

Immigration and Refugee Board of Canada

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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [✉ Knowledge and Information Management Unit](#).

3 July 2014

HRV104893.E

Croatia: Police complaint mechanisms, including effectiveness (2012-June 2014)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Internal Police Complaint Mechanisms

Complaint mechanisms within the Croatian police are addressed in Article 5 of the *Police Act*, which states the following:

Article 5

When a natural or legal person files a petition or a complaint relating to the work of a police officer or some other employee of the Ministry [of the Interior], a Police organizational unit, or some other organizational unit of the Ministry respectively, stating that by some illegal or irregular action of a police officer or another employee of the Ministry, his/her or someone else's rights have been violated, or that the law has been breached, a head of the competent organizational unit is obliged to notify the applicant of the petition or a complaint of the facts established and the measures taken, within the period of 30 days from the day of the receipt of such a petition or a complaint.

Where a complainant is dissatisfied with the answer and the procedures implemented for the purpose of verifying allegations, the case file shall, without delay, be forwarded to the Complaint's Commission of the Ministry, for further processing.

The Commission under paragraph 2 of the present Article consists of three members: a police officer from the Ministry and two representatives of the public nominated by the Sabor Committee for Human Rights and Minority Rights upon proposal of civil society organizations, professional society organizations and non-governmental organizations.

The Ministry keeps records of the petitions and complaints.

The Minister passes an Ordinance on *modus operandi* regarding petitions and complaints, on keeping records under Paragraph 4 of the present Article, as well as on the performance of the Commission. (Croatia 2011, Art. 5)

The following information was provided in a telephone interview with the Research Directorate by a representative of Center for Peace Studies (Centar za mirovne studije, CMS) [1], who was also one of the three volunteers who formed the Council for Oversight of Police Conduct of Citizens, which was set up in 2013 (CMS 6 June 2014). The CMS representative explained that there are police complaints mechanisms within the police at the local and national level (*ibid.*). She outlined the procedures for making a complaint at the local station as follows:

The person can make a complaint in person or in writing (letter, e-mail) to the head of police at the police station where the incident occurred. They should receive a receipt for the complaint when they make it. The police are required to investigate and give the person a report of whether there was a violation when the decision is made. (*ibid.*)

The CMS representative also said that there are no restrictions on making a complaint against the police, including no time limit for making a complaint and no restrictions based on the subject or type of complaint (*ibid.*). She said that the time it takes to investigate police complaints varies depending on the claim and the circumstances at the police station, and can take anywhere from one month to one year (*ibid.*).

The CMS representative also said that when the investigation is completed, the decisions are often very general rather than being specific about the case, and often have the same wording, like of that in a form letter (*ibid.*). Because of this, claimants are often unclear as to whether the incident was investigated and what actions were taken (*ibid.*). She also said that the police investigations "rarely find a misuse of power" (*ibid.*).

Corroboration for the information provided by the CMS representative could not be found among the sources consulted within the time constraints of this Response.

The CMS representative explained that claimants who are dissatisfied with the outcome of their complaints at the local level can appeal their cases to the Internal Control of the Ministry of the Interior (*ibid.*). In correspondence with the Research Directorate, a representative of the Ombudsman's Office also indicated that the Internal Control of the Ministry of the Interior handles complaints against police officers (Croatia 12 June 2014). According to the CMS representative, there is no set time limit for the Internal Control to investigate complaints (CMS 6 June 2014). She indicated that they first look at what happened during the investigation at the lower level and then decide whether to take further action (*ibid.*). She said that there are no restrictions on appealing cases to the Internal Control, and that the complaints vary from very minor problems to very complex cases of serious violations (*ibid.*). She said that the Internal Control usually finds in favour of the original decision at the local level (*ibid.*). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the statistics of the Ministry of the Interior, in 2012, the Ministry received 1,651 police complaints and had 197 carried over from earlier years (Croatia 2013a, 144). Of those complaints, 1,587 were processed with the following results: 1,320 unfounded; 120 not confirmed; 87 partly justified; 60 justified (*ibid.*). For 2013, the Ministry of the Interior received 2,539 police complaints and had 277 carried over from earlier years (Croatia 2014, 152). Of those complaints, 2,262 were processed with the following results: 1,779 unfounded; 266 not confirmed; 139 partly justified; and 78 justified (*ibid.*). The Ombudsman indicated that the Ministry of the Interior's Internal Control Service

handled 2,238 complaints in 2013, of which 3.4 percent were founded, 5.7 percent were partially founded, and 90 percent were not founded (Croatia 12 June 2014).

The CMS representative expressed the opinion that the internal police complaints mechanisms were "not very effective" and "not efficient" (CMS 6 June 2014). She said:

Because there are no guidelines on the types of complaints that can be made, there are too many minor cases brought before the police and it takes time away from the serious cases. There are not enough resources investigating the serious cases. It is unclear what actions are taken during the police investigation into the complaint. (ibid.)

