



European Network Against Racism

Réseau européen contre le racisme

# ENAR Shadow Report 2012-2013

## ENAR SHADOW REPORT

### **Racism and related discriminatory practices in employment in Croatia**

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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## Executive summary

Ethnic, racial and religious discrimination affect only a section of the Croatian population. Broadly speaking, ethnic minorities in Croatia can be divided into national minorities - ethnic groups defined by the Constitution and who have traditionally lived in Croatia - and also different groups of migrants living in Croatia. Today, the Republic of Croatia is an ethnically homogenous society: according to the census in 2011, Croatia has a population of 4.284.889, out of which 90.42 per cent are Croatian nationals. The largest minorities living in Croatia are Serbs (4.36 per cent), Bosniaks (0.73 per cent), Italians (0.42 per cent), Albanians (0.41 per cent) and Roma (0.40 per cent).

Croatia has developed a large body of anti-discrimination legislation and some of the most relevant acts are: the Constitution of the Republic of Croatia, Labour Act, Constitutional Act on Rights of National Minorities, Anti-discrimination Act and Criminal Law Act. Also, prevention and protection against discrimination in employment has been ensured through different judicial proceedings: criminal, misdemeanour, civil and administrative.

Discrimination in employment is seen as one of the most frequent types of discrimination and is generally seen as a social problem. The most discriminated ethnic groups are Roma, Serbs and migrants, including refugees.

Discrimination in access to employment is a large problem in Croatia. Different groups, including national minorities and refugees, encounter different problems in employment and are discriminated in this area of social life in different ways. The largest problems in this field are lack of transparency in employment procedures, prejudice against these ethnic groups and, for Roma and refugees, language barriers and educational competencies. When it comes to discrimination in the workplace, harassment and the fact that some of these groups still occupy the lowest positions, are the most present problems.

There are a number of policies designed to combat discrimination: some of them are more general and some are designed to enhance the position of vulnerable groups. Most of these policies were introduced partly due to the process of accession to the European Union and also as part of the negotiation process. However, there are a number of problems with these policies which still makes them largely ineffective. Firstly, most of the policies are not based on research-based evidence which affects the quality of their design. Furthermore, they often fail on sustainability: the policies are designed more as a wish-list than something that can actually be achieved in a certain period. This is especially connected to the financial means allocated for the implementation of the policy measures. Also, monitoring during implementation is often non-existent, and the evaluation after the implementation process is rarely carried out. Lastly, there are sanctions connected to the failure of implementing these policies. The institutional framework for combating discrimination has been developed, and the most important body in this, except the judiciary, is the Ombudsman Office; the central body for combating discrimination. When it comes to non-governmental actors, civil society organizations are active in combating discrimination, but trade unions and employer organizations should strengthen their role in this field.

The recommendations to combat ethnic and racial discrimination are:

- The Croatian Employment Agency and Croatian Bureau of Statistics should collect data about key labour market indicators disaggregated according to ethnicity. This includes indicators like unemployment rate, employment rate, activity rate etc.
- Public institutions should raise the general public's awareness about discrimination through public campaigns and education.

- The state institutions responsible for the creation of anti-discrimination policies should conduct research on racial, ethnic and religious discrimination and public opinion about minority groups.
- The government should encourage academic and scientific institutions to research racial, ethnic and religious discrimination and public opinion about minority groups.
- More needs to be done on changing the public's perception about minorities and migrants. Public policies designed to combat discrimination in employment should include educational measures that would tackle the problem of prejudice against minorities.
- Media, and especially state-owned media, should be aware of their power in shaping public opinion and be more responsible when reporting on national minorities and migrants. They should also encourage and be an active participant in eliminating prejudice and stereotypes about minorities and migrants.
- Transparency of employment procedures, both in the private and public sectors, should be enhanced in order to eliminate possibilities of discrimination and other problematic practices in employment.
- The Ministry of Science, Education and Sport should design a model to recognise refugees' earlier qualifications in cases when formal documents are not available or incomplete, in order to enable their further education and employment.
- The Ministry of Science, Education and Sport should ensure the provision of Croatian language courses to refugees, according to the Asylum Act, and to asylum seekers from the first day of lodging application.
- The Ministry of Science, Education and Sport should continue implementing measures designed to ensure access to education on all levels - elementary, secondary and high for Roma and other ethnic minorities.
- Employers should make internal regulations against harassment in the workplace and sanction this kind of practice.
- Employers should ensure religious rights of minorities in the workplace in a way that would enable them to exercise their freedom of religion. State institutions should sanction employers' failure to accommodate to right to religion.
- The Ministry of Justice should collect data and statistics about discrimination in a way which includes more aspects: the fields where discrimination happens, economic sectors, victims by ethnicity, race and religion etc.
- The Ministry of Justice should publish the case-law brought under the Anti-discrimination Act on their official web-site.
- The government should design anti-discrimination policies in a way which specifically targets certain economic sectors and geographical areas based on the local needs, as defined in accordance with available research.
- Local governments should create their own anti-discrimination policies that specifically answer local needs, depending on a specific local context or population, but in accordance with policies at the national level.
- Development of civil society in certain areas (especially areas of special state concern) should be encouraged.
- The government should continue to develop and implement anti-discrimination policies after EU accession.
- The government should create a new National Plan for Combating Discrimination that will be based on a proper analysis of the current situation, include aims that are sustainable and measures that are connected to these aims.
- The government should enforce the Action Plan on the Implementation of the Constitutional Act on the Rights of National Minorities for the Period 2011 – 2014 and Plan of Admission of the Members of National Minorities into State Services to the Bodies of State Administration

for the Period 2011/2014 more seriously and to increase, not decrease, the number of members belonging to national minority groups employed in the public services.

- The government should base policies on evidence obtained by research and the design of goals and measures should be logically connected to the problems the policy is trying to influence.
- The government should allocate more financial means for the implementation of anti-discrimination policies.
- The implementation of all public policies should be properly monitored during implementation and evaluated after their implementation.
- Greater financial resources should be allocated to the Ombudsman Office for increasing human resources employed at the Office and to open Ombudsman offices in other cities, besides Zagreb.
- The Labour Inspectorate should pay more attention and act in the cases of discrimination in employment.
- Trade unions and employer's organizations should raise their capacities in the field of employment discrimination and deal with this issue more.

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## 1. Introduction

Ethnic, racial and religious discrimination affect a segment of the Croatian population. Although Croatia did go through some extensive legislative and policy changes in the recent years, mostly as a result of the EU pre-accession process, it appears that this is still not enough to change the position of minorities and immigrants in everyday life. Civil society organisations in Croatia have been important actors in advocating for better legislation and policies and also enhancing the instruments' implementation. A number of their activities concerned monitoring, research and advocacy. The ENAR Shadow Reports have been an important tool for monitoring discriminatory practices in the European Union. As Croatia became a European Union member in July 2013, it seems even more important to advocate combating discrimination at both EU and national levels in Croatia through monitoring and evidence-based advocacy.

Therefore, the aim of this report is to give a general insight into racial and ethnic discrimination in Croatia in order to influence the implementation of anti-discrimination policies and moreover enhance the position of national minorities and immigrants. This is especially more important in Croatia at this moment, as it is expected that the number of immigrants will increase in the following years. Also, as the EU accession process was an important motive for the creation of positive legislation and instigating policy changes, it is important now that this process continues in the future. The focus of this report is on one of the most problematic discriminatory practices in Croatia - discrimination in employment. The evidence of discriminatory practices in employment in the reporting period from March 2012 to March 2013 will give an insight of the current state in the country.

As part of the research, interviews with 10 experts representing relevant stakeholders were conducted by the research team. Stakeholders included in the research were relevant state institutions (Ombudsman Office and Government office for Human Rights and Rights of National Minorities), trade unions (Croatian Association of Trade Unions) and civil society organizations, including the ENAR member organization in Croatia.

### 1.1 Definitions

Ethnic minorities in Croatia can be divided into national minorities - ethnic groups defined by the Constitution - those who have traditionally lived in Croatia, as well as different groups of immigrants living in Croatia.

According to the Constitutional Act on the Rights of National Minorities, "a national minority shall be a group of Croatian citizens whose members have traditional domicile in territory of the Republic of Croatia and whose ethnic, linguistic, cultural and/or religious traits differ from the rest of the population, and who are motivated by the desire to preserve these traits."<sup>1</sup>

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<sup>1</sup> Article 5, Constitutional Act on the Rights of National Minorities, 19 December 2002

The Constitution of the Republic of Croatia enumerates 22 national minorities. According to the Constitution:

*“the Republic of Croatia is hereby established as the nation state of the Croatian nation and the state of the members of its national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Rusyns, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs, Albanians and others who are its citizens and who are guaranteed equality with citizens of Croatian nationality and the exercise of their national rights in compliance with the democratic norms of the United Nations and the countries of the free world.”*<sup>2</sup>

People who are not citizens of Croatia, but are living in the territory of Republic of Croatia, are often perceived by the media and in everyday life communication as migrants or foreigners. Croatian policy doesn't define a migrant as such and only refers to definitions of alien, asylum seeker, asylum grantees, subsidiary protection, temporary protection, undocumented immigrants and third country nationals. According to the Croatian Bureau of Statistics, a “migrant is a person who is participating in the process of geographical mobility of population (immigrant, emigrant)”.<sup>3</sup>

Other terms mentioned above are defined by the various legislative acts. The Aliens Act defines an alien as “any person who is not a Croatian national”.<sup>4</sup> A Refugee is a person defined by the 1951 Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees. The Asylum Act defines a refugee as:

*“a person not located in the country of his or her origin, who due to a justified fear of persecution by reason of his or her race, religion, nationality, affiliation with a specific social group or political views, cannot or due to that fear does not want to avail himself or herself of the protection of that state, as well as a person without citizenship outside the country of his or her former permanent residence, and who cannot or due that fear does not want to return to that state”.*<sup>5</sup>

The Aliens Act does not define undocumented migrants, but it defines the “illegal entrance of an alien in the Republic of Croatia”. Illegal entrance is considered when an alien passes the state border outside of the place and time provided for border passing, when he/she avoids border control, when he/she enters the Republic of Croatia before the entry ban has expired or using forged or other passport or documents.<sup>6</sup>

According to the Asylum Act, third country nationals are aliens who are not citizens of a country which is a Member State of the European Economic Area.

