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2021 Rule of Law Report - targeted stakeholder consultation

This submission is made by Ivan Novosel on behalf of Human Rights House Zagreb, a civil society organization from Croatia and contributing to the following areas: justice system, anti-corruption, media pluralism and others (human rights, civil society). This contribution may be made publicly available.

Justice System - Croatia Independence

Appointment and selection of judges, prosecutors and court presidents

According to Article 121 of the Constitution, the State Judicial Council has an autonomous right to appoint, promote, transfer and dismiss judges and presidents of courts and to take disciplinary proceedings against judges, except in the case of the President of the Supreme Court.

Analogously, according to Article 121a of the Constitution, the State Attorney Council appoints, dismisses, and takes disciplinary proceedings against deputy state attorneys. Administration of both the judicial and state attorneys system is mostly in the hands of the Ministry of Justice.

One of the challenges facing the State Judicial Council and the State Attorney's Council are their role in selection of judges and state attorneys. The selection process is based on a scoring system which takes into account two elements. The first element is based on the final score that candidates achieve in the National School for Judges (appointing them as municipal, commercial or administrative court judges after graduating from the National School for Judges). The second element is the assessment of the judicial performance in case appointing the existing judge to another court. Based on these two parameters, the Council determines the order of candidates and invites them for an interview. The Council will appoint judges from a maximum of 10 candidates who have achieved the highest number of scores, however the difference between the selected candidate and the candidate with the highest number of scores may not exceed ten points. In doing so, it is clear that the scores achieved in the National School for judges are decisive for the election of a judge because the candidates with less than 20 points from the candidate with the highest number of points cannot be selected. Therefore, the choice of candidates among which the Judicial Council can conduct an interview is limited. Moreover, numerous objections have been raised to the work of the Judicial Council in cases of appointment to another court of an

existing judge whereby the scores achieved on the interview would be “set up” in order to achieve a “desired” list of candidates.

Regarding the appointments of juvenile judges, it is worrying that even though the Juvenile Courts Act clearly stipulates that juvenile judges must have a certain ‘inclinations towards upbringing, needs, and benefits of the youth, and shall have basic knowledge of criminology, social pedagogy and social welfare for young persons’, such criteria are not checked in practice. It is also worrying that once appointed, juvenile judges are not obliged to attend additional training for working with children.

Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

According to Article 115 of the Constitution of the Republic of Croatia, judicial power is autonomous and independent. Autonomy and independence of the judicial branch is ensured by the State Judicial Council as an autonomous and independent body. The State Judicial Council consists of eleven members, of whom seven are judges, two university professors of law and two members of Parliament, one of whom is from the ranks of the opposition. The mere fact that the State Judicial Council consists of Members of the Parliament enables the legislative branch to directly influence the election of judges and calls into question the independence of the State Judicial Council. The best example of the “constitutional blockade” of the State Judicial Council was in 2016 when the Members of Parliament could not agree on the election of its members so the State Council was not fully constituted for more than two months, which led to the obstruction of its work because it was difficult to reach majority by which Council would render its decisions. Additionally, the State Judicial Council has no authority with regard to the administration of the courts which is mostly in the hands of the Ministry of Justice and presidents of courts. Furthermore, even though in the Constitution the State Judicial Council is defined as a body to protect the independence and impartiality of the judicial power, in reality it does not publicly take a stand when the independence of the judiciary or of particular judges is at stake.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

According to Article 119 of the Constitution, judges may not be held to account for expressing opinions or voting in rendering court decisions unless there is violation of law on the part of the judge which constitutes a criminal offence. The disciplinary regime and dismissal is determined by the State Judicial Council. Disciplinary proceedings may be initiated by the president of the court, the president of a higher court, the Minister of Justice or the president of the Supreme Court and the official running the administration of the courts. Judges in disciplinary proceedings have a right to defend themselves and to be represented by a lawyer of their choice. Despite a relatively high number of citizens’ complaints against judges there is a low number of instigated disciplinary processes. In 2020

citizens lodged 547 complaints against judges to the Ministry of Justice which is a competent body for examining complaints. Of 1112 complaints (547 complaints submitted in 2020 and 565 from the previous year) only 9 of them were found grounded.

