

LIBERTIES RULE OF LAW REPORT 2022

CROATIA



Foreword

This country report is part of the Liberties Rule of Law Report 2022, which is the third annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and to gather public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2022 Report was drafted by Liberties and its member and partner organisations and covers the situation in 2021. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2022 Report includes 17 country reports that follow a common structure mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-two member and partner organisations across the EU contributed to the compilation of these country reports.

Building on the country findings, the 2022 Report offers an overview of general trends on the rule of law in the EU and compiles a series of recommendations to national and EU policy makers, which suggest concrete actions the EU institutions and national governments need to take to address identified shortcomings.

[Download the full Liberties Rule of Law Report 2022 here](#)

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Croatia

About the authors



The **Centre for Peace Studies (CPS)** is a civil society organisation that protects human rights and aspires to social change based on the values of democracy, anti-fascism, non-violence, peacebuilding, solidarity and equality by using activism, education, research, advocacy and direct support. We work with communities, initiatives, organisations, media, institutions and individuals in Croatia and internationally.



The **Croatian Platform for International Citizen Solidarity (CROSOL)** is a non-governmental organisation active in the area of international development cooperation and humanitarian aid. It was established in 2014 and has 31 member organisations. The main goals of the Platform are strengthening the capacities of civil society organisations to provide international development cooperation and humanitarian aid and advocating for the improvement of development policies of Croatia and the EU.

Key concerns

The inefficiency of the justice system and the excessive length of proceedings are still problems for Croatia. The free legal aid system is inadequate to meet the needs of those seeking justice in courts. The controversial appointment of the Supreme Court President has spurred a conflict between the government, the President and various political actors. Last but not least, there are no effective investigations into the allegations of illegal and violent pushbacks of refugees and migrants from Croatia.

GRECO, the Council of Europe anti-corruption body, concluded in December 2021 that Croatia has not implemented any of their 17 recommendations to target corruption. The Corruption Perception Index shows that Croatia is stagnating - with a score of 47/100, it is placed 63rd in the world. The Global Corruption Barometer shows that Croatia had some of the worst results in the EU for 2021, as there were multiple recorded cases of high-level corruption.

Developments in the area of media freedom and pluralism have been mixed. On the one hand, the new Electronic Media Act was passed in October 2021 and guarantees freedom of expression for electronic media. However, the public broadcaster Croatian Radio Television (CRT) remains under the influence of the government and the ruling party. The previous

CRT director was arrested under suspicion of trading in influence, while the new director was elected by a parliamentary majority in an irregular procedure, despite accusations of his conflicts of interest. There have been hundreds of SLAPP procedures against journalists and the media, and reported cases of attacks, threats and smear campaigns.

With regard to Croatia's system of checks and balances, the role of the Parliament is still weak in comparison to the executive branch. The number of legislative acts passed using fast-track procedures decreased from the previous year, but it is still too high. The national Civil Protection Headquarters makes most of the decisions related to the COVID-19 pandemic. Finally, the Ombudsman's Office lacks sufficient resources and has had difficulties performing its duties of visiting detention centres unannounced and accessing data relating to migrants as part of the National Preventive Mechanism.

The institutional framework for the development of civil society further deteriorated in 2021. The National Strategy for Creating an Enabling Environment for Civil Society has still not been brought. The criminalisation of civil society organisations working on issues of asylum and migration continued and culminated in a final court decision in the case of Dragan Umičević. Moreover, civil society organisations have had problems with financing, and unofficial sources suggest that the funds for civil society organisations in the new financial perspective for 2021 to 2027 will be smaller than in the previous period.

The condition of human rights in Croatia continued to worsen in 2021, as demonstrated in the illegal and violent pushbacks of refugees and migrants from Croatia into neighbouring countries. New evidence on these serious and systemic human rights violations were presented to the public in the form of video recordings. The European Court of Human Rights found a number of rights violations in the case of *M.H. and Others v. Croatia*, but nationally, there are still no effective investigations or sanctions against the perpetrators. In Croatia, the Independent Border Monitoring Mechanism lacks transparency and independence.

Civil society organisations like the Centre for Peace Studies and the Croatian Platform for International Citizen Solidarity have shown resilience in their work. In 2021, they carried on filing official complaints, informing the public about systemic human rights violations and pursuing those cases all the way to the European Court of Human Rights. This report is a collection of their findings over the past year.

State of play

- Justice system
- Anti-corruption framework
- Media environment and freedom of expression and of information
- Checks and balances
- ↓ Enabling framework for civil society
- ↓ Systemic human rights issues

Legend (versus 2020)

Regression: ↓

No progress: —

Progress: ↑

tions of illegal and violent push-backs of refugees and migrants from Croatia.

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The appointment of the Supreme Court President is controversial and was widely debated among political actors in 2021. Essentially, the debate revolved around the relationship between the provisions of the Constitution and the Law on Courts. On the one hand, the Constitution stipulates that the President of the Supreme Court is appointed by the Parliament upon the proposal of the President of the Republic.¹ On the other hand, the Law on Courts stipulates that the State Judicial Council publishes the public call and sends the application to the President of the Republic, who requests the opinions from the General Assembly of the Supreme Court and the competent parliamentary committee.² Early 2021, three persons applied in the call, but the President did not propose any of them to the Parliament, but instead put forth his own candidate, Zlata Đurđević, who had not applied to the call. The ruling majority in the Parliament stated that they would not appoint

Justice system —

Key recommendations

- Take all necessary steps to increase the efficiency of the justice system and shorten the length of procedures in Croatian courts.
- Draft a new Free Legal Aid Act and increase resources and funds that would make free legal aid more accessible.
- Ensure independent and effective investigations into allega-

1 Croatia. [Constitution of the Republic of Croatia](#), Official Gazette No. 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14, art. 116.

2 Croatia. [Law on Courts](#), Official Gazette 28/13, 33/15, 82/15, 82/16, 67/18, 126/19, 130/20, art. 44.a. Judgment of the Constitutional Court, 23 March 2021, U-I-1039/2021, U-I-1620/21.

Đurđević. In March 2021, the Constitutional Court brought a judgement that the Law on Courts is in accordance with the Constitution and that the President can only propose candidates who applied for the public call, or propose no candidates.³ After this, the President requested that the State Judicial Council open the call again, and five candidates, including Đurđević, applied. The President proposed to the Parliament that Đurđević should be appointed, but her appointment was refused.⁴ The call was opened for a third time in July 2021, after which the President proposed Judge Radovan Dobronić to the Parliament, which did appoint him.⁵ He was sworn in on 18 October 2021.

Quality of justice

Legal aid system

Free legal aid is financed by the state in order to enable access to justice to persons who cannot afford it. In Croatia, the system of free legal aid transpires in two degrees. NGOs in Croatia mostly provide first-degree free legal aid. When it comes to the system of first-degree free legal aid in Croatia, there are some concerning issues on how it is managed – and these issues have been analysed in the thematic

report “Primary legal aid – perspective of authorised providers”⁶ published by Human Rights House Zagreb in 2017. Most of the issues highlighted in that report are ongoing and still relevant to 2021. The fundamental problem is that the first-degree free legal aid provision is financed on a project-basis, which is inadequate and unsustainable. Namely, this is because project-based financing disrupts the continuity of the free legal aid program between the completion of the project in one year, the announcement of tenders the following year and the approval of project proposals. Not only may the provider be left without funds, but they are also unable to plan future programs due to the uncertainty of that funding. Moreover, these time periods of uncertainty are unnecessarily long. While the project ends at the end of December, the new tender is only announced the following year. In 2021, the deadline to apply for the ongoing year was in March, and the results were announced in June. This left the providers without the means necessary for them to operate for six months.

The second issue concerns the geographical distribution of associations in Croatia, as in many parts of Croatia there are no associations that provide primary legal aid. This deprives

3 Judgment of the Constitutional Court, 23 March 2021, U-I-1039/2021, U-I-1620/21.

4 See <https://www.vecernji.hr/vijesti/uskoro-uzivo-sabor-u-12-sati-glasa-o-izboru-durdevic-za-predsjednika-vrhovnog-suda-1503294>

5 See <https://www.tportal.hr/vijesti/clanak/radovan-dobronic-velikom-vecinom-glasova-izabran-za-novog-predsjednika-vrhovnog-suda-20211015>

6 Human Rights House Zagreb (*Kuća ljudskih prava Zagreb*). Primary legal aid – perspective of authorised providers (*Besplatna primarna pravna pomoć – perspektiva ovlaštenih pružateljica*).

many citizens in rural and remote parts of Croatia of the opportunity to access legal aid.

Resources of the judiciary

The budget proposal of the Ministry of Justice and Administration for 2022 amounts to 3,507,758,172 HRK (466,196,521.15 EUR), which is 144,122,175 HRK (19,154,472.26 EUR) more than what was planned for 2021. The largest part of the funds, in the amount of 1,045,210,185 HRK (138,913,040.25 EUR), is reserved for the needs of the Ministry, which, compared to 2021, represents an increase of 93,312,803 HRK (12,401,682.79 EUR).⁷ To put it in perspective, the state budget for 2021 was 147.3 billion HRK (around 19,568,581,560 EUR) for revenues and 157.9 billion HRK (around 20,857,211,846 EUR) for expenditures. In the heading 3 of the budget, expenditures for courts were 2,188,956,315 HRK (around 290,799,526 EUR) and in the heading 9 on education, expenditures for pre-school, primary and secondary education were 509,630,087 HRK (around 67,703,584 EUR).⁸

Training of justice professionals

The Judicial Academy Lifelong Professional Development Program for 2021⁹ covers a total of ten areas: civil and civil procedural law, criminal and criminal procedural law, misdemeanour law, administrative law, commercial law, EU and international law, a special program for judicial officers, education focused on skillsets – e.g. communication skills – e-courses on different topics and education on commitments according to national strategies. These trainings are intended mostly for judges and state attorneys.

The Judicial Academy also provides training for presidents of courts and state attorneys.¹⁰ This group of workshops was developed within the Judicial Academy in order to strengthen the capacities of the leaders of judicial bodies in the fields of organisation management, communication with employees, strategic planning, time management, effective meeting management, and development of managerial skills in the judiciary. There were ten topics covered: the structure of internal business; financial and material operation; building and

7 Croatia. Croatian Parliament (*Hrvatski sabor*). Report of the Committee on Justice on the Draft State Budget of the Republic of Croatia for 2022 and projections for 2023 and 2024 (*Izvešće Odbora za pravosuđe o Prijedlogu državnog proračuna Republike Hrvatske za 2022. godinu i projekcija za 2023. i 2024. godinu*), 1 December 2021.

