

**Report on the rule of law in the Republic of Croatia for the purposes of preparing the Annual Report of the European Commission on the rule of law in the Member States of the European Union**

*This report has been prepared further to the questionnaire sent to the Member States of the European Union by the European Commission on 1 December 2021, and on the basis of the contributions submitted by the respective line Ministries and other competent bodies. It builds on the information already submitted to the European Commission in the previous years, for the purposes of preparing the Annual Reports on the Rule of Law in the European Union in 2020 and 2021.*

## **I. Justice System**

### ***A. Independence***

#### ***1. Appointment and selection of judges and state attorneys (including judicial review of decisions)***

Information on the legal framework for the appointment of judicial officials is presented in the contribution of the Republic of Croatia for the year 2020.

In 2021, the election procedure for the President of the Supreme Court of the Republic of Croatia was especially important for the Republic of Croatia's judicial system. The new President of the Supreme Court was elected in October 2021, after three public calls.<sup>1</sup>

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<sup>1</sup> According to the valid legislative solution and considering the end of the term of office for the previous President in July 2021, the National Judiciary Council issued a public call for the election of the President of the Supreme Court of the Republic of Croatia in the Official Gazette issue: 3/21 from 13 Jan 2021, as well as on its website. Four candidates submitted their application, and one withdrew his application subsequently. The President of the Republic of Croatia submitted his candidate proposal to the Croatian Parliament on 8 March 2021. The aforementioned candidate did not apply to the public call. Since the submitted documentation did not provide the President of the Croatian Parliament with enough evidence that the proposal was submitted in accordance with the provisions of the current Courts Act, and thus the Rules of Procedure of the Croatian Parliament, he asked the proposer to harmonize the proposal with the Rules of Procedure in due time. The President of the Republic of Croatia did not proceed in accordance with that request, being of the opinion that the Constitution of the Republic of Croatia gives him the right to nominate a candidate who did not respond to the call of the State Judicial Council, so, on 25 March 2021, he informed the State Judicial Council that he would not be proposing a candidate, and he requested that the second public call be issued.

The second public call was issued on 2 April 2021 in the Official Gazette number: 34/21, as well as on the State Judicial Council web pages. Five candidates responded to this public call, and one withdrew his application subsequently. The President of the Republic of Croatia once again submitted his candidate proposal on 17 June 2021. Neither the Croatian Parliament's Justice Committee nor the General Session of the Supreme Court of the Republic of Croatia gave positive opinion for any of the candidates. On 25 June 2021, the Croatian Parliament at its 7th session rejected the candidate proposal of the President of the Republic of Croatia, with 37 votes in favor, 81 against and 5 abstentions.

The third public call was issued on 7 July 2021 in Official Gazette number: 77/21, as well as on the State Judicial Council web pages. Six candidates submitted their applications, and one was found not to meet the official requirements. In September 2021, the President of the Republic of Croatia submitted his proposal of Radovan Dobronić, MSc, as a candidate to the Croatian Parliament. On 2 September 2021, the General Session of the

Articles 31 and 32 of the Act on the Amendments of the Courts Act,<sup>2</sup> which became effective on 1 January 2019, elaborates the procedure for electing and dismissing the President of the Supreme Court of the Republic of Croatia, as well as limits their term to the maximum of two.

In February 2021, the first of four proposals for initiating proceedings to assess the compliance of Article 32 of the Act on the Amendments of the Courts Act with the Constitution of the Republic of Croatia was submitted to the Constitutional Court of the Republic of Croatia.<sup>3</sup> In its decisions [U-I 1039/2021](#), [U-I-1620/2021](#)<sup>4</sup>, [U-I-1681/21](#)<sup>5</sup> and [U-I-1682/21](#)<sup>6</sup>, the Constitutional Court of the Republic of Croatia did not accept the aforementioned proposals, and the disputed legal provisions were deemed compliant with the Constitution of the Republic of Croatia.

Despite the fact that the Constitutional Court of the Republic of Croatia did not find non-compliance with the Constitution of the Republic of Croatia in the current organization of the procedure of the election of the President of the Supreme Court of the Republic of Croatia, taking into account the course of events relating to the election of the President of the Supreme Court of the Republic of Croatia, but also the legal opinion of the Constitutional Court of the Republic of Croatia that certain parts of the procedure were not regulated sufficiently or at all, amendments to the Courts Act<sup>7</sup> in the aforementioned parts were proposed during 2021. The amendments propose that the State Judicial Council submits to the President of the Republic of Croatia only timely and complete applications, and he will request the opinions of all relevant bodies (opinion of the General Session of the Supreme Court and the relevant committee of the Croatian Parliament). It is also proposed to prescribe that if the President of the Republic of Croatia does not nominate any of the candidates for the President of the Supreme Court of the Republic of Croatia within 15 days of receiving the last opinion from the relevant bodies, or if the proposed candidate is not elected by the Croatian Parliament, the Council shall annul the public call and, within eight days at the latest, re-initiate the procedure for the election of the President of the Supreme Court of the Republic of Croatia by issuing a new public call.

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Supreme Court of the Republic of Croatia approved the candidacy of Marin Mrčela, PhD, a judge of that court, and on 6 October 2021, Croatian Parliament's Justice Committee gave positive opinion of the candidates Dobronić (unanimously, with 11 votes) and Mrčela (with seven votes). On 15 October 2021, at its 8th session, with 120 votes in favor and three against, the Croatian Parliament appointed Radovan Dobronić, MSc, Judge of the Commercial Court in Zagreb, as the President of the Supreme Court of the Republic of Croatia. The newly elected president was sworn in, and on 18 October 2021, he began to serve as a judge and the president of the Supreme Court of the Republic of Croatia.

<sup>2</sup> The Act Amending the Courts Act, Official Gazette number 67/18.

<sup>3</sup> The Act Amending the Courts Act, Official Gazette number 67/18.

<sup>4</sup> <https://sljeme.usud.hr/usud/praksaw.nsf/C12570D30061CE54C12586A200446E08/%24FILE/U-I-1039-2021%20i%20dr.pdf>

<sup>5</sup> <https://sljeme.usud.hr/usud/praksaw.nsf/C12570D30061CE54C12586EF002B1071/%24FILE/U-I-1681-2021.pdf>

<sup>6</sup> <https://sljeme.usud.hr/usud/praksaw.nsf/C12570D30061CE54C12586EF002781CB/%24FILE/U-I-1682-2021.pdf>

<sup>7</sup> [https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/172701/PZ\\_207.pdf](https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/172701/PZ_207.pdf)

Equivalently, amendments to the State Attorney's Office Act<sup>8</sup> were proposed in relation to the procedure for appointing the Chief State Attorney of the Republic of Croatia.

Both Bills have been submitted to the parliamentary procedure for the second reading by the Government of the Republic of Croatia, and these legislative proposals are expected to be adopted at the beginning of 2022.

***2. Irremovability of judges, including transfer of judges (including the ones within the court network reform), dismissal and retirement of judges, presidents of courts and state attorneys (including judicial review of decisions)***

Information on the legal framework for the irremovability, transfer and dismissal of judicial officials were presented in the 2020 and 2021 contribution of the Republic of Croatia.

***3. Promotion of judges and state attorneys (including judicial review of decisions)***

Relevant information is presented in the contribution of the Republic of Croatia for 2020.

***4. Allocation of cases in courts***

Information on the existing system of case allocation in courts is presented in the contribution of the Republic of Croatia for 2020.

The Bill on Amendments to the Act on Territorial Jurisdiction and Seats of Courts,<sup>9</sup> which was sent for the second reading in the parliamentary procedure, and which is expected to be adopted at the beginning of 2022, aims at changing the system of jurisdiction and assignment of the appellate civil cases to the county courts.

After many years in effect, the provisions of Article 4 of the current Act on Territorial Jurisdiction and Seats of the Courts on second-instance specialization within the civil branch of judiciary, and due to the continuous trend of reducing the number of second-instance cases, the implementation of such specialization is no longer necessary as a special tool for balancing the workload of county courts. Moreover, the existing system of court case assignment generates problems and uneven workload, resulting in extended total time necessary to solve second-instance civil cases. For this reason, this Act proposes that all county courts will have jurisdiction in resolving appeals against decisions of all municipal courts in civil cases.

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

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<sup>8</sup> [https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/172802/PZ\\_208.pdf](https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/172802/PZ_208.pdf)

<sup>9</sup> [https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/173002/PZ\\_209.pdf](https://www.sabor.hr/sites/default/files/uploads/sabor/2021-12-02/173002/PZ_209.pdf)

The legal and institutional framework guaranteeing the independence of the judiciary in the Republic of Croatia has been described in the national contributions for 2020 and 2021. In Croatia, becoming a professional in the judicial area, as well as appointments, dismissals, promotions and disciplinary proceedings are exclusively a responsibility of the profession, i.e. the State Judicial Council as a special, autonomous and independent body defined by the Constitution, to which representatives of the executive branch cannot be elected, while most members of the Council come from the ranks of judicial staff.

Taking account of the role of the State Judicial Council, as well as the objections that the latest amendments to the State Judicial Council Act of 2018 reduced the role of this body in the procedure of appointing judges, the State Judicial Council was invited to submit its proposals for amendments to the State Judicial Council Act in 2021, and amendments to this Act are included in the Plan of Legislative Activities of the Government of the Republic of Croatia for 2022.

The draft of the Act, which is still being finalized and is due to be published for public consultations in early February 2022, will take into account almost all the proposals received by the State Judicial Council. Essentially, all those refer to diminishing the administrative workload for the Council, equalizing the requirements for all judges for the candidacies for members of the Council, extension of time frame in which it is possible to temporary transfer judges if it does not negatively affect the work of courts, harmonization of procedural provisions on disciplinary proceedings for the removal of judges, revision of the requirements for the appointment of court presidents by disabling them for a certain period of time for judges who have been legally disciplined and that the existing limitation of two possible reappointments, which has been proven problematic in practice, especially for smaller courts, should be changed to two in a row, and that this restriction should generally be removed for courts of another type.

Regarding the strengthening of the Council's role in the appointment of judges it is envisaged to increase the number of points that candidates can achieve in the interview with the Council from 15 to 20 and expand the Council's discretionary decisions about the candidates, where the difference in points between the appointed candidate and the candidate with the highest total point number should not exceed 10 points, and it should be increased from 10 to 15 candidates and 15 points. In order to increase the efficiency of appointment procedures, it will be proposed not to invite for interview those candidates who cannot be appointed even with the highest possible number of points in the interview (because they did not receive sufficient points based on formal criteria), and the limitation in which the Council cannot invite for interview those candidates who did not achieve at least 130 points in the assessments of the performance of judicial duties is also excluded.

This Act is planned to be adopted in May 2022, taking effect as of 1 July 2022.

In a generally corresponding manner, and taking into consideration certain particularities of the State Attorney's Office and the State Attorney Council as well as the suggestions of the State Attorney Council, a proposal for amendments to the State Attorney Council Act was

drafted, the referral and adoption of which is planned together with the Act Amending the State Judicial Council Act.

Amendments to the Courts Act, which are already in parliamentary procedure, include authorizing the State Judicial Council to appoint an acting president of the Supreme Court of the Republic of Croatia in case the existing president stops performing their duty, until the election of a new one. The existing solution, stating that in case that the President of the Supreme Court of Republic of Croatia stops performing tasks of court administration, the Deputy President of the Supreme Court of the Republic of Croatia, appointed by the annual work schedule, shall act as the President until the election of the President of the Supreme Court of the Republic of Croatia is not sufficient because of the time limit on the validity of the annual work schedule.

***6. Accountability of judges and state attorneys, including disciplinary regime and bodies, as well as ethical rules, immunity, and criminal / civil liability (where applicable) of judges (incl. judicial review of decisions)***

The legal framework for disciplinary accountability of judicial officials and the ethical rules applicable to them have been presented in the Republic of Croatia's contribution for 2020 and 2021.

Since 1 July 2021, seven requests for disciplinary proceedings have been received, all seven for the disciplinary offense referred to in Article 62, paragraph 1, item 1 of the State Judicial Council Act – disorderly performance of judicial duties. Four proceedings have been completed before the Minor Disciplinary Council, and the decision on the judges' disciplinary liability will be made at the next State Judicial Council session. Where necessary, the authorities have started criminal investigations, as described in the answer to the question number 29.

In order to increase the disciplinary accountability of judges, the forthcoming amendments to the State Judicial Council Act plan to supplement the catalog of disciplinary acts in the first half of 2022 by making the judges framework criteria stricter. This is to be done in the manner that the existing act of failing to achieve expected performance with no valid justification in the percentage lower than 80% be prescribed in the 100% amount. The need to correct this disciplinary act stems from an analysis of judges' general performance, which indicates that a relatively high-performance average on an annual level is achieved by the middle of the year and slows down with no valid grounds in the second half of the year, which further negatively reflects on the inefficiency of the system in general. In addition, the occurrence of statute of limitations in court proceedings without a justified reason due to failure to take procedural actions will be prescribed as a special case of disorderly performance of duties.

The proposed amendments to the Courts Act introduce periodic renewal of security vetting's for all judges, and the reason for this is the continuously high level of negative public perception on corruption in the judiciary, as well as several individual cases of frequent inappropriate contacts and behavior of judges that have been highly exposed in the media,

and that are currently being penalized through existing proceedings for violations of the Code of Judicial Ethics and disciplinary and criminal proceedings. Security vetting's already exist in the Croatian judicial system. In case of judges assigned to judicial departments specialized in corruption and organized crime, the vetting's were introduced in 2010 and are periodically renewed, while the basic security vetting's before the appointment of judges to first instance courts and the Supreme Court of the Republic of Croatia were introduced in 2015.

The proposed amendments further upgrade the system of security vetting's of judges, by introducing a renewal of security vetting's every five years, as well as prescribing security vetting's within a certain time limit after these amendments come into effect for all judges who have never been subjected or were subjected to these vetting's more than five years ago.

The draft proposal places the responsibility of initiating these proceedings into hands of the presidents of the courts, who submit requests for security vetting's through Ministry of Justice and Public Administration, which will forward it to the competent security and intelligence agency. Security vetting reports shall be submitted directly to the President of the Supreme Court of the Republic of Croatia, and the final assessment of security impediments based on the submitted report shall be made by a special body, the five members of which are appointed by the General Session of the Supreme Court from the ranks of the Supreme Court judges.

The President of the Supreme Court of the Republic of Croatia shall inform all those authorized to initiate disciplinary proceedings against judges about the established existence of security impediments, which means that any allegations of misconduct can be sanctioned only in disciplinary proceedings before the State Judicial Council, whose primary role is securing the autonomy and independence of the judiciary branch. Additionally, criminal proceedings are possible if elements of criminal acts are identified.

