Submission to the United Nations Committee for the Elimination of Racial Discrimination for the 110th Session for the Combined Ninth to Fourteen Periodic Report of the Republic of Croatia

Submission by the Ombudswoman

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The Ombudswoman (ORC)[1] as the status A NHRI prepared this submission. It is based on complaints the institutions worked on, field work, research, as well as data gathered from different stakeholders: public authorities, CSOs, trade unions, employers, universities and many others.

I. NON-DISCRIMINATION

1. The ADA[2] entered into force 15 years ago - there are 17 grounds based on which discrimination is prohibited, with the ORC being the central body for the suppression of discrimination (I.e. national equality body) as well as the body dealing with complaints on 12 out of the 17 grounds (including racial or ethnic origin, as well as age, religion, socio-economic status etc.). The complaints on the other 5 discrimination grounds are dealt with by specialised ombuds institutions (the Ombudswoman for Persons with Disabilities deals with complaints of discrimination based on disability, the Ombudswoman for Gender Equality deals with discrimination based on sex, sexual orientation, gender identity and expression and marital or family status and the Ombudswoman for Children deals with complaints of discrimination of children). Looking at all of the discrimination grounds, the number of complaints has been increasing over time (in 2022 their total amounted to 1088). The majority of them refer to discrimination on the grounds of sex, disability, racial or ethnic origin (in ADA as race, ethnicity or skin colour and national origin), followed by complaints on the grounds of health status and sexual orientation, and other grounds. Discrimination is most common in the areas of labour and employment, followed by social welfare, access to goods and services, public administration and public information and the media.
2. When it comes to strategic documents on non-discrimination, the National Plan for the Protection and Promotion of Human Rights and the Suppression of Discrimination 2023 - 2027 and two Action Plans (one referring to anti-discrimination) were adopted by the Government in March 2023. However, the ORC pointed out that the proposed action plans refer only to a one year period and lack concrete measures and activities to address all of the identified needs and problems in the National plan to a sufficient degree. Additionally, as stated by the ORC during the drafting of the documents, the evaluation of the implementation of the previous documents was lacking.
3. In the context of ORC's work in the area of anti-discrimination, i.e. within its mandate of an independent institution (equality body) responsible for dealing with complaints on 12 grounds of discrimination[3], since the establishment of our anti-discrimination mandate in 2009, the largest number of complaints has traditionally been received in relation to

[1] Ombudswoman of the Republic of Croatia - ORC

[2] Anti-discrimination Act

[3] In line with ADA and its Article 1 the law prohibits discrimination on the basis of race or ethnic affiliation, colour, gender, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic inheritance, gender identity and expression, sexual orientation. The ORS is responsible for the following 12 grounds: race or ethnic affiliation, colour, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, age, health condition, genetic inheritance.

discrimination of relevance to CERD, namely on the ground of race or ethnic origin, which has consistently been the most represented ground. Within this ground, the most vulnerable to discrimination are Roma, Serbs and migrants.

