Report of the Rule of Law in the Republic of Croatia for the preparation of the Annual Report on the Rule of Law in the European Union Member States by the European Commission

Introduction

The legislative and institutional framework of the Republic of Croatia in the rule of law area has largely been developed through its accession process. Croatia is the first Member State that has completed its accession negotiations based on the methodology which put a strong focus on the rule of law, by way of introducing a special "chapter 23 - judiciary and fundamental rights" - in addition to the previously existing chapter on justice, freedom and security ("chapter 24"). It also introduced a new approach to opening and closing of negotiating chapters based on the concept of benchmarks and the track-record demonstrated in the implementation of reforms. Both negotiating chapters covered key rule of law issues, in particular reform of the judiciary and the fight against corruption, addressing those comprehensive reforms early and throughout the accession process. In that manner, Croatia has already during its accession negotiations created the legislative and institutional framework aligned with the European standards in the areas addressed by the Annual Report on the Rule of Law in the Union that is currently being prepared by the European Commission. However, the process has not ended with Croatia's accession to the EU in 2013. There is a constant effort to ensure better and more efficient implementation, to improve the institutional capacity or streamline the existing legal framework, as demonstrated in the contribution that Croatia submitted further to the invitation by the European Commission.

I. Judicial system

Following the accession to the EU in 2013, reform activities are based on the implementation of the Judicial Development Strategy 2013-2018[1], from which follow measures and activities aimed at independence, quality and efficiency of the judiciary implemented throughout 2019 and 2020, also as a part of the framework defined by the National Reform Program for 2018[2] and 2019[3] within the European Semester cycle. The final version of the *National Development Strategy for the period 2020-2030* is currently being drafted, as the first long-term national strategy document covering, inter alia, the judiciary. Following the adoption of the National Development Strategy, a separate strategic document for the development of the judiciary will be adopted. Furthermore, the *National Reform Program for 2020* adopted in April 2020[4] defines, inter alia, measures and activities for the development of the judiciary in the period April 2020 - April 2021. A number of activities described below derive from these strategic documents.

[1] The tradition of adopting strategic documents defining activities for the development of the judiciary system in the Republic of Croatia began in the period before Croatia joined the EU, that is, in 2006. The last Judicial Development Strategy 2013-2018 (Official Gazette 144/2012) was adopted by the Croatian Parliament in December 2012. The aforementioned Strategy covers five basic areas: Independence, impartiality and expertise of the judiciary; Efficiency; the Croatian judiciary as part of the European judiciary; Human resources management; and Exploiting the potential of modern technology, with a total of 45 strategic guidelines, broken down by area.

[2] National Reform Program for 2018, available at: https://ec.europa.eu/info/sites/info/files/2018-european-semester-national-reform-programme-croatia-hr.pdf

[3] National Reform Program for 2019, available at: https://vlada.gov.hr/UserDocsImages//2016/Sjednice/2019/Travanj/153%20sjednica%20VRH//Nacionalni%20program%20reformi%202019..pdf

[4] National Reform Program for 2020, available at: https://vlada.gov.hr/UserDocsImages/2016/Sjednice/2020/Travanj/227%20sjednica%20VRH/Novi%20direktorij/227%20-%201.pdf

A. Independence

1. Appointment and selection of judges and prosecutors

The appointment of judges, according to the *Constitution of the Republic of Croatia*[5] is the responsibility of the **State Judicial Council.** As an autonomous and independent body, it independently and impartially decides in cases within its jurisdiction, based on criteria established by law and thus ensures the autonomy and independence of the judiciary. Conditions and procedure for the appointment of judges are laid down in the *State Judicial Council Act.*[6] The general condition for the appointment of judges is Croatian citizenship, with a possible right of preference on equal terms for persons belonging to national minorities, in accordance with the special Constitutional Act[7]. Special conditions for the appointment of judges are determined depending on the instance of the court that the judges are being appointed to: points achieved on the final exam at the State School for Judicial Officials for candidates for judges of courts of first instance, and results of the written test for those candidates for judges of the Croatian Supreme Court who are not already judicial officials but have, after passing the Bar exam, at least 15 years of experience in legal matters (attorneys, public notaries, law university professors) or 20 years respectively for distinguished jurists. The Council determines the order of candidates by summing up the number of points scored by the aforementioned criteria and in an obligatory interview before the Council. The Council appoints judges among a maximum of ten candidates who have achieved the highest number of points, but the difference between the selected candidate and the candidate with the highest number of points must not be more than ten points.[8] The decision on the appointment of judges must be thoroughly elaborated. The candidates who have not been appointed have the right to file a complaint to the Constitutional Court. The amendments to the State Judicial Council Act were adopted in 2018 with the aim to reduce the degree of arbitrariness and to strengthen transparency and objectivity in the appointment of judges by respecting the autonomy and independence of the State Judicial Council. These amendments relate to the planning of the judicial appointments, conducting interviews with the candidates before the Council, restriction of appointments within a certain number of points awarded, the need for additional explanation of the appointment decision and limiting the duration of the procedure for appointing judges.

The appointment of deputy state attorneys is under the jurisdiction of the **State Attorney Council**, which is defined by the Constitution as an autonomous and independent body, while the *State Attorney Council Act*[9] defines its role in ensuring the independence and autonomy of the State Attorney service. While the Croatian citizenship is prescribed as a general condition for the appointment of deputy state attorneys, there is a possible right of preference on equal terms for persons belonging to national minorities, in accordance with the provisions of the special constitutional law. The special requirement for the appointment of deputy municipal

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[5] The Constitution of the Republic of Croatia, Official Gazette 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14, https://www.zakon.hr/z/94/Ustav-Republike-Hrvatske

[6] The State Judicial Council Act, Official Gazette 116/10, 57/11, 130/11, 13/13, 28/13, 82/15, 67/18, 126/19, https://www.zakon.hr/z/127/Zakon-o-Dr%C5%BEavnom-sudbenom-vije%C4%87u

[7] The Constitutional Act on the Rights of National Minorities, Official Gazette no. 155/02, 47/10, 80/10, 93/11

[8] Prior to the final decision on the appointment, the Council shall refer the candidates who are to be appointed to the courts of first instance for psychological testing in order to determine the ability to perform judicial duties. For the candidates to be appointed as judges of first instance courts and the Supreme Court of the Republic of Croatia, with their consent, the Council submits a request to the relevant Security and Intelligence Agency to conduct a basic security check to determine the lack of security barriers to the appointment and performance of judicial duties. A candidate who fails psychological test, or who is found to have security barriers, cannot be appointed as a judge, in which case checks are conducted for candidates who have earned the next highest score.

[9] State Attorney Council Act, Official Gazette 67/18, 126/19, https://www.zakon.hr/z/1051/Zakon-o-Dr%C5%BEavnoodvjetni%C4%8Dkom-vije%C4%87u

state attorneys is the successful completion of the State School for Judicial Officials, i.e. the number of points scored in the final exam. Persons who are not judicial officials and who, after passing the Bar exam, have at least 15 years of experience in legal matters (attorneys, public notaries, law university professors) or 20 years respectively for distinguished jurists, can also be appointed as the Deputy State Attorney General. Their appointment requires a mandatory assessment interview with the Council. In the process of appointing deputy municipal state attorneys, the points achieved at the final examination at the State School for Judicial Officials and the points accomplished during the interview before the Council are added up. The Council appoints deputy state attorneys among a maximum of ten candidates who have achieved the highest number of points, while the difference between the selected candidate and the candidate with the highest number of points must not be more than ten points.[10] In filling the vacancies, the permanent transfer of deputy state attorneys from state attorney's offices of the same degree and the same type, has an advantage over the appointment. Therefore, a call for a permanent transfer is first announced before the appointment announcement. A maximum of 30% of vacancies can be filled by permanent transfer of deputies. The relevant criteria in this procedure is the assessment of the conduct of duty and the opinion of the state attorney in the state attorney's office to which they are seeking transfer, and from which the transfer is requested. The decision on the appointment must be thoroughly elaborated. The candidates that have not been appointed have the right to file a complaint to the Constitutional Court.

The Constitution of the Republic of Croatia stipulates that a judge may not perform duty or work determined by the law to be incompatible with judicial duties. The *Courts Act*[11] and the *State Attorney's Office Act*[12] stipulate that judges or state attorneys may not perform any other service or work, which could affect their autonomy, impartiality and independence, or reduce their social reputation, or are otherwise incompatible with the exercise of judicial duties.

The **procedure for the appointment of presidents of courts and state attorneys as heads of judicial bodies**: The appointment and dismissal of the President of the Croatian Supreme Court and the State Attorney General, is carried out by a special procedure regulated by the *Courts Act,* and the State *Attorney's Office Act* respectively (procedures for both appointments are explained in the response under point 10).

The appointment and dismissal of **presidents of courts** is regulated by the *State Judicial Council Act* and is the responsibility of that Council. The presidents of courts are appointed for a term of four years, and no one can be appointed as the president of a court in a court of the same instance and type more than twice. The president of the court can only be a judge of the court of the same type and instance, or the judge of a higher court. The State Judicial Council initiates the appointment procedure by publishing the public announcement. After receiving the applications and the proposal of the candidate's work program, the Council asks the competent judges' councils for opinions on the candidates, as well as evaluations of the performance of their judicial duties. The Council also asks for the opinions on the candidates and their work programs from the president of the immediate higher court and the president of the Supreme Court. In order to further strengthen the autonomy and independence of the judiciary, the 2018 amendments of the Act omitted the opinion of the Minister of Justice from this procedure. The State Judicial Council makes its decision on the bases of the collected opinions, the interviews

[10] Prior to reaching a final decision on the appointment, the Council refers candidates to psychological testing to determine their ability to perform state attorney duties. With the consent of all candidates who have not previously performed state attorney's duties, the Council shall submit to the competent Security Intelligence Agency a request for a basic security check to determine the lack of safety barriers to the appointment and performance of state attorney's duties.

[11] The Courts Act (Official Gazette 28/13, 33/15, 82/15, 82/16, 67/18, 126/19), https://www.zakon.hr/z/122/Zakon-o-sudovima

[12] State Attorney's Office Act (Official Gazette 67/18), https://www.zakon.hr/z/140/Zakon-o-dr%C5%BEavnom-odvjetni%C5%A1tvu

with the candidates, the evaluation of the proposed work programs and their organizational skills.

The appointment and dismissal of state attorneys is regulated by the *State Attorney Council Act,* and is the responsibility of that Council. The **county state attorney** shall be appointed from among the state attorneys, deputy State Attorneys General, deputy state attorneys in special state attorney offices and deputy county state attorneys who have served as a deputy county state attorney for at least two years. With the prior opinion of the college of the State Attorney's Office, and with the proposal of the State Attorney General, the county state attorney is appointed by the Council for a term of four years. The **municipal state attorney** shall be appointed from among the state attorneys and deputy state attorneys. With the prior opinion of the college of the county state attorney's office and the county state attorney, and on the proposal of the State Attorney General, the municipal state attorney shall be appointed by the Council for a term of four years. The county state attorney and the municipal state attorney may not be appointed for more than two consecutive terms in the same state attorney's office. The State Attorney Council initiates the appointment procedure by publishing the public announcement. After receiving the applications and the proposal of the candidate's work program, the Council seeks an opinion on the candidates from the colleges of the competent state attorney's offices as well as of the directly higher state attorneys, and will finally request the nomination of the candidate for the appointment from the State Attorney General. In order to further strengthen the independence of the state attorney's service, the 2018 Amendments to the Act omitted the opinion of the Minister of Justice on candidates for state attorneys.

2. Irremovability of judges, including transfer of judges and dismissal

The permanence of judicial office and the **irremovability of judges contrary to their will,** except in the case of the abolishment or reorganization of a court in accordance with the law, is guaranteed by the Constitution.[13]

The grounds for **dismissal of judges** and the right to legal remedy against such decisions are prescribed in Article 120 of the Constitution. The said article stipulates that the judge will be dismissed from his/her judicial office: at his/her own request; if permanently incapacitated to perform his/her duties; if sentenced for a criminal offense which makes him/her unworthy to hold judicial office; if, in accordance with the law, the State Judicial Council so decides because

[13] The latter is additionally regulated by the State Judicial Council Act that stipulates that in case of abolishment, merger and division of courts, and other changes in the subject matter and territorial jurisdiction, internal organization or the necessary number of judges, the State Judicial Council shall transfer the judge to another court of the same instance and without his/her consent. The Council shall take into account the place of work of the judge, the length of his/her judicial duties, the type of cases he/she is working on and the expressed interest of judge. It is possible to review the legality of the decision in a way that a judge is entitled to bring an administrative dispute against the Council's decision on the transfer. In the reorganizations of the judicial system that have been implemented in 2015 and 2018, except in case of abolishment of the courts, there was no transfer of judges without their consent. Such transfers of judges were conducted under the principle of voluntariness and initiative of the judges themselves. The judge may, with his/her consent, be temporarily referred to another court for a period of up to two years, with the maximum extension of up to two years, when there is a need for a judge in a court due to increased inflow of cases or longer absence from the work of the judges working in that court. The aforementioned shall be decided by the State Judicial Council, with the prior opinion of the president of the court to which the judge is referred to, the prior opinion of the president of the court where the judge is holding judicial office and the opinion of the President of the Supreme Court. In order to increase transparency, amendments to the State Judicial Council Act from 2015 fully regulate and elaborate procedure for permanent transfer of judges, which begins with the publishing of the public announcement.

of a serious disciplinary offense; when he/she turns seventy years of age[14]. Other ways of termination of judicial office are prescribed by the State Judicial Council Act.[15]

The **termination of office of heads of judicial bodies** (presidents of courts or state attorneys) is regulated by the *State Judicial Council Act* and the *State Attorney Council Act* and is the responsibility of these councils.[16] The position as the **president of court** shall cease by termination of judicial office, when the disciplinary sentence becomes final, by reorganization of the courts (abolishment, merger and division) and by dismissal.[17] **President of the Supreme Court** shall cease with his/her duties: upon death, by expiration of the term to which he/she has been elected, and by the termination of the duties of a judge of the Supreme Court on which the State Judicial Council takes decision.[18]

The position as the **state attorney** shall be terminated upon expiration of the term for which he or she has been appointed, by the termination of his/her position as a deputy state attorney, when the disciplinary sentence becomes final, with the reorganization of state attorney's offices (abolishment, merger and division) and by dismissal.[19] The State Attorney General and the Minister of Justice may propose the dismissal of the state attorney. An administrative dispute is allowed against the Council's decision on the dismissal of the state attorney. The duty of the **State Attorney General** shall terminate: upon death, when he or she reaches the age of 70, by the expiry of the term for which he or she was elected, on the day he or she takes up another

[14] The judge whose dismissal is proposed must be given an opportunity to provide a statement on the proposal for dismissal. The judge has the right to file an appeal to the Constitutional Court within 15 days against the decision on dismissal, on which the Constitutional Court decides in the manner and in the composition determined by the Constitutional Act on the Constitutional Court of the Republic of Croatia (Official Gazette 99/99, 29/02, 49/02). The Constitutional Court must decide on the appeal within 30 days of receipt.

[15] The judge`s office shall be terminated by virtue of the law in the court in which he/she was appointed on the day of taking up his/her service in another court, judicial or state body or death. In the aforementioned cases, the State Judicial Council shall take a decision on the proposal of the president of the court in which the judge worked.

[16] The president of the court who was *not re-appointed* continues to perform judicial function in the court in which he/she was appointed as a judge. If municipal or county state attorney is not reappointed after the expiration of the term of office, he/she continues to work as a deputy state attorney in the same state attorney's office or, if more favourable for him/her, shall return to the post of deputy state attorney in the state attorney's office in which he/she held state attorney's office before the appointment. If, by a decision of the Croatian Parliament or at his/her own request, the president of the Supreme Court is removed from the office before the expiration of his/her term of office, or is not re-elected to that position, he/she shall continue to act as a judge in that court.

[17] The president of the court shall be dismissed when he/she performs the court administration duties contrary to regulations, when he/she fails to take measures of his/her authority for the efficient operation of the court, when without justified reason he/she fails to fulfil the program of work proposed in the process of appointment to the position of the president of the court, when he/she violates the regulations on the assignment of cases, when he/she violates the principle of judicial independence, when he/she abuses his/her position as an authorized proponent of initiation of disciplinary proceedings, when he/she harms the reputation of the court or judicial duty, and when he/she is temporarily removed from judicial duty. The proposal for dismissal of the president of the court may be submitted by the president of the immediate superior court, the president of the Supreme Court and the Minister of Justice and may be requested by the president himself. The president of the court has the right to initiate an administrative dispute against a decision of the State Judicial Council on dismissal.

[18] President of the Supreme Court shall be dismissed: upon his/her own request, if permanently unable to perform the duties, if the indictment against him/her for a criminal offense rendering him/her unworthy of judicial office becomes final, and when he/she reaches the age of 70. A proposal for dismissal of the president of the Supreme Court is filed by the President of the Republic of Croatia. The Croatian Parliament decides on such proposal, with prior opinions of the General Session of the Supreme Court and the competent committee of the Croatian Parliament.

[19] The state attorney shall be dismissed at his/her own request, when he/she performs the state attorney's administration duties contrary to regulations, when he/she fails to take measures of his/her authority for the efficient work of the state attorney's office, when he/she violates the regulations on case assignment, when he/she violates the principle of independence, when he/she abuses his/her position as an authorized proponent of initiation of disciplinary proceedings, when he/she harms the reputation of the state attorney's office or the state attorney's duty, if he/she commits a disciplinary offence and is temporarily removed from state attorney`s office, if he/she fails to fulfil the program of work proposed during the appointment to the position of state attorney without justifiable reason, if he/she is assessed as unsatisfactory in the performance of duty, if the security clearance process establishes the existence of a security barrier and if he/she is temporarily removed from the state attorney's duty.

judicial or public duty, and by dismissal, in accordance with Articles 27 and 28 of the *State Attorney Council Act.*[20]

3. Promotion of judges and prosecutors

In order to improve the quality of the judiciary, amendments to the *State Judicial Council Act* from 2018 introduced stricter criteria for the appointment of judges to higher courts (promotion of judges), requiring at least ten years of judicial duty in order to be appointed to county courts (instead of previously requiring eight years), and at least twelve years of judicial duty in order to be appointed to high courts (instead of previously requiring ten years). In order to further strengthen the professionalism and accountability of judges, the amendments to the *Courts Act* from 2018 have clarified the assessment criteria (quality, quantity, regularity of judicial duties, professional experience and other activities), and introduced scoring frameworks to evaluate certain criteria for the assessment of judges. These changes further strengthen the use of objective benchmarks for the promotion or appointment of judges to higher courts. The Council determines the order of the candidates by summing up the points obtained on the basis of the evaluation of the judicial function and the interview before the Council. The Council appoints judges among a maximum of ten candidates who have obtained the highest number of points. The difference between the selected candidate and the candidate with the highest number of the points must not exceed ten points.[21] In case the existence of security barriers is established, the candidate cannot be appointed judge of the Supreme Court, in which case checks are carried out for the candidates who obtained the following highest score[22].