The Ministry of Justice and Public Administration has requested an opinion on this draft act from the Venice Commission, which is expected in March 2022, after it is passed at the plenary session.

***7. Salaries / bonuses / rewards for judges and state attorneys, including modifications (significant increases or decreases over the past year), system transparency and access to information***

Relevant information has been presented in the contribution of the Republic of Croatia for 2020.

***8. Independence / autonomy of the State Attorney Office***

Relevant information has been presented in the contribution of the Republic of Croatia for 2020.

## ***9. Independence of the Bar Association (Association of Attorneys-at -law) and attorneys***

Relevant information has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

The work on the amendments to the Act on the Legal Profession (Attorneys-at Law Act), which regulates the organization and operation of the legal profession (attorneys-at-law), began in 2021, primarily to harmonize the content of this Act with the relevant acquis communautaire in this area, namely Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, Directive 2006/123/EC of the European Parliament and of the Council from 12 December 2006 on services in the internal market, Directive 2005/36/EC of the European Parliament and of the Council from 7 September 2005 on the recognition of professional qualifications as amended by Directive 2013/55/EC of the European Parliament and of the Council from 20 November 2014, Directive (EU) 2018/843 of the European Parliament and of the Council from 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU, with Directive (EU) 2015/849 of the European Parliament and of the Council from 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, Council Directive 2013/25/EU from 13 May 2013 adapting certain directives in the field of rights of establishment and freedom to provide services due to the accession of the Republic of Croatia and 77/249/EEC: Council Directive from 22 March 1977 to facilitate the effective exercise of the freedom to provide legal services. This harmonization shall be carried out in accordance with the reasoned opinion of the European Commission addressed to the Republic of Croatia in accordance with Article 258 of the Treaty on the Functioning of the European Union from 2 July 2020. (Infringement No 2017/4067).

At the same time, the Act has implemented the measures of the Government's First Action Plan for the Liberalization of the Services Market from 2019, and the Government's Action Plan for the Liberalization of the Services Market from 2021, which relate to the legal service.

The European Commission's official warning procedure included two acts within the competence of the Croatian Bar Association. On 11 December 2021, the Board of Directors of the Croatian Bar Association passed the Ordinance on amendments to the Ordinance on advertising and attorney website, correcting the overly restrictive regulation of this area, and the procedure of amending the Tariff on remuneration and reimbursement of attorneys' fees, which will allow greater flexibility in negotiating rates, without being tied to an otherwise fixed amount of attorneys' hourly rate is in progress.

Starting in early 2022, this will eliminate all identified infringements, and changes in the relevant normative framework will not affect the independence and autonomy of the legal profession.

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

Relevant information has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

Due to a continuously high level of negative public perception on corruption, but also the work of the judiciary in general, especially considering several individual, media-exposed cases of frequent inappropriate contacts and behavior of judges, which can currently be sanctioned only through violations of the Code of Judicial Ethics, disciplinary and criminal proceedings, it is necessary to increase accountability of judiciary officials.

In addition to increasing disciplinary accountability, it has been deemed necessary to pay special attention to strengthening the personal integrity of judiciary officials, as well as act preventively in relation to all inappropriate activities that may endanger the judicial system. Amendments to the Courts Act and State Attorney's Office Act, which are currently in the parliamentary procedure second reading, periodic basic security vetting's are proposed for all judiciary officials every five years, especially for those that have never been checked, who should be checked immediately after these Acts come into effect, since the lack of security impediments is inextricably linked with the preconditions to perform these duties appropriately. Since the security vetting's are already in effect and are being performed in the procedures for appointing judicial officials, and that the Act governing the conduct of security vetting's stipulates that security vetting's should be renewed every five years, these Acts specifically prescribe these procedures for judiciary officials. The security vetting's report would be submitted to the President of the Supreme Court of the Republic of Croatia (for judges) or the Chief State Attorney of the Republic of Croatia (for Deputy State Attorneys), and the final assessment of on the existence of security impediments, based on the submitted report, would be issued by a special collective body within the highest judiciary bodies, whose members would be appointed by the General Session of this court from the ranks of judges, or Collegiate Body of the State Attorney's Office of the Republic of Croatia from the ranks of deputy state attorneys. The President of the Supreme Court of the Republic of Croatia and the Attorney General of the Republic of Croatia shall inform all those authorized to initiate disciplinary proceedings about the possible security impediments, therefore in the event of identifying security impediments, the authorized proponents of disciplinary proceedings against judicial officials can initiate these proceedings regarding some of the existing disciplinary acts (e.g. performance of service, job or activity incompatible with judicial duty, causing disturbances in the work of the court that significantly affect the functioning of the judiciary branch, breach of official secrecy related to the performance of judicial duty, damaging the reputation of the court or other judicial office, etc.).



Within the security vetting procedure as it is defined by the Security Vetting Act, it is not possible to omit the engagement of the relevant security intelligence agency, but the Agency shall, within the security vetting procedure, only establish relevant facts, and only issue a report without making any conclusions. These vetting's proceedings are fully regulated by law, and the work of the security intelligence agency is under multiple supervision of the Croatian Parliament, the President of the Republic, the Government, the Office of the National Security Council and the Council for Civilian Oversight of Security Intelligence Agencies.

Judiciary officials can protect their rights through the right of participation, representation by counsel and available legal remedies in disciplinary proceedings. Council decisions are subject to further review by the Constitutional Court of the Republic of Croatia.

## ***B. Quality of judicial system***

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

Relevant information has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

### ***12. Resources of the judiciary (human/financial/material)***

General review of the judiciary human and financial resources has been presented in the contribution of the Republic of Croatia for 2020 and 2021.<sup>10</sup>

### ***13. Professional development of judicial officials (including judges, prosecutors, attorneys and judicial administrators)***

The framework and functioning of the institution for the judiciary education has been described in the contribution of the Republic of Croatia for 2020 and 2021.

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<sup>10</sup> A 25% increase in the budget was provided in 2020 for the State Judicial Council, but the planned employments that would have increased Council's administrative capacity have not been realized due to COVID-19 pandemic.

As far as State Attorney's Office is concerned, 66% of the budget expenditures of the State Attorney's Office of the Republic of Croatia (hereinafter DORH) goes for human resources. Furthermore, at the request of DORH, the Government of the Republic of Croatia is authorized to conduct an ad hoc allocation of additional resources for specific complex cases, requiring participation of financial investigators. To encourage candidates' applications for specialized positions such as financial investigators, changes to the regulations have been introduced since 2020, simplifying the recruitment process for the jobs in question.

New requirements for the judiciary work in epidemic circumstances (compliance with the epidemiological measures for parties and public, infrastructural prerequisites for using modern technologies, appropriate workspaces for judiciary officials and administrators in judiciary and penal institutions etc.), as well as the consequences of earthquakes that affected Croatia in 2020 indicated the need for additional investment in judicial infrastructure. The Ministry of Justice and Public Administration is working on consolidating and investing in the infrastructure of judicial and penal institutions in order to ensure more appropriate working conditions and energy efficient working spaces, with special emphasis on institutions located in economically less developed areas. Part of the investment in judicial infrastructure is also addressed in the National Recovery and Resilience Plan for the judiciary branch.

The proposed amendments to the Courts Act and the State Attorney's Office Act, which should be passed at the beginning of 2022, will also emphasize the mandate of continuous professional development of judicial officials and employees in judicial authorities. According to the current regulations, judicial officials have the right and obligation to undergo professional training at least once a year in the Judicial Academy or the European Network of Professional Training Centers for Judicial Officials. In order to further encourage the professional development of judicial officials, the proposed amendments delete as insufficient and unsatisfactory the provisions stipulating that this must be done at least once a year, and the Minister in charge of justice is authorized to regulate the content and dynamics of compulsory professional training by a special rulebook, and in this way the obligation of their professional training will be determined to a greater extent than the current training mandate.

A specialist exam is planned to be introduced for the employees in judiciary institutions, and the exam would be taken after a certain time of employment in judiciary institutions. A program and curriculum for professional development of judges appointed to work in specialized family departments is also planned.

Special programs are being developed in cooperation with the Croatian Bar Association for the professional training of lawyers practicing family law, in order to ensure a satisfactory level of legal assistance provided to parties in these proceedings. The Act Amending the Act on the Legal Profession, which became effective at the beginning of December 2021, specifically states the obligation of professional training of lawyers. Bar Association will establish a program and curriculum for the professional training of lawyers within special regulations.

In the same way, during 2022 the amendments to the Notary Act will determine the obligation of professional training of notaries.

The following activities that took place in the reporting period are worth highlighting:

- In 2021, the Judicial Academy held two trainings on the topic of protection of persons reporting irregularities (whistleblowers) for civil judges and court counselors at the municipal and county level, with an emphasis on those judges and counselors dealing with labor disputes and deputy and state attorney advisors of criminal departments - there was a total of 14 participants. There are also planned training programs for 2022.

- On 15 September 2021, the implementation of the project "Promoting the rule of law and fundamental rights through quality distance learning in the Croatian judiciary" began, funded by the Technical Assistance Instrument DG REFORM by the European Commission. The project is implemented jointly by the Judicial Academy, the Office of the Representative of the Republic of Croatia before the European Court of Human Rights and the Council of Europe. It will last for 20 months. Its purpose is to support the Judicial Academy in improving the methodology, aids and expertise for the development and implementation of high-quality education, especially in the field of

human rights and rule of law, and in accordance with the needs that the Croatian judiciary will express through the project.

- On 10 December 2021, the HELP online course "Procedural Safeguards in Criminal Proceedings and Victims' Rights" started in Croatian language, for Croatian judges, deputy state attorneys, judicial advisers and lawyers from the Victims and Witnesses Support Department in courts. A total of 19 participants applied. The course will last until the end of February 2022, and the mentor is the Assistant Representative of the Republic of Croatia before the European Court of Human Rights.

- As part of their training program, the Judicial Academy continues the practice of organizing an introductory online course of the Council of Europe's HELP program "Introduction to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Court of Human Rights" for trainees in the judiciary. For the current generation of trainees, the course starts on 10 January 2021 and lasts for 10 weeks. This has been recognized as a good practice by the Council of Europe.

- In January 2022, the Judicial Academy plans to hold four trainings on the topic of "Civil Service Ethics". The target group are employees in the judiciary branch.

#### ***14. Digitization (e.g. use of digital technology, in particular electronic communication tools within the justice system and with users, including system resilience in the context of the COVID-19 pandemic)***

A general overview of the judiciary system digitization, as well as further planned improvements, has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

Further steps have been taken in the digitization of the judicial system, and the eSpis (e-File) system has been introduced in all remaining courts: in the administrative courts and the High Administrative Court, it was introduced in June 2021.

In addition to current users (lawyers, notaries, court experts, appraisers, interpreters and bankruptcy trustees), legal entities have also been added to the e-Communication system.

Quantitative indicators for 2021 will be provided at a later date (as part of the information provided to the European Commission regarding the EU Judicial Situation Review for 2022, and related to monitoring the implementation of the National Recovery and Resilience Plan).

As part of the National Recovery and Resilience Plan, the Independent Sector for the Digitalization of Justice and Public Administration is the leader of two projects aimed at improving the judiciary system. These are the Improvement of the Case Management System (eSpis) and the Development of Tools for Public Announcement and Court Decision Search.

At the end of 2021, a proposal for amendments to the Notary Act was drafted, which, in addition to certain changes in the status and organizational issues of notaries and liberalization of access to this profession, envisages modernization of notary operations by introducing the possibility of compiling notarial documents electronically, and the possibility of drawing up such documents remotely. This draft act was submitted to parliamentary procedure in December 2021, and it is expected to pass during the first half of 2022.

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

A general overview of assessment tools and standards and further activities related to the upgrade of the ICT system has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

In June 2021, the eSpis system was introduced in four first-instance administrative courts together with the High Administrative Court of the Republic of Croatia (see answer to the previous question). The eSpis application provides a large number of statistics that are automatically available to courts and the Ministry, including statistics on the Framework Criteria.

Further activities related to the upgrade of the ICT system (equipment in judicial institutions) to enable remote work and online hearings / gathering of evidence have already begun in 2020, with the delivery of cameras, laptops, and increased available broadband, so that by the end of 2022, all infrastructural requirements will be met. There is a list of equipment for all judiciary institutions, but the needs and omissions are being determined, and, as aforementioned, the delivery of necessary equipment is conducted by a schedule. All courts and state attorney's offices should have all the necessary equipment for the smooth implementation of remote work, distance litigation and similar procedures by the end of 2022.

***16. Geographical distribution and number of courts / jurisdictions (judicial network) and their specialization, in particular special courts or judicial councils for fraud and corruption cases***

A general overview of the court network and specializations has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

In order to ensure more efficient and better legal protection in cases under the law governing family relations (in family law cases), it was necessary to specialize judges and therefore to establish specialized court departments in some municipal courts. Among the requirements for ensuring the availability of courts and the requirements for ensuring better and more effective legal protection in the field of civil proceedings in family cases, the most balanced

solution is the one that provides family protection in each judicial area or area of jurisdiction of each county court.

Amendments to the Act on Territorial Jurisdiction and Seats of Courts, which were sent to the parliamentary procedure of the second reading and are expected to be passed in early 2022, will determine all municipal courts in the seats of county courts (15) and the Municipal Court in Novi Zagreb as competent courts (given the size of the jurisdiction of the County Court in Velika Gorica, the fact that the Municipal Court in Novi Zagreb covers a significant part of the City of Zagreb and the number of these cases that are currently pending in this court).

In order to increase the availability of legal protection to citizens, it will be the obligation of the presidents of county courts in whose territory the municipal courts are competent to ensure conditions for taking procedural actions in these cases and thus enable hearings and other procedural actions in parties closer to municipal courts.

Amendments to the Courts Act, which are also expected to become effective in early 2022, will stipulate that only judges who have a strong preference for the upbringing, needs and benefits of children, have basic knowledge in the field of social work with youth, education and youth psychology, and have met the special requirements for professional development according to the program determined by the Minister responsible for justice can be assigned to specialized family departments. These judges will be appointed by the President of the Supreme Court of the Republic of Croatia for a five-year term, and after the term expires, they may be reappointed if they meet the prescribed requirements.

A number of professional associates from the fields of special education, sociology, education, psychology and other appropriate professions will be assigned to work in family departments, and that will provide additional professional support to the work of these departments.

In order to balance the workload, this Act also proposed changes in the actual and territorial jurisdiction of the Commercial Court in Split and the Commercial Court in Dubrovnik. Amendments to the Act on Areas and Seats of State Attorney's Offices envisage changes in the functional organization of the Municipal State Attorney's Office in Zagreb and its separation into two separate state attorney's offices, one for civil and administrative cases and the other for criminal and misdemeanor cases.

