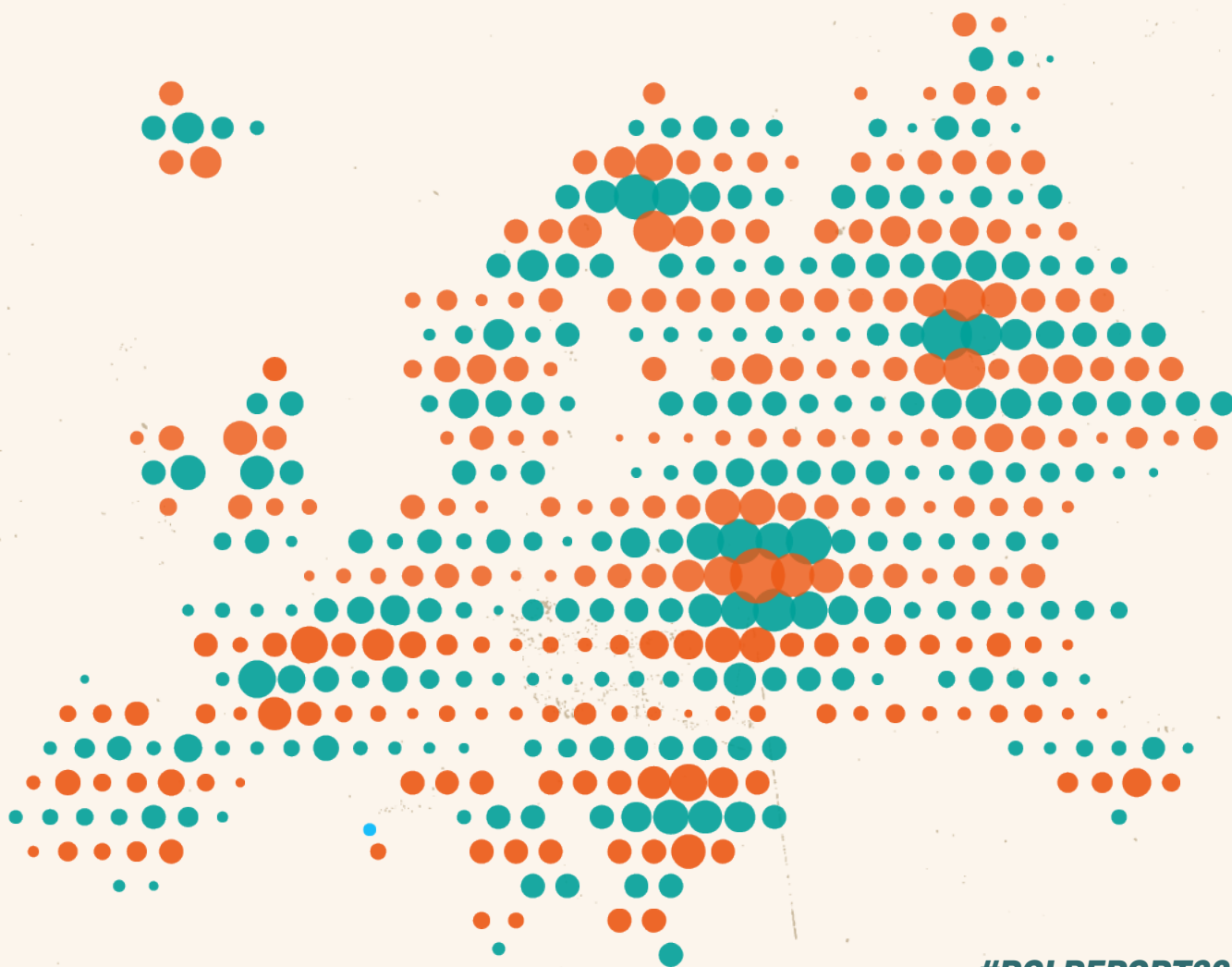


**LIBERTIES**

**RULE OF LAW REPORT**

**2023**

**CROATIA**



**#ROLREPORT2023**

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## **FOREWORD**

This country report is part of the Liberties Rule of Law Report 2023, which is the fourth 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 gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2023 Report was drafted by Liberties and its member and partner organisations, it and covers the situation during 2022. 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 2023 Report includes 18 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. Forty-five member and partner organisations across the EU contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2023 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 for social change based on the values of democracy, anti-fascism, non-violence, peacebuilding, solidarity and equality, using activism, education, research, advocacy and direct support. We work with communities, initiatives, organisations, media, institutions and individuals in Croatia and internationally.

## Key concerns

Despite certain developments when it comes to increase in budget and digitalisation efforts, the overall picture regarding the justice system shows no substantial progress in comparison to last year, in the assessed areas.

There are new developments on periodic security checks on judges and attorneys by the National Security Agency after publication of

the 2022 European Commission Rule of Law Report. The controversial amendments to the Law on Courts<sup>1</sup> were introduced in February 2022, although the Constitutional Court temporarily suspended these amendments to allow for constitutional review. In February 2023, the Constitutional Court abolished the controversial provisions regulating periodic reviews of judges.<sup>2</sup>

Similarly, there were no noticeable developments regarding the anti-corruption framework. There has been no comprehensive lobbying legislation, nor was a public lobby register introduced or announced in 2022.

The area of media environment and freedom of expression and of information has not progressed either. It is particularly worrisome that there are still incidents of attacks against journalists and that the number of SLAPPs against journalists and media is not declining.

The government has not taken any measures to make the framework for allocation of state advertising more fair and transparent, despite the recommendations in the European Commission's 2022 Rule of Law Report.

1 Law on Courts, Official Gazette Nos. 28/13, 33/15, 82/15, 82/16, 67/18, 126/19, 130/20, 21/22, 60/22

2 Constitutional Court of the Republic of Croatia, Decision No. U-I-2215/2022 i dr., summary, available at: [https://www.usud.hr/sites/default/files/dokumenti/Sazetak\\_odluke\\_br\\_U-I-2215-2022\\_i\\_dr\\_o\\_Zakonu\\_o\\_sudovima.pdf](https://www.usud.hr/sites/default/files/dokumenti/Sazetak_odluke_br_U-I-2215-2022_i_dr_o_Zakonu_o_sudovima.pdf)

With regard to Croatia’s checks and balances system, the legislative procedure continues to be defined by the weak role of the Parliament and dominance of the executive branch. The position of independent institutions, such as the Ombudsperson’s Office and other ombuds institutions is especially worrisome, as their recommendations are insufficiently implemented by the government and other competent actors. This has not changed since the publication of the 2022 Rule of Law Report, but new information will be available after the publication of the Ombudsperson annual report for 2022.

The conditions for civil society did not improve in 2022, nor did the situation of the institutional framework that is to help develop civil society. The National Plan for Creating an Enabling Environment for Civil Society has not yet been adopted. The level of participation and access to decision-making for the interested public remains unsatisfactory. There were cases of criminalisation and SLAPPs against civil society organisations and activists.

Unfortunately, the persisting lack of efficient investigations into human rights violations continues to undermine the rule of law and functioning of the legal state.

### 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 2022)

- ↓ Regression
- No progress
- ↑ Progress

## Justice system –

### Key recommendations

- Draft a new Free Legal Aid Act and secure increased resources and multiannual funds that would make this institute more accessible to all.
- Take all necessary steps to increase the efficiency of the justice system and shorten the length of procedures in Croatian courts, especially at first-instance level.
- Ensure independent and effective investigations into allegations of illegal and violent pushbacks of refugees and migrants from Croatia.