Additionally, in some cases problems arise in respect of the length of the disciplinary proceedings which take several years to be concluded, while in cases of an appeal, a first instance decision is delayed. This procrastination jeopardises the authority of the State Judicial Council in the public perception, as well as among judges.

As regards to criminal proceedings against judges, the situation is similar, where the length of proceedings exceeds all reasonable time limits which gives the impression of unwillingness of authorities to prosecute judges. The situation is not very much different in disciplinary proceedings against prosecutors.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

According to the 2020 Ombudswoman Report, one of the significant obstacles to the independence of the judiciary is corruption, which as many as 97% of citizens point out in a special Eurobarometer survey on corruption from June 2020. The same survey shows that 74% of citizens believe that the government is not effective in fighting corruption and that the corruption cases are not resolved in a timely manner. Furthermore, it is pointed out that citizens still believe that there are not enough legally completed court proceedings that would be an example of successful suppression of corruption despite the existence of a legal framework for criminalizing corruption.

Quality of justice

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

The guarantee of access to courts is enshrined in Article 29 of the Constitution. Right to access to court can not be achieved without securing access to legal aid. The Free Legal Aid Act consists of different provisions relating to forms and scope of legal aid, right to counsel and the procedure for obtaining legal aid, financing legal aid as well as the rules concerning administrative supervision of the providers of legal aid. However, free legal aid remains burdened with numerous problems which makes access to courts inaccessible. Multiannual funding for primary free legal aid providers has not been secured therefore CSO's and university legal clinics have to apply for free legal aid projects every year. Public funds that are granted to primary legal free aid providers are insufficient to engage highly qualified legal professionals. Additionally, territorial coverage of free legal aid providers remains uneven (in 2019 providers only covered 9 counties while in the remaining 12 counties there are none or their operation is occasional). General public remains to be insufficiently

informed about the right to free legal aid which affects the effective and timely exercise of this right. Above mentioned problems with free legal aid hinder the access to justice for marginalised social groups and citizens with poorer social-economic conditions. Regarding the legal aid in criminal proceedings, new problems occurred with the 2019 Amendments to the Criminal Procedure Act which transposed 2016/1919 Directive on legal aid. Although introducing a number of positive changes in relation to the right to legal aid for suspects and accused persons it contains major shortcomings, e.g. a right to legal aid being limited by the amount of the prescribed sentence. The Act introduced a new institute “temporary legal assistance funded by the state”, which enables the right to free legal aid to every arrested person, regardless of the criminal offense for which a person was arrested. However, those suspects who have not been arrested can exercise this right only if they are suspected of a criminal offense for which a sentence of imprisonment exceeding 5 years is prescribed. Therefore, in this part the 2019 legal framework is discriminatory towards citizens of poorer socio-financial status which consequently leads to inequality of citizens before the law, and violation of the right of access to court, since the criterion for temporary legal aid is conditioned by the amount of the prescribed sentence.

Resources of the judiciary (human/financial/material)

Material resources refer e.g. to court buildings and other facilities.

Courts and generally, the judiciary, do not have autonomy and independence when it comes to budgetary expenditures such as employment of staff. Those costs have to be approved by the Ministry of Justice. Judiciary is facing challenges in terms of human resources. According to the 2019 Annual Report on the State of Judiciary, the number of judges is continuously decreasing so in 2019 there were 40 fewer judges working in the courts than in 2018. Looking at the entire five-year period, in 2019 there were 167 fewer judges working in the courts than in 2015.

