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# EUDO CITIZENSHIP OBSERVATORY

## ***COUNTRY REPORT: CROATIA***

Francesco Ragazzi, Igor Štiks, Viktor Koska

Revised and updated February 2013



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European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

## ***Report on Croatia***

**Francesco Ragazzi, Igor Štiks, Viktor Koska**

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## Croatia

Francesco Ragazzi, Igor Štiks and Viktor Koska\*

### 1 Introduction

The politics of citizenship in post-Yugoslav Croatia are deeply marked by the political climate in which they emerged. The law on Croatian citizenship was enacted on the day (8 October 1991) that the country's declaration of independence from the Socialist Federal Republic of Yugoslavia (SFRY) was proclaimed. The first decade of Croatia's independence was burdened by the 1991-1995 war against Belgrade and the military involvement in the war in neighbouring Bosnia-Herzegovina, and it was dominated by Franjo Tuđman's overtly nationalist party HDZ,<sup>1</sup> which was in power between 1991 and 2000. The new citizenship legislation cannot, therefore, be analysed separately from the process of Yugoslavia's disintegration. Almost all of Yugoslavia's successor states – with some variation according to their specific context and at a different pace – used their founding documents, constitutions and citizenship laws as effective tools to accelerate nation-building and to 'ethnically engineer' their populations to the advantage of the majority ethnic group. Croatia was no exception to this rule<sup>2</sup>. In many ways, citizenship laws in Croatia were one of many instruments used to create what could be defined as a 'transnational nationalism'<sup>3</sup>, a nationalism that, by taking Croatian ethnicity as its core, aimed not only to homogenise the national population through the exclusion of non-Croats, but also to include all ethnic Croats into Croatian citizenry, regardless of their place or country of residence. The citizenship laws proved a vital tool in the attempt to achieve this goal. This attempt at both deterritorialised inclusion and targeted exclusion was limited only by general international standards and norms related to citizenship laws that the Croatian government of the 1990s was obliged to respect.<sup>4</sup>

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\* This report is the updated version of the previous EUDO report on Croatia prepared by Francesco Ragazzi and Igor Štiks (November 2009; revised in April 2010).

<sup>1</sup> *Hrvatska Demokratska Zajednica* – Croatian Democratic Union.

<sup>2</sup> For a detailed analysis of the citizenship legislation and practices in other former Yugoslav states since 1991, see the working papers series published on the website of the project "The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia" (CITSEE; [www.law.ed.ac.uk/citsee/workingpapers](http://www.law.ed.ac.uk/citsee/workingpapers)) as well as the country reports on these states available at the EUDO website.

<sup>3</sup> For more on Croatia's particular brand of 'transnational nationalism', see Ragazzi (2009). For the notion of transnational nationalism, see Basch, Glick-Schiller & Szanton Blanc (1995), Kastoryano (2006).

<sup>4</sup> International law itself does not question the right of sovereign states to enact their own citizenship policy. However, international law, declarations and treaties do seek to impose certain rules and thereby influence the behaviour of states when it comes to citizenship legislation and administrative practice. Art. 15 of the 1948 Universal Declaration of Human Rights states that 'everyone has the right to a nationality' and that 'no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.' The European Commission for Democracy through Law (also known as the Venice Commission), the Council of Europe's advisory body for constitutional issues, adopted The Declaration on Consequences of State Succession for the Nationality of Natural Persons in September 1996. It states that, besides respecting the principle that every person has a right to a citizenship and the general prevention of statelessness, states should 'respect, as far as possible, the will of the person concerned.' It also repeats that 'in all cases of State succession, the successor State shall grant its nationality [citizenship] to all nationals of the predecessor State residing permanently on the transferred territory.' In a similar fashion, art. 18 of the 1997 European Convention on Nationality, prepared by the Council of Europe, declares that, in the case of succession, states should take into account 'the genuine and effective link of the person concerned with the State' and 'the habitual residence of the person concerned at the time of State succession.'

With the death of Franjo Tuđman in 1999 and the subsequent electoral defeat of the HDZ, the beginning of 2000 marked a sharp contrast with the practices of the previous decade. Owing in part to the democratic changes within Croatian politics and to Croatia's bid for EU membership, since 2000 the implementation of the citizenship laws began to demonstrate more inclusiveness towards ethnic non-Croats, although the law on citizenship itself remained unchanged until 2011. In that year the first significant changes were introduced to the Croatian citizenship law that was until then virtually unchanged for two decades. Nevertheless the accent of these amendments was more on the technical and procedural than on the substantive changes in the criteria for the acquisition of the Croatian citizenship. It is through an examination of these political conflicts and debates and their historical context that we can best present the normative framework that regulates citizenship in contemporary Croatia.

## 2 The history of citizenship<sup>5</sup> policies in Croatia (1945 – 2009)

### 2.1 Citizenship in federal Yugoslavia (1945-1991)

The citizenship laws in the Croatian lands (Croatia, Slavonia and Dalmatia) that preceded the formation of the 'first' Yugoslavia in 1918, date back to the second half of the nineteenth century. The 1879 Law on Hungarian Citizenship (art. L) was applied in Croatia and Slavonia, whereas the laws on Austrian citizenship (arts. 28-32) based on the 1811 (1867) Austrian Civil Code were applied in Dalmatia. In 1918, following the founding of the Kingdom of Serbs, Croats and Slovenes (renamed the Kingdom of Yugoslavia in 1929), the citizenship issues that arose due to the break-up of the Austro-Hungarian Empire and the subsequent creation of new states, were largely settled by the post-First World War peace treaties signed by the new Kingdom with neighbouring countries.<sup>6</sup> Yugoslavia only enacted its own law on citizenship in 1928, a law that established a single Yugoslav citizenship.

On 28 August 1945, the recently liberated 'new' Yugoslavia, a state that resurrected itself as a federation on the political map of Europe after the collapse of the Kingdom of Yugoslavia in April 1941, enacted the Law on Citizenship of Democratic Federal Yugoslavia.<sup>7</sup> Art. 35 of this law provided that everyone who had been a Yugoslav citizen on 28 August 1945 under the 1928 Citizenship Act of the Kingdom of Yugoslavia would become a citizen of the Democratic Federal Yugoslavia. Yugoslav citizenship was primarily based on the principle of descent (*ius sanguinis*) (Jovanović 1977: 22; Medvedović 1998: 27-29; Tepić & Bašić 1969: xxxvi). Since it was often impossible to prove former Yugoslav citizenship due to the widespread destruction caused by the war, art. 25 declared that anyone belonging to one of the 'peoples' of Yugoslavia (that is, to one of the South-Slavic ethnic groups), those born and raised in the territory of Yugoslavia and the permanent residents of the Federal People's Republic of Yugoslavia (FPRY) would be considered citizens of the FPRY. In 1948, a rather

<sup>5</sup> Throughout this report the term 'citizenship' (*državljanstvo*) is used instead of the term 'nationality' (*nacionalnost*). *Nacionalnost* (or *narodnost*) refers to someone's ethnic background, whereas *državljanstvo* is a neutral term designating an individual's link with a state (*država*) without any reference to ethnicity and is used in all legal documents.

<sup>6</sup> The most important treaties for citizenship issues in the Croatian lands were the Peace Treaty of St.-Germain-en-Laye with the Republic of Austria, signed on 10 September 1919, and the Trianon Peace Treaty with Hungary, signed on 4 June 1920.

