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# Croatia

## Briefing to the United Nations Committee on the Rights of the Child

### 37<sup>th</sup> Session, September 2004

#### Introduction

On 12 October 1992 Croatia became a party to the Convention on the Rights of the Child (CRC) by succession from the Socialist Federal Republic of Yugoslavia (SFRY). Upon succession, Croatia made a reservation in respect to Article 9[1] of the CRC which reads: "[t]he Republic of Croatia reserves the right not to apply paragraph 1 of article 9 of the Convention since the internal legislation of the Republic of Croatia provides for the right of competent authorities (Centres for Social Work) to determine on separation of a child from his/her parents without a previous judicial review." The reservation was withdrawn on 26 May 1998. Croatia ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 13 May 2002 and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 1 November 2002.

On the occasion of the consideration of Croatia's second periodic report, submitted to the Committee on the Rights of the Child (Committee) on 28 November 2003,<sup>1</sup> Amnesty International highlights its concerns regarding the implementation of the CRC in the state party. This briefing is focused in particular on:

- the failure of the authorities to prevent serious violence and bullying among children and young adults placed in social care institutions and to fully address the needs and problems of institutionalized children;
- the failure of the authorities to fully integrate Romani children in the Croatian school system.

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<sup>1</sup> Croatia's second periodic report was due in 1998. Its initial report was submitted in 1994 and considered by the Committee in 1996.

## **Failure to prevent serious violence and bullying among children and young adults placed in social care institutions and to fully address the needs and problems of institutionalized children**

The Juvenile Courts Act (*Zakon o sudovima za mladež*) of 29 September 1997 regulates cases of criminal offences committed by children (according to the law, persons under the age of 18) and young adults (according to the law, persons over the age of 18 and under the age of 21). The act defines different types of measures which may be imposed on young offenders. These include re-educational measures, juvenile detention and supervisory measures (Article 4[1]). Articles 4 and 23 of the Juvenile Courts Act provide that juvenile detention can be ordered only against children who were over the age of 16 when they committed the criminal offence and for criminal offences which are punished with five years or more of imprisonment, in cases where the character and the gravity of the criminal act and the high degree of culpability make imprisonment necessary. Article 6 of the Juvenile Courts Act details various types of re-educational measures which may be imposed on young offenders, and specifies that institutional measures such as the "placement in an institution for re-education" (*upućivanje u odgojnu ustanovu*), "placement in a semi-open institution for re-education" (*upućivanje u odgojni zavod*), and "placement in a special institution for re-education" (*upućivanje u posebnu odgojnu ustanovu*) should be issued only as a last resort, when permanent and intensive re-education is necessary, or when isolation from the offender's previous social milieu is needed.

The Social Welfare Act (*Zakon o socijalnoj skrbi*) adopted in 1997 stipulates in Article 68[1] that care outside the family is provided to parentless children, to children whose parents neglect or abuse their parental responsibilities, to children and young adults with behavioural problems, or in other cases where it is in the interest of the child or the young adult. Article 82[2] of the Social Welfare Act provides that centres for social welfare (*centri za socijalnu skrb*), which are locally based state-run social care institutions, can implement re-educational measures outside the children's family in cases where the children exhibits behavioural problems. Article 103 of the new Family Act (*Obiteljski zakon*), which entered into force in July 2003, provides that centres for social welfare must immediately, within eight days from the moment when it becomes known that both parents are absent, or incapable of caring for the child, in those cases where the parents have not entrusted the child into the care of a third person that meets the legal requirements to care for him or her, must entrust the child into the care of a third person, a home for children (*dom za djecu*) or another social care institution. Moreover, Article 110 of the Family Act stipulates that centres for social welfare can order the supervision of the parent's exercise of their parental responsibility when the family repeatedly fails to provide adequate care to the child or when the parents need special help in exercising their parental responsibility. The supervision programme may entail the placement of the child in a home for children (Article 110[3]).

The new Family Act has, in most cases, transferred from centres for social welfare to the courts the power to decide on measures to protect children, including institutional measures. However, Amnesty International is concerned that the placement of children and

young adults in social care institutions, as well as their treatment, do not always follow clearly defined criteria and standards<sup>2</sup> and there appear to be instances where children are still placed in social care institutions by an administrative decision of centres for social welfare. Paragraph 169 of Croatia's second periodic report to the Committee states that "under the new Family Act the withdrawal of the parents' right to live with their child and the assignment to a reformatory can be imposed by the social welfare centres for a maximum duration of one year, after which in the interest of the child the efficacy of the imposed measure must be reviewed and the same or another protection measure imposed."<sup>3</sup> In those cases where children are placed in social care institutions by order of centres of social welfare, it is unclear to Amnesty International whether the procedure followed constitutes a fair procedure in accordance with the principle of the best interest of the child, as provided in Articles 9[1] and 9[2] of the CRC. Amnesty International recommends that the Committee call on the Croatian authorities to clarify whether the procedures followed to place children in social care institutions are in full compliance with the provisions of the CRC.

The Croatian social welfare system comprises different types of social care and re-educational institutions, whose general purposes are set out in a regulation issued in 1999 by the Croatian Ministry of Labour and Social Welfare.<sup>4</sup> For instance, the regulation defines a "home for re-education" (*odgojni dom*) as an institution which provides accommodation, care, education, schooling, and professional training to children and young persons who have reached the age of 14 and are under the age of 21, who exhibit behavioural problems. Similarly, the regulation defines a "home for the re-education of children" (*dom za odgoj djece*) as an institution which provides full day or half day accommodation to children under the age of 14 who exhibit behavioural problems and a "home for the re-education of young people" (*dom za odgoj mladeži*) as an institution providing on a full or half day basis accommodation, care, education, schooling, development of professional skills to children and young adults over the age of 14 and under the age of 21. The regulation specifies that homes for re-education and homes for the re-education of young people are institutions where different types of re-educational measures can be implemented, including court orders of "placement in an institution for re-education". Often children and young adults placed in these types of social care institutions have exhibited significant behavioural problems and/or were responsible for criminal offences. However, there are cases where the placement in such institutions is ordered when for different reasons it is deemed necessary to isolate a child or a young adult from his or her social environment.

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<sup>2</sup> See also Antonija Žižak and Nivex Koller-Trbović, *Odgoj i tretman u institucijama socijalne skrbi: Deskriptivna studija* [Education and Treatment in Social Care Institutions: A Descriptive Study], Zagreb: Edukacijsko-rehabilitacijski fakultet, 1999, p. 134.

<sup>3</sup> UN Doc. CRC/C/70/Add.23, 28 November 2003.

<sup>4</sup> Regulation on Types of Homes for Children and Adults and their Functions and on Provisions Regarding Premises, Equipment, and Required Professional and other Employees of Homes for Social Care (*Pravilnik o vrsti doma za djecu i doma za odrasle osobe i njihovoh djelatnosti, te uvjetima glede prostora, opreme i potrebnih stručnih i drugih djelatnika doma socijalne skrbi*).