## Quality of justice

### Accessibility of courts

Court, lawyers’ and interpreters’ fees are expensive for many people in Croatia, which is why they are reluctant to take legal action. Free

legal aid is provided to those with less financial means and the system of free legal aid operates at two levels. The two levels are primary and secondary legal aid, to cover what, according to the practice of the European Court of Human Rights (ECtHR), access to justice entails: a) the possibility of initiating court proceedings; b) informing and advising persons about legal mechanisms for the protection and realisation of their rights. The Free Legal Aid Act defines the scope of the primary and the secondary legal aid. Primary legal aid, provided by authorised associations, legal clinics and administrative departments in counties, includes legal advice, drafting submissions and representation before public law bodies, the ECtHR and international organisations, as well as legal aid in out-of-court dispute resolution. As in the previous years, the problem is still that the first-degree free legal aid provision is financed on a project-basis, which is inadequate and unsustainable. 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. There are unofficial indications that the new projects will last for three years, but the official decisions are not publicly available yet. Another issue is the geographical distribution of associations in Croatia, as in many parts of Croatia there are no associations that provide primary legal aid, leaving citizens in rural and remote parts of Croatia without the opportunity to access legal aid.

Secondary legal aid, in addition to legal representation of attorneys in legal areas defined by law, also includes exemption from payment

of the costs of court proceedings and expert testimony, as well as exemption from payment of court fees. The financial requirements for being granted secondary legal aid are that the total monthly income of the applicant and their household members does not exceed a set amount per household member (currently 441.44 EUR), and that the total value of the applicant's property does not exceed a certain amount, currently 26,486.40 EUR. In addition to the financial criteria, free legal aid can be granted only in specified legal cases, such as proceedings to exercise the right to child support, right to compensation for victims of criminal acts of violence, and proceedings of beneficiaries of maintenance assistance or alimony related to the exercise of their rights from social welfare.

In her report for 2021, the Ombudsperson raised the issue of the lack of respect of the deadlines to decide on the free legal aid in appellate cases after the first-instance decision. In situations where a person is not satisfied with the decision on their request for free legal aid (mostly where the decision is negative) they have a right to appeal, and the deadline prescribed in Art. 17 para. 6 of the Free Legal Aid Act for the Ministry of Justice and Public Administration to make a decision on that appeal is eight days. However, the Ombudsperson noted that the official response of the Ministry of Justice and Public Administration revealed that the average time to decide on the appeal is three years. Rightfully, the Ombudsperson noted that “the long duration of the appeal process calls into

question the purpose of free legal aid, which is equality in access to justice.”<sup>3</sup>

### **Resources of the judiciary**

The budget proposal of the Ministry of Justice and Public Administration for the judiciary for 2023<sup>4</sup> amounts to 543 million EUR, which is about 70 million EUR more than planned in 2022 (473 million EUR). The largest part of the funds, in the amount of 183 million EUR, is planned for the needs of the Ministry, which compared to 2022 represents an increase of 48 million EUR (135 million EUR for 2022).

The second largest share of the budget for the judiciary goes to the municipal courts (131 million EUR), representing an increase of about 8 million EUR (from 123 million EUR in 2022). This is followed by the share of the budget for prisons and penitentiaries, about 88 million EUR, representing an increase of 3 million EUR (from 85 million EUR in 2022). The share of the budget for county courts amounts to 42 million EUR for 2023, representing an increase of more than 2 million EUR (it was about 39 million EUR in 2022).

### **Training of justice professionals**

The Judicial Academy Lifelong Professional Development Programme for 2023<sup>5</sup> covers a total of 11 areas: civil and civil procedural law, criminal and criminal procedural law, misdemeanour law, administrative law, commercial law, EU and international law, a special programme for judicial officers, education focused on skills - communication skills etc., an e-course on different topics and a category “other” covering media monitoring and reporting on the work of the judiciary intended for media editors and journalists. The eleventh area is the educational training, which results from commitments made in different national strategies (i.e. the National Plan for Combating Discrimination 2017-2022, the recommendations based on the report of the UN CEDAW Committee, the National Strategy for Equal Opportunities for Persons With Disabilities, the National Strategy for Protection Against Domestic Violence 2017-2022, the Action Plan to Combat Money Laundering and Financing of Terrorism, the Anti-corruption Strategy, the National Plan to Combat Human Trafficking, the Action Plan for the Implementation of the National Strategy for the Development of the Support System for Victims and Witnesses, the National Recovery and Resilience Plan,

3 Ombudsperson of the Republic of Croatia. Annual Report for 2021, p. 120-121.

4 The Government of the Republic of Croatia. *Proposal of the State Budget for 2023*, available at: <https://www.sabor.hr/prijedlog-drzavnog-proracuna-republike-hrvatske-za-2023-godinu-i-projekcija-za-2024-i-2025-godinu?t=134852&ctid=211070> and *Part 2 - Business expenses and expenses for the acquisition of non-financial assets in the State Budget*, available at: [https://www.sabor.hr/sites/default/files/uploads/sabor/2022-11-15/112607/1\\_2\\_POSEBNI\\_DIO.pdf](https://www.sabor.hr/sites/default/files/uploads/sabor/2022-11-15/112607/1_2_POSEBNI_DIO.pdf)

5 Judicial Academy. *Lifelong Professional Development Programme for 2023*, available at: <https://www.pak.hr/wp-content/uploads/2022/11/Program-2023-cjelozivotno.pdf>

the Action Plan for the Implementation of the National Cyber-Security Strategy). These trainings are intended mostly for judges and state attorneys, but there are some for court advisors, victims and witness support officers, depending on the training topic.

Besides the lifelong professional development programme for 2023, the Judicial Academy published three specific professional development plans for different target groups:

- A professional training programme for presidents of courts and state attorneys for 2023<sup>6</sup> covering four areas: acts of the judicial and state attorney administration and official relations, financial and material operations, public and simple procurement and management and communication skills;
- A professional training programme for directors of the judicial administration offices and state attorney's offices for 2023<sup>7</sup> also covering four areas: financial management, human resources management, training on the role of the director of the judicial

administration office and state attorney's office, and communication skills (shared management and leadership skills, conflict resolution and negotiation skills).

- A professional training programme for newly appointed court presidents and state attorneys for 2023,<sup>8</sup> which covers five areas: management skills, official relations, finances, simple and public procurement, communication skills – conflict resolution and public relations.

Regarding the evaluations of educational activities, the last available information is for 2021 and is published as part of the Judicial Academy's annual report.<sup>9</sup> The section "Collection of evaluation reports" contains a review of general and specific evaluations of participants and workshop leaders on the success of the education, along with identified educational and legal problems specific to a particular teaching topic. This publication is not publicly available. The annual report's section on the evaluation of educational activities also contains a list of recommendations by the

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6 Judicial Academy, *Professional Training Programme of the Judicial Academy for Presidents of Courts and State Attorneys for 2023*, available at: <https://www.pak.hr/wp-content/uploads/2022/11/Program-2023.-predsjednici-sudova-i-drzavni-odvjetnici.pdf>

7 Judicial Academy. *Professional Training Programme of the Judicial Academy for Directors of the Judicial Administration offices and state attorney's offices for 2023*, available at: <https://www.pak.hr/wp-content/uploads/2022/11/Program-2023.-ravnatelj-sudske-i-drzavnodvjetnicke-uprave.pdf>

8 Judicial Academy. *Professional training programme of the Judicial Academy for newly appointed court presidents and state attorneys for 2023*, available at: <https://www.pak.hr/wp-content/uploads/2022/11/Program-2023-novoimenovani-predsjednici-sudova-i-drzavni-odvjetnici.pdf>

9 Judicial Academy. *Judicial Academy's annual report for 2021*, available at: <https://www.pak.hr/wp-content/uploads/2022/03/Godisnje-izvjesce-2021.pdf>



participants of the training activities to be implemented in the following year.