Both Bills have been submitted to the parliamentary procedure for the second reading, and their passing is expected at the beginning of 2022.

### ***C. The efficiency of the judicial system***

#### ***17. Length of proceedings***

The average length of proceedings in civil cases completed during 2021 was reduced compared to the previous year, from 826 to 674 days. The average duration of proceedings in second-instance litigation cases of county courts was also shortened compared to 2020, from 233 to 167 days.

In addition to monitoring the work of municipal, county and commercial courts and the High Commercial Court of the Republic of Croatia in cases lasting more than 10 years, the Ministry of Justice and Public Administration especially monitors the effectiveness of these courts in cases lasting more than 7 years. During 2021, the number of unresolved cases in which the procedure lasted longer than 7 years was reduced by 34% compared to the situation found on 1 January 2021. An analysis of action plans to improve the efficiency of the courts for 2021 is underway, and the results will be the basis for the development of efficiency improvement plans in 2022.

In order to improve the efficiency of the work of courts, the Minister of Justice and Public Administration also adopted new Framework Judge Performance Benchmarks, which became effective on 1 January 2022. The new Framework Judge Performance Benchmarks have revised the evaluation of cases in each type of court. Based on statistical data and indicators for certain types of cases, a new (larger) number of cases that a judge has to resolve has been determined in municipal courts, whose results have the greatest impact on overall efficiency. Also, procedural decisions in first instance courts (the number of which is higher than final ones) are separately evaluated, taking into account for the first time the type of procedural decision, and respecting the collected opinions of all courts.

It should be noted that when drafting the new Framework Criteria, care was taken to enable judges to achieve the annual number of resolved cases with regular work prescribed (and higher for judges who will make additional effort). It is expected that this increase, which in no case exceeds 10%, will reflect in a significant improvement to the overall efficiency of the courts.

Although the number of unresolved cases has significantly decreased in the past period, lengthy proceedings in certain types of cases as well as a high level of public distrust in the judicial system are reasons for further efforts and investment in increasing efficiency and gaining citizens' trust in the judicial system.

In early 2021, the Ministry of Justice and Public Administration started drafting action plans to improve the efficiency of the work of courts. For each judicial area (county and municipal courts in the same area), as well as specialized courts (commercial, administrative, High Commercial Court of the Republic of Croatia, High Administrative Court of the Republic of Croatia and High Misdemeanor Court of the Republic of Croatia) a special plan has been prepared for each court and focused on three areas: increasing the total number of resolved cases in accordance with efficiency indicators by type of case, more intensive resolution of cases conducted in courts for over seven years and special monitoring and resolution of criminal cases in which there is a threat of the statute of limitations. The implementation of action plans is monitored on a monthly basis so that the subjective and objective reasons for

possible non-fulfillment of goals set by action plans can be determined in synergy with court presidents, and the Ministry will support courts in removing found obstacles.

In addition, the work of the new High Criminal Court is expected to have positive effects on the length of proceedings in the criminal justice system.

Acceleration of litigation proceedings in municipal and commercial courts, bankruptcy proceedings, the need to further regulate the land registry system and cadaster are areas where reforms will be carried out in the coming period.

As described in the Republic of Croatia's contribution for 2021, further reforms are planned to increase the efficiency of the judiciary, with emphasis on civil procedure reforms, promotion of judicial conciliation, bankruptcy and consumer bankruptcy proceedings reforms, and amendments to the Criminal Procedure Act.

Furthermore, given the number of identified priority normative changes by the end of 2021, a decision was made that, instead of adopting a new law, amendments to the current Notary Act will be introduced. These changes are being made primarily for the purpose of introducing notarial documents in electronic form and preparing such documents remotely. It is also an opportunity to introduce additional improvements in areas where the current application of the Act has identified certain shortcomings (bearing in mind that this is a law passed in 1993, whose later amendments were implemented only in fragments and individual provisions of which no longer meet the needs of legal transactions and the role of notaries in such transactions). The amendments will seek to ensure greater availability of notary services in places where there are no grounds to establish a notary public seat, eliminate shortcomings of the existing regulation of the status of notarial clerks, deputy notaries and deputy notary clerks and acting notaries, to provide more comprehensive regulation of notarial remuneration and fees and reform the provisions on the supervision and disciplinary liability of notaries. The passing of this Act and its coming into effect are planned for the second quarter of 2022.

### ***Miscellaneous***

In addition to the elements related to the previous questions, the draft amendments to the Courts Act from 2021 also included a revision of the normative framework for permanent court experts, appraisers and interpreters.

According to the current regulation, decision-making on status issues of permanent court experts, appraisers and interpreters is entrusted to all county and commercial courts, depending on the residence or seat of the expert, appraiser or interpreter. On top of additionally burdening the courts with deciding on their status issues, the revision of the normative framework for permanent court experts, appraisers and interpreters has been undertaken due to the inconsistent and uneven case law practice. The Ministry of Justice and Public Administration does not have up-to-date and complete info on appointed and dismissed permanent court experts, appraisers and interpreters. This, and their number

makes it difficult to communicate with these categories and prevents sufficient use of available tools to monitor their work and expenditure of the state budget, which partially covers their remuneration and fees.

For these reasons, it is primarily proposed to entrust the power to appoint permanent court experts and permanent court interpreters to the minister in charge of justice. Given that the essential difference between the categories of permanent court experts and appraisers has been lost over time and that the existence of a separate regulation for these categories is no longer justified, it is proposed to abolish the special regulation for permanent court appraisers, who would continue to perform their duties as court experts. In the definitions of permanent court interpreters and permanent court experts, it is proposed to emphasize their connection with judicial institutions and the proceedings before them, and it is proposed to prescribe all the requirements of their appointment by law. In accordance with their title - "permanent" - it is proposed to abolish the four-year appointment term, so that, once appointed, they could perform these duties as long as they fulfill prescribed requirements. It is also proposed that these statuses are no longer granted to legal entities, as all these activities are performed individually and individuals are solely and personally responsible for their performance, although, according to procedural regulations, it remains possible to hire legal entities for this work. As before, most issues regarding the status procedures of permanent court experts and interpreters, as well as their rights and duties will be regulated by bylaws.

Regarding the work organization in judiciary institutions during the pandemic, the unfavorable development of the epidemiological situation in the Republic of Croatia at the end of 2021 required re-intervention in the work organization of the judiciary institutions. Therefore, on 15 November 2021, the President of the Supreme Court of the Republic of Croatia issued an Instruction on the manner of implementing a special security measure of mandatory testing of judicial officials, civil servants and court employees. The obligation to present an EU digital COVID certificate or other relevant evidence of vaccination, illness or testing also applies to all parties who come to the judiciary institutions, all service providers who provide various services or are engaged in certain activities in the judiciary institutions, and other people who come to the judiciary institution on any ground. In addition, judges are encouraged to use electronic means of communication and to hold hearings via video link in all proceedings where possible.

## **II. Anti-corruption framework**

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

***18. List the changes regarding relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption, and the resources allocated to these (the human, financial, legal, and***



***technical resources, as relevant), including cooperation between domestic bodies. List any other relevant measures taken to cooperate effectively and in a timely manner with OLAF and EPPO (where applicable)***

The legislative and institutional framework of the Republic of Croatia for the fight against corruption is described in the Report of the European Commission and Croatia's contributions for 2020 and 2021.

The Strategy for the Prevention of Corruption for the period from 2021 to 2030, adopted by the Croatian Parliament at its 8th session on 29 October 2021, within the framework of Special Objective 4.1. "Strengthening the institutional and normative framework for the fight against corruption" contains Measure 4.1.20. "Improving the normative framework for the prosecution of corruption offenses in order to speed up the procedure." In this regard, the Strategy states that in the current strategic period, appropriate legislative amendments will be made to the provisions of the Act on the Office for the Suppression of Corruption and Organized Crime, which would contribute to the efficiency of proceedings, i.e. their completion within a reasonable time, as well as increasing the capacity of the Office for the Suppression of Corruption and Organized Crime with the objective of its more efficient work.

During 2021, the administrative capacity of the **State Commission for the Control of Public Procurement Procedures** (DKOM) has been increased. DKOM now has 34 employees, and plans to improve its internal organization, as well as develop work processes by further expanding administrative capacity. The **Office of the Information Commissioner** employs 18 civil servants along with the Commissioner, who is a state official. Furthermore, the **State Audit Office** now has a higher number of employees compared to previous years due to the increased scope of work resulting from the new Act on the State Audit Office, which expands the Office's competence, creating the need for new organizational units and increase in the number of employees. Therefore, 23 new employees were hired in 2021, which leads to a total of 305 employees, including 2 officials. In 2021, the number of employees in the **Ombudsman's Office** was slightly reduced, to a total of 52. In this context, it is important to note that due to the application of the new Act on the Protection of Persons reporting irregularities provisions (currently in the process of adoption, more information in response to question no. 24) it is planned to increase the capacity of the Office of the Ombudsman in the form of hiring 5 new employees. Consequently, as of 1 January 2022, a new employee has started working in the Office. Furthermore, the **Commission for Conflicts of Interest** has been moved to new, larger business premises and still consists of five members, while the Office of the Commission has fourteen employees. It is important to note that due to the expansion of the Commission's competences, and compliant with the new Act on the Prevention of Conflicts of Interest (Official Gazette 143/21), the employment of 9 new officials has been approved for the period of the next three years. As for the funds from the State budget for 2021, the Republic of Croatia State budget plans 6,475,520.00 HRK for the work of the Commission for conflicts of interest (a slight reduction from 7,305,718.00 HRK in 2020); 4,988,837.00 HRK for the Office of the Information Commissioner (a reduction from 6,378,305.00 HRK in 2020); and 10,412,500.00 HRK for the State Commission for the Control of Public Procurement Procedures (slight reduction from 10,877,740.00 HRK in 2020). In 2021, the State Audit Office had a budget of HRK 87,714,333.00 (which is an increase

compared to HRK 68,693,144.00 in 2020), and the budget of the Ombudsman's Office for 2021 is 14,325,986.00 HRK (which is an increase compared to 13,511,024.00 HRK in 2020); and for the State Election Commission HRK 20,371,212.00 (which is a decrease compared to HRK 192,508,963.00 in the 2020 election year). Execution of the budget of the Office for the Suppression of Corruption and Organized Crime (USKOK) for 2020 amounted to HRK 28,596,377.42, and the budget plan for 2021 amounts to HRK 27,471,600.00 (new plan for 2021 - Revised Budget, Official Gazette no. 122/21 from 16 November 2021).

Furthermore, in regard to cooperation with the European Public Prosecutor's Office (EPPO), from 1 June 2021, when it became operational in the exercise of its competence by implementing Council Regulation (EU) 2017/1939 (Official Gazette 146/2020), representatives of the National Police Office for the Suppression of Corruption and Organized Crime (PNUSKOK) and delegated European prosecutors in the Republic of Croatia have direct and constructive cooperation in cases within the competence of EPPO. Cooperation is ongoing, and in 2021, among other things, resulted in the criminal charges and the initiation of criminal proceedings against four high-ranking Croatian citizens due to reasonable suspicion of committing corrupt criminal offenses related to public procurement procedures for EU funds. With the goal of further strengthening the cooperation with the European Public Prosecutor's Office, an Agreement on Cooperation and Access to Data Related to the Detection and Prosecution of Criminal Offenses between the European Public Prosecutor's Office and the Ministry of the Interior was signed at the end of 2021.

Under the Act Implementing Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office (EPPO) (Official Gazette 146/20), the Department of Delegated European Prosecutors has been established within the Office for the Suppression of Corruption and Organized Crime. The work at the Department of Delegated European Prosecutors is carried out by European delegated prosecutors and servants under the supervision of Delegated European Prosecutors.

In accordance with legislative changes, and in order to effectively prosecute criminal offenses against the financial interests of the European Union, under the annual schedule of the State Attorney's Office of the Republic of Croatia, a Deputy Chief State Attorney of the Republic of Croatia has been appointed, who monitors and analyzes the issues of criminal offenses committed to the detriment of the financial interests of the EU and coordinates the cooperation of the authorities of the Republic of Croatia that have jurisdiction for these criminal offenses, as well as cooperation between EPPO and DORH. At the same time, the active participation of the State Attorney's Office in the work of the AFCOS network continues, with the Deputy Chief State Attorney of the Republic of Croatia being appointed for that.

### ***19. Guarantees for the functional independence of the bodies responsible for preventing and detecting corruption***

As already presented in the European Commission report and the previous contributions from Croatia describing the legislative and institutional framework for the fight against

corruption in the Republic of Croatia, all bodies performing activities in the field of preventing and combating corruption are independent in their work and decision-making.

***20. Information on the implementation of measures set out in the strategic framework for the fight against corruption (where applicable). If possible, list relevant objectives and indicators.***

Priority areas and measures in the fight against corruption on a national level have been articulated in national strategic documents. To continue with the strategic discussion, implementation and upgrade of the anti-corruption measure system in the Republic of Croatia, in October 2021, the Croatian Parliament passed the Anti-Corruption Strategy for the period from 2021 to 2030 (Official Gazette, No. 120/21; hereinafter: The Strategy). The purpose of the new strategic framework is to strengthen existing and create new systemic solutions to prevent corruption at all levels, primarily through raising awareness of the harmfulness of corruption and making it socially unacceptable. Taking into account all experiences implementing previous strategic documents and in accordance with the general public perception of corruption in the Republic of Croatia, the new strategic framework defined priorities for further strengthening mechanisms to prevent and combat corruption in the future, and they will be implemented through three Action plans.

The content of the Strategy is in line with the National Development Strategy until 2030 (NDS). Regarding the area of anti-corruption in the NDS, the intervening direction has been defined within the Development Direction "Sustainable Economy and Society" and the strategic goal "Functional and efficient judiciary, public administration and state property management" within which priority areas are set; Trusted judiciary and legal system; Fight against corruption; Competent, accessible and efficient public administration; State property management.

An Action Plan for the period 2022–2024 is currently being drafted. As part of the implementation documents, it is planned to formulate and implement numerous anti-corruption activities in order to strengthen the institutional and legislative framework for the fight against corruption, strengthen transparency and openness of public authorities, improve the integrity system and raise public awareness on the negative effects of corruption. The action plans will include specific activities for the management of corruption risks within the framework of previously strategically determined specific objectives and measures in individual priority sector areas. With each planned activity, it will be necessary to determine the bodies responsible for implementation, clearly indicate the deadlines for implementation, the necessary financial resources and indicators of the results of the implementation of activities within each individual measure.

