

2021 Rule of Law Report targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The first annual Rule of Law Report was published on 30 September 2020. It is the core of the new European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues.

In the preparation of the first annual Rule of Law Report, the Commission relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through a targeted stakeholder consultation[1]. The information provided has informed the Member State-specific assessments of the Commission in preparing the Report. Building on the positive experience from the first Rule of Law Report, the Commission is inviting stakeholders to provide written contributions for the preparation of the 2021 Rule of Law Report through this targeted consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raised in the country chapters of the 2020 Rule of Law Report and (2) any other significant developments since January 2020[2] falling under the 'type of information' outlined in the next section. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

The input should be short and concise, if possible in English, and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published.

Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

Please provide your contribution by 8 March. Should you have any requests for clarifications, you can contact the Commission at the following email address: rule-of-law-network@ec.europa.eu.

[1] https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the 2020 Rule of Law Report.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms and nominations for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the request for input^[1])

Any other relevant developments

National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic under the relevant topics.

If there are no changes, it is sufficient to indicate this and the information covered in the 2020 Rule of Law Report should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions and supreme audit

institutions.

About you

I am giving my contribution as

*

- ☐ Academic/research institution
- ☐ Business association
- ☐ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☒ **Media organisation or association**
- ☐ Public authority or network of public authorities
- ☐ Other

If "Other", please specify

Organisation name

*

250 character(s) maximum

Croatian Journalists' Association (CJA) //Trade Union of Croatian Journalists (TUCJ)

Main Areas of Work

*

- ☐ Justice System
- ☐ Anti-corruption
- ☒ **Media Pluralism**
- ☐ Other

If "Other", please specify

Please insert an URL towards your organisation's main online presence or describe your organisation

*

briefly:

500 character(s) maximum

The Croatian Journalists' Association (www.hnd.hr) goals are implementing professional interests, protecting reputation and dignity of journalists, protecting journalists from publishers' autocracy and preventing monopoly. The Trade Union of Croatian Journalists (www.snh.hr) protecting and promoting the economic, professional, professional, social rights of its members on the principles of reciprocity and solidarity, and equality. CJA and

TUCJ are members of the International Journalist Federation and the European Journalist Federation and have approximately 2000 members each.

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

Country of origin

*

Please add the country of origin of your organisation

Croatia

First Name

*

Maja

Surname

*

Sever

Email Address of the organisation (this information will not be published)

*

hnd@hnd.hr // sinoh@hnd.hr

Publication of your contribution and privacy settings

*

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**

Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution.

No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

I agree with the [personal data protection provisions](#).

0. Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[overview_topics_for_contribution.pdf](#)

Please provide any relevant information on horizontal developments here *5000 character(s) maximum*

Questions on developments in Member States

The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information on significant developments, focusing primarily on developments since January 2020, for each of the sub-topics which are relevant for your work. Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under “type of information”).

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Please note that, due to the size of the questionnaire, certain elements may be slow to load, especially if selecting many Member States at once. In such cases, it is recommended to wait a few minutes to let the page load correctly.

Member States covered in contribution [several choices possible]

Please select all Member States for which you wish to contribute information. For each Member State, a separate template for providing information will open. This may take several minutes to fully load.

Croatia

1. Justice System

Independence

Appointment and selection of judges, prosecutors and court presidents

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts) *3000 character(s) maximum*

Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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)

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

3000 character(s) maximum

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

3000 character(s) maximum

Although the CJA's primary area of activity is media freedom, the CJA would like to draw attention to the work of the Croatian judiciary through the example of a scandalous lawsuit for damages in which the CJA almost lost all its assets. CJA's request for a retrial of 26 years long court proceedings was recently legally rejected, despite the fact the CJA found evidence that counterfeit invoices were used to seize its property. The Zagreb County Court upheld the first-instance court's decision rejecting the request of the CJA for retrial, which calls into question not only the overall the awarded amount, but also the credibility of all the evidence on which the judgment is based.

So the project of looting CJA's property that started back in the early 1990s, continues. After winning the dispute in Oct 2018, the plaintiff - Bankruptcy Estate from the company UTT Europa 92 initiated the first enforcement over CJA. The Bankruptcy Estate first tried to settle the enforcement proposed on the entire building of the Journalists' house, that is, on all its parts owned by the CJA, and when that failed - turned on CJA's funds.