## **1.2 Statistical overview**

Today, the Republic of Croatia is ethnically quite a homogenous society: according to the census in 2011, it has a population of 4.284.889 out of which 90,42% are declared to be of Croatian

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<sup>2</sup> Preamble, Constitution of the Republic of Croatia, 6 July 2010

<sup>3</sup> Croatian Bureau of Statistics, [http://www.dzs.hr/Hrv\\_Eng/publication/2013/07-01-02\\_01\\_2013.htm](http://www.dzs.hr/Hrv_Eng/publication/2013/07-01-02_01_2013.htm), accessed 23<sup>rd</sup> July 2013.

<sup>4</sup> Article 2, Aliens Act, 18 July 2013

<sup>5</sup> Article 2, Aliens Act, 18 July 2013

<sup>6</sup> Article 39, Aliens Act, 18 July 2013

nationality.<sup>7</sup> When it comes to the previously mentioned 22 national minorities as recognized by the Constitution<sup>8</sup>, the share of national minorities of the total population is 7.67%. Serbs are the largest national minority in Croatia with the total of 4.36%. Other relatively large minorities are: Bosniacs (0.73%), Italians (0.42%), Albanians (0.41%) and Roma (0.40%).<sup>9</sup>

When it comes to religion, the situation is rather similar to the ethnic composition of the population in Croatia. According to the census in 2011, 86.3% of population declared themselves to be Catholics, 4.4 per cent Orthodox, 1,5 per cent Muslims.<sup>10</sup>

According to the statistics of the Ministry of the Interior, the total number of foreigners in Croatia on 31 December 2012 was 44,807.<sup>11</sup> The summative statistic of the MOI at the end of 2012 includes the number of foreigners who did not regulate their permanent status according to the Aliens Act. Furthermore, "in 2012, there were 8 959 persons that immigrated to the Republic of Croatia. (...) In 2012, there were 47.0% of Croatian citizens and 52.9% of aliens who immigrated into the Republic of Croatia. Out of the total number of immigrants, there were 47.3% of persons who arrived from Bosnia and Herzegovina. With regard to sex, out of the total number of immigrants, there were more men than women (51.8%)".<sup>12</sup> In 2012, nationals of the former Yugoslavia countries (except Slovenia), have a total share of 66 per cent of all immigrants; out of which 62 per cent pertains to nationals of BIH. The second country of immigrants' origin in the past 15 years was Serbia with the share of 17 per cent in 2012.<sup>13</sup>

## 2. The context: labour market and legal framework

### 2.1 Outlook of the labour market

When it comes to economic and labour market indicators, Croatia has been greatly affected by the economic crisis. In 2011, its gross domestic product per capita was 10 203 EUR.<sup>14</sup> In the same year, the average monthly paid off net earnings were 5 441 HRK, while the average monthly gross earning

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<sup>7</sup> Croatian Bureau of Statistics, Census of population, households and dwellings, <http://www.dzs.hr/>, accessed July 25<sup>rd</sup> 2013.

<sup>8</sup> Preamble, Constitution of the Republic of Croatia, 6 July 2010

<sup>9</sup> Croatian Bureau of Statistics, Census of population, households and dwellings, <http://www.dzs.hr/>, accessed July 25<sup>rd</sup> 2013.

<sup>10</sup> Croatian Bureau of Statistics, Census of population, households and dwellings, <http://www.dzs.hr/>, accessed July 25<sup>rd</sup> 2013.

<sup>11</sup> Ministry of Interior, Statistical overview of security indicators and results of work in 2012. [http://www.mup.hr/UserDocImages/statistika/2013/statistika\\_2012\\_3.pdf](http://www.mup.hr/UserDocImages/statistika/2013/statistika_2012_3.pdf), accessed December 15<sup>th</sup> 2013.

<sup>12</sup> Croatian Bureau of Statistics, Migration of Population of Republic of Croatia, 2012.) [http://www.dzs.hr/Hrv\\_Eng/publication/2013/07-01-02\\_01\\_2013.htm](http://www.dzs.hr/Hrv_Eng/publication/2013/07-01-02_01_2013.htm), accessed July 23<sup>rd</sup> 2013.

<sup>13</sup> Croatian Bureau of Statistics, Migration of Population of Republic of Croatia, 2012, [http://www.dzs.hr/Hrv\\_Eng/publication/2013/07-01-02\\_01\\_2013.htm](http://www.dzs.hr/Hrv_Eng/publication/2013/07-01-02_01_2013.htm), accessed July 23<sup>rd</sup> 2013.

<sup>14</sup> Croatian Bureau of Statistics, Croatia in Figures 2012, [http://www.dzs.hr/Hrv\\_Eng/CroInFig/croinfig\\_2012.pdf](http://www.dzs.hr/Hrv_Eng/CroInFig/croinfig_2012.pdf), accessed July 30<sup>th</sup> 2013.

was 7 796 HRK.<sup>15</sup> Also, the unemployment rate has been increasing, and the average number of unemployed persons in 2012 was 324 323 persons, while in March 2012 there were 269 558 – making unemployment rate 18 per cent in the first trimester of 2013. Unfortunately, it does not seem likely that the increase in the unemployment rate will stop any time soon. Regarding the other labour market indicators, activity rate in the first quarter of 2013 was 43.3 per cent, while employment rate was 35.4 per cent.<sup>16</sup>

Unfortunately, there are no official data on the statistical indicators of the labour market position of the members of national minorities and other ethnic groups in Croatian society. The Croatian Employment Agency and Bureau of Statistics keep statistics on the state of labour market, but they do not disaggregate them according to ethnicity, even though they do so according to other standards, such as age, level of education, sex etc.

Even though the Croatian Employment Agency does not keep data on the unemployment rate according to ethnicity, they make estimations of the Roma unemployment rate. According to this, in 2011 there were 4 499 registered unemployed Roma, which makes 1.42 per cent of the registered unemployed persons.<sup>17</sup> Bearing in mind that that the percentage of Roma in total population of Croatia is 0.4, we can conclude that their unemployment rate is disproportionately high.

It is important to collect these types of statistics because they help us in following the basic trends when it comes to employment/unemployment and ethnic discrimination in the labour market. Without this, it is impossible to create effective policies that would combat the problem of discrimination.

## 2.2 Legal framework

Discrimination in employment and discrimination in general is forbidden under Croatian law in several legal instruments. First of all, equality is set as one of the highest values in the Constitution of the Republic of Croatia: “Freedom, equal rights, national and gender equality, peace-making, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia.”<sup>18</sup> Also, Article 14 of the Constitution states that “all persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics.”<sup>19</sup> This provision of the Constitution clearly sets anti-discrimination as a fundamental right that is important in relation to the other anti-discrimination provisions in the legislation, and for the purposes of this Report it is especially important to note that race, colour, religion and national origin are set as forbidden grounds of discrimination.

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<sup>15</sup> Croatian Bureau of Statistics, Croatia in Figures 2012, [http://www.dzs.hr/Hrv\\_Eng/CroInFig/croinfig\\_2012.pdf](http://www.dzs.hr/Hrv_Eng/CroInFig/croinfig_2012.pdf), accessed July 30<sup>th</sup> 2013.

<sup>16</sup> Croatian Bureau of Statistics, [http://www.dzs.hr/Hrv/system/first\\_results.htm](http://www.dzs.hr/Hrv/system/first_results.htm), accessed July 30<sup>th</sup> 2013.

<sup>17</sup> Croatian Employment Agency, Report about Implementation of Program for Roma 2010 – 2011

<sup>18</sup> Article 3, Constitution of the Republic of Croatia, 6 July 2010

<sup>19</sup> Constitution, article 14

The Constitutional Act on the Rights of National Minorities, that was enacted in 2002 and amended in 2010, guarantees the exercise of certain specific rights and freedoms of members of national minorities and expressly forbids discrimination based on membership to the national minority.<sup>20</sup>

The Labour Act (introduced in 2009 and amended in 2011, 2012 and 2013) regulates the labour force and labour relations, specifically forbidding “direct or indirect discrimination in the field of employment and working conditions, including criteria for selection and conditions for employment, promotion, vocational guidance, vocational training, professional improvement and retraining, in accordance with special laws.”<sup>21</sup>

The most important piece of legislation that has been designed for combating discrimination, including discrimination in employment, is the Anti-discrimination Act that entered into force in 2009. It was further amended, with some minor technical changes, in 2012. The Anti-discrimination Act (ADA) is the first legal document that includes all the relevant discrimination grounds, forms of discrimination and areas of discrimination in one place. According to the ADA, there are 17 discrimination grounds: “race or ethnic affiliation or colour, gender, language, religion, political or other belief, national or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity, expression or sexual orientation.”<sup>22</sup>

Also, the ADA enumerates several forms of discrimination which are direct and indirect discrimination; harassment and sexual harassment; encouragement to discrimination; failure to provide reasonable accommodation, segregation and more serious forms of discrimination (multiple discrimination, repeated discrimination and continued discrimination). When it comes to the scope of this Act, it is clear that it is applicable to “all state bodies, bodies of local and regional self-government units, legal persons vested with public authority, and to the conduct of all legal and natural persons”<sup>23</sup> in 10 areas of social life including “work and working conditions; access to self-employment and occupation, including selection criteria, recruiting and promotion conditions; access to all types of vocational guidance, vocational training, professional improvement and retraining”.<sup>24</sup> Also, the ADA is important because it offers a range of legal mechanisms for protection against discrimination: individual legal action for protection against discrimination, joint/associational legal action and intervening in individual law suits on the side of plaintiff.

When it comes to the compliance of the Anti-discrimination Act with standards of the EU Directive 2000/78/EC<sup>25</sup>, this Directive and Directive 2000/43/EC were the basis for adoption of this law, and these two directives were transposed to the Croatian legislation through the Anti-Discrimination Act. “Some characteristics of the Anti-discrimination Act make it very progressive, as it goes beyond the obligations arising from Directives 2000/43/EC and 2000/78/EC”.<sup>26</sup>

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<sup>20</sup> Constitutional Act on the Rights of National Minorities, 19 December 2002

<sup>21</sup> Article 5, Labour Act, 9 December 2009

<sup>22</sup> Article 1, Anti-discrimination Act, 15 July 2008

<sup>23</sup> Article 8, Anti-discrimination Act, 15 July 2008

<sup>24</sup> Article 8, Anti-discrimination Act, 15 July 2008

<sup>25</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

<sup>26</sup> Šimonović Einwalter T. (ed.), *A Guide to the Anti-discrimination Act*, Government of the Republic of Croatia Office for Human Rights, Zagreb, 2009., p. 17.

