COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN SOCIAL CHARTER

First report on the implementation of
the Additional Protocol to
the European Social Charter

submitted by

THE GOVERNMENT OF CROATIA

(for the period 1 April 2003 to 31 December 2004:
Articles 1, 2 and 3)

Report registered at the Secretariat on 14 February 2006

CYCLE XVIII-1

FORM
for the application of the Additional Protocol of 5 May 1988
Adopted by the Committee of Ministers at the 485th meeting of the Ministers' Deputies on 28 May 1991
FORM FOR THE APPLICATION OF THE ADDITIONAL PROTOCOL OF 5 MAY 1988

(To be completed in English or in French)

Report of the Government of The Republic of Croatia[1] for the period January 2003 to December 2004 in pursuance of Article 6 of the Protocol to the European Social Charter, on the measures taken to give effect to the accepted provisions of the Protocol to the European Social Charter, the instrument of ratification or approval of which was deposited on 26 February 2003.

In accordance with Article 8 of the Protocol and Article 23 of the Charter, copies of this report in the english language have been communicated to Union of Autonomous Trade Unions of Croatia, the Croatian Association of Trade Unions, the Federation of Croatian Trade Unions of Public Services, the Independent Trade Unions of Croatia, the Association of Workers' Trade Unions of Croatia, the UNI-CRO Trade Union of Services and the Croatian Association of Employers.

The reports drawn up on the basis of this form should give, for each accepted provision of the Protocol, full information on the measures adopted to ensure its application, mentioning in particular:
1. any laws or regulations, collective agreements or other provisions relevant to its application;
2. any court decisions on question of principle relating to these provisions;
3. any factual information making it possible to assess the extent to which these provisions are applied, in particular in relation to the questions specified in this form.

A Contracting Party's report should be accompanied by the relevant laws and regulations relating to the subject matter. These may be sent in their original language by the Contracting Parties may be asked to supply a translation.

The Contracting Parties may, when considered useful, attach reports submitted in pursuance of any particular ILO convention to their report.

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1 To be completed in English or French.

The information asked for, especially statistics should in principle refer to the period covered by the report. If complete statistics are lacking, governments may naturally supply data or
estimates based on *ad hoc* studies, specialised or sample surveys or other scientifically approved methods.

The replies of the governments should specify:
a. whether they are only concerned with the situation of nationals or whether they apply equally to the national of other Contracting Parties (see Appendix to the Protocol);
b. whether they are valid for the national territory in its entirely, including the other territories (if any) to which the Protocol applies by virtue of Article 9;
c. whether they apply to all categories of persons included in the scope of the provisions.

The Contracting Parties are asked, in their first report, to answer all the questions and, in subsequent reports, to update information given previously. However, to avoid repetition, answers may consist in a reference to a part of the report concerning a particular provision of the Charter.

ARTICLE 1: RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATIONS WITHOUT DISCRIMINATION ON GROUNDS OF SEX

"1. With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promotion its application in the following fields:

– access to employment, protection against dismissal and occupational resettlement;

– vocational guidance, training and rehabilitation;

– terms of employment and working conditions, including remuneration;

– career development, including promotion.

2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall be to deemed to be discrimination as referred to in paragraph 1 of this article.

3. Paragraph 1 of this article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.

4. Occupational activities which, by reason of their mature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provision."

[The Appendix to the Protocol states that:

Article 1

It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.

Article 1 para. 4

The provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carries out, may be reserved to persons of a particular sex.]

A. Please state the specific provisions in statues, examples of significant collective agreements, etc. which, in your country, forbid direct and indirect discrimination on grounds of sex in the areas covered by paragraph 1 of Article 1.

Under Article 106 of the Criminal Code, whoever denies or limits the freedoms or human rights laid down in the Constitution, laws or other regulations on the ground of difference in race, colour, sex, language, religion, political or other belief, national or social background, financial status, birth, education, social status or other characteristics, affiliation to an ethnic or national community or minority in the Republic of Croatia, or whoever, on the ground of such a difference or affiliation, grants citizens any privileges or advantages, is to be punished by imprisonment for six months to five years.

Labour Act regulate the issues of prohibition of discrimination of persons seeking employment and workers in a completely new way, in accordance with the European legislation.

In particular, these provisions define what is considered direct and indirect discrimination and what is not considered discrimination. They also define harassment and sexual harassment, as forms of discrimination. In addition, they provide for the right to compensation for damage in case of discrimination and explicitly regulate that in case of a discrimination-related dispute, the burden of proof lays on the employer. There is also a provision stating that direct and indirect discrimination of a person seeking employment and employed person (employee, civil service employee, civil servant or other worker – hereinafter: "the worker") is, amongst other things, prohibited on the grounds of membership or non-membership of a trade union.

The amendments to Article 2 of the Labour Act defined direct and indirect discrimination by providing that direct discrimination is any treatment based on some of the grounds (race, colour, gender, sexual orientation, marital status, family responsibilities, age, language, religion, political or other belief, national or social background, financial status, birth, social status, membership or non-membership of a political party or trade union, and physical or psychological difficulties) whereby a person seeking employment or employed person is or was or could be placed in a less favourable position than other persons in a comparable situation.

Indirect discrimination exists when an apparently neutral provision, criterion or practice places or would place a person seeking employment or employed person in a less favourable position than other persons, on the basis of his or her particular characteristics, status, orientation, belief or system of values which constitute grounds for prohibition of discrimination.

