[backPid]=134&cHash=03758ea875)

⁴¹ European Commission, Croatia 2009 Progress Report, 14 October 2009, page 14

⁴² Coalition for Promotion and Protection of Human Rights: Analysis of the hate speech monitoring in several media in the Republic of Croatia, not published

examples where different journalists condemned the “hate speech” and pointed at negative consequences that could rise from such speech.

(16.) Protection of human rights and protection of persons belonging to national minorities from discrimination currently present concerning issues. Heritage of intolerance and discriminatory practice against particular national minorities are significantly contributing to these problems. Appropriate and efficient implementation of, for example, provisions of new Law on Combating Discrimination and Law on Free Legal Aid could contribute to the enhancement of the level of respect for human rights of all persons belonging to national minorities and to suppression of discrimination they are exposed to. However, that will largely depend on the implementation of key reforms of the public administration and judiciary, that is, their actual de-politicization and professionalization. Concluding that there was some progress in 2009, the European Commission (EC), among the rest, stated that *“public administration reform has so far not received sufficient political attention“* and that *„further improvements in the accountability, independence, professionalism and competence of the judiciary are also required“*⁴³ The EC, in reference to the war crime trials (*see also under item 5*) said that the courts often take the convicted person’s role in the defence of the homeland as a mitigating factor, which creates a clear ethnic bias in sentencing for comparable crimes.⁴⁴

(17.) It seems that there have been fewer reports of ethnically motivated incidents and that police investigations of such incidents have improved, but many cases remain unreported.⁴⁵ However, some believe that *“Basic obstacle in determining the number of ethnically motivated incidents in the Republic of Croatia and crimes committed in relation to that is the fact that there is no clear definition of such an incident. Therefore, available official and unofficial statistics on such incidents should be considered with certain reserve“* and that the *“incidents in which the perpetrators exculpate themselves with nationalistic interpretation of ethnic differences are the biggest problem“*⁴⁶

⁴³ Croatia 2009 Progress Report, pages 8 and 9

⁴⁴ Ibid pages 9 and 10

⁴⁵ European Commission, Croatia 2009 Progress Report, page15

⁴⁶ See Coalition for the Promotion and Protection of Human Rights, Problems of ethnically motivated incidents in Croatia, May 2006;

<http://www.center4peace.org/Various%20document%20for%20web/Web%20materijali%20septembar%202006/MRP%20Paper%203/Doc%20English%203.pdf>

(18.) In reference to the (lack of) fulfilment of the obligations established by the paragraph 1 of the Article 6 of the Convention, please see also under item 24.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

(19.) It can be concluded that the authorities respected the provision of this article. There were not specific problems in realizing the freedom to association.⁴⁷ Activities of national minority associations have been supported from the state budget but also, in numerous cases, from the local self-government budgets.

Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.

(20.) One can conclude that the authorities respected the provision of this article. There were no specific problems in realizing the right to show religious affiliation, i.e. in realizing the freedom of belief.⁴⁸

(21.) The reporting period did not notice a significant progress linked to the process of property restitution to the religious communities, above all the Serb Orthodox Church and the Jewish Community.⁴⁹ While considering the problem of property restitution to the religious communities, i.e. Serb Orthodox Church, one of its representatives stated that key problems can be observed in *“endless administrative procedures and the lack of political will.”*⁵⁰

⁴⁷ European Commission, Croatia 2009 Progress Report, page 12

⁴⁸ Ibid

⁴⁹ Note by the Center for Peace – Vukovar; information, that is, the conversation with representatives of two religious communities broadcasted by the Croatian National Television, Show Prizma, 6 February 2010

⁵⁰ Ibid

Article 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

(22.) There is significant existence of viewpoints about the lack of significant progress in broadcasting TV and radio shows for members of national minorities in the electronic media in relation to both previous and present reporting periods. *“The situation with and about programs for national minorities, including production and broadcasting of programs in minority languages, especially in the electronic media with the national concession (HRT and HR) has not changed a bit in relation to the last report about the implementation of the Framework Convention in the Republic of Croatia. There are still only a few programs (HRT's Prizma and HR' Agora), which by their used up concept, and especially their length, are unable to remotely satisfy the need for providing information in the languages of national minorities. HRT especially does not possess the will to produce such programs in partnership with the national minority institutions and leave the editorial policy autonomy to them. Additional problems is seen in the fact that, along with the concept of producing particular minority programs, certain segments of HRT program (informative, cultural, documentary...)do not possess enough, or at all (cultural), topics deriving from life of the minority communities. Council for National Minorities, regardless of its obligations from the Action plan for the implementation of the Constitutional law on the rights of national minorities, which represents one of Croatia's main preconditions to opening the Negotiations chapter 23 of the EU accession, has not done a thing to improve the situation in that area. The HRT Program Council, according to the Law on HRT, which is one of the HRT bodies, has particular responsibilities to supervise programmatic principles form that Law*

(national minority members have seats in the Council), has not succeeded in making significant changes in the field of minority informing on HRT in the period from 2005-2009.”⁵¹

(23.) The Coordination of Councils and Representatives of the Czech National Minority deems, in reference to the HRT and HR programs, the TV program “Prizma” as the multinational magazine, achieves its purposes but is insufficient for a more widespread and individual scope of informing about the overall life of a particular ethnic group and in its language. Lack of information in the field is spotted especially in the implementation of the TV scheme when there are no county panoramas. We suggest that the former 'chronicles' for individual ethnic groups are introduced again.” In relation to the radio programs, the Coordination is of the opinion that “financing of radio shows for ethnicities has not been entirely resolved. It is especially emphasized with minorities that are not covered by the regional HRT centers and which are only covered by local radio stations. Since local radio stations are registered as Ltds. that have to be financed on the local level, they have no particular interest to cover minority programs. Some resources are set aside in the Electronic Media Fund but unfortunately that only covers 1/3 of the needs. All the attempts to resolve the issue at the ministerial level have not brought adequate solutions although the topic is covered by the Constitutional Law on Rights of the National Minorities and the Law on Electronic Media. Members of the Czech national minority do run a program in their own language at the Daruvar Radio but every year they experience the same problem – financial sustainability – even though the radio covers over 80% of the Czech minority members. Funds stated in the Report⁵² are non-transparent because they do not clearly show which part is related to the minority programs, which can be documented by tenders and contracts.”⁵³