Further and corroborating information about the internal police mechanisms could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Civilian Oversight of Police

Sources indicate that there is also a civilian oversight council for dealing with citizens' complaints against the police (Croatia 12 June 2014; HINA 21 Dec. 2012; CMS 6 June 2014). It began working in 2013 (ibid.; HINA 21 Dec. 2012). According to the CMS representative, the Council's name is translated as "Council for Oversight of Police Conduct of Citizens" (CMS 6 June 2014), while the Ombudsperson's Office described it as "Committee for dealing with complaints against the police" (Croatia 12 June 2014) and the Croatian new agency HINA calls it the "Police Complaints Commission" (HINA 21 Dec. 2012). The council is composed of three members (Croatia 12 June 2014; CMS 6 June 2014; HINA 21 Dec. 2012), one from the Ministry of the Interior and two from NGOs (ibid.; Croatia 12 June 2014). According to HINA, the representatives from the public are appointed by the parliamentary Committee on Human and Minority Rights (21 Dec. 2012). The representative from CMS, who was a member of the council until she recently resigned, said that the oversight council met once every two weeks to review cases (CMS 6 June 2014). She said that, as of June 2014, the oversight council was temporarily inactive and will not become active again until a third member is elected (ibid.).

The CMS representative explained that the council does not have investigative powers and does not have authority to hold hearings (ibid.). She said that the council can send cases for internal review by the police, but that in doing so, they are still relying on information provided by the police (ibid.). She said that the Council reviewed approximately 50 cases and had a backlog of more than 200 cases (ibid.). According to the Ombudsperson's Office, the Council received 221 complaints in 2013 and resolved 45 cases (Croatia 12 June 2014). No "irregularity" was found in 77.8 percent of these cases (ibid.).

The CMS representative further explained that, regarding the Council's decisions:

The findings of the Council are not binding. When the Council makes a decision regarding violations, they send the decision to the head of police with the recommendation to take sanctions. However, the Council is not told whether the sanctions happen and does not have the right to ask for this information. (CMS 6 June 2014)

Corroborating information about the decisions of the Council could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The CMS representative expressed the opinion that the Council was "not effective" and "hindered by a lack of power and resources" (ibid.). The Ombudsperson's Office similarly said that the Council experienced problems due to the large number of complaints, which are handled by only three members

(Croatia 12 June 2014). During a debate on the civilian control of police powers in April 2014, the Chair of the parliamentary human rights committee reportedly said that "the Police Act should be amended to strengthen the work of the commission dealing with complaints about police conduct because of the many complaints filed by citizens" (HINA 1 Apr. 2014).

The CMS representative also said that there were several cases where "there appeared to be serious violations" but the Council was unable to confirm them because they lacked investigative powers (CMS 6 June 2014).

3. Ombudsperson's Office

Sources indicate that people can also address complaints against the police to the Ombudsperson's Office (Croatia 12 June 2014; CMS 6 June 2014). Article 4 of the *Ombudsman's Act* outlines one of the functions of the Ombudsman's Office as follows:

The Ombudsman shall promote and protect human rights and freedoms and the rule of law by examining the complaints of the existence of unlawful practices and irregularities with respect to the work of government bodies, bodies of local and regional self-government units, legal persons vested with public authority and legal and natural persons in accordance with special laws. (Croatia 2012)

Sources indicate that the Croatian Constitution stipulates the independence of the Ombudsman's Office (Croatia n.d.; European Network 2013, 67) and that it is considered as independent by stakeholders (ibid.).

According to the information posted on the website of the Ombudsman's Office, complaints can be addressed to the Ombudsman in writing (mail, fax or e-mail), by phone or in person (Croatia n.d.). The complaint must contain: the complainant's name and address; the name of the body that the complaint is against; the case number given by the body related to the complaint; copies of relevant documents; and a description of the problem, specifying what rights were violated and whether legal remedies were used (ibid.). The same source indicates that the claimant should receive an answer from the Ombudsman about the first steps taken in the case within 30 days from filing the complaint (ibid.).

The representative of the Ombudsperson's Office explained the procedures for investigating claims against the police, and other state bodies, as follows:

Anyone who considers that the state bodies, including the police, have jeopardized or violated, through their illegal or irregular work, his/her constitutional or statutory rights and freedoms may lodge a complaint to the Ombudsman with the aim of initiating a proceeding.

The Ombudsman may also on his/her own initiative initiate a proceeding for the purpose of investigating individual or recurrent violations of constitutional and statutory rights and freedoms.

When the Ombudsman conducts a proceeding, he/she will request necessary information, data, explanations, acts and relevant documentation from state bodies against which work ... a complaint [was] lodged.

The bodies are obliged to ensure the access to all data, information and acts related to the filed complaint, or provide all the necessary assistance to the Ombudsman at his/her request.

When the Ombudsman concludes the investigation of a complaint, he/she prepares a case report which [he/she] delivers to the body to which the complaint refers and to the complainant.

The case report contains the assessment of whether the complainant's constitutional or statutory rights have been violated and the manner in which the rights were jeopardized or violated.

