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Pre-Accession Human Rights Record: Assessing the Scope of Conditionality in the Field of Human Rights Promotion and Protection in Croatia

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Abstract

A country aspiring to become a European Union member must ensure respect for human rights and fundamental freedoms, consolidation of democracy and the rule of law, along numerous other economic and legislative criteria. The part of pre-accession standards that have to be achieved, known as political criteria, are the topic of the present paper that aims at assessing the scope of conditionality in the field of human rights promotion and protection in Croatia. The first part of the paper offers a chronological overview of the recent EU policies *vis-à-vis* Croatia, particularly regarding human rights requirements the country was asked to fulfil in order for the accession negotiations to be opened. In the second part, the paper deals with actual human rights situation in the country, with special emphasis on several critical registered human rights violations that were registered in previous years. The third part of the paper analyses civil society in general, arguing that the civil sector has accepted the challenge of the pre-accession process, positively responding to funding opportunities that come along with it.

Keywords: Croatia, European integration, human rights, rights of minorities, refugee return, media rights, prosecution of war crimes, civil society, pre-accession funds

Introduction

The modalities of political and economic transition of the Western Balkans differ from the Central and Eastern European (CEE) countries that celebrated their democratization efforts by acceding the European Union (EU) in May 2004. Not only the legacy of violent inter-ethnic conflicts in 1990s, but also authoritarian regimes of that decade have put a stamp of severe human right violator to all of the countries of the region. Even though the (pre)-accession criteria would largely remain the same as for the latest wave of enlargement, political analysts advocate that a state-building process that should come first should be followed by implementation of the conditionality principles contained in the Copenhagen Criteria, using these as compliance measures (International Commission on the Balkans, 2005; European Policy Centre, 2005). The assessment of performances of the countries in the region will very likely remain individual, thus diminishing already well-known Croatian fears that the country could be unfairly put into the waiting room for the accession until the other countries of the region meet the conditionality requirements.

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that countries aspiring to become EU Member States must achieve “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.” In the meantime, through the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined at Copenhagen have been for the most part enshrined as a constitutional principle in the Treaty on European Union (TEU). Article 49 of the TEU stipulates that “[a]ny European State which respects the principles set out in Article 6(1) may apply to become a member of the Union.” Exactly this provision gives legitimacy to countries of the Western Balkans to apply for the membership in the European Union.

Actually, integration into the European Union has been a top priority stated in the programmes of all Croatian governments since the country gained its independence in 1991.¹⁰³ Even more, the consensus on EU integration has been reached as the priority of all parliamentary political

¹⁰³ See for example Working Programmes of the Governments of Republic of Croatia for the Periods 2000-2004 and 2004-2007, at <http://www.vlada.hr/>.

parties.¹⁰⁴ It was consequently strengthened by the establishment of a joint task between the Government and the Parliament in the process of the EU accession. In 2005 the Parliamentary parties adopted several joint documents that ensure full cooperation between the two bodies in the process of the EU accession.¹⁰⁵

After the change of government in 2000, official policies no longer manifested nationalistic features and certain human and minority rights issues (such as the process of return of refugees of ethnic Serb origin and the restitution of their property) as well as cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) improved. Predominantly positive human rights record was maintained by the government elected in October 2003. At the beginning of his mandate, current Prime Minister was proclaiming his government's aspirations to join the EU in 2007, together with Romania and Bulgaria. However, the postponement of the accession negotiations talks made this plan impossible and the government at the moment proclaims that the country could become EU member by the end of this decade. Similarly, the enlargement commissioner Ollie Rehn at the end of May 2006 announced that Croatian accession could eventually take place at the end of a current decade, or the beginning of a following one.

Generally high public support for the EU accession significantly decreased in 2005 due to applied EU conditionality approach, particularly in its part regarding the cooperation with the ICTY. Croatian army general Ante Gotovina who was accused of crimes against Croatian Serbs in 1995, remained at large for four years after the issuing of his indictment by the ICTY. Carla Del Ponte, ICTY Chief Prosecutor, has been insisting for years that Croatia was not doing enough to apprehend Gotovina. Finally, in her report submitted to the European Council on October 3, the ICTY prosecutor concluded that Croatia was fully cooperating. Soon after, Gotovina was positioned by the Croatian secret service and captured in December 2005.

The support of the public opinion in Croatia for the EU membership fell from three quarters of the population in the early 2004, to around 50%

¹⁰⁴ The Parliament adopted the Resolution on the Accession to the EU in December 2002.

¹⁰⁵ The Croatian Parliament adopted in January 2005 three important documents: Declaration on joint activities of Croatian Government and Parliament in the EU accession process; Declaration on basic principles of negotiations for the full EU membership; Declaration on establishing National Committee for monitoring the negotiations.

later that year, and has dropped even more in 2005.¹⁰⁶ Recent opinion polls published in June 2006 indicate that the public support has slightly increased above 50%. Comparing public support in the new member states, one can notice that support was as well diminishing closer to the membership those countries were getting. Nevertheless, certain political options in Croatia have manipulated this phenomenon, and it seems that euroscepticism which their political platforms promote, is gaining wider support. Such an unstable rate of supporters of European integration among citizens requires strengthened communication strategy, encompassing not only urban but also rural population as particularly important target group, information campaigns and various education activities. Media should and could play an important role in achieving this goal, as public ignorance can be the biggest enemy of the European integration project. Therefore, the Government has passed a Communication Strategy at the end of 2005.¹⁰⁷ The Delegation of the European Commission in Zagreb is simultaneously undertaking continuous activities that aim to explain the benefits of EU accession to the Croatian citizens.

Applying the methodology presented in a vast literature on Europeanization that argues that the (pre-) accession process has direct impact on the improvement of the human right record of a candidate country, the paper proceeds in three parts. The first part gives a chronological overview of the recent EU policies *vis-à-vis* Croatia, particularly regarding human rights requirements the country was asked to fulfil. In the second part, the paper deals with actual human rights situation in the country, with special emphasis on several critical registered human rights violations that have been registered in previous years. The third part of the paper analyses civil society in relation to the human rights protection, arguing that the civil sector has accepted the challenge of the pre-accession process, positively responding to funding opportunities that come along this period before the country becomes a Member State.

¹⁰⁶ Eurobarometer Survey on Croatia 62, at

http://www.delhrv.cec.eu.int/files2005/ebrometer02032005_summary_en.pdf

¹⁰⁷ Komunikacijska strategija za informiranje hrvatske javnosti o približavanju Republike Hrvatske europskim integracijama (Communication Strategy Aimed at Informing the Croatian Public about the European Integration Process of the Republic of Croatia), 18.10.2001 and Komunikacijska strategija za informiranje hrvatske javnosti o Europskoj uniji i pripremama za članstvo (Communication Strategy Aimed at Informing the Croatian Public about the European Union and the Preparations for the Membership), 27.01.2006.