As with judges, and with the aim of improving the quality of the state attorneys service, the State Attorney Council Act from 2018 introduced stricter criteria for the appointment of deputy state attorneys to the higher state attorney's offices (promotion of deputy state attorneys), and prescribed at least ten years of judicial duty for the appointment of deputy in the county state attorney offices (instead of the previous eight). The new State Attorney's Office Act from 2018, also with the aim of further strengthening professionalism and accountability, clarifies the evaluation criteria (quality, quantity, regularity of duties, professional experience, compliance with the Code and other activities), and introduces scoring frameworks for the assessment of individual criteria of the deputy state attorneys. These changes further strengthen the use of objective criteria for the promotion within the system of the state attorney's office, i.e. the appointment of deputies to the higher state attorney`s offices. When appointing deputy state attorneys to the higher state attorney offices, the points earned on the bases of the assessment of the performance of their functions and the points earned during the interview with the

[20] The State Attorney General shall be dismissed: at his/her own request, if he/she becomes permanently unable to perform duties, if an indictment against him/her for a criminal offence becomes final, if he/she unlawfully performs duty, if he/she harms the reputation of state attorney's office or state attorney`s duties, if he/she does not take measures for efficient work of the state attorney's office, if he/she fails to fulfil without reason the program of work proposed during the appointment process for the position of the State Attorney General, and if the state attorney's office does not achieve satisfactory work results. Proposal for dismissal of the State Attorney General is submitted by the Croatian Government. The Croatian Parliament decides on such proposal, with a prior opinion of the competent committee of the Croatian Parliament. If the State Attorney General is not re-appointed to the position, or is removed from the office, he/she shall continue to work as a deputy State Attorney General.

[21] Before taking a final decision on the appointment or promotion, the Council, with the candidate's prior approval, submits a request to the competent security-intelligence authorities for a basic security check in order to determine that there are no security barriers for the appointment and performance of judicial duties.

[22] Security checks are required for the first-instance court candidates and for the Supreme Court candidates. They are not required for county court candidates, nor for high court candidates, because these candidatures are open only to the judicial officials who are already in the system and accordingly passed the security check with their first appointment. However, since the Supreme Court candidatures are open to qualified individuals who are not necessarily judicial officials (attorneys, notaries, law professors, distinguished jurists), a security check is required for all candidates uniformly.

Council are summed up. The Council appoints deputy state attorney from among the maximum of ten candidates having obtained the highest number of points, while the difference between the selected candidate and the candidate having the highest number of points may not exceed ten points.[23]

In the promotion procedures of judges and deputy state attorneys, the same provisions apply to the planning of filling vacant posts, conducting interviews with candidates before the competent Councils, limiting the possibility of appointment within a certain number of points awarded, the additional elaboration of the appointment decision, and for the judges, the provisions limiting the duration of the appointment procedure.

4. Allocation of cases in courts

The *Courts Act* prescribes that cases are assigned to work according to the responsibilities determined by annual work schedules issued by heads of judicial bodies, in general by automatic random assignment and using an appropriate algorithm that ensures equal allocation of cases, taking into account the type and legal complexity of the cases. If the system for automatic case assignment is not in use in the court[24], cases shall be assigned manually, in the order of their receipt, following the alphabetical order of the judges' surnames. The procedure for assigning cases to judges is regulated in detail by the Court Rules of Procedure and regulations governing the operation of information systems in the courts.

5. Independence (including the composition and appointment of their members), and the powers of the bodies tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

The **State Judicial Council** is defined by the Constitution as an autonomous and independent body, which ensures the autonomy and independence of the judicial power. The State Judicial Council, in accordance with the Constitution and the law, decides independently and impartially on matters within its jurisdiction on the basis of criteria laid down by law, whereas the State Judicial Council Act regulates its scope, organization, election of members and other aspects of its work. The State Judicial Council has eleven members, consisting of seven judges, two university professors of law and two members of the Parliament, one of whom is from the opposition. Members of the Council from among the judges are two judges of the Supreme Court, one judge of the higher courts, three judges of the county courts and one judge of the first instance courts. The law prescribes in detail the procedure for electing members of the Council from among judges. Court presidents cannot be elected as members of the State Judicial Council. While holding office of a Council member, judges cannot be appointed to judicial office to a higher court, nor can they be elected for president of the court. The members of the Council from the ranks of university professors of law are elected by all the professors of the law faculties and at the proposal of faculty councils, while the Croatian Parliament elects the members from the parliament. Members of the State Judicial Council shall be elected for a term of four years, but no one can be elected more than twice. Members of the State Judicial Council elect a president from among the judges that are members of the Council. The Council is responsible for appointing judges, appointing and dismissing presidents of courts, deciding on

[23] Prior to reaching a final decision on appointment, the Council, with the prior consent of candidates who have not previously held the office of the state attorney, submits a request to the competent security-intelligence authority to conduct a basic security check to determine the absence of security barriers for the appointment and performance of the state attorney`s duties. The candidate for whom the existence of security barriers is established cannot be appointed as deputy state attorney, in which case the checks are carried out for the candidates who have achieved the next highest score.

[24] Out of the total of 66 courts in Croatia, only 5 do not yet have the automatic random assignment (first-instance courts in Zagreb, Split, Rijeka and Osijek and the second-instance High Administrative court), but its introduction is planned by the end of 2021.

the immunity of judges, transfer of judges, conducting disciplinary proceedings and deciding on disciplinary responsibility of judges, deciding on the dismissal of judges, participating in education and training of judges and court clerks, adopting a Methodology for evaluating judges, keeping the personal records of judges, granting approval to perform other service or work while performing the judicial duties, and keeping and controlling judges' asset declarations. The Council takes decisions by a majority vote of all members of the Council, unless otherwise provided by this Act. Funds for the work of the Council are provided in the state budget. In order to ensure a more balanced territorial representation of judges, the amendments to the State Judicial Council Act from 2018 changed the composition of the Council members from among judges and the manner in which they are elected, and reduced the scope of exemption from judicial duties for members of the Council from among judges, in accordance with their actual involvement in the work of the Council.

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules

The judge is responsible for the committed disciplinary offenses as defined by the **State Judicial Council Act**, and the following disciplinary penalties may be imposed: reprimand, a fine up to one third of the salary earned in the previous month (for a period of one to three months, four to six months or seven to twelve months, depending on the severity of offense) and dismissal. The State Judicial Council Act regulates the implementation of disciplinary procedures in detail. If there is reasonable doubt that a judge has committed a disciplinary offense, the president of court or a person authorized to perform judicial administration in the court in which he/she performs a judicial function shall initiate against that judge disciplinary proceedings. The Minister of Justice, the president of a directly higher court, the president of the Supreme Court and the judicial council may also initiate disciplinary proceedings. When deciding on disciplinary responsibility of the judge against whom the proceedings are conducted, he/she must be given the opportunity to present his/her defence. The State Judicial Council makes the decision on disciplinary responsibility. A judge has the right to appeal against a decision on disciplinary responsibility that delays the execution of a decision. It is submitted to the Constitutional Court within 15 days from the day of the receipt, which must decide on it within 30 days from the day of filing. The right to a remedy against the aforementioned decision is also stipulated in Article 120 of the Constitution. The disciplinary offense of disorderly performance of duties has been further refined by amendments to the State Judicial Council Act from 2018 and in order to ensure the application of the General Data Protection Regulation, a new disciplinary offense of violation of the regulations on personal data protection has been introduced.

Deputy state attorney is responsible for the committed disciplinary offenses established by the **State Attorney's Office Act,** and the following disciplinary penalties may be imposed: reprimand, a fine up to one third of the salary earned in the previous month for a period of one to six months, a fine up to one-quarter wage earned in the previous month for a period of one to three months, and dismissal. The implementation of disciplinary procedures is prescribed in detail by this Act. If there is a reasonable doubt that the deputy state attorney has committed a disciplinary offense, the state attorney in the state attorney's office in which the deputy state attorney performs his/her duty is obliged to file a request for initiation of disciplinary proceedings against him/her. The directly higher state attorney, State Attorney General or the Minister of Justice, may also file a request. In the procedure of deciding on disciplinary responsibility, the deputy state attorney, against whom the proceedings are being conducted, must be afforded the opportunity to present a defence. Deputy state attorney shall have the right to appeal against the decision of the Council by which his/her disciplinary responsibility is established. The appeal delays the execution of the decision and is decided by the Supreme Court in a closed session in a council consisting of three judges, within 30 days of receipt of the appeal file. With the new State Attorney Council Act of 2018, the provisions on disciplinary

responsibility of deputy state attorneys have been further elaborated and specified, and a new disciplinary offense of violation of the regulations on protection of personal data has been introduced to ensure the application of the General Data Protection Regulation.

The definition and procedure for the adoption of the **Code of Judicial Ethics**[25] are laid down in the Courts Act. The Code establishes ethical principles and rules of conduct for judges, in order to safeguard the dignity and reputation of judicial duty. When performing their duties, and in their free time, judges are obliged to respect the laws and the Code. The Code is adopted by the Ethics Committee, which is composed of the presidents of all judicial councils in the Republic of Croatia. In order to further strengthen the professionalism and accountability of judges, by the amendments to the Courts Act in 2018, the Committee was given new preventive powers to provide guidance on the interpretation of the Code and opinions and recommendations on the compliance of judges' behaviour with the Code. In order to increase the transparency of these procedures, final decisions on the breach of the Code and the guidelines, opinions and recommendations of the Committee shall be published on the website of the Supreme Court in accordance with the regulations on personal data protection. The State Attorney's Office Act defines the definition and procedure for adopting the **Code of Ethics of State Attorneys and Deputy State Attorneys**[26], which defines the principles and rules of conduct of state attorneys and deputy state attorneys which guarantee the preservation and promotion of their personal and professional integrity as officials in an independent state attorney's office. The extended college of the State Attorney's Office adopts the Code. The Ethics Committee, as an independent body in the state attorney system, plays a particularly important role, which, at the request of the state attorney or deputy state attorney, gives an opinion on the conformity of a certain conduct with the Code, gives opinions and recommendations on the complaints raised, or on its own initiative, and generally provides guidelines for interpretation of the fundamental ethical and deontological principles of the Code. Acting contrary to the basic principles of the Code of Ethics of State Attorneys and Deputy State Attorneys is one of the prescribed disciplinary offences that harms the reputation of the state attorney's office or the state attorney's duty, and compliance with the Code of Ethics of State Attorneys and Deputy State Attorneys is also one of the evaluation criteria for state attorney officials.

7. Remuneration / bonuses for judges and prosecutors

The Judges' and Other Judicial Officials' Salaries Act regulates salaries and other benefits of judicial officials in the Republic of Croatia.[27] Judicial officials' salaries are determined by multiplying the base for calculating the salary by a coefficient for a particular position. Since March 1st, 2019, the base for calculating the salary of judicial officials has increased by 6% and the coefficients of judicial officials of first-instance bodies (judges and deputy state attorneys) have been equalized. The coefficients of heads of first-instance judicial bodies (presidents of courts and state attorneys) have also been equalized.[28] This Act, the Courts Act and the State

[25] Code of Judicial Ethics (Official Gazette 131/06), https://narodne-novine.nn.hr/clanci/sluzbeni/2006_12_131_2951.html

[26] Code of Ethics of State Attorneys and Deputy State Attorneys (Official Gazette, 25/08), https://narodne-novine.nn.hr/clanci/sluzbeni/2008_02_25_851.html

[27] Judges' and Other Judicial Officials' Salaries Act (Official Gazette, 10/99, 25/00, 01/01, 30/01, 59/01, 114/01, 116/01, 64/02, 153/02, 154/02, 17/04, 08/06, 142/06, 34/07, 134/07, 146/08, 155/08, 39/09, 155/09, 14/11, 154/11, 12/12, 143/12, 100/14, 147/14, 120/16, 16/19) https://www.zakon.hr/z/438/Zakon-o-pla%C4%87ama-sudaca-i-drugih-pravosudnih-du%C5%BEnosnika

[28] By comparison, the ratio of the average gross salary of a judicial official in the first instance, and the average gross salary of employees in the Republic of Croatia before the aforementioned amendments to the Act was 1.82, and as of March 1st 2019 it is 2.14.

Attorney's Office Act, in addition to the right to salary, also guarantee certain material rights, including bonuses for work outside of regular working hours.[29]

8. Independence/autonomy of the prosecution service

State Attorney's Office, in accordance with the Constitution (Article 121a), is an autonomous and independent judicial body empowered and obliged to act against perpetrators of criminal and other criminal offenses, to take legal actions to protect the property of the Republic of Croatia, and to file legal remedies for the protection of the Constitution and rights. The independence of the State Attorney's Office in the Republic of Croatia is also reflected in the mechanisms of appointment of the State Attorney General, and the same article of the Constitution stipulates that the Croatian Parliament appoints him/her for a term of four years, upon the proposal of the Government, with the prior opinion of the competent committee of the Croatian Parliament. Furthermore, in accordance with the Constitution and the law, deputy state attorneys are appointed, dismissed and the State Attorney Council decides their disciplinary responsibility.

The Constitution prescribes the composition and mandate of the **State Attorney Council**, while its competence, organization, method of election of members and other aspects of its work are regulated by the State Attorney Council Act. The said Act defines the Council as an autonomous and independent body that ensures the independence and autonomy of the State Attorney's Office in the Republic of Croatia. The State Attorney Council has eleven members, consisting of seven deputy state attorneys, two university professors of law and two members of Parliament, including one from the opposition. Council members from among deputy state attorneys are: three deputies of the State Attorney's General, two deputy county state attorneys and two deputy municipal state attorneys. The proportional territorial representation of offices and appropriate representation of criminal and civil departments is ensured in the composition of the Council from the ranks of deputy state attorneys. The Act prescribes the procedure for the election of Council members from the ranks of deputy state attorneys in detail. During the performance of their duties as <members of the Council, deputy state attorneys cannot be appointed to the higher instance state attorney's office and cannot be appointed as state attorneys. At the proposal of the faculty councils, the members of the Council from among the professors of the law are elected by all the professors of the law faculties, and the members from the parliament are elected by the Croatian Parliament. The members of the State Attorney Council are elected for a term of four years, but no one can be elected more than twice. The members of the Council elect the president of the Council among deputy state attorneys that are members of the Council. Heads of state attorney's offices cannot be elected as members of the State Attorney Council. The Council's mandate includes the appointment and dismissal of deputy state attorneys, as well as county and municipal state attorneys, the transfer of deputy state attorneys, the conduct of disciplinary proceedings and the decision on liability of deputy state attorneys, participation in the training and specialization of state attorneys and deputy state attorneys, the announcement of elections for members of the Council from the ranks of deputy state attorneys, deciding on objections to the assessment of performance, keeping the files of state attorneys and deputy state attorneys, granting authorization to perform other functions or work while performing a state attorney's duty, keeping and controlling of the asset

[29] These material rights comprise the following: bonus to salary when referred to other judicial body, reimbursement instead of salary when prevented in the performance of their duties, rights entitled from the regulations on pension and health insurance, material costs, reimbursement for separation from family and reimbursement of travel expenses to the place of residence of the family during weekly holidays and public holidays, when temporarily sent to work in another judicial body, or assigned to work in the Ministry of Justice, or hold judicial office in a judicial body established for the entire territory of the Republic of Croatia, reimbursement of transport costs to and from work, if their place of employment is different from their place of residence or residence, official travel and travel expenses related to the performance of their duties, reimbursement when being on call, and a right to professional development within the means provided for this purpose.

declarations of the state attorneys and deputy state attorneys, and performing other tasks in accordance with the law. The Council takes decisions by a majority vote of all members of the Council, unless otherwise provided by this Act. Funds for the work of the Council are provided from the state budget. The main objectives for adopting the new State Attorney Council Act from 2018 were the separation of the provisions of the State Attorney's Office Act relating to the work of the Council into a separate law, which has strengthened and emphasized its independence. With the reform of certain institutes and by further refining of certain provisions, efficiency, objectivity and transparency of its work have been strengthened and secured.

9. Independence of the Bar Association (Association of Attorneys-at -law)

Attorneys are defined by the Constitution as an autonomous and independent profession, which in accordance with the law provides everyone with legal assistance. **Attorneys' Act**[30] stipulates that the autonomy and independence of the attorneys shall be exercised in particular as the independent functioning of the attorneys as a free activity, the organization of attorneys within the Croatian Bar Association as an independent association of attorneys in Croatia, adopting the by-laws and other decisions of the Bar Association and decision-making regarding the acquisition and termination of the right to practice law. This Act also prescribes the mandatory membership of attorneys in the Bar Association as an independent organization with the capacity of a legal person. Acts issued by the Croatian Bar Association represent a very important legal basis for the functioning of attorneys as a regulated profession. Attorneys' Act proved to be a solid normative basis for the functioning of this profession. For the first time since 2011, amendments to this Act are foreseen to be adopted in 2020 in order to further align it with the *acquis communautaire,* but also to implement the measures of the Action Plan for the liberalization of the services market of 2019 and the National Reform Program for 2020.

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

Amendments to the State Judicial Council Act of 2018 and the new State Attorney Council Act of 2018 further enhanced **transparency and accountability** in the judiciary, reformed the system of filing, keeping, controlling and publishing asset declarations of judicial officials, in the way that these obligations are fully and systematically prescribed for government officials. The publication of the above information aims to ensure their availability and strengthen the public trust, to enhance the integrity, transparency and prevention of conflicts of interest and other illicit influences in the performance of judicial duties. It is stipulated that asset declarations are submitted electronically and that asset declarations of judicial officials are made public and published on the Council's website, subject to regulations on the protection of personal data.

Amendments to the State Judicial Council Act and the Courts Act of 2018 and the adoption of the new State Attorney's Office Act and the State Attorney Council Act of 2018 have made significant progress in further strengthening the **autonomy and independence** of judicial bodies. The power of the Minister of Justice, as a representative of the executive, to give opinions on candidates in the procedures for the appointment of presidents of courts and state attorneys was omitted, as well as his/her role in the process of appointing judges to perform the duties of judicial administration (acting presidents of courts), except for those courts in the process of establishment.

[30] Attorneys' Act (Official Gazette no. 09/94, 117/08, 50/09, 75/09, 18/11), available at: https://www.zakon.hr/z/176/Zakon-o-odvjetni%C5%A1tvu

Pursuant to GRECO's[31] recommendations, and in order to eliminate the identified non-transparency and potential risks to jeopardizing the autonomy and independence of the judiciary, as well as corruption risks, the Courts' Act has been amended. The procedure for the appointment of the president of the Supreme Court has been elaborated in detail, beginning with a public announcement to interested candidates by the State Judicial Council. According to the Constitution, the received nominations are forwarded to the President of the Republic, who will request an opinion on the candidates from the General Session of the Supreme Court and the competent committee of the Croatian Parliament and then submit to the Croatian Parliament a proposal for a candidate for the position of the president of the Supreme Court. In accordance with GRECO's recommendations, the mandate of the president of the Supreme Court can be prolonged only once (limited to a maximum of two mandates), and the grounds and procedures for termination of duties and dismissal of the president of the Supreme Court are prescribed by law. Also, in accordance with GRECO's recommendations, and within the normative framework of the Constitution, with the new State Attorney's Office Act of 2018, the procedure for appointment of the State Attorney General has been regulated in detail. In this procedure, a public announcement is issued by the State Attorney Council, after which the Government proposes a candidate for appointment to the Croatian Parliament. The term of office of the State Attorney General can be prolonged only once (a maximum of two mandates), and the grounds and procedures for his/her termination of duty and dismissal are prescribed.

11. Other

All relevant information is provided above.