Amnesty International is concerned about reports of serious violence between children and young adults placed in homes for re-education. On 14 October 2003 three residents of the home for re-education in Ivanec physically attacked 17-year-old AB,<sup>5</sup> another resident of the institution. AB died a few days later in hospital as a result of brain injuries.<sup>6</sup> In another case, which received significant media attention in Croatia, CD,<sup>7</sup> a 15-year-old resident of the home for re-education in Mali Lošinj, was allegedly severely ill-treated on 8 February 2004 by four other residents of the institution, including one 19-year-old young adult, who reportedly led the group of attackers.<sup>8</sup> CD was savagely beaten and as a result sustained a fractured leg. Moreover, the victim was tormented by the attackers who burned his back with cigarettes and stabbed him with sharp objects.<sup>9</sup> In June 2004 the UN Committee against Torture, after having examined Croatia's report, issued its conclusions and recommendations expressing concern at "[t]he alleged failure of the State party to address the issue of violence and bullying between children and young adults placed in social care institutions."<sup>10</sup>

Amnesty International is aware of other, less serious cases of violence among children and young adults hosted in the home for re-education in Ivanec and in the homes for re-education of children and young people (*domovi za odgoj djece i mladeži*) in Osijek and Rijeka.<sup>11</sup> During visits in June 2004 to the institutions in Ivanec and Osijek, an Amnesty International delegate interviewed in private several children, some of whom reported having been victims of violence, usually by older residents. In one of the interviews a 12-year-old resident of the institution in Osijek, who had been living in the home for re-education of children and young people for approximately four years, described a violent attack against him which had occurred only the day before, and of which reportedly the police had been informed. According to data provided to Amnesty International by the director of the home for re-education of children and young people in Osijek, in 2003 14 incidents of violence involving residents of the institution were reported. Of nine of them the police had to be

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<sup>5</sup> The identity of the victim is known to Amnesty International.

<sup>6</sup> Information on the death of AB was provided to Amnesty International by the Croatian Office of the Ombudsman for Children and by the director of the home for re-education in Ivanec, during a visit in June 2004 by an Amnesty International delegate. See also "O smrti štićenika u Odgojnom domu šuti se još od 14. listopada" [Since 14 October Silence on the Death of a Home for Re-education Resident], *Vjesnik*, 29 January 2004. The article reports that the attack was carried out by one of the residents of the institution while, according to information available to Amnesty International, there were three attackers.

<sup>7</sup> The identity of the victim is known to Amnesty International and was disclosed in media reports of the event.

<sup>8</sup> "Kašner: Odgajatelji nemoćni pred nasiljem pojedinih štićenika" [Kašner: The Educators Are Powerless to Stop the Violence of Some of the Residents], *Novi List*, 11 February 2004.

<sup>9</sup> Information on the ill-treatment of CD was provided to Amnesty International by the Croatian Office of the Ombudsman for Children.

<sup>10</sup> Conclusions and recommendations of the Committee against Torture: Croatia. UN Doc. CAT/C/CR/32/3, 11 June 2004, Paragraph 8[e].

<sup>11</sup> Information on the institution in Rijeka was provided to Amnesty International by the Croatian Office of the Ombudsman for Children.

informed and at least five of these incidents resulted in injuries which required medical attention or hospitalization.

Furthermore, violent incidents in other types of re-educational institutions have been reported. In one of them, a 13-year-old resident of a "centre for the re-education of children and young people" (*centar za odgoj djece i mladeži*) in Pula allegedly sustained wounds on 11 February 2004 after three other residents set fire to the mattress on which he was sleeping.<sup>12</sup> Self-harming behaviour is also common. According to unconfirmed reports, in 2003 one resident of the home for re-education in Mali Lošinj committed suicide and three others attempted suicide.<sup>13</sup> In a recent incident, a 14-year-old resident of the Mali Lošinj institution reportedly cut himself with a razor blade all over his body.<sup>14</sup> In April 2004, a serious incident of self-harming behaviour, possibly qualifying as an attempted suicide, was reported in the home for re-education in Ivanec.<sup>15</sup>

The cases mentioned in this briefing suggest that there is a worrying pattern of violence between children and young adults placed in Croatian social care institutions. Moreover, violent incidents in these institutions may be underreported, given that they often involve marginalized children, who are frequently victims of parental neglect. The serious incident that led to the death of AB in Ivanec was reported in the Croatian press only three months after the event.<sup>16</sup>

Amnesty International is concerned that an unclear and confused legal framework allows that children and young adults who have committed criminal offences are in some cases placed in the same type of institution as children who exhibit behavioural problems, who suffer from parental neglect, or whose separation from their social milieu is deemed necessary. In addition, several of these institutions host children and young adults of very different age groups. Residents of the home for re-education of children and young people in Osijek can be, in principle, between the age of seven and 21. Homes for re-education like the

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<sup>12</sup> Centres for re-education of children and young people are institutions where children with behavioural problems are placed, usually for short periods of time. See "Lakše opekline jedina posljedica incidenata" [Light Burns as a Consequence of Incidents], *Novi List*, 14 February 2004; "Pula: Šestorica zapalila maloljetnika dok je spavao" [Pula: A Group of Six Set Fire to a Child while He Was Sleeping] *Slobodna Dalmacija*, 14 February 2004.

<sup>13</sup> "Lani u Domu jedno samoubojstvo i tri pokušaja samoubojstva?" [Last Year in the Home One Suicide and Three Attempted Suicides?], *Novi List*, 12 February 2004.

<sup>14</sup> "Mali Lošinj: Štićenik se sam izrezao žiletom" [Mali Lošinj: A Resident Cut Himself with a Razor Blade], *Slobodna Dalmacija*, 14 February 2004.

<sup>15</sup> Information on this case was provided to Amnesty International by the director of the home for re-education in Ivanec, during a visit by an Amnesty International delegate.

<sup>16</sup> In an interview with an Amnesty International delegate, members of the Croatian NGO *Hrabri Telefon*, which operates a hotline for child abuse and violence against children, reported that their organization has never received information on cases of violence between children in social care institutions. Given that some very serious episodes of violence between institutionalized children were reported in the Croatian media, this may appear surprising. However, cases of bullying and violence between children are usually reported to *Hrabri Telefon* by adults who become aware of them, rather than by children themselves. This may explain why violence in social care institutions apparently goes underreported.

institutions in Ivanec and Mali Lošinj, although formally intended for children and young adults between the age of 14 and 20, in some cases host residents up to the age of 23.<sup>17</sup> The separation of children according to age, conviction status, and type of offence committed is in the best interest of children and should be in general maintained. Social care institutions like the homes for re-education, although described as "open", are still custodial and effectively involuntary,<sup>18</sup> and therefore fall under the provisions of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.<sup>19</sup> Rule 28, in particular, states:

"The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being."

Amnesty International is concerned that many of the social care institutions in Croatia where children and young adults are placed lack trained staff able to respond to the needs of the residents, to deal with a variety of behavioural problems and to effectively perform supervisory tasks to prevent violence. Reported incidents of self-harm indicate that the Croatian authorities are at times failing to provide support and treatment to children with serious psychological problems, despite the efforts of many members of the staff of social

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<sup>17</sup> This apparently may happen when the court orders the placement of a young adult in a home of re-education when he or she has already reached the age of 20.

<sup>18</sup> Amnesty International is also concerned that conditions of detention in the juvenile wing of the Požega penitentiary (*Odjel za izvršavanje maloljetničkog zatvora u Kaznionici u Požegi*) are not in compliance with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and may violate the CRC. Rule 31 states that juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity. Moreover, Rule 47 states that every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided and that adequate space, installations and equipment should be provided for these activities. During a visit by an Amnesty International delegate in June 2004 the juvenile wing of the Požega penitentiary appeared to be overcrowded and, in some cases, in a bad state of maintenance. In interviews in private with an Amnesty International delegate some of detainees complained about inadequate recreational activities due to lack of proper facilities. In its 2002 report the Office of the Croatian Ombudsman stated that the conditions of detention in the juvenile wing of the Požega penitentiary are inadequate, citing overcrowding as one of the problems (the report is available at <http://www.ombudsman.hr/Download/2004/02/12/Ombudsman2002.pdf>). Amnesty International believes that conditions of detentions in the juvenile wing of the Požega penitentiary may amount to a violation of Article 37[c] and 40 of the CRC. Amnesty International notes however that, as of June 2004, all inmates of the juvenile wing of the Požega penitentiary were over the age of 18.