(24.) Remarks in relation to prevention of the access to media, that is, for the exclusion of persons belonging to national minorities from shows at public, national television on the life in areas traditionally inhabited by national minorities were also noted. For example, the Open letter by the Council of Serb National Minority in Beli Manastir

⁵¹ Darinka Janjanin, member of the Council of Serb National Minority of the City of Rijeka, Material prepared for the production of this Shadow Report, February 2010

⁵² Relates to the 3rd Report of the Republic of Croatia on the implementation of the Framework Convention for Protection of National Minorities

⁵³ Material prepared by the Coordination of Councils and representatives of Czech National Minority for the production of this Shadow Report, 29 January 2010

dated March 2009⁵⁴ says that, among other, “*Croatian national television produced music show “Lijepom nasom” on 11 February 2009. The show was broadcasted on the first program of national television on 1 and 8 March 2009. The Council of Serb National Minority in Beli Manastir, legitimate representative of members of Serb community in Beli Manastir, after both parts of the show were broadcasted, protests for the fact that Beli Manastir and Baranja Serbs were not invited to participate in this show of the Croatian national television “Lijepom nasom”. Presenter and editor of the show who claims to be connoisseur of Baranja, during a two-hour show, did not mention Serbs and Serb tradition, and Serb singers and folklore associations do not participate in the show. The only conclusion imposed is that Serbs no longer live in this area. Discrimination [...] According to the last, 2001, census, Serbs make 26,6% of total population of Beli Manastir and 20,8% of entire Baranja population [...] If Croatian and Hungarian cultural and artistic associations participated, why the Serb ones did not?...*”

(25.) After their review conducted within the 3rd monitoring cycle on the implementation of the European Charter on Regional or Minority Languages, the Committee of Ministers, in March 2008, among other, recommended Croatian authorities to introduce language specific and more significant presence for regional or minority languages on public television and develop a presence on the regional radio stations also for those languages that do not yet benefit from it.⁵⁵

(26.) Although most national minorities developed rich publishing activity, several cases of good practice in cooperation between national minorities and local printed media were noted. For example, Councils of Serb National Minority in Lipik and Pakrac, as well as the County Council of Serb National Minority of Pozesko-Slavonska County have the possibility to publish information on their work and activities in local newspapers (bi-weekly) Pakracko-Lipicki List. Media space is limited to half of the page explaining that one page is reserved for publishing information on the work of all national minorities. Members of the above mentioned Councils believe that “at the time when it is important to go public, via local newspapers, half of the page is not such a small

⁵⁴ Council of Serb National Minority in Beli Manastir, Open letter – Show “Lijepom nasom” from Beli Manastir without Serbs, 9 March 2009

⁵⁵ Recommendation RecChI(2008)1, adopted 12 March 2008

space.” Pakracko-Lipicki List is partially financed by Towns Pakrac and Lipik, and partially by Pozesko-Slavonska County.⁵⁶

(27.) In the end of 2009, we have noted beginning of public sale of minority weekly papers – Samostalni Srpski Tjednik Novosti (*Independent Serb Weekly News*). This event can be considered important in receiving and spreading information, among other, on minorities in minority language and script, for both members of Serb national minority but also the whole society.⁵⁷

Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

Article 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

⁵⁶ Miladin Jakovljevic, member of the Council of Serb national minority of Pakrac and Pozesko-Slavonska County in cooperation with the Center for Support and Development of Civil Society “DELFIN”, Pakrac. The material was prepared for the production of this Shadow Report, February 2010

⁵⁷ News are newspapers of general informative character that follow and critically write about all relevant political, social and cultural events in Croatia. Besides that, NEWS are weekly papers of Serbs in Croatia that pay special attention to the work of institutions of Serb community and events important for that community. See: www.snv.hr/tjednik-novosti/

(28.) The Constitutional Law on the Rights of National Minorities (Article 12, paragraph 1) prescribes that the equal official usage of the language and script used by the members of the national minority can be realized within a local self-government unit in which members of an individual national minority make up at least one third of the population. This provision of the Constitutional Law is not directly implemented. The condition for realization of this right is that the statute of the local self-government unit regulates it. The Republic of Croatia's third Report on the implementation of the Framework convention states, inter alia, that according to May 2008 data the minority language and script are in equal official use in 27 units in which members of national minorities constitute at least 1/3 of the population. Although this statement suggests that all 27 units have regulated official bilingualism by their statutes, experience shows it has not been done. Namely, in the Report of the Croatian Government about the implementation of the Constitutional Law on the Rights of National Minorities and Expenditure of Funds insured in the 2008 state budget for the needs of national minorities there is the following statement: *“According to June 2009 data, out of 27 units of local self-government in which members of national minorities constitute at least 1/3 of the population, i.e. units that lawfully prescribe equal official usage of the language and script of the national minority, there is 8 units pending to regulate the equal official usage of language and script of the national minority in their statutes.”*⁵⁸ Therefore, nearly seven years have passed since the Constitutional Law on Rights of National Minorities took effect yet not all units of self-government have fulfilled their obligation to regulate equal official bilingualism on their territory.

(29.) The possibility to introduce the equal official bilingualism, that is to prescribe it in their statutes without a legal obligation, was used only by approximately 30 local self-government units in which the minority constitutes less than 1/3 of the population, out of which approximately 2/3 in the Istarska County and in relation to the Italian language. Some of those units used the legal possibility to prescribe the equal official bilingualism within a part of their territory. There is a positive example from 2009 – new statute of the City of Vukovar, dated July 2009, prescribes free usage of Serb language and Cyrillic script both in the official communication and public activities from the self-governing scope.