8 Croatia. Ministry of Finance (Ministarstvo financija). State budget for 2021 (*Državni proračun 2021. godina*), 25 November 2020.

9 Judicial Academy (*Pravosudna akademija*). Lifelong Professional Development Program for 2021 (*Program cjeloživotnog stručnog usavršavanja za 2021. godinu*).

10 Judicial Academy (*Pravosudna akademija*). Professional Development Program for Court Presidents and State Attorneys for 2021 (*Program stručnog usavršavanja Pravosudne akademije za predsjednike sudova i državne odvjetnike za 2021. godinu*).

real estate management; human resources; use of information systems; public procurement; international cooperation and protocol affairs; media relations; supervision of personal data processing and protection of data confidentiality; and communication and management skills. The topics are listed in accordance with the Ordinance on the program and manner of conducting professional training of court presidents and state attorneys.¹¹ The basic training lasts a minimum of 30 hours and, in addition to the heads of judicial bodies, it can be attended by other judicial officials and officials working in the judiciary and administrations of state attorney's offices.

There is no publicly available information on the results of the conducted evaluation from the mentioned training programs.

Digitalisation

On 25 June 2021, the Ministry of Justice and Public Administration amended the Ordinance on the eSpis system.¹² In 2020, eSpis system was used in 49 courts (county, municipal and commercial courts, the High Commercial Court and the Supreme Court), while its introduction to administrative and

High Administrative Courts was planned for September 2021.

Users of the eSpis system are judges, court clerks, courts and the Ministry of Justice and Public Administration. The purpose and goal of the eSpis system is to improve existing systems and introduce new functionalities for courts, as well as to further connect the eSpis system with other information systems, upgrade existing services for the public and transfer the eSpis system to a new infrastructure. It also aims to promote technical modernisation of courts and the judiciary, maximise transparency and efficiency of courts, as well as better utilise human and organisational resources in courts, with the ultimate goal of introducing a fully electronic file.

Geographical distribution and number of courts/jurisdictions ("judicial map")

In the Republic of Croatia, judicial power is exercised by regular and specialised courts, as well as by the Supreme Court.

The process of rationalising the court network started in 2005 with the opening of negotiations on accession to the European Union through the Judicial Reform Strategy. The

11 Ministry of Justice and Public Administration (*Ministarstvo pravosuđa i uprave*). Ordinance on the program and manner of conducting professional training of court presidents and state attorneys (*Pravilnik o programu i načinu provedbe stručnog usavršavanja predsjednika sudova i državnih odvjetnika*). Official Gazette 106/2019, 19/2021 (*Narodne novine* 106/2019, 19/2021).

12 Ministry of Justice and Public Administration (*Ministarstvo pravosuđa i uprave*). Ordinance on amendments of Ordinance on the eSpis system (*Pravilnik o izmjenama i dopunama pravilnika o radu u sustavu eSpis*). Official Gazette 70/2021 (*Narodne novine* 70/2021).

process was carried out in several phases, the last of which took place in 2015.¹³

For the purposes of tracking this transition, the Council for Monitoring the Implementation of the Judicial Reform Strategy was established in 2006.¹⁴ The Council should meet at least four times a year, but there is no information provided on the Council's activities since the last reform in 2015.

The regular courts are composed of:

- 34 municipal courts in bigger cities across the territory of the country
- 15 county courts in some of the county capitals

Specialised courts are composed of:

- Nine commercial courts
- Four administrative courts
- The High Commercial Court of the Republic of Croatia, situated in Zagreb¹⁵
- The High Administrative Court of the Republic of Croatia, situated in Zagreb¹⁶
- The High Misdemeanour Court of the Republic of Croatia, situated in Zagreb¹⁷
- The High Criminal Court of the Republic of Croatia, situated in Zagreb¹⁸

The Supreme Court of the Republic of Croatia is the court of last instance (Article 14 of the Law on Courts).¹⁹

There are 15 county prosecutors' offices and one State Prosecutor's Office in Zagreb.²⁰

13 Ministry of Justice and Public Administration. The process of the rationalisation of the court network (*Racionalizacija mreže sudova*).

14 Ministry of Justice and Public Administration. Council for Monitoring the Implementation of the Judicial Reform Strategy (*Savjet za praćenje provedbe Strategije reforme pravosuđa*).

15 Croatia. High Commercial Court of the Republic of Croatia (*Visoki trgovački sud Republike Hrvatske*). Law on Courts (*Zakon o sudovima*). Official Gazette 130/2020 (*Narodne novine 130/2020*), Articles 29, 30 para. 1. and 31. para. 1.

16 Croatia. High Administrative Court of the Republic of Croatia (*Visoki upravni sud Republike Hrvatske*). Administrative Disputes Act (*Zakon o upravnim sporovima*). Official Gazette 20/2010 (*Narodne novine 20/2010*), Article 12, para. 3.

17 Croatia. High Misdemeanour Court of the Republic of Croatia (*Visoki prekršajni sud Republike Hrvatske*). Law on Courts (*Zakon o sudovima*). Official Gazette 130/2020 (*Narodne novine 130/2020*), Article 26.

18 Croatia. High Criminal Court of the Republic of Croatia (*Visoki kazneni sud Republike Hrvatske*). Law on Courts (*Zakon o sudovima*). Official Gazette 130/2020 (*Narodne novine 130/2020*), Article 26a.

19 Croatia. The Supreme Court of the Republic of Croatia (*Vrhovni sud Republike Hrvatske*).

20 Croatia. State Attorney's Office of the Republic of Croatia (*Državno odvjetništvo Republike Hrvatske*).

Fairness and efficiency of the justice system

Length of proceedings

The inefficiency of justice system, in particular pertaining to the extensive lengths of procedures and arbitrary decisions, can be seen in cases related to pushbacks and torture of refugees and other migrants in Croatia. The access to legal remedies in these cases is extremely difficult, but even when persons initiate criminal proceedings for a violation of their rights after infringements have been committed, we are not aware of any proceedings that would be considered an effective investigation according to the established criteria. Although there have been numerous allegations of torture and violence and, to our knowledge, at least 20 criminal complaints for illegal expulsion and/or violence against refugees and other migrants, no indictments were brought and, accordingly, no perpetrators of reported crimes were identified, prosecuted or sanctioned in any. The Centre for Peace Studies has filed two criminal complaints in 2021 for pushbacks and torture of refugees, while the State Attorney has also started an investigation into a case where Lighthouse Reports journalists published a video of Croatian police officers violently pushing persons back from Croatian territory.²¹ The investigations are ongoing.

We also refer to the Report of the Domestic Policy and National Security Committee from

the discussion on the refusal of international protection in the Republic of Croatia from 1 March 2018. It includes the Ombudswoman's assessment of the ineffectiveness of investigations:

“She emphasized that they began receiving first complaints about the return of migrants without implementing an individualized approach at the end of 2016 [...] She pointed out that her Office initiated proceedings and that, based on the complaints received, they were in constant communication with the Ministry of the Interior. According to the available information, the investigations of the Ministry of the Interior into these alleged events were reduced to the final conclusion that the events were not documented in the police records. Since the Ministry of the Interior does not usually keep records of such actions, she said that consequently they were not even able to conduct an effective investigation. After some time, it came to her attention that these cases were investigated within the General Police Directorate, about which her Office did not receive concrete information, and she asked why such an investigation was not conducted by the Internal Control Services. She considers it indicative that her Office was not able to get the footage of thermal imaging cameras for disputed situations in which there was alleged violence, under

21 See: <https://www.telegram.hr/politika-kriminal/dorh-istrazuje-policaјce-snimljene-dok-mlate-migrante-sumnja-na-neljudsko-i-okrutno-postupanje/>

the justification that the footage did not exist for the specified time period.”

Furthermore, the actions regarding the criminal complaints related to pushbacks of refugees and other migrants show that, under international and national law, none of the actions necessary to identify the perpetrators were taken, that the proceedings were unreasonably long and that they were not carried out with due diligence – hence the criteria for an effective investigation were not met. We stress that, in cases involving victims and witnesses who are refugees and other migrants, the use of expedited procedures is crucial due to frequent changes in their location in search of protection - with the passage of time, it becomes increasingly difficult to identify and locate victims.

Anti-corruption framework 🟡

Key recommendations

- Ensure sufficient resources for the implementation of the Protection of Reporters of Irregularities Act.

Levels of corruption

The Corruption Perception Index for 2021 has shown that Croatia is stagnating. With a score of 47 out of 100, Croatia is ranked 63rd in the world.²² The Global Corruption Barometer – European Union for 2021 shows that Croatia has some of the worst results in the EU.²³ For example, 41% of people in Croatia think that corruption increased in the previous year, and 92% of people think that government corruption is a big problem. 72% of people in Croatia think their government is doing badly in tackling corruption, while 14% of Croatian respondents admitted to paying a bribe to get a service in the previous 12 months.

On 29 April 2021, the Croatian State Attorney’s Office (DORH) presented the Parliament with a report²⁴ on its work in 2020. According to the report, 91.3% of a total of 1,271 criminal charges for corruption were dropped, which is a 35% increase compared to the year before. 83.3% of the charges were for abuse of power and authority. In the same period, there was a 23.94% decrease in the number of investigations for corruption.

There were several high-profile examples of corruption among the members of the ruling party on national, local and regional levels, which the State Attorney’s Office often neglected to act upon.

22 See: <https://www.transparency.org/en/cpi/2021>

23 See: https://images.transparencycdn.org/images/TI_GCB_EU_2021_web_2021-06-14-151758.pdf

24 See: <https://dorh.hr/sites/default/files/dokumenti/2021-04/dorhgodisnjeizvjesce2020.pdf>

On 15 April 2021, news portal Telegram published an article²⁵ stating that the job of managing the Ministry of Health's website for COVID-19²⁶ vaccinations was granted to a company called Cuspis, owned by a close friend of Health Minister Vili Beroš.²⁷ Initially, the Ministry refused to provide this information and ignored Telegram's inquiry on the identity of the service provider. It was also discovered that there was no public procurement for the grant.²⁸ The website crashed and malfunctioned several times,²⁹ rendering it completely dysfunctional while local and regional medical service providers were unable to use it. Eventually the website was shut down and replaced by the pre-existing state website. Cuspis received 4.4 million HRK for this grant, and in total they received 14 million HRK in various grants by the Ministry of Health since Vili Beroš became minister in 2018.