<sup>19</sup> Adopted by the UN General Assembly resolution 45/113 of 14 December 1990.



care institutions for children and young adults. A study published in 1999 showed that a very significant proportion of Croatian social care institutions for children and young adults did not employ social workers, psychologists and pedagogues.<sup>20</sup> The situation has not changed significantly since then. For example, as of February 2004, no psychologist, psychiatrist, and indeed no medical doctor was reportedly employed in the home for re-education in Mali Lošinj.<sup>21</sup>

Amnesty International believes that the failure to date to fully protect children placed in Croatian social care institutions constitutes a violation of Croatia's obligations under Articles 3, 6, 19, 20 and 24[1] of the CRC. The Committee has often raised concerns over bullying in schools and other institutions where children are accommodated. In 2001, the Committee devoted much of its day of general discussion on "Violence Against Children within the Family and in Schools" to the issue of bullying.<sup>22</sup> The Committee described bullying as "violence and harassment suffered by students at the hands of other students." It stated that failure to prevent this and other forms of violence in such institutions, and to protect students from them "could deny children their right to education as set out in articles 28 and 29 of the Convention, as well as in its general principles and in particular the right to development enshrined in article 6."<sup>23</sup> Similarly, in its General Comment on the aims of education, the Committee stated that "[A] school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29."<sup>24</sup> The Committee's concerns regarding bullying have also been expressed in its discussions of states parties' reports.<sup>25</sup>

The Croatian authorities have a duty to protect institutionalized children and young adults placed in social care institutions ensuring that their needs are taken into account and their different problems addressed. This obligation has also been emphasised by the Committee on several occasions.<sup>26</sup> Amnesty International welcomes recent steps in this direction, which include the establishment in October 2003 of an Ombudsperson for Children

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<sup>20</sup> Antonija Žižak and Nivex Koller-Trbović, *op. cit.*, p. 56.

<sup>21</sup> "Kašner: Odgajatelji nemoćni pred nasiljem pojedinih štićenika" [Kašner: The Educators are Powerless to Stop the Violence of Some of the Residents], *Novi List*, 11 February 2004.

<sup>22</sup> For the full report see UN Doc. CRC/C/111, 2001. For a summary and the recommendations see also the Committee's annual report, UN Doc. A/57/41, 2002, pp. 37-44.

<sup>23</sup> See the report *ibid.*, Paragraph 679; UN Doc. A/57/41, Paragraph 85[b].

<sup>24</sup> Committee on the Rights of the Child, General Comment No. 1, The Aims of Education, UN Doc. CRC/GC/2001/1, 2001, Paragraph 19.

<sup>25</sup> See for instance the Committee's concluding observations on Cuba, UN Doc. CRC/C/15/Add.72, 18 June 1997, Paragraphs 24 and 35; Denmark, UN Doc. CRC/C/15/Add.151, 8 June 2001, Paragraphs 70 and 71; Switzerland, UN Doc. CRC/C/15/Add.182, 7 June 2002, Paragraph 39[a]; Japan, UN Doc. CRC/C/15/Add.231, 30 January 2004, Paragraph 50[b].

<sup>26</sup> See for instance the Committee's concluding observations on the Russian Federation, UN Doc. CRC/C/15/Add.4, 18 February 1993, Paragraph 19; Japan, UN Doc. CRC/C/15/Add.90, 5 June 1998, Paragraph 48; Armenia, UN Doc. CRC/C/15/Add.119, 24 February 2000, Paragraphs 28 and 29; Estonia, UN Doc. CRC/C/15/Add.196, 31 January 2003, Paragraphs 32 and 33.

and government plans to implement organizational changes within the system of social care institutions and to hire trained personnel to be employed in social care institutions. Amnesty International believes that the Committee may encourage further steps in this direction by recommending that the government clearly define the legal framework regulating the placement of children in social care institutions ensuring that, in general and according to the principle of the best interest of the child, children and young adults who were found responsible for violent criminal offences are held separately from children who exhibit behavioural problems, who suffer from parental neglect, or whose separation from their social milieu is deemed necessary. Moreover, the authorities should be called upon to ensure that social care institutions for children and young adults are appropriately staffed by trained personnel.

### **Failure to fully integrate Romani children in the Croatian school system**

Article 14 of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*) provides that "[e]veryone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics." Moreover, Article 15 of the Croatian Constitution specifically protects the rights of members of national minorities and stipulates that members of all national minorities have equal rights in the Republic of Croatia. Article 65 of the Constitution of the Republic of Croatia enshrines the principle of free and compulsory primary education.

The Constitutional Law on the Rights of National Minorities (*Ustavni zakon o pravima nacionalnih manjina*), adopted in 2002, provides in Article 11[1] that "[m]embers of national minorities shall have the right to education in the language and script which they use." The same right is enshrined also in Article 1 of the Act on the Education in the Language and Script of National Minorities (*Zakon o odgoju i obrazovanju na jeziku i pismu nacionalnih manjina*), adopted in 2000.

The Primary Schooling Act<sup>27</sup> (*Zakon o osnovnom školstvu*) in Article 2 provides that the aim of primary education is to allow the pupil to acquire knowledge, notions, skills, attitudes, habits necessary in life and work or in further education and that the school has to ensure the constant development of the pupil spiritually, physically, morally, intellectually and socially in accordance with the pupil's abilities and preferences. According to the Primary Schooling Act, primary education lasts at least eight years and is in general compulsory for all children between the age of six and 15 (Article 3).

According to official data, the number of members of Romani communities who attended various types of educational institutions in the school year 2002/2003 was

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<sup>27</sup> The act was originally adopted in 1990. The revised text, inclusive of subsequent amendments, was adopted in 2003.

approximately 1,900.<sup>28</sup> Of these, about 1,500 attended primary schools.<sup>29</sup> In the Međimurje County, Croatia's northernmost area, are concentrated the largest Romani communities of the country and the total number of Romani pupils in the primary schools of the region was 870 in the school year 2000/2001, 903 in 2001/2002 and 983 in 2002/2003.<sup>30</sup>

Amnesty International is concerned about the lack of integration of Romani children in the Croatian educational system and in particular at the creation of separate classes for Romani children in primary schools in the Međimurje County. The Second Report on Croatia of the European Commission against Racism and Intolerance, adopted in December 2000, noted that: "[e]ducation of Roma/Gypsy children is a serious problem in Croatia. Many Roma/Gypsy children do not go to school, having either dropped out or having never attended. According to Roma/Gypsy representatives, there are regions where not a single Roma/Gypsy child attends school."<sup>31</sup> The situation does not appear to have changed more recently since it is estimated that up to one third of Romani children do not attend any educational institution and are completely excluded from the Croatian school system.<sup>32</sup>

Those Romani children who attend primary schools often do so in separate "Roma only" classes where they are reportedly taught a simplified version of the normal curriculum. The Croatian authorities and the school administrations usually justify the segregation of Romani pupils on the grounds that Romani children do not possess sufficient Croatian language skills to be taught the normal curriculum alongside ethnic Croatian pupils. Moreover, it is sometimes alleged that Romani pupils need to be separated from ethnic Croatian children for reasons of "hygiene" and because Romani children lack the abilities to interact in social settings with their peers.<sup>33</sup>

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<sup>28</sup> Government of the Republic of Croatia (*Vlada Republike Hrvatske*), *Nacionalni program za Rome*, adopted in October 2003, p. 31 (the document is available at: [http://www.vlada.hr/Download/2004/04/16/NACIONALNI\\_PROGRAM\\_ZA\\_ROME-USVOJEN\\_NA\\_VLADI.pdf](http://www.vlada.hr/Download/2004/04/16/NACIONALNI_PROGRAM_ZA_ROME-USVOJEN_NA_VLADI.pdf)).