### 3. Manifestations of racism and structural discrimination in employment

#### 2.3 Perceptions of discrimination in employment

Discrimination in general, and discrimination on the grounds of race, religion and, in particular, ethnicity, poses great problems in Croatian society. This was confirmed by interviews conducted during the research for this Report. For example, Mr. Goran Selanec, legal expert in the field of anti-discrimination, holds that racial, ethnic and religious discrimination are a big problem because Croatia is quite a homogeneous society.<sup>27</sup> Mr. Saša Milošević from the Serbian National Council said that racial discrimination is not a large problem in Croatia since there are a small number of racial minorities. However, he emphasized that one of the biggest problems in Croatian society is that ethnic and religious identity overlap. He explained how it is hard to differentiate whether Serbs are being discriminated against because of their ethnicity or religion.<sup>28</sup> On the other hand, not all of the respondents shared this view. Ms. Katarina Perković, a lawyer employed at the Croatian Association of Trade Unions, sees discrimination (especially gender discrimination) as a problem, but her view is that racial, ethnic and religious discrimination is not a great problem anymore, as these were more of an issue in the 1990s.<sup>29</sup>

Some of the public opinion surveys show that the general public sees discrimination as a problem. According to research conducted in 2012 on attitudes and the level of awareness about discrimination, discrimination is conceived as an important issue by some Croatian citizens: 15 per cent of respondents see discrimination as the biggest problem in the society, while 22 per cent hold that discrimination is one of the most important problems in society.<sup>30</sup> Furthermore, when it comes to specific areas of social life where discrimination happens, 59 per cent of the survey respondents held that discrimination in work and employment is most widespread in Croatian society. Also, it is important to notice that, according to the same research, nationality and religion are put among the most popular grounds of discrimination, while racial discrimination is not considered to be particularly widespread.<sup>31</sup>

Most of the respondents of the interviews hold the view that the public does not see discrimination as a significant problem. Some believe that citizens are more preoccupied with other economic and social issues, like unemployment and the economic crisis. Also, some respondents hold the view that discrimination is much more visible to the members of national minorities who directly experience discrimination: Mr. Nemanja Relić from the Serbian Democratic Forum stated the following: "I am not certain if the general public sees this as a problem, but I think that the groups that face discrimination are very well informed that this is a problem."<sup>32</sup> Also, Mr. Saša Milošević from the Serbian National Council stated that due to 20 years of nationalistic propaganda through educational

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<sup>27</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>28</sup> Interview with Saša Milošević, Serbian National Council, 3 September 2013.

<sup>29</sup> Interview with Katarina Perković, Croatian Association of Trade Unions, 2 September 2013.

<sup>30</sup> Audeo, Discrimination: Public Opinion Research, [http://www.ombudsman.hr/dodaci/Ispitivanje%20javnog%20mnijenja\\_diskriminacija.pdf](http://www.ombudsman.hr/dodaci/Ispitivanje%20javnog%20mnijenja_diskriminacija.pdf), accessed August 1st 2013.

<sup>31</sup> Audeo, Discrimination: Public Opinion Research, [http://www.ombudsman.hr/dodaci/Ispitivanje%20javnog%20mnijenja\\_diskriminacija.pdf](http://www.ombudsman.hr/dodaci/Ispitivanje%20javnog%20mnijenja_diskriminacija.pdf), accessed August 1st 2013.

<sup>32</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

and public media systems, most of the population isn't aware that this kind of discrimination is problematic.<sup>33</sup> There are also views that the perception of discrimination as a problem depends on geography: Mr. Selanec thinks that discrimination of certain ethnic groups isn't visible to people in larger cities, for example, Zagreb or Rijeka, but more so in smaller cities that still have the heritage of war and the divisions that emerged from the war.<sup>34</sup>

When it comes to the perception the general public has about certain groups in the society, it is important to note the results of another public opinion survey that was conducted by the public opinion agency Target and instructed by Centre for Peace Studies.<sup>35</sup> Attitudes about threats that the following groups pose towards Croatia and its citizens were researched: national minorities (Serbs, Bosniacs and Roma); religious minorities (Muslims and atheists); three groups of European immigrants (immigrants from western EU countries, immigrants from eastern EU countries and immigrants from ex-Yugoslavian countries); culturally distant races and nations (Chinese, black people and Arabs) and asylum seekers. according to the survey, the attitudes towards all of the researched groups were different: for example, 8 per cent of respondents felt that immigrants from the western EU countries endanger the security of Croatian citizens and their property, and this is the only question in which the percentage number of those who feel threatened by one of these groups is smaller than 10. On the other hand, attitudes towards Roma seem to be rather problematic: more than 40 per cent of respondents felt that Roma present a security, cultural and political threat to Croatia and its citizens. Also, on average, more than a third of citizens express negative attitudes towards Serbs. Another group towards which a rather large percentage of respondents had negative attitudes towards are asylum seekers: the research showed that 37 per cent of respondents think asylum seekers are a threat to security of Croatian citizens and their property.<sup>36</sup>

When it comes to the attitudes towards religious minorities, 30 per cent of respondents think that Muslims are a threat to the security of Croatian citizens and their property. Also, when it comes to people from distant countries, 26 per cent of respondents think that Chinese are a threat to security of Croatian citizens and their property, while 20 per cent hold the same views towards Arabs and 13 per cent towards black people.<sup>37</sup>

This research also included citizens' attitudes towards the enforcement of certain rights of documented immigrants in Croatia. According to the research, 42.5 per cent of respondents do not agree with the statement that 'documented immigrants should have equal rights to employment as those who are citizens of Croatia', of which 9.9 per cent of respondents do not agree with this statement at all, 10.3 per cent of respondents mostly do not agree, while 22.3 per cent of respondents more disagree than agree.<sup>38</sup>

There are also very specific prejudices that affect minorities and immigrants in the labour market. Mr. Relić said that the perception of the public is that national minorities have advantages in

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<sup>33</sup> Interview with Saša Milošević, Serbian National Council, 3 September 2013.

<sup>34</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>35</sup> Centre for Peace Studies, *Prevalence and Indicators of Discriminatory and Xenophobic Attitudes in The Republic of Croatia*, Zagreb, 2013.

<sup>36</sup> Centre for Peace Studies, *Prevalence and Indicators of Discriminatory and Xenophobic Attitudes in The Republic of Croatia*, Zagreb, 2013.

<sup>37</sup> Centre for Peace Studies, *Prevalence and Indicators of Discriminatory and Xenophobic Attitudes in The Republic of Croatia*, Zagreb, 2013.

<sup>38</sup> Centre for Peace Studies, *Prevalence and Indicators of Discriminatory and Xenophobic Attitudes in The Republic of Croatia*, Zagreb, 2013.

employment and therefore the public thinks that discrimination of national minorities is not an issue, especially because some of the important government positions are held by members of national minorities.<sup>39</sup>

The media often encourage the myth that refugees take jobs away from Croats. Furthermore, most of the published texts deal with the immigration issue and immigrants in an extremely discriminatory, xenophobic and insulting way.<sup>40</sup> The paper “Migration, Integration, and Attitudes towards Immigrants in Croatia”<sup>41</sup> examined the attitudes of adult Croatian citizens towards foreign workers and aliens' possible entrance to the (local) labour market, their potential influence on the culture and the values of Croatian society, and the social distancing between them. The results revealed that, in spite of the fact that Croatian society has not yet been confronted with any marked inflow of immigrants, the respondents demonstrated a high degree of resistance towards their entry into Croatian society. In this light, potential foreign workers are seen to a large extent both as a socioeconomic and as a sociocultural threat, and therefore the respondents, on average, expressed unwillingness for closer contact with them. Also, prejudice and stereotypes can often be seen in different forums on news web portals. Maja Šukelj from the Government Office for Human Rights and Rights of National Minorities said that “there are things that we can all see in the comments on internet forums. For example, there are some stereotypes among the citizens that Roma are lazy and they take advantage of the system”.<sup>42</sup> There is also a geographical factor that is important when talking about the general perception of minorities. According to Mr. Selanec, in Zagreb, ethnic and religious minorities are integrated in society, but Croatia is still a divided country regarding this issue. Mr. Selanec also added that there is no adequate national policy or a strategy that would correct this division.<sup>43</sup>

## 2.4 Incidence of discrimination in employment

Various reports by different state actors show that work and working conditions, including employment (i.e. the process of getting employed), is the area of social life where discrimination occurs most often. According to the Ombudsman's Report on Occurrences of Discrimination for the Year 2012, there were 202 complaints about discrimination filed to the Ombudsman Office, out of which 94 were complaints on discrimination in the area of work and working conditions (including employment), which makes 46.5 per cent of the total number of complaints. Keeping in mind this is only one of ten areas of social life where discrimination is recognised by the Anti-discrimination Act, we can conclude that discrimination happens more frequently in this particular field. Also, according to the data provided for by the Ombudsman, race, ethnic affiliation, skin colour or national origin are the most represented grounds of discrimination among the 202 complaints of the 12 grounds provided for by the Law: a total of 60 complaints were made on these grounds.<sup>44</sup>

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<sup>39</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>40</sup> Jutarnji List, „We are not racist, but it is not pleasant. Those people are wandering around and looking at our girls – Inhabitants of Dugave after the fight of asylum seekers“, Butorac D., 7 February 2013.

<sup>41</sup> Čačić-Kumpes, J., Gregurović, S., Kumpes, J., “Migration, Integration, and Attitudes towards Immigrants in Croatia“, *Revija za sociologiju*, 42 (2012), 3: 305–336, p. 336.

<sup>42</sup> Interview with Maja Šukelj, Government Office for Human Rights and Rights of National Minorities, Zagreb, 2 September 2013.

<sup>43</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>44</sup> Ombudsman, Report on Occurrences of Discrimination for the Year 2012, <http://www.ombudsman.hr/dodaci/Izvje%C5%A1%C4%87e%20o%20pojavnama%20diskriminacije.pdf>, accessed 23 July 2013.

