



# 2023 Rule of Law Report - targeted stakeholder consultation

contribution by the Human Rights House Zagreb

January 2023

## Introduction

1. This contribution to the 2023 Rule of Law Report is made by Human Rights House Zagreb, a civil society organization registered in Croatia.
2. Human Rights House Zagreb is a human rights organization established in 2008 as a network of civil society organizations with the goal of protecting and promoting human rights and fundamental freedoms. HRH's vision is to build a democratic, pluralistic and inclusive society founded upon the values of human rights protection, the rule of law, social justice, and solidarity. Through research, monitoring, advocacy, and education, HRH contributes to the protection, promotion, development, and advancement of human rights and fundamental freedoms. By publishing annual overviews of the state of human rights, thematic reports, and petitions, we help create better laws and public policies.

## I. Justice System

### B. Quality of justice

#### Accessibility of courts (e.g. court/legal fees, legal aid, language)

3. In the last several years, no significant efforts were made to improve the system of **free legal aid** which is burdened with numerous problems stemming from insufficient and **inadequate funding of the primary free legal aid** providers which, in turn, results in uncertainty about the continuity of providers, quality of assistance, availability of free legal aid in rural areas and lack of awareness about the existence of this human rights mechanism in the first place.
4. Although civil society organizations and legal clinics recorded an increase in providing free primary legal aid to citizens in recent years, their financial

resources for the provision of legal aid amounted to a maximum of **HRK 7,916.66 (circa 1,050.72 EUR)** per month, which is certainly insufficient to ensure the continuity of work of authorized providers.<sup>1</sup> Additionally, the current scheme of annual public funding for free legal aid providers is creating unjustified administrative burdens and should be replaced with a **multiannual funding scheme**.

5. Appeal proceedings concerning the decisions on secondary legal aid continue to take too long, beyond the time limit laid down by **the Free Legal Aid Act**.<sup>2</sup> Namely, appeals are, on average, resolved within three years, while the Ministry of Justice and Public Administration has a legal obligation to decide on appeals within **eight days** from the date of receipt.<sup>3</sup> The inertness and length of the procedure defeat the purpose of free legal aid because they prevent citizens from accessing justice and consequently from exercising adequate protection of their rights.
6. Civil society organisations who are authorised primary free legal aid providers raised a concern about the conduct of individual county administrative bodies in **approving requests for secondary free legal aid** (assistance of attorneys in representation). In some cases, citizens are required to, in advance, obtain the consent of the attorney in representation for the administrative bodies to grant free legal aid. This is a significant problem in smaller towns where only a few attorneys work. However, in cases in which attorneys are unable to provide the service due to overload, citizens are forced to seek attorneys in larger cities and personally bear the travel costs of the attorney traveling to the hearing, as the **payment of travel expenses** is not awarded to the parties. This causes additional financial burden to already economically deprived citizens and thus hinders their access to the judiciary.
7. **Uneven access to free legal aid** has been an unresolved issue for many years. Authorized providers of primary free legal aid operate in **13 counties**, while there are none in the remaining 8 or their activities are only sporadic. Particularly problematic are rural areas and islands where citizens have difficulty exercising their right to legal aid.

<sup>1</sup> Ombudswoman's Report for 2021, March 2022, available at: <https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2021-godinu/?wpdmdl=13454&refresh=624f-43c4a28581649361860>

<sup>2</sup> Free Legal Aid Act (OG 143/13, 98/19)

<sup>3</sup> Ombudswoman's Report for 2021, March 2022, available at: <https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2021-godinu/?wpdmdl=13454&refresh=624f-43c4a28581649361860>

### **Recommendations:**

8. Croatia should encourage local and regional authorities to provide **public funding** for organizations providing free legal aid.
9. Ministry of Justice and Administration should engage in the **promotion of free legal aid and inform citizens** about the possibilities of obtaining free legal aid, particularly through the media, promotional materials and activities, targeting particularly rural and remote areas.
10. Croatian Government should provide **additional funds** for providers of free legal aid, especially in decentralized areas and areas affected by the earthquake.
11. Croatian Bar Association should update the **lists of lawyers** for providing secondary free legal aid on islands and other isolated areas, as recommended by the Ombudswoman.

