Subject: Submission for SRCT report on soft law

Dear Madam/ Sirs,

Regarding your request for providing information to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, we send you our input for thematic report to the seventy-fourth session of the General Assembly.

The Republic of Croatia strongly condemns terrorism in all its forms and manifestations and actively participates in counter-terrorism efforts at national, regional and global level. In order to efficiently counter this threat and to ensure the grounds for achieving the highest possible level of protection for the Republic of Croatia against terrorism and terrorist threats, Croatia recognizes the need for strong and intensive cooperation with-within-and-among the United Nations, the European Union, NATO, other regional organisations and all States. Furthermore, close cooperation is necessary in order to find long-term solutions for many regional crises and to continue with necessary measures to prevent and combat violent extremism and to incapacitate the ideological, organisational and financial supporters of terrorism.

The main strategic document of the Republic of Croatia in the field of counter-terrorism is the National Strategy for the Prevention and Suppression of Terrorism, adopted by the Government in 2015. The National Strategy thematically builds on the National Security Strategy and other national strategic documents. Furthermore, it is fully in line with the UN Global Counter-Terrorism Strategy and the EU Counter Terrorism Strategy, as well as other strategic documents of the UN, the EU, NATO, OSCE and the Council of Europe. The National Strategy sets out five main strands of action: prevention, suppression, protection, recovery and prosecution. It
also recognizes the need for an enhanced international cooperation, as well as the protection of human rights and fundamental freedoms.

Protection from terrorism is one of the fundamental issues of Croatia’s national security and Croatian security-intelligence system is responsible for the prevention and combating terrorism in Croatia. This includes preventing possible terrorist attacks aimed at Croatia and its citizens, but also activities aimed at preventing Croatian citizens from carrying out or assisting in a terrorist attack. Preventing and combating terrorism is a very complex task. The fact that terrorist attacks happen even in the most developed countries, despite use of state-of-the-art methods, speaks much about how demanding this challenge actually is.

The Republic of Croatia has an integral approach to the prevention and suppression of terrorism, based on several national strategic documents, with the National Security Strategy and the National Strategy for the Prevention and Suppression of Terrorism being the most important ones. There are also other thematically related national documents, such as the National Cyber Security Strategy and the Annual guidelines for Security and Intelligence Agencies’ activities.

The security sector has a great responsibility in the protection from terrorism; its good functioning therefore requires that the practices of the security and law enforcement sector in ensuring national security are as proportionate as possible to the needs of citizens’ human rights. The Republic of Croatia has made significant steps in ensuring higher participation of citizens in the development of public policies, including those in the field of security. The Council for Civilian Oversight of Security and Intelligence Agencies has existed for many years in the Republic of Croatia, and its work proved to be particularly relevant in supervising the functioning of security and intelligence agencies.1

The Croatian Ministry of the Interior, in co-operation with other competent bodies, in accordance with accepted international standards is continuously taking operative and preventive measures aimed at prevention and elimination of danger of terrorist actions, including also different forms of international co-operation which Croatia is trying to develop constantly for the purposes of its better efficiency, especially by further expansion of bilateral, regional and multilateral co-operation.2

Effective counter-terrorism measures and the protection of human rights are indeed complementary and mutually reinforcing. Serious infringements of human rights, as well as the one dimensional approach to countering terrorism, can only help terrorist propaganda.

Therefore, Croatia stresses the need for counterterrorism compliance with international law, especially with the UN Charter and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law.

1 https://rm.coe.int/168064100f, COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER) PROFILES ON COUNTER-TERRORIST CAPACITY, Croatia 2016
In the Republic of Croatia, the highest standards of human rights and freedoms are guaranteed in the Constitution and other laws, and all relevant international conventions and protocols. The Republic of Croatia supports continued improvement of human rights standards and fundamental freedoms, especially within the EU, UN, OSCE and the Council of Europe framework.

Terrorism has a direct impact on the enjoyment of human rights – in particular right to life, liberty and physical integrity. And of course we need to acknowledge that security of an individual person is a human right and states have a positive obligation to protect the life and well-being of persons living within their jurisdiction (Article 2 and 3 of the CoE Convention), which sometimes means taking effective counter-terrorism measures.