Flourishing of EU-Croatia Relations following the Change of Government

The EU Council of Ministers establishes political and economic conditionality for the development of bilateral relations with Croatia already in 1997. However, the EU-Croatia relations intensified only after a change of government in 2000, when a change of regime took place. In the margins of the Zagreb Summit in November 2000, negotiations for a Stabilisation and Association Agreement (SAA) with Croatia were opened. Less than a year after that, in October 2001 signing of the SAA took place. The process of ratification in member states was concluded only in September 2004 since several Member States rejected the ratification in their national parliaments due to Croatia's insufficient cooperation with the ICTY. The SAA eventually entered into force on February 1, 2005, together with the Protocol 7 on enlargement which extended the concessions that were given to the new candidates bilaterally on the EU 25 and thus the SAA became applicable to the enlarged EU.

Croatia submitted an application for EU membership on February 21, 2003. Aspiration towards the EU membership was consolidated in June of that year, when the Thessaloniki European Council reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries and stated that "the Western Balkans countries will become an integral part of the EU, once they meet the established criteria".¹⁰⁸

After the Commission prepared a positive Opinion on Croatia's application for membership¹⁰⁹ on April 14, 2003, Croatia was awarded candidate status on June 18, 2004. The main findings of the Opinion are that (i) Croatia is a functioning democracy with stable institutions guaranteeing the rule of law; (ii) could be regarded as a functioning market economy, and should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that the country continues implementing its reform programme to remove remaining weaknesses; (iii) and should be in the position to take the other obligations of the membership in the medium term, provided that considerable efforts are made to align its legislation with the *acquis*

¹⁰⁸ European Council. Thessaloniki Agenda for the Western Balkans: Moving towards European Integration. 19-20.06.2003.

¹⁰⁹ Communication from the Commission. Opinion on Croatia's application for membership of the European Union. COM (2004) 257 final. Brussels, 20.04.2004

communautaire and ensure the implementation and enforcement. The Opinion was accompanied by European Partnership for Croatia¹¹⁰ which listed short and medium term priorities for Croatia's preparations for further integration with the European Union. The European Partnership reflected country's stage of preparation at the time it was passed and was tailored to fit its needs. Croatia was expected to respond to the European Partnership by preparing a plan with a timetable and details in terms of how it intends to address the European Partnership's priorities. The progress in implementing the priorities is monitored regularly by the Commission, predominantly in the Annual Reports. In other words, the Partnership serves as a checklist against which to measure progress.

Council Decision on the principles, priorities and conditions contained in the European Partnership with Croatia has foreseen two kinds of measures in the part of political criteria concerning human rights and protection of minorities, depending on the time duration those measures would require. Short-term priorities required improvement of minority rights, in particular ensuring that proportional representation of minorities in local and regional self government units is achieved, as well as in the state administration and judicial bodies, and in bodies of the public administration. The authorities were in addition asked to provide the necessary means, including adequate funding, to ensure proper functioning of elected minority councils. All short-term priorities regarding the rights of minorities have been met so far. However, in the part relating to completing the refugee return and accomplishing housings reconstruction a lot remains to be done, as almost two thirds of refugees of Serb ethnic origin have not returned to their pre-war homes. The country was additionally asked to create social and economic conditions to improve the climate for returnees and the acceptance of returnees by receiving communities. Finally, it was found necessary to enhance regional co-operation for accelerating the process of refugee return and ensure an adequate public awareness campaign. Something has been achieved at a broad, political level when a declaration on refugee return in South Eastern Europe by ministers responsible for refugee issues from Croatia, Bosnia and Herzegovina, and Serbia and Montenegro was signed in Sarajevo on January 31, 2005. The three countries undertook commitment to create adequate conditions to enable refugee return in the region and to support refugees who choose to stay in their host countries. A year and a

¹¹⁰ Council Decision on the principles and conditions in the European Partnership with Croatia. COM (2004) 275 final.

half after the Declaration was signed no significant improvements can be traced in the refugee returns in all the three countries and the prospects that significant improvements will be achieved in order to meet the agreed target date of December 2006 are minimal, if not non-existent. Croatia has however prepared a comprehensive Road Map with an attached budgetary and timeframe commitment and actively participated in tri-lateral discussions. What yet remains to be tackled is a comprehensive solution for former occupancy tenancy rights holders who do not wish to return to Croatia along with the convalidation of acquired rights.

Among other short-term priorities the freedom of expression and democratic functioning of the media were underlined as problematic. Review of the media legislation was requested, and even though some legislative changes did take place, one cannot claim that the European Commission's expectation on the establishment of a transparent, predictable and effective regulatory framework has been met to full extent.

The Partnership has listed also two medium-term priorities. The first one concerns implementation of Roma rights, primarily, strengthened implementation of the National Strategy, including the provision of the necessary financial support at both national and local level anti-discrimination measures aimed at fostering employment opportunities, increasing access to education and improving housing conditions. Another medium-term priority tackles the process of refugee return which should become completed through proper and timely implementation of the relevant legislation. Besides, economic and social reintegration of returnees should be ensured through regional development programmes in previously war-affected areas.

The Commission recommended in the Opinion that negotiations for accession to the EU should be opened in March 2005, provided the country has demonstrated a full cooperation with the ICTY. Nevertheless, due to the above mentioned non-cooperation with the ICTY, the accession negotiations were suspended till October 3, 2005. Negotiations were opened on the basis of generally fulfilled political criteria set, for the most part later enshrined in Article 6(1) of the Treaty on European Union and proclaimed in the Charter of Fundamental Rights, and the Stabilisation and Association Process conditionalities established by the Council in 1997. The Commission stated clearly that the negotiations will be based on Croatia's own merits and the pace will depend on Croatia's

progress in meeting the requirements for membership, thus not linking the Croatian negotiating procedure to the Turkish one. The chapter on Judiciary and Human Rights in which human rights legislation approximation will be assessed was supposed to be ‘opened’ in spring 2006 but the Commission has postponed bilateral screening of this chapter for September 2006.

Europeanization of Human Rights: Myth or Reality?

The EU is firmly committed to the respect of human rights and is a defender of human rights in its internal and external affairs, even though it has neither comprehensive nor coherent human rights policy (Eeckhout, 2004). The Treaty of Rome of 1957 had no human rights clause, although it has mentioned in its Preamble the Member States’ willingness to “preserve and strengthen peace and liberty.” Subsequent treaties and amending instruments have made explicit references to the basis of democratic principles for all Community action (e.g. the Single European Act (SEA) of 1986, the Treaty of Maastricht of 1992). Finally, the Treaty of Amsterdam from 1999 strengthened EU human rights provisions by prescribing in Article 6(1) of the TEU that “[t]he Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law.”