<sup>29</sup> *Ibid.*, p. 33.

<sup>30</sup> Roma children accounted for approximately 8 percent of all primary school pupils in the Međimurje County in 2001/2002 and approximately 9 percent of all pupils in 2002/2003. Percentage data for the school year 2000/2001 are not available. Data provided to Amnesty International by the Public Services Division of the Office for Public Administration of the Međimurje County (*Ured državne uprave u Međimurskoj županiji, služba za društvene djelatnosti*).

<sup>31</sup> At Paragraph 41. The document is available at: [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/Croatia/PDF\\_CBC%20%20Croatia.pdf](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Croatia/PDF_CBC%20%20Croatia.pdf).

<sup>32</sup> Government of the Republic of Croatia (*Vlada Republike Hrvatske*), *Nacionalni program za Rome*, adopted in October 2003, p. 31.

<sup>33</sup> Interviews with school administration officials in the Međimurje County. See also Branimir Pleše, "Racial Segregation in Croatian Primary Schools: Romani Students Take Legal Action", *Roma Rights* no. 3-4, 2002; Bojan Munjin, "Kako odgojiti odgojitelje ili Romi ne spadaju u Lepoglavu" [How to Educate the Educators or the Roma do not end up in Lepoglava], *Zarez* no. 102, 10 April 2003.

Reportedly, in school year 2000/2001, almost 60 per cent of Romani primary school pupils in the Međimurje County were placed in a total of 24 segregated classes.<sup>34</sup> In 2001/2002 in the primary schools of Macinec and Kuršanec around 83 per cent and 88 per cent respectively of all Romani children were taught in separate classes for Roma.<sup>35</sup> According to estimates of the Croatian Helsinki Committee for Human Rights (*Hrvatski helsinški odbor za ljudska prava*) there are still approximately 20 segregated Roma classes in schools in the Međimurje County and in surrounding areas. Amnesty International is aware that in the primary school in Macinec, in the school year 2003/2004, of a total of 22 classes 7 were "Roma only" classes.<sup>36</sup> In the same school, while Romani children made up more than 80 per cent of the total number of pupils between the first and the fourth grade, they constituted less than 30 per cent of the pupils studying in the fifth, sixth and seventh grade classes.<sup>37</sup> This suggests that Romani children were affected by a disproportionately high dropout rate.

The segregation of Romani pupils into classes teaching only an abridged or reduced curriculum has both short and long term effects. Not only does this practice perpetuate the marginalization of members of Romani communities by reducing the benefit which they can draw from education,<sup>38</sup> but it also leads to a wider social division of communities. Research conducted in 2002 by the Croatian Helsinki Committee for Human Rights on Romani pupils in the Međimurje County has reportedly indicated that approximately 62 per cent of the Romani children had practically no social contacts with children of other ethnic groups.<sup>39</sup> 89 per cent of Romani children who were included in the research stated that they did not feel accepted in the school community and 76 per cent reported being verbally harassed and excluded from various social activities by children belonging to the majority ethnic group.<sup>40</sup>

Moreover, the marginalization of Romani children in Croatian schools appears to be part of a wider pattern of intolerance against members of the Romani communities, including children. In September 2002 the parents of approximately 30 ethnic Croatian pupils, as well as the inhabitants of the village of Držimurec-Strelec, blocked the entrance to the local

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<sup>34</sup> Branimir Pleše, *op. cit.*

<sup>35</sup> *Ibid.*

<sup>36</sup> Data provided to Amnesty International by the school administration. In 2003/2004 the total number of pupils attending the school was 448. Approximately 55 per cent of them were members of Romani communities. All classes between the fifth and the eighth grade were mixed.

<sup>37</sup> Romani students in the eighth grade were only about 10 per cent of the total. See also Branimir Pleše, *op. cit.* Reportedly, in 2001/2002 in the four primary schools of Podturen, Orehovica, Macinec and Kuršanec Romani children accounted for approximately 73 per cent of all pupils in the first grade but only approximately 9 per cent of pupils in the eighth grade.

<sup>38</sup> The European Court of Human Rights has interpolated a right to draw full benefit from education into Article 2 of Protocol 1 to the European Convention on Human Rights. See case "Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium" v. Belgium (Merits).

<sup>39</sup> Nataša Petrinjak, "Djecu bole zaključana vrata" [Children Suffer Because of a Closed Door], *Zarez* no. 88, 26 September 2002.

<sup>40</sup> *Ibid.*

primary school demanding separate classes for Romani and non-Romani pupils. Reportedly, the Croatian authorities capitulated to the protesters' demands; this led to the establishment of five separate classes for Roma.<sup>41</sup> In early 2004, in the same village, ethnic Croatian parents gathered to protest against the construction of a new wing of the Držimurec-Strelec primary school. Reportedly, the protesters opposed the building of the new wing fearing that the expanded capacity of the school would be used to accommodate Romani children from the neighbouring village of Piškorevec.<sup>42</sup>

In 2001 the Council of Europe (CoE) Advisory Committee on the Framework Convention for the Protection of National Minorities, in considering the report on Croatia, indicated that it was "highly concerned about reports that in certain schools, Roma children are placed in separate classes and school facilities are organised and operated in a manner that appears to stigmatise Roma pupils."<sup>43</sup> In 2002 the UN Committee on the Elimination of Racial Discrimination, after having examined Croatia's report, expressed concern "at the continued practice of segregation of Roma children within the educational system" and recommended that the Croatian authorities "pay particular attention to the situation of the Roma and take effective measures to prevent the segregation of Roma children within the educational system" addressing the high dropout and poor performance rates of Romani children and guaranteeing non-discrimination.<sup>44</sup>

In April 2002 the families of 57 Romani children, assisted by the European Roma Rights Center (ERRC), filed a lawsuit with the Čakovec Municipal Court charging the Croatian Ministry of Education, the Međimurje County and the primary schools of Orehovica, Macinec, Kuršanec and Podturen of segregation of children members of Romani communities merely on the basis of their ethnic identity.<sup>45</sup> In September 2002 the court rejected the complaint recognizing that the alleged lack of adequate knowledge of the Croatian language justified the creation of separate Roma classes. In November 2002 the Čakovec County Court confirmed in appeal the municipal court's verdict. In December 2002 the families of 15 Romani children filed a complaint with the Croatian Constitutional Court, alleging that the segregation of Romani children in Croatian schools amounts to a violation of Croatia's Constitution. The case is still pending. In May 2003 the 15 complainants, with the support of the ERRC and of the Croatian Helsinki Committee for Human Rights, filed a pre-application letter with the European Court of Human Rights claiming that the placement of Romani children in separate classes violates the rights enshrined *inter alia* in Articles 3, 13 and 14 of

<sup>41</sup> Branimir Pleše, *op. cit.*; "Počela nastava u školi 'Držimurec-Strelec'" [Classes Have Begun in the 'Držimurec-Strelec' School], *Vjesnik*, 12 September 2002.

<sup>42</sup> "Netolerancija" [Intolerance], *Vjesnik*, 14 January 2004.