### **Digitalisation**

On 22 August 2022, the Ministry of Justice and Public Administration adopted the Ordinance on Electronic Communication in Criminal Proceedings,<sup>10</sup> defining the prerequisites for document submissions in electronic form to the bodies in charge of the procedure. Documents can be submitted by the state bodies, state attorney's office, lawyers, court experts, court interpreters and legal entities or interested parties or other participants in the proceedings. The ordinance defines the method of access to the communication system (authentication and authorisation) and granting system-access rights to different parties (natural persons, legal entities and state bodies, lawyers, court experts and court interpreters, state attorney's office) as well as the complete process of the system usage.

On 2 December 2022, the Ministry of Justice and Public Administration launched a public consultation on the Ordinance on Remote Hearings,<sup>11</sup> which will prescribe remote hearings methods and how evidence can be presented electronically. On 9 December 2022, the

Ministry of Justice and Public Administration launched another public consultation to make amendments to the Ordinance on the eSpis System, an information system,<sup>12</sup> to automatically determine the competent entity via a file allocation algorithm.

### **Use of assessment tools and standards**

Access to basic data on court cases or e-Predmet (e-Case) is a public and free service for parties, attorneys and other interested persons participating in court proceedings. Searching by court and case number enables the visitor to be informed about the progress and dynamics of case resolution in regular proceedings and legal remedy proceedings. Since the system updates case data once a day, parties are given almost immediate insight into the status of their case, and the courts are thereby relieved of such inquiries and their time can be devoted to more important matters – solving the cases.

The data available to visitors through this browser comes from the Integrated System for Court Case Management – eSpis, an information system in which cases are handled by municipal, commercial, county, administrative courts, the High Criminal Court, the High Misdemeanour Court, the High Commercial

10 Ministry of Justice and Public Administration. *Ordinance on Electronic Communication in Criminal Proceeding*, Official Gazette (Narodne novine) 97/2022, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_08\\_97\\_1441.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_08_97_1441.html)

11 Ministry of Justice and Public Administration. *Ordinance on Remote Hearings*, available at: <https://esavjetovanja.gov.hr/Econ/MainScreen?EntityId=22675>

12 Ministry of Justice and Public Administration. *Ordinance on Amendments of Ordinance on the eSpis System*, Official Gazette 70/2021, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2021\\_06\\_70\\_1347.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2021_06_70_1347.html)

Court, the High Administrative Court and the Supreme Court of the Republic of Croatia. Land registry items are not available in this database, as they are maintained in a separate system and can be accessed at the cadastre.<sup>13</sup>

Since a case can, during court proceedings (for procedural reasons), change its numbers, the visitor can, by searching any of these numbers, review the entire course of the proceedings and all related case numbers. The database starts with cases that were pending or established from 1 January 2010 onwards. Data on reported appeals and data on files sent to a higher court on appeal have been monitored in the system since 1 January 2013, and will not be displayed for previously reported appeals and files previously sent to a higher court on appeal. Data on misdemeanour cases are available for all cases that were resolved on 1 January 2021 or later or that are still unresolved. Data on administrative cases are available for all cases that were resolved on 1 July 2021 or later or are still unresolved. Due to security reasons, it is not possible to find criminal and misdemeanour juvenile cases, investigation and war crimes cases, and cases under the jurisdiction of the Bureau for Combating Corruption and Organised Crime (USKOK) in this database.

The Ministry of Justice and Administration, as the highest authority for judicial

administration, ensures the technical prerequisites for the described information systems. All recorded data are under the jurisdiction of the courts where the proceedings are conducted. The competent courts should be contacted in case of objections and questions regarding the presented data.

Through the dedicated page of the Ministry of Justice and Public Administration,<sup>14</sup> the parties in the proceedings have the possibility of more detailed access to the content of their cases with the possibility of downloading documents that are available in electronic form.

### ***Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation***

In the Republic of Croatia, judicial power is exercised by regular and specialised courts, as well as by the Supreme Court of the Republic of Croatia.<sup>15</sup>

The process of the rationalisation of the court network started in 2005 with the opening of negotiations on accession to the European Union through the Judicial Reform Strategy. The process was carried out in several phases, the last of which was carried out in 2015.<sup>16</sup>

13 See: <https://oss.uredjenazemlja.hr/>

14 See: <https://usluge.pravosudje.hr/komunikacija-sa-sudom>

15 See: <http://www.vsrh.hr/>

16 Ministry of Justice and Public Administration. The process of the rationalisation of the court network, available at: <https://mpu.gov.hr/ostale-informacije/pravosudni-sustav-11207/ministarstvo-pravosudja-11355/reorganizacija-pravosudnog-sustava/racionalizacija-mreze-sudova/11723>

For monitoring purposes, the Council for Monitoring the Implementation of the Judicial Reform Strategy was established in 2006.<sup>17</sup> 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.

## ***Fairness and efficiency of the justice system***

### ***Length of proceedings***

Changes to the Civil Procedure Act<sup>18</sup> were introduced in 2022. As one of the biggest novelties, the law included a maximum duration for proceedings: three years for first-instance proceedings, one year for second-instance proceedings, and two years for revision proceedings. However, there is a lot of scepticism among the legal experts as to whether such deadlines will be respected in practice. There are, however, no sanctions for exceeding these deadlines, which would serve as an effective deterrent. One of the experts from the Faculty of Law in Zagreb has highlighted that extending beyond the prescribed deadlines will not lead to negative procedural consequences for either the court or the parties. He also noted that similar deadlines in the Civil Procedure Act have been regularly ignored in practice. He shared the example of the time when

the courts had to make and publish a verdict within eight days at the latest; in the end the average duration of publishing verdicts was 120 days.<sup>19</sup>

Extensively long procedures and arbitrary decisions can be seen in particular in cases related to pushbacks and torture of refugees and other migrants in Croatia. Access to legal remedies in these cases is extremely difficult, but even when persons initiate criminal proceedings for a violation of their rights, proceedings almost never lead to an effective investigation according to the criteria established by the ECtHR. Although there have been numerous allegations of torture and violence towards refugees and other migrants in Croatia in the last six years, no indictments were brought and, accordingly, no perpetrators of reported crimes were identified, prosecuted or sanctioned.

Furthermore, the actions regarding the criminal complaints related to pushbacks of refugees and other migrants show that, under international and national law, the proceedings were unreasonably long (in the vast majority of cases the pre-investigation phase lasted for years, while the legal deadline is six months) and that they were not carried out with due diligence – hence the criteria for an effective investigation were not met. In cases

17 See: <https://mpu.gov.hr/ostale-informacije/pravosudni-sustav-11207/ministarstvo-pravosudja-11355/reorganizacija-pravosudnog-sustava/savjet-za-pracenje-provedbe-strategije-reforme-pravosudja/11395>

18 *Civil Procedure Act*, Official Gazette (Narodne novine) 114/22, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2011\\_12\\_148\\_2993.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2011_12_148_2993.html)

19 See: <https://lidermedia.hr/poslovna-scena/hrvatska/uzelac-na-ubrzanje-sudskih-postupaka-mnogo-veci-ucinak-od-postavljenih-rokova-imat-ce-plan-upravljanja-parnicom-141016>

involving victims and witnesses who are refugees and other migrants, the use of expedited procedures is crucial due to frequent changes in their location. With the passage of time, it becomes increasingly difficult to identify and locate victims.

### **Quality and accessibility of court decisions**

Court decisions are available on the search engine of the Supreme Court of the Republic of Croatia.<sup>20</sup> This includes court decisions from administrative courts, the High Administrative Court, High Misdemeanour Court, High Criminal Court, High Commercial Court, County Courts, the Constitutional Court and the Supreme Court. Decisions of the Supreme Court are published but with certain exceptions. Their publication is usually delayed from several weeks to several years. Access to court decisions through this search engine is completely free but it is lacking relevant case law from lower instances – county and municipal courts.