<sup>7</sup> *Official Gazette of Democratic Federal Yugoslavia* 64/1945. The law was confirmed and amended on 5 July 1946 (see *Official Gazette of the Federal People's Republic of Yugoslavia (FPRY)* 54/1946). The law was further amended and revised in 1947 (see *Official Gazette of the FPRY* 104/1947) and twice in 1948 (see *Official Gazette of the FPRY* 88 and 105/1948).

oddly named law on the deprivation of citizenship was enacted: the Law on the Deprivation of Citizenship for Officers and Non-Commissioned Officers of the Former Yugoslav Army Who Do Not Want to Return to the Homeland, and for the Members of Military Forces Who Have Served the Enemy and Have Defected Abroad (this law was repealed in 1962).<sup>8</sup> This law also entailed the confiscation of property. Furthermore, in the same year the law on citizenship was revised in order to exclude from Yugoslav citizenship all citizens of German ethnicity residing abroad on the basis of their ‘disloyal conduct toward the national and state interests of the peoples of FPRY’.<sup>9</sup>

A special act related to Yugoslav citizenship – the Law on the Citizenship of Persons Residing on the Territory Annexed to Yugoslavia According to the Peace Treaty with Italy<sup>10</sup> – was adopted in 1947 following the Paris Peace Treaty between Yugoslavia and Italy. According to this Law, anyone who, as of 10 June 1940, had been a resident of the territories annexed by Yugoslavia would lose his or her Italian citizenship and acquire Yugoslav citizenship. Ethnic Italians had a one-year period to opt for Italian citizenship – in effect, to opt for whether they wanted to live in Yugoslavia or Italy. In addition, an equivalent offer of Yugoslav citizenship was made to the Slavic population from the contested borderland region between Yugoslavia and Italy. The citizenship of these groups was later defined by the Memorandum of Understanding between the Government of Italy, the United Kingdom and Yugoslavia<sup>11</sup>, which divided the Free Territory of Trieste (1947-1954) between Italy and Yugoslavia. Subsequently, their status was regulated by the 1975 Osimo Treaty between Italy and Yugoslavia (Jovanović 1977: 27-31; Medved 2009; Medvedović 1998: 32).

Together with the law on Yugoslav federal citizenship, the citizenships of the constitutive republics were established.<sup>12</sup> Yugoslav citizens were allowed to have only one republican citizenship. This measure had very important practical and political consequences. According to the Voting Registers Act of 10 August 1946, only citizens of a particular republic had the right to vote in that republic. Citizens from other Yugoslav republics who happened to reside on the territory of that republic were not allowed to vote there. Republican People’s Assemblies were supposed to be elected only by citizens of these republics, although some republics, such as Croatia, would later allow both its citizens and residents to participate in elections of delegates for the Croatian Parliament (Hondius 1968: 184). It is important to note that only republican registers of citizens existed in Yugoslavia between 1945 and 1991.<sup>13</sup> During the era of socialist Yugoslavia, three laws on Yugoslav citizenship were enacted (in 1945/1946, 1964 and 1976), following important constitutional changes in 1945, 1946, 1963<sup>14</sup> and 1974. They defined the relationship between federal and republican citizenship. Art. 1, para. 2 of the 1945/46 Law on Yugoslav citizenship stated that: ‘Every citizen of a people’s republic is simultaneously a citizen of FPRY and every citizen of FPRY is in principle a citizen of a people’s republic.’ The 1964 Law provided for a united Yugoslav citizenship (art.

<sup>8</sup> *Official Gazette of the FPRY* 86/1948 and 22/1962.

<sup>9</sup> *Official Gazette of the FPRY* 105/1948.

<sup>10</sup> *Official Gazette of the FPRY* 104/1947.

<sup>11</sup> *Official Gazette of the FPRY Supplement* No. 6/1954.

<sup>12</sup> This was not the case in two other socialist multinational federations. Republican citizenship was established in Czechoslovakia only in 1969 and the first Soviet republic that enacted its own citizenship law was Lithuania in November 1989.

<sup>13</sup> The fact that only republican registers existed at the moment of Yugoslavia’s break-up would prove to be very important, because all Yugoslav republics would adopt a policy of legal continuity between previous republican citizenship and citizenship of the new state. Only those granted Yugoslav citizenship at a Yugoslav embassy who were residing abroad were not included in the republican registers. Once they established their residence in Yugoslavia, they were also entered into the register of the republic in which they resided.

<sup>14</sup> In the 1963 Constitution, the FPRY was renamed the Socialist Federal Republic of Yugoslavia (SFRY).

1), made republican citizenship conditional upon federal citizenship, and declared that the republican citizenship would be lost with the loss of federal citizenship (art. 2, para. 2).<sup>15</sup> The 1976 Law on Yugoslav citizenship contained a similar provision and added art. 22 governing the resolution of disputes caused by the republican laws on citizenship.<sup>16</sup> These norms regulated the citizenship status of a child either according to the citizenship laws in force in the republic of which the child's parents were citizens or, if the parents did not have the same citizenship, according to the citizenship laws of the republic where the child was born. The norms also offered an option for parents of different citizenships to agree on the citizenship of their child. If the parents could not agree, the child was granted a possibility of naturalising in the republic of his or her birth. Not surprisingly, given the confederated structure that progressively emerged in Yugoslavia after the late 1960s, these norms are quite similar to the norms of private international law dealing with conflicts of law between sovereign states (Jovanović 1977: 53).

The republican laws on citizenship were fashioned to harmonise with the federal law on citizenship, but in fact they varied from one republic to the other. They were adopted in three waves: in 1950, in 1965 and in the period between 1975 and 1979. In 1950, the Law on Citizenship of the People's Republic of Croatia<sup>17</sup> provided that the basic principle for acquisition of Croatian republican citizenship was *ius sanguinis*. However, if parents of a newborn child had different republican citizenships, the child could acquire Croatian citizenship if both parents agreed. If they did not agree and they had residence in Croatia, the child would automatically acquire Croatian citizenship. If the parents did not have residence in Croatia but the father had Croatian citizenship, the child would become a Croatian citizen as well.

The 1965 Law on Citizenship of the Socialist Republic of Croatia brought some changes.<sup>18</sup> Croatian citizenship was automatically granted if a child was born in Croatia and both parents had Croatian citizenship. In all other cases, parents had to agree on the child's citizenship. Nevertheless, the law offered a possibility to any SFRY citizen to opt for Croatian citizenship without being born or residing there and regardless of his or her ethnicity (UNHCR 1997: 16).

In the 1977 Law on Citizenship of the Socialist Republic of Croatia<sup>19</sup> we can observe some new changes related to the acquisition of Croatian citizenship. The *ius sanguinis* principle remained the automatic criterion for acquiring Croatian citizenship; if both parents were Croatian citizens, the child would automatically become a Croatian citizen. However, if only one parent was a Croatian citizen, both parents had to agree. In cases in which the parents did not agree or did not sign a statement within two months following the birth of their child, Croatian citizenship was automatically awarded to the child if the parents had permanent residence in Croatia. If the parents did not have permanent residence in Croatia, the child would acquire Croatian citizenship if his or her birth was registered in Croatia's register of births.<sup>20</sup>

<sup>15</sup> *Official Gazette of the Socialist Federal Republic of Yugoslavia (SFRY)* 38/1964 (corrected version in 42/1964).

<sup>16</sup> *Official Gazette of the SFRY* 58/1976.

<sup>17</sup> *Official Gazette of the People's Republic of Croatia* 23/1950

<sup>18</sup> *Official Gazette of the Socialist Republic of Croatia* 13/1965.

<sup>19</sup> *Official Gazette of the Socialist Republic of Croatia* 32/1977.

<sup>20</sup> Obviously, between 1965 and 1977 the automatic acquisition of republican citizenship was not a rule if only one parent had Croatian citizenship, even if a child was born in Croatia (on changes in the Croatian law on republican citizenship and administrative practices between 1950 and 1991, see the report on Croatia in UNHCR 1997).

As shown above, citizenship in the socialist Yugoslavia was bifurcated into a federal citizenship, on the one hand, and a republican citizenship, on the other hand. According to art. 249 of the last (1974) SFRY Constitution, citizens possessed a ‘single citizenship of SFRY’ and every citizen of a republic was ‘simultaneously’ a citizen of SFRY. The third line of the article offered an important right to all federal citizens: ‘a citizen of a republic on the territory of another republic has the same rights and obligations as the citizens of that republic.’