Despite the fact the value of the building is even 20 times the value of the claim from the litigation, the court accepted such an enforcement motion of the Bankruptcy and ordered enforcement. The CJA then managed to obtain a restriction without the final decision on foreclosures on a smaller part of the building.

After ordering the enforcement, CJA found evidence that one of the accounts on which the judgment was based, as well as the architectural design according to which it is "Implemented" alleged investment - was counterfeit. That discovery puts in question the credibility of all other invoices and documents and leads to the conclusion that a criminal attempt to seize the CJA property is in progress.

Immediately after discovery of forgeries, the CJA filed a criminal complaint on occasion of which a criminal

order was issued against the founder of the company and the creditor Bankruptcy masses of Ante Matić for giving a false statement in court. CJA, due to the discovery of new evidence, submitted a proposal for reopening of the proceedings, but the request was finally rejected.

Such a verdict on the claim for retrial based on proof of forgery is contrary to the purpose and meaning of the Institution of law. Namely, the intention of the legislator in the introduction of this extraordinary legal remedy, was the right for protection of the principle of legality, i.e. it is conceived to enable the reversal of a final verdict's validity, sanctioned in situations where the verdict was due to certain criminal offenses. However, although the CJA supported the claim for retrial with irrefutable material evidence on that circumstance, the court disregarded the principle of legality without giving valid and convincing reasons for such a decision. The direct result of such reasoning of the court will be exclusively for counterfeiter benefit.

Quality of justice

(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".)

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

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff) *3000 character(s) maximum*

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)

3000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals) *3000 character(s) maximum*

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization *3000 character(s) maximum*

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
3000 character(s) maximum

Other - please specify
3000 character(s) maximum

2. Anti-Corruption Framework

The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant)

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

Measures in place to ensure whistleblower protection and encourage reporting of corruption. *3000 character(s) maximum*

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

3000 character(s) maximum

Measures taken to address corruption risks in the context of the COVID-19 pandemic *3000 character(s) maximum*

Any other relevant measures to prevent corruption in public and private sector.

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

Potential obstacles to investigation and prosecution of high-level and complex corruption cases(e.g. political immunity regulation).

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

3. Media Pluralism

2Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

3000 character(s) maximum

The media are monitored by several regulatory bodies, ministries and government agencies. The scopes of these bodies sometimes overlap, but for some issues none of them is competent. There are [The Croatian Regulatory Authority for Network Industries](#) (HAKOM) and the state company Digital Signals and Networks (OIV), the [Croatian Competition Agency](#) (AZTN), Croatian Chamber of Commerce (HGK), the Ministry of Culture, the Ministry of Finance - all sharing some responsibilities in the field of media with the Electronic Media Agency (AEM). Public Broadcaster ([HRT](#)) is overseen by its Programming Council, the Supervisory Board and the AEM. Although not all directly part of it, all of these bodies are highly dependent on the Government.

The best example of this is the only regulator that deals only with the media - AEM and its governing body, the Electronic Media Council (VEM). They are in charge of regulating the so-called electronic media. This legal term refers to television, radio and part of websites, which means that the implementation of regulations in relation to newspapers and many other media is without proper regulatory oversight. Although officially "independent," the VEM is traditionally controlled by governments, regardless of their political affiliation. In this quasi-autonomy, however, deterioration is noted. "Political pressure on the Council is increasing," [notes Media Pluralism Monitor](#).

The VEM grants broadcasting concessions and grants from the Pluralism Fund. Both imply the fulfillment of certain obligations. However, the work of VEM and AEM is not always sufficient or transparent in this respect. Smaller production than the one prescribed by law for authentic, and especially informative programmes, is clearly visible, but the sanction is small, according to the [Mediadem](#) project report. Another report, [Media Integrity Matters](#), also notes the problem of inefficiency, which clearly warns of the problem of "capturing regulators". The concept of regulatory capture is used to describe a situation where the regulatory body, instead of the public interest, promotes the interests of the private entities that should be regulated.

The Pluralism Fund is financed from 3% of the revenue from the public service broadcasting fee. This totals to about 35 million kuna (less than five million euros) per year, which in any case represents insufficient resources to finance quality journalism, which, in the context of the modest Croatian media market, has largely lost commercial sources of funding. In the discussion on the new Act for governing the Fund, CJA and TUCJ requested a significant increase, estimating the minimum needs for support for

media pluralism at 16 million euros.