B. Quality of judicial system

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

The Court Fees Act regulates the origin, obligors, and manner of payment of court fees.[32] The obligation to pay the court fee is incurred for the documents submitted and the actions taken by the court in court proceedings, and the obliged parties are the parties, at whose request or in whose interest the prescribed actions are taken. The amounts of individual payment obligations are prescribed by the Court Fees Tariff, which is adopted by the Government since the entry into force of the new Court Fees Act on 1st January 2019. Separation of the Tariff from the primary legislation (i.e. Court Fees Act) was resorted to in order to provide greater flexibility as regards necessary amendments and additions to the amount of court fees (currently the minimum prescribed fee is HRK 5.00 and the maximum is HRK 6,000.00). The aforementioned Act also prescribes the full range of exemption from the obligation to pay court fees for certain categories of citizens, which directly positively influences the possibility of access to court. In order to introduce, or further encourage, electronic communication with the courts, the aforementioned Act also prescribes a general reduction of the prescribed fee by 50%, if the filing is submitted in electronic form, which, in addition to administrative burdens on courts and more efficient payment of court fees, indirectly results in easier access to the courts for citizens. As of 18th October 2019, court fees can be paid electronically through the e**-Communication system.**

The Free Legal Aid Act[33] is a basic regulation governing the **system of free legal aid**, which defines, among other things, the beneficiaries and types of free legal aid, legal aid providers, conditions, and the procedure for obtaining legal aid. The purpose of free legal aid is to achieve equality of all before the law, to ensure the citizens of the Republic of Croatia and other persons,

[31] Group of States Against Corruption
[32] Court Fees Act (Official Gazette 118/18) https://www.zakon.hr/z/224/Zakon-o-sudskim-pristojbama
[33] The Free Legal Aid Act (Official Gazette 143/13, 98/19), https://www.zakon.hr/z/286/Zakon-o-besplatnoj-pravnoj-pomo%C4%87i

in accordance with the provisions of this Act, the effective realization of legal protection and access to court and other public bodies under equal conditions. The Act stipulates two categories: primary and secondary legal aid. Primary legal aid includes provision of general legal information; legal advice; drafting submissions in proceedings before public bodies, the European Court of Human Rights and international organizations, in accordance with international treaties and the rules of procedure of these bodies; representation in proceedings before public bodies and legal assistance in the out-of-court amicable settlement of a dispute. Secondary legal assistance includes legal advice; making submissions in the process of protecting the rights of workers before the employer; making submissions in court proceedings; representation in court proceedings; legal assistance in the amicable settlement of the dispute; exemption from court costs fees.

The value of the point, for determining the remuneration of attorneys, was increased by the Decree on the value of the amount for determining the remuneration for providing secondary legal assistance for 2019.[34] In addition, the reorganization of the judicial system has a positive impact on the accessibility of the courts and of the judicial bodies as a whole. The last reorganization of the judicial system was carried out by the adoption of the *Areas and Seats of Courts Act* and the *Areas and Seats of State Attorney's Offices Act* in 2018[35], and partly with the amendments to the *Courts Act and Misdemeanours Act*[36], also from 2018. New network of judicial bodies started functioning on 1st January 2019. The reorganization was primarily carried out through the merger of municipal and misdemeanour courts, and the revision of the existing network of municipal and commercial courts and municipal state attorney's offices. On the one hand, the total number of courts has decreased; however, the number of cities in which the courts are based has increased. In order to align the network of state attorney's offices with the new network of courts, three new municipal state attorney's offices have been established, along with the existing 22. The expected positive effects of such a reorganization in this context are facilitated citizen access to courts (establishment of new courts, emphasized obligation of presidents of courts to ensure in all permanent services that all procedural actions are carried out in order to resolve cases within their jurisdiction related to their area, as citizens from these places would not have to travel to the seats of the courts), and the reduction of costs for citizens and their representatives who, after the 2015 reorganization, were forced to go to hearings in more remote places due to the enlargement of judicial areas.

13. Resources of the judiciary (human/financial)

On 31st December 2019, there were 2,347 judicial officials in Croatia, of which 1,712 were judges and 635 were state attorneys. On the same day, the number of employed civil servants and employees in all judicial bodies was 7,770 (6,593 in the courts, 1,177 in the state attorney's offices). Out of the total number of civil servants and state employees in all judicial bodies, 6,966 work in administrative, material-financial and professional affairs, and directly assist judicial officials in performing tasks related to the conduct of proceedings. The ratio of the number of clerks to the number of judges in the Republic of Croatia is 3 (so there are about 3 clerks per judge). The ratio of the number of state attorneys and employees is slightly lower and amounts to about 2 employees per state attorney. It is worth pointing out that in Croatia there is a continuous trend of decreasing the number of judges in all types of courts, so that in 2019 there

[34] Decree on the value of the amount for determining the remuneration for providing secondary legal assistance for 2019 (Official Gazette 45/19), https://narodne-novine.nn.hr/clanci/sluzbeni/full/2019_05_45_889.html

[35] Areas and Seats of Courts Act (Official Gazette 67/18), https://www.zakon.hr/z/432/Zakon-o-podru%C4%8Djima-i-sjedi%C5%A1tima-sudova , State Attorney's Offices Act (Official Gazette 67/18), https://www.zakon.hr/z/433/Zakon-o-podru%C4%8Djima-i-sjedi%C5%A1tima-dr%C5%BEavnih-odvjetni%C5%A1tava

[36] Misdemeanours Act (Official Gazette 107/07, 39/13, 157/13, 110/15, 70/17, 118/18) https://www.zakon.hr/z/52/Prekr%C5%A1ajni-zakon

were 40 judges less than in 2018 and 167 judges less than in 2015.[37] Efforts are constantly being made to secure adequate resources for the work of judicial authorities. Key components for the presentation of financial resources are salaries and other substantive rights of employees of judicial bodies, investment in the infrastructure of judicial bodies, and investment in the digitalization of the judicial system. In terms of salaries and other substantive rights of employees of the judicial authorities, in 2019 HRK 1.75 billion was secured (EUR 233 million), an increase of 5.4% compared to 2018. As regards the infrastructure of the judicial authorities, HRK 53.75 million (EUR 7.2 million) was invested, of which HRK 48.25 million was from the budget and HRK 5.5 million from other sources of funding (for example EU projects) which represents an increase of 168.75% over 2018. HRK 76 million (EUR 10 million) was spent on digitalization of the judicial system, of which HRK 59 million were budgeted and HRK 17 million were from other sources, which is the same as in 2018. The above data show a continuous investment of resources in order to improve the functioning of the justice system.

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

Significant activities in the previous period were related to the improvement and upgrading of the **court case management system – e-File**. This system enables management of case work, work with electronic files, transparent allocation of files, receipt and dispatch of letters electronically, exchange of data and documents with other IT systems, monitoring of statistical indicators and e-services for the public: e-communication, e-bulletin board, e-case, issuance of a certificate on criminal proceedings, publication of insolvency register, verification of authenticity of electronic court documents, etc. New web pages of the courts have been developed as part of the project "Upgrading of the e-File Application System". The result of the project is the creation of a unique web portal for courts through which the public has access to court e-services and essential information on the work of each court.

The project "Improvement and Modernization of the Judicial System in the Republic of Croatia", funded by the European Social Fund, envisages the **development of a "Case Complexity Study"** for the purpose of objectively determining the number of judges and court advisers to handle cases, and the even distribution of workload. Study design is underway. Also, the Norwegian Financial Mechanism finances the project "Revision of the Judicial Performance Evaluation Methodology", which aims at developing an analysis of the existing system of evaluation of the work of judges in Croatia, then developing a comparative analysis of the evaluation of the work of judges in EU Member States and, ultimately, making recommendations for improving the methodology of evaluating the work of judges in Croatia. The implementation of this project is starting soon. These activities and projects identify unnecessary workload allowing equalization of judges' workload and thus providing conditions for optimal work of courts. It also has a direct impact on reducing the duration of court proceedings, which is a key prerequisite for increasing the efficiency of the justice system. Instead of the "old" paper file keeping, the conditions for keeping files primarily in the electronic form are created. Future upgrades of the e-File system are aimed at further digitization of court communication and support for court work with electronic files.

One of the most important activities in the past two years has been the **introduction of e-Communication** with the courts. The e-Communication enables users to submit claims and other written attachments to the court, signed by a qualified electronic signature. E-

[37] For ease of comparison, in 2016 Croatia had 43 judges per 100,000 inhabitants, in 2018 40 judges per 100,000 inhabitants, and in 2019 that number was 39 judges per 100,000 inhabitants. Despite this decrease in the number of judges, and the fact that Croatia has established relatively broad general judicial jurisdiction, the number of pending cases is being continuously reduced.

communication also enables courts to electronically send court documents (e.g. court decisions, etc.) into a secure electronic mailbox. For now, the system has been introduced in all commercial, county and municipal courts. System users are currently attorneys, insolvency administrators, court experts and appraisers, as well as public notaries. In 2020 the expansion of e-Communication is planned to include legal and natural persons. Currently, about 30% of all commercial court filings are sent by e-Communication. The aim of the introduction of e-Communication was reduction of administrative burdens on courts, which would result in speeding up court proceedings and better collection of court fees. This type of communication enables the creation of a fully electronic file in the courts, which is then made available to lawyers and other participants in electronic communication.

A new **e-bulletin board** for courts[38] has also been developed and is in use since 5th October 2019. The new e-bulletin board has a modern design, easier access to data, enabling quick access to first-time users. Courts, notaries and the Financial Agency (FINA) can post classified ads. Access to insolvency administrators' data has been improved, while a service has been created for state and public administration users to easily download large amounts of data from insolvency cases.

In order to unburden the courts' administrative staff and increase productivity in the delivery of court writs, in 2019 an **e-Delivery system** was introduced, which enables the electronic submission of documents from the courts to the postal service provider. Court writs and decisions are signed by qualified electronic signature and sent electronically to the service provider for delivery to parties. The status of delivery is updated in the court system using the Track & Trace application.

15. Other

In order to better manage the judiciary, it is extremely important that the work of the judiciary is monitored in a uniform manner, which enables comparison and identification of the most important trends, which is intended to be achieved by incorporating the accepted CEPEJ[39] indicators into the annual reports of the president of the Supreme Court and State Attorney General to the Croatian Parliament.

In order to raise the level of knowledge and quality of the application of EU regulations and the judgments of the European Court of Human Rights in court proceedings, it is envisaged to strengthen the judicial bodies institutionally through the establishment of chambers in the larger municipal courts, county and high courts and the Supreme Court. In the State Attorney's Office and the county state attorney's offices contact persons for monitoring the *acquis communautaire*, judgments of the Court of Justice of the European Union and judgments of the European Court of Human Rights, and assisting judicial officials in their correct application have been designated.

It is very important to mention the Judicial Academy in the context of raising the quality of the judicial system in Croatia. It was established by the Judicial Academy Act[40] as a special public institution that organizes and implements initial training of judicial officials, professional training of trainees and advisers in judicial bodies, and continuous professional development of judicial officials. In order to improve its performance and quality of education, a new *Judicial Academy Act*[41] was adopted in 2019.

[38] E-Bulletin board for courts https://e-oglasna.pravosudje.hr
[39] Council of Europe Commission for the Efficiency of Justice
[40] Judicial Academy Act (Official Gazette 153/09)
[41] Judicial Academy Act (Official Gazette 52/19), https://www.zakon.hr/z/236/Zakon-o-Pravosudnoj-akademiji

C. The efficiency of the judicial system

16. Length of proceedings

A large number of judicial reforms is aimed at continuously reducing the number of pending cases (e.g. reorganisation of the network of courts and state attorney's offices, changes in procedural regulations, improvement of modern technologies in the judiciary, improvement of material conditions for the work of judicial bodies, etc.), and in particular on reducing the so-called old pending cases in the courts.

Regulations are being continuously improved to speed up procedures, thereby improving the efficiency of the judicial system. Thus, the Act on *Amendments to the Civil Procedure Act*[42], which came into force on September 1st 2019, provides for new rules on revision and the introduction of a new institute for disputes that are large-scale, or expected to be initiated in a shorter period (the so-called trial procedure).[43] In addition, the latest amendments to the *Criminal Procedure Act*[44], which entered into force on January 1st 2020, have made certain changes to criminal justice institutes in order to increase the efficiency of the principles of economy and speed up procedure.[45] The new *Land Registry Act*[46] was adopted in June 2019. The new law simplifies the handling of land registers, which, in addition to prescribing deadlines, will also lead to faster processing of land registers. Furthermore, with further development of the functionality of the Joint Land Registry and Cadastre Information System, the prerequisites for electronic proceedings and complete transition to the electronic conduct of land registry business, are being gradually realized. Simplifying the process will also harmonize more land registry and cadastral data, which will increase legal certainty in the handling of real estate.

17. Enforcement of judgments

[42] Act on Amendments to the Civil Procedure Act (Official Gazette 70/19), https://narodne-novine.nn.hr/clanci/sluzbeni/2019_07_70_1447.html

[43] The introduction of the so-called trial procedure will speed up the proceedings in all those procedures in which the substance (merits) of the matter in respect to a legal issue is the same, which are large-scale, or are expected to be initiated in a shorter period. Second, the decision taken by the Supreme Court on this legal issue (the issue must be important for the uniform application of law) guarantees the uniform application of law and equality for all in its application i.e. it develops law through case law, which is constitutional task of the Supreme Court.

[44]Act on Amendments to the Criminal Procedure Act (Official Gazette 126/19), https://narodne-novine.nn.hr/clanci/sluzbeni/2019_12_126_2530.html

[45] Thus, for example, the procedure for the presentation of inadmissible evidence is concentrated at the indictment panel, through the obligation of the parties to present all the motions for the extraction of illegal evidence immediately, while any later motions can only be put forward by the parties if they have subsequently learned of the reasons for the extraction, and all motions filed in contravention of the new procedural rules will be rejected by a decision against which no appeal is allowed. It also stipulates that in case of change of the president of the panel/judge, the previously presented evidence should be read, while the re-examination of the evidence by direct hearing is decided by the president of the panel. Furthermore, police work is accelerated by reducing unnecessary administration in such a way as to enable the police to independently, without the order of the state attorney (but with obligatory notification), perform a recognition, order the necessary expert witnesses (except for autopsy), exhumation and molecular genetic analysis, a physical examination and blood and urine collection from the defendant and other persons, and with the written consent, sampling of biological material. For offenses of up to 15 years in prison, it is stipulated that no preparatory hearing will be conducted in proceedings, and the court may conduct it in proceedings for crimes of above 15 years in prison. In relation to the second instance procedure, the criminal procedure is further accelerated by simplifying the form of holding the public session of the second instance panel, and by prescribing more clearly the procedure of the second instance court when it sets aside the first instance verdict due to significant violations of the provisions of the criminal procedure with reference to the refinement of the proceedings of the court of first instance in the retrial (following the revocation of the judgment) as directed by the court of second instance. This will further accelerate proceedings with the specific aim of reducing the number of quashing decisions in the same case i.e. by repeatedly "returning" the case to a lower court for reconsideration.

[46] Land Registry Act (Official Gazette 63/19), https://www.zakon.hr/z/103/Zakon-o-zemlji%C5%A1nim-knjigama

Enforcement in Croatia is governed by the *Enforcement Act*[47], and the *Implementation of Enforcement on Monetary Funds Act.*[48] Enforcement on the basis of the enforcement document is carried out by the courts, while enforcement on the basis of the authentic document is carried out by public notaries. Enforcement bodies implementing enforcement on funds are the Financial Agency (FINA), the Croatian National Bank and commercial banks. In order to improve the enforcement system, a new Enforcement Act is currently in the legislative process. The proposed amendments intend to strike a greater balance between the rights of creditors and debtors, and make the process more efficient and faster, setting firm procedural deadlines and facilitating online treatment. Enforcement proceedings will be the responsibility of the courts, which will thus have complete control over the proceedings - while notaries, as commissioners of the court, will continue to be involved in proceedings to relieve the courts as much as possible. The new system will reduce the costs of the procedure (a separate Regulation will be adopted in this regard). The obligation to notify the debtor of the initiated procedure will be introduced. The debtor will also be given the option to pay the debt voluntarily, or to state an objection to the existence of the debt. The proposed system i) retains FINA as a seizure and fund transfer agency; ii) carries out the obligatory electronic exchange of documents between notaries, courts and FINA; and iii) excludes additional types of income from foreclosure. Furthermore, the proposed system lays down a set of minimum debt values, which can be enforced from the debtor's immovable property. It will also align the Croatian system with the EU law, in accordance with the decisions of the EU Court of Justice C-551/15 - Pula Parking and C-484/15 - Zulfikarpasic.

18. Other

The effects of the reorganization of the judicial network on the quality of the judiciary are described earlier in the text. In addition, it is important to note that the main objective of the reorganization is to increase the efficiency of the judiciary and to achieve a more balanced workload for judicial officials. From the reorganization carried out, the following positive effects on efficiency are expected: balancing the workload of the solvers; reducing the length of court proceedings and reducing the number of pending cases in municipal courts; unique and full utilization of all human resources of the merging judicial bodies (in particular the possibility of appointing judges of misdemeanour courts to work in other types of cases); facilitated management of judicial bodies due to the reduction of the area of territorial jurisdiction and the smaller number of locations in which they operate, reduction of the total number of management functions in judicial bodies (heads of bodies, departments, etc.) and more solvers. In regard to the reorganization of the network of courts, it was also necessary to improve the system of court administration and the performance of judicial administration.[49]

[47] Enforcement Act (Official Gazette 112/12, 25/13, 93/14, 55/16 - Decision of the Constitutional Court and 73/17), https://www.zakon.hr/z/74/Ovr%C5%A1ni-zakon

[48] Implementation of Enforcement on Monetary Funds Act (Official Gazette 68/18), https://www.zakon.hr/z/346/Zakon-o-provedbi-ovrhe-na-nov%C4%8Danim-sredstvima

[49] Therefore, the amendments to the Courts Act 2018 have redefined and strengthened the role of the director of the court administration (instead of the court secretary). The facilitation of the management of courts is ensured by reducing the area of jurisdiction of individual municipal courts, due to the smaller number of locations in which they operate. The introduction of the function of the director of the court administration ensured additional relief for presidents of courts from performing part of the affairs of the court administration. Also, the function of the director of the state attorney's administration at the state attorney's offices was introduced with the same objective in 2018.

II. Anti-corruption framework

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

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

The Republic of Croatia has a network of competent institutions active in the field of anti-corruption, i.e. in the formulation of anti-corruption policy, in the area of repression and in specific areas within the framework of prevention of corruption. The area of forming an anti-corruption policy is the responsibility of the Ministry of Justice, the Government of the Republic of Croatia and the Croatian Parliament.

The **Ministry of Justice** is the central corruption prevention body. Its internal organizational unit in charge of conducting activities in this area is the Sector for the Suppression of Corruption. The Sector coordinates the preparation, implementation and monitoring of the implementation of national strategic and implementation documents related to the prevention of corruption. In this role, the Ministry cooperates with interested stakeholders at all levels of society. It is also involved in the organization of promotional activities and training and cooperates with relevant international organizations in the field of corruption prevention. The Sector also serves as an administrative and expert support to the Council for the Prevention of Corruption, which also plays a very important role in the formulation of the anti-corruption policy. The Council is a working body of the Government of the Republic of Croatia made up of representatives of relevant public institutions and civil society organizations. The Council participates in the formation and monitoring of the implementation of national anti-corruption documents. Furthermore, in order to ensure a high-quality mechanism for monitoring the implementation of anti-corruption policies, in addition to the aforementioned Council for the Prevention of Corruption at the executive level, a National Council for Monitoring the Implementation of the Strategy for Combating Corruption was established, which operates at the parliamentary level. The National Council consists of eleven members, and the president of the National Council is elected from the opposition.

In regard to the area of prevention of corruption, Croatia has a network of specialized institutions that operate in specific areas of preventive anti-corruption policy. These are: Commission for the Resolution of Conflicts of Interest, the Information Commissioner, the State Commission for the Control of Public Procurement Procedures, the State Audit Office, the Ombudsman, and the State Election Commission.

The scope and competence of the **Commission for the Resolution of Conflicts of Interest** is laid down in the Prevention of Conflicts of Interest Act, which was originally adopted in 2011.[50] The Commission is composed of five members who must not belong to any party. Twelve officers were employed in the Office of the Commission during 2018[51], but two more were employed during 2019, with the aim of strengthening the administrative capacity of the Commission. In 2018 HRK 5,048,458.28 was allocated from the budget of the Republic of

[50] Prevention of Conflicts of Interest Act (Official Gazette 26/11, 12/12, 126/12 – Constitutional Court, 48/13 - consolidated text, 57/15 and 98/19), https://www.zakon.hr/z/423/Zakon-o-sprje%C4%8Davanju-sukoba-interesa

[51] Annual report for 2018 by the Commission for the Resolution of Conflicts of Interest, available at: https://www.sabor.hr/sites/default/files/uploads/sabor/2019-05 30/161602/GI_RAD_POVJ_SUKOB_INTERESA_2018.pdf

Croatia for the work of the Commission, while in 2019 the allocated amount was HRK 6,493,939.00, which represents a significant increase compared to the previous year.