Yugoslav citizens were thus, in principle, able to choose their republican citizenship depending on their residency or employment. Nevertheless, since the republican citizenship was of no practical relevance, citizens usually did not change their republican citizenship status if they moved to another republic, and often they did not even register changes of residence. Internal Yugoslav migration established strong personal and family ties across republican borders, whilst economically motivated migrations and the resettlement of federal administration personnel resulted in a considerable number of individuals living outside of their republic of origin. This in turn affected, to a certain degree, the balance between ethnic groups in Yugoslav republics. From the moment of Yugoslavia’s dissolution, federal citizenship ceased to exist and the previously practically irrelevant republican citizenship became the main criterion for the initial determination of citizenship in the successor states. The ‘internal’ Yugoslav migrants, residing in a republic whose citizenship they did not possess and to whose ethnic majority they did not belong, were the first to suffer the consequences of the new citizenship regimes.

## 2. 2 Croatian citizenship since 1991

The Croatian declaration of independence of 25 June 1991 – which entered into force on 8 October 1991 after a three-month moratorium brokered by the international community – was based on the referendum on Croatian independence of 19 May 1991. Croatian citizens were essentially asked to vote – which they did in huge numbers – in favour of recognising ‘the Republic of Croatia as a sovereign and independent state that guaranteed the Serbs and members of other nationalities in Croatia cultural autonomy and all rights of a citizen’.<sup>21</sup> However, Croatian Serbs generally boycotted the referendum and even held their own to express their desire to remain part of Yugoslavia.

Six months before, in December 1990, the new Croatian constitution had proclaimed ‘the Republic of Croatia as the national state of the Croatian people and the state of members of other nations and minorities who are its citizens.’ The new Constitution, adopted after the first democratic elections in Croatia, replaced the 1974 Constitution of the Socialist Republic of Croatia, which had defined Croatia ‘as a national state of the Croatian people, *state of the Serbian people in Croatia* [emphasis added] and state of nationalities living on its territory’ (art. 1). Although the referendum question, together with the Constitution itself, mentioned the rights of ethnic minorities and their equal status in new Croatia, the constitutional definition of Croatia as primarily an ethnically Croatian state had a direct impact on the new citizenship law (which entered into force simultaneously on 8 October 1991).<sup>22</sup> The law was

<sup>21</sup> *Official Gazette of the Republic of Croatia* 21/1991.

<sup>22</sup> *Official Gazette of the Republic of Croatia* 53/91; modifications and amendments in *Official Gazette of the Republic of Croatia* 28/92. These amendments were mainly corrections of inconsistencies in the law, or legal clarifications of its provisions, which were written and adopted hastily in the context of Croatia’s declaration of independence from SFRY and its open conflict with Belgrade. Some changes were obviously made after complaints were received about the implementation of the law. An important amendment was that the renunciation of foreign citizenship required for naturalisation was eased (see note 24).

conceived on the basis of two major principles: legal continuity with citizenship of the Socialist Republic of Croatia and Croatian ethnicity (Omejec 1998: 99).

All holders of the former Croatian republican citizenship became citizens of the new state *ex lege* (art. 30, para. 1). All other residents became aliens overnight, irrespective of how long they had resided in Croatia. Their naturalisation as Croats was regulated by art. 8 of the Law on Croatian Citizenship. According to this article, in order to be naturalised a resident must have at least five years of registered residence in Croatia, provided that the following conditions were met: that he or she had renounced a foreign citizenship or will submit proof that he or she will be released from a previous citizenship if admitted to Croatian citizenship; that he or she is *proficient* in the Croatian language and *Latin* script; that it can be concluded from the applicant's *conduct* that he or she is attached to the legal system and customs of the Republic of Croatia; and finally, that he or she *accepts the Croatian culture* [emphases added].<sup>23</sup>

The law put those with less than five years of registered residence and those who were unable to prove that they had been released from foreign citizenship (i.e. previous republican citizenship)<sup>24</sup> in a particularly difficult position. In the context in which Croatia was at war with the Yugoslav army, controlled by Belgrade's leadership, and the Serb rebels in Croatia backed by Serbia it was virtually impossible to satisfy this condition. Only aliens born in the territory, spouses, emigrants and those whose citizenship was of interest to Croatia did not have to prove release from their previous citizenship under the naturalisation procedure. However, the first two categories have to fulfil more requirements than the latter two. Moreover, all applicants for naturalisation have to prove that they accept the Croatian legal system, customs and culture (see section 3.1.3 for further details). Between 1991 and 1993 decisions on applications, made by the Ministry of Internal Affairs, were discretionary, since the Ministry was not obliged to state its reasons for refusing a request. In 1993 the Constitutional Court ordered the Ministry in charge to begin giving reasons for its decisions.<sup>25</sup>

The ethnocentric features of the 1991 Citizenship Law were confirmed again in the transitional provisions, determining the initial citizenry of Croatia and including a special mode of acquiring citizenship for ethnic Croats who were registered as residents in Croatia but did not possess Croatian republican citizenship. They could acquire Croatian citizenship by declaration, i.e. by issuing a written statement to the police that they considered themselves Croatian citizens. Once the police had checked whether the individual in question had fulfilled the above requirements, he or she was then entered into the citizenship register (see art. 30, para. 2).<sup>26</sup> In 1993, the Croatian Constitutional Court rejected the petition filed by the Social Democratic Union demanding the removal of art. 30 in its entirety on the basis that it discriminated throughout against non-Croats. The Court stated that the Croatian Citizenship Law respected international law on statelessness and that it did not threaten to 'leave a person without citizenship', since all SFRY citizens had to have a republican citizenship.

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<sup>23</sup> These 'conditions' were imposed on ethnic non-Croats coming from other Yugoslav republics. They also provided a basis for the Ministry in charge to refuse Croatian citizenship to certain individuals, non-Croats from other republics, but also to some Croatian Serbs.

<sup>24</sup> The 1992 amendments, however, facilitated access to Croatian citizenship for those who, for various reasons, were unable to obtain release from their previous citizenship. Following these amendments, applicants have to state that they will renounce their previous citizenship, if granted Croatian citizenship.

<sup>25</sup> *Official Gazette of the Republic of Croatia* 113/1993.

<sup>26</sup> The 1991 Law additionally required ten years of residence for this group, which was not in accordance with art. 8 and art. 16 and was therefore corrected in the amendments adopted only seven months later on 8 May 1992. Applicants merely had to prove that they were registered as residents (see *Official Gazette of the Republic of Croatia* 28/1992).

Furthermore, the Court stated that the Law itself did not explicitly revoke anyone's citizenship (UNHCR 1997: 17).

Not only did the law lay down a specific procedure for acquiring Croatian citizenship for residents of Croatian ethnicity, in the article determining the initial citizenry of Croatia, it also offered facilitated naturalisation to emigrants and their descendents, who accept the Croatian legal system, customs and culture (art. 12). Moreover, it paved the way for ethnic Croats without previous or current residence in Croatia to obtain Croatian citizenship by declaration (art. 16). There is in fact a large population of Croats living abroad. Non-resident Croats can be classified in three categories. The first category is composed of the descendents of emigrants who left Croatian territory. This comprises the 1880-1914 migration, mainly to the Americas. About 600,000 Croats were believed to be living in North America by 1914 (Holjevac 1968: 23). This flow continued in the 1920s and 1930s. However, it also comprises the post-Second World War emigration of about 300,000 people (Bilandžić 1985: 9) who fled Communist Yugoslavia, as well as an estimated number of 1,100,000 'Gastarbeiter' and their descendents<sup>27</sup> who remained in their mainly European countries of destination (Baskin 1986: 27). The second category of Croats abroad is composed of Croats from Bosnia and Herzegovina, who represent about 16 per cent of the total population of that country. Despite the fact that they were one of the 'constitutive peoples' of the Republic of Bosnia and Herzegovina, they were considered potential Croatian citizens in 'diaspora'. Indeed, art. 16 facilitated the naturalisation of ethnic Croats living in the 'near abroad' (former Yugoslav republics), especially for those in Bosnia-Herzegovina, while art. 11 facilitated the naturalisation of the Croatian ethnic emigrants and their descendents, even if they did not satisfy the conditions stated in art. 8 regarding proficiency in the Croatian language. The third category of Croats abroad is formed of the Croat ethnic minorities in other countries of the region apart from Bosnia-Herzegovina and in other European states. For this category it is important to note that it is estimated that between 20,000 and 40,000 members of Croat minority from Serbia migrated to Croatia during the 1990s (in most cases due to the rise of the hostilities toward ethnic minorities in their resident republic) (MVPEI 2006) out of which most were granted citizenship through the procedures of facilitated naturalization for members of Croatian people.