Discrimination is forbidden with regard to:

1. requirements for employment, including the criteria and requirements for the selection of candidates for the performance of a particular job, in any branch of activity and at all levels of the professional hierarchy,

2. promotion,

3. access to all types and levels of occupational training, additional training and retraining,

4. employment and working conditions and all the rights arising from employment and related to employment, including equal pay,

5. termination of employment contracts,

6. membership of and involvement in workers' or employers' associations or in any other professional organisation, including benefits arising from this membership.

A collective agreement, employment rules or employment contract must not contain any provisions which would result in discrimination on any of the grounds mentioned.

Any distinction, exclusion or preference in respect of a particular job is not considered discrimination when the nature of the job or conditions in which it is performed are such that characteristics related to particular grounds for discrimination constitute a genuine and determining occupational requirement, provided that the objective aimed to be achieved is legitimate and that the requirement is proportionate.

Any measures provided for by this or another law, and their provisions and provisions of collective agreements, employment rules and employment contracts relating to special protection and assistance for specific categories of workers, and in particular those governing special protection of and assistance to disabled persons, elderly workers, pregnant women and women exercising any of the maternity protection rights, as well as the provisions relating to special rights for parents, adoptive parents and guardians are also not considered discrimination nor may be grounds for discrimination.

Article 4 also regulates harassment by stating that harassment is any unwanted conduct based on any of the above grounds intended to, or actually undermining the dignity of a person seeking employment and worker and creating an intimidating, hostile, degrading or offensive environment.

Furthermore, the *Gender Equality Act* prohibits gender-based direct and indirect discrimination in all spheres of public and private life and defines the term "direct and indirect discrimination" stating that it exists if a person is or could be treated in a less favourable manner in the same or similar circumstances than another person of different gender. Under Article 13 of this Act, discrimination is prohibited in the field of employment and labour in the public and private sector (including state bodies), in relation to requirements for employment, self-employment and practising a profession, including the criteria and conditions for the selection of the candidate for the performance of a particular job, in any branch of activity and at all levels of professional hierarchy, promotion, access to all types and degrees of education, vocational guidance, occupational improvement and training, additional training and retraining, conditions of employment and work, all the rights arising from employment and related to employment, including equal pay, and membership of and involvement in workers' and employers' associations or in any other professional organisation, including benefits deriving from this membership.

At the same time, the *Homosexual Unions Act* (*Official Gazette*, no. 116/03) prohibits any discrimination, including unequal treatment in employment and in the field of work on the ground of living in a homosexual union and on the ground of homosexual orientation.

B. Please describe all significant case law and other decisions in the field covered by paragraph 1 of Article 1.

C. Please state the guarantees provided for the recognition of the right to equal treatment to which male and female workers are entitled, in particular the protection provided against possible retaliatory measures taken by an employer following a complaint or legal proceedings for discrimination.

In case of discrimination, the Public Prosecution Office intervenes *ex officio* or the case is solved in proceedings before the municipal court, instituted by a private charge.

First of all, a victim of discrimination may file a complaint with the competent ministry, which takes the form of either an appeal or objection in second-instance proceedings, or of a petition. The Ministry is obliged to respond within 30 days. In case of an appeal, the Ministry renders a second-instance decision, whereas in case of a petition it carries out administrative supervision and orders that necessary measures be taken to remove the irregularities. If the case concerned is about labour law, a lawsuit is filed with the municipal court which has jurisdiction. When it comes to employment of civil servants in state administration and units of local and regional self-government, a lawsuit is filed with the Administrative Court. In addition, also in relation to employment, a worker who was a victim of harassment may file a complaint with his or her employer for the protection of his or her dignity. In case of a criminal offence, the Gender Equality Act authorises the Ombudsperson for Gender Equality to file a motion with the Public Prosecution Office for instituting criminal proceedings against the person who committed the criminal offence.

If the victim of discrimination has not realised his or her rights by this stage, he or she may file a constitutional complaint with the Constitutional Court. The Constitutional Court has the authority to hear cases involving violations of human rights, including those relating to discrimination at the workplace. According to the Constitutional Act on the Constitutional Court (*Official Gazette*, nos. 99/99 and 29/02), an individual may only lodge a constitutional complaint after having exhausted other regular legal remedies. However, there are two important exemptions, which make it possible for an individual to lodge a constitutional complaint even if regular legal remedies have not been exhausted. These exemptions apply to cases when proceedings before the court with jurisdiction have lasted an unreasonably long time and in cases of gross violations of the rights guaranteed by the Constitution. A decision by the Constitutional Court is final and by its adoption domestic legal remedies are considered exhausted. The legal remedy which remains available after that is the application with the European Court of Human Rights in Strasbourg.

In these cases of discrimination (Article 2 of the Labour Act) and in cases of harassment (Article 4 of the Labour Act), a person seeking employment may claim compensation for damage under the general rules of the law of civil obligations, whereas a worker may claim compensation for damage under the provisions of Article 109 of the Labour Act.

The Labour Act provides that a person seeking employment or worker suffering damage due to discrimination may request compensation for damage before the court of general jurisdiction, according to the general rules of the law of civil obligations, and the amount of damages is determined for each particular case, in accordance with the case law established.

The regulations have not established any limits on damages, which would be binding on the court with jurisdiction when it renders its decision in a particular case.

Also, if, in case of dispute, a person seeking employment presents the facts that give rise to a reasonable doubt that the employer acted contrary to the provisions of the Labour Act, the employer has the burden of proof to show that there was no discrimination or that he or she acted in compliance with the provisions establishing exemptions from prohibition of discrimination.