Member States, by virtue of having ratified international human rights instruments, are obliged to respect a range of human rights. However, human rights bill that would oblige the acts of the EU institutions have not existed until recently. The principles contained in the TEU were additionally reinforced in the Charter of Fundamental Rights of the European Union that was originally put forward by the German EU Presidency in early 1999 and subsequently proclaimed at the Nice European Council in December 2000. Nevertheless, the Charter is not legally binding and is not internally justifiable, because it is outside the remit of EC competence. Fundamental rights were supposed to be enshrined in the probably failed the Treaty Establishing a Constitution for Europe (Constitutional Treaty), which was agreed at the Intergovernmental Conference on 18 June 2004. The Charter of Fundamental Rights was supposed to be incorporated into the Treaty, becoming its integral part (Part II). In case the Treaty was accepted by the Member States, the human rights agenda would be strengthened by clear and coherent prescription in the text of primary legislation. This would surely contribute to the establishment of shared human rights standards

among the Members States (Alston, 1999; de Witte and Toggenburg, 2004). The possibility of European Union accession to the European Convention on Human Rights (ECHR) was as well foreseen in the text of the draft Constitutional Treaty. But even if that was take place, the Charter of Fundamental Rights of the European Union would concern exclusively the Union's institutions and bodies and the Member States when they would be implementing EU law. This would definitely constitute a novelty, as previous attempts to accede to ECHR were unsuccessful. Namely, the Council has consulted the European Court of Justice (ECJ) on compatibility with the EC Treaty of the Community's accession to the Convention for the Protection of Human Rights and Fundamental Freedoms already in 1994. In so called Opinion 2/94 the European Court of Justice has concluded that it was competent to give its opinion on Community competence to proceed to accession, but that it had no power to give an opinion on the compatibility of accession with the Treaty provisions. In other words, at that time the Court found that the Union did not have competence to accede to the ECHR, and that in order to do so the Treaties would have to be amended.¹¹¹

Even though the ECJ had rejected to rule in the above mentioned case whether accession to the ECHR was compatible with the Union's legal system, in the absence of concrete legal human rights norms, the Court has contributed immensely to the consolidation of human rights secondary legislation through its judicature. In addition, judgments of the ECJ have not only contributed to the development of human rights protection in the legal order of the European Communities but also to the jurisprudence of another supra-national legislative, the Council of Europe's European Court of Human Rights (ECtHR) (Neuwahl and Alston, 1995; Perišin, 2005).

The promotion of democracy, the rule of law and the respect of human rights and fundamental freedoms constitutes one of the core objectives of the EU's external policies towards third countries,¹¹² as well as towards acceding countries and candidates for EU accession. The external human

¹¹¹ Court of Justice of the European Communities (CJEC), Opinion of 28 March 1996, Opinion pursuant to Article 228(6) of the EC Treaty, Accession by the Communities to the Convention for the Protection of Human Rights and Fundamental Freedoms, Opinion 2/94, in Reports of Cases before the Court of Justice and the Court of First Instance. 1996, pp. I-1759.

¹¹² Compare for example the Commission's Communication on human rights, democracy and development co-operation, SEC(61)91, 25.03.1991. Compare also Commission's Communication on the European Union's Role in Promoting Human Rights and Democratisation in Third Countries, 08.05.2001.

rights policy is noticeably more meaningful than the internal one (Alston and Weiler, 1999, 7). The process of so called Europeanization, that can be defined as a process whereby domestic policies of acceding countries are revised with a view to conforming to principles of the Community law and/or general policy discourse at the EU level¹¹³, has significantly contributed to the improvement of human right protection and democratization, thus proving that the trend the EU has influenced in Central and Eastern European countries in pre-accession period. An abundant literature on this issue confirms a positive impact of EU democratic conditionality on the political systems of the countries of CEE and the extent to which the process of EU integration has encouraged and strengthened democratic consolidation (Pridham, 2005; Grabbe, 2006; Schimmelfenning and Sedelmeier, 2005). Europeanization process in the Western Balkan countries is expected to lead to domestic changes as well, not only normative, but also policy-related and structural ones. Even though the inconsistencies of EU conditionality in the latest enlargement wave have been disclosed, as well as towards non-CEE third countries (Smith, 2001; Hughes, 2005) EU conditionality continues to serve as a driving force for Europeanization. Croatian improved human rights practice can be considered as an area in which positive impact of Europeanization could be measured. A powerful incentive structure and sanctioning mechanism for the accession modelled by the conditionality requirements have played a major role in legislation amending, and has contributed even to the change of policies and for justification of unpopular government's strategies, but is yet to result in a overreaching implementation measures that should make Europeanization visible even in the remotest village and at the lowest levels of governance.

Human rights and fundamental freedoms in Croatia are to a great extent aligned to international standards, constitutionally guaranteed and broadly prescribed in domestic legislation since early years of 1990s. The main problem of the country has actually never been the legislative aspect of human rights protection, but the actual implementation of the provisions guaranteeing rights and freedoms. Even though the negative human rights

¹¹³ Within the European Union, the same process can be defined as a process by which distinct structures of governance at the European level affect domestic structures and domestic politics of Member States. The process is therefore multilayered; affecting both the Member States and those states that are aspiring to membership (compare Anderson, 2002). Nevertheless, some authors argue that such definitions are too broad, not offering a single precise or stable meaning, therefore suggesting "the exact nature of the processes of change and their end results should be determined by empirical studies rather than by definition." (Olsen, 2002).

practices that were occurring in 1990s are no longer common as before, the most blatant violations of human rights in the country are nowadays still manifested towards the members of the Serb and the Roma national minorities, particularly with respect to their employment and representation in state authorities. Another human rights problem is linked to fair prosecution of war criminals, since majority of defendants continue to be ethnic Serbs. Apart from human rights problems related to ethnic minorities and ethnically motivated discriminatory behaviour by the state institutions, lack of a fair and efficient judicial system hinders right to justice of all members of population. The OSCE Mission's Report on meeting Croatia's international obligations since 2001 that was issued in June 2006 identified refugee return, war crimes trials and minority rights as problem areas which still have to be addressed. Among post-conflict related issues that have seen slower development, those three are listed as issues that have to be taken into account with more vigour and determination by the authorities. Following paragraphs will therefore describe a current state of affairs in more detail with respect of each of those human rights problems.