According to the Decision on the Publication and Anonymization of Court Decisions,<sup>21</sup> complete judicial decisions of the Supreme Court and related decisions of higher courts

are published as mentioned. However, decisions of lower courts are not published, which makes it difficult to understand the published decisions due to the lack of context. County courts' decisions are only rarely published, and the decision is left to the courts themselves, which means that only 1% to 5% of their decisions are available to the public. Decisions of municipal courts are generally not published on the Internet, and public insight into these decisions is difficult. Currently, there are various services for reviewing court practice, but only with a subscription fee. This negatively affects researchers from civil society and scholars as the fees are quite high and therefore unaffordable.

### **Corruption of the judiciary**

After his arrest<sup>22</sup> in June 2021, Darko Krušlin, a judge of the Osijek County Court, was dismissed from duty<sup>23</sup> in April 2022 by the State Judicial Council due to a corruption scandal he was involved in with his colleagues, judges Zvonko Vekić and Ante Kvesić. Vekić has left duty on his own initiative. The basis for the judges' dismissal was the investigation led by the USKOK (Office for the Prevention of Corruption and Organised Crime – a section

20 The Supreme Court of the Republic of Croatia search engine, available at: <https://sudskapraksa.csp.vsrh.hr/home>

21 The Supreme Court of the Republic of Croatia, *Decision on the Publication and Anonymization of Court Decisions*, available at: [https://sudskapraksa.csp.vsrh.hr/static/pdfs/hr/Odluka-o-objavi-i-anonimizaciji-sudskih-odluka\\_Su-IV-140-2018\\_2018-03-12.pdf](https://sudskapraksa.csp.vsrh.hr/static/pdfs/hr/Odluka-o-objavi-i-anonimizaciji-sudskih-odluka_Su-IV-140-2018_2018-03-12.pdf)

22 See: <https://n1info.hr/crna-kronika/u-osijeku-pocela-uhicenja-sudaca-koje-je-mamic-optuzio-za-kriminal/>

23 See: <https://www.jutarnji.hr/vijesti/crna-kronika/osjecki-sudac-kojeg-je-zdravko-mamic-optuzio-da-mu-je-dao-mito-razrijesen-je-duznosti-15219728>

of the Croatian State Attorney's Office) on suspicion of corruption<sup>24</sup> in the trial of Zdravko Mamić and his brother Zoran Mamić, ex-executives of the Dinamo Zagreb football club. The Mamić brothers and their cooperatives are still on trial for illegally withdrawing 19.2 million EUR from Dinamo. However, they left Croatia in 2018 and are currently in Bosnia and Herzegovina, evading justice. Krušlin, Vekić and Kvesić partied with the Mamić brothers and received gifts from them, despite knowing of the ongoing trial – which they could have possibly taken part in. It is reported that the three judges received at least 370,000 EUR from Zdravko Mamić. Mamić personally informed the court of the unlawful behaviour of the judges. In his exposé, he describes in detail how the judges promised him favourable treatment in the trial. The purpose of the exposé<sup>25</sup> was to compromise judicial authority in general and consequently the sentence already given<sup>26</sup> to Mamić. Darko Krušlin filed a complaint about his dismissal to the Croatian Constitutional Court, but the Court refused it,<sup>27</sup> confirming his liability to disciplinary action imposed on him by the State Judicial Council for damage to the reputation of the Court and judicial office.

## Anti-corruption framework 🟡

### Key recommendations

- Ensure sufficient resources for the implementation of the Protection of Reporters of Irregularities Act, including for the full access to free legal aid and psychological assistance for whistleblowers.

### Framework to prevent corruption

#### **General transparency of public decision-making**

Transparency International's Corruption Perception Index for 2021 found that Croatia is among the most corrupt Member States of the EU.<sup>28</sup>

In its Second Addendum to the Second Compliance Report, published in October 2022, GRECO assessed compliance with the six outstanding recommendations issued in the Fourth Round Evaluation Report on Croatia covering "Corruption prevention in

24 See: <https://www.slobodnaevropa.org/a/mamici-sudije-korupcija-mito/31301044.html>

25 See: 2021. <https://www.slobodnaevropa.org/a/mamici-sudije-korupcija-mito/31301044.html>

26 See: <https://www.index.hr/vijesti/clanak/tko-je-uhiceni-sudac-kruslin-i-sto-je-mamic-govorilo-o-njemu/2282139.aspx>

27 See: <https://www.jutarnji.hr/vijesti/hrvatska/ustavni-sud-donio-odluku-o-sucu-kojeg-je-zdravko-mamic-optuzio-za-korupciju-zalba-se-odbija-15279792>

28 Transparency International. "*Corruption Perceptions Index on Croatia, 2021*".

respect of members of Parliament, judges and prosecutors.” GRECO found that out of the six recommendations, two were implemented, two were partly implemented, while two still remain not implemented. GRECO notes “that Croatia is one of the very few GRECO members where Parliament still does not have a code of conduct”, and stated that the “situation is highly unsatisfactory.”<sup>29</sup>

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

The new Protection of Reporters of Irregularities Act<sup>30</sup> that was brought in April 2022 represents a positive step for the protection of whistleblowers, but it still has certain deficiencies. The right to free legal aid was added after the public consultations, but considering the deficiencies of legislation concerning provision of free legal aid, and considering that the system of free legal aid is already inadequate, we believe that whistleblowers will not be fully protected. 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 Ombudsperson’s Office in order to secure full implementation of this legislation. Certain positive steps have been taken in this direction during 2022.

The Municipal Labour Court in Zagreb brought a decision in October 2022, according to which Maja Đerek, a whistleblower and former director for business spaces at the state-owned company State Real Estate, was dismissed illegally and should be returned to her workplace.<sup>31</sup> Đerek filed a criminal complaint to the Office for the Suppression of Corruption and Organised Crime (USKOK) for the abuse of position and power, and for favouring certain actors, occurring at State Real Estate. She was pressured, including by Mario Banožić, the former Minister of State Property and current Minister of Defence.<sup>32</sup>

29 GRECO, *Fourth Evaluation Round*, Corruption prevention in respect of members of parliament, judges and prosecutors, *Second Addendum to the Second Compliance Report*, Croatia, Adopted by GRECO at its 90th Plenary Meeting (Strasbourg, 21-25 March 2022), published on 28 October 2022, 2022GrecoRC4(2022)1, p.3.

30 Protection of Reporters of Irregularities Act, Official Gazette 46/2022, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_04\\_46\\_572.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_04_46_572.html)

31 See: [https://www.index.hr/vijesti/clanak/sud-zvzdacicu-djerek-vratio-na-posao-tuzit-cu-ih-opet-zbog-500000-  
kn-place/2400411.aspx](https://www.index.hr/vijesti/clanak/sud-zvzdacicu-djerek-vratio-na-posao-tuzit-cu-ih-opet-zbog-500000-<br/>kn-place/2400411.aspx)

32 See: [https://www.index.hr/vijesti/clanak/zvzdacica-za-index-banozic-je-to-napravio-iz-pogodovanja-napravio-  
je-ogromnu-stetu/2336362.aspx](https://www.index.hr/vijesti/clanak/zvzdacica-za-index-banozic-je-to-napravio-iz-pogodovanja-napravio-<br/>je-ogromnu-stetu/2336362.aspx)

## **Investigation and prosecution of corruption**

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### **Criminalisation of corruption and related offences**

The Croatian Criminal Code<sup>33</sup> criminalises numerous corrupt acts. The USKOK is a special state attorney's office for the prescribed catalogue of criminal offences, and is tasked with taking the necessary procedural actions.

### **Effectiveness of investigation and application of sanctions for corruption offences and their transparency, including as regards to the implementation of EU funds**

The year 2022 saw numerous instances of high-level corruption cases.