Framework to prevent corruption

In December 2021, GRECO concluded that "Croatia has implemented satisfactorily or dealt with in a satisfactory manner none of the seventeen recommendations contained in the Fifth Round Evaluation Report. Eight recommendations have been partly implemented and nine have not been implemented."³⁰

The Ministry of Justice and Administration was late in initiating the creation of the new Corruption Prevention Strategy for the period of 2021 to 2030, while the old one expired in 2020. This led to a delay in the adoption of the new Strategy, which was adopted on 29 October 2021 – creating a gap of eleven months without an adequate strategy on preventing corruption.

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

During 2021, the new Draft of Protection of Reporters of Irregularities Act³¹

25 See: <https://www.telegram.hr/politika-kriminal/telegram-otkriva-ono-sto-beros-mjesecima-skriva-propali-cijepise-radio-njegov-poznanik-kojem-daje-milijune/>

26 <https://cijepise.zdravlje.hr/>

27 See: <https://www.index.hr/vijesti/clanak/tvrtka-mu-vrti-milijune-na-poslovima-s-berosevim-ministarstvom-on-se-cijepio-viskom/2254605.aspx>

28 See: <https://www.telegram.hr/politika-kriminal/vlada-je-izbjegla-raspisivanje-natjecaja-za-izradu-platforme-cijepise-sad-ne-zeli-reci-kome-su-ga-dali/>

29 See: <https://www.telegram.hr/politika-kriminal/zasto-je-afeta-cijepise-najgora-ministarska-afeta-koju-je-telegram-dosad-otkrio/>

30 See: <https://rm.coe.int/fifth-evaluation-round-compliance-report-on-croatia-adopted-by-greco-a/1680a4f0f6>

31 Draft of Protection of Reporters of Irregularities Act, https://sabor.hr/sites/default/files/uploads/sabor/2021-12-15/161202/PZE_242.pdf

(whistleblowers) was put forward by the government. Two years after the first Protection of Reporters of Irregularities Act³² was introduced, the new text of this legislative act is drafted for the purposes of transposing the Directive (EU) 2019/1937 of the European Parliament and the Council from 23 October 2019 on the protection of persons who report breaches of Union law. The new Draft of Protection of Reporters of Irregularities Act represents a positive step for the protection of whistleblowers, but, even after public consultation, it still has certain deficiencies. The provisions about the right to free legal aid were added after the consultations, but considering how the Law on Free Legal Aid is currently applied in these cases, and considering that the system of free legal aid is already inadequate, we can presume that, in practice, whistleblowers will not be able to exercise this right. Furthermore, there are no provisions on psychological support for whistleblowers, who often suffer various mental health issues as a result of the pressure and stigmatisation. Also, it is necessary to ensure sufficient resources for the Ombudsman's Office in order to secure full implementation of this legislation. The Protection of Reporters of Irregularities Act will be decided on by the Parliament in 2022 and we hope these deficiencies will be removed.

Investigation and prosecution of corruption

The Croatian Criminal Law³³ criminalises numerous corrupt acts. The Office for the Suppression of Corruption and Organised Crime is a special State Attorney's office for the prescribed catalogue of criminal offenses, and is tasked with taking the necessary procedural actions.

In November 2021, several arrests took place for alleged corruption as regards the implementation of EU funds. The persons arrested included Gabrijela Žalac, Croatia's former Minister for Regional Development and EU Funds (from 2016 to 2019), Tomislav Petric, the director of the Central Finance and Contracting Agency (SAFU), and Mladen Šimunac and Marko Jukić, two entrepreneurs and associates who owned IT companies, and one of whom is a friend of ex-Minister Žalac. The arrests were part of an operation by the European Public Prosecutor's Office (EPPO) in Croatia, an EU watchdog monitoring how EU funds are spent. The case is dubbed "Software", and it involved crimes committed in the ministry and SAFU related to overpayment of the public procurement of an information system. Namely, the case concerns the software design, which the Ministry of Regional Development and EU Funds conferred on the

32 Croatia. Protection of Reporters of Irregularities Act (*Zakon o zaštiti prijavitelja nepravilnosti*), Official Gazette 17/2019.

33 Croatia. Criminal Code (*Kazneni zakon*), Official Gazette 125/2011, 144/2012, 56/2015, 61/2015, 101/2017, 118/2018, 126/2019, 84/2021 (*Narodne novine 125/2011, 144/2012, 56/2015, 61/2015, 101/2017, 118/2018, 126/2019, 84/2021*).

Ampelos company when Žalac was the minister. At the time, Žalac was also a member of the SAFU Board of Directors. According to the European Prosecutor's Office, she had asked SAFU Director Petric to ensure that the Agency did not challenge the negotiated public procurement procedure for Šimunac and Jukić's IT companies, to which Petric agreed.³⁴

News portal Telegram³⁵ first broke the story in 2019, reporting that Žalac, then still Minister of Regional Development and EU Funds, had paid 13 million HRK, about 1.7 million EUR, for software that originally cost 2.9 million HRK, around 400,000 EUR.

In his comment on the arrest, Prime Minister Plenković, among others, took time to admire the work of former Minister Žalac: "Nowhere else in Croatia had I seen anyone with so much knowledge, enthusiasm, quality and familiarity with EU funds. I think she was brilliant."³⁶

At the beginning of 2022, Žalac and Petric were released from custody, because it was concluded that the possibility of them influencing witnesses in the proceedings was no longer existent. The case is ongoing.³⁷

Media environment and freedom of expression and of information 🟡

Key recommendations

- Croatian Radio Television must be reformed and other legal actions to ensure full independence of the public broadcaster from political influence need to be taken.
- Journalists and media have to be protected against SLAPPs.
- Journalists and media have to be protected against threats and attacks. Smear campaigns against media should be curtailed.

Media and telecommunications authorities and bodies

The main media regulator in Croatia is the Agency for Electronic Media.³⁸ It was established in accordance with the provisions of the Electronic Media Act (EMA) and performs

34 See: <https://balkaninsight.com/2021/11/11/croatia-former-eu-funds-minister-arrested-for-corruption/>

35 See: <https://www.telegram.hr/politika-kriminal/kako-je-telegram-razotkrio-prevaru-sa-softverom-zbog-ko-je-je-danas-uhicena-zalac/>

36 See: <https://hr.n1info.com/english/news/pm-party-leadership-will-decide-on-zalacs-status-in-the-party/>

37 See: <https://www.telegram.hr/politika-kriminal/nakon-zalac-iz-istranog-zatvora-ranije-pusten-i-hdz-ov-bivsi-sef-agencije-za-eu-projekte/>

38 Croatia. Agency for Electronic Media (*Agencija za elektroničke medije*).

administrative, professional and technical tasks for the Electronic Media Council,³⁹ the governing body of the Agency and the regulatory body in the field of electronic media.

Pluralism and concentration

One issue concerning the new media law relates to the popular cable news channel N1 Hrvatska, which is admired by many for its independent reporting. In March 2021, the channel was removed from the package provided by an important telecom operator, A1 as their contract was not extended, due to disagreement on the price of broadcasting. Due to the fact that N1 Hrvatska is owned by the United Group and is not a free-to-air television channel with a national licence, it is not covered by the cable must-carry rules that apply to stations licensed in Croatia. The channel is advocating for the issue to be resolved in a new media law or a national broadcasting licence. In case they are not, the potential loss of distribution would pose a real risk to media pluralism and diversification in Croatia.⁴⁰

Transparency of media ownership

In terms of media ownership, there is a lack of transparency in data collection and regulation. In accordance with media legislation, media publishers are obligated to publish information on ownership, but there is no clearly defined body that supervises this process.

The Agency for Electronic Media maintains a register of electronic publications providers.

Public service media

Independence of public service media from governmental interference

Croatian Radio Television (CRT), a public television and radio broadcaster, cannot be considered independent and does not fulfil its role as a reliable, pluralistic source of information. For years, a number of relevant actors, such as the Croatian Journalists' Association (CJA) and the Trade Union of Croatian Journalists, have been warning about this. CRT is heavily controlled by the government and the ruling party.

In March 2021, CJA reacted to dismissal of CJA president Hrvoje Zovko from CRT and notice prior to dismissal to Maja Sever, president of the Trade Union of Croatian Journalists for her interview as a Union president, in which she spoke about the processes related to allegations of sexual harassment at CRT. The CJA invited "the government, the Ministry of Culture and Media and the parliamentary Committee for Information, Informatisation and Media, as well as the Supervisory Board of CRT, to examine the manner of managing the public national service, the public welfare of all citizens, that became the property of one

39 Croatia. Electronic Media Council (*Vijeće za elektroničke medije*).

40 See: [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital News Report 2021 FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital%20News%20Report%202021%20FINAL.pdf), p. 70.

man and his interest group by failure to act by the competent authorities.”⁴¹

In July 2021, CRT Director Kazimir Bačić, who was responsible for the aforementioned actions against journalists and leading people of the CJA, was arrested under suspicion of trading in influence for the anti-corruption action against the deceased mayor of Zagreb, Milan Bandić, launched by the Office for the Suppression of Corruption and Organised Crime. Bačić is accused of obtaining an apartment for serving as an intermediary between Bandić and construction entrepreneur Milan Lončarić, who allegedly bribed Bandić to obtain permits for construction of a building in one of Zagreb’s neighbourhoods.

In October 2021, Robert Šveb was appointed as the new director of CRT. In response, almost the entire parliamentary opposition organised a protest in the Parliament, claiming that the procedure leading to his appointment was irregular as the sessions of the parliamentary Committee for Information, informatisation and Media were not held in accordance with the Rules of Procedure. Also, there were allegations of Šveb’s conflict of interest, as he is the owner of a company that cooperates with CRT.⁴²

On this occasion, the Croatian Journalists’ Association and the Trade Union of Croatian

Journalists stated the following: “Croatian Radio-Television has been devastated, and the crisis has reached its peak as the ruling majority embarks on the election process for the new CRT director, who is accumulating problems day by day. It is high time for the adoption of a new Croatian Television Act and a change in regulations that would ensure independence for public television.”⁴³

Online media

Regulatory framework

The New Electronic Media Act (passed in October 2021)⁴⁴ guarantees the freedom of expression and full program freedom of electronic media, and the provisions of the law do not leave any wiggle room for potential censorship or restriction of the right to freedom of speech and expression. State bodies and their representatives, political parties, trade unions and various interest groups may not influence the broadcaster to create a program.