⁵⁸ See Report on Implementation of the Constitutional Law on Rights of National Minorities and spent funds ensured within State budget of the Republic of Croatia for 2008, December 2009, page 8, available at: www.vlada.hr/hr/naslovnica/sjednice_i_odluke_vlade_rh/2009/30_sjednica_vlade_republike_hrvatske; See 5th item on the agenda

(30.) Acknowledgement of lingual rights acquired according to the previously implemented regulations is accentuated as a specific issue linked to regulation of rights to equal official bilingualism. This problem used to be, for years, most visible in the request for acknowledgment of acquired rights for equal official usage of Czech language in the City of Daruvar and Hungarian language in the City of Beli Manastir. Although the principle of respecting the acquired rights is prescribed by provisions of the Law on Usage of Language and Script of National Minorities in the Republic of Croatia and Constitutional Law on the Rights of National Minorities, the requests of the mentioned minorities' representatives to harmonize statutes of Daruvar and Beli Manastir with the legal provisions for respecting the acquired rights, i.e. prescribing the official bilingualism, the local authorities did not take note of it and failed to install bilingualism into their local statutes. As for the problem of regulating official bilingualism in Daruvar, which was abolished in 1993, the Council for National Minorities submitted motion to initiate proceedings to determine constitutionality and lawfulness of the City of Daruvar's statute in November 2006. The Constitutional Court did not respond. However, in September 2009 the Daruvar City authorities adopted a new statute that regulates equal official bilingualism, that is, the equal official usage of Czech language and script in the area of several urban settlements, including Daruvar. The statute of Beli Manastir did not change in regard to the introduction of Hungarian language in the equal official usage.

(31.) However, there are other problems linked to realization of rights to equal official use of language and script of the national minorities.

Along with the statement...*"in the course of 2008 there was mainly no request by clients to use language and script of national minorities in proceedings before state institutions of the first instance whereas there were only 19 proceedings conducted in the language and script of the national minority (in Italian language only) before the courts..."* and in relation to that, inquiry about members of national minorities' possible worries, Parliament's committee for human rights and rights of national minorities, inter alia, stated: *"The situation is very similar when it comes to issuance of personal identity cards in the language and script of the national minority. Apart from a certain number of Italian minority members this right was utilized by a minor number of members of other national minorities, as visible from the Report. An opinion stated that the Ministry of Interior was partly to blame since it uses the Article 8, Paragraph 2 of the Law on identity cards in a way that it limits this right to certain self-government units whereas it*

does not apply the Article 9, Paragraph 2 of the Constitutional Law that does not limit the right. There was also a warning about situations in which along with the request for issuance of identity card in the language and script of the national minority as well as at the registration of national minority in the voting lists, members of national minorities were asked to provide written proof – a written document stating the fact (although there is no more input of such information in the record books) or they are asked to provide a statement verified by the public notary (which has financial implications) despite the fact such procedures are not prescribed by law and the freedom to express one's nationality represents one of the fundamental human rights guaranteed by the Constitution. The situation with usage of minority language in the various bodies of local and regional self-government units, as well as with the bilingual traffic signs, names of settlements, streets and squares is also unsatisfactory. [...]

There are still units of local and regional self-government that have not harmonized their acts with the Constitutional Law. Beside that, a number of them have only formally implemented this obligation without actually applying it.

Such situation has been kept on for years. It is usually about the same units of self-government whereas the Report, apart from taking notice, shows no indication of concrete steps the competent central bodies of state administration and the Government intend to undertake or the timeline for resolving the issue. Moreover, the Report gives out the impression the central bodies of state administration have no clear viewpoint as what to do. During debates a question was raised as if how it was possible for someone not to implement the law for years without being sanctioned for it and whether such attitude only encourages those who do not implement the law to continue such misconduct.”⁵⁹

(32.) Beside the observed progress in regulating the use of language and script of national minorities within units of local self-government, the Coordination of the Council and representatives of the Czech national minority have stated,⁶⁰ inter alia, that the administration often asks for expression and proof of belonging to a minority by presenting documents (often unclear which documents) and deems such presentation of evidence unnecessary since it is a personal matter. The Coordination suggests standardization of relevant administrative procedures, their clearer explanation and

⁵⁹ See: Report of the Council for Human Rights and Rights of national Minorities from the discussion on the Report on Implementation of the Constitutional Law on the Rights of National Minorities and spent funds ensured in the State Budget of the Republic of Croatia for the needs of National Minorities in 2008, accepted on 3 February 2010, available at: www.sabor.hr/Default.aspx?art=32284

⁶⁰ Material prepared by the Coordination of Councils and representatives of Czech National Minority for the production of this Shadow Report, 29 January 2010

application. Apart from members of the Czech national minority, Center for Peace Vukovar, in the previous period, registered a certain number of Serb national minority members who faced a problem of obtaining identity cards in their language and script. Also, Center has been informed about the problem experienced by the members of the German national minority from the City of Osijek who were deprived of obtaining identity cards in their language and script by the Ministry of Interior. In reference to that, Center for Peace Vukovar has been informed about an internal direction of the Ministry of Interior, which limits the issuance of identity cards in minority language and script to only six minority languages (Serb, Italian, Hungarian, Czech, Slovak and Ruthenian). This limitation has not been prescribed by the Constitutional Law on the Rights of National Minorities (*see Article 9, Paragraph 2 of the Constitutional Law*).

"It seems that the lack of interest of possible applicants requesting bilingual ID cards is influenced, amongst other, by: insufficient familiarity of persons belonging to national minorities and officials in charge with the right to issuance of bilingual ID cards in the whole territory of the Republic of Croatia; requests for acquisition of the documents proving that a person belongs to particular minority; unprofessional behaviour of some officers in charge towards the applicants; fear to emphasize own ethnicity; and fear of possible discrimination."⁶¹

(33.) The problem of lack of placement of bilingual topographic signs exists in some Self-government units; i.e. *„In some municipalities where Serbian language and Cyrillic script are introduced to official use, e.g. in Trpinja and Borovo, the problem is impossibility of placement of topographic signs in language and script of respective national minority. Despite the efforts of municipal authorities and requests sent to the competent institutions, the right to write names of settlements in minority language and script was not realized. Municipalities, however, are not in charge of placement of official boards containing names of settlements at their administrative territories."⁶²*

Roads enterprises are allegedly responsible for the placement of these boards.