For the first time in Croatian history, an acting minister was arrested for corruption. The then-acting Croatian Minister of Physical Planning, Construction and State Assets, Darko Horvat, was arrested in February 2022 and questioned on suspicion of abuse of office. USKOK requested that he be remanded in custody. As it spread in the media, he was "accused of abuse of office in 2018 when he served as

Minister of the Economy, Entrepreneurship and Crafts, specifically that certain companies which participated in a tender were given right of priority without the necessary documents."<sup>34</sup> He was dismissed at his own request the same day. The former minister was also actively criticised for the slow pace of post-earthquake reconstruction in Zagreb and the Banija area.<sup>35</sup> Later in the year, USKOK indicted eight defendants, including four former ministers in the ruling party-led cabinet, a minister's former assistant, a former official at the Ministry of Regional Development, the director of the state administration for government-assisted areas and a former mayor of the eastern town of Županja.<sup>36</sup> In connection to this investigation, another investigation started regarding the suspicion of corruption of the Minister of Labor and Pension System, Family and Social Policy.

In December 2022, in the so-called wind park case, the former mayor of Knin, Josipa Rimac, and eight other defendants, among them former Croatian Minister for Regional Development and European Union Funds Gabrijela Žalac, were indicted by USKOK for bribery and abusing their position and authority to favour an investor from Knin

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33 Criminal Code, Official Gazette (*Narodne novine*) 125/2011, 144/2012, 56/2015, 61/2015, 101/2017, 118/2018, 126/2019, 84/2021, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2011\\_11\\_125\\_2498.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_125_2498.html)

34 See: <https://n1info.hr/english/news/croatias-minister-darko-horvat-denies-anti-corruption-prosecutors-allegations/>

35 See: <https://balkaninsight.com/2022/02/21/croatian-pm-criticises-timing-of-ministers-arrest-for-corruption/>

36 See: <https://glashrvatske.hrt.hr/en/politics/four-former-cabinet-ministers-indicted-in-latest-corruption-probe-10400254>

for the construction of a wind power plant, for which the mayor received a total of more than 1 million Croatian kuna (approximately 132,275 EUR).<sup>37</sup>

Also in December 2022, the European Public Prosecutor's Office (EPPO) in Zagreb filed an indictment against the above-mentioned Gabrijele Žalac, as well as the former director of Croatia's Central Finance and Contracting Agency, Tomislav Petric, and two business owners, along with their respective businesses. All four are accused of trading in influence, and of the abuse of office and authority. As it stands in the EPPO press release:

“During 2017 and 2018, the then minister launched a public procurement procedure for an information system for strategic planning and development management. It is alleged that she took several actions aimed at ensuring a privileged position for one business owner (2nd accused) and his companies. Among these actions, it is believed that she inflated the estimated value of the procurement of that information system, and decided to conduct a negotiated procurement procedure without publishing a public invitation to tender. During that negotiated procurement procedure, the

companies linked to the 2nd accused were invited to submit their bids.”<sup>38</sup>

### ***Potential obstacles to investigation and prosecution of high-level and complex corruption cases***

In March 2022, the Croatian watchdog organisation Gong issued a letter to GRECO and warned them “that in Croatia we are witnessing a new level of systematic undermining of the rule of law, and faking the fight against corruption, this time by ignoring and obstructing corruption investigations and indictments against the highest political officials.”<sup>39</sup> Additionally, in their letter, Gong noted that:

“At the same time, the government is simulating the fight against corruption, as the Ministry of Justice has announced that it will lift the immunity of members of the government for all corruption offences. However, a true commitment to fighting corruption would mean that there should be no place in the government for ministers accused by the State Attorney's Office of abuse of office, rigging tenders for non-refundable funds to entrepreneurs, as well as jobs and falsifying civil service recruitment procedures.”<sup>40</sup>

37 See: <https://www.glas-slavonije.hr/512151/1/Afera-Vjetroelektrane-Uskok-optuzio-Rimac-Zalac-i-jos-sedam-osoba-zbog-korupcije>

38 EPPO, “*Former minister and three suspects indicted in Croatia for abuse of office and authority and trading in influence*”, 29 December 2022.

39 Gong, “*Croatian PM simulates anti-corruption while keeping corruption suspects in his government*”, 24 March 2022.

40 Gong, “*Croatian PM simulates anti-corruption while keeping corruption suspects in his government*”, 24 March 2022.



The particular obstacles to investigation and prosecution of high-level and complex corruption cases are illustrated in the previously mentioned letter. The experts also noted that the Prime Minister hesitated for too long to grant the consent for investigation, i.e. to lift the immunity.<sup>41</sup>

## **Media environment and freedom of expression and of information** 🟡

### **Key recommendations**

- Put forward concrete legislative measures against SLAPPs targeting journalists and other actors.
- Enhance the level of protection for journalists against threats and attacks, as well as smear campaigns.

### **Media and telecommunications authorities and bodies**

#### **Capacity of media and telecommunication authorities and bodies to effectively contribute to a free and pluralistic media environment**

The media regulator in Croatia is the Agency for Electronic Media.<sup>42</sup> It was established in accordance with the provisions of the Electronic Media Act (EMA) and performs administrative, professional, and technical tasks for the Electronic Media Council (EMC),<sup>43</sup> the governing body of the Agency and regulatory body in the field of electronic media. The President of the Electronic Media Council is also the Director of the Agency, and he is appointed by the Croatian Parliament. The Director of the Agency represents and manages the Agency, and is responsible for the work of the internal units of the Agency. Internal units are established to perform tasks within the scope of the Agency: The Office of the Director, the Department for Supervision and Analysis of Media Content, the Finance Department, and the Legal Department. The Agency for Electronic Media actively cooperates with other public and state bodies in its daily activities. Cooperation at the international level is also significant. In addition to membership in all relevant international regulatory networks (ERGA, EPRA, MNRA, CERF), the Council and the Agency actively participate in the work of the European Commission's Directorate-General for Communication Networks, Content and Technology (DG Connect), in line with the Audiovisual Media Services Directive. In their work, the Agency and the Council pay particular attention to respect for human dignity,

41 Gong. "[Croatian PM simulates anti-corruption while keeping corruption suspects in his government](#)", 24 March 2022.

42 Agency for Electronic Media, available at: <https://www.aem.hr/about-the-agency/>

43 Electronic Media Council, available at: <https://www.aem.hr/en/vijece/>

the protection of minors and the prevention of incitement and/or promotion of programmes which spread hatred or discrimination based on race, sex, religion or nationality.

At the moment, the Electronic Media Council has only four members, which is also a quorum for decision-making as prescribed in the Rules of Procedure of the Electronic Media Council.<sup>44</sup> In April 2022, the Ministry of Culture and Media opened a public call for three new members.<sup>45</sup> The call was open until the end of May, but the government has not yet appointed the rest of the members of the EMC, although 27 candidates applied for the three positions. In addition, the mandate for three members of the current EMC will expire in 2023 so another public call for nominations will have to be opened soon.

Among other things, the Council decides on radio and television concessions, and the distribution of funds from the Fund for Pluralism. It is only recently that they distribute funds for “fact checking” projects<sup>46</sup> under the measure “Establishment of media fact-checking and

public data publication system” of the National Recovery and Resilience Plan.<sup>47</sup>

The Croatian Regulatory Authority for Network Industries (HAKOM) is an independent regulator of the electronic communications market, postal services market and railway services market in the Republic of Croatia.<sup>48</sup> HAKOM is an autonomous and non-profit legal entity with public authority. The work of HAKOM is public. The founder of HAKOM, and founding rights, are exercised by the Croatian Parliament and the government of the Republic of Croatia. HAKOM is governed by its council, which includes five members, who are all appointed for five-year terms by the Croatian Parliament. They can also be dismissed by a vote in the Parliament upon a proposal of the government. Decisions of the council are made by a majority vote of all of its members, i.e., any decision requires three council members. The agency’s executive director is in charge of HAKOM’s staff, which performs expert, technical, and administrative roles.