Also, data provided for by civil society organisations show the same results. Out of a total of 84 complaints of discrimination, some of which fall under the ADA, 23 were complaints on discrimination in the area of work and working conditions including employment, while 21 complaints were made on the grounds of race, ethnic affiliation or colour of skin.<sup>45</sup>

Although there is no disaggregated data by the Ombudsman's Office or the CSOs as to how many complaints of discrimination are in the field of employment and on which specific grounds, it is plausible to assume that racial, ethnic and religious discrimination often takes place in the labour market.

Unfortunately, there are no official quantitative data about the specific ethnic and religious groups that are the most discriminated. Ms. Tena Šimonović Einwalter, Deputy Ombudswoman and an expert in the field of combating discrimination, stated that the Ombudsman's office does not have disaggregated data as in their reports ethnic and national minorities are all placed under the same category, but the Office is planning to differentiate the data according to the different categories in order to have more detailed statistical data. Also, she stated that the problem with reporting discrimination to the Ombudsman Office is that, for example, Roma tend to report discrimination less because of the lack of information and opportunity to make such complaints.<sup>46</sup>

However, the respondents could make an assessment according to their experiences. Most of them agreed that the most discriminated groups are Roma and Serbs. Mr. Selanec stated that:

*"Roma are the most discriminated because of the simple fact that they are visible, in a way that they are easily recognizable as members of Roma group because of their appearance, their language and their special culture. They are easily recognizable and prejudices are most strongly connected to them and there is even a special type of devaluing and degrading their dignity and their position in society. (...) This also applies to women members of Roma group."*<sup>47</sup>

Tena Šimonović Einwalter from the Ombudsman Office said the Roma have the worst position when it comes to unemployment rate, and the Serbian minority comes next regarding this issue, especially in some regions and some business sectors.<sup>48</sup> Some respondents especially emphasized Serbian returnees as victims of discrimination, while some of the respondents said that Bosniaks and Albanians are also discriminated in employment. Asylum seekers, asylum grantees and immigrants were also identified as victims of discrimination in employment.

### **3.3 Patterns of inequality over the course of time**

Looking at the period of the last 10 years, change is certainly visible. The most visible change lays mostly in legislation and policy that the state has been instigating to tackle the problems of discrimination of minorities (fulfilling the prerequisites for EU accession was an added incentive). Also, there is, to a certain extent, a change in the public discourse compared to the 1990s.

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<sup>45</sup> Božić Krstanović, L.J., Lalić, S. (ed.), *How Much Equality? Monitoring the Implementation of the legal Aid Act and the Anti-discrimination Act, Report for 2012*, Centre for peace, Non-Violence and Human Rights – Osijek, Osijek, 2013.

<sup>46</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>47</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>48</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

Legislative, institutional and policy changes are visible in some important acts that were brought or amended in this period, like the Constitutional Act on the Rights of National Minorities, Anti-discrimination Act, Criminal Law Act etc. Also, there are a number of policies designed to combat discrimination in general or the specific discrimination of certain groups.

However, there have been no radical changes in the actual rights and employment possibilities for the most vulnerable ethnic minorities. For example, Mr. Relić holds that the trends of tolerance towards minorities in society are positive and having been progressing in the last 10 years, but in the labour market these trends are still not present. The good example for this argument, he holds, is that despite the policies and the EU recommendations, the number of members of national minorities employed in state administration positions has been decreasing in the last few years.<sup>49</sup> The same opinion is held by Mr. Milošević who believes that the situation in employment of minorities is even worse and that the number of employed Serbs has been decreasing, not being able to see any signs that this situation will change any time soon.<sup>50</sup> Mr. Zoran Pusić from the Civic Committee for Human Rights, an ENAR member organization, said that when considering discrimination, there is a big difference now compared to the period before: “it is now done secretly, and only in the cases when it can be done to seem as it is done objectively, while 10 or 12 years it was done openly and it was considered to be the most normal thing.”<sup>51</sup> The lack of progress made in changing the general public opinion on these issues is also corroborated by statements of some other respondents. For example, although she thinks that there were certain positive changes; Ms. Šukelj thinks that “there is much more to be done generally on perception and awareness of citizens”.<sup>52</sup> On the other side, it can be seen that there are many more citizens than before that are willing to oppose discriminatory practices.

Also, when taking the economic crisis into account, we can assume that it is affecting minorities in a negative way. Ms. Tena Šimonović Einwalter, drawing from her experience from the Ombudsman’s Office, stated that the increase in the number of complaints in the areas of employment and accessing the labour market are a result of the economic crisis, and this is because when there are less job opportunities for everyone, this impacts minorities as well.<sup>53</sup>

### **3.4 Discrimination in access to employment**

Discrimination in access to employment is a significant problem in Croatia. Different groups, including national minorities and refugees, encounter different problems in employment and are discriminated in this area of social life in different ways.

Direct discrimination is still a problem and there is room for bias in the selection procedures, as membership of different ethnic, racial and religious groups is recognised in different ways. This identification happens through names, appearance and through (foreign) diplomas and other documents. For example, Ms. Maja Šukelj claims that there are examples of discrimination when a

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<sup>49</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>50</sup> Interview with Saša Milošević, Serbian National Council, Zagreb, 3 September 2013.

<sup>51</sup> Interview with Zoran Pusić, Civic Committee for Human Rights, Zagreb, 10 September 2013.

<sup>52</sup> Interview with Maja Šukelj, Government Office for Human Rights and Rights of National Minorities, Zagreb, 2 September 2013.

<sup>53</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

Roma seeks employment and the employer or human resources manager does not want to hire them according to their last name.<sup>54</sup>

Although discrimination in access to employment is rarely carried out in an open way, there are still cases like that. The Serbian National Council, for example, is familiar with a case of discrimination in the academia. They received a complaint by a person who has all the necessary scientific qualifications and who had been working at one of the universities in the country for years, but had only short-term contracts, claiming the following:

*“the Dean told me that, despite of the University’s need to employ, they cannot open a call for permanent employment on her position because I am a Serb. He told me that, if I got employed, they would have to open a call to employ two Croats.”<sup>55</sup>*

Another problem is certainly, as has been formulated by Ms. Tena Šimonović Einwalter, in relation to the “transparency of the employment procedures”.<sup>56</sup> This type of direct discrimination can be especially witnessed, as described by some of the other respondents, when there are interviews as part of the recruitment procedure, as it leaves a wide discretionary margin for the employers or the persons involved in the employment procedure. According to Mr. Nemanja Relić, when it comes to the discrimination of Serbs, “this is especially the problem if there are no standardized tests, and it happens both in public and private sectors.”<sup>57</sup> Even when there are standardized written tests carried out, this practice also happens. The Serbian National Council (SNV) had an example of a complaint of discrimination by a lawyer that had graduated from law school in Novi Sad in Serbia, and who had applied for several dozens of positions in public institutions and companies, but was always unsuccessful in these applications. According to his statement to the SNV, he explained that “in certain employment procedures in which testing were organized, I had good scores in the written part, while in the oral interviews they did not test knowledge. I was eliminated without any legitimate reason.”<sup>58</sup> Additionally, when it comes to the transparency of procedures, the Serbian Democratic Forum even had as an example of discrimination a case whereby the employer claimed that the person did not file all the documents necessary under the call, even though the applicant was certain that all the documents had been correctly filed, as per the call.<sup>59</sup>

Another related practice that occurs even in the municipalities or towns where Serbs are a large part of population or even constitute the majority of the population, is employing persons of Croatian origin who live far from the working place just to avoid the employment of persons with Serbian ethnic affiliation. This, Relić stated, affects both the Serbian minority and the whole municipality economically, as less taxes are being paid to the local municipality.<sup>60</sup>

When it comes to indirect discrimination, the largest factors that place certain groups in vulnerable position in labour market are language barrier and educational competencies. This is especially the case with refugees and Roma. Refugee population encounters considerable difficulties in the area of employment. Although the Croatian Employment Service included refugees and aliens under

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<sup>54</sup> Interview with Maja Šukelj, Government Office for Human Rights and Rights of National Minorities, Zagreb, 2 September 2013.

<sup>55</sup> Data given in interview with Saša Milošević, Serbian National Council, Zagreb, 3 September 2013.

<sup>56</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>57</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>58</sup> Data given in interview with Saša Milošević, Serbian National Council, Zagreb, 3 September 2013.

<sup>59</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>60</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

subsidiary protection in affirmative action measures for increasing employment opportunities<sup>61</sup>, only six out of 88 persons who were granted protection were employed. According to the participatory assessment made by UNHCR in 2012, in which position of refugees that are in Croatia for the 2<sup>nd</sup> year was researched, showed that the basic problems in employment are lack of language knowledge and non-possession or non-recognition of diplomas.<sup>62</sup> Consequently, they are registered as unqualified with the Croatian Employment Service and not eligible to attend the vocational trainings provided by Agency.

The Croatian Qualifications Framework Act<sup>63</sup> stipulates the Croatian Qualifications Framework as an instrument for regulating the system of qualifications in the Republic of Croatia. The Agency for Science and Higher Education, Croatian ENIC/NARIC Office, conducts the professional recognition procedure. The optimal duration of the process for professional recognition of foreign higher education qualifications is two months. Due to fact that the majority of refugees do not have their original documents and diplomas with them, their qualifications are not recognized.

Also, Roma encounter big problems in employment partly because of the fact that they are in general less educated than the general population due to limited education opportunities. According to the statistics of the registered Roma unemployment rate, 70,6 per cent unemployed Roma do not have any schools finished, 22, 6 per cent have finished elementary school, 6,6 per cent have finished secondary school and 4 per cent have finished higher or tertiary education.<sup>64</sup> Also, partial or full lack of Croatian language knowledge also represents the obstacle for their employment.

### **3.5 Discrimination in the workplace**

One of the forms of direct discrimination in the workplace is harassment in the workplace which is defined as one of the forms of discrimination forbidden by the Anti-discrimination Act. There is evidence that harassment as a form of discrimination targeting members of national minorities does happen in Croatia. Ms. Tena Šimonović Einwalter gave an example of a person originally from Jordan who was employed in a hospital, and who had been receiving hateful and threatening messages saying “stinking Arab”, that he should move away and the perpetrators even drew a bloody knife on his locker at the hospital. Although he informed his superior about this, the hospital did not protect him in any way and he was even put on a redundancy list, even though he had the most work experience in comparison to his colleagues.<sup>65</sup> In this case, it was the employees who were the ones harassing and discriminating on the grounds of ethnicity/national origin, but the employers are also responsible for not taking action to end this racist behaviour. Furthermore, Mr. Nemanja Relić stated that “another problem is a form of speech that is not always directed towards the specific members of a national minority working in a state institution, but a way of commenting of events which, due to the context, creates an unpleasant environment for members of national and religious minorities.”<sup>66</sup>

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<sup>61</sup> Government of the Republic of Croatia, National Employment Promotion Plan 2011-2012

<sup>62</sup> Interview with Mirjana Vergaš, UNHCR, Zagreb, 3 September 2013.