4. Members of the Serbian national minority and persons of Serbian origin are still exposed to prejudice and negative sentiments in the public. The population census conducted in 2021 showed a decrease in the number of Serbs (citizens who have declared themselves as Serbs) compared to 2011 (123,892 citizens, or 3.2% of the total population, declared as Serbs) . At the same time, some of the media reported a significant decrease in the number of members of this national minority as positive news, which indicates that in part of the society there is still prejudice towards Serbs. Additionally, research conducted in 2022 among young people born from 1992 to 2004 showed that 55% of them would ban the Cyrillic alphabet in Vukovar by law. Intolerance towards Serbs is also reflected on social networks, and in 2022 the ORC conducted an investigation in relation to an employment ad in which the owner of a restaurant stated that it did not accept "Pakistanis, Bangladeshis and Chetniks from Nis". The ORC reacted publicly by pointing out that choosing workers based on racial or ethnic origin is illegal, given that discrimination is prohibited. Additionally, the ORC underlined that this obligation refers to private employers as well and that it is illegal to choose clients and employees based on skin colour, ethnicity, and national origin.
5. Serbs who returned to their pre-war residences are vulnerable to discrimination, often on the grounds of their national origin, age and socio-economic status as they are often older, with low income and live in underdeveloped rural areas (even basic services such as water and electricity remain a challenge in these areas). The electrical network in the areas inhabited by Serb returnees is being further repaired and restored. However, it is still necessary to re-electrify over 1,000 households, mostly in sparsely populated and dislocated areas, which were once affected by the 1990s war. Due to limited funds, but also to complex and long-term resolution of property-ownership issues, annually only about 80 households are being re-connected.
6. Migrants remain exposed to prejudice and discrimination, linked to their racial or ethnic origin. Croatia still does not have a migration or integration policy in place, and the last one, related to the integration of persons granted international protection in Croatia, expired in 2019. There is a lack of systematic integration measures, including in providing Croatian language courses, resolving housing issues, access to employment and education, as well as the access to the health care system.
7. Labour/work and employment has been the area most commonly cited in the discrimination complaints received by the ORC from the coming into force of the ADA. We receive more and more complaints from foreigners, third-country nationals (non EU nationals), mostly from Bosnia and Herzegovina, Serbia, Ukraine and the Philippines related to their work, including complaints regarding working without a work permit, not keeping records of work shifts, illegal and unpaid overtime. Foreign workers often do not know how to protect their rights and do not have sufficient knowledge of Croatian and/or English language, which makes it even more difficult for them to take action to protect their rights. There is a lack of

Croatian language courses, as well as information on available instruments and procedure for rights protection, both those related to labour and employment and others. Many of these individuals are noticeably different from the majority population, so it is to be expected that they will be more often exposed to prejudice and discrimination, which is why it is necessary to empower them. They are mostly employed through agencies as a cheaper workforce in the service sector, construction, and agriculture. For this reason the ORC recommended to the State Inspectorate to intensify the supervision of the legality of employment and working conditions of third countries nationals . Moreover, public policies aimed at foreign workers' integration into the society are missing.

Additionally, in the context of discrimination, when seeking court protection and submitting complaints to the ORC, reporting to the Inspectorate or just considering any of those steps, foreign workers express the fear of victimization. The new challenge identified in this area refers to platform workers, which the recent amendments of the Labour Law recognize for the first time. Due to technological developments, digital platforms apply new business models that prevent adequate protection of rights of workers, which can lead to discrimination, whereas many foreign workers are employed as platform workers.

8. If we observe statistical data on discrimination related to civil proceedings provided by the MJA[4], the number of final judgments, in particular those granting the claims and thereby establishing discrimination, is still low. Statistical data on misdemeanour cases related to discrimination indicate that these proceedings are still most often initiated in relation to Article 25 of the ADA (related to harassment), and perpetrators are mostly sentenced to monetary fines. Criminal cases related to discrimination are still sparse and are mostly related to the crime of public incitement to violence and hatred (criminally prohibited hate speech) from Article 325 of the Criminal Code, as well as (other) hate crimes about which we write about in more detail below.
9. In the first years of the ADA's application, CSOs more often used the possibility of collective protection lawsuits (resembling actio popularis), but during the last few years such practice did not continue. As collective protection against discrimination requires sufficient capacities, CSOs should be strengthened and financial resources should be made available to them.
10. In December 2022 ORC conducted a survey on citizens' opinions and perception of discrimination. This is a periodic survey, first time conducted in 2009 when the ADA came into force, and repeated in 2012, 2016 and most recently in 2022.[5]

    The survey's findings speak of both positive and negative societal shifts. Positive are related to attitudes regarding some groups, most pronounced in relation to persons granted asylum, LGBTIQ persons and older persons. For instance, the number of respondents who believe that the persons granted an asylum should not be employed has decreased. At the

[4] Ministry of Judiciary and Administration

[5] ORC commissioned the research from the research agency Ipsos, using the same questions and methodology as in previous researches, and the publication presents their research report. Results for each research question are presented in comparison to previous results, and the closing chapters of the publication contain results relating to socio-demographic characteristics of the interviewees.

same time, the research has demonstrated that the level of stereotypes against some other groups has increased, so now 55% of the persons interviewed believe that most of the Roma live on social welfare and do not wish to work, in comparison to 48% in 2016.