The problem of lack of placement of bilingual signs does not necessarily relate to the usage of Serbian language and Cyrillic script.⁶³

⁶¹ See Coalition for Promotion and Protection of Human Rights: Paper: Exercise of the right to official use of national minorities languages and scripts in units of local and regional self-governments and programs in national minorities languages on the Croatian Radio and Television, December 2006
<http://www.center4peace.org/Various%20document%20for%20web/Web%20materijali%20septembar%202006/MRP%20Paper%203/Paper%205%20eng.pdf>

⁶² Ibid

⁶³ Material prepared by the Coordination of Councils and representatives of Czech National Minority for the production of this Shadow Report, 29 January 2010

(34.) In the previous implementation of the Framework Convention monitoring cycle, Center for Peace Vukovar warned about the problem of certain number of people belonging to the Serb minority to sign passport forms in the Cyrillic script. After the Center repeatedly inquired, following several new complaints, the MoI replied with the following explanation: *“According to the Ministry of Justice, a person's signature does not represent the official usage of the language and script but rather one's own identification, i.e. the fact of a particular signature belonging to a particular person. Each person has the right to sign documents in the way they want it and normally do it, as well as in the Cyrillic script, as long as one's signature matches the one from the identity card, being the document used to check someone's identity.”*⁶⁴

Article 12

- 1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.**
- 2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**
- 3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

Article 13

- 1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**
- 2. The exercise of this right shall not entail any financial obligation for the Parties.**

Article 14

- 1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.**
- 2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**
- 3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.**

(35.) In 2008 and 2010, Parliamentary Committee for Human Rights and the Rights of National Minorities does not mention issues in relation to the education of persons

⁶⁴ Memo by the Ministry of Interior, no. 511-01-72-68696/07 dated 21 November 2007

belonging to national minorities as priority issues, that is, as issues that need to be paid special attention to in the following period.⁶⁵

(36.) Committee of Experts on the Implementation of the European Charter on Regional or Minority Languages, in March 2008 concludes that: *“The appointment of expert educational advisers for regional or minority languages creates an important educational support structure as well as a way of improving communication between the speakers and the authorities in the field of education. Due to their many responsibilities and the multiple tasks they carry out, more resources and personnel are needed. The overall situation in the field of education remains good with regard to Italian, Serbian and Hungarian, and has improved for Czech, but remains weak for Slovak, Ruthenian and Ukrainian.”*⁶⁶

(37.) Round table discussion on the exercise of the right to education of persons belonging to national minorities held in December 2005 in Vukovar, among other, pointed out that: *„The process of choosing the educational model and the responsibility for the initiation of the procedure were not explained in details in the LELSNM. These have been explained by the Instructions passed by the Ministry that foresees that minority associations are those responsible to choose the model and initiate teaching in a minority language and script. Some of the Vukovar roundtable participants believe that such a solution is lacking and that those parents interested in the matter, local national minority councils and relevant experts should be ensured active participation in the process.[...] Some believe that the education of persons belonging to national minorities in separate institutions or classes in a minority language negatively reflects on the local integration of the students since part of them continues education in universities in their mother states and stay there permanently afterwards. National minorities’ representatives, however, possibility to choose and continue education in prestige faculties in their mother states see as an advantage. Return upon completion of education, the same as in case of the students belonging to majority population, depends on the perspectives they are provided in the Republic of Croatia. Positive step forward has been achieved with the Law on High Education becoming effective, by which the procedure of recognition of diplomas acquired abroad has been significantly*

⁶⁵ See report of the Committee from discussion on the Report on Implementation of the Constitutional Law on the Rights of National Minorities and spent funds ensured within the State Budget of the Republic of Croatia for 2007, that is, 2008, for the needs of national minorities, accepted on 15 October 2008, that is 3 February 2010, www.sabor.hr/Default.aspx?art=24777 i www.sabor.hr/Default.aspx?art=32284

⁶⁶ Report of the Committee of Experts on the Charter, 3rd monitoring cycle, adopted 12 March 2008, (Chapter 3.2, point L)

simplified."⁶⁷ Participants of the same round table discussion concluded that it was necessary for all relevant stakeholders at national and local levels to encourage and enable contacts and cooperation of the students belonging to different ethnic groups within the educational system and to introduce intercultural, tolerance and human rights education to education programs for the students and teachers belonging to both majority and minority communities.⁶⁸

(38.) In regard to the issue of registration of minority schools conducting classes in Serb language and Cyrillic script in Eastern Croatia, it appears that additional efforts need to be put in both by members of the minority community and the relevant authority institutions.

(39.) Despite a certain progress has been made, the approach to education and the education of the pupils coming from the Roma minority deserves special attention (*more about this topic in paragraphs 5 and 11*). For more details about these specific issues covering the education of the Roma national minority see *Shadow report about the implementation of the Framework Convention 2004-2009 by the representatives of Roma associations and the Center for Implementation of Integration into the European Union*.

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

(40.) During the reporting period a significant number of cultural events has been noted both at the national and local levels. Participants to those events included members of national minorities, that is, their cultural and artistic associations and activists. Surely, funds allocated to minority associations and institutions from the state budget contribute to increase in the number of cultural and artistic programs as well as integration of minorities into a wider cultural environment at various levels. In some

⁶⁷ See Coalition for Promotion and Protection of Human Rights: Paper: Exercise of the rights to education of persons belonging to national minorities in mother tongue and script in East Croatia, March 2006;
<http://www.center4peace.org/Various%20document%20for%20web/Web%20materijali%20septembar%202006/MRP%20Paper%202/Doc%20English%202.pdf>

⁶⁸ Ibid

areas the minorities' activities are either funded or co-funded from the self-government units' budgets.

However, in some local areas the minorities complained about being shut out thus disabled to properly participate in some cultural events. For instance, one complaint stated that the Serb representatives and Serb minority associations were not invited to cultural and social events organized by the Cities of Pakrac (The Pakrac Summer) and Lipik (Lipanj) even though they are the locations where the Serb Cultural Association Prosvjeta, sub-board Western Slavonia and Cultural and Artistic Association Tkanica, Gornji Čaglić, are active.⁶⁹ *In reference to exclusion of national minority members from social and cultural events at the local level see point 24.*

(41.) Efficient participation and inclusion of some minority members into economic activities remains very problematic. Allegations about discrimination in regard to employment, particularly in the war-affected areas, are still numerous (see points 5 and 11). The Constitutional Law on the Rights of National Minorities does not guarantee undertaking of positive employment measures, i.e. realization of appropriate representation of national minority members within e.g. public enterprises and institutions.