The law stipulates that publishing activities are of public interest and that they achieve goals and values of importance for the state: the exercise of the right to public information and information of all citizens of the country, protection of the Croatian language, preservation of national and cultural identity, protection of children and youth, as well as children

41 See: <https://hnd.hr/bacicev-progon-celnih-ljudi-hnd-a-i-sindikata-novinara-novi-je-udar-na-slobodu-medija>

42 See: <https://www.vecernji.hr/vijesti/oporba-uz-prvo-pjevanje-pakla-opstruira-raspravu-o-hrt-u-i-svebu-1531053>

43 See: <https://hnd.hr/hrvatska-radiotelevizija-mora-postati-servis-gradana-a-ne-politike>

44 Croatia. Electronic Media Act, Official Gazette NN 111/21.

and other persons with disabilities and special needs, encouragement of cultural creativity, development of education, science, arts and sports, protection of nature, the environment and human health, and promotion of media literacy.

According to the law, radio and television programs shall not contain incitement to violence or hatred against groups or members of a group based on sex, gender, race, ethnic or social origin, genetic characteristics, language, religion or beliefs, political views or any other opinions, national minority affiliation, property, birth, disability, age, sexual orientation and citizenship, as well as content that provokes the commission of a terrorist offense.

In addition, the law provides that advertising and teleshopping shall be easily identifiable and distinct from the editorial content, and may not use subliminal techniques, jeopardise human dignity, include or promote discrimination, encourage behaviour that is harmful to health or safety, or encourage behaviour that is highly harmful to the environment.

The law introduces changes related to the transparency of the ownership structure of television and radio broadcasters and the violation of pluralism and diversity of electronic media. In the event that the share of one media service provider reaches 40% in

total annual revenues of all media service and electronic publications providers, this provider will be considered dominant in the market and a disruption to the pluralism and diversity of electronic media. Consequently, that provider would not be able to acquire new shares in addition to their existing ones, nor could the Electronic Media Council grant it a new concession or permission.

Impact on media of online content regulation rules

Under the chapter on media and telecommunications authorities and bodies, the new Electronic Media Act (EMA)⁴⁵ in Article 94(3) regulates user-generated content, i.e. comments left by the users on online articles. The Act states that, in order to comment on an online article, users will have to register to the website and publishers are required to warn them in a clear and understandable way about commenting rules and violations. In this way, the responsibility for unlawful comments will not go to the publishers, but rather to the users who made them.

Competence and powers of bodies or authorities supervising the online ecosystem

The Agency for Electronic Media (AEM)⁴⁶ maintains a register of electronic publications providers,⁴⁷ in accordance with Article 80 of

45 Croatia. Electronic Media Act (*Zakon o elektroničkim medijima*) Official Gazette 111/2021 (*Narodne novine 111/2021*), 1 October 2021.

46 See: <https://www.aem.hr/about-the-agency/>

47 See: <https://www.aem.hr/en/elektronicke-publikacije/>

the EMA. As previously noted, the AEM is a media regulator performing administrative, professional and technical tasks for the Electronic Media Council (EMC),⁴⁸ the governing body of the Agency.

The Croatian Journalists' Association (CJA) Ethical Council is the only self-regulatory body operating within the CJA since its founding in 1910. The Council has 11 members elected by members of the CJA assembly.⁴⁹ According to the Code of Ethics, members of the CJA, if reported for violating the Code of Ethics, must respond to the report, in person or in writing. The Ethical Council then concludes or gives its opinion on whether and, if so, which ethical principles from the Code of Ethics have been violated. In the case of minor offences, the Ethical Council can issue a warning to journalists who are members of the CJA, reminding them of their obligations and duties to adhere to ethical and professional standards. In the more serious cases, the Council may issue a severe warning of a serious violation of ethical and professional standards. For the most serious offenses that compromise the profession's dignity, the Council may decide to exclude a journalist from the CJA.

Citizens' complaints on discriminatory content online can be addressed to the Ombudsman's

Office⁵⁰ in line with the Office's role as the central body for combating discrimination. Article 25 of the Anti-discrimination Act⁵¹ prohibits behaviours that might cause fear or create a hostile, degrading or offensive environment based on the grounds of race, ethnicity, skin colour, gender, language, religion, political or other belief, national or social origin, wealth, union affiliation, social status, marital status, age, health, disability, genetic heritage, gender identity or expression and sexual orientation. This provision refers to both the physical as well as the online environment.

Financing framework (including allocation of advertising revenues, copyright rules)

The Fund for the Promotion of Pluralism and Diversity of Electronic Media⁵² is a fund of the Agency for Electronic Media and financed by the Croatian Radio and Television Act (3% of RTV fee revenues). The Fund works at the local and regional level to promote the production and publication of audio-visual and radio programs, as well as television and/or radio content.

The Fund's resources are distributed among certain types of users in ratios:

48 See: <https://www.aem.hr/en/vijece/>

49 See: <https://www.hnd.hr/novinarsko-vijece-casti1>

50 See: <https://www.ombudsman.hr/hr/ovlasti-i-nadleznosti/>

51 Croatia. Anti-discrimination Act (Zakon o suzbijanju diskriminacije) Official Gazette 85/2008 (Narodne novine 85/2008), 21 July 2008.

52 See: <https://www.aem.hr/kategorija/fond-za-pluralizam/>

1. television broadcasters at the local and regional level, non-profit television broadcasters and non-profit media service providers referred to in Articles 19 and 79 of the EMA - 46.5%
2. radio broadcasters at the local and regional level, non-profit radio broadcasters and non-profit media service providers referred to in Articles 19 and 79 of the EMA - 46.5%
3. non-profit providers of electronic publications - 3%
4. non-profit audio-visual content producers - 3%
5. non-profit radio content producers - 1%⁵³

Public trust in media

According to a recent study on public trust in media conducted by the Reuters Institute, the overall trust in the news in Croatia is quite high, at 45% (up by 6% from 2020), which is probably caused by the fact that people became more reliant on media during the pandemic.⁵⁴

At the same time, there is research showing that public trust in the media is quite low. Other research on public trust in media in Croatia underscores that trust in traditional media is declining.⁵⁵ According to the study, “What Does The Public Want?”, which was conducted by Faktograf.hr in December 2020 and presented to the public in October 2021, the general population believes that the most misleading news or disinformation can be found on social networks (27%), internet portals (24%), the public broadcaster HRT (16.2%), commercial television (12.1%), followed by newspapers (10.9%) and radio (8.9%).⁵⁶

The pandemic played a role in the further decline of public trust in the media in Croatia. This is also illustrated in research conducted by the Friedrich-Ebert-Stiftung Zagreb in 2020⁵⁷ and in 2021.⁵⁸

Safety and protection of journalists and other media activists

We do not believe that the existing legal framework or the current media environment

53 Croatia. Electronic Media Council (*Vijeće za elektroničke medije*). Ordinance on the Fund for the Promotion of Pluralism and Diversity of Electronic Media (*Pravilnik o Fondu za poticanje pluralizma i raznovrsnosti elektroničkih medija*) Official Gazette 150/2013 (*Narodne novine 150/2013*), 21 December 2013.

54 [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital News Report 2021 FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital%20News%20Report%202021%20FINAL.pdf), p. 19; 70-71.

55 <https://faktograf.hr/2021/11/27/nepovjerenje-u-tradicionalne-medije-dio-je-sireg-nepovjerenja-u-institucije/>

56 <https://hrzz.hr/wp-content/uploads/Jourlab-Sto-publika-zeli-Anketa.pdf>, p. 10.

57 <http://library.fes.de/pdf-files/bueros/kroatien/17220.pdf>, p. 8; 15.

58 <http://library.fes.de/pdf-files/bueros/kroatien/18797.pdf>, p. 14.

ensure adequate protection for journalists and their work in Croatia. In 2021, there were several cases of threats and even attacks against journalists that underscore this unfortunate situation.

Frequency of verbal and physical attacks

Multiple instances of attacks on journalists took place in 2021. Journalist Danka Derifaj received verbal attacks and death threats after she reported on the illegal construction of a building in Split in which the controversial Croatian singer Marko Perković owns an apartment. As the latter is suspected of being involved in illegal or semi-legal activities that, inter alia, negatively affect his neighbours' right to enjoy their property, the singer tried to block the story from being published in the investigative magazine "*Potraga*". Perković incited a wave of hate via his Facebook profile by insinuating that Derifaj and her crew had broken into his home and disturbed his under-age children. Because of this, he claimed, he would press criminal charges against her. Later, the police denied that Derifaj broke the law and denied that any elements of a misdemeanour or crime could be found. However, Perković's Facebook posts sparked a series of hateful messages directed against Derifaj, who submitted several criminal charges against a number of unknown perpetrators.

Furthermore, her lawyer announced that she was pressing criminal charges against Perković.⁵⁹

In November 2021, journalist Boris Dežulović, who is famous for speaking out about Croatian nation-building myths that have emerged since the dissolution of Yugoslavia, became the target of harsh attacks by parts of the public and political actors. These followed the publication of his controversial column, in which he derided the cult surrounding the city of Vukovar, which encapsulates the official victim narrative of Croatia during the War of Independence in the early 1990s. Dežulović received several threats, including death threats that have become subject to police investigation.⁶⁰

In the same month, the journalist Drago Hedl was threatened by the husband of former Minister Gabrijela Žalac at their residence. Through his work, Hedl revealed the corruption leading up to Minister Žalac's ultimate arrest. When the police showed up at her house with a search and arrest warrant, her husband tried to attack Hedl and other journalists who were present at the scene, but was stopped by police officers.⁶¹

In January 2022, a journalist for Faktograf.hr received a serious death threat after they

59 See: <https://www.snh.hr/podrska-kolegici-danki-derifaj/>

60 See: <https://balkaninsight.com/2021/11/10/croatian-police-investigate-threats-to-columnist-over-vukovar-column/>; <https://hnd.hr/policija-istrazuje-prijetnje-dezulovicu-zbog-kolumne-o-vukovaru>; <https://hnd.hr/hnd-dezulovic-je-izlozen-institucionalnom-lincu>

61 See: <https://hnd.hr/hnd-poziva-nadlezne-da-reagiraju-na-prijetnje-dragi-hedlu>

published a series of articles debunking false information on COVID-19.⁶² A message was sent to Faktograf.hr's Facebook page inbox with the link to an article on Wikipedia on the "Assassination market".⁶³ The message read: "Are you proud that half of the state hates you? Consider how good it is. Greetings from Croatian anonymous, while you are harassing people, we are preparing smart contracts in silence. Please make us open Pandora's box! You will be the first in history after whom the citizens will organize the hunt. continue with your work, let's make history together. Death to totalitarians, liberty to the people!". An assassination market is defined as a prediction market where any party can place a bet (using anonymous electronic money and pseudonymous remailers) on the date of death of a given individual, and collect a payoff if they "guess" the date accurately. This could potentially incentivise assassinations, because an assassin could profit by making an accurate bet on the time of the subject's death.