Protection and Promotion of the Rights of Minorities

A decade after the termination of 1991-95 war in Croatia, tensions between the majority Croat population and the Serb minority have eased. A little progress has been achieved in the return of Serb refugees more than ten years after approximately 300,000 Croatian Serbs left Croatia in the first part of 1990s, of whom only some 122,000 are officially registered as having returned.¹¹⁴

The enlargement process started to pay attention to minorities after the Copenhagen criteria designed in 1993 specifically highlighted protection of minorities as accession condition. Numerous literature on minority rights conditionality in CEE countries generally underlines that this was unprecedented event as the minority protection criterion lacked legislative ground in the EU legislative corpus, so called *acquis communautaire* (compare Toggenburg, 2004; Hughes and Sasse, 2003.) The Commission's decision to include minority protection into pre-accession criteria has actually "pushed for a (partial) rethinking of the EU's internal values,

¹¹⁴ As of September 2005, the government had registered 122,000 Serb returnees. Croatian Serb associations and the Organization for Security and Co-operation in Europe (OSCE) mission to Croatia assessed the actual number of returnees as significantly lower - between 60 and 65 percent of the registered figure - because many Croatian Serbs had left again for neighbouring countries after only a short stay in Croatia.

objectives and policies” (Sasse, 2006, 2). Apart from the EU, other international organizations (OSCE, Council of Europe) and their monitoring organs (such as Council of Europe’s Committee of Ministers, European Commission against Racism and Intolerance, Advisory Committee on the Framework Convention on National Minorities) have been continuously warning that Croatia still needed to make substantial progress regarding the return of refugees, especially in the matter of housing, fairness in the administration of justice, and in tackling ethnic discrimination since early 1990s.

The legal framework for minority protection in Croatia has improved significantly with the adoption of the Constitutional Law on the Rights of National Minorities in 2002 (Petričušić, 2003).¹¹⁵ The Law sets the domestic legal framework for minority rights, and together with several related laws¹¹⁶ it establishes a high level of normative prerequisites for the protection of minority rights. It is generally perceived that the position of minorities has improved and that minorities are able to execute their rights to a great extent. The typical official justification for the non-implementation of some of prescribed minority rights is a lack of financial resources or the absence of political will on the side of regional and local officials.

A number of initiatives carried out by the current government as soon as it took power in December 2003, particularly those towards the Bosniak, Italian and Serb minorities were interpreted as a sign of democratic maturity and enhancement of political willingness that was lacking in the 1990s (Petričušić, 2004). Political participation of national minorities in the Parliament is legally prescribed and exercised. All national minorities are entitled to elect representatives to the parliament, and, in accordance with the Electoral Law, out of 152 members of Parliament (MPs), eight are elected into Parliament as minority representatives after the establishment of a special country-wide electoral district for minorities, allowing minorities to choose whether to vote for their minority MPs or for the electoral district of their residence. Nevertheless, such fruitful co-

¹¹⁵ Constitutional Law on the Rights of National Minorities in the Republic of Croatia, Official Gazette 155/2002.

¹¹⁶ Law on Elections for the Representatives in the Parliament of Republic of Croatia, Official Gazette 22/1992, 68/1995, 116/1999, 53/2003, 69/2003; Law on the Election of Members of Representative Bodies of Local and Regional Self-Government Units; Law on the Use of Languages and Scripts of National Minorities and Law on the Education in the Language and Script of National Minorities, Official Gazette 51/2000.

operation has not been demonstrated at lower level of governance (i.e. in the counties and in towns and cities). Amendments to the Law on the Election of Members of Representative Bodies of Local and Regional Self-Government Units were carried out in March 2003 in order to bring the Law into compliance with the Constitutional Law on the Rights of National Minorities. These amendments allowed that additional elections may be held in those local administrations that had not achieved proportional minority representation. In the key multi-ethnic towns of Knin and Vukovar, local boards of the Croatian Democratic Union (HDZ) formed municipal governments in coalition with ultra-nationalist Croat parties following the May 15, 2005 local elections, while marginalizing the centrist Independent Democratic Serb Party (SDSS).

Refugee Returns and Restitution of Property

According to the UN High Commissioner for Refugees, some 200,000 Croatian refugees, mostly Croatian Serbs, are still displaced mostly in Serbia, Montenegro, and Bosnia and Herzegovina. Many of the Serb refugees, especially those who formerly lived in urban areas, cannot return because they have lost their occupancy rights to socially owned apartments (*stanarsko pravo*). Namely, it is stipulated that the Croatian authorities had terminated the tenancy rights of up to thirty thousand Serb families who fled their apartments in a first half of 1990s. In June 2003, the Government adopted a set of measures to enable former tenancy rights holders in Zagreb and other big cities to rent or purchase government-built apartments at below-market rates. As of early November 2005, only a dozen former tenancy rights holders had benefited from the two-year-old program. The absence of results only exacerbated the scepticism among refugees that the program would eventually deliver benefits. Only 3,628 former tenancy rights holders had filed applications under the program as of September 2005.

The bleak prospects for receiving an adequate substitute for lost tenancy rights made many refugees place their hopes in the European Court of Human Rights (ECtHR). Many of them have been discouraged in their attempts, after the European Court of Human Rights and Fundamental Freedoms ruled in July 2004 that the rights of the applicant who argued that Croatia had breached her right to respect for her home, as provided in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and her right to peaceful

enjoyment of her possessions (Article 1 of Protocol No.1 to the ECHR) had not been violated.¹¹⁷

The applicant Croatian citizen Kristina Blečić, an ethnic Serb/Montenegrin, complained that, by terminating her specially protected tenancy, the authorities violated her rights to respect for her home and peaceful enjoyment of her possessions. She had held the occupancy right to her socially owned flat in Zadar since 1953. In July 1991 she left Zadar to visit her daughter in Italy, shortly before the armed attacks and shelling of Zadar began in mid-September 1991. Kristina Blečić decided to remain in Italy until May 1992. Upon return she found that her flat had been illegally occupied since November 1991 by an ethnic Croat family who prevented her access to her home. In order to terminate a tenancy under Croatian law of that time, there had to be a court judgment upholding the claim of the provider of the flat to that end (compare e.g. Rodin, 1998; Uzelac, 1998). The Croatian courts denied the restitution of tenancy rights as Kristina Blečić had not returned to her apartment within the six-month period specified by Croatian law at the time.

The ECtHR upheld Croatian court decisions terminating the tenancy rights of Kristina Blečić. On December 15, 2004, the Grand Chamber of the ECtHR agreed to re-hear a case. The re-hearing of the case took place in September 2005, but the Court ruled the application was incompatible *ratione temporis* since when the date of the Supreme Court's judgment is taken into consideration (on 15 February 1996 the Supreme Court reversed the County Court's judgment of 19 October 1994), the interference falls outside the ECtHR's temporal jurisdiction. Namely, in order to be allowed to file a complaint before the ECtHR to the applicant, the alleged violation of the human right prescribed by the European Convention must happen subsequent to ratification of the Convention. Therefore, applying rule on non-retroactivity of treaties, the ECtHR decided not "to reach a result tantamount to compelling the domestic authorities to apply the Convention retroactively."¹¹⁸

¹¹⁷ Case of Blečić v. Croatia, Application no. 59532/00.