<sup>43</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, "Opinion on Croatia", adopted on 6 April 2001, Paragraph 49.

<sup>44</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Croatia. UN Doc. CERD/C/60/CO/4, 21 May 2002, Paragraph 11.

<sup>45</sup> Part of the information contained in this report was provided to Amnesty International by the complainants' legal representative. See also *ERRC Legal Action in Croatian School Segregation Case* available at: <http://www.errc.org/cikk.php?cikk=321&archiv=1>.

the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and of Article 2 of its First Protocol.<sup>46</sup>

Issues relating to the rights of minority children generally, and Roma children in particular, have often been raised by the Committee in examining states parties' reports. The Committee has often expressed concern over issues such as discrimination in access to health, education and social services against Roma children, high rate of truancy and school drop-outs, as well as incidents of harassment, police abuse, violent house searches and more generally that "the principles and provisions of the Convention are not fully respected as regards Roma children."<sup>47</sup>

Amnesty International is concerned that instances of segregation of Romani children in the Croatian school system suggest a pattern of racial discrimination in violation of Article 2[1] of the CRC. The segregation of Romani children on the basis of their ethnic affiliation appears to violate the principle of the best interests of the child, which must form the basis for all decisions taken on behalf of children, in accordance with Article 3 of the CRC. Moreover, the placement of Romani children in classes where they are taught a simplified curriculum is in violation of the provisions of Article 29 of the CRC, which enshrines the principle that the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.<sup>48</sup> Finally, the failure of the Croatian authorities to ensure that all Romani children have access to education, to encourage attendance and to reduce dropout rates violates Articles 28 and 30 of the CRC.

Amnesty International is aware of the challenges involved in fully including Romani children in the Croatian educational system, in particular given that Romani communities suffer from lack of a general denial of their economic, social and cultural rights, often as a

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<sup>46</sup> Article 3 of the European Convention on Human Rights prohibits torture or inhuman or degrading treatment or punishment. Article 13 provides that "[e]veryone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity." Article 14 prohibits discrimination and stipulates that "[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." Article 2 of the First Protocol to the European Convention on Human Rights protects the right to education and provides that "[i]n the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." Both the European Convention on Human Rights and its First Protocol were ratified by Croatia in 1997.

<sup>47</sup> The quotation is from the Committee's concluding observations on the Czech Republic, UN Doc. CRC/C/15/Add.81, 27 October 1997, Paragraph 15. See also Paragraphs 25 and 32 (recommendation). For similar concerns and recommendations see, for instance, the Committee's concluding observations on Romania, U.N. Doc. CRC/C/15/Add.16, 7 February 1994, Paragraphs 10, 18 and 21; Italy, UN Doc. CRC/C/15/Add.41, 27 November 1995, Paragraphs 11 and 17; Finland, UN Doc. CRC/C/15/Add.132, 16 October 2000, Paragraphs 59 and 60; Portugal, UN Doc. CRC/C/15/Add.162, 6 November 2001, Paragraphs 19, 20, 54 and 55; Spain, UN Doc. CRC/C/15/Add.185, 7 June 2002, Paragraphs 17, 20, 27, 28, 42, 43 and 51.

<sup>48</sup> The relegation of Romani children to a second class education system is also a denial of the right to draw profit from education as identified by the European Court of Human Rights in *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, Report of 21 March 1975, B.21 (1979), 1976.

result of the racial discrimination which they face. However, Amnesty International believes that the placing of children in separate special classes should only take place when it is absolutely necessary and always on the basis of consistent, objective and comprehensive language tests. Furthermore it is imperative that this process be closely monitored to ensure that racial discrimination plays no part in it. In addition, the organization believes that schools should not be left to bear the responsibility of integrating Romani children on their own and should be supported by the Croatian authorities at the county and national level as well as cooperate with local NGOs and Romani organizations and communities, in developing and implementing plans to adapt education to the cultural and linguistic identity of Romani communities.

Whilst it is reported that certain Croatian Romani have expressed reservations with respect to the integration of Romani pupils in regular classes,<sup>49</sup> Amnesty International emphasizes the essential role of participation of local Romani representatives in developing plans to suitably adapt education to the Romani communities. Where the lack of sufficient knowledge of the Croatian language is an obstacle to the integration of Romani pupils, the Croatian authorities must address this through pre-schooling and additional training in Croatian or through the provision of bilingual education in the early years of primary education, as may be determined in close cooperation with Romani representatives. Moreover, Amnesty International believes that the Croatian authorities should be encouraged to provide comprehensive and consistent training to teachers and school administrators to help them in their task of ensuring that Romani pupils are fully integrated in schools and to combat widespread stereotypes and prejudices, which may lead to low expectations for Romani children and discriminatory attitudes and behaviour against Romani pupils. Amnesty International also believes that those Romani children who come from low income families should be granted economic assistance, including the provision of free textbooks and school allowances, to ensure school attendance and reduce dropout rates.

Amnesty International welcomes the adoption in 2003 of the National Programme for Roma of the Croatian Government which, if implemented, may be a first step towards greater integration of members of Romani communities in Croatian schools and in the Croatian society in general. Amnesty International welcomes in particular the inclusion in the programme of measures aimed at offering to Romani children pre-schooling activities prior to their primary school attendance. However, the organization is concerned at reports that the funding allocated to carry out the programme will be insufficient to ensure its effective implementation and believes that Croatia should be called upon to allocate sufficient resources to ensure that the plan can effectively promote the integration of Romani communities in Croatia.

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<sup>49</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, "Opinion on Croatia," adopted on 6 April 2001, Paragraph 49.

## **Appendix: Concluding observations of the Committee on the Rights of the Child (unedited version)**

COMMITTEE ON THE RIGHTS OF THE CHILD  
37<sup>th</sup> session  
13 September – 1 October 2004

UNEDITED VERSION

CRC/C/15/Add. 243  
1 October 2004

### **Concluding Observations of the Committee on the Rights of the Child: CROATIA**

1. The Committee considered the second periodic report of CROATIA (CRC/C/70/Add.23) at its 981<sup>st</sup> and 982<sup>nd</sup> meetings (see CRC/C/SR.XX), held on 20 September 2004, and adopted at the 999<sup>th</sup> meeting, held on 1 October 2004, the following concluding observations.

#### **A. Introduction**

2. The Committee welcomes the submission of the State party's second periodic report which followed the established guidelines, as well as the detailed written replies to its list of issues (CRC/C/Q/HRV/2), which gave a clearer understanding of the situation of children in the State party. It further welcomes the constructive and informative dialogue.

#### **B. Follow-up measures undertaken and progress achieved by the State Party**

3. The Committee welcomes:

- (a) the adoption of the Act on the Ombudsperson for Children in 2003;
- (b) the amendments to the Family Act, the Criminal Code and the Criminal Procedure Act in 2003;
- (c) the adoption of the Asylum Law in 2003;
- (d) the withdrawal of its reservation on article 9.1. of the Convention in 1998.

4. The Committee welcomes the State Party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, child prostitution and child pornography in 2002.



5. The Committee also welcomes the State Party's ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and of the Rome Statute of the International Criminal Court in 2001.

6. The Committee further welcomes the State party's ratification of the ILO Convention no. 182 concerning the Prohibition and Immediate Action for the elimination of the worst forms of Child labour in 2001 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime in 2003.