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) (Factual information presented in Commission Staff Working Document of 2 December 2020, SWD(2020) 540 final, does not need to be repeated)

Electronic communication is being gradually introduced to all courts, but despite continued progress, the use of electronic communication and electronic case management systems in courts remains limited. Although E-Communication has been introduced in 2020, which is a positive direction of digitalization of courts through which lawyers, citizens and other users have access to the content of documents if the documents are uploaded on the e-File application (court case management system). However, only lawyers, court appraisers, bankruptcy administrators and legal entities that have accessed the E-Communication are able to communicate electronically with the courts. Citizens who are not represented by lawyers are not currently given such an opportunity as technical preconditions are being created in order to enable everyone to send submissions to the court and accordingly to receive them by the court. In any case, the digitization of courts is a step forward in making

it easier for lawyers and parties to exercise their rights and get acquainted with the case file but at the same time it is necessary to as soon as possible provide such an opportunity to all other citizens in order to be able to have full access to the courts.

In Croatia the conditions of the COVID-19 pandemic and March and December earthquakes in Zagreb and Banija have significantly slowed down the work of the courts and mostly affected the work of the trial courts, due to difficulties in holding hearings before those courts.

Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

Length of proceedings

According to the 2019 Annual Report on the State of Judiciary the average length of proceedings in 2019 have slightly increased compared to 2018. In 2019, the average length of proceedings in the first instance courts remained among the longest in the EU, with around 855 and 735 days for litigious civil and commercial cases, respectively, an increase compared to 2018. In 2019, backlogs and length of proceedings increased in first instance cases at Municipal and County criminal courts (to 678 and 930 days on average, respectively). This increase was partly due to the priority given to resolving the oldest cases, which raised the average length of resolved cases. In 2019, an increase in the number of unresolved civil, misdemeanor and land registry cases was recorded. The number of unresolved cases at the end of 2019 decreased significantly in the commercial and enforcement type of proceedings, while the administrative branch of trials recorded a slight but continuous trend of decreasing the number of unresolved cases. The negative trend of increasing the number of unresolved criminal cases has continued since 2014 and in 2019 there is an increase in the number of unresolved cases.

The total number of pending cases increased 4 percent from 1.630.254 in 2018 to 1.696.778 in 2019. The number of resolved cases decreased slightly compared to the previous year by 0.1 percent. The number of unresolved cases increased compared to the previous year by 18 percent, i.e. from 407.062 cases to 481.348 cases.

Additionally, the COVID-19 pandemics and earthquakes have significantly slowed down the work of the courts and has further contributed to an increase in the backlog of cases and the length of court proceedings.

Other - please specify

Having in mind that the non-implementation of ECtHR judgments is a profound sign that human rights, democracy and the rule of law are under threat, as recent figures show, the overall number of Croatian cases which remain pending before the CoE Committee of Ministers for the supervision of the execution of ECtHR judgements is 70 out of which 22 have been classified as 'leading' cases (as of 5 March 2021). 'Leading' cases indicate a wider

problem requiring the adoption of general measures to avoid recurrence of the violation found by the Court. In other words: there are 22 human rights problems that the Committee of Ministers is examining in respect to Croatia which give rise to new structural and systemic problems. Average time leading judgments have been pending is 5 years and 11 months and the proportion of leading cases pending from the last ten years is 24%. The cases pending before the CM span a wide range of ECHR violations. Notably, a handful of cases pending implementation (focused on judicial independence and media pluralism/freedom of speech) are as follows: [Gogic v Croatia](#), [Kirincic and others v Croatia \(sub-topic iii\)](#), [Idzanovic v Croatia](#), [Ramliak v Croatia](#), [Zaja v Croatia](#), [Mader v Croatia](#), [Jacimovic v Croatia](#), [Gregacevic v Croatia](#), [Zahirovic v Croatia](#), [Erkapic v Croatia](#), [Sandra Jankovic v Croatia \(sub-topic iii\)](#), [Stojanovic v Croatia](#), [Miljevic v Croatia](#).