¹¹⁸ *Ibid.* Paragraph 90. Compare the United Nation's Vienna Convention on the Law of Treaties, 1969. The Article 28 of this international instrument reads: "Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party."

Economic Rights of Returnees and Discriminatory Practices towards Minorities in Access to Employment and Education

Croatian Serbs and Roma continue to be discriminated against in access to employment and in realising other economic and social rights. The economic underdevelopment of areas of return inhabited by national minorities (Serbs mostly dwell in such areas, but also Roma, Czechs, Slovaks, Hungarians, Ukrainians and Ruthenians) affects both the majority population and the minorities. The Constitutional Law on National Minorities has prescribed proportionate representation of minorities in the state administration and the judiciary, as well as the executive bodies and administration of self-government units. Nevertheless, this Constitutional provision is not implemented since in most areas of refugee return there are no Serb returnees in the police, the judiciary, or the regional offices of the state ministries. Discriminatory employment practices towards the Serb minority were found in Knin and Vukovar as well as in Dvor, Benkovac, Korenica, Gvozd, Vojnić and Hrvatska Kostajnica, all towns in the area of return.¹¹⁹ Members of the Roma minority are also excluded from the state administration at all levels. Monitoring documents issued in Croatia by the international organisations and NGOs have also pointed towards the implementation gap with respect to the non-accomplishment of proportional representation of minorities in administration and judiciary, particularly at local level. Private entrepreneurs, although not bound by the law to hire members of national minorities, have proved to be more willing to do so than government agencies. The issue of employment discrimination needs further investigation and monitoring since equal access to employment opportunities for all minorities, including returnees, is essential if Croatia is serious about an effective return programme that is sustainable and democratic.

There were several cases of Roma minority children's segregation in Međimurje County in the North West of the country, when they were placed in separate classes in local schools of Macinec, Kuršanec, Orehovica, Mala Subotica, Podturen and Pribislavec. Poor Croatian

¹¹⁹ The Serbian Democratic Forum reported that there are no Serbs employed in the police and the court in Vojnić, although Serb returnees outnumbered local Croats and Croat settlers by 3,500 to 2,500. Judicial vacancies have remained unfilled in some instances in which Serbs were the only candidates considered by the State Judicial Council (e.g. in Dvor, Gvozd, Vojnić and Hrvatska Kostajnica). In 2003 66 judges were hired and 65 of them were ethnic Croats whereas no Serb candidate has been elected. All 23 State Attorneys elected in that year were ethnic Croats. Information obtained in the International Helsinki Committee, Annual Report on Croatia (2002); in the Minority Rights Group International (2003). Minorities in Croatia, in the Human Rights Watch (2003). Broken Promises – Impediments to Refugee Return to the Republic of Croatia.

language skills are often referred to by the authorities as an excuse for the segregation of Roma children within the Croatian educational system. In addition, the teaching in such classes was significantly reduced in scope and volume as compared to the officially prescribed teaching plan and indeed the quality of education delivered in the non-Roma classes. Because of such practices, a legal representative of fifteen Roma has filed a complaint to the European Court for Human Rights.¹²⁰

Since Roma often lack formal education, it is difficult for them to get access to the labour market. For example, out of 1.300 Roma registered with the Croatian Employment Service in 2002, only 41 of them had completed high school. Apart from launching the National Programme for the Roma in 2003, the Croatian Government has joined the Decade of Roma Inclusion which will last from 2005 to 2015. The objective of this multilateral initiative is to take steps to speed up and scale up social inclusion and the economic status of Roma by setting a limited number of quantitative national goals for improvements in education, employment, health, and housing and the establishment of the necessary information base to measure the progress towards these goals. It is estimated that 60 million kuna will be spent for the implementation of the goals foreseen by the Decade.

Ethnically Motivated Violence

Violent ethnically biased incidents directed at ethnic Serbs were more frequent in 2005 than in previous years. Such racially motivated attacks threaten to additionally discourage the return of Serbs to Croatia. In one case, the attack resulted in the death of eighty-one-year-old Dušan Vidić in his house in Karin, near Benkovac on May 18, 2005. Two months later, on July 19, 2005 two elderly Serb returnees were beaten in front of their house in the village of Oštrovica, also near Benkovac. There were several attacks on vehicles with Serbian registration plates registered as well as on Serbian bus and train passengers. In 2005 incidents of demolition of the premises of a Serb political party in Vukovar, the municipal assembly buildings in the majority Serb villages of Borovo Selo and Trpinja, near Vukovar, and the Serb Orthodox Church in Drniš were also reported. In 2006 those kind of events were not as numerous as in the previous year.

¹²⁰ Application to the European Court for Human Rights, material presented by Lovorka Kušan, attorney-at-law, legal representative of fifteen Roma minority students in elementary schools in Međimurje County.

While these attacks have been investigated by the authorities, it appears that these investigations have not produced results in identifying and prosecuting the perpetrators. The Commission Accession Report for 2005 found that “that the level of protection against discrimination is still far from the EU standards requiring the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin and the establishment of a general framework for equal treatment in employment and occupation, irrespective of religion or belief, disability, age or sexual orientation (2005 Progress Report).”

A trend of ethnically motivated crimes seems not to decrease in 2006. Ethnically motivated incidents occurred again in parts of Croatia populated by returnees (Knin, Benkovac, Biograd or Gospić). Such incidents continued to bear message of intolerance and to intimidate members of the Serb minority, as very often incidents included both verbal insults and physical threats. Official data report that the public prosecutor decided to pursue 44 of such cases of ethnic violence in 2005, and 27 up to October 2006.

Probably as a result of an increase of such crimes the Parliament, acknowledging a proposal of the Serb minority MP Milorad Pupovac, accepted amendments to the Criminal Code that nowadays includes a provision on hate crime. The amendment permits the imposition of greater sentences for ethnically aggravated forms of offences against the person, property, public order and similar offences. These provisions entered into force as of October 1, 2006. State Attorney's Office disseminated an instruction as regards the code of conduct to lower instance state attorney's offices in order to allow for immediate implementation of the amended Criminal Code's provision.

Croatian authorities have furthermore committed themselves to institutionalize hate crime training for the police. The police authorities joined the Training Programme for Police Officers for Preventing Hate Crimes initiated by the OSCE/ODIHR, initially presented at the OSCE Conference on Anti-Semitism and Other Forms of Intolerance held in June of 2005. Recently, on October 23, 2006 Croatia signed a memorandum of understanding with OSCE/ODIHR on fighting hate crime within the existing national curriculum for police training.