### **Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)**

12. As regards the use of ICT in case management, in 2021 the first and second instance administrative courts were integrated into the unified '**e-File**' **case management system** already used by all other courts. Despite those improvements, judges at the Municipal Civil Court in Zagreb expressed their dissatisfaction claiming that the aforementioned system is not working properly and is often out of function which slows down their work.<sup>4</sup> Therefore, malfunctioning of the system prolongs the length of proceedings impacting the efficiency of the justice system.

#### **C. Efficiency of the justice system**

### **Length of proceedings**

13. Amendments to **the Criminal Procedure Act**<sup>5</sup> introduce an important novelty, the so-called **prohibition on the double annulment of the first-instance verdict**. If the second-instance court considers that the first-instance verdict should be annulled, after it has already been annulled once due to an appeal

<sup>4</sup> Available at: <https://n1info.hr/vijesti/pobuna-na-najvecem-sudu-u-drzavi-krecu-li-suci-u-strajk/>

<sup>5</sup> op.cit. Criminal Procedure Act

and sent back for a retrial, that case will no longer be returned, but the second-instance court will hold a hearing and issue a verdict. However, the courts of the second instance will not conduct the discussion in its entirety as it was conducted at the first instance, nor will they present all the evidence again, but will determine **only disputed facts** on the basis of appeal reasons. This provision limits the defendant's rights, diminishing them at the expense of speeding up the process which could potentially violate fundamental constitutional rights.

14. New amendments to **the Civil Procedure Act**<sup>6</sup> introduce precise deadlines for completing the procedure. First-instance procedures should be completed within **three years**, while second-instance (appeal) procedures will need to be completed within **one year**. In small value disputes, the procedure before the court of first instance will be completed within **a year**, while appeal procedures for small value disputes, will last up to **six months**. With the new legal amendments, the procedures in small value disputes should, as a rule, be arranged as a written dispute.
15. In relation to the proposed deadlines, it should be pointed out that court proceedings are **very different in terms of complexity**, the number of disputed factual and legal issues, the evidence that needs to be presented and other peculiarities. For the largest number of cases, the proposed deadlines are far too long, but in some rare cases, they will be justifiably too short. That means that the issue of the length of proceedings will not be solved for the majority of cases, while the more complex cases will not be considered enough hindering the quality of decisions.

### **Recommendations:**

16. It is necessary to determine **sanctions for exceeding these deadlines** since, by the nature of things, extending beyond the prescribed longest deadlines will not in itself lead to negative procedural consequences for either the court or the parties. Without specific sanctions, it will be difficult to implement mentioned provisions in practice.
17. In order for amendments to the Civil Procedure Act to succeed, in addition to the deadlines for judges, it is necessary to take many additional steps, for example **completely abandoning the paper form of court files and introducing an integral electronic file**. However, this is not yet even in the projections of further judicial reforms.

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<sup>6</sup> op.cit. Civil Procedure Act

**Other - please specify**

18. Transparency and **limited publication of first and second-instance court decisions** remained among the structural challenges of the Croatian judiciary in 2022. The unavailability of case law is an important factor contributing to the negative public perception. In Croatia, judgments of the Supreme and Constitutional courts are published in most cases, those of county courts only exceptionally and those of municipal courts almost never, which further contributes to the atmosphere of **public distrust in the judiciary**.<sup>7</sup> The following prevents the standardization of judicial practice and eventually leads to unequal treatment of citizens.

19. Croatia still has a significantly high number of **European Court of Human Rights judgments pending execution at the national level**. According to data from the website of the Department for the Execution of Judgments of the European Court, the total number of cases pending before the Committee of Ministers in 2022 is the same as in 2021, with **79 cases**, of which 25 are classified as leading cases.<sup>8</sup> Action plans for the implementation of the judgements submitted by the Government often lack targeted and well-tailored measures that would bring positive changes in the legislation and, moreover, in the institutional practice, which is, at least partly, a result of a **closed and non-transparent system of creating actions plans** that do not rely on the consultations and dialogue with the interested and relevant civil society stakeholders.