Anti-Corruption Framework - Croatia

Prevention

Integrity framework including incompatibility rules (e.g.: revolving doors)

The legal framework is relatively good. The Criminal Code criminalises different types of corruption and provides specific penalties, sanctions and measures such as confiscation or seizure of assets. Anti-Corruption Strategy for the period 2021 to 2030 has not yet been adopted despite the fact that the Anti-Corruption Strategy for the period from 2015 to 2020 has expired. On 19 November 2020, the Government of the Republic of Croatia adopted the Proposal of the Decision on initiating the procedure of drafting the Anti-Corruption Strategy from 2021 to 2030.

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

Act on Protection of Persons Reporting Irregularities, popularly known as the Whistleblowers Act, came into force in July 2019. Even though the act was adopted with the aim of raising awareness and encouraging citizens to report irregularities related to carrying out work with the employer, there are several issues with respect to this act which raise concern about its fully successful implementation in practice. Additionally, gaps remain in the framework to prevent and sanction corruption.

Namely, the Whistleblowers Act does not include provision of psychosocial support for whistleblowers which weakens the whistleblower protection system and raises concern that the act will not fulfill its fundamental role which is the protection and support of whistleblowers. Providing means of assistance to whistleblowers is an essential prerequisite for encouraging their action of reporting and therefore, the act should include provisions on access to free legal aid as well as to psychosocial support. Since the possibility of reporting irregularities is unknown to most citizens and they are often discouraged from reporting due

to the fear of consequences, additional emphasis should be placed on promotional activities related to awareness raising, providing information and encouragement to report irregularities.

Furthermore, the act foresees three channels for reporting: internal reporting, external reporting and public disclosure. With respect to external reporting, the designated public body that receives notifications on irregularities is the institution of the Ombudswoman. Since the new role represents a significant extension of its mandate, the Office of the Ombudswoman warned about the insufficient amount of budgetary funds foreseen for the application of the act. Therefore, it raised concern that the insufficient funds for the effective protection of whistleblowers might mean that fight against corruption will remain just a formality whose implementation is impossible in practice, and it emphasized that additional funds will have to be allocated for the efficient protection of whistleblowers in the future.

Repressive measures

Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards the implementation of EU funds

According to the State Attorney's Annual Report for 2019, a total of 1,003 persons were reported for corruption offenses which represents 73.48% of the total number of persons reported for corruption (1,365). There is a visible increase of criminal offenses of abuse of position and authority, while in relation to the criminal offenses of receiving and giving bribes and trading in influence there has been a decline in the number of persons reported. Out of the total number of 1,003 persons reported for corruption, 879 of them were reported for the criminal offense of abuse of position and authority under Article 291.CC/11 (87.64% of them). Municipal and county judges, the municipal state's attorney and the deputy municipal state's attorney, judicial advisor, lawyers, bankruptcy trustee, notaries, doctors, police officers, customs officers, mayor, administrative officer, head of administrative department, director of the company and employees of the company, agricultural inspector, sanitary inspector, tax inspector and journalist have been reported for the criminal offense of accepting bribes.

Media Pluralism - Croatia

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

With respect to the situation in the **media and public space**, a national media strategy has not been adopted yet, which is why Croatia still does not have a clearly defined media policy as a basis for the announced change in media legislation. Many factors have a chilling effect on journalists and development of a pluralistic media landscape which hampers broad public debate on controversial topics. With that regard, frequent lawsuits against journalists and editors for defamation, insult and shaming are continuously concerning, and so are the attacks, threats and intimidation of journalists, especially those investigating controversial topics such as war crimes, organized crime or corruption. Additional matters of concern are the Government's interference in the work of public television as well as lawsuits by public television against its journalists seeking large damages.

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

In 2019, there were legislative changes within the Criminal Code which the government presented as a positive development for media freedoms in Croatia. Notably, the criminal offense of serious shaming was deleted, and the offense of insult was further defined in a way that does not apply to journalists. However, the Croatian Journalists' Association stressed that the criminal offense of serious shaming did not represent a threat to media freedoms and freedom of expression in contrast to criminal offenses against honor and reputation which should be decriminalized.