<sup>63</sup> Croatian Qualifications Framework Act, 14 February 2013.

<sup>64</sup> Croatian Employment Agency, Report about Implementation of Program for Roma 2010 – 2011

<sup>65</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>66</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

Furthermore, another discriminatory practice that had been described by the respondents was when a member of an ethnic minority group was employed in a lower position. Mr. Selanec stated the following on this topic:

*“If they do get a chance to get to employment, then they are employed at the lowest positions, they get the lowest salaries and bonuses, holidays etc. When you employ them, you can exploit them. On the other hand, as they can get exploited, which decreases the production costs, they are perceived as the threat by the rest of the colleagues.”<sup>67</sup>*

Another issue that was emphasized by one of the respondents is the lack of accommodation to religious practices being made to certain employees. Mr. Relić stated that “there is a problem when employees of other nationalities and therefore religions should have days off for their religious holidays which is permitted by law (Labour Act). People rarely, because of fear, ask questions about this, and do not exercise their rights because of the fear as to how the working environment will react to this.”<sup>68</sup>

On the other hand, Ms. Mirjana Vergaš, from the UNHCR, gave examples where refugees would not, according to her, accommodate the religious needs of the workforce. She gave an example of an Afghani refugee who was employed in a restaurant, but after a certain period of time was fired because he did not want to be close to food during the Ramadan period.<sup>69</sup>

There are still some problematic practices in terms of discrimination in the workplace in Croatia which need to be eliminated. However, Croatia is still not culturally diverse which therefore results in practices of indirect discrimination and failure to accommodate religious practices of minorities not being considered a particularly large-scale issue. Also, looking at the experience we had and the information collected through the interviews, it is necessary to conclude that discrimination in access to employment takes place much more frequently than discrimination in the workplace.

### **3.6 Economic sectors**

As stated before, there is a serious lack of research and statistics about discriminatory practices in Croatia. Although there has been some research on a number of indicators of discriminatory practices, not all of its aspects have been given thorough attention. There is still not enough of information about the sectors where discrimination is most evident.

However, based on their experience working on these issues, the respondents of the interviews were able to provide some general insight into this topic. Ms. Katarina Perković stated that discrimination took place most commonly in the sectors of trade, hospitality and catering as there are greater fluctuations of employees in these sectors than in other sectors. According to her, there were also some incidents of discrimination in the sector of construction.<sup>70</sup> Also, Mr. Pusić stated that in the security sector, citizens of Serbian ethnicity experienced discrimination in the army and police the most. According to him, Serbs were being dismissed for unsubstantiated ‘security reasons’.<sup>71</sup>

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<sup>67</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>68</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>69</sup> Interview with Mirjana Vergaš, UNHCR, Zagreb, 3 September 2013.

<sup>70</sup> Interview with Katarina Perković, Croatian Association of Trade Unions, 2 September 2013.

<sup>71</sup> Interview with Zoran Pusić, Civic Committee for Human Rights, Zagreb, 10 September 2013.

When it comes to professions and occupation levels where discrimination takes place, this is also a complicated issue. Mr. Relić stated that when it comes to the private sector, discrimination happens less for higher positions and positions requiring higher education and qualifications because an emphasis is placed on competence and expertise, while in the lower positions discrimination takes place more often.<sup>72</sup>

Also, Mr. Nikola Buković for the Croatian Youth Network stated the following: *“Discrimination in the legal sense exists and depends on the quality of the work position; if the work position is low, it is more likely that discriminatory behaviour will be present towards the employee. (...) It is possible, for example, that an IT company has very good practices of employment of their own IT experts, while the cleaning lady is treated like trash.”*<sup>73</sup>

Similarly, Ms. Tena Šimonović Einwalter thinks that it is very difficult to answer the question about discrimination in different economic sectors because discrimination is present in all economic sectors and that the level of discrimination varies in different occupation ranks, which are also connected to one’s education level. .<sup>74</sup>

There are theories and general experience about the economic sectors and occupational levels most prone to discrimination. However, this has to be researched much more in order for the government to create efficient policies that target especially problematical discriminatory sectors, most vulnerable groups and occupational levels which harbour discrimination of ethnic minority groups.

### **3.7 Geographical areas and relevant actors**

With reference to geographical areas, most of the respondents agree that the areas of special state concern, are those that had been affected by the war the most. This especially applies to the Serb minority. Mr. Relić from the Serbian Democratic Forum said that the problem faced by Serbs in the employment sector is the fact that a large number of them live in the areas of special state concern, which were areas that before the war, and especially after the war, had limited economical potential, making these areas therefore more problematic in terms of unemployment. He specifically mentioned regions such as Banija, Kordun and Western Slavonia as the ones that are problematic. He added that “according to SDF’s research, one third of people no longer live there, while two thirds of work positions were lost since the end of the war.”<sup>75</sup> Also, according to Mr. Relić, another aggravating circumstance for the Serb minority in these areas is that they are on average older and less educated than the majority population, and because of these objective reasons, this minority group has the worst position in the labour market.

Moreover, some respondents said that discrimination takes place in rural areas more than in the urban ones. According to Ms. Maja Šukelj, the reason for this is that in rural areas, which have a smaller number of inhabitants, people know each other and know details about their different identities.<sup>76</sup> Mr. Pusić shares this opinion, but also added that when talking about different large

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<sup>72</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>73</sup> Interview with Nikola Buković, Croatian Youth Network, Zagreb, 5 September 2013.

<sup>74</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>75</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>76</sup> Interview with Maja Šukelj, Government Office for Human Rights and Rights of National Minorities, Zagreb, 2 September 2013.

cities, his impression is that discrimination happens more in Osijek and Split, than in Zagreb, while discrimination happens most seldom in Rijeka and the region of Istria.<sup>77</sup>

There are various reasons why some areas are more prone to discrimination than others: one of these factors is the war history of certain areas and for some areas, the reason is the greater proportion of members of national minorities living there. For example, Ms. Tena Šimonović Einwalter stated that when looking at the Roma, it can be said that where there are Roma, there will also be discrimination.<sup>78</sup>

Another reason why certain geographical areas are more prone to discrimination, or why discrimination is reported more, is the fact that Croatia is still a centralized country and therefore the actions of the institutions and CSOs are also largely centralized. Ms. Šimonović Einwalter claims that where there are strong CSOs who inform citizens of their rights against discrimination and raise their awareness of the importance of reporting discrimination to the state bodies authorised to combat it, cases of discrimination are reported more frequently.<sup>79</sup> If citizens are aware of this problem and if they report discrimination, it could be therefore assumed, or at least hoped, that it will decrease in a certain period of time.

Therefore, state policies should take geographical factors more into account in order to combat discrimination more effectively.

## **4. Tackling the challenges**

### **4.1 Public policies**

There are a number of policies designed to combat discrimination: some of them are more general in their scope and some were designed to enhance the position of vulnerable groups. Most of these policies were introduced as part of the requirements for accession to the European Union and as a part of the negotiation process. The issue of the employment of members of national minorities was especially important in Chapter 23,<sup>80</sup> as this topic was emphasized as one of the most problematic areas by the European Commission.

The National Plan for Combating Discrimination 2008 - 2013<sup>81</sup> is one of the documents that was designed to combat discrimination and covers various vulnerable groups in a variety of areas of social life. Included were Roma, Serbian minority (including returnees), asylum seekers, asylum grantees, foreigners under subsidiary and temporary protection, etc. It also provides for several measures of combating discrimination in the area of employment. However, the National Plan is not adequate in terms of both its design and implementation. A group of CSOs, in cooperation with experts, provided an assessment of the design of the National Plan and concluded that “defining the problem of

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<sup>77</sup> Interview with Zoran Pusić, Civic Committee for Human Rights, Zagreb, 10 September 2013.

<sup>78</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>79</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>80</sup> European Commission, „Communication from the Commission to the European Council on the Main Findings of the Comprehensive Monitoring Report on Croatia’s state of preparedness for EU membership“, 10 October 2012.

<sup>81</sup> Government of the Republic of Croatia, National Plan for Combating Discrimination 2008 – 2013, September 2008.

discrimination, its objectives and measures for the elimination of discrimination in society were not worked out well in the National Plan; the National Plan was not harmonized with the other instruments related to combating discrimination, nor was its role in national anti-discrimination policy clear.”<sup>82</sup>

Keeping in mind that this policy document has not been designed appropriately, its successful implementation is questionable. . As the period of implementation ends in 2013, it is unknown whether a new policy document will be introduced.

Also, there is an Action Plan on the Implementation of the Constitutional Act on the Rights of National Minorities for the Period 2011 – 2013. There is a chapter of this Action Plan considering the employment of members of national minorities in public services, in accordance with Article 22 of the Constitutional Act, stipulating that the percentage of members of national minorities in state administration should increase from 3.92 per cent to 5.5 per cent in the period between 2011 and 2014.<sup>83</sup> Moreover, a more precise Plan of Admission of the Members of National Minorities into State Services to the Bodies of State Administration for the Period 2011/2014 has been developed, stating that 802 members of national minority groups will be employed by 2014. However, the implementation of this policy is far from successful. Mr. Mario Pavlović, of the UNHCR, stated that ten years after the enactment of the Constitutional Act on the Rights of National Minorities and the Action Plans that were designed to support the employment of minorities, it is evident that the number of employed members of minorities is far under the proposed target percentage from the Action Plan and the Plan of Admission He added that although the employment of members of minorities had been strongly advocated because the negotiations on Chapter 23 had been completed, after the Chapter was finalised and closed, there were no further developments.<sup>84</sup> Mr. Relić from the Serbian Democratic Forum also stated that they are not satisfied with implementation of this policy:

*“in the first two years of the implementation of the Plan, the number of members of national minorities decreased, which says a lot about the failure of this public policy. This is also a deeper problem because the Constitutional Act itself does not sufficiently define the right to work. Generally, the whole Constitutional Act is written in a way which is not connected to some implementation measures and there are no sanctions for violations of failing to implement them.”<sup>85</sup>*

According to the Government’s Report on the Implementation of the Action Plan for the Implementation of the Constitutional Act on the Rights of National Minorities for the Period from 2011 to 2012, it has been found that the number of persons employed in the state administration bodies decreased by 301 employees, while the number of members of national minorities decreased by 31, which is roughly 10 per cent of the persons who were dismissed.<sup>86</sup> Keeping in mind that the percentage of members of national minorities employed in state administration bodies is 3.3, we can conclude that the decrease in employees was made at the expense of the members of national

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<sup>82</sup> Božić Krstanović, LJ., Lalić, S. (ed.), How Much Equality? Monitoring the Implementation of the legal Aid Act and the Anti-discrimination Act, Report for 2012, Centre for Peace, Non-Violence and Human Rights – Osijek, Osijek, 2013, p. 63.