**Recommendations:**

20. Regarding the Execution of ECtHR Judgments and Decisions, it would be highly beneficial to **involve** relevant and interested CSOs in developing action plans for the implementation of concrete judgments, especially those CSO which submitted "third-party interventions" to the ECtHR during the adjudication of a case in question.

21. Also, we suggest that the **draft action plans for the execution of ECtHR judgments**, before they are finalized and submitted to the competent body of the Council of Europe, be put on **e-consultation** in order to consult with the interested public. In relation to the above, that way the interested representatives of civil society organizations would be involved in the process of creating action plans for the implementation of ECtHR judgments at the

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<sup>7</sup> Human Rights House Zagreb, Overview of 2021: Human Rights in Croatia, p.26, para 63.

<sup>8</sup> Available at: <https://www.coe.int/en/web/execution/croatia>

earliest possible stage, based on a public call for expressions of interest, with the aim of creating the most targeted, high-quality and expedient measures to eliminate and prevent new violations of the Convention.

## II. Anti-Corruption Framework

### A. Prevention

General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

22. **The Information Commissioner's Report for 2021<sup>9</sup>** notes the continuation of the negative trend of issuing illegal decisions on denial of the right to access information, of public authorities insufficiently using the publicly available and standardized practice of the Commissioner and the High Administrative Court, the administration's silence and the failure to resolve requests for access to the information within the prescribed period.

23. According to an analytical report from 2021 on public authorities illegally using restrictions on the right to access information, **the most common reasons for denying the right to access information** were abuse of rights (29.82% of cases), protection of personal data (15.8%), lack of information and lack of knowledge on where the information is located (13.03%), business and/or professional secret (9.77%) and denial of rights because the information is not considered information as defined in Article 5, paragraph 1, item 3 of the Act on the Right of Access to Information (9.27%).<sup>10</sup>

Measures in place to ensure whistleblower protection and encourage reporting of corruption

24. Although the situation in Croatia is still characterized by an **insufficiently supportive environment** for whistleblowers who often give up reporting due to a lack of understanding of their environment and for fear of consequences,

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<sup>9</sup> Human Rights House Zagreb, Overview of 2021: Human Rights in Croatia, p.15, para 33.-34.

<sup>10</sup> Ibid.

there was an increase in media appearances by persons who pointed out irregularities and illegal actions in their working environments in 2021.<sup>11</sup>

25. The new **Act on the protection of reporters of irregularities**<sup>12</sup> that transposes the EU Directive on the protection of reporting persons foresees additional protection that shall be granted to whistleblowers by the competent bodies. The institution of **the Ombudswoman is the dedicated external reporting channel** intended for use by the persons reporting irregularities directly to the Ombudswoman. Hence, it is necessary to ensure adequate professional, spatial and technical capacities as preconditions for the effective performance of the Ombudsman in both the new and the existing mandates.<sup>13</sup>
26. Even though the Ombudsperson indicated the need to introduce **a fourth Deputy** in light of new competencies regarding whistleblowers and considering that deputies also have management responsibilities, a new Deputy has not been appointed and no necessary normative changes have been initiated in order to enable the appointment of a new Deputy Ombudsperson.
27. Even though the minister responsible for judicial affairs was obliged to adopt an **act regulating details of the provision of emotional support** for persons reporting irregularities within six months of entry into force of the new whistleblower protection act, this regulation has not yet been adopted<sup>14</sup>.

