

**Program**  
**Advancing Inclusion of Vulnerable Groups in SEE: Minority Rights Advocacy in the EU**  
**Accession Process**

November 20, 2007  
Brussels

**A Brief Reflection on the EC 2007 Progress Report on Croatia from the Perspective of Minority Rights**

Submitted by:

Ljubomir Mikic, president

The Center for Peace, Legal Advice and Psychosocial Assistance – Vukovar

Antuna Tomasevica 32, 32 000 Vukovar, Croatia

Tel/fax: +385 (0)32 413 319; +385 (0)32 413 317

E-mail: [center-za-mir@vk.t-com.hr](mailto:center-za-mir@vk.t-com.hr)

web-page: [www.center4peace.org](http://www.center4peace.org)

Ladies and Gentlemen,

I would like to thank to all of you for giving me the opportunity to address this meeting. My name is Ljubomir Mikic and I represent the Center for Peace, Legal Advice and Psychosocial Assistance, a partner organization under the Advancing Inclusion of Vulnerable Groups in SEE Program from Croatia.

The statement to follow presents a brief reflection on the EC 2007 Progress Report on Croatia from the perspective of minority rights.

As it is well known the Republic of Croatia, in many occasions, expressed its commitment to human rights and specific rights of persons belonging to national minorities. Political statements were followed by a number of undertaken measures towards improvement of national legislative framework and practical implementation of adopted provisions and policies. However, protection of minorities and exercising of some specific minority rights in practice remain problematic. In its 2007 Progress Report on Croatia the EC tackled and pointed out key issues of concern, including the rule of law and effectiveness in functioning of the state administration and judiciary.

Although the "limited progress" has been achieved, there is a number of issues referring to the need for overcoming problems and challenges in a practical implementation of the Constitutional Law on the Rights of National Minorities:

- Minorities remain highly under-represented in bodies of state administration, the judiciary and the police. Certain progress has been achieved by the adoption of some legislative amendments and by development of minority recruitment strategies. However, securing full implementation of legal provisions in regard to adequate minority representation in above-mentioned state institutions will depend, amongst other, on adoption of long term and comprehensive recruitment strategies, raising awareness of a wider public on related minority rights, and of development of an effective monitoring system;

- Exercising of the right to equal official use of minority languages remains problematic in some local areas. This problem refers to either full implementation of officially recognized bilingual rights or to the issue of introduction of official bilingualism in accordance with relevant national and international standards e.g. obligations set by the European Charter on Regional or Minority Languages;

- Exercising of minority educational rights has been improved in previous period to a certain extent. However, certain level of legal uncertainty and inconsistencies in regard to registration of school

institutions with education in minority languages, in particular Serbian language in Eastern Croatia, remain problematic;

- Situation regarding broadcastings in minority languages and access of minorities to broadcasting media should be improved as their adequate representation in public TV and radio stations programs has not been ensured for all minorities of concern;

- Improving and strengthening participation of national minorities in the public life and in managing local affairs through Councils and individual Representatives of National Minorities should be prioritized in the forthcoming period. This, in particular bearing in mind recently organized elections for Councils and Representatives, and a number of shortcomings and problems in functioning of these minority institutions in previous period 2003 – 2007. Strengthening their position, role and effectiveness; adequate provision of material and technical support for their functioning, and adequate trainings; as well as wider recognition of their legitimate capacities to advise local and regional authorities on minority related issues, will be the main challenges in days to come.

Besides securing preconditions for quality implementation of the Constitutional Law and other relevant national and international legal provisions, the Government should establish a comprehensive and effective monitoring system as well as to secure coordination amongst administrative bodies and other relevant institutions at all levels in this regard. Official interpretation and clarification of any legal or terminological uncertainties should be provided within reasonable timeframe.