<sup>83</sup> Government of the Republic of Croatia, Action Plan on Implementation of the Constitutional Act on the Rights of National Minorities for the Period 2011 – 2013, April 2011

<sup>84</sup> Interview with Mario Pavlović, UNHCR, Zagreb, 3 September 2013.

<sup>85</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>86</sup> Government of the Republic of Croatia, Government’s Report on Implementation of the Action Plan for Implementation of the Constitutional Act on Rights of National Minorities for the Period from 2011 to 2012

minorities.<sup>87</sup> Therefore, we can also assume that there is no political will to really implement this particular policy, and that the goals of this policy will not be reached by the end of its implementation, which is in 2014.

When it comes to the policies designed to enhance the position of Roma, an important strategy was brought in 2012: the National Strategy for Roma Inclusion, for the period 2013 – 2020. This Strategy includes seven areas, and one of them is employment and inclusion in the economy, which aims at “enhancing the economic status of Roma by enabling access to the labour market, enhancing possibilities of employment and self-employment and encouraging equal opportunities in employment”.<sup>88</sup> The general aim in this area is to “decrease the gap between the Roma national minority and majority population in the labour market”, and there are seven specific goals in this area, such as “to strengthen capacity of Croatian Employment Service to work with members of Roma national minority”, “to increase level of formal self-employment of members of Roma national minority”, etc.<sup>89</sup> As this policy document is new, we still cannot assess its implementation. However, it does represent a step forward in terms of its design and providing an analysis of the current context and state of human rights of Roma.

Furthermore, there are policy measures designed to enhance the employment of some vulnerable groups and persons unemployed in the long term, and some of these measures are applicable to asylum grantees. According to Ms. Mirjana Vergaš, the state does not have sufficient financial means for these measures and certain counties do not have means for these measures to be implemented.<sup>90</sup>

There are therefore various problems with specific policies and their implementation. However, there are problems that are common to most of these policies. Firstly, most of the policies are designed according to the research-based evidence, which affects the quality of their design. Furthermore, they often fail on sustainability: the policies are designed more as a wish-list than something that can actually be achieved in a certain period. This is especially the case when one also considers the insufficient financial means allocated for the implementation of the policy measures. Also, monitoring during implementation is often non-existent and the evaluation after the implementation process is rarely carried out. Lastly, there are no sanctions connected to the failure to implement these policies.

## **4.2 Access to effective remedies**

### **4.2.1 Judicial remedies**

Prevention and protection against discrimination in employment has been ensured through different judicial proceedings: criminal, misdemeanour, civil and administrative.

The main piece of legislation regulating the protection against discrimination is the Anti-Discrimination Act (ADA) which provides a framework for civil actions for the victim of discrimination

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<sup>87</sup> Government of the Republic of Croatia, Government’s Report on Implementation of the Action Plan for Implementation of the Constitutional Act on Rights of National Minorities for the Period from 2011 to 2012

<sup>88</sup> Government of the Republic of Croatia, National Strategy for Roma Inclusion, for the Period 2013 – 2020, November 2012, p. 33.

<sup>89</sup> Government of the Republic of Croatia, National Strategy for Roma Inclusion, for the Period 2013 – 2020, November 2012, p. 52.

<sup>90</sup> Interview with Mirjana Vergaš, UNHCR, Zagreb, 3 September 2013.

and also contains misdemeanour and penalty provisions. The ADA sets two types of legal actions: individual and associational action. Individual action again can be incidental anti-discrimination protection: when an individual right has been violated and it has been violated on account of discrimination; and can be special individual anti-discrimination action when discrimination is the main issue. The ADA states in Article 16 that “special proceedings for the purpose of protection against discrimination in the area of work and employment shall be deemed to be litigations arising from labour relations.”<sup>91</sup>

Associational action, as prescribed by Article 24, can be filed by: “associations, bodies, institutions or other organisations set up in line with the law and having a justified interest in protecting the collective interests of a certain group, or those which within their scope of activities deal with the protection of the right to equal treatment.”<sup>92</sup> These organisations could be CSOs which protect the right to equal treatment, as well as the Ombudsman as a state institution, which is the Central body responsible for the suppression of discrimination.

The action can be both individual and associational: determination of discrimination, prohibition of discrimination, publication of a judgment determining discrimination in the media. The difference is that in associational action, one cannot bring a claim for damages, but for an individual action one can. If the final and binding judgment in the associational process determines discrimination, everyone whose rights have been violated could, based on that judgment, individually seek for damages. There is also a different jurisdiction: in individual action in the first instance municipal courts have subject-matter jurisdiction, whereas in associational actions the county courts have jurisdiction.

Article 21 of the ADA provides an opportunity for third parties to participate in an individual anti-discrimination process as *sui generis* interveners, with the approval of the plaintiff: “a body, organisation, institution, association or another person that, within its scope of activities, deals with the protection of the right to equal treatment in relation to groups whose rights are decided upon in the proceedings.”<sup>93</sup>

Procedural specificity designed to increase the efficiency of the court anti-discrimination protection proceedings is the shift in the burden of proof: “If a party in court or other proceedings claims that his/her right to equal treatment pursuant to the provisions of this Act have been violated, he/she shall make it plausible that discrimination has taken place. In this case, it shall be for the respondent to prove that there has been no discrimination.”<sup>94</sup> This principle applies in anti-discrimination proceedings, except misdemeanour and criminal proceedings. Revision in anti-discrimination proceedings is always allowed. It is stated in the ADA in that “the court and other bodies conducting the proceedings shall urgently undertake actions within the proceedings, endeavouring to investigate discrimination-related statements as soon as possible.”<sup>95</sup> Although, according to the ADA and the Civil Procedure Act procedures in labour relations are urgent, civil proceedings can last from one year and longer until a final and binding decision is given, depending on the case (average is two to three years).

The Ministry of Justice collects statistics and data about cases related to discrimination and discrimination grounds brought to the courts. According to those statistics, there were 64 civil

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<sup>91</sup> Article 16, Anti-discrimination Act, 15 July 2008

<sup>92</sup> Article 24, Anti-discrimination Act, 15 July 2008

<sup>93</sup> Article 21, Anti-discrimination Act, 15 July 2008

<sup>94</sup> Anti-discrimination Act, 15 July 2008

<sup>95</sup> Anti-discrimination Act, 15 July 2008

proceedings, 63 misdemeanour proceedings and 5 criminal proceedings received by the courts in 2012<sup>96</sup>. When it comes to cases resolved in 2012, there were 16 resolved civil proceedings (in one case claims were adopted, in three claims were dismissed, and 12 cases were resolved in different manner); there were 37 resolved misdemeanour proceedings (26 convictions, 7 acquittals and 4 were resolved in another manner) and there were 4 criminal proceedings resolved (one acquittal and three in another manner).<sup>97</sup>

Besides the Anti-discrimination Act, the Labour Act also prohibits both direct and indirect discrimination in employment and working conditions, including the selection criteria and recruitment conditions, promotion, vocational guidance, vocational training development and retraining, in accordance with special laws. If the employer employs more than 20 workers he/she has to appoint the person to receive and deal with the complaints of the workers. That person has to investigate the complaint within the time period set in the collective agreement/rulebook, and if the employer doesn't take effective measures to protect the workers' dignity, the worker can stop working and in 8 days file a complaint to the Court. The Labour Act particularly emphasizes the prohibition of unequal treatment by the employer to pregnant women and to the members of the workers' councils. It furthermore prohibits unequal treatment of members of the workers council to the worker, and the prohibition of unequal treatment of workers to another worker due to his/hers membership or activity in the union. This misdemeanour represents a serious offense of the employer and a fine of HRK 31,000.00 to 60,000.00 shall be imposed on the employer as a legal person.

Criminal proceedings can also be undertaken against a person who on the basis of race, ethnicity, colour or religion denies, restricts or conditions another's right to employment and advancement, or anyone who on the basis of these differences or affiliations gives privileges or benefits. The punishment prescribed for this offence is imprisonment of up to three years and the statute of limitations for this violation of equality is ten years.<sup>98</sup>

It has to be emphasized that, as the Anti-discrimination Act only entered into force in 2009, judicial practice in this field is still not developed and therefore there are still some difficulties in its implementation. However, we believe that when the body of jurisprudence is larger the practice will be more effective.

#### **4.2.2 Non-judicial remedies**

##### **4.2.2.1 Ombudsman or equality body**

In Croatia, there are four ombuds institutions: the Ombudsman, Ombudsman for Gender Equality, Ombudsman for Persons with Disabilities and Ombudsman for Children. All of them deal with combating discrimination, but their jurisdiction in this field is divided in a way that they have different discrimination grounds under their authority. When it comes to discrimination on the basis of race, ethnic affiliation, skin colour, national origin and religion, these are the discrimination grounds that fall into jurisdiction of the Ombudsman's Office. The Ombudsman's Office is also, according to the Anti-discrimination Act, the central body responsible for combating discrimination,

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<sup>96</sup> Božić Krstanović, L.J., Lalić, S. (ed.), *How Much Equality? Monitoring the Implementation of the legal Aid Act and the Anti-discrimination Act*, Report for 2012, Centre for Peace, Non-Violence and Human Rights – Osijek, Osijek, 2013.

<sup>97</sup> Božić Krstanović, L.J., Lalić, S. (ed.), *How Much Equality? Monitoring the Implementation of the legal Aid Act and the Anti-discrimination Act*, Report for 2012, Centre for Peace, Non-Violence and Human Rights – Osijek, Osijek, 2013.