D. Please state the measures taken and the machinery established in your country to guarantee or promote in practice equality of opportunity and equal treatment. This information should be specified according to the various areas listed in paragraph 1 of Article 1.

The institutional structures which promote, implement and monitor gender equality in the Republic of Croatia are as follows:

Within the Parliament of the Republic of Croatia – the Committee for Gender Equality

Within the Government of the Republic of Croatia – the Commission for Gender Equality and the Office for Gender Equality

Ombudsperson for Gender Equality

Within state administration bodies – Co-ordinators for Gender Equality

The scope of work of the *Parliamentary Committee for Gender Equality* covers the tasks aimed at creating policies and monitoring their implementation. In the legislative procedure, it has the rights and obligations of the main working body in the fields relating to the

enhancement and monitoring of the application of the gender equality principle in the legislation of the Republic of Croatia and, in particular by:

- promoting the signing of international documents on gender equality and monitoring the application of these documents,
- participating in the preparation, implementation and analysis of the National Policy for the Attainment of Gender Equality in the Republic of Croatia,
- co-operation and establishment of measures and activities for the promotion of gender equality rights,
- proposing programmes of measures aimed at elimination of gender-based discrimination,
- encouraging equal representation of sexes in the working bodies and delegations of the Parliament;
- participating in the preparation of documents on the integration activities of the Republic of Croatia, by changing and aligning the legislation and implementing measures for the achievement of gender equality in compliance with the standards applied in the European Union legislation and programmes,
- preparing proposals of laws and other regulations on gender equality,
- introducing the principle of gender equality in the area of education, health, public information, social policy, employment, entrepreneurship, decision-making processes, family relations, and the like,
- encouraging co-operation between the Government Commission for Gender Equality, associations and other institutions.

The *Government Commission for Gender Equality* – which was established in 1996 (as an advisory body composed of representatives of various ministries, other governmental bodies and non-governmental organisations) ceased to exist in 2004 by virtue of a decision by the Government of the Republic of Croatia. The Secretariat of the Commission was established within the Government Office for Human Rights. The Commission established the National Policy for the Promotion of Equality, which was adopted by the Government. It also adopted the Programme for Implementation of the National Policy for the Promotion of Equality in Croatia in the Period 2001-2005. In addition, the Commission initiated work on a law on gender equality, which was adopted some time ago by the Croatian Parliament as the Gender Equality Act. This Act provides for the establishment of two separate bodies, which will be engaged in the fight against gender-based discrimination: the Office for Gender Equality and the Ombudsperson for Gender Equality. In accordance with this Act, the ministers and directors of public administration bodies are obliged to designate a person responsible for all issues related to gender equality.

The *Office for Gender Equality* is a professional service of the Government of the Republic of Croatia responsible for the performance of professional and administrative tasks relating to the realisation of gender equality in the Republic of Croatia.

The Office creates an integral system for the protection and promotion of gender equality in the Republic of Croatia and monitors its effectiveness, develops a national policy for the promotion of gender equality and monitors its implementation, examines the situation in terms of particular aspects of gender equality in the Republic of Croatia and the compliance of the Croatian legislation with the provisions of the Constitution of the Republic of Croatia, the Gender Equality Act and international instruments in the field of gender equality.

The Office co-ordinates all the activities aimed at achieving gender equality, proposes to the Government of the Republic of Croatia and state bodies the adoption or amendment of laws and other regulations and other measures, carries out research and analyses, co-operates with non-governmental organisations active in the field of gender equality, promotes knowledge and awareness of gender equality and performs other activities in accordance with the Gender Equality Act.

With a view to improving the national standards of the protection and promotion of gender equality, the Office co-operates with the international community and international regional organisations, keeps records of international instruments and launches initiatives for the ratification of certain instruments, monitors the fulfilment of international obligations of the Republic of Croatia in the field of gender equality, monitors reports by international organisations on the situation of gender equality in the Republic of Croatia.

The Office also performs other tasks in the area of gender equality, entrusted to it by the Government of the Republic of Croatia.

To ensure the implementation of the Gender Equality Act, the institution of the *Ombudsperson for Gender Equality* has also been established. The Ombudsperson is appointed and dismissed by the Croatian Parliament on the proposal of the Government of the Republic of Croatia. He or she has a deputy who is appointed and dismissed by the Croatian Parliament on the proposal of the Ombudsperson. They are both state functionaries of the Republic of Croatia. They are appointed for a term of 8 years and may be reappointed.

In addition, they must of different genders and one of them must be a lawyer by profession ("graduate lawyer").

The persons appointed as Ombudsperson and his or her deputy must be Croatian citizens with university degrees, whose personal endeavours in the field of protection of human rights are well-known to the public.

The Ombudsperson acts autonomously and independently, monitors the implementation of this Act and other regulations relating to gender equality and submits a report to the Croatian Parliament at least once a year. He or she also considers cases of violations of the principle of gender equality, cases of discrimination against individuals or groups of individuals committed by state administration bodies, bodies of the units of local and regional self-government or other bodies vested with public authority, by employees of these bodies and other legal entities and natural persons.

While carrying out the tasks that fall under his or her scope of work, the Ombudsperson is entitled to issue warnings, proposals and recommendations and if in the course of his or her activity the Ombudsperson learns that the violation of the provisions of this Act contains elements of a criminal act, he or she will file a report with the competent public prosecution office.