In the case report, the Ombudsman, where possible, recommends or proposed to the body the way the threat or the violation of the right in question may be averted. (Croatia 12 June 2014)

The representative of the Ombudsperson's Office noted that the Ombudsperson can initiate criminal, misdemeanour or disciplinary proceedings if the situation warrants such action (Croatia 12 June. 2014). The respondent is also obliged to notify the Ombudsperson's Office of the measures taken as a result of their recommendation (ibid.). The Ombudsperson can also notify the public and parliament of serious violations and cases in which their recommendations went unheeded (ibid.).

According to the CMS representative, the Ombudsperson's Office can address complaints against the police by arranging interviews, warning the police, and reporting to the public and to parliament, but the Ombudsperson's Office does not have investigative powers and cannot make binding rulings (CMS 6 June 2014). A country report on Croatia, which was drafted for the European Network of Legal Experts in the Non-discrimination Field as part of a study of measures to combat discrimination in EU member states, similarly indicates that the Ombudsperson does not have the authority to pass binding decisions, nor to impose sanctions (European Network 2013, 70).

According to a summary of the Ombudsperson's report for 2012, there were 53 complaints about the conduct of police officers reported to the Ombudsperson's Office in 2012 (Croatia Mar. 2013, 5). Regarding these complaints, the report states:

Complaints filed to the Ombudsman referred to unprofessional and unethical conduct of police officers towards citizens, to uncalled-for or excessive use of coercive measures, and to negligence or biased conduct in the process of determining the elements of a criminal offence. At the Ombudsman's request, Internal Control Department delivered reports on conducted investigations, but it is felt that these investigations are conducted formally, as the information on specific actions taken during the investigative procedures is missing. Replies of this kind cast doubt on the objectivity of procedures and unbiased work of the Internal Control Department. In certain cases, the Ombudsman detected gaps and lack of logic, so irregularities in the conduct of the official person were determined upon a requested examination. (ibid., 10-11)

According to the representative of the Ombudsman's Office, their office received 186 complaints against the police in 2013, which amounted to 6 percent of the total number of complaints that the Ombudsman received during that year (Croatia 12 June 2014).

The Ombudsperson's Office conducts inspections of detention centres in Croatia within the context of the National Preventive Mechanism (NPM) against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Croatia 2013b, 8). In 2012, their investigations included inspections of detention units within the Osijek and Baranja police administration and the Zagreb police administration (ibid., 13). According to their report, no one detained lodged any complaints against police officers during these visits (ibid., 19-20).

The European Commission Against Racism and Intolerance (ECRI) expressed concern at the lack of adequate funding for the Ombudsman's Office (COE 25 Sept. 2012, para. 51). Sources indicate that the Office has the same budget and number of staff despite taking on the added role of implementing the Anti-Discrimination Act in 2009 (ibid.; European Network 2013, 68). According to the the European Network of Legal Experts in the Non-Discrimination Field, there were a total of 31 officials working in the Ombudsman's Office as of 1 January 2013 (ibid.).

4. Other Police Complaints Mechanisms

The CMS representative said that in cases of discriminatory treatment by the police, the claimant has the option of addressing the claim through the judiciary system, either through criminal or civil procedures depending on the case (CMS 6 June 2014). She said that if the discrimination constitutes a criminal offence, the person can report it to the Public Attorney's Office, who then handles the claim (ibid.). She said that in civil cases, the claimant needs to pay the court fee in advance, but may receive compensation if the claim is successful (ibid.). She noted that even though there is a law regarding free legal aid to those in need, there is not sufficient funding from the state (ibid.).

Without providing details, the representative of the Ombudsperson's Office indicated that the Parliamentary Committee for Internal Policy and National Security plays a role in the supervision of police performance (Croatia 12 June 2014).

Further and corroborating information about the use of the judiciary system or the Parliamentary Committee for Internal Policy and National Security to address complaints against the police could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] According to the Human Rights House Network (HRH), a community of 70 NGOs in 15 countries, including Croatia, working to support human rights organizations (HRH n.d.a), CMS is a Zagreb-based NGO that "promotes non-violence and social change linking education, research and activism" (HRH n.d.b).

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Additional Sources Consulted

Oral sources: Attempts to contact representatives of the following organizations were unsuccessful within the time constraints of this Response: Croatia – Office for Human Rights and Rights of National Minorities; Croatian Helsinki Committee for Human Rights; Gradanski Odbor za Ljudska Prava; Serbian National Council. Representatives of the following organizations were unable to provide information: Croatian Law Centre; Embassy of the Republic of Croatia in Ottawa.

Internet sites, including: Amnesty International; *Balkan Insight*; Croatia – Ministry of Justice, Office for Human Rights and Rights of National Minorities; Croatian Helsinki Committee for Human Rights; Croatian Law Centre; *Croatian Times*; ecoinet; European Network Against Racism; European Roma Rights Centre; Factiva; Freedom House; Gradanski Odbor za Ljudska Prava; Human Rights Watch; Interpol; Organisation for Security and Co-operation in Europe; Radio Free Europe/Radio Liberty; UN – Refworld; US – Department of State.

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