Prosecuting War Crimes

During the 1991-1995 conflict, massive and serious human rights violations were perpetrated by the Croatian Army soldiers, as well as by the Yugoslav National Army soldiers and Serb rebels. Undoubtedly, the Croatian civilians were victims of the war, becoming refugees and internally displaced persons. However, great majority of population in Croatia rejects to accept that the Serbs were as well victims of the war, being victims of killings, torture including rape, “disappearances”, arbitrary detention and forcible expulsions. The continuing impunity for perpetrators of such crimes committed against Croatian Serbs has caused incriminating reports from several international NGOs and organizations (Amnesty International 2004, Human Rights Watch, 2004). The authorities were compelled to disclose information on the fate and whereabouts of Croatian Serbs who went missing during the 1991-1995 armed conflict and of victims of “disappearances” whose alleged perpetrators were members of the Croatian Army and police forces, and to bring to justice those responsible for the “disappearances”. The country’s judicial system was accused of overwhelmingly fail to address these violations and courts as applying ethnic criteria in investigating and prosecuting war crimes and crimes against humanity. In its report issued at the end of 2004, the Amnesty International condemned the EU on awarding the candidate status to a country that has failed to address the human rights legacy of the war.

Courts have been continuously charged of applying ethnic criteria in investigating and prosecuting war crimes and crimes against humanity and the Croatian judicial system has overwhelmingly failed to address violations allegedly committed by members of the Croatian Army and police forces. The number of war crimes trials against ethnic Serbs (eleven) greatly outnumbered trials of ethnic Croat indictees (six) in 2005. Trials of ethnic Serbs also tended to involve more defendants, making the contrast between the numbers of individuals standing trial from each ethnic group even starker. Most notable among these were the Mikluševci case and the Lovaš case before the Vukovar District Court, and the Branjin Vrh case before the Osijek County Court, all still ongoing. The six trials in 2005 were retrials of cases from the 1990s or the early 2000s: Mihailo Hrastov (originally opened in 1993, now re-tried for the third time); Pakračka poljana (1997); Bjelovar group (2001); Virovitica group (2002); Lora (2002); and Paulin Dvor (2003). Another remaining concern is the ability of the Croatian courts to conduct trials in a fair and effective

way, given the high number of reversals of first instance judgments by the Croatian Supreme Court.

Only recently the public prosecutor's office has initiated a procedure against a warlord of Osijek Branimir Glavaš for crimes committed against Serb civilians in the city in Eastern Slavonia near the border with Serbia where he was informal military monarch at the beginning of 1990s. However, the charges came as Glavaš got expelled from the currently ruling centre-right Croatian Democratic Union (HDZ). The investigation followed claims made by a former soldier Krunoslav Fehir, who alleged that on August 31, 1991 Glavaš ordered executions of two Serb civilians, Čedomir Vučković and Đordje Petković. Those two were jailed in Glavaš's wartime headquarters, where they were interrogated, tortured and finally executed. The alleged acts of torture included forcing acid from car batteries down the civilians' throats. The court procedure is supposed to initiate in and is generally perceived as a "test of whether Croatia is ready to face up to its own war crimes."¹²¹

Lack of Access to Court and Administrative Incapacity

Inherent weakness of the judiciary was a problem common also to all new Member States and other candidate countries. Ideally, the existence of the system of courts and adherence to the goals of independence and effectiveness of the judiciary and the rule of law make up the necessary threshold in order to meet the Copenhagen political criteria (Kochenov 2004, 20).

The overwhelming source of violations of the right to a fair trial is the enormous backlog of cases within the courts and the administration. There are around one and a half million pending cases, out of which ninety-five percent belong to civil/administrative cases, while the remaining five percent concerns criminal cases. A lack of access to court caused by the lengthy proceedings and the lack of adequate enforcement of judgments of the courts is addressed in prevailing number of judgments of the European Court of Human Rights against Croatia which concern violations of Article 6 of the European Convention.¹²² Another

¹²¹ Drago Hedl, Croatia May Try Wartime Leader for Serb Deaths, at <http://www.iwpr.net/>, 08.06.2006.

¹²² The European Court of Human Rights has found violations in 34 Croatian cases since Croatia became a party to the European Convention in 1997. See for example latest rulings in cases Aćimović v. Croatia, application no. 61237/00; Urukalo and Nemet v. Croatia, application no. 26886/02;

set of the cases before the ECtHR relate to the suspension by the Parliament in 1996 and 1999 of pending court cases seeking compensation from the Government for damages for personal injury and property loss resulting from terrorist acts and actions by the military and the police during the war. Such lack of access to courts naturally influences the return process. Namely, lengthy and in some cases unfair or ethnically biased court proceedings, particularly in lower level courts, remain a major problem for returnees pursuing their rights in court. The illustrative case for such a claim was a ruling issued in July 2003 at the County Court in Gospić. In its ruling in a procedure for war crimes, the judge stated that Svetozar Karan, a Serb returnee to Korenica, was sentenced to thirteen years imprisonment because of his alleged participation in the torture of Croat prisoners of war, explaining the sentence by the fact that Karan “and his ancestors” have been a “burden to Croatia over the past 80 years”. The judgment in addition found a ground for such a conviction in the fact that “the accused and his ancestors [...] together with Turks were coming and destroying Croats.”¹²³

Ineffectiveness of the state administration is another serious problem the citizens usually face. The state institutions in general do not act within legal deadlines. This applies in particular to pension claims and housing reconstruction cases, where individuals have been awaiting decisions for several years.

Up until mid-2005 Croatia had no system of free legal aid to litigants who are unable to pay for costs and expenses related to their proceedings. This shortcoming was underlined in several reports by the international organizations (e.g. Böcker 2005, 2005 Progress Report). The free legal aid scheme was firstly introduced for the Roma community, in the framework of meeting the National Strategy for Roma goals, as well as for persons without citizenship. However, foreigners and those without citizenship generally remain ineligible for legal aid in civil cases. In civil cases, currently only the Bar Association provides free legal aid with no state control over the eligibility criteria. The Law on Free Legal Aid is yet to be passed, having been in the drafting phase already for several years.

Development of Media Freedoms

Marinović v. Croatia, application no. 24951/02; Božić v. Croatia, application no. 22457/02 etc. All of those concern lengthy court procedures that caused a violation of Article 6 of the ECHR.

¹²³ Judgment by the Gospić County Court, No. K-4/03-185, July 30, 2003.