The Ombudsperson is also entitled to file a motion with the Constitutional Court of the Republic of Croatia requesting this Court to initiate proceedings for a review of the constitutionality of laws and conformity of other regulations with the Constitution and the law, if he or she believes that the principle of gender equality has been violated.

Unemployment and employment in March and April 2005

	March 2005	April 2005	Index IV/2005 / III/2005
Unemployed persons	329,020	320,283	97.3
Unemployed women	189,964	186,304	98.1
First time seekers of employment	74,543	72,440	97.2
Newly registered persons	18,492	15,195	82.2
Employment from the unemployment register	12,118	16,523	136.4
Deleted from the unemployment register for other reasons	7,537	7,409	98.3
Unemployed Croatian defenders	28,861	28,280	98.0
Recipients of unemployment benefit	81,546	77,363	94.9
Reported vacancies	12,207	14,112	115.6

E. Please supply information on de facto situation which, in your country, constitute inequalities in matters covered by paragraph 1 of Article 1 and state the specific measures taken to remedy those situations.

According to data obtained by the Croatian Employment Bureau, in February 2005 there were 330,183 unemployed persons, of which 58% were women. Although women comprise 52% of the Croatian population, 30% in entrepreneurial and 6% in management employment in Croatia, they are still receiving lower salaries than men and comprise the majority of public servants, counter clerks and trade employees.

In December 2005, the Republic of Croatia adopted the National Action Plan on Employment for the 2005-2008 period which incorporated several measures aimed at decreasing and eliminating the limiting and aggravating factors for better integration of women on the labour market, as well as stimulating greater involvement of women in entrepreneurship, whilst the National Family Policy stipulated measures which could balance women's work and family responsibilities, at the same time taking into account strong traditional attitudes towards the gender roles still present within Croatian society. Therefore, the following measures should be implemented as priorities of the National Action Plan on Employment of the Republic of Croatia:

Key measures:

a) Access will be provided to efficient and timely legal redress for all cases of violation of equal rights on the labour market;
b) Standards will be introduced for the identification of various forms of discrimination in seeking employment and mechanisms for their elimination, including court protection;
c) Efficient strategy for harmonisation of the national legislation will be developed and legal provisions will be expanded (Labour Act, *Official Gazette*, No. 114/03) in the field of social security, while court protection and compensation will be provided

Especially desirable measures:

a) More in-depth analysis will be undertaken of the causes of gender inequality on the labour market and, if needed, further activities will be proposed;
b) Gender differences and labour market trends will be monitored, and the Croatian Employment Bureau annual report will include a three-year evaluation of integration;
c) The cost and scope of services for childcare will be analysed.

Desirable measures:

a) The public will be brought to the level where it is sensitised to the existence of the problem; this would be further facilitated by a high quality media campaign;
b) Measures will be proposed and implemented for making a return to the labour market possible and improving the status of male and female workers with family responsibilities;
c) Measures will be proposed and implemented to stimulate female entrepreneurship;

d) Measures will be proposed for the involvement of women in non-traditional types of employment;
e) Targeted programmes will be introduced for single mothers threatened by greater risks not only of unemployment, but also of social exclusion;
f) Development plans and improved programmes will be established for professional training and updating of knowledge and skills during maternity leave and after it, consultative services for professional direction and planning will be established or developed, and targeted programmes for women on the labour market will be implemented (especially re-training, on-the job training and similar.).

The presence of the gender equality problem is also obvious from the media's efforts to sensitise and in a way make the public aware of the issue. This can be, for example, be seen in Article 5 of the Media Act, which provides that the production and publication of programme content is to be stimulated, which, amongst other things, relates to the promotion of awareness building of gender equality, as well as Article 12 of the Electronic Media Act, which provides that the programme content of radio and television broadcasters should, amongst other things, especially strive for gender equality.

F. Please indicate if, in your country, social security matters and the other provision listed in the Appendix are excluded from the scope of the Protocol.

Unemployment benefit is granted to an unemployed person who has completed 9 months of employment in 24 months preceding the termination of employment. A woman who has a child under one year of age at the time when her employment is terminated does not have to comply with the requirement of previous employment. Nevertheless, such person must meet all other requirements as established by the Granting of Unemployment Benefits Act and may not exercise the right to unemployment benefit under other regulations.

An unemployed person has to register with the Employment Bureau within 30 days of the date of the termination of his or her employment, or after the expiry of the sick or maternity leave after the termination of employment, and file a claim for unemployment benefit. If this person misses the 30-day deadline for justified reasons, he or she may register and file a claim within 8 days of the day when the reasons for failure to comply with the above deadline ceased to exist, but no later than within 60 days of the expiration of the original deadline.

An unemployed person exercises the right to unemployment benefit for a period of 78 to 390 days, depending on time spent in employment. Persons exempted from this rule include: unemployed person (man) who has spent 35 years in employment and unemployed person (woman) who has spent 30 years in employment, as well as a woman who, at the time of termination of employment, has a child younger than one year (she is entitled to unemployment benefit up until the time when her child reaches one year of age).

In addition, in accordance with the Pension Insurance Act, an insured person is entitled to old-age pension upon attaining the age of 65 (men) or 60 (women) and completing 15 years of qualifying periods. An insured person is entitled to early retirement pension upon attaining the age of **60** and completing **35** years of qualifying periods (men), or age **55** and **30** years of qualifying periods (women), which will start to be applied on 1 January 2008. To ensure a gradual transition to stricter requirements, the Act mentioned has provided for a **transitional period from 1999 to 2007** during which the age requirement is increased by six months per year. In 2004 the requirements for early old-age pension were 58 years of age and 35 years of pensionable periods for men, and 53 years of age and 30 years of pensionable periods for women.