Allegations on discrimination of minorities should be closely monitored and investigated more intensively and effectively. Process of adoption of a National Strategy on Preventing all Forms of Discrimination lasts for years and its finalizing should be further encouraged. The Government launched preparations on drafting comprehensive antidiscrimination legislation and this process should include all relevant stakeholders on national level. Future Law on Free Legal Aid should secure more effective access to justice to all persons belonging to national minorities in regard to protection of their human and specific minority rights, including protection against various forms of discrimination based on their ethnicity.

There is a remaining need for more efforts to be put on preventing and investigating ethnically motivated incidents and on promoting interethnic tolerance and understanding at all levels.

Position of Roma minority deserves special attention and efforts made by authorities in implementation of the National Program for Roma and the National Action Plan for the Decade of Roma Inclusion should be welcomed but also continued and intensified.

There was a significant progress in regard to minority displaced population, in particular minority Serbs, returns. However, return and integration as well as access to variety of acquired rights of displaced Serbs should be considered as issues of concern.

In regard to property rights it should be pointed out that the process of repossession of the temporarily occupied private housing units is near its successful end. However, in administrative and court proceedings involving the restitution of private housing units, supremacy is given to temporary occupants over rightful owners. This principle was successfully challenged before the European Court for Human Rights. Remaining problems refer to the fact that administrative mechanisms for the restitution of illegally taken agricultural land and business premises as well as for repossession of movable properties placed under temporary administration of the Republic of Croatia have not been established.

A specific problem that should be considered at the cross-border level refers to different court practices in B&H and Croatia in relation to cancellation of contracts on purchase or exchange of the real estates concluded between refugees originating from two different successor states, if such contracts had been entered under pressure or contrary to the provisions of the domestic Civil Code and/or international law. These contracts are annulled in B&H in almost all cases where the lawsuit is instigated, while this is not the case in Croatia, which results in a situation that a party occupying exchanged property in Croatia is recognized as a lawful owner in both states. This problem remains unresolved, although the legal framework for resolution of such issues exists in the form of the treaty ratified by all former SFRY republics.

Process of reconstruction of destroyed and damaged housing units in private ownership is progressing but affected by a number of shortcomings in implementation of the Law on General Administrative Procedure, excessive lengths of proceedings - exceeding prescribed deadlines in bringing decisions, poor quality of the first instance proceedings, numerous mistakes in damage assessment procedures, evidence establishment procedure and assessment of validity of evidence, extending eligibility conditions beyond those stipulated by the Law on Reconstruction, etc.

Access to housing care by former holders of occupancy/tenancy rights to socially-owned flats in larger urban areas remains slow and problematic in particular. Displaced persons/returnees, who are provided with the housing care, use these housing units on the basis of the Consent which is issued by the Office for Displaced Persons and Refugees (ODPR). This ODPR practice is in discrepancy with the Law on General Administrative Procedure which stipulates obligation of the first instance body to issue a decision when determining the particular right of the applicant. As a consequence of such ODPR practice, legal remedy is not available and beneficiaries are lacking ability to request protection of their rights in the court procedure. Data disaggregated on the basis of the status and/or ethnicity of the beneficiaries are not made available, thus the number of minority beneficiaries of housing programs, returnees from abroad, is difficult to be precisely determined.

Regional process initiated by signing Sarajevo Declaration and intended to close refugee chapter in the region got stuck to certain extent. Issues referring to solutions / compensation claims of former occupancy / tenancy rights holders and extension of the time limit for filling claims for recognition of working years realized in the formerly occupied areas of Croatia (highlighted as a short-term priority in the Accession Partnership process with the European Union) remain open/unresolved within the process.

Considering all mentioned including the fact that EU/EC become the most influential corrective mechanism regarding the work of Croatian government, I use this opportunity to call the European Union to continue with its effort to contribute improvement of human and specific minority rights in Croatia, and to prioritize the respect for human / minority rights and fulfillment of Croatia's international commitments within the negotiation framework for Croatia's EU membership.

Thank you very much for your attention and I remain at your disposal for any additional comments.

Ljubomir Mikic