The Information Commissioner is the competent authority for supervising the implementation of the Right to Access to Information Act[52], which aims at ensuring transparency of the work of public authority bodies. Besides the Commissioner, who is a government official, on 31st December 2019 there were 17 civil servants employed in the Office of the Information Commissioner. The budget of the Office of the Information Commissioner in 2019 was HRK 4,367,997.00, while in 2018 it amounted to HRK 4,133,787.17.

The State Commission for the Control of Public Procurement Procedures is an independent state body responsible for resolving complaints in public procurement procedures, concessions and public-private partnerships. Also, the responsibility of this body is to decide on other requests that the parties to the proceedings are authorized to institute in the procedure of legal protection, and to file charges for misdemeanours prescribed by the State Commission for the Control of Public Procurement Procedures Act[53] and other regulations governing the area of public procurement. In 2018, the State Commission employed 34 persons[54], including Commission members, and the budget for 2019 is estimated at HRK 10,675,409.00, while for 2018 it amounted to HRK 9,775,004.98.

The State Audit Office is established by the Constitution of the Republic of Croatia as the highest audit institution of the Republic of Croatia. [55] It has an important role in identifying and preventing breaches of the principles of good governance and in defining recommendations for improving the work of the public sector and for the responsible use of public resources. It reports on its work to the Croatian Parliament and other interested public. In the Office, consisting of the Central Office and 20 regional offices, on December 31st 2019[56] there were 291 employees, including officials. The State Office budget for 2019 is estimated at HRK 62,929,790.00, and for 2018 it amounted to HRK 58,718,901.00.

The Ombudsperson has been designated by the *Protection of Reporters of Irregularities Act („Whistleblowers Act")* as the body competent for external reporting of irregularities.[57] Accordingly, the Ombudsperson is one of the institutions active in certain areas of preventive anti-corruption policy, having complete independency in his/her work. The Croatian Parliament elects the Ombudsperson and his/her deputies for a period of 8 years. On 31st December 2019 the Office of the Ombudsperson employed 52 staff members[58]. The Ombudsperson's budget in 2019 was HRK 12,561,217.00, while in 2018 it amounted to HRK 12,111,254.65, and has been increasing year by year. At the same time, as the Ombudsperson received a new mandate on July 1st 2019, as an external body for the protection of whistleblowers, with the aim of promoting the Protection of Reporters of Irregularities Act for 2019, 2020 and 2021, it was additionally allocated 200.000,00 HRK for each year from the state budget.

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[52] Right to Access to Information Act (Official Gazette 25/13, 85/15), https://www.zakon.hr/z/126/Zakon-o-pravu-na-pristup-informacijama

[53] State Commission for the Control of Public Procurement Procedures Act (Official Gazette 18/13, 127 / 13, 74/14, 98/19) , https://www.zakon.hr/z/287/Zakon-o-dr%C5%BEavnoj-komisiji-za-kontrolu-postupaka-javne-nabave

[54] Annual Report for 2019 by the State Commission for the Control of Public Procurement Procedures, available at: http://www.dkom.hr/UserDocsImages/dokumenti/izvjescaORadu/Godi%C5%A1nje%20izvje%C5%A1%C4%87e%20o%20radu%20za%202018.%20-%20FINAL.pdf

[55] Constitution of the Republic of Croatia (Official Gazette 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76 / 10, 85/10, 05/14), https://www.zakon.hr/z/94/Ustav-Republike-Hrvatske

[56] Report of the State Audit Office for 2019, available at: http://www.revizija.hr/datastore/filestore/188/IZVJESCE-O-RADU-DRZAVNOG-UREDA-ZA-REVIZIJU-ZA-2019.pdf

[57] Protection of Reporters of Irregularities Act („Whistleblowers Act") (Official Gazette 17/19). https://www.zakon.hr/z/1927/Zakon-o-za%C5%A1titi-prijavitelja-nepravilnosti

[58] People's Ombudsman Report for 2019, available at: https://www.ombudsman.hr/wp-content/uploads/2020/03/Izvje%C5%A1%C4%87e-pu%C4%8Dke-pravobraniteljice-za-2019.pdf

The State Election Commission is the competent body for conducting elections and referendums and for monitoring and strengthening the transparency of financing of political activities, election campaigns and referendums, pursuant to the *State Election Commission of the Republic of Croatia Act.*[59] In this respect, it also implements certain activities within the framework of national anti-corruption documents. The State Election Commission has a president, four vice presidents and four members. The President of the State Election Commission is the President of the Supreme Court of the Republic of Croatia. The budget for 2019 was HRK 72,017,253.00, and for 2018 it amounted to HRK 11,401,3378.00.

The repressive part of the anti-corruption mechanisms is the so-called "USKOK axis" consisting of the **Office for the Suppression of Corruption and Organized Crime (USKOK)** as a special prosecutor's office charged with prosecuting corruption and organized crime, established in 2001. USKOK's headquarters are in Zagreb, and its territorial jurisdiction extends across the entire Republic of Croatia (special departments operate in Split, Rijeka and Osijek). *The Office for the Suppression of Corruption and Organized Crime Act*[60] prescribes the organization, jurisdiction and powers of the Office for the Suppression of Corruption and Organized Crime. Currently, besides the director, there are 32 deputy directors and other employees of various profiles working at USKOK. At the moment the Office employs a total of 75 people. USKOK's budget for 2019 was HRK 25,259,000.00, while for 2018 it amounted to HRK 23,893,154.00, increasing year by year. Special judicial departments established to deal exclusively with organized crime and corruption cases at the County Courts in Zagreb, Split, Rijeka and Osijek constitute the second and equally important element of the "USKOK axis". There are a total of 90 judges working in the above-mentioned special judicial divisions of four County Courts. The third element is the Police National Office for the Suppression of Corruption and Organized Crime (PNUSKOK), which was established in 2009 within the Crime Police Directorate of the Ministry of the Interior.

B. Prevention

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

The right to access to information and re-use of information held by the public authority bodies is governed by the Right to Access to Information Act, the implementation of which is an important tool for preventing corruption and strengthening the accountability of public authority bodies. By proactively publishing information or providing information at the request of citizens, public authority bodies make their actions transparent to citizens and other beneficiaries of rights. In addition to the two basic ways in which the right to access to information is exercised - by proactively publishing information and enabling the right to access information according to users' requests - the Act also stipulates the publicity of work of official bodies, as well as public participation in the process of passing laws, public policies and other decisions that affect their interests. The purpose of the legal provision on the publicity of the work of official bodies is to enable the control of work and strengthen the accountability of public authority bodies. Accordingly, the obligations are prescribed to the public authority bodies to inform the public in a timely manner about the time and agendas of their meetings, on the way they work and on opportunities for immediate insight into their work, as well as on the number of persons who can be provided with immediate insight into their work. The publicity of the work is primarily intended for the general public to have an immediate insight into the

[59] State Election Commission of the Republic of Croatia Act (Official Gazette 44/06, 19/07) , https://www.zakon.hr/z/354/Zakon-o-dr%C5%BEavnom-izbornom-povjerenstvu

[60] The Office for the Suppression of Corruption and Organized Crime Act (Official Gazette 76/09, 116/10, 145/10, 57/11, 136/12, 148/13, 70/17)

work of public authority bodies which are at the same time the holders of power, such as the Croatian Parliament or the Government of the Republic of Croatia, as well as representative bodies of local and regional (regional) units (municipal and city councils, county assemblies). Ensuring publicity of the work of public authority bodies, as well as performing other tasks related to resolving requests for access to information, proactive disclosure and re-use of information, are the responsibility of the information officer, who, in accordance with the Act, must be appointed by the heads of all public authority bodies. The Act also prescribes the scope, manner of work and conditions for the appointment and dismissal of the **Information Commissioner** and the supervision over the implementation of the Act. The Act also contains both misdemeanour provisions and sanctions for misdemeanour liability. In the case of established illegalities in the implementation of the Act, misdemeanour liability is established in each individual case i.e. it is established whose act or omission led to a violation of the Act.

In the Republic of Croatia, this Act has contributed to the enhancement of transparency in public administration, strengthening the function of the Information Commissioner as an independent state body for the protection, monitoring and promotion of the right to access to information, and the mechanism for monitoring the implementation of the Act has been strengthened as well.[61]

The need to regulate the area of **lobbying** in the Republic of Croatia is highlighted in the *Strategy for Combating Corruption 2015-2020.*[62] In the area of lobbying, several activities related to the implementation of the accompanying action plans have been implemented thus far during this strategic period. Within the framework of the implementation of the *Action Plan for 2015 and 2016*) the Analysis for the Regulation of the Legal Framework for Lobbying was made, and within the next Action Plan for 2017 and 2018 a public debate was held on the need and models of lobbying regulation.[63] Within the framework of the implementation of the *Action Plan for 2019 and 2020* a draft framework regulating lobbying is planned. [64]

As concerns "**revolving doors**", the vacancies in state administration bodies are being filled through the process of public competition. The procedure of employment in the state administration is regulated in the *Civil Servants Act* and the *Decree on the announcement and implementation of the public competition and internal competition announcement in the civil service.* Before announcing a public competition, the vacancies can also be filled by means of internal competition announcement which is open only to the civil servants employed with other state administration bodies.

According to the Article 47 of the *System of the State Administration Act* from 2019[65], support services to the Minister in carrying out the policies defined by the Government, can be performed by other persons, for a limited time that cannot exceed the mandate of the Minister, based on the decision by the Minister following a public vacancy announcement. Those persons are not civil servants; they do not perform tasks within the remit of the state body in question as defined by the Constitution, by law or other regulations, and are not subject to the provisions of laws, regulations and collective agreements which are applicable to the rights and obligation

[61] Further information on monitoring the implementation of the Right to Access to Information Act can be found on the Information Commissioner's website https://www.pristupinfo.hr/

[62] Strategy for Combating Corruption 2015-2020 (Official Gazette 26/15) https://narodne-novine.nn.hr/clanci/sluzbeni/full/2015_03_26_545.html

[63] Action Plan for 2015 and 2016 (Official Gazette 79/2015) https://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_79_1525.html and the Action Plan for 2017 and 2018 (Official Gazette 60 / 17) https://narodne-novine.nn.hr/clanci/sluzbeni/2017_06_60_1365.html

[64] Action Plan for 2019 and 2020 (Official Gazette, no. 48/19), https://narodne-novine.nn.hr/clanci/sluzbeni/2019_05_48_934.html

[65] System of the State Administration Act, Official Gazette no. 66/19

of civil servants. The number of persons employed in this manner is defined by the law (the maximum of 3 special advisers in the Minister's cabinet and 1 administrative assistant).

One of the key aspects of regulating the relations between the public sector and the private sector is the so-called "cooling off period" which, for a certain period of time after the termination of the public service, prevents the former civil servants and high-level officials from being employed in the private sector, i.e. in the areas which might create a conflict of interest with respect to the position they held previously in the public service. In Croatia the "cooling off period" is regulated in Article 20 of the *Prevention of the Conflict of Interest Act*, which stipulates that within a period of one year since the termination of office, a former official cannot accept the appointment, or election or enter into an employment contract with the legal person which had a business relationship with the organisation in which he/she previously worked, or if the concrete circumstances at the moment of the appointment, election or conclusion of the employment lead to a conclusion that he/she intends to start a business relationship with the organisation in which he/she previously worked.

Furthermore, in the context of **strengthening the integrity of the public administration**, the *Civil Servants Act*, as well as the *Code of Ethics for Civil Servants* establish the basic determinants of the ethical infrastructure. More specifically, the Code of Ethics for Civil Servants sets out the rules of conduct for civil servants and establishes an institutional framework for implementation.[66] In accordance with the Code, ethics commissioners have been appointed in all state and judicial bodies to monitor its application in that state body and to receive complaints from officials and citizens as well as to conduct procedures related to complaints of unethical conduct and possible corruptive behaviour of officials (on December 31st 2019 a total of 224 ethics commissioners and 37 deputy ethics commissioners were appointed). In addition, the Ethics Commission for Civil Servants was established as a second-instance body in dealing with complaints from citizens and officials, and an Ethics Department within the Ministry of Administration was established, which performs professional tasks and educational activities in the context of the application of ethical principles in public administration (The framework relating to the filing of officials' **asset declarations** is clarified under point 21.)

21. Rules on preventing conflict of interests in the public sector

The area of preventing conflicts between private and public interest in the performance of duties of state officials is regulated by the *Prevention of Conflicts of Interest Act*. For the implementation of the Act, the **Commission for the Resolution of Conflicts of Interest** (Commission) [67] was established as a permanent and independent state body and is responsible for initiating conflict of interest procedures and deciding whether certain actions or omissions of officials violate the provisions of this Act. The Prevention of Conflicts of Interest Act regulates the prevention of conflicts of interest between the private and the public interest, defines the obliged persons to act in accordance with the provisions of this Act, the obligation of officials to submit asset declarations, regulates the procedure for verifying data from submitted asset

[66] Civil Servants Act (Official Gazette 92/2005, 142/2006, 77/2007, 107/2007, 27/2008, 34/2011, 49/2011, 150/2011, 34/2012, 49/2012 - consolidated text, 37/2013, 38/2013, 138/2015 – Constitutional Court Decision, 61/2017, 70/2019 and 98/2019)) https://www.zakon.hr/z/108/Zakon-o-dr%C5%BEavnim-slu%C5%BEbenicima; https://narodne-novine.nn.hr/clanci/sluzbeni/2011_04_40_950.html and the Code of Ethics for Civil Servants (Official Gazette 40/11 and 13/12)

[67] Further information on the legal framework and monitoring of the implementation of the Prevention of Conflicts of Interest Act can be found on the Commission's website: https://www.sukobinteresa.hr/. The Act defines the selection, composition and competence of the Commission for the Resolution of Conflicts of Interest and regulates the procedure before the Commission. Also, the Act envisages sanctions that the Commission may impose in cases of violation of its provisions. In the event of non-performance of the duties provided by the Act, the Commission may impose sanctions such as a warning, suspension of payment of part of the net monthly salary or public disclosure of the Commission Decision. In the misdemeanor provisions, the Act also provides for fines for officials and legal entities.

declarations of officials, the duration of obligations and restrictions in the affairs of officials after termination of public duty. The **asset declarations** have to be submitted exclusively through the online application and the electronic form available on the Commission's website, and only users listed in the register as officials shall have the opportunity to submit the declaration. Government officials' asset declarations are publicly available on the Commission's website and can be searched by various parameters. The Commission has also established an information system for carrying out procedures for regular verification of officials' asset declarations, which directly retrieves data from databases of other state bodies. According to the Act, a gift is considered to be money, things irrespective of their value, rights and services given without compensation that bring an official into, or can lead to, a dependence relationship or create an obligation to the donor. Also, the Act prescribes restrictions related to membership in the governing bodies and supervisory boards of companies, boards of directors of institutions, i.e. supervisory boards of extra-budgetary funds and the performance of management tasks in business entities. Regarding the prescribed "cooling off period", the Act provides for a period of one year after termination of office, in which the official may not accept the appointment or election or enter into an employment contract with a legal person who, during the term of office of the official, had a business relationship with the body in which he/she performed his/her duty.

In order to further improve the system of management of conflict of interest for public officials, the plan of legislative activities of the Government of the Republic of Croatia for 2020 envisages the adoption of a new Prevention of Conflicts of Interest Act in the fourth quarter of 2020.

As regards **judicial officials**, the obligation to submit asset declarations is prescribed by the *State Judicial Council Act* and the *State Attorney's Council Act* and it is within the competence of these bodies to collect them, process and verify. [68] The improvements made in the context of meeting the recommendations of the fourth GRECO evaluation round are explained under point 23.

Furthermore, Croatia has established a normative framework governing the **prevention of conflicts of interest of state and local officials**, consisting of special Acts (leges speciales). The *Civil Servants Act* as well as implementing regulations adopted on the basis of this Act are applied to civil servants. *Civil Servants and Employees in Local and Regional Self-Government Act* applies to local officials employed in the governing bodies of local and regional self-government units.[69] The aforementioned legislation regulating the conflict of interest does not prohibit the existence of a private interest of a state or local official, but it prohibits the abuse of office as a result of unresolved conflict of interest and establishes sanctions for abuse of office or conducting an activity contrary to the workplace or without prior approval of the head of the body, or in case of local officials, without the prior approval of the head of the governing body.

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

The P*rotection of Reporters of Irregularities Act* was adopted in February 2019 and entered into force on July 1st 2019.[70] Until then, Croatia has not had a specific Act on the protection of whistleblowers, but this area was regulated through the provisions of individual Acts (Criminal Code, Civil Servants Act, Labour Act, Trade Act, Civil Servants and Employees in Local and Regional Self-Government Act, Protection of Classified Information Act, System of Internal

[68] State Judicial Council Act (Official Gazette 116/10, 57/11, 130/11, 13/13, 28/13, 82/15, 67/18, 126/19), https://www.zakon.hr/z/127/Zakon-o-Dr%C5%BEavnom-sudbenom-vije%C4%87u
and State Attorney's Council Act (Official Gazette 67/18, 126/19), https://www.zakon.hr/z/1051/Zakon-o-Dr%C5%BEavnoodvjetni%C4%8Dkom-vije%C4%87u;

[69] Civil Servants and Employees in Local and Regional Self-Government Act (Official Gazette, No. 86/2008, 61/2011 and 4/2018), https://www.zakon.hr/z/259/Zakon-o-slu%C5%BEbenicima-i-namje%C5%A1tenicima-u-lokalnoj-i-podru%C4%8Dnoj-samoupravi

[70] https://narodne-novine.nn.hr/clanci/sluzbeni/2019_02_17_357.html

Control in the Public Sector Act). Thus, this Act represents lex specialis, which creates a system that will allow potential whistleblowers to effectively report irregularities and provide adequate protection.[71] The 2019 Act defines clearly (for the first time) the notion of whistleblower not only in relation to an employed person, as defined by the Labour Act, but protection is provided to a wider circle of persons such as volunteers, students, and other persons participating in activities of a legal or natural person, including persons who have participated in recruitment procedures as candidates. The Act has a wide scope of application, which is evident from the very definition of irregularities. Reporter i.e. a whistleblower can file a complaint not only in relation to corruption, but also more broadly, since the definition of irregularities includes violations of laws, regulations and actions related to the malpractice management of public goods, public funds and European Union funds which pose threats to the public interest. Furthermore, protection of whistleblowers in public authority bodies and private employers is envisaged. The Act prescribes three channels of reporting irregularities, internal to the employer (generally), external to the competent authority (if internal reporting is not possible or does not work) or in certain exceptional situations, disclosure to the public. **The Ombudsperson** is designated as an external body responsible for protecting whistleblowers. The Ombudsperson's competence is primarily aimed at protecting the rights of the whistleblower, while examining the content of the whistleblowing complaint is the responsibility of other bodies. The Act also provides for judicial protection for whistleblowers and provides for misdemeanour sanctions for the protection of whistleblowers and the prevention of malicious reporting.

In addition to the adoption of the Protection of Reporters of Irregularities Act, educational activities are being carried out by the Ministry of Justice for persons in charge of the Act implementation and with the aim of strengthening the judicial protection of whistleblowers in accordance with the Act, training of judges is planned by the Judicial Academy. Also, in order to raise awareness of the existing reporting channels and mechanisms for protecting whistleblowers, and to encourage citizens to report irregularities, the development of promotional materials and the implementation of a media campaign are planned.