G. Please state the specific measures taken in accordance with Article 1, paragraph 2, to protect women in employment or occupations, particularly with respect to pregnancy, confinement and the post-natal period.

For a detailed answer, see Article 8 in the Report on the European Social Charter (*The right of employed women to protection*).

H. Please state whether other specific measures for protecting women[1] or men in matters covered by paragraph 1 of Article 1 exist and explain the reasons for such measures and their scope.

I. Please indicate whether there are occupations (if so, which ones) that are reserved exclusively for one or other sex, by specifying if it is because of the nature of the activity or the conditions in which it is carried out.

1 These specific measures are not limited to those provided for in Article 8 of the Charter.

ARTICLE 2: RIGHT TO INFORMATION AND CONSULTATION

"1. With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decision which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

2. The Parties may exclude from the field of application of paragraph 1 of this article those undertakings employing less than a certain number of workers to be determined by national legislation or practice."

[The Appendix to the Protocol states that:

Articles 2 and 3:

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

2. The term "national legislation and practice" embraces as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs, as well as relevant case law.

3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to as set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts, which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that, where in a State the rights set out in Articles 2 and 3 are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.]

A. Please state if workers in undertakings are informed and informed and consulted directly or through their representatives and, in the latter case, how such representatives are appointed at the various levels (workshop, establishment, undertaking, etc.).

Under Article 28 of the Labour Act, the employer is obliged to inform the worker of the dangers of the job performed by this worker.

Also, under Article 130 of the Labour Act, any employer employing more than 20 workers is obliged to adopt and publish employment rules regulating salaries, organisation of work, procedure and measures for the protection of workers' dignity and other issues important for his or her workers, except when these issues are regulated by a collective agreement.

At the same time, the Ordinance on the manner of publication of employment rules (*Official Gazette*, no. 8/96) governs the methods of publication of employment rules passed by the employer in accordance with the provisions of the Labour Act mentioned, which apply to all employees employed with that employer (employment rules), as well as those which apply to particular groups of employees or particular departments of a business enterprise, company or institution (special employment rules).

The employer is obliged to publish employment rules and special employment rules and make them accessible to employees and post them in a conspicuous place on the premises where they regularly spend time during working hours.

Special employment rules may be published in the way mentioned, but they must be published and made accessible to the employees regarding whom they govern some important issues in a special way and they are posted in a conspicuous place on the premises where these employees regularly spend time during working hours.

An employer who is unable to publish employment rules in the ways mentioned for legitimate reasons must, immediately after their adoption, inform the employees thereof by a written notice posted in a conspicuous place on his or her premises or through the person who is the manager of a particular group of employees, and designate a person or persons who may make employment rules and special employment rules available to them during regular working hours.

If there are trade union commissioners operating within the employer or if an employees´ council has been established within this employer, the employer is obliged to submit all the employment rules and special employment rules to the trade union commissioners and members of the employees´ council.

Special employment rules may be adopted for particular departments of a business enterprise, company or institution or for particular groups of workers. The employer must

consult the worker's council about the adoption of these employment rules, in the cases, in the manner and under the conditions prescribed by the Labour Act.

At the same time, Chapter XVIII of the Labour Act elaborates the issue of workers' participation in decision-making, which, amongst other things, includes the employer's obligation to inform the workers' council (representatives of workers).

These provisions provide that workers employed with an employer, who employs at least 20 workers, with the exception of workers employed in state administration bodies, have the right to take part in decision-making on issues related to their economic and social rights and interests, in the manner and under the conditions prescribed by the Labour Act (Article 139).

In the Republic of Croatia, this right is based on the provisions of Article 55, paragraph 4 of the Constitution of the Republic of Croatia, which provides that employees may, in conformity with law, participate in decision-making in the enterprise where they work.

Workers have the right to elect, in free and direct elections, by secret ballot, one or more of their representatives (hereinafter: "the workers' council") who will represent them before their employer in relation to the protection and promotion of their rights and interests. The procedure for the establishment of a workers' council is initiated upon the proposal of a trade union or at least 10 per cent of the workers employed with a particular employer. (Article 140)

The number of members of the workers' council is determined in accordance with the number of workers employed with an employer in the following manner:

- up to 75 workers: 1 representative,
- 76 to 250 workers: 3 representatives,
- 251 to 500 workers: 5 representatives,
- 501 to 750 workers: 7 representatives,
- 751 to 1000 workers: 9 representatives.

For each further 1,000 workers, the number of members of the workers' council is increased by two. When members of the workers' council are elected, account must be taken of equal representation of all organisational units and groups of employees (by gender, age, qualifications, jobs they perform, etc.). (Article 134)

In order to fully carry out its tasks in relation to these statutory provisions, a newly constituted workers´ council should regularly inform workers about its work, amongst other things, through workers´ assemblies, notice boards, leaflets, its own offical newsletter, its contributions to the employer´s official newsletter; it should receive workers´initiatives and proposals directly from workers at their assemblies, at regular meetings in the company, by receiving workers at specific times on the premises of the workers´council, as well as through polls, special boxes for workers´proposals and opinions, talks with trade union commissioners, etc. When it comes to the control of the application of collective agreements, it should co-operate with trade unions operating within the same employer by inviting their

representatives to sessions of workers´councils and reaching agreement with them regarding the content of collective agreements and the issues that will be regulated by agreements between the workers´council and the employer, when the collective agreement so provide.