#### **Recommendations:**

28. **Sufficient resources should be continuously allocated to the Ombudsperson institution to build capacities** in order to execute the mandate under the new Act on the Protection of Persons Reporting Irregularities as the authority for external reporting of irregularities.
29. Government should consider the Ombudswoman's proposal to **introduce a fourth Ombudswoman Deputy**, who is needed in light of its mandate

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<sup>11</sup> Available at:

[https://www.kucaljudskihprava.hr/wp-content/uploads/2023/01/UPR-preporuke-monitoring\\_January21-July22.docx.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2023/01/UPR-preporuke-monitoring_January21-July22.docx.pdf)

<sup>12</sup> Act on the protection of reporters of irregularities (OG NN 46/22)

<sup>13</sup> Available at:

[https://www.kucaljudskihprava.hr/wp-content/uploads/2023/01/UPR-preporuke-monitoring\\_January21-July22.docx.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2023/01/UPR-preporuke-monitoring_January21-July22.docx.pdf)

<sup>14</sup> Op.cit. Act on the protection of reporters of irregularities, Article 41(5)

regarding whistleblowers and considering that the Ombudswoman Deputies have management responsibilities.

30. In accordance with the Act on Persons Reporting Irregularities, Minister responsible for judicial affairs should adopt an **act regulating details of the provision of emotional support for persons reporting irregularities**. This act should specify the modalities of psychosocial support available to whistleblowers.

### III. Media Freedom and Pluralism

#### A. Media authorities and bodies

##### Conditions and procedures for the appointment and dismissal of the head/members of the collegiate body of media regulatory authorities and bodies

30. The procedure for **electing members of the Electronic Media Council still remains problematic** from the standpoint of political influence since the members **are elected by a simple majority instead of a two-thirds majority**. This shortcoming contributes to the **perception of the Electronic Media Council as dependent on the volition of the Government majority in the Parliament**. Moreover, there is no requirement stipulated in the Act for the inclusion of journalists as members of the Electronic Media Council as representatives of the journalistic profession.
31. Croatia **still does not have an independent and comprehensive self-regulatory media council** (that would include print media) with the authority and capacity to address media pluralism, raise journalistic and media standards for reporting on vulnerable and marginalized social groups, regulate and sanction hate speech and protect freedom of expression in the media and other areas that are important for media freedoms in Croatia.

##### Recommendations:

32. The **procedure for electing members of the Electronic Media Council** should be changed to become free from political influence and include journalists (as representatives of the journalistic profession) as members of the Electronic Media Council.



33. Normative and other **preconditions** should be introduced to establish an independent and comprehensive self-regulatory media council.

B. Framework for journalists' protection

**Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures are taken to safeguard against abusive lawsuits**

34. The freedom of expression and media freedom continued to be negatively affected by **frequent lawsuits against journalists and media outlets seeking disproportionately large compensation amounts**. It is still of particular concern that claimants include politicians in power and judges themselves. Many of these cases involve **SLAPP suits** (strategic lawsuits against public participation), and lawsuits aimed at censoring, intimidating and silencing critics.<sup>15</sup>
35. **Expert Working Group** for Designing Policy to Suppress SLAPP Lawsuits established by the Ministry of Culture and Media with the aim to exchange expertise and good practices as well as establish initiatives to improve the position of journalists facing SLAPP lawsuits **still does not include representatives of human rights and other civil society organizations as members of the working group**.

**Recommendations:**

36. Representatives of **human rights and other civil society organizations** should be appointed as members of the Expert Working Group for Designing Policy to Suppress SLAPP Lawsuits.

**Other - please specify**

37. Croatia still **does not have a media strategy** that would indicate a timeframe for changing the outdated media laws and actions needed to support the freedom of media.
38. One of the persisting problems is the **lack of political independence in the public broadcasting service**. According to the report on media pluralism monitoring, high risk is in the area of the independence of management and financing of the public broadcasting service. **The Croatian Radiotelevision's**

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<sup>15</sup> Human Rights House Zagreb, Overview of 2021: Human Rights in Croatia, p.25, para 54.