According to information provided to Croatian Journalists Association from the Ministry of Justice as of December 31st, 2019, the total number of active criminal cases in which the defendants are journalists in all courts in Croatia was 111. Additionally, during 2019, a total of 416 civil lawsuits were filed against journalists with claims for damages.

Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse *3000 character(s) maximum*

According to the 2019 Annual Ombudswoman Report, the Croatian Journalists' Association (HND) pointed to an increasing number of lawsuits against journalists and the media for publishing facts, transmitting statements, and defamation, which has a chilling effect on reporting on prominent individuals and social problems.

In support of this, according to the Croatian Journalists' Association, the 2019 data indicates that a total of 1,163 court proceedings were conducted against journalists and editors-in-chief of 19 media outlets. Although the 2020 data shows lower numbers (905 lawsuits) against journalists and the media in Croatia, it is obvious that these lawsuits are aimed at censorship and intimidation. Burdening media outlets with legal proceedings represent a serious and dangerous mechanism that threatens media freedoms.

In 2019, there were cases of intimidation of journalists: death threats, public verbal assaults, and insults directed against journalists attempting to disable recording and reporting, bomb

threat to the newsroom, threatening messages on the Croatian Journalists' Association building, and threatening graffiti on buildings and in the vicinity of newsrooms. The public condemnation of these incidents by officials and institutions was absent, as well as the lack of effective and prompt investigation, prosecution, and punishment of perpetrators in cases of intimidation and threats against journalists. Threats and intimidation against journalists and the media are of particular concern when they come from officials and members of political parties. Defamation and insults lawsuits that are often brought against journalists and the media by high-ranking state officials, members of parliament and their families, judges, institutions and the public media outlet are putting additional pressure on critical and investigative journalism. In 2020, Croatia ranks 59th out of a total of 180 places on the Reporters without Borders' media freedom rankings which represents an improvement of five places compared to 2019, but Croatia remains at the back of EU countries and behind some countries in the region in terms of media freedom. Reporters Without Borders states that the Croatian government has not stopped meddling in the affairs of public TV broadcaster HRT, and HRT's management continues to sue employees who have complained about this problem and has gone so far as to bring a complaint against the Croatian Journalists' Association. Additionally, physical attacks, along with threats and cyber-violence, continue to be a major problem for journalists without any reaction from the authorities.

Other - please specify
3000 character(s) maximum

In 2019, domestic courts continued awarding high and disproportionate amounts of damages for insults and public shaming against journalists. Even though those judgments are non-final, the first instance courts practice is worrying. Notably, In the *Narodni list d.d.* case, ECtHR noted that a domestic court ordered the applicant's company to pay HRK 50.000 of non-pecuniary damages, which is disproportionate to the injury to reputation suffered. As a comparison and to put in the relation, this amount equals two-thirds of the sum awarded for mental anguish resulting from the wrongful death of a sibling. According to the poll conducted by the Croatian Journalists' Association in 2019, the HRT filed 35 lawsuits against journalists and editors-in-chief claiming a total value of HRK 2,027.500 HRK in non-pecuniary damages.

Other institutional issues related to checks and balances - Croatia The process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

In Croatia, the procedure of passing a law can be done in regular and urgent procedure. The regular procedure of passing a law contains two readings (first and second), exceptionally third, during which proposals of laws/amendments are discussed at the parliamentary session. In urgent procedures the first and second readings are combined.

Laws are enacted in urgent procedure when that is required by the interests of the defense and other particularly justified state reasons, i.e. when it is necessary in order to prevent or eliminate major disturbances in the economy. According to the Rules of procedure of the Croatian Parliament, the law may exceptionally be adopted in an urgent procedure when that is required by particularly justified reasons which must be specifically explained in the proposal. It adds that laws adopted in the frame of harmonization with EU documents are adopted in urgent procedure if requested by the proposer, unless the designated parliamentary working body, the Committee on the Constitution, the Rules of Procedure and the Political System or the Committee on Legislation propose that the law will be discussed in the first reading due to non-compliance with the Constitution or legal system.