In addition, workers may have representatives on the supervisory board (Article 158a).

Thus, a worker's representative must sit on the supervisory board or other corresponding body in a business enterprise that employs more than 200 workers and in a business enterprise which is more than 25 per cent owned by the Republic of Croatia or by a unit of local and regional self-government, as well as in public institutions, regardless of the number of workers employed in the enterprise or institution concerned. The workers' representative on the supervisory board is appointed and recalled by the workers' council. If no workers' council has been established with an employer, the workers' representative is appointed as member of the supervisory board and recalled by the workers, by direct and secret ballot, in the manner prescribed by the Labour Act for the election of a one-member workers' council. It must be pointed out that the member of the supervisory board appointed in this manner has the same legal position as other appointed members of the supervisory board.

In relation to what has been mentioned, the Basic Collective Agreement for Public Service Employees stipulates that employers:
- are obliged to provide necessary access to work places to trade union representatives or commissioners (shop stewards), so that they can exercise their duties, and examine information and documents related to the realisation and protection of employees' rights at times and in a manner that does not harm business efficiency;
- need to provide trade union representatives or commissioners with information relevant for the employees' economic situation, such as proposals of decisions and employment rules regulating the rights and obligations arising from employment, proposals for business and development decisions affecting the employees' economic and social status.
- are obliged to receive trade union representatives or commissioners for talks at once or within three days at the latest;
- are obliged to respond in writing to any document sent from trade union representatives or commissioners.

B. Please describe the structures, procedures and arrangements for information and consultation in your country with all necessary information concerning the level at which they operate, whether they are compulsory or optional, their frequency, etc.

Following what has already been stated, if the employer's operations are organised through several organisational units, workers may establish several workers' councils to enable adequate participation of workers in decision-making.

In this case, a General Workers' Council is established, composed of representatives of the workers' councils elected in organisational units.

The composition, powers and other issues important for the operation of the General Workers' Council are established by an agreement between the employer and the workers' council.

All workers employed with a specific employer have the right to elect and be elected. Members of management and supervisory bodies and their family members, as well as workers vested with the authority to represent the employer before workers employed with this employer, do not have this right. The electoral committee establishes a list of workers who have voting rights.

Lists of candidates for worker representatives may be proposed by trade unions whose members are employed with a particular employer, or a group of workers enjoying the support of at least 10 per cent of workers employed with a particular employer.

In order to ensure that the workers' council does not have any vacant posts when the term of office of one of its members terminates, at least one additional deputy must also be proposed where only one representative is to be elected, and where three or more representatives are to be elected, at least three deputies must also be proposed.

The number of candidates on each list of candidates must be equal to the number of vacant posts to be filled.

An electoral committee is established to organise elections, which has an odd number of members (at least three). If no workers' council has been established with an employer, an electoral committee is appointed at the workers’ assembly.

The electoral committee organises and supervises voting, is responsible for the legality of elections and publishes the election results. Before publishing the election results, it may decide that a part of or the whole election procedure be repeated, because of irregularities that have been established.

A record of the electoral committee's work is kept and published after the elections. The electoral committee provides information about the elections that have been conducted to the employer and the trade unions that proposed the lists of candidates.

The workers' council protects and promotes the interests of workers employed with a particular employer, by providing advice, participating in decision-making and negotiating the issues important for the workers with the employer or the person authorised by the employer. The workers' council pays attention to compliance with the Labour Act, employment rules, collective agreements and other regulations adopted for the benefit of the workers. It also pays attention to whether the employer fulfils, in an orderly and complete manner, his or her obligations related to the calculation and payment of social security contributions, and for this purpose it has the right to inspect the relevant documentation.

The workers' council must not participate in the organisation or performance of strikes, lockouts or other industrial actions, nor is it allowed to interfere in any other way with a collective labour dispute which may result in such action.

The employer has a duty to inform the workers' council – duly, accurately and integrally – at least every three months about:

- the business situation and results,
- development plans and their impact on the economic and social position of workers,
- trends and changes in salaries,
- the extent of, and the reasons for the introduction of overtime work,
- protection and safety at work and measures taken in order to improve working conditions,
- other issues of particular importance for the economic and social position of workers.

Before rendering a decision that is important for the position of workers, the employer must consult the workers' council about the proposed decision and must communicate to the workers' council the information important for rendering a decision and understanding its impact on the position of workers.

Important decisions include in particular decisions on:

- the adoption of employment rules,
- employment plans, transfers to another job and dismissal,
- the expected legal, economic and social consequences for the workers in case of transfers of contracts to a new employer,
- measures related to the protection of health and safety at work,
- the introduction of new technologies and changes of organisation and methods of work,
- annual leave plans,
- working hour schedules,
- night work,

- compensation for inventions and technical innovations,
- the adoption of redundancy social security plans and other decisions which, under this Act or a collective agreement, must be rendered in consultation with the workers' council.

The information related to the decision intended to be made must be forwarded to the workers' council integrally and in due time, so that the council may have an opportunity to put forward comments and proposals in order to enable the results of discussion to have material impact on decision-making.

The workers' council is obliged to regularly inform the workers and trade unions about its work and receive their initiatives and proposals. With a view to protecting and promoting the rights and interests of workers, the workers' council cooperates, with full trust, with all trade unions whose members are employed by the employer.