Smear campaigns

In November 2021, the fact-checking portal Faktograf.hr⁶⁴ received numerous threats of physical violence, including death threats after the businessman Nenad Bakić called for a public lynching of the portal and invited his

Facebook followers to file lawsuits en masse. Bakić also publicly spoke about the possibility of establishing a fund for these lawsuits. Bakić is one of the most influential spreaders of disinformation about COVID-19 and, as such, is often fact-checked by the portal.⁶⁵ Moreover, in December 2021, Faktograf.hr was the target of a coordinated hacker attack. The attack came after the lynching initiated by Bakić and aimed to intimidate the portal. The fact that Faktograf.hr has been subjected to harassment, abuse and threats against its team of journalists was nothing new. Since the outbreak of the pandemic, the portal has been exposed to regular hate speech and threats received via email, social networks and click-bait media. During this period, Faktograf.hr reported almost 40 threats of physical violence and death to the police. In less than 13 hours after the hacker attack, from December 13 to December 14, over 27 million attempts were made to access the Faktograf.hr site. In this organised DDoS attack, these attempts were made mainly from Russia and Indonesia.⁶⁶

In May 2021, shortly after the second round of local elections in Croatia, Prime Minister Andrej Plenković once again attacked the media, accusing them of "being paid to vilify a political camp" and of deliberately and repeatedly misnaming his party's (HDZ) candidate

62 See: <https://faktograf.hr/live-blog-dezinformacije-o-koronavirusu/>

63 See: https://en.wikipedia.org/wiki/Assassination_market

64 See: <https://faktograf.hr/>

65 See: <https://www.telegram.hr/politika-kriminal/bakic-napao-faktograf-i-pozvao-pratitelje-da-tuze-portal-redakcija-pocela-dobivati-prijetnje-smrcu/>

66 See: <https://faktograf.hr/2021/12/14/hajka-protiv-faktografa-nece-nas-zastrasiti/>

for mayor of Zagreb, Davor Filipović, during debates in the first election round. Plenković further accused the media of being “mercenaries who disgust one’s political option”. However, when asked by N1 TV journalist Elvir Mešanović why he never responded to their invitations for an interview, Plenković replied that “(N1) should write a poster declaring what ideological television they are”. He also said that the political analyst and commentator Dražen Lalić, a professor at the Zagreb Faculty of Political Science, was paid by broadcasters to smear HDZ candidates and targeted CJA president Zovko, who strongly condemned Plenković’s attacks on the media.⁶⁷

Lawsuits and prosecutions against journalists SLAPPs and safeguards against abuse

In April 2021, the Croatian Journalists’ Association published a report documenting the continued use of lawsuits to silence journalists investigating people in positions of power. They found 924 such cases, primarily targeted against journalists working for Hanza Media and Styria, publishers of the largest dailies Jutarnji list, 24 sata, and Večernji list. The commercial television channels RTL, N1 and NOVA TV were put under increased pressure by the Prime Minister Andrej Plenković,

who accused the media of conspiring against his party’s (HDZ) candidates, following local elections in May 2021.⁶⁸

In addition, the portal Index.hr is faced with 56 lawsuits, which could bring the portal to the verge of collapse as most of the lawsuits seek compensation ranging from 10,000 to 100,000 HRK (around 1,330 to 13,300 EUR). Undoubtedly, such lawsuits aim to silence journalists and coerce them to self-censor, which is already a wide-ranging issue in Croatia.⁶⁹

In March 2021, the journalist and president of the Croatian Journalists’ Association, Hrvoje Zovko, was dismissed by his employer, the Croatian public broadcaster HRT. He had allegedly demonstrated violent behaviour in the workplace. The firing happened only seven months after a court decided that Zovko’s previous termination by the same employer in 2018 was unlawful and that he must be returned to the workplace. The second attempt at termination was not delivered directly or officially to him, instead he was informed via the media. According to his lawyer, this represented a continuation of the public broadcaster’s public and private abuse against Zovko.⁷⁰ Moreover, the CJA stated that the termination was likely connected to Zovko being its president, as

67 See: <https://europeanjournalists.org/blog/2021/06/01/croatia-prime-minister-plenkovic-attacked-media-after-local-elections/?fbclid=IwAR2EvA76LZzlcafDGQXDT-Et5e0l3nYXOayabPHhcqIM9oKxKBhKBzsNmMw;>

68 See: [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital News Report 2021 FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital%20News%20Report%202021%20FINAL.pdf), p. 70; see also <https://www.snh.hr/anketa-hnd-a-924-tuzbi-protiv-novinara/>

69 See: <https://www.snh.hr/medunarodne-novinarske-organizacije-zabrinute-zbog-vala-tuzbi-protiv-index-hr-a/>

70 <https://www.index.hr/vijesti/clanak/hrt-povukao-tuzbe-protiv-hnda-i-mikleusevic-pavic/2315564.aspx>

he had used this role to speak out about the poor state of media freedom in Croatia and the censorship practices at HRT.⁷¹ Zovko was furthermore sued by the HRT. In November 2021, the director of HRT's business unit, Mislav Stipić, privately sued the vice-presidents of the CJA, Branko Mijić and Goran Gazdek, for the criminal offence of libel. This lawsuit is confirmation of the fact that, in Croatia, powerful persons threaten journalists and the media with lawsuits, thus endangering journalistic and media freedoms. In the EU, Croatia is already recognised as a country in which these freedoms are at risk. The lawsuits filed by the top people of HRT against journalists and the CJA are shameful.⁷²

In another case, the Polyclinic for the Protection of Children and Youth of the City of Zagreb and its director, Gordana Buljan Flander, filed a personal suit against the non-profit media portal H-Alter⁷³ for a series of articles published by the journalist Jelena Jindra. In these articles, Jindra called out the Polyclinic and Flander for malpractice as the Polyclinic uses the controversial theoretical approach “parental alienation” in its work to support families going through divorces and breakups. At the proposal of the Polyclinic and Flander, on 21 September 2021, the court passed a temporary

measure prohibiting H-Alter from further reporting, that is, presenting “information relating to dignity, professional work and professional achievements” of the clinic and Flander. The temporary measure constitutes a de facto proactive censorship preventing the portal from publishing any more texts on the topic. While the City of Zagreb eventually dropped their lawsuit, Flander did not.⁷⁴

In November 2021, the Municipal Court in Šibenik upheld the action brought by the Supreme Court Judge Senka Klarić Baranović against journalist Davorka Blažević. Under the infamous so-called “violation of honor and reputation” provisions (Arts. 147. to 151. of the Croatian Criminal Code), Blažević must pay the plaintiff 75,000 HRK (around 10,000 EUR), in addition to the costs of the proceedings. The decision of the court was made in a retrial brought against Blažević by Judge Baranović over an article published in 2015 on the non-profit Tris.com portal,⁷⁵ in which Blažević commented on the Supreme Court's decision in the “Fimi Media” case concerning the former Croatian PM Ivo Sanader. This final ruling was made without any new evidence introduced before the court. Following the previous trial, in which Blažević was acquitted, the County Court in Zagreb annulled the

71 <https://balkaninsight.com/2021/03/10/veteran-reporter-accuses-croatian-broadcaster-of-revenge-sacking/>

72 <https://hnd.hr/jos-jedna-sramotna-tuzba-mislav-stipic-tuzio-potpredsjednike-hnd-a-mijica-i-gazdeka>

73 See: <https://h-alter.org/>

74 See: <https://hr.n1info.com/vijesti/poliklinika-povukla-svoj-dio-tuzbe-protiv-portala-h-alter-ne-i-buljan-flander/>;
<https://hnd.hr/urednik-h-altera-zabrana-pisanja-predstavlja-cenzuru-zaobilaznim-putem>

75 See: <https://tris.com.hr/>

initial decision and returned the case back to the Municipal Court in Šibenik for retrial.⁷⁶

Freedom of expression and of information

Legislation and practices on fighting disinformation

Sanctions for spreading disinformation are elaborated on in the Act on Misdemeanours against Public Order and Peace⁷⁷ in Article 16. This law was adopted in 1977 and has been amended several times, most recently in 1994. Nonetheless, despite this, it has not undergone significant changes, which is why it is justifiably considered an obsolete regulation.

There is no information on the usage of the sanction under this article on the spread of disinformation.

Checks and balances 🟡

Key recommendations

- The role of the Croatian Parliament needs to be strengthened and anti-corona measures that limit human rights should require a two-thirds majority in the Parliament in order to be passed.

- The number of legislative acts brought under the urgent procedure protocol should be reduced.
- The resources and capacities of the Ombudsman's Office and other independent authorities should be strengthened.

Process for preparing and enacting laws

Transparency and quality of the legislative process

The legislative procedure in Croatia continues to be defined by the weak role of the Parliament and dominance of the executive branch, which usually submits laws and other legislative acts, while the ruling majority adopts them regardless of the debate or other arguments brought forth.

Impact assessments and policy analyses are seldom used in a meaningful way and are often intransparent and/or unavailable to the public. Public consultations are predominantly held pro forma, with relevant government bodies and institutions acknowledging the comments made by the public, but rarely incorporating them into laws and public policies. Consultations are often announced late in the legislative process or during holidays with

76 See: <https://hnd.hr/skandalozna-presuda-suda-u-sibeniku-protiv-novinarke-davorke-blazevic>

77 Croatia. Act on Misdemeanours against Public Order and Peace (*Zakon o prekršajima protiv javnog reda i mira*). Official Gazette 41-323/1977 (*Narodne novine 41-323/1977*), article 16.

short deadlines, so the public has little time to react.

In 2021, a total of 423 proposals were voted on, including legislative acts and various technical and procedural decisions, as well as reports. Out of those, 214 acts (51%) were sponsored by the government.⁷⁸ It is important to note that almost none of the proposals or amendments made by opposition parliamentary groups were supported.

The dominance of the executive over the legislative branch been exacerbated by the COVID-19 pandemic and the introduction of the Civil Protection Headquarters of the Republic of Croatia. The Headquarters are an executive body whose goal is to introduce temporary measures and policies aimed at combatting the pandemic and protecting public health. However, throughout 2021, the Headquarters was criticised for serving as a political tool.⁷⁹ Many of its decisions were arbitrary and contradicted the epidemiological situation, and they often limited human rights and freedoms without a clear justification and without parliamentary support. There are also controversies around the application of the provisions of the Constitution under which

anti-pandemic legislation should be enforced. As a result, since the pandemic started, a number of legislative acts limiting human rights were able to be passed with a simple majority, instead of with the two-thirds majority stipulated by Article 17 of the Constitution.