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

Priority areas (areas of high corruption risk) and goals, measures and activities for managing identified risks are articulated in national strategic frameworks to combat corruption.[72] The most recent **Strategy for Combating Corruption for 2015-2020**[73], structurally and methodologically proactively oriented, was adopted in February 2015[74]. It focuses primarily on the prevention of corruption and is based on identification of areas of high corruption risk,

[71] Regarding the procedures for internal reporting of irregularities, the obligations of an employer employing a minimum of 50 persons was to, within a period of 6 months from entry into force of this Act (until December 31st 2019), adopt a general act establishing the internal channel of reporting and prescribing the procedure for appointing a confidential person, as well as to appoint a confidential person and his / her deputy within 9 months from the date of entry into force of this Law (by March 31st 2020).

[72] The Republic of Croatia has implemented several national strategic documents in the field of anti-corruption (National Anti-Corruption Program and associated Action Plan 2002, National Anti-Corruption Program 2006-2008, Strategy for Combating Corruption 2008) within which it formed the necessary legislative and institutional framework in the area of repressive action on corruption offenses, and also formed mechanisms for the prevention of corruption.

[73] Strategy for Combating Corruption for 2015-2020, Official Gazette No. 26/15.

[74] For the purpose of identification of priority areas (areas of high corruption risk) and development of the Strategy for Combating Corruption for 2015-2020, Ministry of Justice has established Coordinative Working Group consisting of representatives of the wide range of stakeholders across all levels. Within the Coordinating Working Group, Sectoral Working Groups were established, consisting of coordinators of various competencies in charge of analysing the sectoral corruption risks, the determination of sectoral objectives and the development of a sectoral report with the specification of concrete anti-corruption activities. Overall, Strategy was drafted on the basis of the cited sectoral reports.

involving a wide range of stakeholders in relevant public authority bodies (many state bodies, judicial bodies, independent state bodies, local and regional self-government units), civil society associations, media and social partners. Accordingly, the current Strategy proposes goals in seven horizontal areas (integrity within the political system and administration, local and regional self-government, public procurement, majority state-owned enterprises, prevention of conflicts of interest, the right to access to information and the role of civil society and corruption) and in seven sectoral areas (judiciary, economy, public finance, agriculture, health, science, education and sport, and infrastructure, environment and transport). The Strategy is implemented through the associated two-year action plans.[75] The establishment of the **Council for Combating Corruption** in 2017 additionally strengthened the overall monitoring mechanism for anti-corruption, as the Council become one of the key public actors in the process of shaping and implementing of documents and public policies for fighting corruption at the level of the executive branch.[76] Among the recent improvements, the adoption of the **Protection of Reporters of Irregularities Act** in February 2019 is particularly emphasized.

Improvements in areas such as **public procurement** are also being introduced through the digitalization of procedures and the strengthening of the system of supervision and legal protection in the provisions of the *Public Procurement Act* of 2016.[77] Improvement of the public procurement system in this area has particularly strengthened the mechanisms of transparency (availability) of data at all stages of the procedure, the availability of reports by the competent authorities and has strengthened the scheme of professionalization of officials in order to obtain the certification for performing the tasks in the public procurement system. Furthermore, improvements have been made in the area of transparency of work and **openness of public authority bodies** through the work of the Information Commissioner established by the Right to Access to Information Act from 2013, as well as the functioning of mechanisms of public participation in decision-making and public policy formulation, in the area of conflict of interest management in the context of the work of the Commission for the Resolution of Conflicts of Interest as an independent state body, and in general the digitalization and depoliticization of public administration with the aim of increasing transparency and efficiency and reducing corruption risks in the provision of public services.

Furthermore, in May 2019, the Government also adopted **an Anti-Corruption Program for majority state-owned enterprises for the period 2019-2020** as a continuation of good practices and anti-corruption standards in the management of state assets achieved through the implementation of the Anti-Corruption Program 2010-2012.[78] In this context, a plan to adopt an Anti-Corruption Program for enterprises owned by the local and regional self-government units is under way. Moreover, to increase transparency at local levels, a list of aforementioned enterprises in a reusable form was created and published (open data).[79] Another measure introduced to strengthen transparency has been the establishment of a digitalized monitoring system for the financing of political activities based on the *Financing of Political Activities, Election Campaigns and the Referendum Act* adopted in March 2019 (Official Gazette 29/19,

[75] As part of the implementation of the Action Plans of the current strategic framework, many activities have been carried out that have generated significant improvements to the legislative and institutional framework. In this regard, we refer to the Action Plans Implementation Reports, available at: https://pravosudje.gov.hr/antikorupcija/6154. The implementation is ongoing for the Action Plan for 2019 and 2020, which was adopted in May 2019. 83% of the activities from the Action Plan for 2017 and 2018 have been implemented and partially implemented, which represents a significant improvement over the implementation of the Action Plan for 2015 and 2016 from which 57% of the activities were implemented and partially implemented.

[76] Decision on the establishment of the Council for Combating Corruption, available at: https://narodnenovine.nn.hr/clanci/sluzbeni/2017_04_31_697.html .

[77] Public Procurement Act (Official Gazette, No. 120/16), https://www.zakon.hr/z/223/Zakon-o-javnoj-nabavi

[78] https://pravosudje.gov.hr/UserDocsImages/dokumenti/Antikorupcija/Antikorupcijski%20program%20za%20trgova%C4%8Dka%20dru%C5%A1tva%20u%20ve%C4%87inskom%20dr%C5%BEavnom%20vlasni%C5%A1tvu%20za%20razdoblje%202019%20do%202020.pdf

[79] https://pravosudje.gov.hr/antikorupcija/6154

98/19).[80] In the context of the fight against corruption within state owned enterprises, a project on "Raising Awareness and Standards for Combating Bribery in International Business Transactions" is being prepared, financed under the Structural Reform Support Programme, with the aim of raising standards and awareness for combating bribery in business transactions, in order to improve standards and raise awareness of the harmful effects of corruption.

Furthermore, in 2019 the *Judicial Academy Act* was adopted in order to strengthen the anti-corruption preventive mechanisms in the work of the Judicial Academy, i.e. to prevent potential conflicts of interest in the functions of members of different bodies of the Academy.[81] In the context of addressing the problem of negative perceptions of the judiciary, in 2018 the *State Attorney Council Act* and the *Act on Amendments to the State Judicial Council Act* were adopted, based on which an online application for the filing of the asset declarations of judicial officials was created, while publication and further improvements are planned in order to strengthen the verification system.

In order to strengthen anti-corruption mechanisms, integrity, transparency and accountability **at the regional level**, so far 17 counties have set up their own Anti-Corruption Commissions. Accordingly, some counties have adopted internal action plans to combat corruption and codes of conduct for officials at the regional level. In order to continue to achieve the goals in the areas of strengthening the accountability and integrity of officials, an Anti-Corruption Manual for State and Local Officials was created, which aims to strengthen the competencies of public officials in the area of functioning of the elements of the preventive anti-corruption mechanism and to encourage further improvement of existing anti-corruption standards.[82]

Furthermore, in the current strategic period, many anti-corruption mechanisms in the functioning of **certain elements of the health system** have been strengthened, above all, control mechanisms at all levels of the system, transparency and efficiency in ensuring the availability of health services, and mechanisms to raise awareness of the harmfulness of corruption and informal payment of health services, by implementing campaigns and educational activities for users. In this context, it is necessary to emphasize the adoption of the *Act on Amendments to the Medicines Act*, which established a transparent system for determining prices of medicines on the market in the Republic of Croatia.[83] Similarly, the adoption of the *Health Care Act*, which has been in force since 1st January 2019, has created the preconditions for better monitoring of compliance with the regulations governing the way health care is performed, aimed at managing corruption risks.[84] Also, certain measures of increased control over the advertising of medicines from the Basic and Supplementary Medicines List of the Croatian Health Insurance Institute have strengthened the potential in the context of preventing possible illicit influence of pharmaceutical companies on doctors' prescriptions. In addition, in order to ensure the purposeful use of compulsory health insurance resources, the supervision of the implementation of the *Compulsory Health Insurance Act* and the *Health Care Act* were further strengthened.[85]

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[80] Financing of Political Activities, Election Campaigns and the Referendum Act adopted in March 2019 (Official Gazette 29/19, 98/19), https://www.zakon.hr/z/1957/Zakon-o-financiranju-politi%C4%8Dkih-aktivnosti,-izborne-promid%C5%BEbe-i-referenduma

[81] Judicial Academy Act (Official Gazette 52/19), https://www.zakon.hr/z/236/Zakon-o-Pravosudnoj-akademiji

[82] https://pravosudje.gov.hr/UserDocsImages//dokumenti/Antikorupcija//Antikorupcijski%20priru%C4%8Dnik%20za%20dr%C5%BEavne%20i%20lokalne%20du%C5%BEnosnike.pdf

[83] Act on Amendments to the Medicines Act (Official Gazette 76/13, 90/14, 100/18), https://www.zakon.hr/z/399/Zakon-o-lijekovima

[84] Health Care Act (Official Gazette 100/1/18, 125/19), https://www.zakon.hr/z/190/Zakon-o-zdravstvenoj-za%C5%A1titi

[85] Compulsory Health Insurance Act (Official Gazette 80/13, 137/13, 98/19), https://www.zakon.hr/z/192/Zakon-o-obveznom-zdravstvenom-osiguranju

In order to strengthen the administrative and technical capacities of the Commission for the Resolution of Conflicts of Interest, the amounts of secured funds in the State Budget for 2019 for the work of the Commission, for the relocation of the Office of the Commission to a more adequate space and for the recruitment of new officials were increased.

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

All relevant anti-corruption measures and activities at national level are implemented within the framework of strategic national anti-corruption documents. Accordingly, in this context we refer to the answer to question 23.

C. Repressive measures

25. Criminalisation of corruption and related offences

The Criminal Code (hereinafter: CC)[86] in Title XXVIII- Criminal offences against official duty, prescribes a series of corruptive offenses. It is important to emphasize that the same offenses are fully in line with the catalogue of offences under Chapter 3 of the United Nations Convention against Corruption (UNCAC) and that the Republic of Croatia has successfully completed the first cycle of the UNCAC implementation assessment cycle. The following are prescribed as criminal offenses against official duty: Article 291 - criminal offense of abuse of office and authority, Article 292 - criminal offense of unlawful facilitation, Article 293 - criminal offense of receiving bribery, Article 294 - criminal offense of giving bribery, Article 295 - criminal offense of influence trading, Article 296 - criminal offense of giving bribe for influence trading. The CC also prescribes corruptive offenses in Chapter XXIV - Criminal offenses against the economy, namely: Article 251 - criminal offense of receiving and giving bribery in bankruptcy procedure, Article 252 - criminal offense of receiving bribery in business conduct, Article 253 - criminal offense of giving bribery in business conduct, Article 254 - the criminal offense of abuse in the public procurement procedure. The aforementioned corrupt criminal offenses may also be committed within the criminal association, thus constituting the criminal offense referred to in Article 329 of the CC - committing a criminal offense within the criminal association.

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

The CC provides for the following types of penalties: fine, imprisonment and long-term imprisonment. The CC also prescribes other types of sanctions, such as: community service, probation, partial probation, special obligations, protective supervision and security measures. Also, *sui generis* measures are prescribed: confiscation of property gain, seizure of objects and public disclosure of the judgment. All of the alleged corruption criminal offenses are prosecuted *ex officio*. The range of punishments prescribed for the said criminal offenses depends on the degree of qualification of the offenses, so e.g. for the basic criminal offense of abuse of office and authority a sentence of imprisonment of six months to five years is prescribed, while for the qualified form of the same criminal offense if significant material gain is obtained or substantial damage caused, the term of imprisonment prescribed is from one to twelve years. Criminal liability of legal persons is regulated by the *Responsibility of Legal Persons for Criminal Offenses Act.*[87] The liability of the legal person is based on the culpability of the responsible person. The legal person shall be punished for the criminal offense of the responsible person also in the case when it is established that there are legal or actual obstacles for determining the culpability of the responsible person. The prescribed penalties for legal persons, perpetrators of criminal offenses, are fines and the termination of the legal person. There is a possibility of a suspended

[86] Criminal Code (Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17, 118/18 and 126/19), https://www.zakon.hr/z/98/Kazneni-zakon

[87] Responsibility of Legal Persons for Criminal Offenses Act (Official Gazette 151/03, 110/07, 45/11 and 143/12), https://www.zakon.hr/z/110/Zakon-o-odgovornosti-pravnih-osoba-za-kaznena-djela

sentence, but a partial suspended sentence cannot be applied to a legal person. In addition to the sentence, the court may impose one or more security measures on the legal person. The provisions of the CC and special laws shall apply to confiscation of property gain and seizure of objects from a legal person.[88]

Overview of the application of sanctions in 2019: In 2019, 1003 persons (988 individuals and 15 legal persons) were reported for corruptive criminal offenses, of which 879 reports refer to the criminal offense of abuse of office and authority. In relation to 854 persons (839 individuals and 15 legal persons), a decision on dismissal of criminal charges was adopted. The decision to conduct the investigation was adopted in relation to 142 persons. In total, 109 persons have been charged with corruptive criminal offenses. The courts adopted a total of 129 judgments (126 judgments against individuals and three judgments against legal persons). Of these, 105 were convictions. The analysis of the sanctions imposed in the convictions shows that 59 persons were sentenced to imprisonment, and in relation to 44 persons suspended sentences were imposed. Fines were imposed on the two legal persons. The courts also issued 23 acquittals. There was also one rejection judgment. In addition, the courts issued 27 confiscations of property gains orders, 17 seizures of objects orders, and imposed seven security measures prohibiting the performance of a particular duty or activity. We also state that out of 105 convictions, 59 were rendered on the basis of the agreement of the parties and that the imposition of minor fines, where possible, was always agreed upon in the settlements.

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

One of the criteria for evaluating the effectiveness of prosecuting offenders, including those that are corrupt, is its duration. Regarding the problem of the lengthiness of individual court proceedings, the amendments to the Criminal Procedure Act of December 2019 were adopted, which, among other things, introduced new provisions with respect to proposals by the parties to extract illegal evidence. This should, as a result, significantly speed up the proceedings before the indictment panel and also, contribute to speeding up criminal proceedings as a whole.

With regard to immunity, the Constitution stipulates that, with certain differences, members of the Parliament, the Ombudspersons and other plenipotentiaries of the Croatian Parliament for the promotion and protection of human rights and fundamental freedoms, the President of the Republic, judges and judges of the Constitutional Court hold immunity. Members of Parliament cannot be prosecuted for their expressed opinions or votes during sessions of the Parliament and its working bodies. This type of immunity cannot be removed, and its primary purpose is to guarantee the proper performance of the specific duties of its beneficiary. Members of the Parliament also have procedural immunity; in particular, criminal investigation and prosecution cannot be undertaken against MPs without the prior approval of Parliament on the proposal of the Mandate-Immunity Committee. The exception is the flagrante delicto code for offenses with a prescribed sentence of more than five years, in which case the holder of the immunity may be arrested. That said, the extent of parliamentary immunity does not constitute an obstacle to

[88] Undoubtedly, in most corruptive offenses, the primary motive of the perpetrator is the acquisition of unlawful material gain. The aim of criminal prosecution is, in addition to the sanctions imposed, to achieve the seizure of unlawfully obtained material gain. Therefore, a great deal of attention is paid to financial investigations i.e. the collection of data and evidence with a view of discovering and seizing unlawful material gain. In 2019, a total property gain of HRK 20,663,018.59 was confiscated in cases within the jurisdiction of USKOK in relation to 121 persons. HRK 10,129,638.76 relates to the total confiscated property gain for corruption criminal offenses. According to the amount of confiscated property gain, the largest confiscation was due to the criminal offense of bribery for which HRK 6,024,939.00 was seized, while the amount of HRK 3,894,669.76 of the confiscated gain relates to the criminal offense of abuse of office and authority. With respect to temporary security measures ("freezing of assets"), in 2019 in corruption cases within the jurisdiction of USKOK, a forfeiture of property gain of HRK 3,611,430.00 was temporarily seized.

prosecution, since requests by the State Attorney's Office to lift immunity from corruption offenses are as a rule always granted. Accordingly, immunity did not constitute an obstacle to the prosecution and passing of the judgment for the corruption criminal offenses. Pursuant to the *Government Act*, members of the Government also hold immunity, which prevents the initiation of criminal proceedings during their term of office for the criminal offense of which the imprisonment is up to 5 years without prior approval of the Government.[89] The existence of this immunity does not mean that a member of the Government will not be prosecuted for any criminal offenses at the end of his / her term of office. Furthermore, this is considered a "minimum safeguard" that enables members of the Government to carry out their work and exercise their powers without interruption or difficulty (in the context of the possibility of "private persecution"). But to date, the immunity afforded to members of the Government has never been an obstacle to prosecuting and subsequently convicting corruption offenses.

From its very beginning, USKOK has been applying the so-called principle of "zero tolerance" to corruption, in line with the view that no manifest form of corruption should be relativized because of their devastating consequences for society as a whole, regardless of whether a particular corrupt activity has a tangible direct property gain. Accordingly, in its work to date, USKOK has prosecuted corruption in many segments of society at various levels, including the highest levels, sending a message that there are no untouchables, which is evident from the above.[90]

[89] The Government Act (Official Gazette 150/11, 119/14, 93/16, 116/18), https://www.zakon.hr/z/170/Zakon-o-Vladi-Republike-Hrvatske

[90] With regard to conducting investigations and prosecutions in political corruption cases and other complex corruption cases, investigations were initiated in 2019 against several judicial officials, and high-ranking official in one ministry. Moreover, corruption in health care system was prosecuted as well as corruption at local levels. Proceedings were initiated against deputy mayors, mayors, heads of municipalities, presidents of the municipal council, and officials of local government and self-government units, inspectors, customs officers, tax and police officers. In relation to the prosecution of high-level corruption cases, three cases against the former Prime Minister should be highlighted. In October 2018, the first-instance verdict on war profiteering was issued in the case against the former Prime Minister. In this case, he was convicted of an offense for abuse of office and power and sentenced to 2 years and 6 months in prison. Also, due to the criminal offence of abuse of office and authority, in April 2019, the Supreme Court of the Republic of Croatia upheld the first-instance conviction, increased the sentence, and sentenced him to six years in prison. The defendant is currently serving his sentence. In addition, in December 2019, the former Prime Minister was sentenced to six years in prison for bribery. In the same case, the head of a Hungarian oil company was sentenced to two years of imprisonment for a bribery offense. In addition, in the context of the prosecution of political corruption, it is necessary to highlight the case against the former Minister of Administration and MP, against whom an investigation was launched in September 2019 on grounds of suspicion of committing two criminal offenses of abuse of office and powers committed as head of the municipality. In March 2020, an investigation was extended against the same person over the existence of a reasonable suspicion of committing another four criminal offenses - bribery, abuse of office and authority, incitement to misuse of confidence in business conduct, and incitement of bankruptcy.

III. Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

The Council for the Electronic Media is the regulatory body for the area of electronic media. It submits its annual reports to the Croatian Parliament. The competencies of the Council [91] are defined by the *Electronic Media Act*[92] and the C*roatian Radio-Television Act.*[93] The **Agency for the Electronic Media** is an autonomous and independent legal person with a public authority[94], which conducts administrative (operational), expert and technical activities for the Council. The financial resources for the functioning of the Agency, including the resources for the director of the Agency and Council members' salaries, are ensured, in compliance with the Agency's annual financial plan, in the amount of 0.5 % of the total annual gross income made in the previous year by media service providers by the activities of providing on-demand audio and/or audiovisual media services and activities of providing television and/or radio media services as well as activities of providing electronic publication services.[95]

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

The procedure for the **appointment of the members of the Council for the Electronic Media**, as defined in the *Electronic Media Act*, is a result of an extensive and inclusive process of public consultation with a wide array of stakeholders. The Council for the Electronic Media has seven members, appointed for a non-renewable five-year term by the Croatian Parliament, based od the proposal by the Government, following a public call for candidate nomination. Croatian citizens who have professional knowledge, abilities and experience in radio or television activities, or in publishing, cultural or similar activity, may be members of the Council.[96] A

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[91] Competencies of the Council: conducts the procedure of granting concessions in compliance with the Electronic Media Act and the Act on Concessions; enters into a concession contract with the most advantageous tenderer; passes a decision on terminating a concession in cases anticipated by the Electronic Media Act; undertakes appropriate measures for the purpose of temporary limitation of the freedom to broadcast audiovisual media services from other states; conducts the procedure of granting licences for providing the activities of audio and/or audiovisual media services on demand as well as satellite, Internet, cable and other permissible means of transmission of audiovisual and/or radio programmes; in cases of violation of provisions of the Electronic Media Act and other regulations, issues warnings and/or initiates procedures before the relevant minor offence courts; keeps the Register of Media Service Providers; implements the provisions of the Electronic Media Act relating to the protection of pluralism, the diversity of electronic media, the protection of minors as well as other values of a free and democratic society; conducts the procedure of supervision over the implementation of the provisions of the Electronic Media Act and takes appropriate measures in cases of established violations thereof; considers the complaints of citizens on media services providers' conduct and undertakes measures where necessary; passes recommendations for the implementation of the Electronic Media Act; promotes self-regulation and co-regulation; cooperates with regulatory bodies of other states and/or the European Commission and other relevant institutions in the exchange of information; submits reports to the Croatian Parliament and other competent bodies; submits reports to the European Commission; promotes media literacy; organises public counselling and various expert meetings; conducts analyses concerning certain issues in the electronic media sector passes the annual work programme of the Agency; performs other tasks stipulated by this Act and other regulations as well as the Statute of the Agency.

[92] The Electronic Media Act, Official Gazette of the Republic of Croatia no. 153/09, *84/11*, 94/13 i 136/13

[93] The Croatian Radio-Television Act, available at: https://www.zakon.hr/z/392/Zakon-o-Hrvatskoj-radioteleviziji .

[94] It is governed by the Director of the Agency and the Electronic Media Council. The president of the Council is the Director of the Agency. The Director of the Agency acts on behalf of, represents and manages the Agency, and is responsible for the work of the expert services of the Agency.

[95] Article 66 of the Electronic media Act.

[96] Members of the Council should be public persons who have distinguished themselves in public life by advocating the respect for democratic principles and the rule of law, building and promotion of the highest values of the constitutional system of the Republic of Croatia, development of civil society, defense of human rights and freedoms, as well as protection of the freedom of expression.

member of the Council shall not be a state official, an official in the executive or judicial authority, or an official of a political party. The Law on Electronic Media contains provisions to prevent the conflict of interest and ensure its integrity.[97] The decision on **dismissal** of its president or any member is taken by the Croatian Parliament, upon the proposal of the Government of the Republic of Croatia, in line with the provisions of the Electronic Media Act[98]. The Council is obliged to inform the Government of the Republic of Croatia upon the existence of reasons for relieving of duty the president or member of the Council before the expiry of term of office. Before reaching the decision on relieving, the president or member of the Council has to be allowed to reply on the reasons of relieve. The president, deputy president and member of the Council cannot within a year from relieving of duty be appointed as members of board of directors, supervisory boards or administrative boards of legal persons subject to provisions of Electronic Media Act.

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

In line with the Electronic Media Act (Article 33), the bodies of state administration as well as the legal persons predominantly owned by the Republic of Croatia shall reserve 15% of their annual funds, which are earmarked for the promotion of their services or activities, for advertising in the audiovisual or radio programmes of regional and/or local television or radio broadcasters. By 31 March of every calendar year, the bodies of state administration and the legal persons predominantly owned by the Republic of Croatia shall notify the Electronic Media Council of advertising perform.

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Within the reporting period there were no such public information campaigns.

32. Rules governing transparency of media ownership

According to *The Media Act*[99]**,** stocks and shares in a legal person performing the activities of publisher in the sphere of public information shall be made out to a name. Publishers are obliged to forward to the Croatian Chamber of Commerce, by January 31 of each calendar year, data on the company, and its seat, that is, names and surnames, and permanent residence of all legal and natural persons who have direct or indirect ownership stocks or shares in that legal person, with the information on the percentage of stocks or shares. Publishers have an

[97] Members of the Council shall not be owners, stock holders or holders of a share, members of management or supervisory boards or members of boards of directors or other appropriate management bodies, managers or directors general or other heads of business management of legal persons subject to provisions of Electronic Media Act, pertaining to audio and audiovisual media services and network operators. Members of the Council shall not be persons who are employed, or have a contractual or some other relation in any legal person or another service which is linked to audio and audiovisual media services and network operators, or persons performing tasks which could lead to a conflict of interests. Members of the Council may not receive gifts, accept services or enter into relations with the media service provider which lead to a conflict of interest in terms of the duties stipulated in Electronic Media Act.

[98] Article 68(11) of the Law on Electronic Media defines a situations which can lead to an early dismissal of the president or a member of the Council: if he or she submits a request for the relief of duty; it is established that upon the proposal for a Council member he or she submitted untruthful information or failed to submit information on the circumstances important for establishing proposal; he or she seriously violates duties set out in the Agency's Statute; he or she does not fulfil his/her duties for a period longer than 6 months in continuity; permanent loss of ability to perform his/her duty; he or she has been convicted for a committed criminal act by a legally effective judgment; he or she does not fulfil the goals and duties set out in the annual work programme of the Agency.

[99] The Media Act, Official Gazette 59/04, 84/22, 81/13

obligation to submit to the Croatian Chamber of Commerce certified copies of documents about the acquisition of stocks or shares in the relevant provider. The Croatian Chamber of Commerce shall forward a written warning to the legal person who fails to perform the obligation stating possible sanctions for non-compliance with the obligation. The publisher is obliged to publish information in Official Gazette before February 28 every year. The Media Act prohibits legal activities which aim to conceal the ownership structure of a media service provider or the ownership of an acquirer of stocks or shares in a media service provider.

According to the *Electronic Media Act*, by January 31 of each calendar year, media service providers need to forward to the Council for Electronic Media data on those who have directly or indirectly become holders of stocks or a share in that legal person, along with the data on the percentage of stocks or the share they possess. Media service provider have an obligation to submit to the Council for the Electronic Media certified copies of documents about the acquisition of stocks or shares in the relevant provider. The Council for Electronic Media shall forward a written warning to a media service provider which fails to perform the obligation stating possible sanctions for non-compliance with the obligation. The media service provider is obliged to publish information in the Official Gazette before February 28. The Act prohibits legal activities which aim to conceal the ownership structure of a media service provider or the ownership of an acquirer of stocks or shares in a media service provider, determines that all legal transactions concealing the ownership structure of a media service provider or the ownership of an acquirer of stocks or shares in a media service provider shall be void, stipulates that it shall not be allowed to transfer the concession to provide television or media service to another person, specifies the misdemeanour provisions governing the delivery of data and documents to the Council for Electronic Media and introduces misdemeanour liability for concealing the relevant holders of stocks or shares in the Official Gazette.

The new Electronic Media Act, which is being prepared, aims at additionally enhancing the rules for governing transparency of the media ownership.[100]

C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The Media Act contains a number of guarantees for the freedom of expression and media pluralism.[101] Specifically it provides that a journalist shall have the right to express his standpoint with regard to all events, occurrences, persons, subjects and activities. A journalist's work contract may not be terminated, his salary decreased or his position on the editorial board altered, the contracted income or part thereof decreased or suspended, because of an expressed

[100] Having completed the public consultations, the Government intends to introduce the draft Bill on Electronic Media in the parliamentary procedure in May 2020. According to the draft, the providers of media services would be obliged to report to the Electronic Media Council any change of the ownership structure and submit the copy of its entry in the Register of Media Owners. Such a change would also need to be reported to the Competition Agency. In addition to the existing obligation of the Agency for Electronic Media to keep a register of media service providers (part of which is information of their ownership structure), this information would also need to be published on the website of the media service providers.

[101] The freedom of media comprises particular: freedom of the expression of opinion, independence of media, freedom of collecting, researching, publishing and disseminating information for the purpose of informing the public; pluralism and diversity of media, free flow of information and openness of the media for different opinions, beliefs and for various contents, accessibility to public information, respecting the protection of human personality, privacy and dignity, freedom of establishing legal persons for the performance of activities in public information, printing and distribution of press and other media from the country and abroad, production and publishing of radio and television programme, as well as other electronic media, autonomy of editors-in-chief, journalists and other authors of programme contents in compliance with professional codex (Article 3(2) of the Media Act).

standpoint. A journalist has the right to refuse to prepare, write or participate in the drafting of a report, the content of which is contrary to the rules of the journalist profession and ethics, about which he will inform the editor in chief in writing. If a journalist refuses to act upon order because, by doing so, he would violate the rules of the journalist profession, the employer may not terminate his work contract, decrease his salary or alter his position on the editorial board. The programme contents the meaning of which has been altered in the procedure of editorial processing may not be published under the name of the author without his consent. The editor in chief shall be held responsible for the programme contents published without author consent. If the programme contents published without author consent have damaged the reputation of the author, the author may request compensation of damage. A journalist is not obliged to provide data about the source of published information or the information he intends to publish this right of a journalist shall also pertain to editor in chief, editors and authors of published reports who are not journalists. Prior to publication, the journalist shall be obliged to inform the editor in chief of the fact that the information is from an unidentified source in the manner stipulated in the media statute. In that case all the provisions on the protection of the source of information shall also apply to the editor in chief.

The State Attorney's Office, when such limitations are required in the interest of national security, territorial integrity and protection of health, may lodge a request with the competent court to order the journalist to disclose data on the source of the published information or information he intends to publish. The court may order the journalist to disclose data on the source of the published information or information he intends to publish, if so required for the protection of public interest and if it concerns particularly important and serious circumstances. When assessing the circumstances of the case, the court shall exclude the public in the course of the procedure of disclosing information and warn the persons present that they are obliged to keep confidential everything they have found out in the procedure as well as of the consequences of disclosing confidential information. Furthermore, nobody shall have the right to influence the programme content of the media by use of pressure or misuse of their position, or in any other manner illegally limit the freedom of the media. The court shall decide on violations of the freedom of expression and freedom of the media.

The Electronic Media Act regulates the advertising of political parties, coalitions and independent members of representative bodies shall be prohibited, save during the time of electoral promotion in accordance with a separate act. Political parties and coalitions shall not be sponsors of the audiovisual or radio programme except during the time of electoral promotion in compliance with a special act. State bodies and their representatives, as well as labour unions and various interest groups shall not exert influence over a television and/or radio broadcaster with regard to the creation of audiovisual or radio programme.

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

The independence of media is being protected by criminalising the **violation of freedom of thought and expression** (Article 127 of the *Criminal Code,* herein after: „CC"). [102] It is a general criminal offence (*delictum communium*), committed by denying or limiting the freedom of speech of public address, freedom of the press or other means of communication or the freedom to establish institutions for public communications, or by ordering or enforcing censorship, or by denying or limiting the freedom of reporting to a journalist, or by illegally stopping the printing, selling or distribution of books, magazines, newspapers or other printed material, or the production and broadcasting of the radio and television programs, or programs of news agencies or the publication of other media contents. This criminal offence is punishable only if there is an element of intent, and can be punished by up to one year prison sentence. According

[102] The Criminal Code, Official Gazette No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18

to the Article 40 para 4 of the CC, a financial penalty can also constitute the main sentence. However, the action will not be deemed illegal if it was taken in the context of public information or as part of the journalistic profession, with the aim to protect public interest or other legitimate reasons (Article 148.a CC). The security of journalists is also being guaranteed by criminalising the qualified act of **intimidation** (Article 139 para 3 CC), which can entail a penalty from six months to five years prison sentence for intimidating a journalist, and the prosecution is started *ex officio*. This is also a general criminal offence, and the element of intent has to be present. [103] In addition, other criminal offences in the CC catalogue can be invoked in order to protect journalists.[104]

35. Access to information and public documents

The Right of Access to Information Act guarantees the availability of information to any local or foreign natural person or legal entity, in line with the terms and restrictions of the Act. Information provided by the public authorities must be timely provided, complete and accurate. The right of access to information and the re-use of information is granted to every beneficiary in an equal manner and under the same terms. Beneficiaries are equals in exercising the right thereof. Public authority bodies may not place beneficiaries in an unequal position, especially in a manner that would enable certain beneficiaries to obtain information before others or in a manner that provides them with special benefits. The relationship between the public authority bodies and beneficiaries is based on cooperation and the provision of support, and mutual respect for human dignity. Public authority bodies are obliged to publish certain categories of information in an easily searchable and machine-readable format on their websites.[105]

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[103] According to Article 204 of the Criminal Procedure Code (Official Gazette no. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19) everyone has a duty to report criminal offences subject to public prosecution about which they have learned themselves or have learned from another sources. When submitting a crime report, state authorities and legal entities shall indicate evidence known to them and undertake measures to preserve traces of the offence, the objects upon which or by means of which the offence was committed as well as other evidence. According to the Article 38 CPC, for criminal offences subject to public prosecution, the State Attorney undertakes the necessary actions aimed at discovering criminal offences and finding the perpetrators; makes inquiries aimed at collecting the data relevant for the institution of an investigation; conducts the investigation and proposes the indictment and other orders before the Court.

[104] For instance, in relation to criminal offences based in gender discrimination, violence and incitement to hate, the **hate crime,** as defined in Article 87 para 21 CC, can be invoked to protect every person, including journalists, and can contribute to the determination of aggravated circumstance, unless a more severe penalty is prescribed by another applicable criminal offence. In the Special part of the Criminal Code a number of other criminal offences with the "hate element" are defined, such as aggravated murder, personal injury, aggravated personal injury resulting in death, aggravated unintentional injury, coercion, aggravated crimes against sexual freedom or public incitement to violence and hate (Article 325 CC). The latter criminal offence can be committed by any person by means of printed media, radio, television, computer system or network, public gathering or other means for publicly promoting or making available material which incites violence or hatred directed against a group or its member, on account of their racial, religious, national or ethnic belonging, or their language, origin, skin colour, sexual orientation, gender identity, disability or other characteristics. This criminal offence also criminalises public approval, denial or minimalizing of the genocide, crime of aggression, crimes against humanity or war crimes, if directed against a group or its member, on account of their racial, religious, national or ethnic belonging, their origin or skin colour, in a manner that can incite violence or hatred against such a group or its member.

[105] The Right to Access to Information Act, Official Gazette, 25/13, 85/15 in Article 10 stipulates that the bodies with public authority shall publish the following: laws and other regulations relevant to their scope of activity; general acts and decisions they enact, which influence the interests of beneficiaries, together with the reasons for their enactment; draft proposals of laws and other regulations and general acts subject to the public consultation procedures, in accordance with Article 11 of this Act; annual plans, programmes, strategies, instructions, work reports, financial reports and other relevant documents referring to activities of the public authority bodies; registers and databases or information on registers and databases within their jurisdiction and the manner of access thereto; information on public services provided by the public authority, in a visible place, with links to those provided electronically; information on financing sources, budget, financial plan or other appropriate document that determine the revenues and expenditures of public authority bodies, and data and reports on budget execution, financial plans and other appropriate documents; information on allocated grants, sponsorships, donations or other aid, including a list of beneficiaries and amounts; information on public procurement procedures, tender documents, information on

State administration bodies, other state bodies, local and regional self-government units and legal persons with public authority are required to conduct **public consultations** prior to the adoption of acts and subordinate legislation, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons. The state administration bodies, via the central state website for public consultations, and other state authorities, local and regional self-government units and legal persons with public authority, via their websites or via the central state website for public consultation, release the draft of the regulation, general act or other document, with a substantiation of the reasons and objectives to be achieved through adoption of the regulation, act or other document, inviting the public to submit their proposals and opinions. The public authority bodies are obliged to conduct public consultations as a rule, for the duration of 30 days, except in cases when such consultations are conducted pursuant to regulations governing the procedure of assessment of the effect of regulations. Upon the expiry of the deadline for the submission of opinions and proposals, the public authority body is obliged to draft and publish on the central state website for public consultations or its website, a report on the public consultation, which contains the received proposals and comments, and responses thereto, with the reasons for rejection of individual proposals and comments. The report on the public consultation must be submitted by the body responsible for its drafting to the body that adopts or issues the regulation, general act or document. The public authority body is obliged to publish its annual plan for public consultations on its website no later than by the end of the current calendar year. The public authority body is also obliged to inform the public in the same manner of any amendments to the public consultation plan.[106] Public authority bodies are obliged to inform the public on the agendas of meetings and sessions of official bodies and their scheduled times, manner of work and possibilities of direct insight into their work; the number of persons who may simultaneously gain direct insight into the work of the public authority bodies, taking account of the sequence of registration. Public authority bodies also need to grant access to information by timely releasing of the information regarding their work in an adequate and accessible manner, i.e. on the public authority website, or in the Official Gazette, and the Central Catalogue of Official Documents of the Republic of Croatia, for the purpose of informing the public or by providing information to the those who requested it.[107]

36. Other - please specify

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fulfilling the contract obligations, and other information required pursuant to the law governing public procurement; information on announced tenders, documents necessary for participation in the tender procedure, and information on the outcome of tender procedures; information on the internal organisation of public authorities, with the names of persons heading the authority and heads of organisational units with their contact information; conclusions from official sessions of public authority bodies and the official documents enacted at these sessions, including information on the work of the formal work bodies within their jurisdiction where decisions are made on the rights and interests of beneficiaries; information on the manner and conditions of exercising rights of access to and re-use of information in a visible place, including contact details of the information officer, the necessary forms or links to forms, and the level of fees for access to information and re-use of information; responses to frequently asked questions, on the manner of submitting requests by citizens and the media, and other information (news, press releases, data on activities), for the purpose of informing the public about their work and exercising their rights and executing obligations.

[106] The public consultation plan contains the name of the regulation, general act or document for which public consultation is conducted, the expected time of its adoption or issuance, approximate time of conducting the on-line consultation process, and other envisaged ways in which consultation is planned to be conducted, such as public debates, distribution of the draft regulation to the interested public via electronic mail, participation in working groups, etc. Upon completion of the consultation process, the documentation created in the public consultation process, either in electronic or hardcopy form, shall be kept by the public authority body in accordance with the regulations on archive materials.

[107] The information can be submitted in one of the following ways: by providing information directly, by providing information in writing, by providing insight into documents and making copies of documents containing the requested information, by delivering copies of the documents containing the requested information, in other ways adequate for exercising the right of access to information.