War affected areas (areas of special state concern) still fall behind economically. CERD, for example, *“while welcoming the measures taken by the State party to eliminate disparities between the different regions of the State party with a view to ensuring a sustainable return of refugees and other displaced persons, notes that the “areas of special State concern” continue to be economically underdeveloped”* and recommends that the Republic of Croatia *“continue to intensify its efforts aimed at creating conditions for a sustainable development of “areas of special State concern”, which are inhabited by the most numerous minorities, including Serb and Roma minorities.”*⁷⁰

Property restitution issue is to some extent an additional problem when it comes to efficient participation of national minority members in economic activities. Although property rights in the Republic of Croatia are mainly guaranteed, there are remaining cases of delayed property restitution as well as issues linked to compensations for utilization of private property during the functioning of 'wartime' laws in the course of 1990-ties.⁷¹ In the previous period, apart from problems such as restitution of

⁶⁹ Miladin Jakovljevic, member of the Council of Serb national minority of Pakrac and Pozesko-Slavonska County in cooperation with the Center for Support and Development of Civil Society “DELFIN”, Pakrac. The material was prepared for the production of this Shadow Report, February 2010

⁷⁰ CERD: See Concluding Observations on the sixth, seventh and eighth periodic report of the Republic of Croatia, point 20

⁷¹ European Commission, Croatia 2009 Progress Report, page14

agricultural land owned by the Serb minority refugees and displaced persons, there also appeared problems to access the agricultural land that was legally used for years to cover the existential needs of the refugees and displaced persons before the displacement.

Dissatisfying participation of national minority members in economic activities in some areas is surely caused by their limited or inefficient participation in the political decision-making process at the local level (see more under points 47 and 48).

For more details on specific issues linked to employment of members of the Roma national minority see the Shadow report about the Implementation of the Framework Convention 2004-2009 by the Roma associations' representatives and the Center for Implementation of Integration into the European Union.

(42.) It appears that the most frequently mentioned problem of the national minority members in the Republic of Croatia is the lack of their appropriate representation in the state administration bodies, judicial bodies and administrative bodies within units of self-government, i.e. the problem to implement Article 22 of the Constitutional Law on the Rights of National Minorities.

All available, official or unofficial, data indicate non-existence of a more significant progress in regard to ensuring the guaranteed right to the proportional (in relation to their share in the population) representation of the national minority members in the state administration bodies and judiciary. The measures undertaken to that effect, primarily public debates and other forms of informing and inviting national minority members to invoke their advantage at getting a job, obviously, brought minor results. There have been numerous allegations about discrimination at employment (see point 5). Methodology of monitoring employment and exercise of the right to representation of persons belonging to national minorities, and generally collection of data disaggregated by ethnicity present a serious problem. Among others, ECRI also warned about the data collection problem in the end of 2004 stating that it: *"[...] encourages the Croatian authorities to consider ways of setting up a coherent and comprehensive data collection system to assess the situation of the various minority groups living in Croatia and the scale of manifestations of racism and racial discrimination. The data collection system will have to comply with domestic law and with European regulations and recommendations on data protection and protection of privacy, as stated in ECRI's General Policy Recommendation No.1 on combating racism, xenophobia, anti-Semitism and intolerance. When data is collected, the*

*Croatian authorities will in particular have to respect the anonymity and dignity of the persons questioned and obtain their full consent. The system for collecting data on racism and racial discrimination should also take into account equality between women and men, especially in the light of the possibility of double or multiple discrimination.*⁷²

A roundtable discussion held in November 2005 showed that collection of comprehensive data on ethnicity for both the persons belonging to national minorities and the authorities was important for at least two reasons: *“1. It is impossible to fully implement provisions of the CLNM and exercise the rights guaranteed within without such data. Production of implementation acts and adequate policies, and implementation of legally prescribed affirmative measures for exercise of the rights of persons belonging to national minorities to representation in administrative and judicial bodies of the RoC depend a lot on the collection of data on minority affiliation.; 2. These records are necessary for monitoring of the level of exercise of guaranteed rights, as well as for establishment on the existence of discrimination against persons belonging to national minorities, and for taking adequate measures aiming to eliminate discrimination.”* The discussion, further showed that *“Official records on ethnic affiliation that are available in the RoC are either not updated (voters’ lists), or are insufficiently detailed (statistics on minority representation in judicial bodies), or their reliability is questioned by certain minorities (2001 census results).”*⁷³

The European Commission, at the end of 2009, drew attention to the lack of long-term strategy for implementation of the Constitutional Law provisions on employment of minorities as well as to the inaccessibility of adequate statistical data that would allow for monitoring of employment trends.⁷⁴

(43.) In its National Program for Protection and Promotion of Human Rights in the period 2008 – 2011 the Croatian Government has foreseen the establishment of the Central database of state officials and employees as a measure to ensure implementation of the Article 22 of the Constitutional Law on the Rights of National Minorities. The deadline for this measure to be implemented was 2008 whereas the Central database has not yet been established.⁷⁵

⁷² ECRI: Third Report on Croatia, point 99

⁷³ See Coalition for Promotion and Protection of Human Rights: Paper: Exercise of the rights to representation of persons belonging to national minorities in representative, administrative and judicial bodies, with the emphasis on the problems in relation to ethnic / minority affiliation, January 2006

<http://www.center4peace.org/Various%20document%20for%20web/Web%20materijali%20septembar%202006/MRP%20Paper%201/Doc%20english%201.pdf>

⁷⁴ See: European Commission, Croatia 2009 Progress Report, page 14

⁷⁵ See: Government of the Republic of Croatia, Office for Human Rights: Progress Report on the Implementation of National Program of Protection and promotion of Human Rights for the period 2008 – 2010 in 2008, July 2009 (measure 15.2.)

(44.) In regard to the representation of the national minorities in the judicial bodies, by comparing the data on representation from the Republic of Croatia's Third Report on the Implementation of the Framework Convention (June 2009) and data from the Government's Comments to the second opinion of the Framework Convention Advisory Board (April 13, 2005), the conclusion is there has been no progress in the four-year period, i.e. the data is almost identical. The share of national minority members is statistically even smaller than it used to be. Namely, in the Third Report data is divided according to the employees' belonging to a particular national minority and there is a separate note on the number of 'Muslims' as well as the number of 'unbiased'. In the April 2005 Comments there are extracted representation percentages regarding the Serbs only and the 'others'. It seems that the 2005 data considers 'Muslims' to be under the heading 'the others' because they do not hold the national minority status and their share in the overall population, in the official statistical data, is not added up to the entire share of national minorities as well as those recorded as 'unbiased' who as such cannot be considered as members of national minorities and whose share in the population is also not added up to the overall national minorities share in the official statistical data.