### **C. Principal subject of concern and recommendations**

#### **1. General measures of implementation**

##### Committee's previous recommendations

7. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.52 of 13 February 1996) made upon the consideration of the State's initial report (CRC/C/8/Add.19) have been addressed through legislative measures and policies. However, it regrets that some of its concerns and recommendations, regarding inter alia: the non-discrimination in the repossession of property of returned refugees (para. 15) and international cooperation to resolve the problem of property (para. 26), training programmes to promote the process of national reconciliation and national dialogue (para. 24), which are all relevant to the implementation of children's rights, and the situation of children in institutions or in foster care (para. 25) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

**8. The Committee urges the State party to continue to strengthen the efforts to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations.**

##### Legislation and implementation

9. The Committee notes that new laws have been adopted by the State Party (see paragraph 3) to harmonize the domestic legislation with the international human rights standards and in particular with the provisions and principles of the Convention since the review of State Party's initial report. However, the Committee remains concerned about the effective implementation of all legislation relevant to the Convention.

**10. In light of its previous recommendations, the Committee recommends the State party to:**

- a) **Continue to take all effective measures to bring domestic law and practice into line with the principles and provisions of the Convention,**
- b) **Ensure the effective implementation of all legislation relevant to the Convention and make them known to the population,**

Coordination and National Plans of Action

11. The Committee welcomes the elaboration of the National Action Programme for Children in 1998, and the establishment of the Council for Children as the responsible institution to monitor its implementation. Despite some improvements in the composition and functioning of the Council, the Committee is concerned about the reluctant or non implementation of recommendations of the Council by the various Ministries and the implementation of the National Action Programme for Children. It is also concerned about the insufficient coordination between the existing and newly created government bodies dealing with the welfare of children.

**12. The Committee recommends the State party to take all necessary measures to ensure the effective functioning of the Council for Children including appropriate follow-up to its recommendations by state authorities and bodies, and to implement the National Action Programme for Children. It also recommends the State Party to enhance the coordination between the different governmental bodies competent in the implementation of the Convention.**

Independent monitoring

13. The Committee welcomes the establishment of the Ombudsman's Office for Children in 2003 and the presence of the Ombudsperson at the dialogue but the Committee is concerned at the need for ongoing and sufficient political, human and financial support for the functioning of this office.

**14. In light of its General Comment no. 2 on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, Annex), the Committee recommends the State Party to continue and strengthen its political, human and financial support for the office of the Ombudsperson for children in order to facilitate and promote its effective functioning in particular at the local level outside of the capital of the State party.**

Allocation of resources

15. The Committee is concerned about the lack of disaggregated data with regard to resources allocated for children at the national and local levels.

**16. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by:**

- a) **prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups and minority ethnic groups, “to the maximum extent of... available resources”; and,**
- b) **identifying the amount and proportion of the State and local governments budget spent on children in the public, private and NGO sectors in order to evaluate the impact and effect of the expenditures and also, in view of the costs, the accessibility, and the quality and effectiveness of the services for children in the different sectors.**

#### Data collection

17. The Committee is concerned about the absence of disaggregated statistical data and other information on the situation of children, especially those belonging to different ethnic groups and the most vulnerable groups. This type of information is lacking in particular with respect to girl children, street children, disabled children, displaced, refugees and asylum-seekers children, children from minority groups, Roma children.

**18. The Committee recommends the State party to take effective measures to ensure the availability of reliable data regarding persons below 18 years old collected by age, gender, ethnic origin, and to the identification of appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society, to evaluate progress achieved and difficulties hampering the realization of children’s rights.**

#### Training and dissemination

19. The Committee welcomes the training activities undertaken by the State party since its initial report but remains concerned about the lack of detailed information on this issue, specifically on training activities and programmes to raise public awareness about the Convention. undertaken by the State party since its initial report,

**20. The Committee recommends the State party to strengthen its efforts to disseminate the principles and provisions of the Convention and to undertake systematic education and training for all professional groups working for and with children and to strengthen its efforts to raise public awareness, in particular among children themselves and among parents about the Convention.**

## **2. General principles**

Non-discrimination

21. The Committee acknowledges the various efforts undertaken by the State party to follow up its previous recommendations but remains concerned at the de facto discrimination against ethnic and national minorities, Roma and foreign children and at incidents of harassments and hatred that have a negative effect on the development of children. The Committee joins Committee on the Elimination of Racial Discrimination in its concern as they related to the lack of legal provisions prohibiting incitement to racial discrimination and violence, and about the adequacy of efforts to investigate and prosecute persons responsible for fomenting ethnic hatred (CERD/C/60/CO/4, para. 12).

**22. The Committee reiterates its recommendation that the State Party takes measures aimed at developing a culture of tolerance in the society at large through all possible channels, including the schools, the media and the law.**

**23. In accordance with article 2 of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures to prevent and eliminate de facto discrimination against children belonging to minorities especially Roma and foreign children.**

**24. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1 (aims of education).**

The best interests of the child

25. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of legislation, programmes and policies concerning children and is aware of the progress made in this respect, but remains concerned that it is not fully applied and duly integrated in the implementation of the policies and programmes of the State party as well as in administrative and judicial decisions.

**26. The Committee recommends that the principle of “best interests of the child” contained in article 3 be systematically implemented in judicial and administrative decisions as well as in programmes, projects and services with regard to children in various situation, particularly from vulnerable and minority groups.**

Right to life

27. The Committee notes with concern the relatively high number of deaths and injuries among children due to traffic and domestic accidents despite the various measures taken by the State party to address this problem.

**28. The Committee recommends the State party to continue and to strengthen as much as possible its efforts to prevent traffic and domestic accidents inter alia by a systematic enforcement of existing regulations and by ongoing awareness raising via educational campaigns.**

Respect of the views of the child

29. The Committee welcomes the efforts made by the State Party to promote the respect of the views of the child. The Committee remains concerned that the general principle as laid down in article 12 of the Convention is insufficiently realized in families, schools and other institutions and not fully applied and duly integrated in practice in judicial and administrative decisions and into the implementation of the laws, policies and programmes of the State party.

**30. The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to participate in the family, at school, within other institutions and bodies, and in society at large, with special attention to vulnerable and minority groups. This general principle should also be reflected in all laws, judicial and administrative decisions, policies and programmes relating to children. Awareness-raising among the public at large as well as education and training of professionals on the implementation of this principle should be reinforced and regular review should be undertaken on the extent to which children's views are taken into consideration and of the impact of these measures on children themselves.**

### 3. Civil rights and freedoms

Right to a name and nationality

31. The Committee welcomes the efforts made by the State Party to reform its legislation in accordance with the provisions and principles of the Convention but it remains concerned about the different types of access to citizenship mainly affecting children from minority groups especially Roma children.

**32. The Committee recommends the State Party to undertake measures to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article**

**7 of the Convention and that the law is implemented in a non-discriminatory manner.**

Right to privacy

33. The Committee joins the State party in its concern about violations of the right to privacy of children by the media but is concerned at the lack of information on the implementation in practice of the rights of the child contained in arts. 13-17 of the Convention, in particular in the family, social institutions, schools and places of detentions.

**34. The Committee recommends the State party to take the necessary measures to ensure that the media fully respect the right to privacy of children and to provide concrete and detailed information (examples, good practices) in its next report on the implementation of the arts. 13-17 of the Convention, in the family, social institutions, schools and places of detentions.**

Access to information

35. While noting the State Party's efforts to protect children from harmful information, the Committee remains concerned about pornographic and other harmful material in printed and electronic media that is easily available and accessible to children. It is also concerned with the lack of adequate measures to encourage the mass media to disseminate information which would promote the spirit of understanding of differences.