In November, the parliamentary opposition party MOST launched a referendum initiative aimed at curtailing the powers of the Headquarters⁸⁰ and returning those powers to the Parliament, as well as suspending COVID certificates. At the time of writing of this report, the signatures are still being counted. MOST claims they have collected around 400,000 signatures,⁸¹ while the minimum necessary in order for the referendum to be granted is 368,446 (10% of total voters).

Rules and use of fast-track procedures and emergency procedures

The use of fast-track and urgent procedures is a widespread practice in the Croatian Parliament despite them being nominally preferred only in extraordinary circumstances (“laws may be enacted under urgent procedure when this is required on particularly justified grounds, which have to be clearly explained”).⁸² During

78 See: <https://www.sabor.hr/hr/sjednice/pregled-dnevnih-redova>

79 See: <https://www.nacional.hr/bencic-stozer-je-potpuno-politicki-instrumentaliziran-mora-se-mijenjati/>

80 See: <https://www.jutarnji.hr/vijesti/hrvatska/most-krece-u-prikupljanje-potpisa-pokrecemo-dva-referendums-ka-pitanja-zelimo-ukinuti-stozerokraciju-15124834>

81 See: <https://www.vecernji.hr/vijesti/uzivo-most-o-prikupljanju-potpisa-za-referendum-za-ukidanje-covid-potvrda-1549761>

82 Rules of Procedure of the Croatian Parliament, article 204.: <https://www.sabor.hr/sites/default/files/uploads/inline-files/Poslovnik%20Hrvatskoga%20sabora%20-%20procisceni%20tekst%202018.pdf>

2021, a total of 200 legislative bills were voted on. Out of those, 37 bills (18.5%) were discussed under urgent procedure.⁸³ This represents a significant decrease from the previous year, although many of the legislative acts were implemented as executive decisions by the Civil Protection Headquarters of the Republic of Croatia, meaning they weren't voted on in the Parliament.

Independent authorities

In February 2021, the mandate of Ombudswoman Lora Vidović, which started in 2013, ended.⁸⁴ The procedure for appointing the new Ombudswoman was set in the Parliament, and finally, in March 2021, Tena Šimonović Einwalter was appointed as the new Ombudswoman by a majority of 115 votes in the Croatian Parliament. Šimonović Einwalter is a lawyer, an expert in the area of combating discrimination. Prior to her appointment, she served as the Deputy Ombudswoman for Ombudswoman Vidović.

The Ombudsman's Office lacks sufficient resources and office space since the 2020 Zagreb earthquake.

The Ombudswoman's unannounced visits to detention centres and free access to the data of persons deprived of liberty are key tools in the National Preventive Mechanism (NPM). However, the former Ombudswoman has on many occasions raised concern that the Ministry of Interior repeatedly prevented her from carrying out these activities in relation to undocumented migrants, and denied her access to data.

Furthermore, in the case *M.H. and Others v. Croatia*,⁸⁵ the European Court of Human Rights (ECtHR) concluded that the evidence introduced was sufficient to deduce that the acts of restricting contact between the applicants and their lawyer and pressuring the lawyer with a criminal investigation served the purpose of discouraging them from taking their case to Strasbourg (breach of Article 34 of the Convention).⁸⁶

Also, in their report on Croatia, the Council of Europe's Committee for the Prevention of Torture (CPT) pointed out that their delegation was provided with incomplete information regarding places where migrants may be deprived of their liberty. The CPT also claimed to have been obstructed by Croatian police officers in accessing documentation

83 See: <https://www.sabor.hr/hr/sjednice/pregled-dnevnih-redova>

84 See: <https://www.ombudsman.hr/en/en-2013-2021/>

85 *M.H. and Others v. Croatia* - [15670/18](#) and [43115/18](#). The case concerns the death of a six-year-old Afghan child, MAD.H., near the Croatian-Serbian border, the lawfulness and conditions of the applicants' placement in a transit immigration centre, the applicants' alleged summary removals from Croatian territory, and the respondent State's alleged hindrance of the effective exercise of the applicants' right of individual application.

86 Judgment in the case of *M.H. and Others v. Croatia*, par. 336.

necessary for the delegation to carry out the Committee's mandate.⁸⁷

Enabling framework for civil society

Key recommendations

- The Government Office for Cooperation with NGOs has to ensure the transparent and democratic functioning of the Council for Civil Society Development and finish the process of drafting National Strategy for Creating an Enabling Environment for Civil Society Development.
- The Ministry of Regional Development and EU Funds and the Ministry of Labour, Pension System, Family and Social Policy have to ensure that sufficient funds are ensured for CSOs in the period from 2021 to 2027.
- The criminalisation of activities of organisations working on asylum and migration has to be stopped immediately.

Regulatory framework

Criminalisation of activities

The criminalisation of the work of NGOs in Croatia is particularly felt by organisations and activists who are active in the field of protecting the rights of refugees and other migrants, but also by citizens who offer humanitarian aid to undocumented migrants in Croatia. This process involves formal criminalisation (with drastic fines) and informal criminalisation (using harassment and intimidation).

The Law on Foreigners does not clearly differentiate between acts of solidarity for humanitarian reasons and the smuggling of migrants. This gives the authorities a wide margin of interpretation, which was misused on several occasions to criminalise persons who, for humanitarian reasons and without any personal gain or interest, helped a refugee or migrant. Therefore, in 2020, the Centre for Peace Studies called for amending the Law on Foreigners to further differentiate between acts of humanitarianism and acts of smuggling. Namely, the CPS has suggested the following definition of aid for humanitarian reasons: "Helping for humanitarian reasons is considered helping which does not result in any material or financial benefit for the helper, but is guided by the moral and humanitarian principle in situations of necessary assistance to protect the life or integrity of a person illegally crossing the border or staying illegally in the

87 Council of Europe, [Croatia: anti-torture Committee publishes report on 2020 ad hoc visit](#), 3 December 2021.

Republic of Croatia.” However, the comments were rejected.

The ways in which this provision is misused can be seen in the case of Dragan Umičević, a volunteer with the NGO Are You Syrious? (AYS), which is active in the protection of rights of refugees and other migrants. In 2021, Umičević was convicted and fined for helping the family of Madina Hussiny illegally enter Croatia.⁸⁸ Madina Hussiny was a 6-year-old girl who died at the Croatian-Serbian border after she was, together with her mother and siblings, forced out of Croatia into Serbia. In November 2021, the ECtHR brought a judgement in the case of *M.H. and Others v. Croatia* (applications nos. 15670/18 and 43115/18), in which it found violations of five rights guaranteed under the European Convention on Human Rights.⁸⁹

As the Hussiny family had previously been illegally expelled from Croatia and lost their child because of this pushback, in March 2018, when they again entered the country, they asked AYS for support in seeking asylum. AYS immediately notified the police about the location of the family and asked their volunteer Dragan Umičević to go to the control checkpoint of the police to ensure that the family would be granted access to the asylum

procedure. The AYS office in Zagreb notified the police about Umičević’s arrival. Although Umičević did not have direct contact with the family and his sole intent was to make sure that the Croatian police followed the law on allowing the Hussiny family to seek asylum, the police pressed charges against him. In 2021, the High Administrative Court handed down their final ruling and fined him with 60,000 HRK (7,970 EUR) in a misdemeanour proceeding. According to AYS, “This is a man who acted in accordance with law and morality, and the show trial against him, besides being in direct contravention of the Constitution of the Republic of Croatia and the verdict of the European Court of Human Rights, is a continuation of intimidation that we as a society must not agree to. By the verdict of the authorities, he now has to pay a fine of 60,000 HRK (which is a precedent in our judiciary) and 1,300 HRK (173 EUR) in court costs. The court knew for certain that Dragan was a retired Croatian veteran, whose monthly income is 5,000 HRK (665 EUR), and who has no way to cover this enormous amount.”⁹⁰ Are You Syrious? organised a crowdfunding campaign in which it managed to collect enough money to cover the fine and the court costs, and it is planning to continue the legal proceedings in this matter.⁹¹

88 Are Your Syrious (2021), “[LJUDI DRAGI, SLAVIMO!!](#)”, press release, 16 December 2021.

89 European Court of Human Rights (ECtHR), [M.H. and Others v. Croatia](#), No. 15670/18 and 43115/18), 18 November 2021.

90 Are You Syrious (2021), “[AYS News Digest 14–15/12/2021: Volunteer convicted in Croatia for preventing pushback](#)”, press release, 16 December 2021.

91 Are Your Syrious (2021), “[LJUDI DRAGI, SLAVIMO!!](#)”, press release, 16 December 2021.

Access and participation to decision-making processes

The new National Strategy for creating an Enabling Environment for Civil Society has not yet been presented, while the last one expired in 2016. The working group for drafting the strategy was established in 2021, but there is no information on the concrete steps of the working group.

Access to and participation in decision-making processes for the citizens and civil society in Croatia is still facing negative trends. Public consultations are mainly held online, via the portal esavjetovanja.gov.hr, but this is largely pro-forma, as comments and proposals made by citizens and other actors are rarely considered or accepted. Civil society organisations (CSOs) have their representatives in specific working groups for drafting certain public policies or legislation, and their representatives are elected and appointed through the Council for Civil Society Development. However, in the new convocation of the Council from May 2020, CSO representatives in the Council have limited influence on the decisions brought by the Council because most of its members come from various state institutions. This often means that CSOs without enough expertise or experience in a given topic are represented in working groups tackling that issue, because they will be less critical of the government.

For part of 2021, the government did not appoint new representatives of the public authorities to the Council following the parliamentary elections in 2020. This was in spite of the requests by CSO representatives in the Council. The move had repercussions for the participation of CSOs in decision-making processes. For example, for months it was not possible to carry out the selection of CSO representatives in the working groups for designing the programme for EU funds during the financial period of 2021 to 2027. In the end, their sessions were held without representatives of civil society.