Parallel data on ethnic composition of employees of judicial bodies mentioned in the Comments of the Government of the Republic of Croatia on the 2nd Opinion of the Advisory Committee for Framework Convention (refers to the situation from 31 December 2004) and data included in the 3rd Report of the Government of the Republic of Croatia on the Implementation of the Framework Convention from June 2009

Municipal Courts	Number of judges		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	883	858	838		23		22			
%	100	100	94,9	95,6	2,6	2,6	2,5	0,4	0,2	1,2

County Courts	Number of judges		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	378	382	346		14		18			
%	100	100	91,5	94,0	3,7	2,9	4,8	0,6	0,5	2,0

Courts of Commerce	Number of judges		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	136	114	135		0		1			
%	100	100	99,3	100	0,0	0,0	0,7	0,0	0,0	0,0

Municipal State Attorneys Offices	Number of State Attorneys		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	366	386	357	378	4	4	5	4	0	0
%	100	100	97,5	97,9	1,1	1,0	1,4	1,0	0,0	0,0

County State Attorneys Offices	Number of State Attorneys		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	158	157	148	147	7	7	3	3	0	0
%	100	100	93,7	93,6	4,4	4,5	1,9	1,9	0,0	0,0

State Attorneys Office	Number of State Attorneys		Croats		Serbs		Other	National minorities	Muslims	Unbiased
	2004	2009	2004	2009	2004	2009	2004	2009	2009	2009
Total	24	24	23	22	1	2	0	0	0	0
%	100	100	95,8	91,7	4,2	8,3	0,0	0,0	0,0	0,0

Furthermore, the Report on the Implementation of the Constitutional Law on the Rights of National Minorities and Expenditure of Funds insured in the 2007 State Budget shows that the Ministry of Interior in 2007 employed 1280 national minority members. The table showing the structure of the Ministry of Interior employees divided onto ethnicities anyhow comprises 171 Muslims, 4 unbiased, 54 unknown and 1 regional member.

These examples indicate the existence of a problem in terms of progress appraisal related to realization of rights to proportional representation of the national minority members in the state administration bodies and judiciary.

(45.) The Report on the Implementation of the Constitutional Law on the Rights of National Minorities and Expenditure of Funds insured in the 2008 State Budget⁷⁶ shows that in 19 out of 72 local self-government units legally binded to ensure representation in their administrative bodies, the representation has not been realized.

(46.) In May 2009 local elections for the members of representative and executive bodies within units of local and regional self-government were held. The number of national minority members in the representative bodies inside the self-government bodies is defined by the statutes of the self-government units in line with provisions from Article 20 of the Constitutional Law on the Rights of National Minorities. Representative

⁷⁶ www.vlada.hr/hr/naslovnica/sjednice_i_odluke_vlade_rh/2009/30_sjednica_vlade_republike_hrvatske; See 5th item on the agenda

bodies of the self-government units are obliged to timely, before each regular elections, harmonize their statutes in order to ensure the participation of national minority members pursuant to the Constitutional Law provisions. If they fail to do so the said obligation has to be fulfilled by the newly elected representative body within 60 days of constitution. Units where members of an individual national minority represent, according to the census, 15% or more of the overall population (cities and municipalities), i.e. 5% and more (counties), are obliged to prescribe the representation of that particular minority inside of its executive bodies within their statutes, that is to acknowledge the right of the minority to a municipal mayor deputy, mayor or prefect posts. At the beginning of December 2009 additional elections were held in order to appoint members of national minorities to the representative and executive bodies in which the statutes were harmonized by the newly elected representative bodies and in which the appropriate representation of national minorities was not reached at the May elections. However, even though the legally binding deadline had passed, certain number of self-government units did not harmonize their statutes all the way until the end of 2009, which means that even seven months after the elections the minorities have not yet realized the right to appropriate representation in the representative and executive bodies. Center for Peace – Vukovar has marked several complaints related to the statute harmonization issue yet a more detailed analysis of the realization of national minority rights to the appropriate presentation in the said bodies of self-government units can only be done after a reasonable time distance.

(47.) It is interesting to mention that after previous local elections held in May 2005, the Government of the Republic of Croatia, in its never published Conclusion dated 22 July 2005, ordered newly elected representative bodies of Self-governmental units that failed to harmonize their Statutes to do so within 60 days following official census results as the voters' lists were not updated due to disordered register of permanent residence. *„Reacting to the Government's Conclusion, the representative of GONG Association said: “Instead of amending their Statutes in accordance with the provisions of the Constitutional Law, meaning in accordance with the changes registered in the last confirmed voters' list from local elections held in 2005, the Government instructed representative bodies to do this opposite to the regulations (CLNM); they were instructed to amend their statutes in accordance with the 2001 census results that do not correspond to changes within voters' lists.” GONG Association addressed the Constitutional Court of the RoC submitting the Proposal for Initiating the Assessment of*

*Constitutionality of the Government's Conclusion. The Constitutional Court accepted this Proposal in November, 2005. The Council for National Minorities rejected the Conclusion, while certain minority representatives in the Croatian Parliament considered it discriminatory in relation to national minorities.*⁷⁷ It is interesting that the Government, at the beginning of 2009, prior to the last local elections, brought a Conclusion of completely opposite content by which they ordered consistent implementation of the Constitutional Law, that is, for the Self-government units to use census data reconciled with the changes that occurred in voters' lists, which meant that the data from the voters' lists was relevant for reconciliation. This action of the Government is also interesting since the voters' lists remain the object of numerous critics as many believe that they are disordered as they were in 2005. Center for Peace – Vukovar noted several complaints by members of different national minorities who were registered as “unknown” in the voters' lists. In May 2009, one person addressed the Center with the following letter: *“I am addressing you for the ethnicity not registered in the voters' lists for the forthcoming elections. A few days ago, I phoned a person responsible for voters' lists in Knin, Mrs. S. who informed me that my ethnicity was not registered at their office. I asked Mrs. S. what was written there and she replied that the item was empty, that is, that there is nothing written there. According to what she said to me I conclude that I'm not registered as, for example, unbiased or similar. I have also asked her why this item was empty. Mrs. S. told me that they have allegedly used data provided by the police, and that the police, for a while, did not collect data on the ethnicity but that they have started doing it again.”* The Center has no records on total number of persons whose ethnicity is not registered within voters' lists, but it seems like it is not low in several Self-government units. This issue, for sure, deserves intensified attention as data on ethnicity registered by the voters' lists is used as a ground for exercise of the right of persons belonging to national minorities to an adequate representation.