**36. The Committee recommends that the State Party pursue its efforts to protect children from information and material injurious to his or her well-being. It also urges the State Party to disseminate information and material of social and cultural benefit to the child, in line and with the spirit of articles 17 and 29 of the Convention. To that aim, the State party should provide children with access to diversity of cultural, national and international sources, particularly taking into account the linguistic and other needs of children who belong to a minority group.**

Right not to be subjected to torture or other cruel, inhuman or degrading treatment

37. The Committee is deeply concerned about cases of violence between children and young adults placed in homes for re-education and other institutions and about cases of violence and bullying between children and young adults in social care institutions

**38. The Committee recommends that the State party takes all necessary measures to prevent acts of violence in homes for re-education and social care institutions. In accordance with the Committee against Torture's recommendations (CAT/C/CR/32/3 para. 9 k), the Committee urges the State Party to increase the protection of children in social care institutions, inter alia, by ensuring that violent**

**acts are reported and investigated and providing adequate support and treatment, including psychological treatment to victims of such violence.**

## **5. Family environment and alternative care**

### Guidance and responsibilities for children

39. While taking note of the legislation adopted in the area of family environment, the new Family Act and the Social Welfare Act, the Committee remains concerned that many children are left on their own without proper guidance from parents and other care takers. The Committee also remains concerned that supervision and guidance to vulnerable families are not well structured and defined, making it difficult to monitor the situation.

**40. The Committee recommends that further efforts be made to ensure the effective implementation of the Family Act as regards guidance and responsibility for the child in light of the article 27.2. The Committee further recommends that the State party take all necessary steps and adequate resources to provide ongoing training of the staff of the social welfare centres and provide for effective administrative, legal and practical measures to ensure the quality and efficiency of all activities of these institutions.**

### Alternative care

41. The Committee expresses its concern that quite a number of children without parental care or who have lost contact with their families are in institutions or in foster care and about the low quality of care and treatment provided to these children. The Committee is also concerned about the apparent insufficient monitoring of placements.

**42. The Committee recommends that the State Party give high priority to the assistance provided to families in order to prevent placement of children in alternative care. The Committee further recommends the State Party to promote family based assistance in foster care as a form of alternative care and to ensure that institutionalization is used only as a measure of last resort, meaning that it is professionally indicated and in the best interests of the child and to conduct periodic reviews of the placement of children in light of article 25. The Committee also recommends the State Party to develop quality standards of foster care and to significantly decrease the time spent in institutions for children deprived of parental care. It further recommends that adequate resources be allocated for the proper functioning and monitoring of the care institutions and foster care.**

### Recovery and maintenance

43. While welcoming amendments to the legislation on maintenance, the Committee is concerned that recovery of maintenance is not sufficiently ensured in practice and that the related administrative and court proceedings are often too lengthy.

**44. The Committee recommends the State party to take further measures to ensure a fully effective implementation of legislation on the payment of maintenance, to consider alternative measures to court procedures in this regard and to ensure more expeditious court proceedings and strict enforcement of court orders. The Committee also recommends the State party to reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.**

Illicit transfer and non-return of children abroad

45. The Committee notes with satisfaction that the State party has ratified the 1980 Hague Convention on the Civil Aspects of International Child Abduction but remains concerned that problems still persist in the implementation of this Convention.

**46. The Committee recommends that the State party apply the Hague Convention to all children abducted to Croatia and encourage other States which are not yet a party to the Hague Convention to ratify or accede to this treaty and if necessary conclude bilateral agreements to deal adequately with international child abduction. It further recommends that professionals dealing with this kind of cases receive adequate and ongoing training and that maximum assistance be provided through diplomatic and consular channels, in order to solve cases of illicit-transfer.**

Adoption

47. The Committee notes that the State party has not ratified the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption and that there is little information about the rules and procedures on intercountry adoption and on how article 21 and other related provisions of the Convention are implemented in this respect.

**48. The Committee recommends the State Party to ratify the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption and to ensure that domestic adoption is performed in full compliance with the best interests of the child and the appropriate legal guarantees and procedures as spelled out in the Convention.**

Abuse, neglect, maltreatment

49. The Committee welcomes the adoption of the Law on the Protection against Domestic Violence (2003) which prohibits corporal punishment within the family and of various other legal instruments to prevent and combat domestic violence (e.g. Criminal Code, Family Act) but remains concerned about incidents of domestic violence.



**50. In light of article 19 of the Convention, the Committee recommends that the State party:**

- (a) Undertake a comprehensive study on violence, more particularly, on sexual abuse and violence at home and school in order to assess the extent, the causes, scope and nature of these violations;**
- (b) strengthen awareness-raising and education campaigns with the involvement of children in order to prevent and combat child abuse and to promote positive, non-violent forms of discipline and respect for children's rights, while raising awareness about the negative consequences of corporal punishment;**
- (c) Evaluate the work of existing structures and provide training to the professionals involved in these types of cases.**
- (d) Strengthen measures to encourage reporting of instances of child abuse and to prosecute the authors of these acts.**
- (e) Provide care, full physical and psychological recovery and reintegration for children victims of violence.**

#### **4. Basic health and welfare**

##### Health, health-care services

51. The Committee notes the efforts made by the State Party to improve its health care system – e.g. the new Health Insurance Law (2002) but remains concerned about the lack of data about the children's health status, in particular the ones of ethnic and minority groups and that medical care coverage is not ensured for every child. It is also concerned about the effective implementation of breastfeeding programmes and that the “happy baby package” contains material that is not consistent with the International Code of Marketing of Breast-milk Substitutes for mothers. The Committee is also concerned about the information that mothers are not allowed to stay with their children free of charge, with their hospitalized children unless the child is less than 6 months of age.

**52. The Committee recommends that the State Party undertake all necessary measures to ensure that all children enjoy equally the same access and quality of health services, with special attention to children from ethnic and minority groups, especially Roma children. The Committee also recommends the State party to enhance its efforts to promote proper breastfeeding practices including compliance with the international code of marketing and to ensure the effective implementation of breastfeeding programmes according to international standards. It also recommends that children are not separated from their parents when they are hospitalized.**

##### Adolescent Health

53. The Committee notes the efforts undertaken by the State Party with regard to the situation of drug abuse by adolescents, but remains concerned at the increasing number of

cases, the increase in sharing practices among drug users, the lack of an integrated strategy against drug abuse and the apparent inadequate treatment facilities to deal with drug additions. The Committee is also concerned at the increasing alcohol and tobacco consumption by adolescents, and the lack of programmes for the prevention of suicide among adolescents. The Committee is also concerned that adolescents have a low perception of the risks of contracting HIV and other STDs.

**54. The Committee recommends that the State Party:**

- (a) Enhance its efforts to address adolescent health issues and to ensure that the programmes for adolescent health are effectively implemented, including through the provision of adequate resources,**
- (b) take into account the General Comment No. 4 of the Committee on the Rights of the Child on Adolescent Health and Development,**
- (c) Develop programmes to prevent and combat HIV/AIDs taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of children,**
- (d) Develop mental health programmes and services for inter alia, the prevention of drugs and alcohol abuse, tobacco use, programmes for the prevention of suicide and to enhance the quality of the treatment facilities,**
- (e) Ensure that adolescents have access to child-sensitive and confidential counselling services,**
- (f) Seek technical cooperation and advice from UNICEF and the World Health Organization (WHO).**

Right to an adequate standard of living

55. The Committee notes the measures undertaken by the State party to increase the economic growth, but remains concerned at the widespread prevalence of poverty, in the Croatian society particularly affecting families with more than one child, mother headed families and minority families, including Roma families and families of foreign origin and in areas that had been affected by armed conflict.