Since legal continuity with previous citizenship of the Socialist Republic of Croatia was the determining factor for the establishment of the initial citizenry of the newly independent state, the Republican Registrar's Office was supposed to issue certificates on Croatian citizenship. Problems occurred, however, when an individual was registered but his or her republican citizenship was not Croatian (for instance, the father's republican citizenship was sometimes used to determine the republican citizenship of a child), or if no republican citizenship was officially recorded. In the former cases, the persons were considered aliens and had to apply for naturalisation, whereas the latter were sent to police agencies to have their citizenship determined or were allowed to register as Croatian citizens – according to art. 30, para. 2 – if they were able to prove their Croat ethnic origins (UNHCR 1997). If they were not able to provide the necessary proof (or they were simply of a different ethnicity), they were considered aliens by law. But how could someone actually prove his or her Croat ethnic origins? Any official document released by SFRY or republican authorities in which a person declared himself to be ethnically Croat usually sufficed, but sometimes more unusual documents, such as Catholic Church certificates were also accepted by state

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<sup>27</sup> Guestworkers, or 'workers temporarily employed abroad' (*radnici na privremenom radu u inozemstvu*), according to the official Yugoslav terminology.

authorities.<sup>28</sup> Among South Slavs born south of Slovenia being a Roman Catholic has long been considered the strongest proof of a person's 'Croat-ness'.

The citizenship status of Croatia's Serb minority in the Krajina region was particularly problematic.<sup>29</sup> Given the fact that in 1991 the Croatian Serb militia, with the help of the Yugoslav federal army, took control of almost one-third of Croatia's territory (mostly in the Krajina region but also in Central and Eastern Slavonia), the citizenship status of the ethnic Serb population living in these regions remained unresolved for almost a decade. Croatian Serb refugees, who fled or were forced to leave Krajina during and after the Croatian military takeover in 1995 and found themselves in Serbia or Bosnia-Herzegovina (in the Serb entity), were in a particularly difficult situation. They were all legally Croatian citizens but did not possess a certificate of Croatian citizenship (*domovnica*) and, therefore, could not claim all their rights as Croatian citizens. Up until the political changes in 2000, the Croatian authorities imposed numerous obstacles to prevent ethnic Serb refugees from acquiring valid documents (certificates of citizenship, passports, etc.) testifying to their citizenship – the goal being to make their return to Croatia and the restitution of their goods as difficult as possible (Imeri 2006: 129-31).

With the death of Croatian President Franjo Tuđman and the subsequent defeat of his party (HDZ) in the 2000 parliamentary elections, Croatia declared its willingness to satisfy rapidly all the conditions necessary for EU membership. As a consequence, the situation regarding citizenship policy has significantly improved. Even though no significant amendments to the citizenship law were made until 2011, the administrative practice in the area revealed a greater degree of inclusiveness towards ethnic non-Croats, without, however, withdrawing privileges offered to ethnic Croats outside the country. Today, Croatian Serb refugees face no significant obstacles in acquiring proof of Croatian citizenship, although some issues related to the citizenship policies of the 1990s remain unresolved.<sup>30</sup> The EU stated that the return of these refugees to Croatia and the full restitution and reparation of their material goods was an important political condition for Croatia's membership talks.

Finally, in December 2011, two decades after the enactment of the law, the Croatian Parliament passed the Law on Modifications and Amendments of the Law on Croatian Citizenship.<sup>31</sup> Although this law represents the most significant modification of the original law since its enactment, it is, however, focused on the administrative improvements and certain technical details regarding the implementation of the law rather than on the substantive changes of the Croatian citizenship regime. On the administrative level, for the purposes of the better control of the citizenship regime and implementation of the citizenship

<sup>28</sup> If a person did not declare himself or herself an ethnic Croat in official documents such as a birth certificate or a marriage certificate, or if a person had declared ethnicity as Yugoslav and/or was born in a so-called 'mixed marriage', the state authorities (the Ministry of the Interior) established a person's membership of the Croatian people by using Catholic Church certificates (if available) and even passed judgement on the 'Croat-ness' of a person's family name. This was certainly a somewhat delicate matter since a large percentage of 'Croatian' family names are shared by Serbs and other South Slavic groups. See also the report on Croatia in Imeri (2006).

<sup>29</sup> A significant number of the Croatian Serbs continued to live in territory controlled by the Croatian authorities. They managed to regulate their status either smoothly (i.e. as holders of the former Croatian republican citizenship they were automatically registered into the new registries of citizens), or in some cases, with considerable difficulties. Numerous reports testify to cases of violations of their right to Croatian citizenship in the 1990s. See, for instance, reports on the issue published in Dika, Helton & Omejec (1998). See also the report on Croatia in Imeri (2006).

<sup>30</sup> For more details on the present situation and descriptions of some concrete cases, see the report on Croatia published in Imeri (ed.), *Rule of Law in the Countries of the Former SFR Yugoslavia and Albania: Between Theory and Practice*. The report points out that, for instance, the status of persons of non-Croat ethnic origin who were permanent residents of Croatia before the 1991 Law on citizenship still awaits regulation.

<sup>31</sup> *Official Gazette of the Republic of Croatia* 130/2011.

legislation, the responsibilities for the implementation of the law have been divided between the Ministry of Public Administration and the Ministry of Interior. However, the law still identifies the same categories of applicants for both the regular and facilitated naturalization. On the one hand, the modified law still provides preferential treatment for ethnic Croats abroad and members of the Croatian emigration (even though it introduces more precise criteria for the membership to both of these categories of applicants). On the other hand, the non-ethnic Croat foreigners with the residency in Croatia have to meet higher residency requirements in the process of regular naturalization. The residency requirement for regular naturalization, provided in art. 8.1.3. of the law, has been raised from five to eight years of registered residency. Furthermore, in the processes of regular naturalization and the naturalization of members of Croatian emigration, the law introduces the sort of ‘citizenship test’ that examines applicants’ familiarity with the Croatian language and Latin alphabet, Croatian culture and social system.

According to the Ministry of Interior, there are several reasons for the introduction of the Modifications to the law.<sup>32</sup>

Firstly, the modifications are introduced in order to adjust the Croatian citizenship legislation with the requirements of the Croatian Migration policy, enacted on 13<sup>th</sup> July 2007. The policy explicitly stated that the individual applying for Croatian citizenship through regular naturalization procedure should have a legal status of foreigner with permanent residency in Croatia in order to be eligible for Croatian citizenship. The 1991 law did not have a permanent residency status requirement, but instead demanded five years of registered temporary residence prior to the naturalization. However, this requirement was not longer than the one that the Law on Foreigners (art. 78) established as a condition for acquiring the status of permanent resident in Croatia. Since the legislators perceived citizenship acquisition as the final stage of the foreigner’s integration to the Croatian society, they concluded that the residency requirement for naturalization should be longer than the one asked for obtaining the status of permanent resident. In addition, only those applicants who have obtained the status of foreigners with permanent residency in Croatia are eligible to apply for Croatian citizenship through regular naturalization.

Furthermore, in order to overcome the shortcomings identified in the past implementation of the law<sup>33</sup>, the amendments provide more precise criteria for determining whether an applicant falls in one of the categories entitled to citizenship through the facilitated naturalization procedure (e.g. members of Croatian people abroad and Croatian emigrants and their descendants).