(HRT) Director General is still appointed by the Parliament by a simple majority, and the Director General in turn appoints the editors-in-chief. Therefore, the organizational structures of the public broadcasting service continue to depend on the parliamentary majority, underlying an urgent need for **amendments to the Act on the Croatian Radio-Television**, which should provide the framework for building a professional and independent public broadcasting service.<sup>16</sup>

39. There is a **group of four ECtHR judgments pending implementation**, *Miljević v. Croatia* as the leading case and the repetitive cases of *Tolle, N.S.* and *Bon*. In those cases, the Court found **violations of the applicant's freedom of expression** due to convictions for defamation, breach of confidentiality of custody proceedings, and insult.<sup>17</sup> While taking into consideration the action plan submitted in the above-mentioned group of cases, and in particular the Constitutional Court case law, as well as the NGO submission and the reply of the authorities, the Department for the Execution of Judgements concluded that **the judgments of domestic courts reveal that it is difficult for them to balance two or more Convention rights** (usually Articles 8 and 10 and sometimes, in addition, Article 6) and often domestic courts **impose disproportionate sanctions**, especially in cases related to defamation and insult.<sup>18</sup>

#### **Recommendations:**

40. As soon as possible, adopt **a new media strategy** and **amendments to the Act on the Croatian Radio-Television**, which should provide the framework for building a professional and independent public broadcasting service.
41. Conduct substantial, systematic and regular **training of domestic judges** on the requirements of Article 10 of the European Convention on Human Rights.

## **IV. Other institutional issues related to checks and balances**

- A. The process for preparing and enacting laws

### **Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other relevant**

<sup>16</sup> Human Rights House Zagreb, Overview of 2021: Human Rights in Croatia, p.23, para 50.

<sup>17</sup> Leading case-*Miljevic v. Croatia*, Application no. 68317/13, 25 June 2020

<sup>18</sup> Available at:

[https://hudoc.exec.coe.int/eng#{%22fulltext%22:\[%22bon%22\],%22EXECDocumentTypeCollection%22:\[%22CEC%22\],%22EXECIdentifier%22:\[%22004-56053%22\]}](https://hudoc.exec.coe.int/eng#{%22fulltext%22:[%22bon%22],%22EXECDocumentTypeCollection%22:[%22CEC%22],%22EXECIdentifier%22:[%22004-56053%22]})

**stakeholders on judicial reforms), and transparency and quality of the legislative process**

38. Online consultations became the primary and almost only form of consultations with citizens regarding legislative and policy changes. Although **E-savjetovanja** as a central portal for online consultations is a well-known and frequently used tool, the solely online consultations without an opportunity for the representatives of the institutions and CSO to meet and consult in person **hinder the possibility of an argumentative discussion, exchange and genuine dialogue** which is a prerequisite for better-tailored policies and legislation that responds to the social needs and challenges. Although CSOs experience the same or similar problems across specific sectors in which they work, the **unavailability of public information** and the reluctance of the state institutions to cooperate with civil society are particularly concerning problems faced by CSOs working on the rights of refugees, migrants and asylum seekers, as well as on environmental protection.<sup>19</sup>

39. As stated in **the Information Commissioner's report for 2021**, the fact that almost **50%** of institutions **do not adopt and publish a public consultation plan** as the first and fundamental step in the implementation of this legal obligation, indicates a **permanent need to educate those obliged to implement public consultation**. Namely, even when the public authority does not plan to prepare and adopt acts for which there is a legal obligation to conduct consultations in the next calendar year, information about this should be published on the website.<sup>20</sup>

**B. Independent authorities**

**Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions**

40. **Ombudswoman Report for 2021 was not discussed by the Croatian Parliament** during the whole of 2022, even though the timely finalization of the Parliament procedure following the submission of the Ombudswoman annual report to the Croatian Parliament has proved to contribute to a higher

<sup>19</sup> Human Rights House Zagreb, Human Rights Defenders: Challenges and Obstacles, 2022, available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP\\_Tematski-Branitelji-FIN-3.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP_Tematski-Branitelji-FIN-3.pdf)

<sup>20</sup> Information Commissioner, 2021 Report on the Implementation of the Act on the Right to Access Information, March 2022, available at: <https://pristupinfo.hr/wp-content/uploads/2022/03/1.-Izvjescje-o-provedbi-ZPPI-za-2021.pdf?x57830>

ratio of implementation of the Ombudswoman's recommendations in the respective year.