<sup>98</sup> Article 125, Criminal Code, 19 December 2012.

as it was prescribed by Article 13 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

According to the Anti-discrimination Act, the Ombudsman has several authorities. Firstly, the Ombudsman acts upon the citizens' discrimination complaints. When the citizens make a complaint, the Ombudsman Office provides them with information about their rights and judicial and other possibilities of protection from discrimination. The Ombudsman's Office makes investigations in these cases and can undertake measures that would stop discrimination. However, the Ombudsman can only take measures in the complaints cases when the case is not under any court procedure, but can decide to be an intervener on the side of the plaintiff in these cases.

Also, the Ombudsman has the authority to conduct monitoring, report and warn the public about discrimination. It publishes annual reports about discrimination since the Anti-discrimination Act has entered into force in 2009. These reports, which are delivered to the Croatian Parliament every year, contain statistical data about discrimination and their analysis, but also recommendations and suggestions for appropriate legal and policy solutions to the Government of the Republic of Croatia.

Additionally, the Ombudsman has the authority to "conduct mediation with a possibility of reaching an out-of-court settlement" if the parties agree. The Ombudsman can also be an intervener in anti-discrimination court cases, file associational/joint legal action law-suits under the ADA and can file criminal charges for discrimination with the State's Attorney Office.

Discrimination complaints to the Ombudsman can be filed in writing, by telephone, telefax, in person or by e-mail, and it can also be done through filling a form that can be found on the internet page of the Ombudsman Office. The complaint can be filed anonymously, but the Ombudsman protects the identity of a person if the complaint is not anonymous.

According to the Ombudsman's Report on the Occurrences of Discrimination for the Year 2012, there were 202 discrimination complaints filed in 2012, out of which 137 were determined in 2012.<sup>99</sup> There were 53 complaints that were declared inadmissible because of, among others, the following reasons: the court process in the case was already in the process or a final decision was final (in this case, court process has priority), complaints in which the discrimination ground fell within the authority of one of the specialised ombuds institutions or discrimination occurred before the Anti-discrimination Act came into force.

When it comes to the effectiveness of the work of the Ombudsman in the field of combating discrimination, most of the respondents hold that the Office is independent, transparent and professional in its work. Mr. Zoran Pusić holds that the Office has, from its establishment until today made great progress and gained a certain respect in society.<sup>100</sup> However, there are certain problems that affect its effective functioning. According to Mr. Relić, "the biggest problem with the Ombudsman is her undefined role – what her reports are representing and what should be made with her recommendations."<sup>101</sup> The Ombudsman publishes a Report on the Occurrences of Discrimination, which is presented to the Parliament, but we hold the view that the recommendations from these reports are not taken seriously by the state institutions. Also, another

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<sup>99</sup> Ombudsman, Report on Occurrences of Discrimination for the Year 2012, <http://www.ombudsman.hr/dodaci/Izvje%C5%A1%C4%87e%20o%20pojavnima%20diskriminacije.pdf>, accessed 23 July 2013.

<sup>100</sup> Interview with Zoran Pusić, Civic Committee for Human Rights, Zagreb, 10 September 2013.

<sup>101</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

issue are the resources allocated for the work of the Office which are not sufficient for the optimal functioning of the Office. For example, there is an issue that the Office is placed only in Zagreb, which makes it less accessible to citizens living outside of Zagreb. Further, Ms. Tena Šimonović Einwalter, Deputy Ombudswoman, stated that its capacities could be bigger and better as the number of the employees that work in this domain is small and the number of discrimination grounds is quite extensive.<sup>102</sup> Some of the respondents have the opinion that the Ombudsman is not visible enough to the public: Mr. Nikola Buković said that the youth in Croatia aren't informed about the existence of the Ombudsman Office as they are not visible enough to be recognized by this group in the society.<sup>103</sup>

However, although there are problems when it comes to the full effectiveness of the Ombudsman's work in the field of combating discrimination, it is a very important state institution for combating discrimination, especially in terms of the individual complaints it resolves and also the research, statistics and reporting that it carries out. In addition, the Ombudsman's Office works a lot on strengthening civil society organizations for dealing with discrimination and also connects the CSOs to the institutions and other stakeholders in this area.

#### **4.2.2.2 Mediation or conciliation**

Mediation in the Croatian legal system isn't mandatory, but the courts can suggest to the parties to resolve their dispute in mediation proceedings in court or outside it. Mediation in discrimination cases related to employment is prescribed in two ways and in both ways it is optional: according to the Anti-discrimination Act within the scope of his/her work, the Ombudsman shall, with the parties' consent, conduct mediation with a possibility of reaching an out-of-court settlement;<sup>104</sup> and according to the Labour Act, parties may agree in the contract that the resolution of their labour dispute will be carried through mediation or arbitration.<sup>105</sup>

#### **4.2.2.3 Labour inspectorate**

According to the legislation<sup>106</sup>, the Inspector of Labour should initiate proceedings in discrimination cases when there is need to protect the public interest, acting in an *ex officio* capacity for misdemeanour and criminal offences. In other cases, he notifies the competent public authority of the irregularities and asks for an initiation of the proceedings and undertakes measures to remove those irregularities. In all cases, he informs the applicant (the victim of discrimination) about the measures he/she has undertaken.

However, how that functions in practice is not entirely certain. Most of our interviewees did not have any experience with the Labour Inspectorate. Those that did mostly did not think that the Labour Inspectorate had an important role in combating discrimination. Ms. Katarina Perković claims that trade unions have more experience in the cases of discrimination, and that the Labor Inspectorate fails to take steps against the employers.<sup>107</sup> Mr. Selanec also shares this opinion. He stated that the Labour Inspectorate in many cases claimed that they are not competent and that this area is not

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<sup>102</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

<sup>103</sup> Interview with Nikola Buković, Croatian Youth Network, Zagreb, 5 September 2013.

<sup>104</sup> Article 12, Anti-discrimination Act, 15 July 2008.

<sup>105</sup> Article 132, Labour Act, 9 December 2009

<sup>106</sup> State Inspectorate Act, 2 October 2008.

<sup>107</sup> Interview with Katarina Perković, Croatian Association of Trade Unions, 2 September 2013.

under their jurisdiction. According to Mr. Selanec, they mostly do not interfere in discrimination cases - their effect is extremely minimal and they are not willfully seeking to change this position.<sup>108</sup>

### **4.3 Civil society initiatives**

#### **4.3.1 Trade Unions**

Unfortunately, trade unions have not been very active in combating discrimination –anti-discrimination has often been perceived as a topic that civil society organizations should deal with. According to Ms. Katarina Perković, up until the few years ago, trade unions were of the view that discrimination does not fall within their scope of activities. However, she added that trade unions have changed their practices: in recent years, trade unions organised education workshops, provided legal aid. She also claims that the trade unions do not get involved in court proceedings for this field, as the proceedings are expensive and lengthy.<sup>109</sup> However, the involvement of trade unions in combating discrimination is increasing, at least in terms of educating their employees about anti-discrimination legislation. For example, three trade unions have cooperated with the Ombudswoman for Gender Equality in publishing a guide for the employees of the trade unions entitled “How to Recognize Sex Discrimination in Practice”.<sup>110</sup> Although this publication is aimed at combating gender discrimination, this is a good step to help trade unions work more on other forms of discrimination.

#### **4.3.2 NGOs activities**

CSOs are one of the most active actors in combating discrimination activities in Croatia. There is a rather large number of CSOs dealing with this topic: some of them are dealing with discrimination in general, while most of them are dealing with the discrimination of specific vulnerable groups like women, Roma, Serbs, LGBT population, youth, persons with disabilities etc. As the EU has been providing financial assistance through pre-accession funds for combating discrimination, the CSOs in Croatia have been able to deal with this topic and therefore this contributed to a significant number of civil society activities in general.

The Centre for Peace Studies (CPS) has conducted a research about the implementation of the Anti-discrimination Act, and this research has included researching activities of the CSOs in the field of combating discrimination. According to this research, most of the CSOs are forwarding received complaints of discrimination to the relevant institutions like the ombuds institutions, receiving individual complaints of discrimination and providing citizens with free legal aid, thereby increasing the level of citizens’ awareness about the existence of the Anti-discrimination Act and the bodies that are enforcing it.<sup>111</sup> Furthermore, some of the CSOs are monitoring the implementation of anti-discrimination policy. Also, there are a small number of CSOs that are using the legal mechanisms of the ADA, like intervening in the individual law-suits and associational legal action as foreseen by articles 21 and 24 of the ADA.

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<sup>108</sup> Interview with Goran Selanec, S.J.D., Zagreb, 28 August 2013.

<sup>109</sup> Interview with Katarina Perković, Croatian Association of Trade Unions, 2 September 2013.

<sup>110</sup> Ljubičić, V. (ed.), *How to Recognize Sex Discrimination in Practice*, Office of the Ombudswoman for gender Equality, Zagreb, 2012.

<sup>111</sup> Božić Krstanović, L.J., Lalić, S. (ed.), *How Much Equality? Monitoring the Implementation of the Legal Aid Act and the Anti-discrimination Act*, Report for 2012, Centre for Peace, Non-Violence and Human Rights – Osijek, Osijek, 2013.

There is a whole range of good practices for combating ethnic, racial and religious discrimination in employment. However, some of the activities that are supposed to be carried out by the state institutions are difficult for CSOs due to the lack of financial sustainability for these activities.

One of the good examples is the work of the Croatian Red Cross that is assisting refugees in diploma verification, approaching institutions, job searching and humanitarian aid. Communication with some employers was made directly but had a negative outcome because of a low level of knowledge of the Croatian language that refugees have.

Also, assistance that the CPS has provided to the refugees was mostly focused on Croatian language courses (in Reception Centres and the Human Rights House Zagreb), communication with institutions in order to exercise beneficiaries' rights, intercultural tips to make everyday life easier for refugees and support in job search. Also, together with the Croatian Employment Service and the City of Zagreb, the CPS has organised a workshop where institution representatives explained how the employment system is functioning, what rights they have and how to enforce them. Furthermore, the CPS mentioned this information in language courses but also in integration workshops that had been organised outside of the Reception Centre.

Ms. Maja Šukelj also provided several examples of good practices by CSOs in combating discrimination against Roma: the organization 'Better future' worked with the group of Roma women who were encouraged to enter the labour market. Furthermore, ACT from Čakovec works with Roma in agriculture. There are two regional projects from Koprivnica "Eco-garlic" that employs Roma women. These are the examples of good practices because they work on employing Roma directly and helping them gain work experience.