**56. The Committee, in line with its previous recommendations (*Ibid.* para. 31) recommends that the State party:**

- (a) Take all necessary measures to the "maximum extent of ... available resources" to accelerate the elimination of child poverty, notably to eliminate the disparities between the different regions of the country; and**
- (b) Continue to provide material assistance and support to economically disadvantaged families, notably, Roma families and families from foreign origin, to guarantee the right of children to an adequate standard of living,**
- (c) To include children in the Poverty Reduction Strategy with specific programmes addressing the particular difficulties faced by poor children.**

## 5. Education, leisure and cultural activities

57. While noting the efforts made by the State Party with regard to education - e.g. the 2001 Law on the Changes and Amendments of the Primary Education Law, it remains concerned about the different access to education of children belonging to minority and most vulnerable groups, including Roma children, children living in poverty, children with disabilities and foreign children which hampers the full enjoyment of a system of education adequate to their values and identity. The Committee is also concerned that the education system and its organization remain very centralized and that human rights education is not included in the curricula. Finally, the Committee is concerned about the shift system of instruction and the poor equipment and school facilities in many parts of the country.

**58. The Committee recommends that the State party**

- (a) take all necessary measures to ensure that article 28 and 29 of the Convention are fully implemented, in particular with regard to children belonging to the most vulnerable groups (i.e. minority groups, living in poverty, etc.),**
- (b) ensure the implementation of the National Programme for Roma, providing it with adequate human and financial resources and with periodic evaluation of its progress,**
- (c) allocate more funds to reduce the number of shifts in schools and to improve the quality of education in the whole country in order to achieve the goals set out in article 29, paragraph 1, of the Convention and in the Committee's General Comment on the aims of education (CRC/GC/2001/1),**
- (d) ensure that human rights education, including children's rights, are included in the school curricula and that materials are available in the different languages used in schools, and that teachers have the necessary training,**
- (e) take measures to move towards decentralization**
- (f) adopt teaching methods that encourage child centered active learning and stronger participation of children,**
- (g) take the necessary measures to integrate children with disabilities in the mainstream education system, including vocational education, and society,**
- (h) in the light of Article 29 on aims of education, establish adequate programmes and activities with a view to create an environment of tolerance, peace and understanding on cultural diversity to prevent intolerance, bullying and discrimination in schools and society at large.**

## **6. Special protection measures**

### Refugee and displaced children

59. The Committee notes the adoption of a new Asylum Law (2003) and the progress achieved in the area of asylum, but remains concerned about the delay in its effective implementation.

60. In line with the committee on the Elimination of Racial Discrimination's recommendation (CERD/C/60/CO/4, para. 13) and while noting the challenges confronted by the State Party in meeting the needs of a large number of refugees, returnees and displaced persons, mainly children, the Committee remains concerned that return is still hindered by administrative impediments and hostile attitudes adopted by some central and local officers. The Committee expresses its concern about the difficult access to education and health care for refugee and internally displaced children.

**61. The Committee recommends the State Party to ensure the effective implementation of the new Asylum Law and to ensure that refugee and asylumseeking children have access to basic services such as education and health and that there is no discrimination in benefit entitlements for asylum-seeking families that could negatively affect children;**

**62. The Committee also recommends the State Party to take effective measures to resolve the problem of property owners, mainly Serbs, returning to their homes before their occupiers (refugees and displaced persons) have been able to find alternative shelter, and that further efforts be undertaken to facilitate the return of refugees and displaced persons. It also recommends that effective measures be undertaken to ensure equal access to education and health care to displaced children.**

**63. The Committee further recommends the State party to introduce specific laws or administrative regulations or directives that provide special procedures and address special needs of unaccompanied and separated asylum seeking and refugee children, and in particular to ensure proper accommodation arrangements for these children.**

#### Children in armed conflicts

64. The Committee welcomes the State party's ratification of the Optional Protocol on the involvement of children in armed conflict in 2002 and notes the efforts undertaken by the State Party to provide psychological and social assistance for children who have been affected by armed conflict. However, it remains concerned about the lack of a systematic research on the situation of children affected by armed conflict, including follow up monitoring measures. The Committee is also concerned about the lack of compensation provisions for those children.

**65. The Committee recommends that the State party to:**

- a) **Undertake a comprehensive study on children affected by armed conflict in order to assess the extent, scope and population affected and identify its consequences and needed recovery and remedy;**
- b) **Strengthen awareness-raising campaigns with the involvement of children;**

- c) **Evaluate the work of existing structures and provide training to the professionals involved in the programmes.**
- d) **Extend the psychological and social assistance for children who have been affected by armed conflict,**
- e) **Take effective measures to ensure that the affected children receive adequate compensation.**

#### Trafficking and Sexual exploitation

66. While welcoming the measures taken by the State party to prevent and raise awareness of the problem of trafficking in persons, including the establishment of the National Committee for the Prevention of Trafficking in Persons responsible to formulate and implement the National Plan for the Prevention of Trafficking in persons, it remains concerned about its effective implementation and at the lack of statistical data and specific information on measures undertaken to combat trafficking.

**67. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party further strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes, including by undertaking studies to assess the nature and magnitude of the problem and allocating sufficient resources to this field, in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.**

#### Administration of juvenile justice

68. The Committee welcomes the amendments to the Family Act (2003), the Criminal Code (1999) and the Act on Juvenile courts (2002) aiming at harmonizing the administration of juvenile justice with relevant international human rights standards, but it remains concerned about the quality of institutions and the reports of incidents of violence in detention centres and that persons below 18 in detention or custody are placed with those up to the age of 27 years.

**69. The Committee recommends that the State party ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, and other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Vienna Guidelines for Action on Children in the Criminal Justice System, in light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995. In particular, the Committee recommends that the State Party:**

- (a) **Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, that guarantees of due process are fully respected and that persons under 18 are not detained with adults.**
- (b) **Protect the rights of children deprived of their liberty and to improve their conditions of detention and imprisonment, notably by establishing special detention centres for persons below 18 with conditions suitable to their age and needs and by ensuring the existence of social services in all these juvenile detention centres in the country;**
- (c) **Undertake training programmes on relevant international standards for all professionals involved in the system of juvenile justice,**
- (d) **Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the UN High Commissioner for Human Rights and UNICEF.**

#### Minorities

70. The Committee notes the measures undertaken by the State Party to improve domestic legislation with regard to minority rights – e.g. the Constitutional Law on the Rights of National Minorities- but remains concerned about the effective implementation of these legal instruments. It is also concerned about continuing problems of ethnic discrimination and intolerance, particularly concerning the Roma and other minority groups – e.g. Serbs, Bosniaks and other groups.

**71. The Committee reiterates its recommendation that the State party take effective measures to encourage the protection of the rights of children belonging to minority groups and eliminating the atmosphere of impunity among those that harass these groups. It also recommends the State party to undertake special measures to stimulate a process of reconciliation and confidence-building, including wide-ranging educative and awareness-raising campaigns.**

### **7. Follow-up and dissemination**

#### Follow-up

72. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or State Governments and Parliaments, when applicable, for appropriate consideration and further action.

#### Dissemination

73. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available, including through Internet (but not

exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

### **8. Periodicity of submission of reports**

**74. Finally, in light of the recommendation on reporting periodicity adopted by the Committee and described in its session reports CRC/C/114 and CRC /C/124, the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. The Committee recommends the State party submit its next periodic report on 7 October 2008. This report will combine the third and fourth periodic reports. Such report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.**

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