The government did not adequately include civil society and trade unions in the development of the National Recovery and Resilience Plan. In March 2021, Green Action/Friends of the Earth (FoE) Croatia issued a statement warning the public that 40 days prior to the deadline for the Plan's submission, the government was still hiding it from the public. The organisation demanded that the government publish the Draft National Recovery and Resilience Plan.⁹² Early in April 2021, the 80-page summary of the Draft Plan was published and presented to the public at the session of the government.⁹³ This document contained the list of reforms and investments and a general overview of how the 6.3 billion EUR in non-refundable grants and 3.6 billion EUR in loans would be distributed. In other words, it was impossible to fully understand

92 See: https://zelena-akcija.hr/hr/opcenito/priopcenja/premijeru_plenkovicu_hitno_objavite_plan_oporavka

93 Government of the Republic of Croatia, Summary of the Draft National Recovery and Resilience Plan. URL: <https://planoporavka.gov.hr/UserDocsImages//dokumenti//51%20-%203%20NPOO.pdf>

what exactly these reforms and investments entailed, as no detailed descriptions were published. In mid-April, the Prime Minister presented the same information on the Draft Plan to the Parliament, causing wide criticism from the opposition for the fact that they were not given the full Draft National Recovery and Resilience Plan. On the same day, civil society organisations Green Action/FoE Croatia, the Society for Sustainable Development (DOOR) and the Centre for Peace Studies (CPS) held a press conference to point out once again the complete lack of public participation in drafting the National Recovery and Resilience Plan.⁹⁴ On 15 April 2021, the Summary Draft National Recovery and Resilience Plan was presented to the members of the Council for Civil Society Development, an advisory body to the government. Almost all CSO representatives strongly criticised the procedure and stated that they cannot comment on the content of the Plan, as the full text was not available prior to the session. Some of the representatives of the government claimed that the CSO representatives' approach was not constructive.⁹⁵ The full Draft Plan was brought and published at the government session on 29 April 2021 and was sent to the European Commission. No public consultation or meaningful participation of the civil society or the public took place.

Financing framework

Throughout the year, there were difficulties in financing the work of civil society organisations: the non-publication of and delays in the announced European Social Fund (ESF) calls, as well as inadequate and lengthy procedures for selecting projects to be financed.

For example, at the end of 2020, 100 associations raised the problem concerning the opening deadline (i.e. the submission of projects) and the “fastest finger” procedure for the tender ‘Strengthening the capacity of CSOs to respond to the needs of the local community’ in an open letter. The “fastest finger” is a procedure based on the first-come-first-served principle. The CSOs can submit their project proposals from the moment the call is opened and, if the proposals fulfil the general and administrative requirements of the call, applicants that have submitted their proposals first, are awarded the funding. Usually, milliseconds divide those that get the funding and those that do not. This procedure is discriminatory to organisations with smaller capacities or to those working in rural areas, and, ultimately, it does not ensure that the best projects win funding. The deadline was eventually extended, but the “fastest finger” process remained. It is important to note that this tender has not yet been closed — the first financing decision was made only on 27 October 2021 and one of the three funding groups still has not been

94 See: <https://zelena-akcija.hr/en/opcenito/priopcenja/we-need-a-resilience-plan-not-resistance-to-change>

95 Republic of Croatia, Government Office for Cooperation with NGOs, 4th session of Council for Civil Society Development. URL: <https://www.youtube.com/watch?v=S43aCnOfGsQ>

selected. In other words, the tender, which was designed to provide financial support to civil society organisations to overcome the epidemic crisis, was only allocated one and a half years after the beginning of the pandemic and has still not been fully allocated.

A number of ESF calls within the EU Multi-Annual Financial Framework 2014-20, which were announced in the Annual Plans for the Publication of Calls for Proposals of the Operational Programme Effective Human Resources 2014-20, were not and will not be opened.

The position of civil society as a beneficiary of EU funds, as reflected in the programming document for the financial period of 2021 to 2027 in Croatia, remains unclear. In July 2021, CSO representatives in the working group Solidary Croatia warned the Council for Civil Society Development that the available funds for civil society in Croatia will decrease by 85% in comparison to the 2014 to 2020 period. This was substantiated by unofficial information coming from some of the competent institutions.

Institutions overseeing EU funds and other funds in Croatia continue to put large, illogical and unnecessary burdens on CSOs in Croatia, resulting in serious limitations on their work, especially to organisations providing social services and to organisations that don't have large administrative capacities.

Attacks and harassment

Legal harassment, including SLAPPs, prosecutions and convictions of civil society actors

The indirect criminalisation of activities of activists and organisations working on the protection of rights of refugees and other migrants in Croatia has continued in 2021.

First is the case of Omer Essa Mahdi, a refugee whose asylum status was revoked after he rejected the offer to be “an informant” for the secret services. This arbitrarily issued decision was also marked with a level of secrecy, which means that neither Mahdi nor his lawyer are able to access the information based on which he is accused of being a threat to public security. To his knowledge, Mahdi has not committed anything that could bring about such an assessment, and he is unable to defend himself against accusations that he does not know the content of. Furthermore, his partner is Tajana Tadić, one of the most vocal (and media-present) activists for the rights of refugees and other migrants in Croatia, who, at the time, was employed by the organisation Are You Serious?. The decision to revoke Mahdi's refugee status was made by the Security and Intelligence Agency and the Ministry of the Interior with full knowledge of the nature of their relationship. Therefore, said decision was also an attack on Tadić's activities as a human rights defender and an attempt to silence and intimidate her. As stated, neither Mahdi nor his attorney were given access to the part of the file classified as “secret”. Therefore, Mahdi could not submit a review of the documents,

including numerous international expert opinions which substantiated his claims. The Ministry of Interior also objected to hearing the witnesses suggested by the defence. On 12 January 2021, the Administrative Court of Croatia dismissed the appeal against the decision of the Ministry of Interior to revoke Mahdi's refugee status. Furthermore, he was instructed to voluntarily leave the European Economic Area (EEA) within 30 days of the decision, or face forcible removal. Fearing deportation to Iraq, Mahdi had no choice but to leave Croatia.⁹⁶

The intimidation and legal harassment towards the NGOs Centre for Peace Studies, Are You Syrians? and the lawyer Sanja Bezbradica Jelavić were confirmed in the judgement of the European Court of Human Rights relating to the case *M.H. and Others v. Croatia*, on 18 November 2021.⁹⁷ The Court examined the steps the Ministry of Interior took in 2018 to prevent the Hussiny family from contacting Jelavić, their chosen lawyer, even after requesting an interim measure from the ECtHR. It also investigated the inappropriate pressure put on Jelavić and her office, against whom a criminal investigation was initiated.

In this particular case, she was denied access to lawyers and her right to representation was hampered by efforts to challenge the signed power of attorney, although family members clearly confirmed that they had signed the power of attorney and that it reflected their real will. The Court considers that "restriction of contact between the applicants and their chosen lawyer S.B.J., and the criminal investigation and pressure to which that lawyer was subjected were aimed at discouraging them from pursuing the present case before the Court". In doing so, Croatia violated Article 34 of the Convention and violated the right of family members to an individual request.⁹⁸

One example of SLAPPs against CSOs in Croatia is a proceeding against the environmental CSO Zelena akcija/Friends of the Earth (FoE) Europe and its leaders, which started in December 2017.⁹⁹ According to Zelena akcija, "Razvoj Golf is seeking the punishment of the responsible persons for the campaign in which FoE Croatia called for compliance with the law and court rulings regarding the construction of an apartment complex on Srđ in Dubrovnik."¹⁰⁰ In the criminal proceeding, the private company Razvoj

96 Frontline Defenders, [PRESSURE ON FAMILY MEMBER OF MIGRANT RIGHTS DEFENDER TAJANA TADIĆ](#), 21 July 2021.

97 European Court of Human Rights (ECtHR), *M.H. and Others v. Croatia*, No. 15670/18 and 43115/18), 18 November 2021.

98 *op.cit.* para 336

99 See: <https://zelena-akcija.hr/en/programmes/environmental-law/the-company-razvoj-golf-gets-a-permit-for-condo-isolation-green-action-gets-a-lawsuit>

100 See: <https://zelena-akcija.hr/en/programmes/environmental-law/foe-croatia-the-company-razvoj-golf-cannot-silence-us?fbclid=IwAR0K98gGYwvOfzyf3keu5GRMSY3w99n4Ilg8gMEpcOUI1zKChPOYY2xjkDY>

Golf sued the president and vice-presidents of Zelena akcija, three people in total, demanding approximately 9,000 EUR from each defendant. Criminal proceedings are handled by the court in Dubrovnik, meaning that each court hearing requires the defendants to travel from Zagreb to Dubrovnik and dedicate time for preparing and participating in judicial procedures. The entire proceeding is coupled with travel costs and lawyer fees, given that each defendant needs to be represented by her own lawyer and be present before the court. The costs amount to around 1,500 EUR for each court hearing held in Dubrovnik. So far, three hearings have been held, and at least two more are planned.

Smear campaigns and other measures capable of affecting the public perception of civil society organisations

In May 2021, local elections were held, and a part of the Zagreb elections was based on disinformation and a smear campaign against civil society organisations working mainly in the areas of human rights, independent culture, democratisation and environment. Between the first and second round of the elections for the Mayor of Zagreb, candidate Miroslav Škoro of the Homeland Movement (*Domovinski pokret*) based his campaign on false information about a number of civil society organisations. His opponent, Tomislav

Tomašević of the political platform We can! (*Možemo!*), and other representatives of the platform are former civil society activists. In their campaign, the Homeland Movement used public information and financial reports of various CSOs to claim that the organisations were being used for extracting public funds for the private interests of Tomašević and other members of *Možemo!*. Škoro's campaign held press conferences, posted on social media and made public statements in which the information about the CSOs' income from 2013 to 2020 were gradually revealed – during the first press conference the incomes of five CSOs were presented, and at the last press conference the incomes of 41 CSOs were presented. The Homeland Movement claimed that more than 67,218,908 EUR of public funds had been extracted through these CSOs. Without citing any evidence, they also claimed that the political work and campaign of *Možemo!* was financed by these civil society organisations, even though *Možemo!* had already at that point published its campaign financial reports.

This caused an outburst of hatred against CSOs in comments on the media and social media and is considered to be the first real disinformation political campaign in Croatia.¹⁰¹ CSOs were referred to as “foreign mercenaries”, “Cosa Nostra”, “Soros’ mercenaries”, etc.¹⁰² Some of those targeted publicly reacted to these claims,

101 See: <https://faktograf.hr/2021/05/28/skoro-propagandisti-priznajem-hr-ankete-dezinformacije/>

102 See: <https://www.portalnovosti.com/uzalud-vam-trud-huskaci>

e.g. Centre for Peace Studies,¹⁰³ Green Action/ Friends of the Earth Croatia,¹⁰⁴ Gong,¹⁰⁵ and more. Institutions responsible for financing civil society, such as the Government Office for Cooperation with NGOs and the National Foundation for Civil Society Development, did not react to these claims, although the CSO representatives in the Council for Civil Society Development requested that they make public statements to inform the public about the rules and terms under which civil society in Croatia is financed. The Head of the Government Office gave a brief statement to Jutarnji List¹⁰⁶ upon request. Unfortunately, although all of these allegations were proven to be false, they do affect the public opinion of and public trust in civil society organisations, and the consequences are likely to be long-term.