Regarding the monitoring of implementation, the Republic of Croatia has already established an institutional framework for monitoring the implementation of strategic and implementation documents in the field of anti-corruption. The Council for the Prevention of Corruption has been established in order to monitor the implementation of these documents and articulating national anti-corruption policies at the executive level. The Sector for

Prevention of Corruption of the Ministry of Justice and Public Administration acts as a professional and administrative support to the Council.

Based on the implementation of action plans, official reports on implementation will be prepared by the Ministry of Justice and Public Administration, with the aim of reporting to the Government of the Republic of Croatia, which is the responsibility of the Council for the Prevention of Corruption. In accordance with the current practice, the reports will be confirmed by the Council for the Prevention of Corruption, and after acceptance by the Government of the Republic of Croatia, published on the official website of the Ministry of Justice and Public Administration. In addition, the implementation of the Strategy will be monitored at the parliamentary level, through the work of the National Council for Monitoring the Implementation of the Anti-Corruption Strategy.

## ***B. Prevention***

### ***21. Measures to strengthen integrity in the public sector and their implementation (including incompatibility rules, "revolving doors", codes of ethics and ethical training). Provide figures on their implementation.***

The legal framework for ensuring integrity in public administration has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

In 2021, the normative framework in the field of conflict of interest management was additionally strengthened, which, among other things, addressed the need for further compliance with international standards (more information in response to question 23).

In this context, it should be noted that the new Strategy emphasizes the strengthening of the integrity system as one of its specific objectives and determines, among other things, measures to strengthen the integrity of local, regional and central authorities, strengthen ethical infrastructure for civil servants and strengthen ethical standards for officials in local and regional self-government.

The Ministry of Justice and Public Administration has established a Working Group to draft a Code of Ethics proposal for officials in the executive branch, and the group, in addition to state administration representatives, also includes representatives of the civil sector and academia. The working group is drafting a code taking into account the recommendations of the GRECO 5th Evaluation Round. Compliant with the NRRP, the deadline for the adoption of the Code is the 4th quarter of 2022.

During 2021, three workshops on ethical principle implementation were planned and held for ethics commissioners, and a total of 48 participants attended. Ethics commissioners have been appointed in all state and judicial bodies, and they are responsible for monitoring the implementation of the Code of Ethics for Civil Servants and resolving complaints of unethical

behavior (a total of 215 ethics commissioners and 40 deputies were appointed on 23 December 2021).

***22. General transparency of public decision-making (e.g. public access to information, including possible barriers with regard to information confidentiality, the work of the transparency bodies where they exist and the framework for lobbying rules, including lobbying transparency, asset reporting rules, gifts and funding transparency, transparency in political parties funding)***

The existing legal and institutional framework for these areas has been presented in the contribution of the Republic of Croatia for 2020 and 2021.

Regarding the field of lobbying, a Lobbying Act is currently being drafted, and it should regulate this profession in accordance with the highest ethical standards, ensuring high standards of transparency in the work of lobbyists. The working group established in 2021 to draft the Lobbying Act has so far held one meeting. It is expected that the process of drafting the Act will take place until the end of 2022. In addition, within the implementation of investments of the National Recovery and Resilience Plan from 2021 to 2026, digitization of registration and deletion procedures and the possibility of public access to data from the future register of lobbyists, as well as informing citizens about the future regulatory framework have been planned.

As for the asset declarations of judicial officials, they have become publicly available via an online application as of 4 January 2021, and further steps have been taken to strengthen the verification of asset declarations for judiciary officials. In this context, a public procurement procedure has been conducted for the services of upgrading the application system for electronic management of asset declarations of judiciary officials (IKS), and a contract has been signed with the selected service provider.

As part of creating the legal prerequisites for linkage, following the official request of the State Judicial Council and the State Attorney Council, the Minister of Justice and Public Administration, pursuant to Art. 28. of the Land Registry Act, authorized the said bodies to access and search land registry data. Furthermore, the Ministry of Justice and Public Administration signed agreements with the State Judicial Council and the State Attorney Council on the content and manner of access to personal data in order to access the necessary data, including those from the Register of Marriages, Register of Deaths, the Citizenship Register and the Life Partnership Register.

Furthermore, as of July 2021, a series of meetings have been held with representatives of state administration bodies whose registers have been identified as necessary to verify asset declaration data. Since some registers are already available in the production environment of the Government Service Bus, the selected service provider for these registers has communicated with the Central State Office for Digital Society Development (SDURDD) and test connections have been conducted for a total of 12 registers.

It must be noted that that not all the registers are available in the production environment of the Government Service Bus. Part of the FINA registers will be connected to the SDURDD in the coming months, and the Central Depository and Clearing Company is not currently connected to the Government Service Bus, so bilateral connections have been made. Currently, the online application for checking the asset declarations of judicial officials is in test production, and at the moment obtaining the formal consent of State Judicial Council and the State Attorney Council and SDUURD regarding the exchange of data is underway. More info on the asset declarations for public officials has been provided in the answer to the question 23.

A Bill of Amendments to the Right to Access Information Act has been submitted for adoption in order to comply with Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information and to eliminate shortcomings observed in its application.

In order to eliminate the shortcomings observed in the application of the Act, the Bill defines a concept of the responsible person (the existing definition of a responsible person has led to different interpretations and applications related to determining the responsibility of the head of the body in the practice of misdemeanor courts); the provision concerning information on the disposal of public funds is specified; in order to ensure the legal protection of the user, it is determined that the applicant has the right to object to the notification and it is specified that an appeal may be lodged with the Commissioner even in the event when the public authority does not decide on the applicant's complaint within the specified due time; the deadline within which the Commissioner must make a decision on the appeal is extended from the current 30 to 60 days (the existing deadline was objectively too short and resulted in a large number of administrative disputes due to the administration's silence in issues against the Information Commissioner, so the extended deadline allows the Commissioner to work more efficiently); the issue of replacing the Commissioner is regulated (in order to ensure continuity of service and overcome the existing legal gap).

The Bill of Amendments of Right to Access Information Act was discussed in the first reading in the Croatian Parliament which, at its 8th session, on 12 November 2021, after the debate on the draft act, adopted a Conclusion accepting the Bill of Amendments to the Right to Access Information Act, and also decided that all remarks, proposals and opinions presented in the discussion shall be sent to the proposer for the preparation of the final draft act.

The final draft of the Bill of Amendments is currently being prepared.

***23. Rules and measures to prevent conflicts of interest in the public sector. Specify the area where they are implemented (e.g. categories of officials to which they are applied)***

The new Act on the Prevention of Conflicts of Interest has been drafted after seven meetings of the working group and a public consultation, after which it was sent to the procedure of the Government of the Republic of Croatia. It was passed at the Croatian Parliament's session of 15 December and became effective on 25 December 2021. With the new Act on Prevention

of Conflicts of Interest, the Commission for Deciding on Conflicts of Interest remains an important independent anti-corruption body with extended powers to new obligated parties and new mechanisms for preventing potential conflicts of interest, as well as actual conflicts of interest.

Compared to the existing categories, the number of persons obligated by that law is significantly increased (about 1000 new persons obligated by law), and the law applies, among others, to:

- Presidents and members of companies in which the Republic of Croatia is the majority owner, but also those whose founder is a company in the majority ownership of the Republic of Croatia;
- Presidents and members of the management boards of companies in which municipalities, cities and counties are majority owners, but also those whose founder is a company in majority ownership of municipalities, cities and counties;
- President and the members of the management boards of HBOR, HAMAG-BICRO, Fina;
- Director of HRT, HAKOM, Information Commissioner;
- Director of the Reconstruction of the City of Zagreb, Krapina-Zagorje County and Zagreb County Fund;
- President of the Electronic Media Agency Council;
- Directors of health care organizations that were founded by the government or units of local and regional self-government.

One of the new provisions in the Act is the manner of adopting and supervising the code of conduct at the level of local (regional) self-government units, which will contribute to a culture of integrity and transparency, as well as strengthen anti-corruption capacities and public confidence in institutions at the local level. In prescribing the mandate to the local and regional self-government units to design, adopt and monitor codes of conduct, a broader discussion on the institution work is allowed, as well as the discussion on incorporating those values that each unit deems crucial in its everyday work, which results in stronger support for the established system among the same members that pass this code.

Furthermore, the Act on the Prevention of Conflicts of Interest introduces a new preventive mechanism – the declaration of the conflict of interest. It means that the person to which the Act applies will have to declare conflict of interest in the event of its potential existence and remove it in order to protect public interest or remove themselves from decision-making in situations that might present a conflict between personal and public interest.

Regarding the proceedings before the Commission, they will be faster, more efficient and transparent. Instead of the existing three steps, the procedure before the Commission will include two steps, namely, the initiation of the procedure and the decision on the (non) existence of a conflict of interest. The Commission will have to notify the official on the report and request a statement within 8 days' time. The decision on initiating or not initiating the procedure will be made by the Commission within 30 days, and within 6 months the Commission will make a decision on the procedure. In regard to the Commission's decision, it will be possible to initiate an administrative dispute before the High Administrative Court, which will make a decision within 90 days.

It should also be noted that the Commission will be additionally supported through the National Recovery and Resilience Plan, which provides funds for a project that will further improve the application for filling and checking asset declarations, as well as the process of filling in asset declarations itself.

Asset declarations will be submitted once a year, thus ensuring the higher quality of officials' transparency and the property control. Along with the existing data, asset declarations will also include data on activities, memberships or functions performed by the official two years before taking office, on persons' shares in companies (partnership), on the possession of cryptocurrencies and on claims on third parties, such as loans. The obligation to submit asset declarations 12 months after the expiration of the mandate and within 15 days is explicitly prescribed.

The term "business relationship" is more precisely defined, and will now include both rent and lease, as well as the term "receipts of obligated persons", which will now include all the officials' receipts, not just receipts related to public office. Also defined is the concept of private interest, which now includes both property and non-property interest for the obligated party and related persons.

It is important to note that the fines for violations are made stricter in this Act. From now on, the Commission will be able to impose a minimum fine of 4,000 HRK instead of 2,000 HRK. The maximum fine is still prescribed in the amount of 40,000 HRK.

Another new provision is that the Commission will be able to impose a sanction on the official who does not submit the required information. The Commission will be able to impose administrative penalties (financial or warning), guided by the principle of proportionality. This provision not only implements the GRECO recommendation, but also applies one of the fundamental constitutional principles.

It is important to note that the cooling-off period, during which officials will not be able to be appointed to management positions in companies with which the body in which they served was either in business relationship or was supervised by them, is extended from 12 to 18 months.

Furthermore, it should be noted that the Compliance Report for Croatia was published on 22 December, further to its adoption on 3 December 2021, at the 89th plenary session of GRECO, and that it assesses the measures taken by the Republic of Croatia to implement the recommendations of the days' time 5th Evaluation Round Report for Croatia, adopted at the 84th plenary session of GRECO, on 6 December 2019.

Regarding the highest level of the executive branch, the five listed partially implemented recommendations relate to the area of conflict of interest management. The Report states that the said recommendations have been taken into account in the process of drafting the new Act on the Prevention of Conflicts of Interest and, accordingly, that it is going in the direction provided by the recommendations. It should be noted that these recommendations



have been assessed as only partially implemented, given that at the time of the adoption of the Compliance Report, the Act on the Prevention of Conflicts of Interest had not yet been passed by the Croatian Parliament.

Furthermore, regarding the improvements of the new legislative framework, GRECO considers that the implementation of the recommendations is particularly affected by the new mechanism for reporting conflicts of interest by senior officials, by the application of an extended cooling off period, the obligation to submit asset reports once a year and the extension of the content of the data to be stated in such reports together with the additional supervisory powers entrusted to the Conflict of Interest Commission. In addition to the Act itself, GRECO notes that the administrative capacity of the Commission for Deciding on Conflicts of Interest has been strengthened and its budget increased.

#### ***24. Existing measures to ensure the protection of whistleblowers and encourage the reporting of corruption***

The existing Act on the Protection of Persons Reporting Irregularities is currently being changed<sup>11</sup>. In order to adopt Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law into the legal order of Republic of Croatia (Directive), on 21 June 2021, the Ministry of Justice and Public Administration, as an expert body, established a working group tasked with drafting an appropriate legal framework. Due to the horizontal nature of the matter of protection of whistleblowers the working group included representatives of the Ministry of Justice and Public Administration and representatives of the ministries responsible for labor and interior affairs, the Ombudsman, representatives of the judiciary, DORH, trade unions, employers and academia. A total of six meetings of the working group were held. It was decided that a completely new act will be drafted and that it will replace the Act on the Protection of Persons Reporting Irregularities currently in effect. At its session held on 15 December 2021, the Government of the Republic of Croatia accepted the new draft Act and submitted it for the further parliamentary procedure. In addition to the transposition of the Directive, this law will also improve certain solutions from the current law.

The new Anti-Corruption Strategy envisages two measures for protecting persons reporting irregularities. One concerns the improvement of the normative framework, while the other relates to the continuous education of judicial officials, trustees and employees.

It should also be noted that the area of protection of persons reporting irregularities is recognized in the National Recovery and Resilience Plan 2021–2026 (NRRP). The NRRP therefore plans a broad media campaign to raise awareness of the harmfulness of corruption, the need to prevent and combat it, and to inform the general public about existing reporting channels and mechanisms to protect persons reporting irregularities. The goal is to encourage citizens to report irregularities.

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<sup>11</sup> Act on the Protection of Persons Reporting Irregularities, OG 17/19

The training of judicial officials organized by the Judicial Academy on the topic of effective judicial protection of persons reporting irregularities has also continued. Two training courses were held, one in March and another in September of 2021. In addition, on 16 December 2021, an online conference on the protection of persons reporting irregularities was held organized jointly by the Ministry of Justice and Public Administration, the Ombudsman, the French Embassy in Croatia, the Human Rights House and the State School of Public Administration. The conference discussed new legislative solutions in Croatia and France related to the obligation to transpose the Directive, as well as the current practice of protecting persons reporting irregularities.

***25. List the sectors in your member state that have a high risk of corruption, as well as relevant measures that have been implemented / planned to monitor and prevent corruption and the conflict of interest in those sectors (e.g. public procurement, health care, programs granting citizenship to investors, risk or cases of corruption related to the allocation of EU funds, other)***

Priority areas and measures in the fight against corruption on the national level have been articulated in national strategic documents for fight against corruption, including the new Strategy in this field, adopted in October 2021.

The new strategic framework generally focuses on the prevention of corruption and addresses a wide range of areas that need to be improved, taking into account areas highlighted in international recommendations, such as the GRECO Evaluation Reports. The strategy focuses on strengthening the institutional and normative framework for the fight against corruption, strengthening the transparency and openness in work of public authorities, improving the integrity system and managing conflicts of interest, raising public awareness of the harmfulness of corruption and strengthening anti-corruption potential in the public procurement system. In this sense, the new Strategy detects several areas of risk that will be addressed as part of the implementation of accompanying action plans in this strategic period until 2030.