Although stereotypes and prejudice are not discrimination, they can lead to it, since they influence our behaviour towards others and in the context of discrimination research, it is most useful to know which groups are prone more be exposed to significant social distance.

11. According to the survey, when the respondents were asked which groups they believe are most at the risk of discrimination, the majority recognized Roma as such a group. It also demonstrates a more comprehensive understanding of the notion of discrimination. In terms of the areas of life where discrimination occurs most often, the respondents again point out the areas of work and employment. This area has been pointed out as the leading area of discrimination in every round of the ORC's surveys on discrimination conducted to date, and are the areas in which the ORC has been receiving the highest number of complaints since the ADA came into force.
12. The survey also points to certain problems. A large number of citizens are still not aware of the legal prohibition of discrimination, nor do they know who to turn to when they are exposed to unequal treatment. In terms of personal experience, it is visible that the number of persons who report that they have experienced discrimination in the last 6 years has increased to 28%. Additionally, these results need to be taken cautiously as they can be interpreted in two ways – they can indicate an increase of discrimination in the society, but also an increased level of understanding of discrimination and its easier recognition, which would be a shift in a positive direction. However, it is concerning that the number of the repondents who claim to have undertaken actions to stop discrimination has dropped (60% of respondents did not take any steps), and citizens still hold the opinion that reporting it would not change anything, that the (court) proceedings are complicated and long, or are concerned that taking action might exacerbate their current situation.

II. HATE CRIME

13. An important tool for adequate and comprehensive monitoring of hate crimes, the Protocol for Hate Crime Cases, was adopted in 2021, with the aim of ensuring the pre-requisites for an effective work of the authorities involved in the identifying and the processing of hate crimes and the monitoring of the hate crime related proceedings, in order to improve their suppression, prosecution and statistical overview. The Protocol also defines members of the Working Group on Hate Crime Monitoring, which is in charge of coordinating hate crime (and hate speech) data collection, monitoring and analysis of their occurrences, coordinating inter-sectoral cooperation and preparing recommendations on how to improve the suppression of hate crimes. Its added value lies in the fact that its members, besides the representatives of the authorities in charge of hate crime prosecution, also include the representatives of civil society organizations working with hate crimes victims or active in the area of combatting hate crimes, as well as the ORC representatives and academics. Observing statistical indicators during a longer period, there is a trend of light but consistent

increases in the incidence of hate motivated crimes. As an illustration, in 2017 MoI acted in 28 such cases, in 2018 in 33, in 2019 in 51, in 2020 in 87 hate crime cases and in 2021 in 101 hate crime cases, including 'public incitement to violence and hatred' (.criminally sanctioned hate speech).

14. Similar to the previous years, according to the MoI data, in 2021 the crimes most often motivated by hatred included the crimes of threat (40 cases), damage to property (16 cases), followed by bodily harm and violent behaviour (15 cases each). It may be of particular interest to CERD that these acts are still in most cases motivated by the victim's ethnicity. Namely, out of 101 crimes recorded by the MoI, including hate speech, as many as 67 were motivated by the victim's national origin, followed by sexual orientation (13), race or skin colour (12) and religion (8). Furthermore, out of 39 proceedings later initiated before courts, most of them, as many as 27, are related to crimes motivated by the victim's national origin, while other grounds appear sporadically.
15. Finally, according to certain pieces of research[6], men (90.3%) prevail among the perpetrators of hate crime related incidents. With respect to age, the age of the perpetrators ranges from 15 to 70, with the average being 23. As many as 50% of the perpetrators of hate crime incidents are of that age. As perpetrators are mostly young, the ORC highlights the importance of the introduction of compulsory human rights education as part of civic education for all children, as a separate school subject, starting from the earliest age. The content of such education should include the right to equality and the prohibition of discrimination and its implementation should be assessed regularly to identify any challenges.