The amendments also introduce residency criteria for the citizens who have lost Croatian citizenship and wish to reacquire it. In order to ensure that such applicants truly intend to live in Croatia, the law introduces a registered residency in Croatia as a mandatory precondition for their naturalization to Croatian citizenship. As the legislator states, such requirement should not just enhance their integration to Croatian society but also promote ‘demographic recovery’ of the Republic Croatia (Bill on Modifications and Amendments of the Law on Croatian Citizenship, 2011:3)

<sup>32</sup> For a detailed elaboration on the modifications and amendments to the law on Croatian citizenship, see (Ministry of the Interior, Bill on Modifications and Amendments of the Law on Croatian Citizenship, Zagreb, October, 2011).

<sup>33</sup> One of the major shortcomings noticed during the implementation of the law related to the determination of the membership criteria to one of the categories eligible for the facilitated access to Croatian citizenship. For more details on this issue see Chapter 3 of this report, particularly sections 3.1. The main Modes of Acquisition and Loss of Croatian Citizenship – facilitated naturalization and 3.2. Special Rules for Ethnic Communities Abroad.

Additionally, the legislators' aim is to adjust Croatian citizenship legislation with the practices and tendencies present in the citizenship regimes of some European countries and to adjust the law with the European conventions on citizenship, particularly with the European Convention on Nationality and European Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality. However, while the extensions of the registered residency requirements for the regular naturalization may be in line with the current practices of a number of European states (the Bill on modifications names the examples of Germany, Macedonia and Hungary for the eight years and Austria, Montenegro and Italy for ten years residency requirement), entitlements for facilitated naturalization based on ethnic membership are in breach of the non-discrimination principle of the European Convention on Nationality.

Finally, in accordance with the new Law on Foreigners<sup>34</sup>, art. 19 of the amendments has been introduced to resolve some of the remaining citizenship acquisition issues from the 1990s related to the former non-ethnic Croat residents. According to art. 94 of the Law on Foreigners, all foreigners who on the 8 October 1991 had a permanent residence in Croatia, and who are beneficiaries of the program of return or reconstruction or housing and have returned to Croatia, may be granted with the permanent residence status. Art. 19 of the amendments builds on this provision, and states that all individuals who had a permanent residence in Croatia on the 8 October 1991, and who have been granted with the status of permanent resident meet the residency requirement in the citizenship acquisition procedures. As was previously stated in this report, non-ethnic Croat permanent residents, who on the 8 October of 1991 were not in the citizenship register, were not considered *ex-lege* Croatian citizens and due to the complex procedures for the regular naturalization could not acquire Croatian citizenship. This particularly targeted non-ethnic Croat residents, who had a short-term residence in Croatia on the 8 October of 1991 and who fled the country during the 1990s. Their inability to meet the residency requirements mandatory for the regular naturalization and hence acquire Croatian citizenship represented an additional obstacle for their perspectives of return and reintegration to Croatia. These amendments provide an opportunity for the facilitated naturalization of such former residents who till today did not manage to obtain Croatian citizenship.

### **3 Current Citizenship Regime**

#### **3.1 The Main Modes of Acquisition and Loss of Croatian Citizenship**

The 1991 Law on Croatian Citizenship, as amended in 1992 and most recently in 2011, offers four modes of acquiring Croatian citizenship: acquisition by descent, acquisition by birth on the territory of the Republic of Croatia, acquisition through naturalisation, and acquisition through international treaties.

The last of these modes is not explicitly discussed in the citizenship regulations, since the treaties themselves regulate the modalities for acquiring Croatian citizenship. The only treaty of interest here is the agreement on dual citizenship signed by Croatia and Bosnia-Herzegovina on 29 March 2007 but not yet ratified (see section 3.3. below).

#### *Acquisition by descent*

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<sup>34</sup> *Official Gazette of the Republic of Croatia* 130/2011

As regulated in art. 4 and art. 5, the principle of descent, *ius sanguinis* (the dominant principle for the acquisition of Croatian citizenship), applies when: (1) both parents are Croatian citizens at the time of a child's birth, irrespective of the place of birth; (2) one parent is a Croatian citizen and the child is born in the Republic of Croatia; (3) one parent is a Croatian citizen and the other parent is stateless or of unknown citizenship and the child is born abroad; (4) one parent is a Croatian citizen and the other parent is a foreign citizen or of unknown citizenship and the child is born abroad, provided that the child, before turning eighteen, either (a) has been registered as a resident in the territory of the Republic of Croatia or (b) has been registered with Croatian authorities, abroad or in Croatia; (5) one parent is a Croatian citizen and the other parent is a foreign citizen or of unknown citizenship and the child is born abroad, even if the child does not comply with the above mentioned conditions, if he or she would otherwise be left stateless; finally (6) a stateless child, or a child of foreign citizenship, has access to Croatian citizenship if he or she is adopted by Croatian citizens.

Following the 2011 amendments, the Croatian emigrants and their descendants' entitlements to Croatian citizenship through facilitated naturalization procedures according to art. 11 have been limited up to the third generation straight-line relationship (see section on Facilitated naturalization below). Moreover, those born abroad who do not satisfy the above conditions can acquire citizenship through two other provisions: art. 11 (concerning emigrants) and art. 16 (concerning ethnic Croats who do not reside in the Republic of Croatia).

#### *Acquisition by birth on the territory*

As is common practice in European states, art. 7 adds a residual dimension of *ius soli* in order to prevent statelessness: a child who was born or found on the territory of the Republic of Croatia acquires Croatian citizenship if both of his or her parents are unknown or of unknown citizenship or if they are stateless persons. However, the child loses his or her Croatian citizenship if by the time he or she is fourteen both of his or her parents are recognised as foreign citizens.

#### *Acquisition by naturalisation*

Naturalisation has been used deliberately to grant Croatian citizenship to former citizens of SFRY who did not fulfil the criteria of art. 30 para. 1. and para. 2 that regulate the initial determination of the Croatian citizenry. Following the description of Omejec (1998), Croatian citizenship legislation foresees two modes of acquiring Croatian citizenship through naturalisation: 'regular' and 'facilitated' naturalisation. It also considers the case of minors, and the case of individuals who can be 'reintegrated' into the Croatian citizenry.

#### *Regular naturalisation*

In order to obtain Croatian citizenship, an alien is required to fulfil the following requirements contained in art. 8. The foreign national must:

- be at least eighteen years old when submitting his or her request;
- have renounced any foreign citizenship, or submit proof that he or she will be released from other citizenships;
- have had registered residency and lived in the Republic of Croatia for eight years continuously prior to the submission of the citizenship application and has a legal status of a foreigner with a permanent residency in Croatia;
- be familiar with the Croatian language, the Latin alphabet, as well as Croatian culture and the social system.

Moreover, it must be concluded from his or her behaviour that he or she respects the legal order and the customs of the Republic of Croatia. This particular provision (art. 8.1.5) of the law, which until the 2011 amendments to the law also included a subjective category of respect towards the Croatian culture, has been often used in the past by the Ministry of Interior (the Ministry in charge of determining the validity of naturalisation applications) to deny Croatian citizenship to ethnic non-Croats with long-term residence in Croatia.

The law foresees that familiarity with the Croatian language, Latin alphabet, Croatian culture and the social system is to be tested through the examination process. The content and the structure of the examination process is defined by the *By-law on methods of examination of knowledge of Croatian language and Latin script, Croatian culture and social system in the procedures for acquiring Croatian citizenship*<sup>35</sup> (in the further text referred to as ‘by-law’) enacted on 15 October 2012 by the Minister of Interior, with the approval of the Minister of Science, Education and Sport and the Minister of Culture.

According to the article 2 of the by-law, applicants who are in the process of acquiring Croatian citizenship according to art. 8 of the Law on Croatian citizenship, can prove their familiarity with Croatian language and Latin Script by providing one of the following documents:

- Certificate of having passed the Croatian language and Latin script proficiency exam at one of the institutions of higher, secondary or adult education accredited by the Ministry in charge of education to teach Croatian language courses.
- Certificate of completion of primary, secondary or higher education in the Republic of Croatia.
- Certificate issued by the foreign educational institution which confirms that applicants' education was carried out in the Croatian language. Alternatively, an applicant can provide a certificate of completion of the Croatian language course of at least B1 level of language proficiency.