In the first part of 2020 the Croatian Parliament adopted 51 laws in urgent procedure and 31 in regular procedure. Following the parliamentary elections in July 2020, the new convocation of the Parliament has to date adopted 20 laws in urgent procedure and 37 laws in regular procedures.

Regime for constitutional review of laws.
3000 character(s) maximum

The review of the constitutionality of the law or the constitutionality and legality of other regulations is done by the Constitutional Court of the Republic of Croatia. According to the Article 125 of the Constitution, the Constitutional Court shall decide on the compliance of laws with the Constitution, on the compliance of other regulations with the Constitution and laws, and also may decide on the constitutionality of laws and the constitutionality and legality of other regulations which are no longer valid, provided that no more than a year elapsed between the date they went out of force and the date when the request or proposal to initiate proceedings was lodged.

According to the Constitutional Law on the Constitutional Court, the request by which the proceedings before the Constitutional Court are instituted may be presented by one fifth of the members of the Croatian Parliament, a committee of the Croatian Parliament, the President of the Republic of Croatia, the Government of the Republic of Croatia to review the constitutionality and legality of regulations, the Supreme Court of the Republic of Croatia

or another court of justice if the issue of constitutionality and legality has arisen in proceedings conducted before that particular court of justice, and the Ombudsman in proceedings provided by Article 92 of the Constitution of the Republic of Croatia. In addition, every individual or legal person has the right to propose the institution of proceedings to review the constitutionality of the law and the legality and constitutionality of other regulations. The Constitutional Court itself may also decide to institute such review proceedings.

COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic

oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
measures taken to ensure the continued activity of Parliament (including possible best practices)

Following the start of the COVID-19 epidemic in Croatia, a continuous public debate challenged why the Government didn't declare a state of emergency, as well as the legality of measures ordered by the Civil Protection Headquarters, a body established by the Croatian Government in February 2020 with the purpose to coordinate all services in the event of the occurrence of COVID-19 in Croatia. (Details on the opposing expert views on that matter are elaborated in FRA Coronavirus pandemic in the EU Bulletin 2, Country research for Croatia)

With that regard, during 2020 the Constitutional Court received a number of submissions for constitutional review and constitutional claims that questioned the legislative and other measures adopted as a response to COVID-19 crisis. (Details of the submissions are described in FRA Coronavirus pandemic in the EU Bulletin 6, Country research for Croatia, from November 2020.) Several submissions related to the constitutional review of laws related to the COVID-19 pandemic - the amended Law on Civil Protection System and the Law on the Protection of the Population from Infectious Diseases. The Constitutional Court decided not to accept the proposals to initiate procedures for constitutional review of disputed laws by the majority of 10 judges, whereas the remaining 3 judges who were against it published separate opinions expressing their strong disagreement with the decision and elaborating their views on the constitutional issues in question. Some of their arguments were already expressed during public debate of constitutional legal experts on these issues which was initiated as soon as the amendments were adopted in Spring 2020. The Constitutional Court also rejected all proposals for constitutional review related to decisions of the Civil Protection Headquarters apart from one, in relation to which it determined that the prohibition of work on Sundays at the beginning of the COVID-19 epidemic was not in line with the Constitution.

After the emergence of the COVID-19 epidemic in Croatia, an institutional crisis management model was introduced according to which the Civil Protection Headquarters can adopt security measures for the protection of the population together with the Ministry

of Health and the Croatian Institute of Public Health, under the direct supervision of the Government. Such a model was criticized in the frame of public debate by legal experts and other actors. Namely, the decisions and measures of the Civil Protection Headquarters which inevitably restrict fundamental human rights were therefore not additionally subject to parliamentary and judicial scrutiny, but to the scrutiny of the executive branch that issued them in the first place. Thereby, the concentration of powers was practically reduced only to the executive, which is contrary to the rule of law, the principle of tripartite power division and respect for human rights as the highest Constitutional values and principles.