III. FREE LEGAL AID

16. During 2022, we continued to receive a large number of inquiries for legal advice and representation, which indicates that citizens are still not sufficiently informed about the authorized providers of free legal aid and the criteria under which they can be eligible for it.
17. Although in the 2021 Annual Report the ORC made a recommendation to the MJPA to informs the citizens through the media, campaigns or other suitable ways about the possibilities of obtaining free legal aid, in 2022 no specific activities were undertaken in this direction. Information about the free legal system can be found exclusively on the MJPA website, while for example, by distribution of leaflets in locations such as social welfare centres larger number of citizens could be reached.
18. According to data from the Registry of Free Legal Aid Providers, 53 authorized organisations/clinics provide free legal aid in the Republic of Croatia, of which as many as 45% are based in the City of Zagreb, while in a large part of the Republic of Croatia (for example the Zadar, Šibenik-Knin and Dubrovnik-Neretva Counties) there are no such providers registered. To bridge this gap, some providers make field visits to more distant locations when providing free legal aid. Additionally, due to earthquakes that hit Croatia in 2020, there is an increased demand for free legal aid, so the ORC recommended an increase

[6] http://www.hpc.hr/wp-content/uploads/2020/10/ZiM_izvjesce.pdf

in the availability of free legal aid in one of the most affected areas, the Sisak- moslavina County. This particular area is at the same time an area of "special state concern", inhabited by both Serbian returnees and the Roma .

19. The free legal providers also includes the administrative departments in the counties, which, apart from receiving requests for the approval of secondary legal aid, are authorized to provide primary legal assistance. In the areas with no other registered providers, this is the only way to obtain free legal aid. However, from the data available to the ORC, it seems that the civil servants working on free legal aid provision are insufficiently educated in various legal areas and consequently cannot always provide adequate legal assistance (for example in the areas such as family law, administrative, labour, enforcement law and the like).
20. In 2022, in line with our recommendations, the Government initiated an increase in funds, ensuring multi-year financing of the registered primary legal aid providers.

IV. ROMA

21. When it comes to racial or ethnic discrimination, Roma are among the groups most commonly discriminated against in the Republic of Croatia (based on both research conducted by ORC on perceptions of discrimination where they are seen as the most discriminated group, as well as based on complaints received by ORC). During 2022, the ORC received the largest number of complaints submitted by Roma complainants so far, which is partly the result of the cooperation with the representatives of the Roma national minority, and civil society organizations working for Roma minority.
22. Roma are also as a very high risk of intersectional discrimination based on racial or ethnic origin and socio-economic status. Namely, according to the relative poverty rate, 92.3% of the Roma in the Republic of Croatia are poor, while about 70% of Roma families live in extreme poverty. The Roma still face significant social exclusion, prejudice and obstacles to their education, employment, housing and health protection. As many as 46% of the Roma still live in spatially isolated and segregated Roma settlements, with much poorer housing conditions in comparison with the majority population and no availability of utility and infrastructural services, nor content suitable for children and young people.
23. Acting on the complaints submitted by NGOs, the ORC found discrimination in the cases of three bars located in the town of Čakovec, which publicly announced on social media through social networks or private electronic communication that they prohibited the entry of Roma customers. The ORC warned the bars that banning access to services based on ethnicity or national origin constitutes direct discrimination and asked them to post an apology on social networks and welcome all customers regardless of their origin. From the statement of the owner of the bars and the subsequent field checks performed by the Roma mediator, it is clear that they acted accordingly.
24. It is particularly worrying that Roma students still face segregation in elementary education. Therefore, in her 2021 Annual Report submitted to the Parliament the ORC recommended to the Ministry of Education and Science to create an Action Plan for desegregation, which has not yet been done and the recommendation was repeated in the 2022 Annual Report