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44 Electronic Media Council. Rules of Procedure of the Electronic Media Council, Article 14., available at: <https://www.aem.hr/wp-content/uploads/2021/01/Poslovnik-o-radu-Vijeca-za-elektronicke-medije.pdf>

45 Ministry of Culture and Media, [Public call for nominations for three members of the Electronic Media Council](#), 27 April 2022.

46 Agency for Electronic Media. A public call was presented as part of the measure “[Establishment of media fact-checking and the system of public disclosure of data](#)”, 19 December 2022.

47 Government of the Republic of Croatia, National Recovery and Resilience Plan 2021-2026, available at: <https://planoporavka.gov.hr/UserDocsImages/dokumenti/Plan%20oporavka%20i%20otpornosti%2C%20srpanj%202021..pdf?vel=13435491>

48 Croatian Regulatory Authority for Network Industries, available at: <https://www.hakom.hr/en/home/8>

The competence of HAKOM is prescribed by Article 12 of the Electronic Communications Act<sup>49</sup> and Article 38 of the Act on Postal Services<sup>50</sup> and Articles 14 and 28 EUTMR of the Act Regulation of Railways Services Market Regulation and protection of passengers' rights in Rail Transport.<sup>51</sup>

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

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 the CJA assembly among its members.<sup>52</sup> The work of the Ethical Council is regulated by the Rulebook on the Work of the Ethical Council of Journalists.<sup>53</sup>

## ***Pluralism and concentration***

### ***Levels of market concentration***

On 1 June 2022, the media company CME media enterprises announced the acquisition

of RTL Croatia, following the approval of Croatian regulatory authorities. In the week prior to the acquisition, the Agency for the Protection of the Market Competition (APMC) approved the acquisition of CME media over RTL Croatia, further increasing the media concentration. According to them, this level of concentration did not have a significant effect on competition, as it does not create a new or reinforce the existing dominant position of the merging parties on the market.<sup>54</sup>

## ***Transparency of media ownership***

### ***Rules governing transparency of media ownership and public availability of media ownership information, and their application***

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

49 Electronic Communications Act, Official Gazette 73/2008., available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_06\\_73\\_2420.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2008_06_73_2420.html)

50 Act on Postal Services, Official Gazette (*Narodne novine*) 88/09, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_07\\_88\\_2149.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_07_88_2149.html)

51 Act Regulation of Railways Services Market Regulation and Protection of Passengers' Rights in Rail Transport, Official Gazette 104/2017, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2017\\_10\\_104\\_2382.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2017_10_104_2382.html)

52 Croatian Journalists' Association. "Ethical Council", available at: <https://www.hnd.hr/novinarsko-vijece-casti1>

53 Croatian Journalists' Association. "Rulebook on the work of the Ethical Council of Journalists", available at: <http://www.hnd.hr/pravilnik-o-radu-novinarskog-vijeca-casti-032018>

54 Croatian Journalists' Association. "CME completed the purchase of RTL Croatia", available at: <https://www.hnd.hr/cme-dovrsio-kupnju-rtl-a-hrvatska>

The Agency for Electronic Media maintains a register of electronic publications providers, in accordance with Article 80 of the EMA that is publicly available in different formats.<sup>55</sup>

Electronic publications represent editorially designed programme content that is published daily or periodically via the Internet by providers of electronic publications for the purpose of public information and education. Before the first publication of an electronic publication, a natural or legal person must submit an application for registration in the Register of Electronic Publications Providers maintained by the Electronic Media Council. The method of application is described by the Ordinance on the Register of Media Service Providers, Electronic Publications and Non-Profit Providers of Media Services, Electronic Publications and Non-Profit Producers of Audiovisual and/or Radio Programmes,<sup>56</sup> and the Ordinance on Amendments to the Ordinance on the Register of Media Service

Providers, Electronic Publications and Non-Profit Producers of Audiovisual, and/or Radio Programmes.<sup>57</sup>

The Electronic Media Council adopted the Recommendation on the Entry of Providers of Electronic Publications in the Register of Providers of Media Services, Electronic Publications and Non-Profit Producers of Audiovisual and/or Radio Programmes.<sup>58</sup>

### **Public service media**

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#### **Independence of public service media from governmental interference**

In 2022, an agreement on a new contract was reached between the Croatian Radiotelevision and the government of Croatia for the period from 1 January 2023 to 31 December 2027.<sup>59</sup> It was preceded by public consultations, organised by the Croatian Radiotelevision (CRT), which lasted from 29 April to 12 June 2022.

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55 Agency for Electronic Media, “Register of electronic publication providers”, available at: <https://pmu.e-mediji.hr/Public/PregledElPublikacije.aspx>

56 Electronic Media Council, Ordinance on the Register of Media Service Providers, Electronic Publications and Non-Profit Providers of Media Services, Electronic Publications and Non-Profit Producers of Audiovisual and/or Radio Programmes, Official Gazette 134/2013, available at: [https://www.aem.hr/repository\\_files/file/10/](https://www.aem.hr/repository_files/file/10/)

57 Electronic Media Council, Ordinance on Amendments to the Ordinance on the Register of Media Service Providers, Electronic Publications and Non-Profit Producers of Audiovisual and/or Radio Programmes, Official Gazette (*Narodne novine*) 79/2014, available at: [https://www.aem.hr/repository\\_files/file/403/](https://www.aem.hr/repository_files/file/403/)

58 Electronic Media Council, Recommendation on the entry of providers of electronic publications in the Register of providers of media services, electronic publications and non-profit producers of audiovisual and/or radio programmes, Official Gazette) 109/2014, available at: [https://www.aem.hr/repository\\_files/file/439/](https://www.aem.hr/repository_files/file/439/)

59 Agreement between Croatian Radio and Television and the government of the Republic of Croatia for the period from 1 January 2023 to 31 December 2027, available at: <https://api.hrt.hr/media/7e/b3/ugovor-izmedu-hrt-a-i-vlade-rh-za-razdoblje-od-1-sijecnja-2023-do-31-prosinca-2027-20221020125658.pdf>

The Union of Journalists of Croatia (UJC) stated in June that the consultations were pro-forma because “the proposed document is bad and should be hidden from the interested public.”<sup>60</sup> According to the UJC, the contract is too general and without necessary concrete information and indicators. The share of types of content in the aired (instead of produced) programme is presented in percentages instead of hours and the share of informative programmes is reduced both on the radio and television, while the share of other types of programmes is not increased. CRT Director Robert Šveb himself stated that he is not content with the participation of institutions and other actors in the public consultations. The contract was approved by the CRT Programme Council with eight votes for, two abstentions and one against.<sup>61</sup>

### **Other**

The Ombudsperson’s annual report for 2021,<sup>62</sup> published in March 2022, informs of the complaints made by citizens with lower incomes regarding a full or partial exemption from the mandatory monthly subscription payment to the national broadcaster CRT. It also informs of the complaint about the impossibility of

deregistering from the records of those liable to pay a subscription.

Pensioners with a pension of less than 1,500 HRK (198 EUR) are exempt from paying 50% of the monthly subscription fee if their pension is paid from the Croatian state budget and if they were registered as liable to pay the fee up until 12 October 2015. The first condition is prescribed because information on the pension amount can only be obtained from the Croatian Institute for Pension Insurance (which has such data only for pensioners who receive their pension from the Croatian insurance). The second condition serves to prevent manipulative changes of the registered taxpayer.