Independent authorities

Independence, 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

Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#> 3000 character(s) maximum

The Ombudswoman of the Republic of Croatia has a general ombudsperson mandate and mandates of national equality body and national torture preventive mechanism. In addition, there are three special ombudswoman institutions in Croatia - for gender equality, children and persons with disabilities, which have insufficient legal guarantees of their independence considering that respective acts on their establishment provide the possibility of removal of the ombudsperson before the end of their term in the office if the annual report on the work of the institution is not approved by the Parliament.

Ombudswoman's recommendations to public institutions on the improvement of human rights conditions are still poorly implemented and largely ignored by institutions of the executive branch of the government. In its 2020 report, the Ombudswoman of the Republic of Croatia states that only 20% of the recommendations from the 2019 report were implemented or were in process of implementation, and the Government did not respond to 60% of the recommendations. The Office of the Ombudswoman expresses concern about the fact that since 2017 the authorities are less and less acting upon the recommendations of its annual reports, which may be explained by the fact that the Croatian Parliament has not yet discussed the Ombudswoman reports for 2018 and 2019. It added that the Government Office for Human Rights and the Rights of National Minorities, as the body responsible for drafting reports on the implementation of the Ombudswoman's recommendations, has not drafted such a document since the Ombudswoman report for 2013.

The enabling framework for civil society

Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.) 3000 character(s) maximum

Conditions for work of civil society in Croatia have deteriorated in the past year due to the combination of continuing issues and additional challenges that emerged in relation to the spread of Covid-19 epidemic. There were no public initiatives or policies adopted that would aim at strengthening civil society development in Croatia. The National Strategy for the Creation of an Enabling Environment for Civil Society Development expired in 2016, when the process of drafting a new strategy started. The proposal for a new strategy was made and went through a broad and participatory public consultation process, but it did not receive the consent of the competent authorities. Since then, the development of a new strategy has started, but it has not yet been drafted or adopted, despite the repeated announcements by the Government Office for Cooperation with NGOs that the Strategy will be brought in 2020. In addition, the National Program for Protection and Promotion of Human Rights expired in 2016 and a new one has also not been adopted for the fourth year in a row. The Government announced its adoption in 2021. The National Program consists of a set of important measures for the support of civil society organisations active in the area of protection and promotion of human rights.

The findings from HRHZ's 2020 research on access to funding for CSOs indicate a high level of distrust of CSOs towards domestic institutions that allocate funds from the state budget as well as European Structural and Investment (ESI) funds, as opposed to the EU programs in relation to which no similar problems were detected. Significant administrative barriers increase the workload of CSOs. According to CSOs, certain existing problems in society and communities have not been recognised by domestic donors and as such are not included in the existing funding programs or the new programs that are being developed. Therefore, CSOs seek alternative ways of funding in order to be able to operate in those areas. Considering that the process of creating public policies is often carried out in a non-participatory manner, the CSOs are not able to put certain social problems and needs on the agenda in order for them to be included in civil society funding programs. The short-term format of public funding for CSO projects negatively affects the work of CSOs engaged in long-term advocacy and watchdog activities. Due to the absence of systemic public financing for organizations providing social services in deprived communities to vulnerable groups, these CSOs face difficulties in securing the sustainability of their support programs. In addition, delays in announcing and processing project calls have had a negative effect on the operational capacity of CSOs and the turnover of professional staff, which is crucial for the quality of social services provision.

Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

Other - please specify
3000 character(s) maximum

Croatian CSOs Human Rights House Zagreb and CROSOL joined the initiative of the Netherlands Helsinki Committee for enabling an CSO advocacy network to protect the rule of law and fundamental rights in the EU. In relation to the recent developments concerning the rule of law breaches in some EU Member States and in the light of the European Commission's 2020 Rule of Law Report, an online workshop and discussion was organized in October 2020 with the aim to create an informal coalition that would advocate for the enhancement of the rule of law on national level and in cooperation with other CSOs on the EU level.