Lastly, the Human Rights Film Festival in 2012 had a special edition that covered the issue of Roma rights. As this festival is very well covered by the media and as it has a large audience in Zagreb, this was a good way for awareness-raising on the issue of Roma rights.<sup>112</sup>

Another good practice example is the project that Serbian Democratic has been implementing on an activist campaign with posters and advocacy round tables in order to inform members of national minorities about their rights under the Article 22 (right to employment) of the Constitutional Act on the Rights of National Minorities.<sup>113</sup> This is a good example because, even though the Constitutional Act has been in force since 2001, the public still has to be informed of their rights under the Act.

#### **4.3.3 Employers' organisations**

The respondents of the interviews did not have any examples of good practices by the employers' organisations, and most of the respondents of the interviews claim this is something that they do not consider being important. Ms. Tena Šimonović Einwalter said that there is however a readiness by the employers' associations, and this she believes, is a good starting point.<sup>114</sup>

### **4.4 Individual employers' initiatives**

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<sup>112</sup> Interview with Maja Šukelj, Government Office for Human Rights and Rights of National Minorities, Zagreb, 2 September 2013.

<sup>113</sup> Interview with Nemanja Relić, Serbian Democratic Forum, Zagreb, 6 September 2013.

<sup>114</sup> Interview with Tena Šimonović Einwalter, Ombudsman Office, Zagreb, 3 September 2013.

There have been few examples of good practices by individual employers. Some of them are related to simply employing more members of national minorities. For example, Mr. Mario Pavlović gave an example of a meat industry company that employed persons from refugee camps in Serbia.<sup>115</sup>

Also, there was an initiative by the Government Office for Human Rights and the Institute for Development of Labour Market which instituted the award “Key Difference” for the employers in the following categories: gender equality, age equality, inclusion of persons with disabilities, and general equality. There are a number of employers that received this award in the first two years of its existence - 2011 and 2012. In 2012, the award in the category general equality was given to the company *Podatkovni centar Križ*.

## **5. Conclusions and recommendations**

### **5.1 Political and societal developments related to racism and discrimination**

The period between March 2012 and March 2013 was marked by two important political developments. Firstly, the economic crisis in the country generated a whole range of social problems, including a high unemployment rate which affects both majority and minority populations. Grave economic and social problems of the majority of population therefore result in discrimination issues being cast aside, both from the perspective of the public and by decision makers themselves. As the government has been trying to decrease the level of public spending, very limited financial means have been allocated to the enhancement of the position of vulnerable groups.

Additionally, Croatia became a European Union member on July 1<sup>st</sup> 2013, and in the period prior to its accession there were legislative and policy changes that needed to be done. Therefore, there was still a large part of Croatia’s domestic legislation that had to be further adapted to the *acquis communautaire*. As a part of this process, the Anti-discrimination Act was amended, but the amendments made were more technical than substantial. The Aliens Act underwent similar reform. A Migration Policy was introduced, which had been awaited by civil society organizations for a long time, but, it has been contended that it is not completely suitable: there is a lack of analysis, its aim is not well defined and the priorities are not set out properly. As in all other areas of political and social life, this political and economic context did also affect vulnerable groups and policies aimed at combating discrimination.

A large body of anti-discrimination legislation and policy was developed in the whole pre-accession period. However, only now it is possible to begin to assess the implementation and results of these policies. As this report showed, although a great deal has been done on the legislative, policy and institutional levels, this is still not enough to change the position of vulnerable groups in society. A part of the reason for that is because there is a lack of political will to end discrimination in employment. Another reason is that the measures of these policies are not directed towards the real causes of the problems which are prejudice and the stereotypes of the public directed towards the

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<sup>115</sup> Interview with Mario Pavlović, UNHCR, Zagreb, 3 September 2013.

minorities. Here, there is an important role for politicians and other public persons and the media in creating both positive and negative images of certain vulnerable groups.

In this sense, there are several bad examples of discriminatory speech in the media and the public in the period between March 2012 and March 2013. Firstly, there were several articles portraying asylum seekers in a negative way. One such article, which gained a lot of public attention, was published in the best-selling daily newspaper *Jutarnji List* entitled “We are not racist, but it is not pleasant. Those people are wandering around and looking at our girls – Inhabitants of Dugave after the fight of asylum seekers”.<sup>116</sup> In this article, asylum seekers were portrayed as a threat to the inhabitants of Dugave, a neighbourhood of Zagreb where the Asylum Reception Centre is placed. A substantial amount of public attention was directed towards two events in which the majority population targeted the Roma community. One of them took place when a Roma family had to leave a small town of Škabrnja where they were living as a result of a series of protests directed against them.<sup>117</sup> Unfortunately, neither the police nor the local government did enough to stop this discriminatory behaviour by the local Croatian population. Another unfortunate event took place in the region of Međimurje which has traditionally been inhabited by Roma. In the town of Gornji Hrašćan, a group of parents also organized a set of protests to prevent Roma children to attend the school.<sup>118</sup>

Another event that caught a lot of public attention, but also critique was a statement made by Ruža Tomašić, a right-wing politician that was a member of the Croatian Parliament at the time, and now is a member of European Parliament, who said that “Croatia is for Croats” while “everyone else are just guests”.<sup>119</sup> This statement did get a serious critique by most of the relevant political actors in the country, including the Prime Minister Zoran Milanović, but Ruža Tomašić’s large success at the EU elections does give us a good reason to worry.

Therefore, although Croatia has done a lot of work in setting the framework for combating discrimination, it is certain that the situation is far from satisfying: more attention still needs to be given to the adequate implementation of the anti-discrimination policies and in changing the public perception about ethnic minority groups and immigrants.

## 5.2 Conclusions and recommendations

The following years will be a large challenge for Croatia when it comes to combating discrimination. Positive changes have been made in terms of legislation, institutional framework and public policy during the pre-accession period. Although the key motive for bringing these policies was largely accession to the EU, Croatia should keep combating discrimination as one of the priorities in the following years. New anti-discrimination policies which are targeted more on education and the elimination of prejudice should be created and more attention should be given to the correct

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<sup>116</sup> *Jutarnji List*, „We are not racist, but it is not pleasant. Those people are wandering around and looking at our girls – Inhabitants of Dugave after the fight of asylum seekers“, Butorac D., 7 February 2013.

<sup>117</sup> *Večernji List*, “Roma Family Đanija because of Threats Left Škabrnja”, Lucić A., 3 May 2012.

<sup>118</sup> *Novi List*, “Little Roma Arrived to School under the Police Escort”, Bratonja Martinović LJ., 18 September 2012.

<sup>119</sup> *Dnevnik.hr*, <http://dnevnik.hr/vijesti/hrvatska/ruza-tomasic-hrvatska-je-za-hrvate-ostali-su-gosti---278716.html>, accessed September 10<sup>th</sup> 2013.

implementation of these policies. Based on this Report, recommendations to combat ethnic and racial discrimination are:

- The Croatian Employment Agency and Croatian Bureau of Statistics should collect data about key labour market indicators disaggregated according to ethnicity. This includes indicators like unemployment rate, employment rate, activity rate etc.
- Public institutions should raise the general public's awareness about discrimination through public campaigns and education.
- The state institutions responsible for the creation of anti-discrimination policies should conduct research on racial, ethnic and religious discrimination and public opinion about minority groups.
- The government should encourage academic and scientific institutions to research racial, ethnic and religious discrimination and public opinion about minority groups.
- More needs to be done on changing the public's perception about minorities and migrants. The public policies designed to combat discrimination in employment should include educative measures that would tackle the problem of prejudice against minorities.
- Media, and especially public media, should be aware of their power in shaping public opinion and be more responsible when reporting on national minorities and migrants. They should also encourage and be an active participant in eliminating prejudice and stereotypes about minorities and migrants.
- Transparency of employment procedures, both in the private and public sectors, should be enhanced in order to eliminate possibilities of discrimination and other problematic practices in employment.
- The Ministry of Science, Education and Sport should design a model to recognise refugees' earlier qualifications in cases when formal documents are not available or incomplete, in order to enable their further education and employment.
- The Ministry of Science, Education and Sport should ensure the provision of Croatian language courses to refugees, according to the Asylum Act, and to asylum seekers from the first day of lodging application.
- The Ministry of Science, Education and Sport should continue implementing measures designed to ensure access to education on all levels - elementary, secondary and high.
- Employers should make internal regulations against harassment in the workplace and sanction this kind of practice.
- Employers should ensure religious rights of minorities in the workplace in a way that would enable them to exercise their freedom of religion. State institutions should sanction employers' failure to accommodate to right to religion.
- The Ministry of Justice should collect data and statistics about discrimination in a way which includes more aspects: the fields where discrimination happens, economic sectors, victims by ethnicity, race and religion etc.
- The Ministry of Justice should publish the case-law brought under the Anti-discrimination Act on their official web-site.
- The government should design anti-discrimination policies in a way which specifically targets certain economic sectors and geographical areas based on the local needs, as defined in accordance with available research.
- Local governments should create their own anti-discrimination policies that specifically answer to the local needs, depending on specific local context, but in accordance with policies at the national level.
- Development of civil society in certain areas (especially areas of special state concern) should be encouraged.
- The government should continue to develop and implement anti-discrimination policies after EU accession.

- The government should create a new National Plan for Combating Discrimination that will be based on a proper analysis of the current situation, include aims that are sustainable and measures that are connected to these aims.
  - The government should enforce the Action Plan on the Implementation of the Constitutional Act on the Rights of National Minorities for the Period 2011 – 2014 and Plan of Admission of the Members of National Minorities into State Services to the Bodies of State Administration for the Period 2011/2014 more seriously and to increase, not decrease, the number of members belonging to national minority groups employed in the public services.
  - The government should base policies on evidence obtained by research and the design of goals and measures should be logically connected to the problems the policy is trying to influence.
  - The government should allocate more financial means for the implementation of anti-discrimination policies.
  - The implementation of all public policies should be properly monitored during implementation and evaluated after their implementation.
  - Greater financial resources should be allocated to the Ombudsman Office for increasing human resources employed at the Office and to open Ombudsman offices in other cities, besides Zagreb.
  - The Labour Inspectorate should pay more attention and act in the cases of discrimination in employment.
- Trade unions and employer's organizations should raise their capacities in the field of employment discrimination and deal with this issue more.

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