If no workers' council has been established with an employer, all the rights and obligations pertaining to workers' councils under the Labour Act are exercised by the trade union commissioner.

If several trade unions operate within an employer, and these trade unions have not reached an agreement concerning one or more trade union commissioner who shall exercise the rights and obligations of a workers' council, the dispute will be resolved by the appropriate application of the Labour Act provisions governing the elections for workers' councils.

Meetings of workers employed with an employer must be held at least twice a year, at regular intervals, so that workers can be completely informed, and discuss the situation and development of the business enterprise, institution, or another organisational form, and to discuss the work of the workers' council.

C. Please state the nature of the information and of the consultation provided for by legislation, examples of significant collective agreements or by other means, and whether they take place at the level of the undertaking or of the establishment.

In addition to what was mentioned above, the information that should be given on the occasion of the conclusion of an employment contract is also provided for by collective agreements. This information relates to the minimum rights and obligations of workers and employers, in particular as regards the creation of an employment relationship, payment of salaries, benefits and material rights of workers, termination of employment, formation of trade unions, protection of workers' rights, provision of information to workers, resolution of employment disputes.

D. Please state the specified number or numbers of workers below which undertakings are not required to comply with the provisions relating to the information and consultation of workers.

Article 130 of Labour Law regulates that any employer employing more than 20 workers shall adopt and publish employment rules regulating salaries, organisation of work, procedure and measures for the protection of workers' dignity and other issues important for his or her workers, except when such issues are regulated by a collective agreement. Acoording to above mentioned employer employing less than 20 workers are not obliged to adopt employment rules.

E. If some workers are not covered by provisions of this type prescribed by legislation, collective agreements or other appropriate measures, please indicate the proportion of workers not so covered (see Article 7 of the protocol and the relevant provision in the Appendix).

It is not able to presente the percentage of employers which are not covered by the employment rules, but the total number of small and medium-sized economic agents, which comprise 99% of the total number of economic agents shows slight growth during the period from 1995 to 2003, wizh certain oscillation (Table 1: The number of economic agents in the small and medium-sized enterprise sector during 1995-2003).

Table 1: The number of economic agents in the small and medium-sized enterprise sector, 1995-2003 (on December 31)

ECONOMIC AGENTS	1995	1996	1997	1998	1999	2000	2001	2002	2003
trade businesses	79.255	84.778	85.120	84.910	87.613	91.842	94.727	97.832	101.848
cooperatives	1.212	1.125	1.042	972	728	693	705	801	917
small and medium-sized companies	59.407	61.582	64.231	61.502	59.398	60.505	60.801	62.841	67.925
TOTAL	141.869	149.481	152.390	149.382	142.655	153.040	156.233	158.909	165.901

Source: Government Bureau of Statistics (DZS), the Financial Agency, and the Trades Registry of the Republic of Croatia

The number of persons employed in the small and medium-sized enterprise sector is constantly increasing (Table 2: Number of persons employed in the small and medium-sized enterprise sector, 1995-2003). The number of employed persons grew during the 1995-2003 period from 78,929 to 138, 582 in trades and from 366,832 to 437,500 in small and medium-sized companies. In cooperatives, after a decline recorded in in the number of cooperatives, and subsequentlya decrease in the number of employed persons therein, the number of employees is rising. Within cooperaives, the number of cooperatiove members was not taken into account, as the majority of them are independent and frequently do their bying and selling via the cooperative.

Table 2: Number of persons employed in the small and medium-sized enterprise sector, 1995-2003 /December 31)

ECONOMIC AGENTS	1995.	1996.	1997.	1998.	1999.	2000.	2001.	2002.	2003.
trade businesses	78.929	88.581	97.596	106.335	113.552	117.163	120.007	135.000	138.582
cooperatives	5.090	4.420	3.981	3.376	4.140	3.906	3.496	4.058	4.750
small and medium-sized companies	366.832	382.756	380.298	404.056	419.516	412.799	418.708	424.369	437.500
TOTAL	452.846	477.753	483.872	515.765	539.207	535.868	544.212	565.429	582.835

Source: Government Bureau of Statistics (DZS), the Financial Agency and the Croatian Bureau of Retirement Insurance

In order to determine measures for providing incentive and monitoring the small and medium-sized enterprise sector, it is necessary to improve statistical monitoring (separate sources of information and a variety of dana).

F. Please state whether undertakings other than those specified in paragraph 2 of Article 2 are excluded from the application of this provision in the meaning of the Appendix to the Protocol (Article 2 and 3, paragraph 4) and state the nature of such undertakings and their sectors of activity.

ARTICLE 3: RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING ENVIRONMENT

"1. With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;

b. to the protection of health and safety within the undertaking;

c. to the organisation of social and socio-cultural services and facilities within the undertaking;

d. to the supervision of the observance of regulations on these matters.

2. The Parties may exclude from the field of application of paragraph 1 of the article those undertakings employing less than a certain number of workers to be determined by national legislation or practice"

.

[The Appendix to the Protocol states that:

Articles 2 and 3

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

2. The term "national legislation and practice" embraces as the case be, in addition t laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs, as well as relevant case law.

3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to as set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as its necessary to protect the orientation of the undertaking.

5. It is understood that, where in a state the rights set out in Articles 2 and 3 are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.]

A. Please state if workers participate directly or through their representatives in the determination and improvement of the working conditions and the working environment and, in the latter case, how such representatives are appointed at the various levels (workshop, establishment, undertaking, etc.).