N/A.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency 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 **regulatory impact assessment** is governed by the *Regulatory Impact Assessment Act* and the *Decree on the Implementation of the Regulatory Impact Assessment Procedure*[108], and is conducted as the procedure of preparing and drafting legislative proposals through the analysis of direct impacts, for the purpose of choosing the optimal legislative solution or undertaking other activities or measures. Pursuant to Article 10 of the Regulatory Impact Assessment Act, the Government of Croatia adopts a Plan of Legislative Activities, which contains all drafts of legislative proposals planned to be finalised in the period covered by the Plan of Legislative Activities, upon the proposal of the Government Office. The Plan of Legislative Activities indicates which legislative drafts require regulatory impact assessment, which legislative drafts are intended for the purpose of alignment of Croatian legislation with EU legislation, and, as required, which legislative drafts are covered by programming and other planning documents of the Government. The Plan of Legislative Activities and the Report on the Implementation of the Plan of Legislative Activities, both adopted by the Government of Croatia upon the proposal of the Government Office, are published on the website of the Government Office.[109]

Consultations with the interested public in Croatia are regulated by the Right of Access to Information Act[110], the Code of Practice on Consultation with the Interested Public in the Procedures of Adopting Laws, Other Regulations and Acts[111], the *Rules of Procedure of the Government*[112], the *Regulatory Impact Assessment* Act and the *Decree on the Implementation of the Regulatory Impact Assessment Procedure*. Article 11 of the Act on the Right of Access to Information defines obligations related to public consultations.[113] Under the new scope stipulated by the *Decree on the Government Office for Legislation* from 2019[114], that Office is competent for coordinating state administration bodies with regard to consultations with the interested public and administrative support for the **e-Consultations portal**. Furthermore, in accordance with the Act on the Right of Access to Information, the Office of the Information

[108] Regulatory Impact Assessment Act (Official Gazette No. 44/17) and the Decree on the Implementation of the Regulatory Impact Assessment Procedure (OG 52/17)
[109] All the adopted and published Reports on the Implementation of the Plan of Legislative Activities are available at: https://zakonodavstvo.gov.hr/dokumenti-10/10
[110] Right of Access to Information Act, Official Gazette 25/13 and 85/15
[111] Code of Practice on Consultation with the Interested Public in the Procedures of Adopting Laws, Other Regulations and Acts, Official Gazette 140/09
[112] Rules of Procedure of the Government, Official Gazette 154/11, 121/12, 07/13, 61/15, 99/16, 57/17 and 87/19
[113] It stipulates which public authorities are subject to conducting public consultations: state administration bodies, other state bodies, local and regional self-government units, legal persons vested with public powers. The above bodies are required to conduct public consultations during the drafting process and the legislative procedure for all primary and secondary legislation, as well as in the course of adoption of general acts and strategic or planning documents which affect the interests of citizens and legal persons. As to the manner of conducting the consultations, the Act defines that state administration bodies conduct the procedure via the central government web portal for public consultations – e-Consultations, and other authorities via their websites. On state level, some state bodies and legal persons vested with public powers (agencies, institutes, centres, chambers etc.) also conduct public consultations via the central government web portal.
[114] Decree on the Government Office for Legislation, Official Gazette, 63/19

Commissioner is competent for conducting supervision and inspection of the implementation of the above Act. Annual Reports on Conducted Consultations are also available to the public via the e-Consultations portal.[115] Annual Information on Commissioner's Reports on the Implementation of the Act on the Right of Access to Information are also publicly accessible.[116] The **Croatian Parliament** has also integrated in its work mechanisms for involving and consulting interested public.[117]

Urgent legislative procedure is regulated in the *Rules of Procedure of the Croatian Parliament.*[118] Legislation can be adopted through urgent procedure only in exceptional situations and the extraordinary reasons for using this procedure require a specific explanation in the Bill that is being proposed. Legislation adopted for the purposes of harmonization with the European Union *acquis* can be adopted using the urgent legislative proposal if the body proposing the Bill has so requested, which explains an elevated number of legislative acts that had been adopted in previous Parliament sessions, while this trend is receding during the current Parliament session.[119]

Legislation adopted in the area of justice: From January 2019 to 15 April 2020, a total of 16 laws from the remit of the Ministry of Justice underwent legislative procedure in the Croatian Parliament. 13 of them were adopted in regular legislative procedure, and 3 in emergency procedure. All 16 laws also underwent public consultation procedure.

38. Regime for the constitutional review of laws

The Constitutional Court of Croatia reviews the formal and material constitutionality of the legislation[120][121]. This means *a posteriori* review of laws (the one conducted after the adoption of

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[115] All the Reports adopted and published so far are available at: https://savjetovanja.gov.hr/dokumenti/10

[116] Annual Information Commissioner's Reports on the Implementation of the Act on the Right of Access to Information are available at: https://www.pristupinfo.hr/dokumenti-i-publikacije/izvjesca-o-provedbi-zppi/

[117] While most of Bills are proposed by the Government, they can also be introduced by other subjects (any member of Parliament, political clubs or its committees), whereby public consultation is conducted by the Parliament, which publishes the draft legislation on its website. In 2019 this was the case with eight Bills. The results of such public consultation is summarized in a report, that is also published on the Parliament's website. The Rules of Procedure of the Parliament (OG 81/13, 1113/06, 69/17, 29/18) since 2000 guarantee the democratic character of the deliberation and decision-making in Parliament committees by allowing for participation of external participants (from the science and expert community or from the civil society organisations). The Rules on Public Functioning of the Parliament (OG 65/05) stipulate that the committee sessions and plenary sessions are open to the public. This can be limited only exceptionally. The Service for the Citizens within the Parliament also deals with direct inquiries from the citizens in order to reinforce the openness and accessibility in the work of the Parliament.

[118] Rules of Procedure of the Croatian Parliament, Official Gazette no. 81/13, 113/16, 69/17, 29/18

[119] In 2019 the Croatian Parliament adopted 241 laws, among which 128 using the regular legislative procedure (53,11%) and 113 using the urgent procedure (46,8%). In the ongoing IX. Session of the Croatian Parliament (2016-2019) out of 653 laws adopted, 360 were adopted in the regular legislative procedure (55,13%), and 293 in the urgent procedure (44,86%). In the current parliamentary session, the trend of using urgent procedure has been diminishing.

[120] The legal framework defining the conditions and procedure for electing judges of the Constitutional Court, its composition, jurisdiction, procedures, legal effects of its judgements and other important aspects of the functioning of the Constitutional Court can be consulted at: https://www.usud.hr/hr/temeljni-pravni-akti, https://www.usud.hr/en/legal-basis. The decisions and other acts adopted by the Constitutional Court are available at: https://sljeme.usud.hr/usud/praksaw-nsf, and for some among them a translation is available in English or French at: https://sljeme.usud.hr/usud/praksawen.nsf. The „CODICES" database of the Venice Commission there is structured description of the Constitutional Court in English and in French, including on the history of the Croatian constitutional adjudication; applicable legislation; on the composition, procedures and organisation of the Constitutional Court, its jurisdiction and on the legal nature and effect of its decisions, together with numerous decisions and acts adopted by the Constitutional Court, summarised in the English and French languages: (http://www.codices.coe.int/NXT/gateway.dll?f=templates&fn=default.htm)

[121] While the separation of powers into the legislative, executive and judicial branches is the basis of the government authority in the Republic of Croatia (according to Article 4 of the Constitution), the Constitutional Court is not part of the judicial power, but can be deemed as „the fourth branch of the State authority", in line with its competencies defined in Article 125 of the Constitution..

the legislation), but not the *a priori* assessment of constitutionality, before the adoption of the legislation.[122] The procedure for assessing the legal compatibility of laws with the Constitution, but also for assessing the legal compatibility of other legislative acts with the Constitution and the Laws is regulated in detail in Articles 35-61 of the *Constitutional Act on the Constitutional Law of the Republic of Croatia* (herein after: the Constitutional Act)[123], specifically Articles 17-24 of the Constitutional Act governing the general procedure before the Constitutional Court. The constitutional review can be launched by the persons authorised to lodge a request under Article 35, 36 and 44 para 1 of the Constitutional Act. While any physical or legal person may propose the review under Article 38 para 1 of the Constitutional Act, that proposal is not binding on the Constitutional Court which, under Articles 43 and 44 para 2 of the Constitutional Act, shall decide itself whether to accept the proposal and launch the constitutional review, or not. The Constitutional Court itself can launch the review by virtue of Article 38 para 2 of the Constitutional Act. The subject of the abstract constitutional control of laws and other legislative acts can be all formal sources of law adopted through a legislative procedure. This involves both the "ordinary" and the "organic" laws, but also acts which only formally fall in the category of laws (for instances, acts of ratification of international treaties).[124] Other legislative acts include by-laws and other types of legal acts that have a general normative and legally binding character, their norms being abstract and general.[125] However, the application of the constitutionally controversial law, or by-law, on the concrete case cannot be the subject of the abstract constitutional control, but is subject of the procedure which is triggered by a constitutional complaint whose purpose is to protect human rights and fundamental freedoms (Articles 62-80 of the Constitutional Act).

B. Independent authorities

39. Independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

People's Ombudsperson: The role of the People's Ombudsperson is a commissioner of the Croatian Parliament responsible for the promotion and protection of human rights and freedoms enshrined in the Constitution, laws and international legal instruments on human rights and freedoms ratified by the Republic of Croatia, is defined in the Croatian Constitution and in the Act on the People's Ombudsman.[126] Everyone may lodge a complaint to the People's Ombudsperson if they consider their constitutional or legal rights have been threatened or violated as a result of any illegal or irregular act by state bodies, local and regional self-government bodies and bodies vested with public powers. The Croatian Parliament elects the

[122] According to Article 125., al. 1 and 3 of the Constitution, the Constitutional Court decides on the compliance with the Constitution of the laws adopted by the Croatian Parliament and published in the Official Gazette (see Decision of the CC US. No. U-I-5654/2011 of 15 February 2012, point 7 and 7.2, published in the Official Gazette no. 20/12). However, other decisions and acts adopted by the Constitutional Court in cases of constitutional review of adopted and published legislation according to Article 31.1 and 2 o of the Constitutional Act on the Constitutional Law of the Republic of Croatia, state that all physical and legal persons, including all organs of the government and local and regional self-government are obliged to implement the Constitutional Courts decisions and acts within the remit of their legal competencies.

[123] The Constitutional Act on the Constitutional Court of the Republic of Croatia, Official Gazette no. 99/99, 29/02, 49/02.

[124] The jurisdiction of the Constitutional Court with respect to the ratification acts is limited, as it does not involve the assessment of the substance of the treaty in question..

[125] In its ordonnance no. U-II-5157/2005 et al of 5 March 2020 (Official Gazette no. 41/12), the Constitutional Court has defined the notion of „other regulations" under Article 125 al. 2 of the Constitution..

The Act on the People's Ombudsperson (Official Gazette, 76/12) regulates the scope and manner of functioning, requirements for the appointment and dismissal of the Ombudsperson and his/her deputies, and cooperation with the Children's Ombudsperson, the Gender Equality Ombudsperson and the Disability Ombudsperson. The People's Ombudsperson has an Office of the People's Ombudsperson[126] as an administrative and professional service, and internal organisational units are established within the Office for individual areas of work. The internal organisation of the Office is regulated by the Rules of Procedure of the People's Ombudsperson.

People's Ombudsperson for a term of eight years.[127] The People's Ombudsperson is autonomous and independent in his/her work, and requirements for the appointment and dismissal of the People's Ombudsperson and his/her deputies, his/her remit and the manner of functioning are regulated by law. Any form of influence on the work of the People's Ombudsperson is prohibited. The law may also confer specific powers on the People's Ombudsperson with regard to legal and natural persons in order to protect fundamental constitutional rights. The People's Ombudsperson and other commissioners of the Croatian Parliament responsible for the promotion and protection of human rights and fundamental freedoms enjoy the same immunity as members of the Croatian Parliament. In the exercise of his/her powers, the ombudsperson acts in accordance with constitutional and legal regulations and the international legal documents on human rights and freedoms ratified by the Republic of Croatia. In his/her work, the People's Ombudsperson adheres to the principles of fairness, equality and morality, and acts without bias and in accordance with the standards of good governance. The People's Ombudsperson and his/her deputies must not be members of a political party. The People's Ombudsperson is also the central anti-discrimination authority and the institution competent for the National Preventive Mechanism Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and performs tasks within its remit as stipulated by the Constitution, the Act on the People's Ombudsperson, the *Anti-Discrimination Act*[128], the *Act on the National Preventive Mechanism Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*[129] and the *Whistle-Blower Protection Act*.[130]

Children's Ombudsperson: The *Act on the Children's Ombudsperson*[131] regulates the remit, manner of functioning and requirements for the appointment and dismissal of the Children's Ombudsperson and his/her deputies. The Children's Ombudsperson acts independently and autonomously, adhering to the principles of fairness and morality. No one is allowed to instruct or give orders to the Children's Ombudsperson in his/her work. The Children's Ombudsperson and his/her deputies must not be members of any political party or take part in political activities.[132] The Children's Ombudsperson has the Office of the Ombudsperson for Children as an administrative and professional service.[133]

Gender Equality Ombudsperson: The tasks of an independent body competent for combating discrimination in the field of gender equality are performed by the Gender Equality Ombudsperson.[134] The Gender Equality Ombudsperson is appointed for the period of eight

[127] The People's Ombudsperson and his/her deputies are government officials.
[128] OG 85/08 and 122/12
[129] OG 18/11 and 33/15
[130] OG 17/19
[131] OG 73/17
[132] Article 4 of the Act on the Children's Ombudsperson.
[133] The Office is headed by the Children's Ombudswoman. The Office has a Professional Affairs Service and a General Affairs Service, both headed by Deputy Ombudswomen. According to the Ordinance on Internal Order, the Office requires, apart from the Children's Ombudswoman and two Deputy Ombudswomen, 23 civil servants. During 2019, 19 civil servants (out of the planned 23) were employed in the Office in addition to the three government officials. Out of those 19 civil servants, three were recruited in 2019 through public competition, specifically, two advisors to the Ombudswoman in February and the position of the head of auxiliary and technical services, which was left vacant after an employee resigning at the end of 2018, was filled in June 2019. Out of the 19 staff of the Office, 13 work at the central office in Zagreb, two in Split, and two each in Rijeka and Osijek. 15 of them perform professional and advisory tasks, and four administrative and technical tasks.
Out of the total of 22 staff (19 civil servants and three government officials), four civil servants have secondary education, and 18 have a graduate degree (with completed undergraduate and graduate university programmes or an integrated undergraduate and graduate university programme, or a specialist graduate professional study programme) – 10 law graduates, two pedagogy graduates, one social pedagogy graduate, a social worker, an educational therapist and an economics graduate. The 2019 Report on the Work of the Children's Ombudswoman: http://dijete.hr/download/izvjesce-o-radu-pravobraniteljice-za-djecu-2019/
[134] Article 19 of the Gender Equality Act (OG 82/08 and 69/17).

years and relieved of duty by the Croatian Parliament based upon the proposal of the Government of Croatia, and the Ombudsperson has a deputy who is appointed and relieved of duty by the Croatian Parliament upon the proposal of the Ombudsperson. The Ombudsperson and his/her deputy must be of different genders.[135] The Ombudsperson acts independently and autonomously, monitors the implementation of the Gender Equality Act and other regulations addressing gender equality, and reports to the Croatian Parliament at least once a year.[136] The Ombudsperson issues the rules of procedure regulating the manner and organisation of work, internal organisation[137] of the administrative and professional service and other issues relevant for the performance of the tasks of the Ombudsperson.

Disability Ombudsperson: The *Act on the Disability Ombudsperson*[138] regulates the remit, manner of functioning and requirements for the appointment and dismissal of the Disability Ombudsperson and his/her deputies.[139] The Disability Ombudsperson is appointed and dismissed by the Croatian Parliament upon the proposal of the Government of Croatia. The Disability Ombudsperson has two deputies, who are appointed and dismissed by the Croatian Parliament upon the proposal of the Disability Ombudsperson. The Disability Ombudsperson and his/her deputies are officials of the Republic of Croatia, are appointed for a term of eight years and may be reappointed.[140] In appointing the Disability Ombudsperson or one of his/her deputies, preference will be given to a person with a disability, provided that they meet all the requirements stated in the notice of open competition.[141] The Disability Ombudsperson acts independently and autonomously, adhering to the principles of fairness and morality. No one is allowed to instruct or give orders to the Disability Ombudsperson in his/her work. The Disability Ombudsperson and his/her deputies must not be members of any political party or take part in political activities.[142] Professional and administrative tasks for the Disability Ombudsperson are performed in the Office of the Disability Ombudsperson.[143]

The People's Ombudsperson, the Children's Ombudsperson, the Gender Equality Ombudsperson and the Disability Ombudsperson, in line with the respective laws regulating their activities, submit annual reports on their work for the consideration of the Croatian Parliament, which adopts decision endorsing those reports. With respect to recommendations that are addressed to the Government and its competent offices, the state administration bodies and local and regional self-government bodies and legal persons, each of these bodies is responsible for the follow-up of the recommendations within the scope of its remit.

Croatian Government Office of Human and National Minority Rights: The scope of the Office of Human and National Minority Rights as an administrative and professional service of the Government of Croatia is governed by the *Decree on the Office of Human and National Minority Rights*:[144] The Office performs professional, analytical, consultative and administrative tasks related to the execution of the established policy of protection and promotion of human rights and rights of national minorities in Croatia, and monitors its efficiency. The Office is headed by a director.

[135] Article 20 of the Gender Equality Act
[136] Article 22 of the Gender Equality Act
[137] Under the Rules of Procedure, the Office of the Ombudswoman has two Services: a Professional Affairs Service, employing 8 civil servants with a graduate degree, and a General Affairs Service, employing 2 civil servants – one with a graduate degree and one with secondary education.
[138] OG 107/07
[139] Article 1 of the Act on the Disability Ombudsperson.
[140] Article 4 of the Act on the Disability Ombudsperson.
[141] Article 21 of the Act on the Disability Ombudsperson.
[142] Article 3 of the Act on the Disability Ombudsperson.
[143] As of 31 December 2019, the Office had 16 civil servants and 3 government officials employed.
[144] OG 6/19.

Croatian Government Office for Gender Equality: The remit of the Office is regulated by the *Decree on the Gender Equality Office of the Government of Croatia*[145] and Article 18, paragraph 2 of the Gender Equality Act, which stipulates that the Gender Equality Office (hereinafter: the Office) is established by a decree of the Government of Croatia as an administrative and professional service for the performance of tasks related to the exercise of gender equality. The Office is headed by a director.

C. Accessibility and judicial review of administrative decisions

40. Modalities of publication of administrative decisions and scope of judicial review

The **competence, composition of the court and procedural rules** under which administrative courts issue decisions on the lawfulness of decisions on the rights, obligations and legal interests of natural and legal persons, and on the lawfulness of the actions of public authorities in the field of administrative law are regulated by the *Act on Administrative Disputes.*[146] Public authorities within the meaning of the Act are state administration bodies and other state bodies, bodies of local and regional self-government units, legal persons vested with public powers and legal persons providing public services (public service providers).[147] The Act provides for two-instance administrative adjudication. Administrative courts and the High Administrative Court of the Republic of Croatia resolve administrative disputes. Administrative courts decide on actions brought against individual decisions of public authorities and proceedings of public authorities, actions brought for failure to render an individual decision or failure of a public authority to act within the legally stipulated time limit, actions brought against administrative contracts and execution of administrative contracts, and in other cases stipulated by law. The High Administrative Court decides on appeals against judgments and decisions of administrative courts against which appeal is admissible, on the lawfulness of general acts, on conflicts of jurisdiction between administrative courts, and in other cases stipulated by law.[148] The administrative court having territorial jurisdiction for adjudication in an administrative dispute is the administrative court within the area of which the appellant has permanent residence or seat, unless otherwise provided by law.[149] In administrative disputes before administrative courts, a sole judge decides the case. The High Administrative Court decides in a panel of three judges, except in the matter of lawfulness of general acts, when it decides in a panel of five judges.[150] Administrative disputes in the first instance are regulated by Articles 22-65 of the Act. Article 31 of the Act stipulates the boundaries of adjudication in administrative disputes. The court decides within the boundaries of the claim, but is not bound by the grounds of action. The court is obliged ex officio to watch out for the grounds for nullity of a decision and the invalidity of an administrative contract. Establishment of the factual situation and evidence is regulated by Article 33 of the Act. The court freely assesses evidence and determines facts. The court presents evidence in accordance with the rules regulating presentation of evidence in civil proceedings. Under Article 55 of the Act, the court delivers a judgment on a claim relating to the substance of the matter and incidental claims. Judgments are delivered and pronounced in the name of the Republic of Croatia.