41. At the beginning of 2022, establishing **the Council for Human Rights** as an interdepartmental advisory body of the Croatian Government represents a positive step that could enable regular and continuous discussion and work on strengthening the implementation of the Ombudswoman's recommendations. The prerequisite for the Council to be able to execute this role is the **timely and regular production of reports on the implementation** of the Ombudswoman's recommendations by the Croatian Government. Even though the **Croatian Government Office for Human Rights and Rights of National Minorities** is the body responsible for preparing a report on the implementation of the Ombudswoman's recommendations<sup>21</sup> it has not done so since the Ombudswoman Report for 2013.
42. As stated previously, the situation regarding the independence of the ombuds institutions in Croatia remains unchanged -the - Ombudswoman for Gender Equality and Ombudswoman for Children **do not have an equal level of independence** as the Ombudswoman (general) since the ombudswomen **can be dismissed from office following the non-acceptance of their annual reports by the Parliament**. Moreover, the independence of the Children's Ombudswoman **is additionally limited** by the **requirement to obtain the parliamentary approval of the annual working plan** of the institution.

#### Recommendations:

43. Croatian Parliament should **discuss the Ombudswoman's annual reports without delay**, as soon as it is submitted to the Croatian Parliament. Additionally, **the Parliamentary Committee for Human Rights and Rights of National Minorities** should hold a thematic session on the implementation of the recommendations from the Ombudswoman Annual Report, which would contribute to their efficient implementation.
44. **The Croatian Government Office for Human Rights and Rights of National Minorities** should resume performing its functions as the body responsible for preparing a report on the implementation of the Ombudswoman's recommendations.
45. Croatia should undertake necessary legislative steps in order to guarantee the **same level of independence to specialized ombudsperson institutions** as the Ombudsperson of the Republic of Croatia has, i.a., to amend the provision of the laws stipulating that Ombudswoman for Children and Ombudswoman

<sup>21</sup> Government of the Republic of Croatia, Regulation on the Office for Human Rights and Rights of National Minorities (OJ 6/19), available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/full/2019\\_01\\_6\\_126.html](https://narodne-novine.nn.hr/clanci/sluzbeni/full/2019_01_6_126.html)

for Gender Equality can be dismissed from office following the non-acceptance of their annual reports by the Parliament.

46. Croatia should undertake **legislative steps to remove the requirement of the Ombudswoman for Children to obtain the parliamentary approval of the annual working plan of the institution.**

#### D. The enabling framework for civil society

**Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)**

47. Civil society organizations continued to face **numerous problems in access to funding**, i.e., in applying for tenders and the implementation of ESI funds, including excessive administrative demands, slow tender announcements and delays in making funding decisions.
48. Improving the conditions for work of HRD and CSOs has not been among the Government's priority for years, which is evident, among others, from the fact that **Croatia still has not adopted a national policy in the area of civil society**, ever since the last one expired in 2016. According to the **Government's Office for Cooperation with NGOs**, the adoption of the civil society-related policy is planned for **May 2023**, more than two years since the Government initiated the drafting process and more than a year since the working group was appointed. The length of the drafting, together with complaints from some working group members stating noticeable resistance and lack of will from the institutional stakeholders - questioning the need to have a national policy on civil society - hinders the overall quality of the process and poses a serious question whether the policy will be just a pro forma document or will genuinely aim to create better conditions for civil society.<sup>22</sup>
49. According to a recent report<sup>23</sup>, **human rights defenders and CSOs in Croatia face shrinking civic space**, which negatively impacts exercising

<sup>22</sup> Contribution of the Croatian consortium to FRA thematic research "An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory Country: Croatia, Year: 2022"

<sup>23</sup> Human Rights House Zagreb, Human Rights Defenders: Challenges and Obstacles, 2022, available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP\\_Tematski-Branitelji-FIN-3.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP_Tematski-Branitelji-FIN-3.pdf)

their right to public participation. **Inadequate and deteriorating institutional culture regarding civic participation and dialogue with civil society, together with a weak normative framework** that regulates CSOs' participation in decision-making processes based solely on government ordinances instead of legislative-based regulation, are the core issues that impede the full exercise of the rights to public participation.