According to articles 3 and 4 of the by-law, foreigners applying for Croatian citizenship who prior application had at least ten years of refugee status in Croatia, or who on the 8 October 1991 had a permanent residence in Croatia or are applying to citizenship according to the provisions of art. 11 of the Law on Croatian citizenship (Croatian emigrants and their descendants) can prove their familiarity with the Croatian language and Latin Script by filling in the application form for acquisition of Croatian citizenship by naturalization. The applicant must fill in the form in person and independently in front of the official person responsible for the receipt of application.

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<sup>35</sup> *Official Gazette of the Republic of Croatia* 118/2012

Finally, in articles 6,7 and 8, the by-law defines the methods and procedure for examination of the applicant's familiarity with the Croatian culture and social system. The applicant's familiarity with Croatian culture and the social system is examined through a test consisting of fifteen questions that cover various areas of the Republic Croatia's social and political system, history, culture, customs, art, literature, sport, economy, geography and tourism. These questions are randomly selected by the official person in charge of the examination procedure from a pool of one hundred examination questions listed in the by-law. The applicant passes the test if he or she answers at least ten questions correctly.

### *Facilitated naturalisation*

The procedure of facilitated naturalisation is used when, in spite of the fact that some of the conditions listed above are not fulfilled, there is an intention to admit an alien into the Croatian citizenry. There are several grounds on which an alien can be naturalised in this way:

1. Art. 9 provides for the granting of citizenship to aliens who were born in the Republic of Croatia, live in the Republic of Croatia and have legal permanent residence, have renounced any foreign citizenship, or submitted proof that they will be released from other citizenships and for whom it can be concluded from their behaviour that they have respected the legal order and the customs of the Republic of Croatia. Hence, this specific group of applicants does not have to fulfil conditions 1, 3 and 4 of the regular naturalisation procedure.<sup>36</sup>

2. Art. 10 provides for the spouse of a Croatian citizen with approved permanent residency in the Republic of Croatia to obtain Croatian citizenship, provided that it can be concluded from his or her behaviour that he or she respects the legal order and the customs and the culture of the Republic of Croatia.

3. Emigrants, their descendants up to the third generations of straight-line relationship and their spouses are similarly granted citizenship under art. 11, even if they do 'not meet the prerequisites from art. 8, paragraph 1, points 1-3'. An emigrant is defined as a 'person who has emigrated from Croatia with the intention to live permanently abroad'. The law emphasises that for the citizenship acquisition purposes, the person is not considered as an

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<sup>36</sup> This article was modified by art. 4 of the Law on Modifications and Amendments of the Law on Croatian Citizenship (*Official Gazette of the Republic of Croatia* 28/1992), deleting the requirement of five years of permanent residence demanded in the first version of the law. As the law stood in 1991, those born in the country who could apply for facilitated naturalisation had to fulfil a longer residence requirement than those applying for regular naturalisation. To obtain permanent residence one first has to prove five years of temporary residence, according to the new Law on Aliens. In practice this would have thus meant that a person born in the country had to prove ten years of residence in the country, whereas those applying for regular naturalisation only had to prove five. These modifications did not imply that those born in the country did not have to fulfil any residence requirement; they had to prove five years of registered residence in the same way as those applying for regular naturalisation. It is important here not to confuse this modification with another important modification of the residence requirements introduced by art. 13 of the same amendments, which deleted the ten years residence required in art. 30 para. 2 of the 1991 Law defining a specific procedure of acquiring Croatian citizenship by declaration for ethnic Croats (see note 26). The authors would like to thank Iris Goldner for this clarification. Finally, this article was modified by the art. 3 of the Law on Modifications and Amendments of the Law on Croatian Citizenship (*Official Gazette of the Republic of Croatia* 130/2011). With these changes candidates who apply for citizenship according to their birth in Republic of Croatia are exempt from the eight years residency requirements, conditioned in art. 8.1.3. However, since the law requires a status of permanent residency for such applicants, they still have to have five years of temporary residence in Croatia in order to obtain Croatian citizenship.

emigrant if their migration from Croatia was due to the international treaty or if he or she has renounced their Croatian citizenship. Furthermore, persons who changed their permanent residency to other states, which at the time of migration were part of the state federation to which the Republic of Croatia also belonged, are not considered as emigrants.<sup>37</sup> Candidates have to show documents proving the emigration from the territory of the Republic of Croatia, and the connection to the original emigrant up to the third generation of straight-line relationship (children, grandchildren and great-grandchildren), through birth and marriage certificates.

4. According to art. 12, any foreign citizen, as well as his or her spouse, can be granted Croatian citizenship by the competent ministry if this is deemed to be in the interest of the Republic of Croatia (upon condition, as always, that it can be concluded from his or her behaviour that he or she respects the legal order and the customs of the Republic of Croatia).

### *Naturalisation of minors*

The Law on Croatian Citizenship does not allow minors to acquire Croatian citizenship independently of their parents. According to art. 13, there are three possibilities for a child to acquire Croatian citizenship through naturalisation: (1) if both parents acquire citizenship by naturalisation; (2) if only one parent acquires citizenship by naturalisation and the child lives and has a legal residency in the Republic of Croatia; or (3) if only one parent acquires citizenship by naturalisation and the other is a stateless person or a person of unknown citizenship and the child is living abroad.

### *Reacquisition of Croatian citizenship*

On top of the legal dispositions for the naturalisation of aliens, there are provisions for reacquisition of citizenship by former Croatian citizens who have lost it. There are two main possibilities for ‘reintegrating’ people into the Croatian citizenry. According to art. 15, Croatian citizenship can be granted again to an individual who had to renounce his or her Croatian citizenship for another citizenship in order to ‘conduct a profession or a business’, even if he or she does not meet the prerequisites of art. 8.1.1-4. However, such applicant has to live and have legal residency in the Republic of Croatia. Another case concerns individuals who have lost their citizenship as minors. According to art. 23, children of Croatian citizens

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<sup>37</sup> Contrary to the text of the 1991 law, the 2011 amendments established more strict procedures for the facilitated naturalization of emigrants and their descendants. Until the 2011 amendments, there were no specifications in the law as to the number of generations entitled to apply through art. 11. Such provisions opened up the possibility for all emigrants and their descendants to acquire Croatian citizenship. One of the main concerns of the legislators of the 2011 amendments was that in practice a number of applicants were descendants of the 5<sup>th</sup> or 6<sup>th</sup> generation emigrants and did not know the Croatian language nor had any familiarity or connection with Croatian culture and society. The legislators’ main concern was that such applicants were misusing the provisions contained in article 11 in order to obtain Croatian citizenship, primarily for the instrumental purposes (such as visa-free travels and access to the labour markets of more developed third countries). Hence, the restrictions for the entitlements up to the descendants of the third generation emigrants and familiarity with the Croatian language, Latin alphabet, Croatian culture and social system were introduced in order to grant citizenship only to those members of emigrant community who have a genuine connection with the Croatian state.

whose citizenship has been revoked (art. 20) or renounced by their parents while they were minors (art. 22) can regain citizenship if they reside for one year in the territory of the Republic of Croatia and issue a written statement stating that they consider themselves Croatian citizens.

According to art. 17, there are three principal ways in which Croatian citizenship can be terminated: (1) release,<sup>38</sup> (2) renunciation or (3) through international treaties. The last of these, as is the case for the acquisition of citizenship, is not explicitly discussed in citizenship regulations for the reasons discussed above.

### *Release*

Release from citizenship by the state authorities, is regulated by art. 18 and art. 19. Release from citizenship cannot be obtained by a Croatian citizen who at the moment of the request is charged and prosecuted *ex officio*, or as long as he or she has not served his or her sentence. In addition, the citizen must be at least eighteen years old, must have fulfilled his military service obligations, must have paid taxes and must have fulfilled any obligations to his or her spouse, parents and children. Moreover, proof of a foreign citizenship or evidence that the foreign citizenship will be granted must also be submitted. The price of this procedure is, however, unusually high for an ordinary Croatian citizen. It is currently fixed at 3,600 kunas (HRK), i.e. approximately 500 Euros, which is just below the average monthly wage in Croatia.<sup>39</sup>

### *Renunciation*

According to Omejec (1998: 122), the purpose of the right to renounce Croatian citizenship is to avoid restricting the freedom of choice of those in possession of dual citizenship. Croatian citizens have the right to renounce citizenship if they are over eighteen, have a foreign citizenship and reside abroad. The children of these citizens, if they are minors, are considered in the same way as their parents, although they can re-claim their lost citizenship, as explained above.