The Ombudsperson’s Office turned to the Tax Administration Office of the Ministry of Finance regarding the first condition. This office can submit data contained in their own records on income and receipts directly to CRT without any obstacles. The second condition of registering in the records on a certain date seven years ago is too burdensome for pensioners, since new subscribers who meet the prescribed criteria are denied the privilege,

60 Union of Journalists of Croatia. “About the Contract between HRT and the Government of the Republic of Croatia or a public debate that is not, a Contract that is not”, available at: <https://www.snh.hr/o-ugovoru-hrt-a-ivlade-rh-ili-javna-rasprava-koja-to-nije-ugovor-koji-to-nije/>

61 Croatian Radiotelevision. Programme Council. Excerpt from the minutes of the 10th session of the CRT Programme Council, available at: <https://api.hrt.hr/media/47/06/zapisnik-10-sjednice-programskog-vijeca-davanje-misljenja-na-prijedlog-ugovora-s-vladom-rh-za-razdoblje-2023-2027-20220628141200.pdf>

62 See more: <https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2021-godinu/?wpdm-dl=13454&refresh=63e11af630aa31675696886>

as the burden of preventing possible abuse of the system is shifted to them.

For pensioners who benefited from this exemption, the allocation of 40 HRK (5.30 EUR) instead of 80 HRK (10.61 EUR) in monthly subscription fees meant a lot to the household budget, especially during the pandemic, when they spent most of their time at home as a high-risk group.

## **Online media**

### **Impact on media of online content regulation rules**

Art. 94(3) of the Electronic Media Act (EMA)<sup>63</sup> regulates user-generated content, i.e., comments by users on articles published online. When users register to a page, publishers have to inform them in a clear and easily visible and understandable way about commenting rules and violations. In this way, the responsibility for the comments will not go to the publishers, but to those who break the law.

### **Competence and powers of bodies or authorities supervising the online ecosystem**

The Agency for Electronic Media (AEM)<sup>64</sup> maintains a register of electronic publications providers,<sup>65</sup> in accordance with Art. 80 of the EMA. As previously noted, the AEM is a media regulator performing administrative, professional and technical tasks for the Electronic Media Council (EMC),<sup>66</sup> the governing body of the Agency, and regulatory body in the field of electronic media.

The Croatian Journalists' Association's (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 the CJA assembly among its members.<sup>67</sup>

Citizens' complaints on discriminatory content online can be addressed to the Ombudsperson's Office<sup>68</sup> in line with the office's role as the central body for combating discrimination.

From 2013 to 2022, the funds were distributed according to the following ratios:

1. 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 Electronic Media Act - 46.5%;

63 Electronic Media Act, Official Gazette (*Narodne novine*) 111/2021, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2021\\_10\\_111\\_1942.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2021_10_111_1942.html)

64 Agency for Electronic Media, available at: <https://www.aem.hr/about-the-agency/>

65 Agency for Electronic Media, available at: <https://www.aem.hr/about-the-agency/>

66 Electronic Media Council, available at: <https://www.aem.hr/en/vijece/>

67 Croatian Journalists' Association, Ethical Council, available at: <https://www.hnd.hr/novinarsko-vijece-casti1>

68 Ombudsperson of the Republic of Croatia, available at: <https://www.ombudsman.hr/hr/ovlasti-i-nadleznosti/>

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 of the Electronic Media Act - 46.5%;
3. Non-profit providers of electronic publications - 3%;
4. Non-profit audiovisual content producers - 3%;
5. Non-profit radio content producers - 1%.

On 28 October 2022, the first public call for the fund was opened for one month, until 28 November 2022.<sup>69</sup> This tender was intended for for-profit providers of electronic publications from Art. 71(1) of the EMA, non-profit providers of electronic publications from Art.

55(5) of the EMA, and non-profit producers of audiovisual and radio programmes.<sup>70</sup>

On 9 November 2022, the second public call for the fund was opened for one month, until 9 December 2022.<sup>71</sup> This tender was intended for non-profit radio broadcasters and radio broadcasters at the local and regional level and non-profit providers of radio and television media services via satellite, internet, and cable from Articles 26 and 92 of the Electronic Media Act.<sup>72</sup>

On 16 November 2022, the third public call for the fund for the Promotion of Pluralism and Diversity of Electronic Media was opened for one month, until 16 December 2022.<sup>73</sup> This tender was intended for non-profit television and/or radio broadcasters and radio

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69 Electronic Media Council, “[Public tender number 1/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media - for-profit providers of electronic publications, non-profit providers of electronic publications, non-profit producers of audiovisual and radio programmes for 2023](#)”.

70 Public tender number 1/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media, Official Gazette 126/2022, available at: <https://narodne-novine.nn.hr/clanci/oglasia/full/o8346550.html>

71 Electronic Media Council, “[Public tender number 2/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media - for non-profit radio broadcasters and radio broadcasters at the local and regional level and non-profit providers of radio and television media services by satellite, internet and cable as referred to in Articles 26 and 92 of the Electronic Media Act for 2023](#)”.

72 Public tender number 2/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media, Official Gazette 132/2022, available at: <https://narodne-novine.nn.hr/clanci/oglasia/full/o8346929.html>

73 Electronic Media Council, “[Public tender number 3/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media - for non-profit television broadcasters and television broadcasters at the local and regional level and non-profit radio broadcasters and radio broadcasters at the local and regional level](#)”.

and/or television broadcasters at the local and regional level.<sup>74</sup>

On 1 December 2022, the Electronic Media Council adopted amendments to the decisions on the public tender for the allocation of funds from the Fund for Promotion of Pluralism and Diversity of Electronic Media No. 2/22 and 3/22 that prolonged the deadlines for applying to tenders for the 2/22 (from 9 December to 23 December 2022) and for the 3/22 (from 16 December to 30 December 2022). The results of the tenders are pending.<sup>75</sup>

Additionally, each year, the Electronic Media Council publishes a call for tenders for co-financing of projects on the topic of encouraging media literacy.<sup>76</sup> The subject of this public call is the collection of offers for co-financing the preparation and creation of educational materials on various platforms, projects, events, seminars, conferences, workshops, lectures or research, on the topic of media literacy, development and awareness-raising of its importance, as well as related areas and other projects. The projects are intended to satisfy the public interest, for which financial resources are provided in the budget of the Agency for Electronic Media for 2023 in the amount of

53,089 EUR. The highest amount that can be obtained for a single project is 6,000 EUR in one year, and the lowest amount is 1,000 EUR.

The purpose of co-financing is to strengthen and develop citizens' media literacy skills, develop educational materials and programmes on various platforms, and raise public awareness of the importance of media literacy. Media literacy implies a set of individual and social knowledge, competences and skills, i.e. the ability to access and use the media and communication platform, understanding, evaluating and critically reflecting on various aspects of media and media content and creating media content and messages, as well as responsible and ethical sharing of information and media content on media and communication platforms and on social networks.

For the implementation of the first part of the measure, the establishment of an information verification system, 5,968,170 EUR in grants was provided. Higher education and scientific institutions and civil society associations will be able to apply to the public call for the allocation of funds as lead applicants, while the media can be partners. For projects of

74 Public tender number 3/22 for the allocation of funds from the Fund for the Promotion of Pluralism and Diversity of Electronic Media, Official Gazette 134/2022, available at: <https://narodne-novine.nn.hr/clanci/oglasa/full/o8347331.html>

75 Electronic Media Council, "Decisions on amendments to the decisions on the public tender for the allocation of funds from the Fund for Promotion of Pluralism and Diversity of Electronic Media No. 2/22 and 3/22".

76 Electronic Media Council, "Public call for co-financing of projects on the topic of encouraging media literacy", available at: <https://www.aem.hr/vijesti/javni-poziv-za-sufinanciranje-projekata-na-temu-poticanja-medijske-pismenosti-3/>



independent verification of the accuracy of information, a minimum of 100,000 EUR to a maximum of 200,000 EUR per project will be allocated, and the public call was published by the end of the year.<sup>77</sup> The call will be opened on 1 February and will stay open until 30 April 2023.