25. In the meantime, the practice of segregating Roma students into separate classes continues. In 2022, schools attended by Roma students provided us with the data which indicate that this practice is being carried out in ten elementary schools, half of which are located in Međimurje county. In addition to segregated classes, two schools have completely segregated district schools, which means that the students who attend them do not even have contact with the children from the majority non-Roma (Croatian) population outside of class, which undoubtedly prevents their integration.
26. While the individual schools often justify the formation of separate classes with the number of Roma compared to the number of students from the majority population, our analysis showed that in some schools, the share of the Roma students attending segregated classes exceeds the share of the Roma students in the school as a whole. Thus, in the Petrijanec Primary School, where the Roma students make up 32% of the total student population, 70% of them attend segregated classes. Additionally, when it comes to the schools that provided us with the grade averages by class, the ORC noticed a weaker success of the Roma students attending segregated classes. Furthermore, many schools point to the Roma leaving education without finishing elementary school after turning 15, as starting from that age a child is no longer legally obliged to attend elementary school. Hence, for example in the school year 2020/21, from those schools that provided us with data, as many as 59 Roma students dropped out of elementary education. A significant number of Roma students do not enrol in secondary education (high school), even when they live in urban areas, and the level of their involvement in extracurricular activities is very low. Additionally, there are no Roma teachers/professors in the schools they attend, which may contribute to these negative trends.
27. During 2022, the ORC continued to monitor the issues of the Roma housing settlements – particularly two cases. These cases demonstrated the vagueness of the provisions of Art. 291, paragraph 3 of the Social Welfare Act relating to social housing. This Article determines that in crisis situations, when a family with underage children is left without their home and is unable to provide for their own accommodation, local and regional government are obliged to provide them with accommodation in a social apartment or in another way, in order to prevent the separation of children from adult family members. The situation in the town of Novi Vinodolski showed that shared responsibility between the county and the local government on the obligation to provide alternative accommodation is not adequately regulated and is not being implemented in practice. It is necessary to clearly regulate the responsibilities of each stakeholder (local-city, regional-county, as well the obligation of the national level -state) in such situations as well as the order in which they should act. At the same time, it would be good if the provision included the obligation of the state (which it currently does not), due to unequal regional development and the fact that the capacities of the cities and the counties are extremely different and that they do not always have adequate accommodation nor the sufficient level of the political will to resolve the problems at hand.

V. MINORITY REPRESENTATION

28. The RC has 22 national minorities listed in its Constitution. While members of all ethnicities/representatives of all national minorities can be discriminated against in particular contexts, generally speaking, representatives of all national minorities are not equally vulnerable to discrimination. As mentioned above, members of the Roma and Serb national minorities are more vulnerable to discrimination, but of course there are cases of hate speech and ethnic discrimination of members of other national minorities as well.
29. There are a number of positive action measures aimed at members of national minorities in the RC, one of them being the proportional representation of national minority members among the employees of public administration bodies, LRGU administrative bodies and the judiciary (based on the Constitutional Act on the Rights of National Minorities). In practice , this minority right is one of the more difficult for national minority members to exercise. According to the data from the 2021 Census, their share in the total population of the Republic of Croatia amounts to 7,67%; however, their share among the employees of the public administration bodies and the expert services and the offices of the Government of the RC in 2021 stood at 3,03 % and is continually decreasing.
30. According to the Ministry of Justice and Public Administration's data, in 2021 the share of national minority members among court officials amounted to 2,86% and among the officials employed at state attorney's offices it stood at 3,62%.
31. Although a part of the public believes that members of national minorities have the right to preferential employment according to art. 22 of the Constitutional Act on the Rights of National Minority and that it favours members of minorities, it should be noted that this mechanism does not discriminate against the majority population, as it applies only if the candidate is a member of the national minority who invoked this right and is already one of the two most successful candidates in a vacancy procedure, in a tie with the candidate who is not a national minority member that is, who did not invoke the right of priority. At the same time, no advantage is applied if a proportional representation of the national minority to which a person belongs has already been achieved in the body in question.. Therefore, this positive measure does not favour a minority candidate who scored worse on the test than another candidate.
32. The data show that the right to preferential employment (positive action measure) stemming from Article 22 of the Constitutional Act on the Rights of the National Minorities is applied extremely rarely and that it is not an effective mechanism for the achievement of the proportional representation of national minority members in the public administration and the judiciary sectors.

VI. HOUSING AND SUSTAINABLE RETURN

33. Croatia still does not have a Housing Strategy, while the right to housing of different groups in need, for example, victims of domestic violence, war veterans, returnees (in relation to the war), persons under international protection or for the poorest (the so-called social housing),

is regulated by special regulations, and falls within the competence of different levels of the government.