Compared to oppressive media practices in 1990s, the new decade has brought a substantial change in the legislative setting, as well as in the scope of freedoms journalists are entitled to. The national broadcaster, the Croatian Radio and Television (HRT), has generally freed itself of political bias.¹²⁴ In 2003, the Croatian Parliament passed a set of media laws: the Law on Croatian Radio and Television, the Law on Electronic Media, the Law on Media, Law on Telecommunications and the Law on Access to Information.¹²⁵

In the period from October 2004 to November 2005 four journalists have received suspended prison sentences for libel. Both the OSCE Representative on Freedom of the Media and the OSCE Mission to Croatia have had been advocating this measure, and the decriminalization of defamation attempts had intensified following several convictions of journalists for defamation in 2004 and 2005. It was considered that articles 199 to 205 and Article 309 of the Croatian Criminal Code that imposed criminal sanctions for the separate offences of insult and defamation were inconsistent with international human rights law and practice (see Article XIX Report, 2003). Subsequently, the Croatian Parliament passed amendments to the Criminal Code that abolished imprisonment as a sanction for defamation in June 2006.

Civil Society and Assurance of Human Rights Conditionality

The latest status report of the OSCE Mission to Croatia reads that Croatia's democratic institutions in the field of civil society have made considerable progress towards becoming self-sustainable after a legal, financial and policy framework for civil society development has been put in place. The OSCE status report has, between the lines, announced closing down of the mission, underlying that media institutions and human rights organizations have matured to the point that they can competently assume the Mission's watchdog and advisory role in the near future.

Croatia has about 20.000 registered non-governmental organisations (NGOs), 18.000 of which operate at local level (Ivanović, 2005). In spite of quite high number of NGOs registered at local level, a gap between the

¹²⁴ Croatian Helsinki Committee for Human Rights (2003), Elections and the Media - Croatia 2003, Zagreb: Croatian Helsinki Committee for Human Rights.

¹²⁵ Law on Croatian Radio and Television, Official Gazette 25/03, Law on Electronic Media, Official Gazette 122/03, Law on Media, Official Gazette 59/04, Law on Telecommunications, Official Gazette 122/03, Law on Access to Information, Official Gazette 172/03.

development of civil society in rural areas and the urban centres has not been reduced in fifteen years of country's independence. However, there are no reliable indicators on how many of registered NGOs at both central and local level are active. The Law on Associations¹²⁶ that was enforced in January 2002 has brought a much more liberal framework for freedom of association and supervision of the work undertaken by civil society organizations. It also reduces and streamlines the bureaucratic procedure for registration.

The hostile attitude of the Government towards the civil society has experienced a radical change in 2000. The roots of the change probably date back to 1998, when the Government Office for Associations (*Ured za udruge Vlade Republike Hrvatske*) was established.¹²⁷ The Council for the Development of Civil Society (*Savjet za razvoj civilnog društva*) was created in March 2002.¹²⁸ The Council was supposed to have a positive influence on civil society development and consolidation as a decentralised advisory body in activity planning and standard criteria for tendering. The Council was subsequently complemented by the establishment of the National Foundation for Civil Society Development (*Nacionalna zaklada za razvoj civilnoga društva*) in October 2003.¹²⁹ The National Foundation differs from the Council as it is foreseen to serve as an expert body, and should be responsible for the distribution of financial support to programs which encourage the sustainability of the not-for-profit sector, inter-sector cooperation, civil initiatives, philanthropy, voluntary work and the improvement of the democratic institutions of society. It is financed from state budget funds provided in a separate position for the NGO Office, from part of the income from games of chance and competitions and from the founding capital, donations and other income. Besides funding from the State, regional and local governments are also expected to contribute additional funds for NGO development. The financing of the NGOs was firstly centralised and the resources were distributed from the Government Office for Associations. In the period from 1998 to 2003 the Office has supported in total 1,997 projects and programmes of various associations who applied for financing through public tenders. The total amount of money granted to NGOs in that period was 105,328,942.33

¹²⁶ Law on Associations, Official Gazette 88/2001 and 11/2002, Law on Foundations and Funds, Official Gazette 36/95 and 64/01.

¹²⁷ Decree on the Establishment of the Government Office for Associations, Official Gazette 132/98.

¹²⁸ Decision on the Establishment of Council for the Development of Civil Society, Official Gazette 26/02.

¹²⁹ Law on the National Foundation for Civil Society Development, Official Gazette 173/03.

kuna (14,502,054.72 euro). The decentralized model of financing of civil society activities was introduced in 2003. In two years, the amount of money assured by the state for civil society projects and programmes has doubled. In 2005, the sum for civil society projects amounted to more than 170 million kuna. Parallel to the increase of the governmental donations, foreign donors have started to withdraw after the change of government in 2000, considering the country has achieved necessary democratic stability and has started democratic consolidation. This of course has caused that numerous civil society initiatives had to be significantly reduced but that probably also contributed to the purification of the civil society, since only those organization with clear visions and mandates were able to continue to exist. Aiming at developing a broader framework for the civil society performance, the Government has passed the decision on the establishment of the working group for the development of the Draft National Strategy for the Development of Civil Society in January 2006. Already in June that year, the working group has sent the draft to the Parliament.¹³⁰

Apart from the Government, and numerous international private, non-governmental and governmental donors who contributed to the development of the civil society, strengthening of capacities of civil society has been an important goal and priority of the EU in the context of the stabilisation and association process. The EU financed democracy and human rights projects through two programmes, CARDS 2002 and EIDHR 2001, which assured the amount of 1.5 million euro (11,085 million kuna). Both programmes were implemented by civil society organisations in 2004 and 2005 and covered relatively small-scale human rights and democratisation projects at local level. Their aim was to promote and protect human, minority and civic rights and to enhance democracy and civil society.¹³¹

¹³⁰ The Draft (Nacrt prijedloga Nacionalne strategije stvaranja poticajnog okruženja za razvoj civilnoga društva <http://strategija.civilnodrustvo.hr/>).

¹³¹ CARDS 2002 programme on promotion of democracy and human rights with total budget of 0.5 million Euro supported the projects implemented by the following NGOs: IRC Petrinja; Centre for Civil Initiatives Poreč; LORI - Lesbian Organisation Rijeka; Centre for Civil Initiatives Croatia; STINA News Agency. EIDHR 2001 programme supported the following 20 NGOs with total budget of 1 million Euro: Centre for Peace, Non-violence and Human Rights - Osijek, CERANEO- Zagreb, Centre for Women's Studies-Zagreb, Centre for Peace Studies - Zagreb, Croatian Law Centre - Zagreb, Dodir - Croatian Association for Deaf Blind Persons - Zagreb, Europe House Slavonski Brod, GONG- Zagreb, Nansen Dialogue Centre - Osijek, REC - Regional Environmental Centre for Central and Eastern Europe - Zagreb, Institute for the Development of Education – Zagreb, VIMIO - Vukovar, ZamirNet - Zagreb, Women's Room - Zagreb, Association Split Healthy City, Committee