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

3000 character(s) maximum

The VEM consists of seven members (including the president, also the ex-officio executive of the AEM) who, at the Government's proposal, are appointed by the parliament for a five-year term. It is the very appointment mechanism that is the source of general doubt about the independence of the media regulator. Moreover, "VEM members can be re-elected for an unlimited number of terms, which can have a negative impact on their decision-making independence. Their required knowledge and qualifications are very general and subject to multiple interpretations. In any case, too much power in terms of proposing and appointing the VEM is in the hands of the parliamentary majority ", conclude the authors of the report for Croatia of the [Monitoring Media Pluralism in the Digital Era](#) project.

The law governing the area is currently in the process of being amended, so the [CJA has proposed](#) that members of the VEM be elected by a two-thirds majority and that the Government give up its monopoly on their nomination. Starting from the assumption that in-depth knowledge of media practice can actually turn professional journalists in quality regulatory supervisors, it was proposed that two members of the Council be elected from among journalists by the Croatian Parliament, at the suggestion of the Croatian Journalists' Association, instead of by a public invitation from the Government, and that an appropriate public tender be held for those positions prior to candidate nominations.

The proposer of the law, the Ministry of Culture, rejected CJA's proposals without a given explanation.

Existence and functions of media councils or other self-regulatory bodies

3000 character(s) maximum

While AEM and VEM, at least for now, have sufficient resources and regulatory powers, but do not use them, the situation on public radio and television is completely different. In charge of protecting the public interest in its contents, the Program Council, the only regulatory body of HRT that to some extent includes representatives of civil society, was left practically without any powers by the amendments to the 2012 Act. They are assigned to the Supervisory Board, which is under even greater control of the Government. Thus, the director, who is elected by a simple parliamentary majority, is virtually without any oversight.

In 2011, the CJA and the publishers from all major Croatian media outlets established the Croatian Media Council (HVM), a self-regulatory body, to monitor and sanction violations

of professional journalistic ethics. Faced with organizational and financial problems, the work of the Council never fully came to life, and after several years of existence, it was completely shut down.

In Croatia, there is a Code of Honor for Croatian Journalists, adopted by the Croatian Journalists' Association on the model of similar documents in Europe. The implementation of the Code of Honor is supervised by the [Journalists' Council of Honor](#), the only self-regulatory body of the media in Croatia that has been operating within the CJA since its founding in 1910. The Press Council of Honor acts on reports that anyone can make if they notice a violation of the Code of Honor, i.e. universal journalistic ethical principles. <https://www.hnd.hr/novinarsko-vijece-casti1>

Transparency of media ownership and government interference

The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

3000 character(s) maximum

“The ‘State advertising’ indicator is (...) showing a high risk (83%)”, finds [another Media Pluralism Monitor's report](#). “There are no rules relating to the distribution of state advertising and no data on the share of state advertising as part of the TV, radio and newspaper advertising market, which is seen as a transparency issue due to recent cases in which state advertising has been abused by political actors. Specifically, state advertising was part of [high-level corruption cases with regard to the company Fimi-Media](#), through which state funds were drawn and channelled to a secret fund. Among other indictments, these were key in sentencing the former Prime Minister Ivo Sanader. There is full agreement between consulted experts on this issue.”

At the beginning of the recent coronavirus-related crisis, media owners and editors selected by the Prime Minister Andrej Plenković sat with him and agreed, among else, that the state will spend undisclosed sums on (unnecessary) advertising of state companies to help the media hit by the crisis, published [Ilko Ćimić](#), journalist from one of the outlets that were not selected to attend the meeting.

We also see indirect state advertising in the mainstream media through thematic conferences, without public tenders and clear criteria, as a serious problem. As a rule, these conferences are held in a joint organization of large commercial media and ministries, thus ensuring the inflow of public money and the Government securing their support, which is especially important given the declining share in financing by traditional advertisers during the COVID pandemic. While we welcome the attempt to support the media, we warn of the danger of political abuse of such a non-transparent model of spending public money.

Referring to the proposal of the Law on Electronic Media, which is currently in the process of being passed by the Parliament, [CJA warned](#) about the procedures for advertising public companies on local media. Decisions on advertising are made discretionarily, non-transparently, most often at the will of political leaders, without any public tender. The public has no insight into the purpose of spending that money. Thanks to such transactions, an affair known as Fimi-media was created.