B. Please give general description of the structures, procedures and arrangements for workers to take part in determining the work conditions in undertakings in general and, when appropriate, in the various activity sectors of undertakings. This information should be specified according to each of the various areas referred to in paragraph 1 of Article 3 of the Protocol. If appropriate, please describe at what levels within the undertaking these rights are exercised and describe how.

C. Please state if workers' participation concerns all of the areas covered by Article 3, paragraph 1, of the Protocol.

D. Please state the number or numbers of workers below which undertakings are not required to make provision for the participation of workers in the determination of their working conditions.

E. If some workers are not covered by provisions of this type prescribed by legislation, collective agreements or other measures, please state the proportion of workers not so covered (see Article 7 of the Protocol and the relevant provision in the Appendix).

F. Please state whether undertakings other than those specified in paragraph 2 of Article 3 are excluded from the application of this provision in the meaning of the Appendix to the Protocol (Articles 2 and 3, paragraph 4) and indicate their nature and the sector of activity involved.

When it comes to the provision of information on occupational safety and health, Article 31 of the Occupational Safety and Health Act provides that the employer is obliged to give workers adequate information and written instructions as to the safety and health risks in respect of the work assigned to them. The employer may also give this information verbally in case of an emergency, when there is an imminent danger to the lives and health of workers.

The employer is also obliged to put up permanent safety and general information notices at workplaces, and on the means of work and their installations, in accordance with the relevant rules. If safety signs are not sufficient to inform the workers effectively, the employer is obliged to keep posted written instructions on the conditions and manner of the use of rooms, facilities, the means of work, dangerous substances and equipment. (Article 32)

The employer is obliged to inform workers' occupational safety and health representatives and the employees´ council, at least once in three months, of the occupational safety and health risks and of the measures he or she has undertaken and will undertake to promote occupational safety and health. The employer is in particular obliged to do this after each fatal, collective or serious injury at work or the occurrence of an occupational disease, and if the competent authority establishes a deficiency in the application of occupational safety and health regulations. In the case of a fatal, collective or serious injury at work, the employer is obliged to invite the occupational safety and health representative to attend the on-site inspection. (Article 33)

As regards direct provision of information to workers, Article 66 of the Occupational Safety and Health Act provides that an occupational safety and health committee is established as an advisory body to the employer if the employer employs 50 or more workers. An employer who employs more than 250 workers and who has several plants or plants in several locations outside its principal place of business is obliged to establish a central safety and health committee whose task is to improve the occupational safety and health situation at that particular legal subject.

The employer establishes the procedure for the election of committee members in a general act.

The members of this Committee include the employer or his or her safety agent, the manager of the occupational safety and health division or an occupational safety and health specialist, an occupational medicine specialist, and the workers' occupational safety and health representatives or their co-ordinator. The committee is chaired by the employer or his or her safety agent.

The committee plans and supervises the implementation of occupational safety and health rules, the provision of information on occupational safety and health and occupational safety and health training, pursues the policy of prevention of injuries at work and occupational diseases, and continually promotes the improvement of occupational safety and health.

When an employer employs 20 or more workers, they elect or appoint from among themselves an occupational safety and health representative. The number of occupational safety and health representatives, their election and term of office is established in accordance with the provisions of the Labour Act governing the election of workers' councils, taking into account the representation of all the parts of the working process.

Regardless of the number of workers, a representative is elected or appointed wherever the working conditions so require (high safety and health risks, work in isolated places, and the like). A person working under these conditions or in an isolated place of work may not be elected or appointed as an occupational safety and health representative.

A trade union or trade unions may appoint their occupational safety and health representative under the above mentioned conditions, if this is provided for by the collective agreement.

Trade union safety and health representatives enjoy the same rights and have the same obligations as elected occupational safety and health representatives.

If, in accordance with the criteria prescribed, several occupational safety and health representatives are elected or appointed in one workplace, they elect or appoint from among themselves their co-ordinator.

It is the duty of the occupational safety and health representative to act in the interest of the workers in the field of occupational safety and health and monitor the application of regulations and measures which have been ordered for the workplace that he or she has been elected to represent. The occupational safety and health representative also has the following rights and duties:

- to participate in the planning of the improvement of working conditions, the introduction of new technologies and new substances in the work and production processes and encourage the employer and his or her safety agents to apply occupational safety and health rules,
- to be informed on all the changes that affect the safety and health of workers,
- to examine and use the documentation related to the safety and health of workers,
- to receive workers' complaints regarding the application of regulations and implementation of occupational safety and health measures,
- to communicate his or her observations and those of employees whom he or she represents to inspectors, to attend inspections and comment on the facts established by the inspector,
- if he or she thinks that the lives and health of the employees are in danger, to invite an inspector if the employer fails or refuses to do so;
- to attend training for the performance of these tasks, to continually enlarge and upgrade his or her knowledge, to monitor and gather information relevant to his or her work,
- to put forward an objection against the inspector's report,
- to encourage, by his or her own exemplary conduct, other employees to work safely, and
- to keep the employees informed on the measures the employer has been undertaking to ensure safety and health protection in the workplace. (Article 77)

The conditions for the unimpeded performance of occupational health and safety representative's tasks, as well as those of their co-ordinators, are regulated in accordance with the Labour Act provisions governing the work of members of workers' councils. Also, occupational health and safety representatives and their co-ordinators are entitled to compensation of salary for at least 4 hours a week, and they are not allowed to transfer this right to another person, unless otherwise regulated by a collective agreement.