In this context, it is important to point out that on 1 June 2021, the Police Directorate adopted the Plan for the Implementation of Anti-Corruption Measures. Within the NRRP, the Ministry of the Interior will implement a project aimed at more effective fight against corruption and organized crime by strengthening the four PNUSKOK centers, which will be awarded additional capacity, digitized and equipped with smart technology.

As one of the priorities, the Strategy highlights the anti-corruption mechanisms at the local and regional level, among others, in the context of addressing the issue of transparency of financial spending at the local level and strengthening the framework for the prevention of non-transparent spending of public funds and envisages the measure of improving the transparency of the revenue and expenditure side of the budget, especially for local and regional self-government units. It also recognizes the need to strengthen anti-corruption tools in the management of companies which are owned in majority by local and regional self-government units in terms of encouraging the strengthening of corporate governance standards and in particular conflicts of interest management standards. It is also planned to

adopt a code of conduct for officials, civil servants, members of representative bodies for which a public declaration of interests is envisaged, as well as strengthening the preconditions for involving citizens in the adoption of legal acts at the regional and local levels.

Regarding the improvement of the capacity of the judicial system, the Strategy envisages several measures that contribute to the resilience of the judicial system to corruption risks, among others, increasing the capacity related to the judiciary officials' and civil servants' communication with the public, strengthening the integrity of judicial officials, improving the capacity and normative framework of the work of the State Judicial Council and the State Attorney Council, improving the quality of bankruptcy proceedings.

The Strategy also emphasizes that, in this strategic period, appropriate legislative changes will be made in terms of improving the normative framework for the prosecution of criminal corruption offenses, for the purpose of speeding up the procedure, primarily the provisions of the Criminal Procedure Code and the provisions of the Act on the Office for the Suppression of Corruption and Organized Crime, which would contribute to the efficiency of proceedings, i.e. their completion within a reasonable time, as well as increasing the capacity of the Office for the Suppression of Corruption and Organized Crime with the aim of its more efficient work. Furthermore, one of the specific objectives of the Strategy is to strengthen the integrity system and manage conflicts of interest and within this determines, among other things, the need to further increase the capacity of the Commission to decide on conflicts of interest, the need to adjust the normative framework, taking into account the assessments of international bodies, which is already in progress, and the need for additional investments and upgrades of the existing system, in order to develop appropriate IT solutions that would enable a complete automatic comparison of data from the asset reports and data available to the relevant government authorities.

One of the specific objectives of the Strategy is to strengthen the transparency and openness of the work of public authorities and special measures to improve the effectiveness of the normative framework for exercising the right to access and re-use information, monitoring the application of the provisions of the Act on the Right to Access Information- proactive announcements, consultations with the public and the publicity of the work of public authorities for certain groups of public authorities, capacity building in the application of the Act on the Right to Access Information (administrative, financial, legal framework), and the further improvement in the proactive disclosure of public interest data in an open format for re-use. In addition, the Strategy prioritizes areas related to prevention improvements in the field related to corporate governance in companies and the business sector. In this regard, it emphasizes the articulation and implementation of compliance systems and policies, as well as strengthening tools for anti-corruption, efficiency and corporate governance in companies owned by the Republic of Croatia and companies owned by local and regional self-government units with particular emphasis on alignment with the OECD Guidelines for Corporate Governance in State-Owned Enterprises with a goal, among others, to create preconditions for a more active role of ownership bodies in setting financial and operational objectives and achieving better coordination between relevant government authorities. In addition, it is planned to invest more efforts in improving the cooperation and coordination

of the bodies responsible to act on the content in reports of irregularities. Besides that, improvements are planned in the context of digitalization of reporting to the authority responsible for external reporting, and in the context of informing the person reporting on their report and subsequent actions, as well as informing citizens on the existing legal framework.

Regarding the implementation of the activities of the previous strategic framework, the implementation of internal anti-corruption action plans in companies in the majority ownership of local and regional self-government units has continued, prepared on the basis of the Anti-Corruption Program for company majority owned by local and regional self-government units for the period from 2021 to 2022.

Regarding the steps taken to reduce the risk of corruption in the allocation of EU funds, the Ministry of Regional Development and European Union Funds has established two networks of coordinators in the field of public procurement and government aid, in which representatives of all bodies in the management and control systems of the European Structural and Investment Funds (ESIF) participate. At the meetings of these networks, activities related to the sharing of good practice and recommendations are regularly carried out in order to prevent irregularities resulting from the misapplication of the rules related to state aid and public procurement.

In order to prevent the irregularities and fraud, as well as to exchange good and bad practices in dealing with and reporting and monitoring the handling of identified irregularities, in January 2017 the Network for the Management of Irregularities was established whose meetings are attended by persons for irregularities from Level 2 Intermediate Bodies (PT2) and, if necessary, representatives of Level 1 Intermediate Bodies (PT1), the Certifying Authority (CA) and the Directorate for Trade and Public Procurement Policy of the Ministry of Economy and Sustainable Development.

In compliance with its authority, the Ministry issues binding instructions to intermediate bodies of level 2, the purpose of which is to ensure correct and uniform conduct in the procedures for determining irregularities. Guidelines are a quick and effective instrument that influences the entire system of management and control systems (QMS) and corrects, i.e. prevents possible errors of the institutions in order to act more efficiently.

In addition to the above, in order to combat irregularities, the Ministry of Regional Development and EU Funds has published an e-mail address for reporting irregularities and/or fraud related to any actions or omissions of the bodies in the management and control system, in grant procedures, anyone with certain knowledge can also report irregularities anonymously, by any means of communication.

The activities undertaken by the Republic of Croatia in the international context are described in the reply to question no. 27.

***26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic***

Measures taken by the Ministry of the Economy and the Sustainable Development, the institution responsible for issues in the field of public procurement, are described in previous contributions from the Republic of Croatia. For undertaken criminal investigations, see the reply to question no. 29.

***27. Other relevant measures to prevent corruption in the public and private sectors***

All relevant anti-corruption measures and activities in Republic of Croatia are implemented at the national level within the framework of national strategic documents for the fight against corruption, as described in the reply to question no. 25.

Regarding the international activities of the Republic of Croatia in anti-corruption, it should be noted that the implementation of the project entitled "Raising awareness and standards in the fight against bribery in international business" started in July 2020, and is carried out in cooperation with the OECD and with the financial support of the Directorate-General for Structural Reforms (DG REFORM).

As part of the project, on November 23, 2021, an awareness raising conference was held, and an analysis of the legislative and institutional framework of the Republic of Croatia in relation to the provisions of the said Convention is underway, within which a Report with OECD recommendations for further improvements will be prepared. As part of the project, workshops for stakeholders at all levels of government are planned, where the findings and recommendations will be presented after the analysis of the legislative and institutional framework in order to strengthen the capacity to implement recommendations.

The implementation of this project is extremely important for the Republic of Croatia in the context of strengthening the anti-corruption framework, but also approaching the standards of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, i.e. joining the OECD Working Group on Combating Bribery in International Business Transactions, which monitors the implementation of the OECD Convention, which is also one of the key segments in the light of Croatia's accession to full membership in the OECD, as one of the important goals of the Government of the Republic of Croatia in the coming period.

In addition, the Republic of Croatia has set certain frameworks and is making constant efforts to strengthen the framework in accordance with OECD standards in other areas, such as the OECD Principles of Corporate Governance.

Furthermore, considering the importance of cooperation between the Republic of Croatia and the OECD, it is important to point out that we are currently participating in the implementation of the project entitled "Fair Market Conditions for Competitiveness in the Adriatic Region" aimed at strengthening business integrity and competitiveness in Croatia,

Bosnia and Herzegovina and Serbia, which, among other things, focuses on anti - corruption policy as one of the keys for fair market conditions.

Furthermore, it is important to mention that the area of combating and preventing corruption is one of the components in the Republic of Croatia's National Recovery and Resilience Plan. Within this framework, reforms and investments are planned for further improvements in several special areas of prevention, but also the repression apparatus in the fight against corruption.

### ***C. Repressive measures***

#### ***28. Criminalization of corruption and related offenses, such as bribery abroad, including the level of sanctions prescribed by law***

The criminal justice framework criminalizing corruption and related acts has been described in the contribution of the Republic of Croatia for 2020.

#### ***29. Information on investigations and sanction enforcement for corruption criminal offenses (including legal entities and high complex cases), and their transparency, including the ones connected with EU funds implementation***

In 2021, the Office for the Suppression of Corruption and Organized Crime (USKOK) continued to prosecute corruption offenses at all levels, including local, and several significant verdicts have been handed down in a number of lengthy, complex high-level corruption cases.

When it comes to high-level corruption and high-complex cases, in 2021 multiple investigations into high-level corruption were launched,<sup>12</sup> and an investigation launched in 2020<sup>13</sup> was expanded, with new investigation undertaken in connection to it.<sup>14</sup>

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<sup>12</sup> Among others, an investigation was launched against three judges of the same county court for corruption criminal offenses related to illegal conduct in cases in which they made decisions and personal contacts with defendants to make court decisions in favor of defendants for monetary and other rewards. Furthermore, an investigation was launched against the former Deputy County State Attorney and two employees of a company owned by the Republic of Croatia for criminal offenses of abuse of position and authority, illegal favoritism, etc.

<sup>13</sup> Regarding the investigation launched in 2020 against the former Secretary of State in the Ministry of Administration for the criminal offenses of trading in influence, bribery, abuse of position and authority, etc., note that the investigation was expanded in 2021. The investigation also includes a former assistant minister of economy and sustainable development, a former minister of the Ministry of Regional Development and European Union funds, president of a company owned by Republic of Croatia, head of the energy regulatory agency and a county government employee.

<sup>14</sup> In this regard, an investigation was launched against several defendants, including the President of the Management Board of a company with the majority ownership by the Republic of Croatia for criminal offenses of illegal favoritism and accepting bribes paid to him in real estate and personal vehicles.

Regarding corruption in regional self-government, in 2021 more investigations were launched into criminal acts of influence peddling, bribery and abuse of office at the county level,<sup>15</sup> as well as several investigations at the level of mayors, employees of companies with public authority and other officials of regional self-government bodies.<sup>16</sup>

For suspected corruption in the judicial system, an investigation was launched against the president of a commercial court, then a judge of another commercial court, the head of the office of the president of a commercial court, then the office manager of another commercial court, and two bankruptcy trustees for illegal bankruptcy proceedings. Investigations have also been launched against two municipal court clerks for receiving bribes and against a lawyer for giving bribe to a court adviser.

Following investigations, USKOK has filed indictments for corruption offenses, including in the cases of former state officials.<sup>17</sup>

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<sup>15</sup> Investigation against a county prefect, head of the administrative department in the county and employees of an institution established by the county, for criminal offenses of trading in influence, bribery for trading in influence and abuse of position and authority, and investigation against a county prefect and head of the county office for criminal offenses of trading in influence etc.

<sup>16</sup> An investigation has been launched against several people for abusing their position and authority and giving bribes to the mayor for allocating city public spaces for use, and an investigation has been launched against several people, including the former director general of an institution owned by Croatia, for trading in influence, bribery and bribery with the purpose of trading in influence, among others, to the former mayor through the former director general of the public institution, and as a consequence of corrupt activities, protected cultural property could have been destroyed and thus the city's outlook irreversibly changed. Furthermore, an investigation has been launched against several employees of a company with public authority for the criminal offense of accepting bribes in business operations. An investigation has also been launched against an employee of the county's administrative department for criminal offenses of abuse of office and authority, etc., in connection with the legalization of illegally constructed buildings.

On the local level, an investigation has been launched against a mayor, who is also a member of the Croatian Parliament, for the criminal offense of trading in influence. Furthermore, an investigation was launched against a mayor, city council president and two councilors for bribery and influence peddling, and an investigation against a former mayor for inciting abuse of office and authority, as well as two police officers who favored a former local official. An investigation has also been launched against a member of the city government and the deputy mayor for the criminal offense of abuse of office and authority. In relation to officials in local self-government, an investigation was launched against three officials of a city administrative department for criminal offenses of abuse of office and authority, receiving bribes, etc., in relation to two officials of the city office for criminal offenses of giving and receiving bribes and in relation to one official of the city administrative department for the criminal offense of abuse of office and authority.

<sup>17</sup> Indictments were filed against a municipal mayor for criminal offenses of abuse of office and authority, receiving bribes etc., in context of passing spatial planning documentation of the municipality to gain their own material benefits. The indicted person used to serve as a Minister of Public Administration in the Government of Republic of Croatia and was a Member of Parliament. An indictment was filed against a mayor, who is also a former member of the Croatian Parliament, and a deputy mayor, for the criminal offense of trading in influence, as well as against a clerk employed in a local government unit for the criminal offense of abuse of office and authority. Furthermore, an indictment was filed against the president of a city council, also the president of a county branch of a political party, for the criminal offense of trading in influence, and an indictment for the same offense was filed against a member of the city assembly, who was also a longtime former deputy head of the city health office. Indictment was also filed against two court clerks at a county court, for the offense of abuse of office and authority.

In addition, in 2021 an investigation was launched against two tax officials for abuse of office and authority, as well as receiving bribes, and an investigation was launched against the sanitary inspector of the State Inspectorate for abuse of office and authority, i.e. favoring individuals during the pandemic and lock down for hospitality facilities. Corruption in health care has also been prosecuted and charges have been filed against doctors for abuse of office and authority, as well as receiving bribes. Corruption in the police and customs has also been prosecuted, and investigations have been launched against several police and customs officers on suspicion of committing criminal offenses of abuse of office and authority, influence peddling, bribery, etc. Furthermore, multiple indictments have been filed against police officers for the crime of abuse of office and authority. An indictment was filed against a customs officer for abuse of position and authority, and police and customs officers were charged with the criminal offense of evading customs supervision within a system of criminal association.

During 2021, several significant verdicts were handed down in several lengthy, complex high-level corruption proceedings,<sup>18</sup> and the sentences imposed include the obligation to return stolen funds.<sup>19</sup>

Furthermore, multiple verdicts have been handed down against state officials, public figures and civil servants for criminal offenses of abuse of office and authority, receiving and giving bribes, and influence peddling.<sup>20</sup>

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<sup>18</sup>The examples are the Fimi Media case and the INA MOL case.