The capacity of the local economy in Croatia is not so large that it could finance media production through advertising. The current amendments to the Law on Electronic Media envisage a significant reduction in the obligation to publish local news for radio and television that use the limited common good of the radio frequency spectrum. At the same time, a public tender, through which the Ministry of Culture stimulated employment and production of programs in non-profit community media, was abolished five years ago, and the means of the Pluralism Fund awarded by the media regulator, the AEM, did not increase significantly enough to cover losses on the commercial side of revenue.

Rules governing transparency of media ownership and public availability of media ownership information
3000 character(s) maximum

The [[Media Pluralism Monitor's](#)] indicator 'Politicisation of control over media outlets' shows a medium level of risk (56%). There is no data on the shares of TV channels, radio channels and newspapers that are owned by the politically affiliated entities, which points to a situation of low transparency and the problems in accessibility of the media ownership data. The Electronic Media Council keeps the register for radio and television, while the Croatian Chamber of Economy keeps the register for print media. This creates problems in determining political affiliation, particularly in cases of cross-media ownership. All of the experts on the panel agree with this assessment." The [same project in 2018](#) finds again that "among the most problematic areas are commercial and owner influence over editorial content as well as poor regulation of cross-media ownership and competition", proposing that what is to be done in the field of political independence is to "expand the definition of connected persons (article 53) in the Electronic Media Act to include limits to party, partisan groups or politicians as owners. Introduce a similar definition in the Media Act and ensure limits to political influence on editorial content."

There are certain provisions of the [Media Act](#) (article 12, article 31 and 32): "A newspaper publisher shall report [to] the Croatian Chamber of Economy [the] data on the ownership structure of the media", as well as "publish [it] in the "Official Gazette" by 28th February of each calendar year." However, these data are not easily accessible. The provisions of the EMA (articles 52 and 57) were of better performative luck, definitely due to the actually existing regulator for the "electronic", as opposed to "non-electronic" media. The [registry on the Agency's website](#) is accessible to everyone, free of charge, and, in several clicks,

it shows the owners of the television and radio broadcasters, online/digital channels and some on-demand services. (For the owners of the websites, one has to download the Excel table from the same URL, but again, for more than a half of them the ownership data is missing.) Helena Popovic, in the [Media Integrity Matters report](#), provides a very methodical analysis of the ownership structure and its primary accumulation.

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

Freedom of expression is constitutional so the [Criminal Code](#) proscribes its violation by stipulating the imprisonment (not exceeding one year) on “whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limits this freedom” (article 127).

Moreover, the Criminal Code stipulates a [threat “against a journalist](#) in connection with his or her job” as a qualifying (harder) offence to be investigated and prosecuted upon (ex officio) request (article 139).

However, from the perspective of a criminal, or a politician provoked by journalistic work, the question would be why threaten journalists in an old-fashioned way, when one can sue them?

The amendments of the Criminal Code in December 2019 have finally abolished the “shaming” offence, which had brought so many journalists to court since 2012. Defamation ensuing from the practice of a journalist shall not be deemed a criminal offence (article 148a), under condition that the court finds the critical piece of journalism was composed “in the public interest” - precisely the legislative subtlety on which the major part of the [“juridical offensive against journalism”](#) was based upon. So it was early to celebrate journalistic independence.

Due to the [increase in SLAPP lawsuits](#), urgent action is needed to protect the media from the freezing effect of such lawsuits. CJA and TUCJ believe that it is necessary to unconditionally decriminalize defamation. In accordance with the recommendations of the Council of Europe, the dignity of persons exposed to defamation can be successfully protected in the field of civil law. Defamation needs to be precisely defined by law, in order to avoid its arbitrary application. The amount of compensation should be determined by reasonable and proportionate limits, so that the social functionality of the media does not get brought into question.

Media Pluralism Monitor’s report recommends that a [sure way to improve political independence](#) would be to “expand the definition of connected persons (article 53) in the

Electronic Media Act to include limits to party, partisan groups or politicians as owners”, to “introduce a similar definition in the Media Act and ensure limits to political influence on editorial content”, as well as “ensure less political interference in PSM management by amending the Croatian Radio-Television Act.”

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists 3000
character(s) maximum

In order to assess the capacity and will of Croatian institutions to ensure the safety of journalists, these institutions should process attacks on journalists within a reasonable time. Practice tells us differently, and here is an example: [in the last 7 years](#), 68 attacks on journalists have been recorded in Croatia, of which as many as 12 attacks were recorded in 2020. Although some cases were resolved very quickly, most have not yet received a court epilogue.