### *Lapse or withdrawal of citizenship*

The Croatian citizenship regulations do not specify cases in which citizenship is lost against the will of the person affected. In contrast to the majority of states, there are no provisions governing, for example, treason or service in a foreign army.

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<sup>38</sup> 'Revocation' in the text of the law.

<sup>39</sup> For more information on the procedure, see: [www.mup.hr](http://www.mup.hr). The average net salary for the first nine months in 2012 was 5,453 kuna (HRK) per month (see Central Bureau of Statistics, Statistical information 2012, [www.dzs.hr](http://www.dzs.hr)).

*Dual citizenship*

The question of dual citizenship is treated rather ambiguously as there are no special provisions in the law that regulate this issue. It is currently settled by the provisions of the art. 2 and in the articles that regulate acquisition of citizenship by naturalization (articles 8, 8a, 9, 10, 11, 12, 15, 16) and art. 21 that regulates the renunciation of Croatian citizenship. These articles are in fact in partial contradiction. On the one hand, art. 2 explicitly states that Croatian citizens may have another citizenship, even if it is not recognised by the Republic of Croatia: ‘the citizen of the Republic of Croatia who has foreign citizenship is, before the state authorities of the Republic of Croatia, to be considered a Croatian citizen exclusively’. On the other hand, art. 8 specifies that a foreign national who intends to acquire Croatian citizenship has to renounce his or her current citizenship (art. 8.1.2). However, those applicants who are applying for citizenship according to the articles 10, 11, 12 and 16 (namely the spouses of Croatian citizens, emigrants and their descendants, foreign citizens and their spouses whose admission to Croatian citizenship is deemed to be in the interest of the Republic of Croatia and the members of Croatian people abroad) are exempt from fulfilling the criteria set in art. 8.1.2. and can thus keep their previous citizenship following the acquisition of the Croatian citizenship. The law does not require a renouncement of the Croatian citizenship in the cases where a Croatian citizen acquires the citizenship of another state. However, if an individual had to renounce his Croatian citizenship in order to conduct a profession or business in the state of his or her permanent residency and later decides to reacquire Croatian citizenship, according to the art. 15 he or she can do this without renouncing their current citizenship.

Hence, in practice, members of the Croatian ‘diaspora’ in the US, Canada, Australia, Germany and other countries have been able to obtain Croatian citizenship quite easily and maintain their other citizenship. The same is true for citizens of Bosnia and Herzegovina.

**3.2 Special Rules for Ethnic Croats Abroad**

Art. 16 grants citizenship to any ‘member of the Croatian people who does not have a place of residence in the Republic of Croatia [...] if he or she meets the prerequisites of art. 8.1.5 of this Law. Furthermore, in paragraph 2 of the same article, the law defines criteria for the membership to Croatian people. Candidates’ membership of the Croatian people is determined according to his or her previous declaration of ethnic membership in legal transactions, allegation of such membership in particular public documents, protection of rights and promotion of interests of Croatian people and active participation in Croatian cultural, scientific or sport associations abroad. This is a somewhat problematic provision, especially given that – as discussed above, Croatian emigrants and their descendants may also benefit from a process leading to facilitated naturalisation (art. 11). Article 16 has been modified by art. 9 of the 2011 Law on Modifications and Amendments of the Law on Croatian Citizenship in which the requirement of the written statement by the applicant that he or she considers himself or herself to be a Croatian citizen was deleted and by inclusion of the more exact criteria for the membership of the Croatian people. The rationale behind this modification stemmed from the past practice of the implementation of the law. Since the number of false ethnic membership declarations (of the applicants who would change their ethnic declaration in public documents once the citizenship was issued according to the art. 16 provisions) or falsifications and manipulations with the public documents were noticed, these amendments are introduced in order to avoid such manipulations and misuses in the future. However, following the first year of implementation of the law, particular issues in

determining the membership to Croatian people have been noticed in the legal practice, as such decisions to a large extent still depend on a discretionary assessment by the Ministry of the Interior.<sup>40</sup>

#### 4 Current political debates and planned reforms

Since its adoption in 1991, the Croatian Law on Citizenship has been heavily criticised, particularly by NGOs and international human rights agencies, as well as by some non-nationalist political parties, for its ethnic overtones, open discrimination against ethnic non-Croats and Croatia's policy of granting its citizenship to ethnic Croats abroad, particularly to those living in the 'near abroad' in Bosnia-Herzegovina. The precise statistics on the country of residence and the duration of residence in Croatia of the naturalized citizens are not available. However, besides holders of the former Croatian republican citizenship, according to the Ministry of Interior data from the 25<sup>th</sup> February 2010, 1,114,705 individuals have acquired Croatian citizenship since 1991. According to an estimate published in a daily newspaper *Vjesnik* in September 2006 a great majority of them reside in other former Yugoslav republics: approximately 800,000 in Bosnia-Herzegovina, 93,000 in Serbia and Montenegro, 18,000 in Slovenia and 13,000 in Macedonia. Elsewhere in Europe, approximately 10,000 individuals applied for Croatian citizenship in Germany and 3500 in Italy, whereas in the overseas countries the number of applicants was less significant, 3000 in Australia, 2000 in Argentina, 1600 in Canada, and 1500 in Chile.<sup>41</sup> In addition a majority of them held the citizenship of one of other former Yugoslav republics at the time of application: 678,918 held the citizenship of Bosnia-Herzegovina, 80,521 had Serbian citizenship, 16,766 had Slovenian citizenship and 12,688 had Macedonian citizenship (Ministry of Interior 2010).

The occasional calls for changes to the text of the law resulted in the 2011 modifications and amendments to the law. However, it is yet to be seen how these changes will affect the acquisition procedures. Nevertheless, the possible source of controversy lies in the fact that even following the amendments to the law, it may still not be in accordance with the European Convention on Nationality on the grounds of non-discrimination.

The Croatian Parliament (*Hrvatski Sabor*) was supposed to adopt the European Convention on Nationality in 2006. Since art. 5 of the Convention explicitly forbids discrimination on ethnic, religious or racial grounds, it was made clear by the Croatian authorities that the law – especially the controversial points regarding unequal treatment of individuals of non-Croat ethnicity regarding the residency requirement – would be rewritten. If the Convention had been adopted, it would have been more difficult for ethnic Croats permanently residing outside Croatia to obtain citizenship without satisfying the usual requirements of current residence in Croatia. Some other provisions that discriminate against non-ethnic Croatian residents should likewise have been removed. However, the ruling conservative party (HDZ, Croatian Democratic Union) blocked the adoption of the Convention in the *Sabor* – even though the adoption of the Convention had actually been proposed by a government dominated by the HDZ – fearing it would automatically and

<sup>40</sup> Information provided through an interview with Croatian legal practitioners working on citizenship related cases.