<sup>19</sup>For example, in the Fimi Media case, in which “withdrawal of money” from state-owned companies through a marketing agency was processed, after a retrial, a final judgment was handed down, sentencing the former prime minister to 7 years in prison for the criminal offense of abuse of office and authority within the criminal association he established. In the Remorker case, in which the “withdrawal of money” from an independent professional business organization was prosecuted, the former president of the organization received a non-final judgment that sentences him to eight years in prison for the criminal offense of abuse of office and authority within the criminal association he organized, and he must refund 35.5 million HRK to the organization.

<sup>20</sup>Among other things, a non-final judgment was handed down to a former minister of culture (in the 12th convocation of the Government) for the criminal offense of abuse of office and authority, which sentenced the minister to one year in prison and imposed a secondary fine. Furthermore, a judgment was handed down to the former assistant minister in the Ministry of Croatian Veterans for the criminal offense of accepting bribes, which sentenced him to three years in prison and deprived him of illegally acquired assets. A non-final judgment was handed down in a case against a former member of parliament who was found guilty of bribing journalists and sentenced to community service. A non-final verdict was passed against the former director of a state agency for the criminal offense of accepting bribes, and he was sentenced to a partially suspended sentence and a secondary fine. Regarding the prosecution of corruption in health care, in 2021, final judgments were rendered against two doctors for the criminal offense of accepting bribes. In relation to the police and customs, seven police officers and six customs officers were convicted of abuse of office and authority, while one police officer was convicted of influence-peddling.



As the collection of statistical data for 2021 will be completed at the beginning of 2022, in accordance with the prescribed legal deadlines for the preparation of the annual report on the work of the Office, these data will be submitted at a later date.

***30. Potential obstacles to investigations and prosecutions, and the effectiveness of sanctions in high-level and complex corruption cases (e.g. rules on political immunity, procedural rules, statute of limitations, pardons)***

Regarding the members of the Government of the Republic of Croatia, and following the recommendation of GRECO, the legislative framework regarding the immunity of members of the Government will be amended. The planned intervention aims to abolish the legally prescribed immunity for members of the Government regarding criminal offenses in the field of corruption.

***31. Information on the effectiveness of administrative measures and sanctions, in particular measures for the recovery of misappropriated funds and administrative sanctions for public and private persons***

The legal framework for the sanction implementation in cases of corruption offenses, including for legal entities, has been presented in the contribution of the Republic of Croatia for 2020.

### **III. Media pluralism**

#### ***A. Media Regulatory Bodies***

***32. Measures taken to ensure independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies***

The Republic of Croatia has the Agency for Electronic Media, whose bodies are the Agency Director and the Council for Electronic Media which governs the Agency and performs tasks of a regulatory body in electronic media field. Legal framework for their activities, as well as their structure, composition and competences are described in Croatian contributions to Reports for 2020 and 2021.

Any form of influence on the work of the Agency that could jeopardize its autonomy and independence, and consequently the Council for Electronic Media as a body of the Agency, is prohibited. Members of the Council are under obligation to act in a manner that does not diminish their personal reputation or reputation of the Agency and does not jeopardize independence and autonomy in performance of their duties or independence and autonomy of the Agency. Members of the Council are under obligation to act diligently and in accordance with moral and ethical principles and professional rules while performing their duties stipulated by this Act and Statute of the Agency. Council for Electronic Media submits annual Reports on its activities to the Croatian Parliament.

Furthermore, the new Electronic Media Act, which entered into effect in October 2021, introduced a number of improvements aimed at strengthening independence of media, including strengthening transparency of media ownership, transparency of public funding and advertising requirements, as well as strengthening criteria for professional qualifications and impartiality of candidates in the process of electing members of the Council for Electronic Media (see below, answers to questions 33, 35 and 37). Work on the new Media Act is underway since adoption of the Act is planned for 2022, as well as adoption of the National Plan for Media Development as the medium-term strategic framework in this area.

In respect to resources for the Agency and the Council, pursuant to the Act, funds for activities of the Agency, including funds for salaries of the Agency Director and members of the Council, are provided in accordance with the Agency's annual financial plan from the amount of 0.5% of total gross income realized by the media service providers during the previous year through audio and/or audiovisual television and/or radio media services, as well as electronic publication services.

The Act stipulates that the Fund for Promotion of Pluralism and Diversity is a fund of the Agency. The Fund encourages production and publication of audiovisual and radio programs of television and/or radio publishers at the local and regional level, non-profit television and/or radio publishers, non-profit media service providers, non-profit electronic publication providers and non-profit producers of audiovisual and/or radio programs, in accordance with criteria stipulated in the Act.

Sources of financing of the Fund are funds provided in accordance with provisions of the Electronic Media Act and the Croatian Radio and Television Act (HRT), pursuant to which HRT is under obligation to pay 3% of the collected monthly license fees to the Fund. Decision on the allocation of the Fund's resources is adopted by the Council, while the unspent funds, pursuant to the Fund's final account, are carried over to the next year and allocated on the basis of the Council decision, in accordance with the public tender procedure.

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

The framework for the appointment and dismissal of members and heads of management of media regulatory bodies is described in the Croatian contribution to the 2020 Report. The Croatian model of electing members of the Council is similar to the prevailing European model (election in the parliament, as opposed to appointment by the executive branch); and was introduced in 2009 following public consultations with the participation of all relevant stakeholders. Although the law provides for a possibility of re-election, this has not become the rule in practice: thus far, only three members of the Council have been re-elected and notably approved by the parliamentary majority different than the one that had originally elected them.<sup>21</sup>

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<sup>21</sup> The Council has seven members, one of whom is the President of the Council. The President and members of the Council are appointed and revoked by the Croatian Parliament upon motion of the Government of the

With the entry into force of the new Electronic Media Act in November 2021, with respect to the procedure for appointing members of the Council, the criterion of professional

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Republic of Croatia. At the start of the appointment process for the members of the Council, the Government announces a public call for proposing candidates for the members of the Council. The President and the members of the Council are appointed for a period of five years, which may be extended until the appointment of a new President and/or member of the Council, up to period of six months, in case no new President and/or member of the Council is appointed, and may be reappointed. Members of the Council may be citizens of the Republic of Croatia who have completed graduate university studies or specialist graduate professional studies and have professional knowledge, skills and experience in the field of media, journalism, technology, economics, sociology and law. Members of the Council should be public officials who distinguished themselves in the public life by advocating democratic principles and the rule of law, building and promoting the highest values of the constitutional order of the Republic of Croatia, development of civil society, defense of human rights and freedoms, and protection of freedom of expression. Members of the Council may not be state officials, persons holding office in bodies of political parties, bodies of local and regional self-government units or trade unions. Members of the Board may not be owners, shareholders or stakeholders, members of management boards, supervisory boards or members of administrative councils and other relevant management bodies, directors, principals or other business managers of legal entities to which the provisions of this Act apply in respect to audiovisual media services and network operators. Members of the Council may not be employees or in a contractual or other relation with any legal entity or service related to the audio and audiovisual media services and network operators, or persons performing tasks that could lead to a conflict of interest. The law governing the prevention of conflict of interest shall apply to the prevention of conflict of interest in the performance of the duties of members of the Council. Members of the Council must not be convicted of a criminal offense. The Croatian Parliament shall pass a decision revoking the President, Deputy President or member of the Council prior to the expiry of their term of office, upon motion of the Government of the Republic of Croatia, in case:

- he/she requests to be revoked
- it is determined that during proposal of member of Council of the Agency such person disclosed inaccurate personal data or omitted to disclose information on circumstances relevant for deciding upon such motion
- through their work or actions jeopardized their reputation or reputation of the Agency, i.e. their independence and autonomy or independence and autonomy of the Agency
- is unable to duly perform his/her for uninterrupted period exceeding six months
- is permanently unable to perform his/her duty due to illness
- has been convicted for a criminal offense on the basis of valid and enforceable court ruling
- through his/her work or behavior he/she prevents fulfillment of goals and tasks determined by the annual work program of the Agency
- a member of the Council becomes a state official, a person who holds office in bodies of political parties, bodies of local and regional self-government units or trade unions
- a member of the Board becomes the owner, shareholder or stakeholder, member of the management board, supervisory board or member of the administrative council and other relevant management body, director, principal or other business manager of legal entities to which the provisions of the Electronic Media Act apply in respect to audiovisual media services and network operators
- a member of the Council enters into a contractual or other relationship with any legal entity or service related to audio and audiovisual media services and network operators or begins to perform activities that could lead to conflicts of interest
- a member of the Council receives gifts, services or enters into relations with media service providers that bring them into a conflict of interest in relation to the tasks stipulated by the Electronic Media Act.

The Agency for Electronic Media shall inform the Government of the Republic of Croatia of the existence of reasons for revoking of President, Deputy President or a member of the Council prior to expiry of their respective term of office.

qualifications of candidates for members of the regulatory body was strengthened, upon request of the professional association. Compared to the previous Law, changes have been introduced so that, in addition to the existing requirements, there are additional requirements that members of the Council have completed graduate university studies or specialist graduate professional studies and have professional knowledge, skills and experience in the field of media, journalism, technology, economics, sociology or law. At the same time, the existing guarantees and restrictions that do not allow the candidacy of politicians, public officials or persons with business interests in the media sector have been retained.

### ***34. Existence and functions of media councils or other self-regulatory bodies***

Apart from the Council for Electronic Media, there is no other regulatory or self-regulatory body in the Republic of Croatia. However, in the framework of the ongoing work on amendments to the Media Act (the working group for drafting of the Bill was established in November 2021), the establishment of a self-regulatory body for the media has emerged as one of the main issues.

### ***B. Transparency of media ownership and safeguards against governmental or political interference***

#### ***35. Measures taken to ensure fair and transparent allocation of state advertising resources (including any rules regulating the matter)***

The allocation of advertising funds by the state administration bodies and the predominantly state-owned enterprises is regulated in the Electronic Media Act.<sup>22</sup> The Act stipulates that the state administration bodies and public institutions founded by the Republic of Croatia, as well as the legal entities owned or predominantly owned by the Republic of Croatia, are required to spend 15% of the annual amount allocated for promotion or advertising of their services or activities in the audiovisual or radio programs of the regional or local broadcasters of television and/or radio and/or electronic publication providers, as registered in the of Electronic Publication Providers Registry. Furthermore, they have to report to the Council for Electronic Media, until March 31 of each calendar year, on the advertising performed during the previous year, while the data on advertising has to be published on their web-pages. That said, the abovementioned bodies, public institutions and legal entities, are not under obligation to have advertising funds allocated in their budgets. Instead, this provision is applied only on those that have allocated such funds.

Furthermore, the 2021 Electronic Media Act has introduced certain improvements in the transparency of the budgetary funding, stipulating that in case funds for production and publication of programs by the regional and local broadcasters of television and/or radio and electronic publications are allocated in the budgets of the state administration bodies and

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<sup>22</sup> Electronic Media Act, Narodne novine - the Official Gazette of the Republic of Croatia No. 111/21

public institutions founded by the Republic of Croatia, or by legal entities owned or predominantly owned by the Republic of Croatia, or in the budgets of local and regional self-government units, these funds are disbursed based on a public call and based on the publicly announced criteria.

***36. Safeguards against state/political interference, in particular:***

- safeguards to ensure editorial independence of media (private and public)***
- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations)***
- procedures for the concession/renewal/termination of operating licenses***
- information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirement and corporate governance***

Media freedom is guaranteed by the law (Media Act, Electronic Media Act and Law on Croatian Radio and Television).

**The Media Act** guarantees freedom of expression and freedom of media. Freedom of media includes in particular: freedom of expression, independence of media, freedom to collect, research, publish and disseminate information in order to inform the public; pluralism and diversity of media; free flow of information and openness of media to different opinions, beliefs and diverse content; public information availability; protection of personality, privacy and dignity of a person; freedom to establish legal entities for public information, printing and distribution of press and other media from the country and from abroad, production and broadcasting of radio and television programs, as well as other electronic media; autonomy of editors, journalists and other authors of the program content in accordance with rules of the profession. It is permitted to restrict freedom of media only in case and to the extent necessary in a democratic society, if it is in the interest of national security, territorial integrity or public order, prevention of disorder or crime, protection of health and morals, protection of the reputation or rights of others, prevention of disclosure of confidential information, or in order to preserve the authority and impartiality of the judiciary branch, and only in the manner stipulated by law. It is further stipulated that no one has the right to influence the media program contents by coercion or abuse of position, or to illegally restrict freedom of media in any other way.

**The Electronic Media Act** guarantees freedom of expression and full programmatic freedom of the electronic media. It stipulates that the provisions of the Act cannot be interpreted in a way that gives the right to censor or restrict the right to freedom of speech and expression of thought. The Law on Croatian Radio and Television (HRT) stipulates that the HRT, in performance of its activities, is independent of any political influence and pressure from the promoters of commercial interests. The HRT is independent in its operation. Independence of the HRT is achieved through the independent performance of its activities and through programmatic and editorial independence of the HRT, notably in planning and production of its programs and the definition of the programmatic scheme.

**The procedure for granting concession** is regulated by the Electronic Media Act. The Electronic Media Council carries out preparatory actions for granting of concessions and issues notification of intent for granting concessions for the provision of television and radio media services on a technical basis determined by the Croatian Network Regulatory Agency in accordance with the regulations on the electronic communications.<sup>23</sup> Such notification is published for one or more available radio frequencies constituting a separate concession or, in case of digital radio and television, for free transmission capacity of a separate radio or television program channel within the multiplex. The Council is under obligation to enable unlimited, direct and free access on its website to application documentation, from the date of publication of the notification of intent to grant concessions.

The bid must contain evidence of fulfillment of the terms and conditions stipulated in the notification; the program basis in accordance with the Electronic Media Act; data on ownership structure of the legal entity submitting the bid; the company name and registered seat, including the name, surname and the residence of persons who directly or indirectly, through other legal entities, hold shares or stakes in such legal entity, as well as data on the percentage of those shares or stakes. The bid must also contain information on the financial capacity of the bidder to perform activities of a television and/or radio broadcaster. Prior to passing a decision on granting of concession, the Council is authorized to exchange information with the regulatory authorities of other EU Member States on the most favorable bidder, in case the activity of providing television and radio media services would also apply to other EU Member States.

A decision on granting of concession is passed by the Council following a tender procedure and a procedure for assessing the fulfillment of conditions for granting of concession within 30 days from the submission deadline, unless specified otherwise in the tender documentation. The Council adopts the rules of procedure for granting of concession and for the content of the notification<sup>24</sup>.

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<sup>23</sup> The criteria for granting of concession to perform activity of providing of television and radio media services include:

- the program requirements in accordance with the Electronic Media Act (hereinafter: ZEM), and in particular the quantity of own production, Croatian audiovisual works, European audiovisual works and works of independent producers
- time of publishing
- quality and diversity of audiovisual and / or radio programs
- special technical, financial conditions, which include the amount of funds and financial guarantees, as well as staffing conditions
- compliance with obligation to pay public benefits and contributions for pension and health insurance in the Republic of Croatia.