In 2020, the institutions reacted quickly to the [attack on the N1 television team](#), which interviewed Alemka Markotić (director of the Clinic for Infectious Diseases) in public. A man who, accompanied by another person, verbally attacked the journalist team and Alemka Markotić, was detained, processed and convicted within 48 hours. The attacker was given 20 days probation and had to pay legal fees in the amount of 300 kunas. Although the quick reaction of the police and the judiciary is commendable and desirable, we cannot help but wonder if this case was resolved so quickly because the story also included Alemka Markotić, director of the Clinic for Infectious Diseases, which is currently, due to the Covid crisis, one of the most prominent people in Croatia.

On the other hand, in 2008, [investigative journalist Dušan Miljuš](#) was beaten with baseball bats in front of the building where he lives in Zagreb. As part of Operation "Shock 3" in November 2010, a large number of people were arrested in search of the perpetrators. The investigation was conducted against three people, but after a six-month procedure, the prosecution dropped the indictment because there was not enough evidence, and the case was returned to the Zagreb City Police Department, to find evidence of the perpetrators and the mastermind behind the attack. Even after 13 years, this case still does not have its epilogue.

Also, the police, the legal profession and the members of the judiciary system are not sufficiently educated to work with journalists and it often happens that at trials the judges themselves are not prepared enough to be handling cases related to journalistic work.

<https://safejournalists.net/homepage/>

Although law enforcement services never objected to lack capacities, for the attacks and threats against journalists “the penalties are mild, while sentences are few”, says [Vanja](#)

[Jurić, the lawyer specialised for journalism](#), “there’s even not much difference between penalties for the threats against journalists and the ‘regular’ threats, even though journalists have been targeted just because they were doing their job. It is important that the criminal procedures are requested by the State Attorney’s Office, but from the journalists’ perspective it has precisely turned out to be the main obstacle for their protection”, because the State Attorney’s Office decides to dismiss cases very often, even before they come to court.

Access to information and public documents

3000 character(s) maximum

The Right of Access to Information Act (ZPPI) should facilitate and expedite the procedure for cases where it has been irrefutably established that it is indeed a case of request for access to information. Namely, in the vast majority of situations, information that should be public anyway are made unavailable or hard to access by state officials delaying the procedure of information delivery, complaints to judgements by default, complaints of incomplete responses and others, all of which leads to information being obtained for a few months, which is unacceptable.

According to journalists' experience, officials very often let the deadline for a response expire, and after an appeal to the Commissioner, they again delay the procedure by giving a response that is partial or by giving information that has not been requested.

The law should also include the punishment of public authorities when it is determined that it is a matter of intentional procrastination, and that this item should be introduced in the direct sanctioning of public authorities and responsible persons. This is especially true for those requests that require information that should be public anyway, i.e. published on the official website of the authority in question.

We advocate that the powers of the Information Commissioner be increased when the authority is warned that it is obliged to provide certain information, as well as that the misdemeanor punishment of the commissioner or authority is resolved automatically, and not by initiating a separate procedure.

We also advocate for stricter sanctions for persons who, as representatives of public authorities, are in charge of providing information. Such persons, once it has been established that they have abused the Right of Access to Information Act (ZPPI), should not be deployed to those places. In addition to the misdemeanor provisions, which have not had the desired effect so far, we also request that these persons be prevented from further work in the same position, not only in that body, but also in all other bodies.

<https://www.gong.hr/hr/dobra-vladavina/pristup-informacijama/drzavne-tvrtke-zakljucavaju-informacije-pod-okrilj/>

In his proposals for amendments to the ZPPI, the Information Commissioner suggests redefining Article 29, which deals with resolving requests for re-use of information, in such manner that bodies of public authorities, which are not bound by the Directive, be exempted of the obligation of resolving such cases, primarily commercial companies, followed by educational and scientific research organizations.