50. Processes of **appointing CSO representatives as members of public bodies, such as working groups or committees, are often non-transparent** and not based on selecting the most qualified candidates. CSOs state that, in many cases, participation in the work of those bodies is reduced to a formality without any real possibility for interaction and argumentative dialogue to find the best solutions for social issues.
51. One of the most demonstrative examples of the deteriorating cross-sectoral collaboration and dialogue in Croatia is the (non)functioning of the **Government's Council for Civil Society Development**, which almost completely ceased to be a place of consultation and dialogue and is thus less and less fulfilling its role in fostering intersectoral cooperation. Marginalisation of the Council, which was once regarded as a body of prime importance for cooperation and dialogue, negativity affects the overall standard of other bodies in which CSOs representatives participate.
52. **Environmental protection organizations continue to face SLAPP suits**, which are intended to intimidate, censor, and silence the work of human rights defenders in the field of environmental protection, through proceedings whose stalling leads to problems in the form of a financial burden and the consumption of time and capacities of civil society organizations. Legal actions taken by investors against environmental organizations or SLAPPs aimed at **censoring, intimidating, and silencing human rights defenders** are still a major problem faced by organizations concerned with environmental protection. In 2017, such a procedure was initiated against **Zelena Akcija (FoE Croatia)**, specifically three responsible persons, in the case of the construction of a golf resort on hill Srđ above Dubrovnik, which is still ongoing. A private investor initiated a criminal procedure for the criminal offense against honor and reputation and a civil procedure for damages, in which the sum of claims (without interest and court costs) amounts to about **HRK 200,000**. At the same time, the investor requested the Commercial Court to adopt a temporary measure that would prohibit Zelena Akcija's activist activities and its right to freedom of expression during the realization of the Srđ project. Stalling of the procedure in this case entails problems in the form of a financial burden, consumption of the organization's time and capacities, as well as a

negative perception of the organization in the public eye.<sup>24</sup>

#### **Recommendations:**

53. Croatian Government should, without delay, adopt the **National Plan for the Protection and Promotion of Human Rights and Combating Discrimination** and the **National Plan on Gender Equality**.
54. Adequate normative activities should be undertaken in order to create a **comprehensive legislative framework for dialogue and consultation** between CSOs and public institutions based on a fundamental right to public participation.

#### **Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders**

55. Cases of **criminalization of humanitarian and human rights work** as well as cases of intimidation, harassment, and disciplining of human rights defenders active in organizations that provide help and support to refugees and other migrants, have been present in Croatia for the past few years.
56. Human rights defenders and civil society organizations remain exposed to attempts of intimidation and criminalization of their work when they strive to help refugees, migrants, and asylum seekers by facilitating access to asylum procedures, which has resulted in accusations and adjudications for “assisting in illegal border crossing.” The **criminalization of the work of organizations that protect the rights of refugees, migrants and asylum seekers**, in addition to direct negative consequences on the work and lives of human rights defenders, also has a direct negative impact on the work of other human rights organizations and a deterrent effect on expressing public criticism and pointing out human rights violations.<sup>25</sup>

#### **Recommendations:**

57. Issue **instructions, recommendations and other internal orders** to ensure that public officials act to guarantee the right to defend human rights and freedom of expression and do not engage in acts of criminalisation against

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<sup>24</sup>Human Rights House Zagreb, Human Rights Defenders: Challenges and Obstacles, 2022, available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP\\_Tematski-Branitelji-FIN-3.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP_Tematski-Branitelji-FIN-3.pdf)

<sup>25</sup> Human Rights House Zagreb, Human Rights Defenders: Challenges and Obstacles, 2022, available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP\\_Tematski-Branitelji-FIN-3.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP_Tematski-Branitelji-FIN-3.pdf)

human rights defenders.

58. Provide **adequate training** for public officials and strengthen measures to ensure that public officials who use the justice system illegally to criminalise human rights defenders are **duly sanctioned**.
59. Adopt rules, actions and measures to **combat and prevent criminalisation** in laws and public policies to protect human rights defenders.