<sup>24</sup> The area of the concession may be at the state, regional, county, city, municipal or other level stipulated by a special regulation. The concession is granted for the period of 20 years. Concession is subject to payment of a concession fee. The concession fee is paid to the State Budget of the Republic of Croatia. The amount and the manner of concession fee payment is stipulated in the Council by rules of procedure, as well as the amount and manner of payment of the fee for the bid submitted on the basis of the notification of intent to grant a concession. In a case there is a change in transmitter parameters during the concession, in accordance with the technical basis of the Croatian Network Regulatory Agency, and the increase in signal coverage does not exceed 30% of the population covered by the technical basis on which the concession was granted, it will not be considered as

One year prior to expiry of concession granted to a broadcaster of television and / or radio, the Council may publish an invitation to interested persons to express their interest in performing of television and/or radio activities in a specific concession area. Such invitation may be published under condition that the concession has been used by a broadcaster who has not been reprimanded by the Council and/or has not been fined on the basis of a valid and enforceable court decision and/or has not had his concession revoked five years prior to publication of such invitation, has media statute, has duly paid all financial obligations pursuant to provisions of the Electronic Media Act and is not an entrepreneur in difficulty. Duration of the invitation may not be shorter than 30 days. In case only one interested person responds to the invitation, who is at the same time the current broadcaster in the subject area, the Council may grant concession to perform television and/or radio activities to such person, under condition that such person submitted documentation specified in the rules of procedure. In case two or more interested persons respond to the invitation, the Council is under obligation to carry out the procedure for granting of concession.

**The termination of concession** is also regulated by the Electronic Media Act. The concession shall be terminated in the following cases: after the expiry of the period for which it was granted; if the media service provider waives the concession; in case of termination of the legal entity of the media service provider or termination of the business; in case performance of activities for which concession was granted is prohibited to the media service provider by a valid and enforceable court decision; in case of termination of the concession agreement by mutual agreement; or by permanent revocation of concession. The Council shall pass a resolution and/or a decision on temporary or permanent revocation of concession or permit to the media service provider in case it determines:

1. that the concession was granted on the basis of incorrectly stated data important for passing of decision on selection of the most favorable bidder;

2. that the television/radio broadcaster has not started to exercise the concession within the period stipulated in the concession contract or fails to comply with the technical conditions from the concession contract for more than one month from the beginning of the concession;

3. that the media service provider, even after the third warning of the Council, issued in previous 12 months, acts contrary to provisions of the Electronic Media Act and regulations adopted on the basis of the Act or the concession agreement;

4. that the television/radio broadcaster no longer fulfills conditions for performance of activities referred to in Article 26 of the Electronic Media Act

5. that the media service provider publishes audiovisual or radio programs contrary to Articles 14 and/or 24 of the Electronic Media Act;

6. that even after the Council's warning the media service provider fails to adhere to at least 50% of the program basis;

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a new concession. Instead, an addendum to the Agreement is concluded with the existing media service provider. In case where a change in the transmitter parameters lead to the extension of the concession to the city, county, regional or state level, the Council shall issue a new notification of intent to grant the concession.

7. that the media service provider, even after the Council's warning, fails to adhere to the time limit for broadcasting referred to in Article 42 (3) and/or 4 and/or 5 and/or 6 and/or 7 and/or 8 and/or 9 of the Electronic Media Act;

8. that the media service provider has prevented another media service provider from exercising its right to brief information in accordance with Article 52 (2) of the Electronic Media Act;

9. that the media service provider has not paid the concession fee more than twice in a row or generally irregularly pays the concession fee;

10. that the media service provider did not submit information on change of data referred to in Article 61 (1) of the Electronic Media Act within the stipulated time limit even after the Council's warning;

11. existence of prohibited concentration stipulated by the Electronic Media Act;

12. that the media service provider within the stipulated time limit failed to obtain approval from the authorized organization for collective management of copyright and related rights even after warning from the Council;

13. that the media service provider has transferred the concession to another person contrary to Article 87 (5) of the Electronic Media Act;

14. that the media service provider has transferred the license to another person contrary to Article 26 (7) and Article 92 (7) of the Electronic Media Act;

15. that the media service provider, despite the Council's decision on measures to temporarily restrict freedom to transmit audiovisual media services from another country, publishes audiovisual programs referred to in Article 91 of the Electronic Media Act.

**The legal framework for activities of media service providers** is set out in the Electronic Media Act, which stipulates that media service providers are under obligation to submit to the Agency for Electronic Media, within five days, information on legal entity and registered seat, i.e. the name and residence of all legal and physical persons who, directly or indirectly, became shareholders or stakeholders in such media service provider, together with the information on the percentage of their shares or stakes. Media service providers are under obligation to submit certified copies of documents on acquisition of its shares or stakes during the previous year, as well as the excerpt from the Registry of beneficial owners. Acquisition documents are not required for shares and stakes up to 1% value of the share capital. Media service provider is under obligation to publish any change in the data related to the ownership structure in the Official Gazette of the Republic of Croatia. Data on shareholders and stakeholders up to 1% value of share capital are published collectively.

Media service providers must notify the competition authority in writing of any intention to implement a concentration of the enterprise that meets the criteria for obligatory notification of intent to implement concentration within the meaning of competition law. The Agency shall, upon request of the competition authority, provide an expert opinion within 30 days from receipt of the request for such opinion. In case the Agency fails to submit such opinion after the expiry of 30 day period, it shall be considered that there are no objections to the implementation of the notified concentration.

Media service providers are required to notify the Council in writing within five days of any change of ownership, regardless of the conditions stipulated in competition law, in order to



allow for the impact assessment related to the protection of pluralism and diversity of the electronic media.

The following constitutes an unauthorized change of ownership with respect to the protection of pluralism and diversity of electronic media in terms of the Electronic Media Act:

- a broadcaster that has a concession at the state level and has more than 25% share in another broadcaster of the same or lower level, and vice versa;

- a broadcaster that has a concession at the state level and has more than 10% share in the capital of a publisher that publishes daily newspapers that are printed in more than 3000 copies, and vice versa;

- a broadcaster that has a concession at the state level and at the same time publishes daily newspapers that are printed in a circulation of more than 3000 copies, and vice versa;

- a publisher that has a concession at the regional or local level and has more than 30% share in another publisher in the same area or any higher or lower level area, and vice versa;

- a publisher that has a concession and has more than 10% share in a legal entity whose activity is collection, design and mediation of advertisements, and vice versa.

Other legal forms of joint action of entrepreneurs that lead to one entrepreneur having effective administrative, capital or organizational control over another entrepreneur, such as business contracts, joint venture agreements, shareholder agreements, joint action agreements and similar, are equated with a share in the capital of another publisher of more than 25%.

The aforementioned rules also apply to physical and legal persons holding shares in the broadcaster. The concept of related parties within the meaning of the Electronic Media Act applies to persons who are interconnected by management, capital or in any other manner that allows them to jointly shape business policy, to operate in unison in order to achieve common goals, in the manner that one person has the opportunity to direct or significantly influence another in deciding on financing and business activities, or deciding on the media program basis. The determination is made in accordance with the provisions of the law governing general tax issues.

In case where the total annual revenue from the activities of one provider of media services and electronic publications reaches 40% of the annual revenue of all providers of media services and electronic publications in the Republic of Croatia, such provider is considered to have a dominant role in the market, which jeopardizes pluralism and diversity of the electronic media. For the purposes of calculating this revenue, only the revenue generated by Croatian Radio and Television through commercial activities is included. During the period in which such media service provider has a dominant role in the market, it cannot acquire shares in other media service providers in addition to those it already owns, nor can the Council for Electronic Media grant a new additional concession or permit, nor can it be a provider of new electronic publications aimed at the expansion of its business activities.

***37. Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)***

Further improvements to the existing media ownership transparency framework have been introduced with the new Electronic Media Act, which entered into effect in October 2021. As described in the contribution of the Republic of Croatia for 2020, rules on transparency of media ownership ensure a solid system of notification of ownership. Ownership structures for electronic media are publicly available on the website of the Agency for Electronic Media (<http://www.aem.hr>), up to the level of physical persons, now evidenced by excerpt from the Registry of beneficial owners. Obligation of media service providers to provide service recipients with information on the ownership structure, published on the website, has been introduced as a novelty in the 2021 Electronic Media Act, further strengthening the transparency framework. Print publishers are required to submit data on the ownership structure to the Croatian Chamber of Commerce annually.

The Electronic Media Act regulates the prevention of prohibited concentration of media (see answer to the previous question).

Furthermore, the Republic of Croatia has envisaged the amount of HRK 5,000,000.00 within the National Recovery and Resilience Plan for the development of a single publicly available database, which will be owned and financed by all media (electronic and print) under the jurisdiction of the Republic of Croatia.

***C. Framework for journalists' protection***

***38. Rules and practices guaranteeing journalists' independence and safety***

The existing legal framework is described in the contribution of the Republic of Croatia for 2020. The Media Act stipulates that freedom of expression and media pluralism are protected. In the context of editorial freedom, journalists have the right to express opinions and not to perform tasks if they violate rules of the journalistic profession. In this case, the employment contract must not be changed to their detriment. Furthermore, journalists are not under obligation to disclose their sources unless the competent court orders their disclosure due to reasons of national security. This applies both to information already published and to information intended to be published. In the context of the ongoing work on the new Media Act, best practices and rules related to strengthening the independence and security of journalists will be discussed, including those developed under the auspices of the Council of Europe, as well as new initiatives announced by the European Commission under the European Democracy Action Plan.

***39. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists***

The framework for the implementation of measures to ensure journalists' safety is described in the contribution of the Republic of Croatia for 2020. The Ministry of Interior is responsible for reaction in case of criminal offenses and responds promptly to any criminal charges.

***40. Access to information and public documents (including procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)***

The existing legal framework for access to information and public documents, stipulated by the Right to Access Information Act<sup>25</sup>, as well as the Media Act<sup>26</sup>, is described in the contribution of the Republic of Croatia for 2021.

In November 2021, the Bill on Amendments to the Right to Access to Information Act was submitted for legislative procedure, for the purpose of transposing Directive (EU) 2019/1024 and introducing certain improvements and harmonization of practices in exercising the right to access information. Among other things, it proposes to expand the definition of information related to the disposal of public funds that are a priori available to the public; expand the rights of users; specify the term "responsible person" in public institutions; stipulate solutions to ensure the continuity of function of the Commissioner for Information and the reporting to Parliament (see answer to question no. 22).

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

In 2021 the Ministry of Culture and Media established an Expert Working Group to formulate a policy to combat SLAPP lawsuits, following the adoption of the European Democracy Action Plan by the European Commission, one of the primary goals of which is to support independent media, inter alia, by combating SLAPP lawsuits. The Expert Working Group brought together a wide range of experts - representatives of the media sector (journalists and publishers), professional journalists' associations ("HND" and "SNH"), the Judicial Academy, the Croatian Bar Association, the academic community and the Ministry of Culture and Media, as well as the Ministry of Justice and Administration, in order to initiate dialogue, exchange of knowledge and experience, as well as education, and to jointly find effective ways to stop filing of SLAPP lawsuits.

The Working Group goals were identified at its meeting held in July 2021. As the meeting pointed out, in shaping the policy of combating SLAPP lawsuits, it is extremely important to harmonize court practice, but also to educate journalists and judges. Improvement of both media legislation and other laws on the basis of which such lawsuits are initiated, will also be considered. The meeting has concluded that one of the goals is to create mechanisms for co-regulation and self-regulation within the profession. In that way, possible work problems would be addressed and lawsuits leading to censorship and self-censorship would be

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<sup>25</sup> Law on Right to Access Information, Narodne novine – the Official Gazette of the Republic of Croatia No. 25/13 i 85/15.

<sup>26</sup> Media Act, Narodne novine – the Official Gazette of the Republic of Croatia No. 59/04, 84/11 i 81/13

avoided. The common goal is to articulate and solve the problem of SLAPP procedures and it is therefore expected that the proposals of this Work Group will contribute both to slowing down the SLAPP phenomenon, and to drafting of the new Media Act planned for 2022.

Furthermore, in September 2021 the Ministry of Culture and Media organized a debate on the issue of strategic lawsuits against public participation faced by the media sector. The main topic of the round table, which brought together participants from the media sector, judiciary and academia, have looked into policies to combat SLAPP lawsuits to improve the position of journalists facing such lawsuits. Beside the Minister of Culture and Media and the Minister of Justice and Administration, and other representatives of these two Ministries, the participants of this public debate also included two judges of the Supreme Court (one on behalf of the Judicial Academy); professors at the Faculty of Law at the University of Zagreb; representatives of the Croatian Journalists' Union and the Croatian Journalists' Association, as well editors-in-chief of several media outlets.

In December 2021, the first expert workshop on SLAPP issues was held, organized by the Ministry of Culture and Media, as part of the activities of the Expert Working Group assembled to shape the policy on combating SLAPP lawsuits. Lectures were given by the professors at the Faculty of Law at the University of Zagreb, a judge and the spokesperson of the Zagreb District Court, a representative of the Croatian Journalists' Union, an attorney-at-law and a member of the European Commission's SLAPP Lawsuit Expert Group, the president of the Croatian Conciliation Association and a judge of the High Commercial Court.

The objectives of the said Working Group, as highlighted during the public debate, include: collection of data on SLAPPs and analyses of the situation; collection of data on existing practices; raising awareness on measures in the existing legislation that are already available to courts to prevent SLAPP; formulation of proposals for future anti-SLAPP legislative measures; training for judges, attorneys, journalists and publishers in order to prevent SLAPPs; activities aimed at raising awareness among professionals and the general public about the negative consequences of SLAPPs; raising the level of social dialogue in respect of SLAPPs.

Furthermore, within the scope of work on the new Media Act, good practices related to strengthening of independence and safety of journalists will be discussed, including those developed under the auspices of the Council of Europe, as well as the new initiatives announced by the European Commission in the European Democracy Action Plan.

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

##### ***A. The process for preparing and enacting laws***

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

The legal framework, instruments and procedures for the regulatory impact assessment (RIA) and public consultations are described in the contribution of the Republic of Croatia in 2020 and 2021. There have been no changes of the legal framework over the reporting period.

In 2020, the Government Legislation Office applied for *Technical Support Instrument (TSI)* funds for further development of the ex-post RIA. The project was approved by the European Commission in 2021 and its implementation started in August 2021, while the first activities on the ground with the consultants are confirmed for January 2022. The overall objective of the project is to strengthen the ex-post RIA application by building capacity of the public administration bodies through training activities and a pilot project, and to analyze the existing legislative framework for RIA to set a baseline for its further legislative adjustment. In the National Plan of Recovery and Resilience 2021–2026, the amendment of the Regulatory Impact Assessment Act is foreseen for 4Q 2023. The project implementation is foreseen to be finalized in February 2023.