<https://pristupinfo.hr/wp-content/uploads/2021/02/Prijedlog-Povjerenika-za-izmjene-i-dopune-Zakona-o-pravu-na-pristup-informacijama.docx?x58018>

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists 3000 c3000
character(s) maximum

According to a [survey by the Croatian Journalists' Association for 2020](#), there are currently 905 lawsuits against journalists and the media outlets, demanding a total of 69 million kuna (€9 million) for various compensations. Since not all media outlets responded to the CJA's survey, this figure could be far higher. In 2019, according to its survey, there were 1,163 lawsuits ongoing in the country, with the majority of claims being made for non-material damages such as "mental anguish" or "tarnished reputation". In Croatia, the majority of these lawsuits against the media are brought by politicians or former officials, as well as business owners and in some cases even judges. While not all of these lawsuits can be classified as SLAPPs, many of these cases meet the criteria: lawsuits brought forward by powerful opponents such as companies, public officials in their private capacity, or high profile persons, with the aim of harassing and silencing those speaking out on matters of public interest, rather than achieving justice.

In Croatia it is not rare that a journalist is sued for an article that already underwent a legal screening prior to publication, or for publishing satirical content, or for simply quoting an interviewee. In November 2018, for example, a court ordered the daily *Jutarnji list* to pay 50,000 kuna (€7000) in damages to a judge and member of the State Judicial Council, over an interview with a politician who referred to the State Judicial Council as "the source of corruption". However, the plaintiff's name wasn't even specifically mentioned in the interview, and the article was approved by the interviewee before publication. The lawsuit went ahead nonetheless. In October 2019, the offence of 'shaming' was removed from the Croatian criminal law, a move that was welcomed by CJA and the media sector in the country. However, plaintiffs can still launch criminal proceedings for insult and defamation or start civil proceedings with claims for compensation. According to data obtained by the end of 2018, 91 of the 119 criminal proceedings brought against journalists that year were for defamation, 13 were for insult and only five were for harsh shaming. During a pandemic and economic recession, such lawsuits are therefore a question of survival for smaller, independent outlets.

"The state has not decriminalized defamation. In 2019, an enormous number of lawsuits (1163) was directed towards journalists by politicians and other public figures. Some of

the lawsuits were raised by the Public Service Broadcaster (HRT) and were directed towards the Croatian Journalists' Association - CJA. The CJA is under increasing pressure and journalists often face threats, and sometimes harassment by the police", states the [Country Report of the Monitoring Media Pluralism in the Digital Era project](#).

Other - please specify

3000 character(s) maximum

Croatian authors' rights legislation

"Looking at the proposed implementation of the EU Copyright Directive into Croatian Law, it seems not to reflect proper copyright protection of either authors' economic and moral rights or publishers' rights. The proposed legislation rather seems to misuse the implementation of the Directive to provide more rights for publishers and less to the authors. The proposed law lacks any mention of journalists' work within the category of authors' work which requires to be protected. Under the EU Copyright Directive it is clear that journalists are among the authors and are specifically members of the main group who should benefit from publishers' rights. It also has to be stressed that for many freelancers, remuneration stemming from authors' rights is crucial. Authors' rights belong by their nature to the person who creates the work. This is stated in the current law on Copyright and Related Rights (ZAPSP)" - [the president of the European Federation of Journalists Mogens Blicher Bjerregård also wrote in a letter to the Croatian government](#)

Frail protection of labor rights of media employees and freelancers

There is no National Collective Agreement - collective agreements have been signed only in two media houses. Freelancers have almost no protection of labor rights.

In general, the protection of labor rights is at a poor level. Media houses, especially private media houses, do not support the establishment of trade unions, although the right to trade union association is also mentioned in the Croatian constitution. On the other hand, the union is strong in large and old media houses, and according to labor law, it is the union that is authorized to negotiate a collective agreement that should further defend and regulate the protection of specific rights of media employees. That is why today we have only two signed collective agreements, and a few more cases in which the old agreement is extended with annexes reducing workers' rights. The pandemic also showed how big the problem of protection of freelancers and off-standard-contract workers is – they enjoy almost no protection of labor rights.

The Trade Union of Journalists has published several testimonies of dismissals in newsrooms that are justified by optimization or not justified at all, and show how frail the protection of journalists' rights is.

<https://www.snh.hr/koja-je-cijena-krivog-pitanja-za-novinare-u-hrvatskoj/>

<https://www.snh.hr/cenzura-mobing-otkaz-prica-druga/>

<https://www.snh.hr/cenzura-mobing-otkaz-prica-cetvrta/>

4. Other institutional issues related to checks and balances

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 3000 character(s) maximum

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)

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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)

3000 character(s) maximum

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

Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

3000 character(s) maximum

Implementation by the public administration and State institutions of final court decisions 3000 character(s)

maximum

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

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.)

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