(48.) Despite the increased financial support, national minority councils are still insufficiently recognized as advisory bodies by the majority of local authorities whereas dependency on local budgets produces additional negative influence affecting their

⁷⁷ See Coalition for Promotion and Protection of Human Rights: Paper: Exercise of the rights to representation of persons belonging to national minorities in representative, administrative and judicial bodies, with the emphasis on the problems in relation to ethnic / minority affiliation, January 2006
<http://www.center4peace.org/Various%20document%20for%20web/Web%20materijali%20septembar%202006/MRP%20Paper%201/Doc%20English%201.pdf>

work independency and the influence they have.⁷⁸ There are significant differences in terms of human, financial, technical and other capacities of the councils at various levels and in various self-government units. Some studies show that the work of councils and national minority representatives has been particularly burdened in the war-affected areas, that is, the areas of special state care.⁷⁹

(49.) Elections for Councils and Representatives of National Minorities managed to encourage only a small portion of minority members to realize their voting rights. At the first elections for councils and national minority members, in May 2003 and February 2004 suffrage was used by approximately 10% of potential voters whereas the number only increased by several percents at the second elections in June 2007.

(50.) Some sources estimate that „the councils of national minorities (municipalities, cities, counties), important minority institutions from the Constitutional Law on the Rights of National Minorities, not even in the course of their second mandate succeeded to position themselves as minority representative bodies, i.e. minority self-governments, in any of the segments related to decision-making as regard to minority problems in individual local communities but they rather remain functioning on the principle and with activities of the already existing minority associations, often without basic material and staffing needs and premises needed to properly carry out their activities. Necessary changes of the Constitutional Law on Rights of National Minorities never took place and remain questionable. This is particularly true in regard to the legal status of the Coordination of Councils of National Minorities at the state level, which at this moment, even after the Constitutional Law has existed for seven years now, do not hold legal status, which to a great extent and critically influences their functioning.“⁸⁰

(51.) In their decision on authorizing summoning of constituency sessions of the councils of national minorities with major members elected⁸¹ dated August 2007, The Government of the Republic of Croatia took the obligation to announce additional elections in units of local and regional Self-government where councils of national minorities were not elected in total number set by the law. The elections should have been held in order for

⁷⁸ See European Commission, Croatia 2009 Progress Report, page 14

⁷⁹ See WYG International: Gap Analysis on the effectiveness of Councils of National Minorities in Areas of Special State Concern in the Republic of Croatia, January 2007

⁸⁰ Darinka Janjanin, member of the Council of Serb National Minority of the City of Rijeka, Material prepared for the production of this Shadow Report, February 2010

⁸¹ Official Gazette, no. 82/07

the councils to complete. Additional elections were not held, which possibly points at low significance given to the councils and representatives of national minorities.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

(52.) Numerous and lengthy obstacles on the way to realizing the rights to sustainable return of the refugees and displaced persons, of Serb national minority above all, have certainly left their mark on the population ratio in areas traditionally inhabited by minorities. (*See points 5, 6, 7, 8, 10, and 11*).

Beside that, numerous problems and exposure to discrimination in the approach to various rights remain present to a significant extent. Dynamics and determination in removing the said obstacles will have exceptional influence to the number and sustainability of potential minority returns in the future.

(53.) Since the exercise of particular minority rights at local levels depends on the percentage of a minority within total population (for example, exercise of the right to language, education, representation, etc.), that is, percentage of a minority in total number of registered voters, it is necessary to consider problems in relation to free expression of own ethnic affiliation, citizenship status regulation and lack of information on their ethnicity in voters' lists under this Article of the Convention. (*See items 2, 3 and 47.*)

(54.) At the beginning of 2010, the Center for Peace – Vukovar, received information on several cases in which persons belonging to Serb national minority were deleted from the permanent residence register at several places in Viroviticko-Podravaska County. The complainants claimed that the above occurred without any legal basis.⁸² Moreover, the Center knows of suspicious, and in the Center's opinion, groundless and unexplained cancellations of Croatian citizenship to persons belonging to national minorities in Vukovarsko-Srijemska County.

⁸² Information received from Serb National Council, February 2010

IV Action Plan of the Republic of Croatia for the Implementation of the Constitutional Law on the Rights of National Minorities, June 2008

In June 2008, the Government of the Republic of Croatia adopted Action Plan for Implementation of the Constitutional Law on the Rights of National Minorities. Situation and problems in exercise of the rights of national minorities established by the Constitutional Law are examined in this document. The Action Plan foresees measures for enhancement of the situation in exercise of the rights of persons belonging to national minorities by topics, determines on specific activities' carriers, as well as on the financial resources necessary for their implementation. Adoption of the Action plan was important for the process of European integration of the Republic of Croatia, bearing in mind that the implementation and exercise of the rights guaranteed to persons belonging to national minorities are one of the preconditions for opening negotiation chapter 23 Judiciary and Fundamental Rights in negotiations between the Republic of Croatia and the European Union.

Mr. Slobodan Uzelac, Vice President of the Government of the Republic of Croatia, speaking of the reasons to adopt the Action Plan, among other, said: *"This Action Plan was adopted in the same way it would be done in any other comparable situations – when we decided that a document that was the base for adopting such action plan did not live or accomplish desired goals. It could be the Constitutional Law. Or it could be legislation. It could be something else, as I believe was the case now. The Action Plan needs to vivify the spirit and word of this Constitutional Law on the Rights of National Minorities."*⁸³

Although the adoption of such a document, that is, of the plan of actions deserves to be praised, the process of production and adoption of the Action Plan was also exposed to certain criticism.