This implies that states also have positive obligation to develop measures addressing causes of terrorism—such as lack of rule of law, violations of human rights, ethnic, national and religious discrimination, political exclusion of certain groups and socio-economic marginalization. Our regular, daily works and citizens’ complaints can shed light on underlying causes of the conflicts within the society. In our various capacities we have or should be developing contacts with those who are vulnerable parts of our society. NHRIs are very often viewed as one of rare institutions they have trust in. Counter-terrorism measures can impact on human rights in a variety of manners, including through the introduction of discriminatory policing and security activities, mass surveillance, emergency measures with derogations from international human rights standards, as well as through restrictions on public assembly. NHRIs’ core functions of monitoring, advising, complaints-handling and awareness-raising are all particularly well-suited to address the multi-dimensional challenges counter-terrorism measures may pose, and remind about the importance of respecting human rights, as the very basis of social cohesion and security.

The Ombudswoman of the Republic of Croatia is a commissioner of the Croatian Parliament responsible for the promotion and protection of human rights and freedoms and the performance of the mandates of the National Equality Body as well as the National Preventive Mechanism for the protection of the persons deprived of their liberty. At the same time, in 2008, the International Coordination Committee for National Institutions for the Ombudsman granted the status of the institution for promotion and protection of human rights with "status A", and reaccredited 2013 and 2019. Croatian Ombudswoman is member of the European Network of National Human Rights Institutions.

On 28 October 2016, ENNHRI hosted a Seminar in Zagreb, Croatia, on Human Rights and Counter-Terrorism at the occasion of ENNHRI’s General Assembly. The Seminar gathered representatives from 35-member institutions, as well as stakeholders and experts from a wide range of international organisations and civil society organisations. Lora Vidović, ENNHRI Chair (2016-2018), Ombudswoman of Croatia, emphasised that ENNHRI members had been calling for more cooperation and capacity building in this area. Counter-terrorism measures are increasingly being adopted across Europe, often in extreme circumstances following an attack. With an increase in fear and pressure to ensure ‘security’, the expedited development of
legislation or policies is often adopted through secretive procedures or within the framework of states of emergency. This panel session explored how NHRIs can seek the human rights compliance of these measures. Also were organised ENNHRI Capacity Building Workshop on the Role of NHRIs on Promotion and Protection of Human Rights during Terrorism and Counter-Terrorism3 and together with the Office of the Council of Europe Commissioner for Human Rights jointly organised a high-level brainstorming meeting to share good practices and expertise, where NHRI representatives explored the role, opportunities and responsibilities of NHRIs in the area of counter-terrorism4.

Regarding the question about promotion and protection of human rights and fundamental freedoms while countering terrorism Ombudswoman of the Republic of Croatia monitoring detention centres and other place where are people deprived of liberty. Also works on awareness raising on political elites (parliamentary debates) and state administration bodies but also general public about necessity to respect human rights to everyone. Through individual complaints makes assessment about possible violation of human rights and gives recommendations for protection and promotion of the human rights.

Citizens have the right to report violation of human rights to the Ombudswoman. Based on the available information and the documentation delivered, the Ombudswoman initiates investigation proceedings. In the process of the examination of an individual complaint, the Ombudswoman contacts public administration bodies which are obliged to provide him/her with all necessary information about the case in question. Within the scope of its authorities and on the basis of citizens’ complaints, the Ombudsman issues opinions, suggestions, recommendations or warnings to the relevant public administration bodies and, if necessary, can report on the issues at hand to the Croatian Parliament.

In a process of assessment of possible violation of human rights Ombudswoman uses soft law and international law standards. Also, the Ombudswoman monitors whether the legislation is aligned with the Constitution and with the international human rights treaties and can notify the Government about the need for legislative change in the field of human rights protection and the rule of law.

Respectfully,

[Signature]

Deputy Ombudswoman
Maja Kević

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3 http://ennhri.org/ENNHRI-Capacity-Building-Workshop-on-the-Role-of-NHRIs-on-Promotion-and