When establishing the priorities for funding projects in the process of programming future EU assistance programmes, civil society organizations in candidate countries are essential partners for the Commission. Therefore, in previous candidate countries' civil society organisations had many opportunities within the available pre-accession assistance programmes (Phare) to learn and to prepare for working in partnership with EU institutions after accession. The Phare programme proved to be a valuable opportunity for interacting with similar organisations in the EU, as well as with EU institutions, and for strengthening the capacities for monitoring the implementation of EU legislation in the sectors where civil society plays an important role (Vidačak, 2006). Non-participation of NGOs in pre-accession period would very likely cause the increase of democratic deficit in the operation of structural funds, and regional policy in general (Harvey 2004). For the period up to the end of 2006, the EU provided support under the three pre-accession instruments to candidate countries: Phare (Council Regulation 3906/89), ISPA (Council Regulation 1267/99), and SAPARD (Council Regulation 1268/99). These instruments were supposed to serve as a training experience for a future use of structural and/or cohesion funds. Instrument for Pre-Accession Assistance (IPA), which will initiate in 2007, is a single framework to integrate those three pre-accession assistance instruments and aims at preparing candidate countries for the membership by progressively adopting the rules and principles of structural and regional development funds after accession. IPA will make available assistance for candidate countries through three separate components: Regional Development, Rural Development and Human Resources Development. It is however yet to be seen how the IPA will embrace the civil society as partner organizations for project implementation.

The Croatian National Foundation for Civil Society Development (NFCSD) is officially nominated as an Intermediary Body in charge of the management of grant schemes in the area of civil society development, with the prospect of it becoming fully accredited as an Implementing Agency for the Phare, IPA and specific Community Programmes. The NFCSD has so far been responsible for specific pre-grant, during grant and post-grant activities responding to the Call for Proposal "CARDS

2002: Social Service Delivery by the Non-profit Organisation” managed by the EC Delegation in Croatia. The provision of those services serves as an important milestone in terms of improving overall NFCSD’s capacity to manage grant schemes in conformity with the EC requirements.

The European Commission had launched in mid-2005 the initiative of strengthening civil society dialogue between the EU and candidate countries.¹³² It is expected that the realisation of this initiative will contribute to raising public awareness in the Member States about the necessity of further EU enlargement, as well as to improve the understanding of the EU in candidate countries. This dialogue will progress and evolve in parallel with accession negotiations and may require re-orientation, as the new candidate countries will be opening negotiations procedures.

The Commission has made it clear that the approach to dialogue employed in Croatia will be different to the one in Turkey, and also that greater emphasis will be placed on relations with the latter. The Commission expects that the civil society dialogue in Croatia will evolve in the light of the deepening of EU-Croatia relations, the strengthening of regional cooperation and the further development of reconciliation with the region. The Commission has expressed its interest to pursue the dialogue in pre-accession process, encouraging contacts between social partners, the media, NGOs and religious communities in the EU and Croatia. The civil society dialogue will focus also on religious issues. In principle, the proposed activities will be financed under the pre-accession assistance budget for the countries concerned, supplemented if necessary by contributions from public or private institutions and the Commission.

At the conference that took place in September 2005, representatives of civil society organisations from Croatia expressed their hope and expectation that the European Commission would soon propose operational measures for the implementation of this initiative in Croatia, as has already been done in the case of Turkey. This would contribute significantly to the strengthening of the capacities of civil society organisations in Croatia to take on an active role as partners to state institutions in communicating Europe to citizens, and, in general, to take a

¹³² Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, on civil society dialogue between the European Union and candidate countries [COM(2005) 290 final], 29.06.2005.

more proactive role in the process of preparing Croatia for full EU membership.¹³³

Conclusions

The present paper has primarily attempted to point towards the areas in human rights agenda that still require improvement in Croatia, without presenting basic legislative provisions that assure human rights and a basis of current political situation in the country, assuming those aspects are for the most part familiar to the readership. A number of above enumerated improvements in the field of human rights protection and promotion witness that the Croatian authorities have seized a path of democratic consolidation. The process of European integration that started in 2000 has played a crucial role in convincing politicians to alter their nationalistic attitudes and embracing pro-Western, democratic standards. First of all, the change of government in 2000, as well as the endeavours of the current government that assumed power in 2003, brought different, more tolerant and inclusive policy towards national minorities. At the declaratory level, but more and more at the practical too, cooperation with national minority organizations (political parties and civil society organizations) is seen as a factor of political stability. Nevertheless, the improvement can be ascribed mostly to the central level of governance, as the local governments, particularly in areas of former ethnic conflicts, persist in pursuing nationalistic features. Another problem related to such local politics is the exclusion of the Serbs from public services, and discrimination of Roma who are also in several areas denied mainstream educational methods and employment opportunities. Another improvement in the human rights field that can be traced is the development of media freedoms. Not only that the media legislative framework that has been set up in recent years, but also amendments to the Criminal Code from June 2006 that abolished imprisonment as a sanction for defamation owe development to the external factors (partially European integration process, but also international human rights watchdog organizations dealing with the right to expression). Nevertheless, there are still areas in which human rights of Croatian citizens could be better dealt with. To name some of them; speeding up refugee return, sanctioning ethnically motivated violence and assuring impartiality of the Croatian judicial system when investigating and prosecuting war crimes and crimes against humanity.

¹³³ National Foundation for Civil Society Development, International Conference "EU and Croatia: Strengthening Civil Society Dialogue" held in Zagreb, at <http://zaklada.civilnodrustvo.hr/>.

The European Commission assesses the improvements in the regular progress report. Each year, the report, *inter alia*, analyses the situation in the country in respect of the political criteria for membership, i.e. the human rights and protection and promotion of the rights of minorities. In this way the Croatian authorities are constantly being aware that the respect for human rights constitutes an important pre-accession component, thus the European Union serves as a human rights watchdog.

The Croatian civil society has been playing an important role since 1990s not only in supervision of the implementation of human rights legislation and in providing information for the monitoring bodies of international human rights instruments, but also in the realisation of numerous projects and programmes that allow for the realisation of human rights in the country. Several institutions on the side of the state (the Government Office for Associations, the Council for the Development of Civil Society, the National Foundation for Civil Society Development) have been set up to allow for the functioning of the civil society, demonstrating the willingness of the state to recognize civil society organizations as credible factors for the implementation of common policies and accomplishment of broader societal goals.

Subsequent to opening of the accession negotiations for the membership in the European Union last year, the role of civil society in Croatia has assumed a new role. It is supposed to become a partner of the government and the European Commission's Delegation in the country in explaining benefits and possible threats of the membership to the citizens in the pre-accession proves. The role is by no means a delicate one, since the public support for the membership is sharply split, which endows the civil society organizations with a challenging task to sufficiently inform and prepare citizens for the membership in the European Union.

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