<sup>41</sup> See "Državljanstvo u 15 godina dobilo više od milijun osoba" [More than a Million Individuals Acquired the [Croatian] Citizenship in Last 15 Years,] In *Vjesnik*, 13 September 2006. Available at <http://www.vjesnik.hr/html/2006/09/13/Clanak.asp?r=tem&c=1>. For other sources, see Omejec (1998) and UNHCR (1997).

detrimentally influence relations between Croatia and the Croat ethnic diaspora, in particular Bosnia-Herzegovina's Croats.<sup>42</sup>

It is certain that the HDZ had in mind a controversial Croatian electoral law that creates a special electoral constituency for the Croatian diaspora and which until today has been the object of heated political debates. The vast majority of votes in this constituency come from the Bosnian Croats, who vote predominantly for the HDZ and other nationalist parties. The outcomes of the subsequent parliamentary elections in Croatia since the introduction of the special electoral unit for diaspora<sup>43</sup> clearly reveal all of the particularities of the current situation in Croatia. In all of the elections, the parliamentary seats reserved for Croatian citizens abroad went to the HDZ confirming that this electorate has over the course of time developed into a stable partisan constituency of the HDZ (Zakošek 2002: 27). The debate over the diaspora's rights to vote reached its peak in the 2007 Parliamentary elections in which it became one of the top issues of the electoral campaign.<sup>44</sup> The HDZ eventually won the elections by a tiny margin thanks partly to the votes from the diaspora constituency, the majority of which came from Bosnia-Herzegovina. This electoral unit had been boycotted by the largest opposition party, the Social-Democratic Party and other non-nationalist and left-leaning parties, which continued to demand changes in the electoral law. The compromise on this issue was finally met with the constitutional changes in 2010, according to which the representation of citizens abroad has been fixed to the symbolic three seats in the Parliament. However, the debate may be triggered again if in future elections these seats become crucial for forming a possible majority in the Parliament.

However, it would be misleading to conclude that these developments could lead to major changes in the dominant conceptions of the key understanding of the nation in Croatia, and hence in the substantive changes in citizenship legislation. Throughout all of these debates neither of the parties questioned the connection between Croatia and Croats abroad. The issues of disputes between the parties on the Left and the Right were not whether Croats abroad should have access to Croatian citizenship, but on the scopes of rights that should be attributed to their status. As was noted above, the 2011 amendments of the law did not abolish the element of ethnic preference in the processes for the facilitated naturalization but has introduced a more detailed procedure for determination of a candidate's entitlement to membership in Croatian people. In addition, the incorporation of the Croats abroad to the Croatian polity has been further facilitated firstly by the enactment of the Strategy on relations of the Republic of Croatia with the Croats outside of the Republic of Croatia in May 2011 and

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<sup>42</sup> Interestingly, at almost the same time in 2006, Italy adopted a law granting Italian citizenship to a number of descendants of Italian ethnic origin who live in the Slovene and Croatian territories that were annexed by Italy in the inter-war period or during the Second World War. This move provoked a fierce reaction from both Slovenia and Croatia. Some senior Croatian politicians (many from the HDZ) complained that Italy had deliberately created citizens with a 'double loyalty', clearly forgetting that granting Croatian citizenship to ethnic Croats from Bosnia-Herzegovina – one of three constituent peoples in that country – resulted in precisely the same kind of 'double loyalty' See '*Talijani u RH i Hrvati u BiH nemaju ista prava?!*' [Italians in Croatia and Croats in Bosnia-Herzegovina Do Not Have Equal Rights?!], [www.tportal.hr](http://www.tportal.hr), 10 March 2006.

<sup>43</sup> Art. 45 of the 1990 Constitution granted Croats abroad the right to vote. In order to adequately implement the article in practice in 1995 the so called diaspora lists were introduced. During the 1995 elections, the HDZ, decided that the seats attributed to the 'diaspora' should represent 10 per cent of the representatives, namely twelve seats. After many debates, this was changed in 1999 and the seats were apportioned according to voter turnout. This secured only six seats for the 'diaspora' vote in the 2000 and 2007 elections.

<sup>44</sup> For more details on this issue see (Kasapović 2010a;2010b, Ragazzi and Balalovska 2011, Koska 2011; 2012, Zakošek 2002)

later by the enactment of the Law on relations of the Republic of Croatia with the Croats outside of the Republic of Croatia.<sup>45</sup>

The primary novelty of this law is introduction of the legal status of the ‘Croat without Croatian citizenship’, which may be granted to members of the Croatian people abroad who are not in the possession of the Croatian citizenship, their children and spouses and “the friends of Croatian people and the Republic of Croatia who foster Croatian identity and promote Croatian cultural unity”. According to article 41 of this law, the individuals who are granted this status should not be considered as foreigners in exercise of rights in areas of education, higher education, employment, applications and scholarships, health insurance and other areas to be defined by the specific laws. The law further foresees the introduction of the “Croatia Card” which will provide Croats outside the Republic of Croatia facilitated access to certain services such as travel arrangements and participation in cultural events.<sup>46</sup>

One can thus witness parallel attempts, on the one hand, to preserve the ethnocentric character of the state most obviously by maintaining strong ties to and influence on the Croatian ethnic population in Croatia’s ‘near abroad’ and, on the other, to demonstrate a high degree of political inclusion of ethnic minorities in conformity with the democratic norms of the EU (on contemporary Croatia as ‘ethnic democracy’ see Štiks 2010). After the 2007 parliamentary elections, and in harmony with this new euro-compatible face of Croatia, one of the highest positions in the government was offered to a member of the largest ethnic Serb party in Croatia for the first time since 1991. Following the 2011 elections and the formation of the Left-centre Government, the official minority parties have not been included in the governing Coalition, but the Government has been fully supported by the minority representatives in Parliament and it continues to show a strong dedication to the greater political and social inclusion of ethnic minorities.

## 5 Conclusions

The Croatian case confirms that the dominant paradigm of ethnic citizenship has not been radically challenged in the Balkans, except in those countries (Bosnia-Herzegovina, Kosovo and, to a large extent, Macedonia) that are under direct international supervision and where the UN and the EU have strong civilian, police and military missions. Since 2000, however, we have generally witnessed a greater degree of inclusiveness and less discrimination on ethnic grounds, as well as an increased sensitivity to the political aspirations of ethnic minorities (most clearly in the EU candidate countries, Macedonia and Croatia). Nonetheless, in countries such as Slovenia, Croatia and Serbia, where the EU is not in a position to directly control lawmakers or the behaviour of the state apparatus, the pressure coming from Brussels is mostly concentrated not on eventual changes in citizenship legislation, but rather on the administrative practice and political life of the countries in question.

In order to satisfy the political conditions for EU membership, Croatia is demonstrating – even in the behaviour of its leading conservative politicians – more political inclusiveness towards the Serb minority and, in general, is acting as a democratic state that does not discriminate on an ethnic basis (as was the case during the 1990s). Nevertheless, it

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<sup>45</sup> The law differentiates three groups of Croats outside of the Republic of Croatia: members of the sovereign and constitutive Croatian people in Bosnia and Herzegovina, members of the Croatian minority in European states and Croatian emigrants in the overseas and European state and their descendants. Clearly, this categorization does not define the population of Croatian Serbs that left the Republic of Croatia during the 1990s as possible beneficiaries of the law. *Official Gazette of the Republic of Croatia* 124/2011.

<sup>46</sup> For further discussion on this issue see Koska 2012.

continues to do everything it can to preserve the strong ties it has established with its diaspora (again, primarily in Bosnia-Herzegovina) and here Croatian citizenship granted to ethnic Croats abroad plays a crucial role. The diaspora voting machine, based mainly in the Croat-populated Western Herzegovina, has been repeatedly used by the main Croatian right-wing party (HDZ) at the time of elections as a political chip in Croatian internal politics. Nevertheless, we can conclude that, beyond electoral campaigns, Croatia's bid for EU membership relegates the question of Croatian ethnic diaspora from the political sphere to the spheres of educational, cultural and social ties.

Since Croatia has successfully completed the EU negotiation process with the expected date of admission on 1 July 2013, it is important to point out that Croatia's membership will automatically create more than 500,000 EU citizens permanently residing in a non-EU country. The Croatian policy of granting citizenship to ethnic Croats in Bosnia-Herzegovina and elsewhere will thus indirectly affect all other EU Member States as well.

To sum up, the case of Croatia demonstrates how sticks and carrots employed by the EU could alter relations between a nationalising state and its internal minorities as well as between a kin state and its ethnic diaspora in the 'near abroad'. At the same time, it shows how the latter relations can be preserved – even if they remain politically dormant – within the institutional framework of the EU. We thus witness parallel attempts to integrate a country into the supranational institutions of the EU, democratise its political life and clearly show political and social inclusiveness towards ethnic minorities, but also to maintain a transnational ethnic community by using ethno-centric citizenship laws.

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