[145] OG 39/12 and 28/16.
[146] Act on Administrative Disputes, Official Gazette, 20/10, 143/12, 152/14, 94/16 and 29/17.
[147] Article 2, paragraph 2 of the Administrative Disputes Act.
[148] The subject-matter jurisdiction of administrative courts and the High Administrative Court is prescribed by Article 12 of the Administrative Disputes Act.
[149] Territorial jurisdiction is prescribed by Article 13 of the Administrative Disputes Act.
[150] Article 14 of the Administrative Disputes Act

The **pronouncement of judgments** is regulated by Article 61 of the Act, and the **service of judgments** to the parties under Article 62 of the Act.[151] Article 65 of the Act stipulates that the court decides on procedural issues by a decision.[152] Article 66 of the Act stipulates that parties may lodge an **appeal** against a judgment of the administrative court on the grounds of a substantial violation of court procedure rules, erroneously or incompletely established factual situation in the dispute or inaccurate application of the substantive law. An appeal delays the enforcement of the appealed judgment. In accordance with Article 73 of the Act, the High Administrative Court reviews the first-instance judgment in the part in which it is disputed in the appeal, within the boundaries of the grounds stated in the appeal. The High Administrative Court is obliged ex officio to watch out for the grounds for nullity of a decision and the invalidity of an administrative contract. The powers of the High Administrative Court in deciding on appeal are stipulated in Article 74 of the Act.

The High Administrative Court is also competent for the **review of the legality of general acts**.[153] The court will deliver a judgment repealing a general act or some of its provisions if it establishes that the general act is not in conformity with the law or the statute of a body governed by public law The general act which is repealed or the provisions which are repealed cease to be valid as of the date of publication of the judgment of the High Administrative Court in the Official Gazette of the Republic of Croatia. [154]

41. Implementation by the public administration and state institutions of final court decisions

The enforcement of court decisions is regulated by Articles 80-82 of the *Administrative Disputes Act,* which regulates the enforceability of court decisions, execution of judgments and execution of decisions.[155] A valid final judgment becomes enforceable upon its service to the

[151] Judgements are pronounced at a sitting at which the main hearing is concluded. The judgement is pronounced by the judge to whom the case has been assigned. The judge pronounces the judgement by publicly reading the enacting terms and giving a brief explanation. If, due to the complexity of the subject-matter of the dispute, the court cannot decide immediately after the conclusion of the hearing, pronouncement of the judgment may be postponed by up to eight days from the day of concluding the hearing. The date of pronouncement of the judgment must be set immediately. The sitting at which the judgement is pronounced is to be held regardless of whether the parties have been properly informed about it and whether they appear at the sitting. Under Article 62 of the Act, the judgement is to be served to all parties in the dispute in paper or electronic form, and to be sent within 15 days from the date of pronouncement, and if not pronounced, from the date of its delivery.

[152] Decisions delivered at the hearing are pronounced by the judge to whom the case has been assigned. A decision pronounced at the hearing produces legal effects vis-à-vis the parties as of the moment of its pronouncement. Decisions delivered outside the hearing must be served to the parties by the court, in paper or electronic form. A decision in paper or electronic form produces legal effects vis-à-vis the parties as of the moment it is duly served.

[153] The legality review of general acts is regulated by Articles 83-88 of the Administrative Disputes Act.

[154] The case law of the High Administrative Court of the Republic of Croatia and of other administrative courts if available on the website of the Supreme Court of the Republic of Croatia, the Case Law Portal - https://sudskapraksa.csp.vsrh.hr/home

[155] Article 81 of the Administrative Disputes Act (Official Gazette, 20/10, 143/13, 152/14, 94/16, 29/17) stipulates the following: (1) Execution of a judgment shall be ensured by the defendant or the body competent for execution. (2) In the execution of the judgement, the defendant shall comply with the enacting terms of the judgment, no later than 60 days of service of the judgment, whereby they shall be bound by the legal reasoning and comments of the court. (3) If the defendant or the body responsible for execution fails to execute the judgment within a certain time limit or acts contrary to its enacting terms, legal reasoning or comments of the court in the execution of the judgment, the applicant may request the enforcement of the judgment from the court of first instance, or request the finding of inadmissibility of execution. (4) Enforcement shall be carried out in accordance with the rules governing enforcement in general administrative proceedings. (5) The court shall issue a decision rejecting an application for enforcement filed by an unauthorised person and a premature or untimely application. (6) The court shall issue a decision rejecting an application for enforcement if the judgment is executed before the decision on the application is taken, if the application is directed towards a body which is not obliged to enforce the judgment, and if the application is unfounded for other reasons. (7) A decision granting the application and ordering the enforcement of the judgement or finding the inadmissibility of execution shall also be delivered to the body competent for supervision of the body of public law competent for execution in accordance with special regulations. (8) The court

party, unless another time limit has been stipulated in the judgment. A decision is enforceable immediately upon its pronouncement or service to the party, unless otherwise provided by this Act.

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

The Constitution of the Republic of Croatia (Art. 43) guarantees everyone the right to free association for the purposes of protection of common interests or promotion of social, economic, political, national, cultural and other convictions and aims. The right to free association is restricted by the prohibition of any violent threat to the democratic constitutional order and the independence, unity, and territorial integrity of the Republic of Croatia. According to the official records as at 31 December 2019, there were 51,646 associations (active in the fields of sports, culture and arts, education, science and research, social activities, economy, environmental and nature protection, human rights, international cooperation, democratic political culture, health protection, protection and rescue, and in many other areas), 152 foreign associations, 265 foundations, 12 foreign foundations, 54 religious communities, and 2,071 legal entities of the Catholic Church registered in the Republic of Croatia. Most associations, over 31,000, are registered in the City of Zagreb and five counties (Split-Dalmatia, Primorje-Gorski Kotar, Osijek-Baranja, Zagreb, Istria), as well as the majority of foundations.[156]

The Act on Associations[157] regulates the establishment, legal status, activities, registration, financing, assets, liability, status changes, supervision, dissolution of association's legal personality, as well as the registration and discontinuance of activities of foreign associations in the Republic of Croatia, unless otherwise regulated by a special law. The said Act stipulates that associations without legal personality are subject to the appropriate application of regulations pertaining to partnership. *The Ordinance on the Content and Manner of Keeping the Register of Associations of the Republic of Croatia and the Register of Foreign Associations in the Republic of Croatia*[158] prescribes the content of the register of associations and the register of foreign associations, and the manner of keeping them, as well as the forms of applications for registration in the register of associations and the register of foreign associations and requests for the registration of changes in those registers.[159] **Foreign associations** are entered in the

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may impose a fine on the responsible person in the competent public law body who fails to comply with the provisions of paragraphs 1 and 2 of this Article for unjustified reasons up to the amount of the average monthly net salary in the Republic of Croatia. (9) The responsible person within the meaning of paragraph 8 of this Article shall be the head of the competent public law body. (10) Against the decision of an administrative court referred to in paragraphs 5, 6, 7 and 8 of this Article, an appeal shall be admissible and the appellate procedure shall be urgent. (11) Due to the damage caused by the non-execution, that is, the failure to implement the judgment rendered in an administrative dispute in a timely manner, the applicant shall be entitled to compensation, to be claimed in a dispute before the competent court.

Article 82 of the Act stipulates that a decision against which an appeal is inadmissible shall be enforced by the court which issued the decision. The provisions of that Act on the enforcement of valid final judgments shall apply accordingly to the enforcement of valid final judgements. Enforcement of monetary obligations ordered by a decision shall be conducted in accordance with the regulations applicable to judicial enforcement.

156 All the aforementioned official records (register of associations, register of foreign associations, register of foundations, register of foreign foundations, register of religious communities, register of legal entities of the Catholic Church) are public, and the data entered in them is available on the website of the Ministry of Public Administration: https://uprava.gov.hr/uvid-u-registre-14567/14567, along with other data related to these registers.

157 The Act on Associations (Official Gazette 74/14, 70/17 and 98/19).

158 The Ordinance on the Content and Manner of Keeping the Register of Associations of the Republic of Croatia and the Register of Foreign Associations in the Republic of Croatia (OG 4/15 and 14/20).

159 For definitions of „association" and „foreign associations" see Article 4 and Article 21 of the Act on Associations. An association acquires legal personality on the date of registration in the Register of Associations of the Republic of Croatia. Associations are entered in the register of associations in a county or the City of Zagreb depending on the seat of the association. The Register of Associations is kept electronically in a uniform manner for all associations in

register of associations in a county or the City of Zagreb depending on the seat of the foreign association. The Register of Foreign Associations is kept electronically in a uniform manner for all foreign associations in the Republic of Croatia at the competent administrative body of a county or the City of Zagreb. Foreign associations do not acquire legal personality upon their registration in the Register of Foreign Associations.

The Act on Foundations[160] which entered into force on 1 March 2019 governs the establishment, legal status, functioning, registration, organisation, activities, assets, status changes and dissolution of foundations, registration and dissolution of foreign foundations, and supervision of the work of foundations and foreign foundations. The *Ordinance on the Content and Manner of Keeping the Register of Foundations of the Republic of Croatia and the Register of Foreign Foundations in the Republic of Croatia*[161] prescribes the content of the register of foundations and the register of foreign foundations, and the manner of keeping them, as well as the forms of applications for registration in the register of foundations and the register of foreign foundations and requests for the registration of changes in those registers.[162]

The Act on the Legal Status of **Religious Communities**[163] stipulates that a church or a religious community of a different name is, within the meaning of this Act, a community of natural persons exercising freedom of religion by equal public performance of religious rites and other statements of their faith which is entered in the Register of Religious Communities in the Republic of Croatia.[164]

The right to the freedom of organisation and association to **trade unions and employer's associations,** the freedom to form and join higher-level unions and associations, and the right to affiliate to international organizations of workers and employers, in order to protect and

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the Republic of Croatia at the competent administrative body of a county or the City of Zagreb. A foreign association is an association or other form of associating that has been founded without the intention of making profit, in line with Article 4 of the Act on Associations, and that has been duly established in line with the legal order of a foreign country.

160 The Act on Foundations, Official Gazette 106/18 and 98/19.

161 The Ordinance on the Content and Manner of Keeping the Register of Foundations of the Republic of Croatia and the Register of Foreign Foundations in the Republic of Croatia, Official Gazette 56/19.

162 A **foundation** refers to assets intended to serve permanently, on its own or through revenues acquired by it, the achievement of a generally beneficial or charitable purpose. Foundations are entered in the Register of Foundations of the Republic of Croatia in counties or the City of Zagreb depending on the seat of the foundation. The Register of Foundations is a central electronic database kept at the competent administrative body of a county and the City of Zagreb, in a uniform manner for all foundations in Croatia. A foundation acquires legal personality upon entry in a register of foundations. The current Act on Foundations stipulates that, as of the date of entry into force of the Act (1 March 2019), the representations of foreign charitable trusts and foundations entered in the Register of Representations of Foreign Charitable Trusts and Foundations in the Republic of Croatia in accordance with the provisions of the Act on Charitable Trusts and Foundations (OG 36/95 and 64/01) continue to act as foreign foundations under the provisions of the Act on Foundations. A **foreign foundation** is a foundation duly established on the basis of the legal order of another country. A foreign foundation may achieve its purpose on the territory of the Republic of Croatia upon registration in the Register of Foreign Foundations in the Republic of Croatia, in accordance with the regulations of the Republic of Croatia. Foreign foundations are entered in the Register of Foreign Foundations of the Republic of Croatia in counties or the City of Zagreb depending on the seat of the foreign foundation. The Register of Foreign Foundations is a central electronic database kept at the competent administrative body of a county and the City of Zagreb, in a uniform manner for all foreign foundations in Croatia. Foreign foundations do not acquire legal personality upon their registration in the Register of Foreign Foundations.

163 The Act on the Legal Status of Religious Communities, Official Gazette 83/02 and 73/13.

164 The Ordinance on Forms and Manner of Keeping the Register of Religious Communities in the Republic of Croatia (OG 9/03, 12/03 - correction, 24/04, 144/10, 124/12 and 21/20) prescribes the forms and the manner of keeping the Register. Religious communities, organizational forms of religious communities and communities of religious communities are registered in the Register of Religious Communities kept by the Ministry of Public Administration. They acquire legal personality as of the date of entry in the Register. The Protocol on the Manner of Registration of the Legal Entities of the Catholic Church (OG 15/03 and 16/03) established the Register of the Legal Entities of the Catholic Church in the Republic of Croatia, kept by the Ministry of Public Administration.

promote their economic and social interests, are guaranteed to workers and employers by the Constitution of the Republic Croatia as fundamental human rights and freedoms.[165]

The **Financial Operations and Accountancy of Non-Profit Organisations Act** regulates the framework of financial operations and elements of the accounting system of non-profit organisations.[166] The provisions of the Act apply to domestic and foreign associations and their unions, foundations, funds, institutions, artistic organisations, chambers, trade unions, employers' associations and all other legal entities that do not regard profit as the fundamental objective of their establishment and functioning, and which are non-profit according to special

[165] Employers and their associations on the one hand, and trade unions and their higher-level associations as workers' organizations on the other, have fundamental right to collective bargaining and conclusion of collective agreement. The freedom to associate and the right to collective bargaining are guaranteed by a series of international instruments, of which the Republic of Croatia is a party, and which are by the force of law above national legislation. In national legislation, the right of workers and employers to the freedom to organize and associate and the right to collective bargaining are regulated by the Labour Act (Official Gazette, 93/14, 127/17, 98/19). The same Act has established legislative framework for leading not just bipartite, but also tripartite social dialogue – three-side cooperation of the Government of the Republic of Croatia, trade unions and employers' association in solving economic and social issues, by enabling the establishment of Economic and Social Council as the highest tripartite body on the national level. One of the fundamental principles of the Act referring to the topics mentioned above is the right to associate, which defines that workers shall have the right, according to their own free choice, to found and join a trade union, subject to only such requirements which may be prescribed by the articles of association or internal rules of this trade union. The employers have the right, according to their own free choice, to found and join an employer's association, subject to only such requirements which may be prescribed by the articles of association or internal rules of this association. The mentioned associations may be founded without any prior approval whatsoever. Furthermore, it is defined that membership of associations should be non-compulsory. Workers and employers, respectively, may freely decide on their membership in an association and leaving such association. No one may be discriminated on the ground of his membership or non-membership in an association or participation or non-participation in its activities. Any contrary actions constitute discrimination within the meaning of specific provisions. It is emphasized that the operations of an association may not be temporarily prohibited nor may an association be disbanded by virtue of a decision by executive authorities. Associations may create their own federations or other forms of association in order to pursue their interests at a higher level ("higher-level associations"). Higher-level associations enjoy all the rights and freedoms granted to associations. Associations and higher-level associations have the right to freely join federations and cooperate with international organisations established for the purpose of the promotion of their common rights and interests. Regarding the powers of associations, the association may be a party to a collective agreement only if it has been established and registered in accordance with the provisions of the Labour Act. An association may represent its members in employment-related disputes with the employer, before a court, a mediation body, an arbitration body or a state body. In pursuance of their goals and tasks as provided under their articles of association or internal rules, associations may establish other legal entities, subject to specific provisions. As regards the legal personality of associations, an association and a higher-level association acquire legal personality as of the date of their registration in the register of associations. Trade unions and employer's associations and their higher-level associations which operate on the territory of a single county are registered in the register of associations kept at the administrative body of a county or the City of Zagreb which is competent for labour affairs. Associations and higher-level associations which operate on the territory of the Republic of Croatia or two or more counties are registered in the register of associations at the ministry responsible for labour. The Minister regulates the contents and methods for maintaining the register of associations by an ordinance. In the Republic of Croatia, there are currently 669 active trade unions (353 trade unions registered in the register of associations at the ministry responsible for labour and 316 trade unions registered in the register of associations at the competent administrative body of a county). There are also 67 active employer's associations (61 employer's association registered in the register of associations at the ministry responsible for labour and 6 employer's associations registered in the register of associations at the competent administrative body of a county). Furthermore, there are 27 registered trade union associations (24 trade union associations registered in the register of associations at the ministry responsible for labour and 3 trade union associations registered in the register of associations at the competent administrative body of a county). In addition, there are 3 higher-level employer's associations. To conclude, there are 3 representative trade union associations of a higher level and 1 representative employer's association of a higher level.

[166] The Financial Operations and Accountancy of Non-Profit Organisations Act (Official Gazette 121/14) entered into force on 1 January 2015. Pursuant to this Act, three ordinances were adopted which regulate specific provisions of the Act in more detail: Ordinance on Non-Profit Accountancy and the Accounting Plan (OG 1/15, 25/17, 96/18 and 103/18), Ordinance on Reporting in Non-Profit Accountancy and the Register of Non-Profit Organisations (OG 31/15, 67/17 and 115/18) and Ordinance on the Financial Management and Control System and the Development and Implementation of the Financial Plans of Non-Profit Organisations (Official Gazette 119/15).

regulations. The introduction of the principles of publicity and transparency is manifested, among other things, through the obligation of public disclosure of the financial statements of all non-profit organisations through the Register of Non-Profit Organisations (hereinafter: RNO), kept by the Ministry of Finance, as well as through the obligation to publish the audit report on the conducted audit of annual financial statements (for non-profit organisations with total revenue above HRK 10 million), i.e. to provide access to financial statements for the previous year (for non-profit organisations with total revenue above HRK 3 million).[167]

The Government's Office for Cooperation with NGOs, as an administrative and professional service performing professional tasks within the scope of the Government of the Republic of Croatia regarding the creation of conditions for cooperation and partnership with the non-governmental, non-profit sector, especially with associations in the Republic of Croatia, is responsible for the development of a strategic document of the Government of the Republic of Croatia aimed at creating an enabling environment for civil society development. It is one of the preconditions and criteria of democracy and stability of the social and political system of every country. Among the first countries of Central and Southeast Europe, the Republic of Croatia systematically approached the creation of a normative and institutional system to support civil society development in late 1990s, as the awareness grew of the importance of civil society development as an important factor of pluralism and development. Civil society organisations have significant potential in advocating topics of public interest, developing new models of socio-economic development, creating and mobilising different kinds of social capital, reducing divisions in the society and empowering individuals, and have recently represented desirable employers and places for professional training.

The **National Plan for Creating an Enabling Environment for the Civil Society Development 2020-2026** (hereinafter: the National Plan) is a strategic document of the Government of Croatia which is in the process of development, and which states long-term objectives and provides guidelines for creating an enabling environment for civil society development by 2026, in order to further improve the legal, financial and institutional support system for the activities of civil society organizations (CSOs) as important factors of socio-economic development and democratization of society in Croatia, as well as important stakeholders in the design and implementation of Croatian and EU policies. It is the third strategic document of the Government dealing with cooperation between the Government and the government sector with civil society, and represents continuity in the creation of an enabling environment for its development.[168] The National Plan and the accompanying Programme of Implementation include specific measures, activities, deadlines and owners of their implementation, sources of funds for the implementation of planned measures and activities, as well as indicators for measuring success of the implementation.

[167] The RNO is the central source of data on non-profit organisations necessary for establishing and monitoring the obligation to prepare and submit financial statements, establishing the financial position and operations, and the intended use of budgetary funds. By 31 December 2019, 38,188 non-profit organisations were registered in the RNO, most of which, 35,959 of them, are associations. *Inter alia*, 52 employers' associations, 43 foreign associations, 225 institutions, 315 tourist boards, 339 trade unions, 341 art organisations, 198 foundations, 5 foundations and 156 chambers were registered.

[168] National Strategy for Creating an Enabling Environment for the Civil Society Development 2006-2011, with an Operational Plan of Implementation 2007-2011, and the National Strategy for Creating an Enabling Environment for Civil Society Development 2012-2016.