Disregard of human rights obligations and other systemic issues affecting the rule of law framework ↓

Key recommendations

- The European Commission and Ministry of Interior should ensure full transparency and executive and financial independence of the Independent Border Monitoring Mechanism.
- Ensure that effective investigations into police conduct are carried out by independent bodies.
- The Ministry of Interior has to ensure the transparency of police work and adherence to human rights standards.

103 See: <https://www.cms.hr/hr/izjave-za-javnost/cms-u-drzavni-i-lokalni-proracun-uplacuje-vise-nego-sto-iz-nje-ga-uprihodi>

104 See: https://zelena-akcija.hr/hr/opcenito/priopcenja/reakcija_miroslav_skoro_siri_prjave_lazi_o_zelenoj_akciji_kojima_obmanjuje_javnost

105 See: <https://faktograf.hr/2021/05/28/domovinski-pokret-financiranje-civilno-drustvo/>

106 See: <https://www.jutarnji.hr/vijesti/hrvatska/vlada-o-skorinim-optuzbama-evo-sto-su-nam-odgovorili-o-financiranju-udruga-i-njihovoj-kontroli-15076075>

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

In 2021, activists collected reports from different institutions, national and international NGOs, evidence in the form of photographs, videos and medical documentation, and testimonies of thousands of victims – together, these all pointed in the same direction: to systematic, severe violations of refugees' and migrants' human rights at Croatian borders and within Croatian territory.

For example, from January until the end of November 2021, the Protecting Rights at Borders (PRAB) initiative recorded 8,812 persons pushed back from Croatia into Bosnia and Herzegovina.¹⁰⁷

The Centre for Peace Studies filed two criminal complaints for police brutality against refugees in 2021. In July, a criminal complaint was filed for serious police misconduct and severe violence against a family of four intending to seek international protection. The brutality included an act of rape committed against the mother of this refugee family. Another criminal complaint was filed in August for the illegal expulsion of an Afghan family, including a woman in her fourth month of pregnancy and her four children. After receiving medical treatment at the hospital, police officers

ignored their request for international protection, and illegally expelled them to Bosnia and Herzegovina.

In October 2021, a violent and illegal expulsion of refugees from Croatia to Bosnia and Herzegovina was recorded¹⁰⁸ on video in high resolution and was shared with media across Europe. Forensic analysis of the footage showed that Croatian police officers performed a violent and illegal expulsion of refugees, which included beating and pushing them into the river. The videos published by a group of journalists from ARD, Lighthouse Report, Novosti, RTL Croatia, Spiegel and SRF confirmed the involvement of special police units in performing these violent and illegal expulsions. Furthermore, they proved the credibility of the testimonies of victims of violent and illegal expulsions accusing police officers in the same uniforms of torture and inhuman treatment.

Furthermore, on 3 December 2021, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on its ad hoc visit to Croatia from 10 to 14 August 2020. The report was made public pursuant to Rule 39§3 of the Rules of Procedure of the CPT, following public written statements made by State Secretary Terezija Gras on the content of the report. The report documents several accounts of migrants being subjected to

107 Protecting Rights at Borders (PRAB), *Human dignity lost at the EU's borders*, December 2021.

108 RTL Croatia: Danka Derifaj, Karla Vidović. *VIDEO Potraga u posjedu ekskluzivnih snimki: Izvoljavaju se na migrantima, mlade ih palicama i tjeraju iz Hrvatske*, 6 October 2021.

severe ill-treatment by Croatian police officers, such as migrants being forced to march through the forest to the border barefoot and being thrown with their hands still handcuffed into the Korana river. Some migrants alleged being pushed back into BiH wearing only their underwear and, in some cases, they were naked. A number of persons stated that, when they were being apprehended and were lying face down on the ground, certain Croatian police officers had discharged their weapons into the ground close to them.¹⁰⁹

While the CPT's report highlighted a number of serious violations of the human rights of refugees and other migrants, the final version of the first semi-annual report of the Independent Border Monitoring Mechanism¹¹⁰ found no irregularities. It is important to note that the working version, published on December 3 and withdrawn a day later, stated that "the police carry out illegal deterrence (pushbacks) and do not record deterrence allowed under Article 13 of the Schengen Borders Code". A week later, the final version of the report was published, where this sentence was replaced by the following: "the police carry out permissible deterrence under Article 13 of the Schengen Borders Code, although they do not record them, and in mine suspected areas, in isolated cases, they also allow illicit deterrence".

Impunity and/or lack of accountability for human rights violations

Despite overwhelming evidence, the Croatian State Attorney's Office continues to reject criminal complaints against Croatian authorities, and the Ministry of Interior continuously states that it did not find any misconduct or breaching of the law, without giving any argumentation or showing that an unbiased investigation was conducted. The investigations remain internal (the Ministry investigates itself) and aren't independent. The results of the conducted investigations remain unknown to the public and to the Ombudswoman. The low number of investigations shows the unpreparedness of the government to stop the violence and secure the rule of law, while the lack of independent investigations is worrying and further undermines the rule of law and functioning of the legal state.

In May and June 2021, the Centre for Peace Studies received rejection letters issued by the Croatian State Attorney's office for two criminal complaints related to extremely violent cases of pushbacks from Croatia to BiH from May and October 2020. The reasons outlined in the rejection letters are factually wrong and poorly (if at all) substantiated, which further fuels concerns

109 Council on Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), [Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 14 August 2020](#), 3 December 2021.

110 The Independent Border Monitoring Mechanism was established at the initiative of the European Commission due to numerous allegations of human rights violations at Croatian borders.

over the absence of effective investigations in Croatia related to pushback cases.

Even in the above-mentioned case of the published video footage recording the violent and illegal expulsion of refugees from Croatia, only three police officers were sanctioned with temporary suspension.¹¹¹

In the previously mentioned CPT report, the anti-torture committee urged the Croatian authorities to take determined action to stop migrants from being ill-treated by police officers and to ensure that cases of alleged ill-treatment are investigated effectively. The CPT criticised Croatian authorities' failure to conduct thorough and timely investigations into complaints of police misconduct and noted that the files of a few completed cases "fail to demonstrate any fact-finding investigative acts worthy of the name." Finally, the CPT noted that these "investigations", which should have been conducted by an independent body, were instead carried out by police officers themselves, undermining any notion of independence or impartiality.

Follow-up to recommendations of international and regional human rights monitoring bodies

One of the important recommendations provided by the CPT is the following: "...Irrespective of whether persons are 'detained' ('zadržavanje'),

'brought in' ('dovodjenje'), 'arrested' ('uhićenje'), or simply physically caught by the police and held against their will — including in a police van — the reality of their situation is that they are deprived of their liberty and they must be accorded the fundamental safeguards against ill-treatment commensurate with that status (cf. further paragraphs 33 to 36). The CPT recommends that this be made unequivocally clear in the draft amendments to the Law on Foreigners which are currently under discussion in the Croatian Parliament."

The CPT report also concluded that it wished to continue its dialogue with Croatian authorities, but only on the condition that such dialogue is "grounded on a mature acknowledgment, including at the highest political levels, of the gravity of the practice of ill-treatment of migrants by Croatian police officers and a commitment for such ill-treatment to cease."

There were two public reactions to the published report and given recommendations: the press release made by the Ministry of the Interior prior to the publication of the report, claiming that the "Committee based its report on unverifiable information from Bosnia and Herzegovina and clearly exceeded its power" and that "all the recommendations from that visit have for the most part been implemented",¹¹² and the reaction of Croatian President Zoran Milanović, who went

111 Jutarnji.hr: Mario Pušić. *Policajci koji su tukli migrante vraćeni na posao, jedini grijeh im je bio krivo nošenje uniforme!?*, 17 January 2022.

112 Ministry of the Interior of the Republic of Croatia, *Reaction to the unilateral publication of the CPT Report*, 2 December 2021.

as far as to call the CPT delegation members “pests” upon the report’s publication.¹¹³

Fostering a rule of law culture

Contribution of civil society and other non-governmental actors

Throughout 2021, the CPS continued to warn the public about systemic and severe violations of refugees’ and migrants’ human rights at Croatian borders and within Croatian territory, which represent a serious rule of law issue, especially without effective investigations or protection mechanisms in place. The CPS also filed two criminal complaints for police brutality against refugees in 2021.

Before and following the establishment of the Independent Border Monitoring Mechanism in Croatia, the Centre for Peace Studies actively advocated for transparency and independence to be assured in the functioning of the monitoring mechanism, warned about the key concerns of the established monitoring mechanism, and provided recommendations to the members of its Advisory Board.

As mentioned above, in November 2021, the ECtHR issued a ruling in the case of M.H. and Others v. Croatia, upholding violations of the right to life, the prohibition of torture and inhuman treatment, the prohibition on collective expulsion, the right to security and liberty, and the right of individual petition. The decision was the result of a proceeding in which the Hussiny family was represented by lawyer Sanja Bezbradica Jelavić, in cooperation with the Centre for Peace Studies. The CPS also intervened in the case as a third party.¹¹⁴

Following the publication of the ruling, the CPS organised a press conference, requesting the immediate identification and sanctioning of direct perpetrators, as well as the dismissal of key people from the police and Ministry of Interior for their command and political responsibility.¹¹⁵

113 Index News. *Milanović napao Vijeće Europe zbog izvješća o mučenju migranata: To su štetočine*, 3 December 2021.

114 Centre for Peace Studies, *Centre for Peace Studies’s third-party intervention in the European Court of Human Rights*, 19 January 2021.

115 Centre for Peace Studies, *ON THE ECtHR JUDGMENT CONFIRMING THAT THE CROATIAN POLICE ARE GUILTY OF MADINA’S DEATH - Prime Minister Plenković must dismiss the top of the Ministry of the Interior and the police*, 19 November 2021.

Contacts

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The Centre for Peace Studies is a non-profit association of citizens whose mission is promoting non-violence, human rights and social change through education, research and activism. CMS operates through three complementary programs: combating racism, xenophobia, and ethnic exclusivism; conflict transformation and non-violence affirmation; strengthening of social solidarity, human security and development cooperation.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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