34. In the context of the returnees and the former tenancy rights holders, the last collective centre closed down in 2018. Also, even though the benchmarks from the Action Plan for the Accelerated Implementation of the Housing Solutions for the Returnees and the Former Holders of Tenancy Rights in and Outside of the Areas of Special State Concern have been achieved, additional funds and housing units for beneficiaries are not available, resulting in the fact that some are still waiting for housing, sometimes for more than a decade.
35. The areas most intensely damaged by the 1991-1995 war, especially those inhabited mainly by the returnees, are faced by the slower economic development and the lack of infrastructure. The earthquakes that have hit the Sisak-Moslavina County have brought this situation to the fore and have made more visible the deep material deprivation of its population. The efforts to reverse the situation have so far not resulted in significant improvements, even though the new Act has just been adopted which should make the reconstruction easier. The reconstruction and the re-electrification processes that have been ongoing for years have not been completed yet and the electricity is still unavailable to some of the inhabitants of these areas as previously stated. The ORC has also acted in cases related to the access to water, i.e. to the water supply infrastructure, in the areas inhabited mainly by the Serb population. For many of these places the plans for the construction of water supply systems are either in place or in the pipelines, but the moment of their realization is uncertain. According to the estimates, in the RC approximately 6.5% of the population does not have access to the water supply network. This issue is expected to be resolved to a significant degree by the new National Resilience and Recovery Plan, which features the construction and the reconstruction of the water supply network as one of its priorities.

VII. HATE SPEECH

36. Various statements stirring up hatred appear online, especially in the social-media, but also in articles in some of the media outlets and in the readers' comments below them, which contribute to tensions, including ethnic ones. At the same time, the concept of hate speech is not clear enough and not well understood by all, so political speech and criticism are sometimes perceived as hate speech and at the same time freedom of expression is sometimes misinterpreted and hate speech is disseminated.
37. In 2022, hate speech was also present in the physical public spaces.
38. At the same time, statements by public figures, especially if they are made through the media or the Internet, have a more significant impact on the general population compared to those made by of the ordinary citizens. Public figures, members of parliament and other high level officials, although some of them have immunity, have a special social responsibility because their speech reaches a larger number of people. If it is inappropriate and discriminatory, the citizens are given an impression that such communication is acceptable and it is thus being normalized.

39. Progress was made with the adoption of the Code of Conduct for Members of the Government and Certain High-Ranking Officials and the Code of Ethics for Members of the Croatian Parliament. The ORC welcomed the adoption of these Codes, but it is to monitor their implementation.
40. During 2022 a racist ad was published on a social network which stated that the company is looking for "normal" workers, as opposed to those of a particular ethnic, national or racial group origin. The ad was widely condemned by the public, as increasingly public resistance to unacceptable expressions and messages can be seen in Croatian society more and more often, especially online, including in social media. Such resistance is visible through counter-speech and counter-actions, for example leaving negative ratings and comments by users on restaurant review platforms, which happened in the case mentioned above. Citizens also reacted negatively to a music album containing lyrics with elements of hatred, which was released in 2022 by a Croatian band. The negative reactions of the citizens affected the record company, which, with an apology, withdrew the disputed album from the stores and from the digital streaming services and terminated the contract with the said musicians.
41. There are still displays of symbols and expressions sympathising with the nature of the Independent State of Croatia (NDH) and the Ustasha regime during WWII. As sanctions prescribed by the Law on Misdemeanours against the Public Order were too low, they did not send a clear message neither to the perpetrators nor the public about the illegality of certain behaviours, and they were amended in 2023. However, the amendments to the Law missed the opportunity to define more clearly the article relating to hate speech and the public expression of hatred, just raised the sanctions.
42. Minorities are especially targeted by hate speech transmitted by the media and its incidences present in the political discourse. The anti-minority rhetoric and prejudice especially targets the Serb and the Roma national minorities.
43. Having all this in mind, the ORC recommended highlights the need for legal amendments, , consistent prosecution, campaigns for the general public, as well as once again highlights the need to introduce of compulsory human rights and equality education as part of civic education for all children, as a separate school subject.