For example, in a short report from a conference (*"Ten years since the Framework Convention for Protection of National Minorities came into force – Influence of the Convention on the exercise of the Rights of Persons belonging to National Minorities in the Republic of Croatia"*) held on 23 October 2008, among other, says: *"Although the Action Plan for Implementation of the Constitutional Law on Rights of National Minorities adopted by the Government of the Republic of Croatia in June 2008 was expected to be presented at the Conference, it did not*

⁸³ See <http://www.voanews.com/croatian/archive/2008-10/2008-10-27-voa4.cfm?moddate=2008-10-27>

*happen due to the confidentiality of that document. Representatives of national minorities – conference participants, expressed their disappointment as they could not be informed about the content of the Action Plan. They also protested since they were not consulted about or participated in the process of its production. The biggest disappointment, however, was the fact that the clause of confidentiality was not removed from the Action Plan and its content was not publicly available despite it was adopted several months ago.”*⁸⁴ Namely, the Action plan was “a confidential document” until the end of 2009 when it became available to the public on the websites of the Government of the Republic of Croatia.⁸⁵ On 11 September 2009, the Council for National Minorities, brought following conclusion: *“The Ministry of Justice of the Republic of Croatia is suggested to remove the confidentiality clause from the Action Plan for Implementation of the Constitutional Law on the Rights of National Minorities, Chapter 23 Judiciary and Fundamental Rights, The Government of the Republic of Croatia, 23 June 2008.”*⁸⁶

It is interesting to mention that most measures and activities from the Action Plan were supposed to be implemented in 2008! One could conclude that representatives of national minorities, especially those at local levels where most minority rights are to be exercised, did not participate or participated in an inadequate way in the process of planning, production, monitoring and evaluation of the implementation of the Action Plan despite they were interested in the measures that were implemented or should have been implemented according to the Action Plan.

Bearing the above in mind, issues in relation to the implementation of the measures established by the Action Plan were not considered in this Shadow Report.

⁸⁴ See <http://www.center4peace.org/english/Home.htm>

⁸⁵ http://www.vlada.hr/en/preuzimanja/razno/akcijski_plan_za_provedbu_ustavnog_zakona_o_pravima_nacionalnih_manjina

⁸⁶ www.savjet.nacionalne-manjine.info/docs/33ZAPISNIK.doc

V Concluding Remarks and Recommendations

During this reporting period, the Government of the Republic of Croatia conducted series of activities aimed towards enhancement of the situation of persons belonging to national minorities at all levels. Legislative framework that enables practical application of provisions of the Constitutional Law on the Rights of National Minorities improved; anti-discrimination legislation was enhanced and a comprehensive anti-discrimination law was adopted; Law on Free Legal Aid and several programs and plans important for protection of human and minority rights, including the Action Plan for the Implementation of the Constitutional Law on the Rights of National Minorities, were adopted. Financial support for associations and institutions of national minorities as well as the support to programs for refuge and displaced persons' return from the State Budget was continuously increasing. Particular measures promoting tolerance and interethnic cooperation were taken.

However, practical implementation and exercise of all guaranteed rights of persons belonging to national minorities guaranteed by the Constitutional Law on the Rights of National Minorities had no significant progress. Allegations on discrimination and violations of fundamental human rights of persons belonging to national minorities deserve special attention and concrete measures to be taken. Problems in obstruction and sustainability of minority returns; participation in public life via councils and representatives of national minorities; inappropriate an inefficient actions, that is, disobedience by local authorities of their obligations set by the Constitution Law on the Rights of National Minorities; exclusion, that is, lack of inclusion of representatives of national minorities in decision making processes at all levels; efficient participation of minorities in economic life and public affairs, etc., are the issues still evident in some local areas. With minor progress, exercise of the right to access to media and linguistic rights remain problematic. Lack of realization of numerous rights is largely contributed by inefficient, unprofessional and politicized public administration and judiciary and their disproportionate work. Reviewing real situation in exercise of particular rights such as employment and adequate representation and sustainability of minority returns, and their practical realization are blocked by the lack of reliable, detailed and updated data disaggregated by ethnicity.

In the following period, in order to fulfil their obligations and facilitate efficient implementation of the provisions of the Framework Convention for Protection of National Minorities, the authorities of the Republic of Croatia should:

In reference to the Article 3 of the Convention:

- Ensure all necessary preconditions for all members of national minorities to freely declare their ethnicity – their right to declare themselves as a minority member should be recognized in the official registers and they should not suffer from any possible negative consequences of that;
- Remove obstacles for inequality of persons belonging to national minorities, long-time residents of the Republic of Croatia, in acquiring Croatian citizenship and regulating status in relation to the persons of Croatian origin.

In reference to the Articles 4 and 6 of the Convention:

- Take efficient and transparent measures for suppression of all forms of discrimination in society with the emphasis on efficient implementation of the Law on Combating Discrimination;
- Examine cases of discrimination and violations of fundamental human rights from the period of armoured conflict and after them, and to take efficient measures for fair elimination of negative consequences;
- Take efficient measures for suppression and processing of all forms of intolerance and related crimes, and to intensify activities in relation to establishment of interethnic cooperation at all levels;
- Take measures for facilitation of access to free legal aid so that all persons in need can have efficient access to justice.

In reference to the Article 9 of the Convention:

- Create all necessary preconditions for access of national minorities to electronic media, especially those with national concession, as well as for insurance of adequate representation of shows in minority languages in their programs.

In reference to the Articles 10 and 11 of the Convention:

- Enable preconditions for full exercise of linguistic rights at levels of Self-government units, bearing in mind real both, the real needs and exercise of acquired rights;

- Unify practice in issuance of identity cards in languages and scripts of national minorities for members of all national minorities.

In reference to the Article 15 of the Convention:

- Take efficient measures for insurance of efficient participation and inclusion of members of national minorities in economic and public life at all levels;
- In cooperation with representatives of national minorities, intensify measures for exercise of adequate representation of persons belonging to national minorities in public administration and judiciary at all levels, and especially create appropriate mechanisms for reliable monitoring of the process and realization of representation including creation of reliable and updated data disaggregated by ethnicity;
- Insure efficient participation of persons belonging to national minorities in public life and decision making processes of their interest at all levels, including their efficient participation in planning, implementation and evaluation of relevant policies and measures.

In reference to the Article 16 of the Convention:

- Examine problems influencing sustainability of minority returns as well as reasons why refugees do not want to return to the Republic of Croatia, and create necessary economic and other preconditions for sustainable return for those who decide to return;
- Enable access to acquired and pertaining rights to all persons in war affected areas but also outside those areas;
- Examine in what way the changes within ethnic composition of the population in some areas reflect on the exercise of the rights of persons belonging to national minorities and create preconditions for the level of acquired rights of members of national minorities not to downsize unjustly.