From 2017 to the end of 2021, there have been 54 ex-post RIA obligations in the primary legislation, out of which 26 have been implemented, 5 are currently being implemented and, 23 ex-post RIAs are in pipeline until 2023.

The Annual Report on the Implementation of Public Consultation in 2020 was considered and endorsed at the session of the Coordination for Internal and Foreign Policy of the Government of the Republic of Croatia held on 28 September 2021. The practice of submitting annual reports on public consultation started in 2010, in line with best practices recognised in the Code of Practice on Consultation with the Interested Public in the Procedures of Adopting Laws, Other Regulations and Acts from 2009.

According to the data from the latest Annual Report, in 2020 a total of 762 consultations of state bodies were conducted via the e-Consultation portal and 20 consultations were conducted by the Croatian National Bank via its website. The Ministry of Physical Planning, Construction and State Property also conducted 2 consultations via its website, as did the Central State Office for Demography and Youth, conducting 2 consultations via its website. The number of consultations decreased in 2020, largely due to the conditions caused by the COVID-19 pandemic, natural disasters (earthquakes) and the regular parliamentary elections for members of the Croatian Parliament.

The project entitled "e-Consultation - expansion, upgrade and improvement of the legislative process of public consultation" formally started in August 2021 and will last for 24 months. The aim of the project is technological, procedural and functional improvement, as well as the expansion of the e-Consultations IT system to local and regional self-government units. It also aims at capacity strengthening to improve the operation of the existing e-Consultations system, as well as strengthening the capacities of state and public administration employees as users of the e-Consultations portal.

With respect to consultations with the judiciary, one of the ways to ensure the contribution of the representatives of the judiciary institutions is their systematic involvement in the working groups that are set up with the purpose of elaborating relevant legislative and strategic documents. For instance, the working group tasked with elaborating the Strategy for prevention of corruption 2021-2030 involved the representatives of the State Judicial Council; State Attorneys' Council; State Attorney's Office and the Supreme Court. Furthermore, once a legislative procedure is submitted to the Parliament, the pertinent parliamentary committees have the possibility to invite the representatives of the relevant stakeholders to participate in the deliberations of those committees.

***43. 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 2021 the Croatian Parliament passed 85 laws, out of which 25 were adopted under the emergency procedure, representing 29,4% of the total number of the laws passed.

The table below gives a comprehensive overview of the government legislative activity in the period from 2013 until 2021. The table shows the number of legislative proposals in the first reading (after adoption of the first parliamentary reading, a second reading is prepared) and the number of legislative activities in the emergency reading (a single parliamentary reading). During 2021, the percentage of emergency procedures for legislative activities was 37,5%<sup>27</sup>.

<b>Emergency procedures vs regular procedures in period between 2013 till 2021</b>									
	2013	2014	2015	2016	2017	2018	2019	2020	2021
<b>Regular Procedures For Primary Legislation</b>	45	24	31	74	121	112	97	68	93
<b>Emergency Procedures For Primary Legislation</b>	292	112	85	29	65	101	125	70	27
<b>Total Government Legislative Activity</b>	337	136	116	103	186	213	222	138	120
<b>Ratio emergency procedures/total (%)</b>	86,6%	82,4%	73,3%	28,2%	34,9%	47,4%	56,3%	50,7%	22,5%

<sup>27</sup> Generally, the ratio of legislative proposals considered at the government sessions in emergency procedure in the total government legislative activity is below 50% in a period from 2016 until 2018, with a slight boost of emergency procedure in 2019. This is due to the government initiatives to reform the national inspections and the organization of state administration. Considering the Covid-19 pandemic, the emergency procedure did not exceed 51% of a total government legislative activity. Due to the general parliamentary elections held in 2020, there was reduced legislative activities compared to the previous period. Regardless of whether the emergency or the regular procedure is followed, three quality control checks are always applied: regulatory impact assessment, public consultation and the SME test.

#### ***44. Regime for constitutional review of laws***

The regime for the constitutional review of laws, and for the reviewing the compatibility of other acts with the Constitution and the law, which is the competence of the Constitutional Court of the Republic of Croatia, is described in the Croatian contribution in 2020. There have been no changes during the reporting period. The activities of the Constitutional Court in the context of COVID-19 pandemic have been addressed in reply to question no. 45.

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

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

With a view to prevent and suppress the COVID-19 disease, in December 2021 the Croatian Parliament passed the Law on Amendments to the Act on Protection of the Population from the Contagious Diseases<sup>28</sup>, which regulates the safety requirement to present a proof of testing, vaccination or recovery of the disease in order to enter premises of the state and other public institutions, including the misdemeanor fines for responsible persons in such public institutions in case the prescribed safety measure is not duly applied.

Constitutional control of the emergency measures in the context of COVID-19 pandemic continued in 2021. On 21 December 2021 the Constitutional Court of the Republic of Croatia adopted a Decision rejecting the proposal for a constitutional review of Article 49 of the Act on Protection of the Population from the Contagious Diseases<sup>29</sup>, Article 10 of the Law on Amendments to the Act on Protection of the Population from the Contagious Diseases<sup>30</sup>, Article 5 of the Law on Amendments to the Act on Protection of the Population from the Contagious Diseases<sup>31</sup> and Articles 22, 22.a and 75 of the System of Civil Protection Act<sup>32</sup>. At the same time, the Constitutional Court expressed the expectation that in the future the measures taken in this context would contain a written explanation so that the addressees of such measures, as well as the general public, are informed of the reasons for adopting a particular measure, and which demonstrate that the constitutional principle of proportionality has been respected.

##### ***- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic***

In December 2020, the Croatian Parliament tasked the Government to submit to the Parliament, three times per year, a Report on the effects of the implementation of the Act on

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<sup>28</sup> Act on Protection of the Population from the Contagious Diseases, Official Gazette no. 134/20

<sup>29</sup> Act on Protection of the Population from the Contagious Diseases, Official Gazette no. 79/07, 113/08, 43/09, 130/17, 114/18, 47/20 and 134/20.

<sup>30</sup> Act on Protection of the Population from the Contagious Diseases, Official Gazette no. 47/20.

<sup>31</sup> Act on Protection of the Population from the Contagious Diseases, Official Gazette no. 134/20.

<sup>32</sup> System of Civil Protection Act, Official Gazette no. 82/15, 118/18, 21/20 and 20/21.

the Protection of the Population from Contagious Diseases, for as long as the Decision on the proclamation of the epidemic of the COVID-19 disease caused by SARS-COV-2 virus remains in force (the aforementioned Decision was adopted by the Minister of Health on 11 March 2020, following the proposal by the Public Health Institute, in accordance with Article 2, para 4 of the Act on the Protection of the Population from Contagious diseases). In 2021, the Government submitted such reports in January, in July and in September. They were discussed at the session of the Parliament, which adopted them by a majority vote.

## ***B. Independent authorities***

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

The legal and institutional framework for the work of the Ombudsperson, which performs the function of the national human rights institutions, is described in the contribution of the Republic of Croatia for 2020. As for the State Audit Office, it is described in the contribution of the Republic of Croatia for 2021.

In 2021, the procedure for the regular re-election of the ombudsperson was held and the new Ombudsperson elected.

Given the expanded tasks of the Ombudsperson's office regarding the protection of whistleblowers, there was a significant augmentation of financial resources for the Office in the State Budget (in 2020, 12.727.908 kuna was allocated to the Ombudspersons' office from the State Budget; 14.625.986 kuna in 2021 and 15.153.kuna planned in 2022 State Budget).

Likewise, the financial resources of the State Audit Office have also been augmented in view of the new tasks pursuant to the 2018 State Audit Office Act (in 2020, 63.156.126 kuna was allocated to the Office from the State Budget; 91.460.921 in 2021 and 96.952.671 planned in 2022 State Budget).

### ***47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years. C. Accessibility and judicial review of administrative decisions***

The Ombudsperson, as well as the specialized ombudspersons for children, for gender equality and for the disabled persons, submit annual reports to the Croatian Parliament for consideration. In case of recommendations addressed to the Government, or its offices, ministries or other state administration bodies, or local and regional self-governance bodies, each of these has the obligation to follow up on the recommendations within its purview. On the occasion of consideration of the Ombudsperson's annual report in the parliament, the contribution of the Government is also presented for consideration, in the form of the Opinion of the Government on the Annual Report. It contains a substantive comment on the



implementation of recommendations addressed to the state bodies in more than thirty thematic areas comprised by the Ombudsperson's report, which itself contains information on the level of implementation in the previous year.

As an example of good practice related to the implementation of the Ombudsperson's recommendation in the 2020 Annual Report, as well as the recommendations of the European Network of National Institutions for Human Rights to ensure access to information to national institutional structures such as Ombudsperson, in the context of investigation of alleged forced pushbacks on external borders, in June 2021 Croatia, in cooperation with the European Commission, EU agencies and relevant stakeholders, established an Independent Monitoring Mechanism to supervise police action with respect to migrants when controlling the external border. By establishing such a mechanism, Croatia became the first Member State to put in practice the Commission's proposal in the Screening Directive in the scope of the new Pact of the Migration and Asylum, which is still under consideration in the Council of the European Union. The Mechanism is being implemented by the civil society organizations acting in the field of human rights protection, legal and medical sciences. The structure and the activities of the Mechanism have been presented to the European Parliament in October 2021. The first six-month report of the Mechanism's Coordination Body was published in December 2021<sup>33</sup>. The Advisory Committee, which is also part of the Mechanism, comprises representatives of the European Commission, Fundamental Rights Agency, Frontex, EASO, the Ombudsperson, the Ombudsperson for Children, the Ombudsperson for Gender Equality, as well as IOM and UNCHR. Given that Croatia is experiencing a continuous augmentation of demands for international protection, the Ministry of Interior has submitted a project that aims at improving the integration of citizens of third countries, which has been pre-selected for financing from the Technical Support Instrument<sup>34</sup>.

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<sup>33</sup> The Report is available at [https://www.pravo.unizg.hr/apzh?@=8mut#news\\_16105](https://www.pravo.unizg.hr/apzh?@=8mut#news_16105)

<sup>34</sup> In this context, and further to the Ombudsperson's recommendation, another example of follow-up action is provided by the Government Office for Human Rights and National Minority Rights, which coordinates activities of all line Ministries, non-governmental organizations and other bodies participating in the process of integrating in the society the asylum seekers or persons under subsidiary protection. Within the framework of the Permanent Committee for the integration of foreigners in the Croatian society and its Working Group which is tasked with drafting national strategic documents in this field, it has heeded the comments and recommendations from the Ombudsperson's 2020 Report related to improving the regulatory framework for the integration of persons for whom the international protection has been improved, and the integration system in general. The Office has started work on the Draft action plan in cooperation with the competent public administration bodies the representatives of three civil society organizations, and the representatives of international organizations and religious communities. The cooperation with the local self-government has also been formalized, and four units of local self-government have been taken part in this process. Furthermore, in view of the prompt and meaningful monitoring of the integration framework effectiveness, an digital interface has been established for regular monitoring on the impact of the measures contained in the national strategic documents, and based on the indicators defined in line with the pertinent research on the social inclusion of the persons to whom international protection has been granted. In order to develop Guidelines for media reporting on the humanitarian or forced migration, or other migration movements, a quantitative analysis of the media content and reporting on migrants is being carried out, with a special focus on particularly vulnerable groups among them. The objective of this research is to establish whether and in which manner is the available media content contributes to shaping the opinion of the general public on the migration processes and on the understanding of their causes and consequences.

In line with the State Audit Office Act, the State Auditor General is also submitting annual reports to the Croatian Parliament, in addition to regularly informing the Parliament of specific audits performed in the course of the year with respect to entities managing public resources whose operations are subject to an audit. The annual report contains an overview of the orders and recommendations issues in previous audits and the status of their implementation. In performing its tasks, the State Audit Office cooperates, where necessary, with the Ministry of Interior, the Ministry of Finance and the State Attorney's Office, with whom it shares the audit reports and notifications for subjects which have not implemented orders and recommendations, or have not timely submitted a plan for their implementation, as well as for the political parties and independent parliamentarians who are in breach of the Act on the Financing of the Political Activities, Political Campaign and Referendum.

***48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)***

***49. Judicial review of administrative decisions: - short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)***

***50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation***

The contribution of the Republic of Croatia for 2020 describes the legal framework for the judicial review of administrative decisions, in accordance with the Administrative Disputes Act, including the publication and the implementation of the administrative decisions. There have been no changes in this area during the current reporting period.

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

The institutional and legal framework for supporting the development of civil society is described in the contributions of the Republic of Croatia for 2020 and 2021. There was no change during the reporting period.

Following the Decision on Initiating the Process of Drafting a National Plan for Creating an Enabling Environment for Civil Society Development from 2021 to 2027 of 4 February 2021, the Government Office for Cooperation with NGOs took steps to appoint members of the expert working group to draft the National Plan.

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

The legal framework and practices to support the development, effective operation and improvement of public perception of the activities of civil society are described in the contributions of the Republic of Croatia for 2020 and 2021.

During 2021, the Government Office for Cooperation with NGOs has contracted 94 projects worth 42.654.481,45 kunas (approximately 5.687.264,00 Euros) within the Call for Proposals "Strengthening the Capacity of CSOs to Respond to the Needs of the Local Community" from the European Social Fund. The total value of the Call is 120 million kunas, and it aims to develop civil society in the Republic of Croatia, which ensures balanced regional socio-economic growth and democratic development of the Republic of Croatia. Specifically, the Call aims at strengthening the capacity of CSOs active in local communities to implement activities tailored to the local problems and to work directly in the areas funded through the European Social Fund (employment, education, social inclusion, good governance), at the local level. Furthermore, the Call is aimed at improving the capacity of civil society organisations to provide an effective response to the needs of the local community in crisis situations, in response to the crises caused by the COVID-19 virus pandemic, and the devastating earthquakes that hit the Republic of Croatia in 2020.

### ***E. Initiatives to foster a rule of law culture***

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

Systematic promotion of the rule of law culture through strengthening the legislative and institutional framework has been built in the strategic documents adopted by the Republic of Croatia for the areas covered by the Commission's Annual Report. This includes the new Strategy for Prevention of Corruption 2021-2030 (that follows successive strategies being implemented since 2008); the National Strategy for Development of the Republic of Croatia until 2030, as well as in the National Plan for Recovery and Resilience. Promoting the rule of law in the judiciary is also reflected in the activities of the Judicial Academy (see reply to question no. 13).