### **Public trust in media**

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A research carried out by the Centre for Peace Studies with a representative sample of the general public in 2022 showed that 4.1% of respondents completely trust the media, while 15.4% claim that they generally trust the media; 24.6% of respondents don't trust the media at all, 19.4% generally don't trust the media, and 36.4% neither trust nor distrust the media. This puts media after the scientific institutions, military, town and municipal mayors, education system, healthcare system, police, church, CSOs and social welfare system by the level of trust, while the level of trust in media is higher than the level of trust in unions, State Attorney's Office, courts, government, Parliament, and political parties.<sup>78</sup>

## **Safety and protection of journalists and other media activists**

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### **Frequency of verbal and physical attacks**

In 2022, multiple instances of various types of attacks on Croatian journalists took place. Journalist Marcello Rosanda<sup>79</sup> from the daily paper Glas Istre (the Voice of Istria) was the target of many insults (e.g. “journalist trash”, “I hope you die of cancer”) posted on the journalist's Facebook page in the comments of his article published in September 2022 that critically reported on a business enterprise of a local entrepreneur which he called out for “elements of quackery.”

An offline incident happened in the city of Požega where a 28-year-old was arrested for threatening the journalist Mate Pejaković, the editor of the news site pozeski.hr., with death. The alleged reason for these threats<sup>80</sup> are the critical articles that Pejaković wrote about a local politician whose husband is the arrested attacker.

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77 Agency for Electronic Media, “A public call for the establishment of a system for verifying the accuracy of information has been published”.

78 Centre for Peace Studies, “New beginning - a platform for discussion about a new approach to the positioning and work of progressive human rights organisations in Croatia”.

79 Croatian Journalists' Association, “We strongly condemn the threats and insults directed at our colleague Marcello Rosanda”, available at: <https://www.hnd.hr/najostrije-osudujemo-prijetnje-i-uvrede-upucene-kolegi-marcellu-rosandi>

80 Croatian Journalists' Association, “New attacks on journalists - a man who threatened a journalist and the editor of the portal požeški.hr was detained”.

On the Croatian island Tijat, one of the key figures of Croatian journalism, the President of the Union of Croatian journalists and the European Federation of Journalists, Maja Sever, was attacked.<sup>81</sup> As she was taking photographs of the ongoing usurpation of the coast and maritime property on the island, the owner of the restaurant that she was photographing took her phone and threw it away, while yelling at her and ordering her to delete the photographs. The police first decided that there was no basis for their intervention but changed their mind after the story gained public attention.

In August, a young journalist of *Zadarski list*, Toni Perinić, received threats for investigating a tourist fraud case for which the local tourist board got more than 30 complaints in the past. The case revolved around an apartment rentier who charged advances but then cancelled reservations consistently to her clients.<sup>82</sup> Perinić was told by the rentier's father to "watch out what he writes because it's going to cost him."

In September 2022, the Croatian Journalists' Association openly condemned the verbal and physical attacks on journalists who reported

from a protest held on 10 September 2022 in Zagreb under the slogan "We are firing you." The protest, a response to the corruption at INA, the national oil company, was directed against the government of Andrej Plenković and the political party in power, the Croatian Democratic Union, and protesters demanded the government's resignation.<sup>83</sup>

A trial that started in 2020 for the attack on Živana Šušak Živković is still in progress.<sup>84</sup> The journalist was physically assaulted by two young men as she was documenting a religious ceremony happening in a church despite the imposed lockdown rules that were then in force due to the COVID-19 pandemic.

Another journalist who was verbally attacked is Željka Gavranović from the Sbplus news site. She was trying to have a conversation with high school employees and students' parents about a T-shirt inscription that they wore, which featured a word play referring to the fascist salute used in the so-called Independent State of Croatia. Instead of a civilised dialogue, Gavranović experienced unacceptable outbursts of rage from certain employees of the high school in question.<sup>85</sup>

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81 Croatian Journalists' Association, "[The president of the European Federation of Journalists, Maja Sever, was shamelessly attacked](#)".

82 Croatian Journalists' Association, "[Safe journalists: threats to journalists in Croatia for exposing fraud](#)".

83 Croatian Journalists' Association, "[CJA: An attack on a journalist is an attack on a person in public service, and that's why we will report everything to the police](#)".

84 Croatian Journalists' Association, "[The attackers of journalist Živana Šušak Živković face a sentence of six months to five years in prison](#)".

85 Croatian Journalists' Association, "[CJA: We strongly condemn the attack on our colleague in Slavonski Brod](#)".

After a corruption scandal of the conservative government currently in power, a protest was organised in Zagreb by the initiative Slobodni Zajedno (Free Together). Three journalists, including the previously mentioned Maja Sever, were attacked while reporting from the protest<sup>86</sup>. The other two victims of insults and physical pushing were Božena Matijević and Bojana Guberac.

A positive remark is to be made concerning the Croatian Journalists' Association, which is participating in a regional research<sup>87</sup> aimed at evaluating media freedom and journalists' safety in Croatia and surrounding countries. A part of the project is the implementation of a survey based on the Worlds of Journalists Study. The aim is to help media experts and creators of media policies to better understand the circumstances and changes in the conditions and limitations of journalism, while highlighting the role of journalism in social change.

2022 was also marked by the continuation of trials between the journalist Hrvoje Zovko and the Croatian public broadcaster CRT. On 3 February 2022, the Zadar County Court

dismissed the appeal of CRT against Hrvoje Zovko, and decided that the judgement of the Zagreb Municipal Civil Court of 13 November 2020 confirming the statements made by Hrvoje Zovko, president of the Croatian Journalists' Association, about the existence of censorship on CRT, were not disputed or untrue and that, in the specific case, they did not violate the honour and reputation of CRT.<sup>88</sup> In May 2022, Hrvoje Zovko won the dispute against CRT at the Zagreb Municipal Labour Court, which rejected the action of the second termination of the employment contract and ordered Zovko to be returned to the position of editor-coordinator within 15 days on a provisional measure, and ordered CRT to pay litigation costs in the amount of 331.70 EUR.<sup>89</sup>

In September 2022, another suit facing CRT and Hrvoje Zovko resumed at the Zagreb Municipal Criminal Court. This is a private case filed by CRT for libel over Zovko's statements about the existence of censorship in the public service, which was launched at the end of 2018 in the mandate of CRT Director General Kazimir Bačić as one of several lawsuits against Zovko after CRT handed him an

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86 Croatian Journalists Association, "[CJA: An attack on a journalist is an attack on a person in public service, and that's why we will report everything to the police](#)".

87 Croatian Journalists' Association, "Survey on media freedom and safety of journalists in Croatia", available at: <https://www.hnd.hr/anketa-o-medijskim-slobodama-i-sigurnosti-novinara-u-hrvatskoj>

88 Croatian Journalists' Association, "[HRT legally lost the case against Zovko due to his allegations about censorship on public television](#)".

89 Croatian Journalists' Association, "[Hrvoje Zovko won a labour dispute against HRT - the court ruled that the second dismissal of Zovko was also illegal](#)".

illegal dismissal in September 2018.<sup>90</sup> By an inconclusive verdict, passed before the Zagreb Municipal Criminal Court on 12 September 2022, Zovko was acquitted of slandering CRT.<sup>91</sup>

***Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists and media activists***

In 2022, for the first time a verdict was passed for an attack against a journalist in Croatia. This was allowed for by the new Penal Code which categorises attacks on journalists as attacks against persons working in public interest.<sup>92</sup> The case for which the verdict was passed is the above-mentioned attack suffered by Živana Šušak Živković in a church. The attacker, Ivan Lovrinčević, was penalised with a suspended term of six months' imprisonment.

On the same day when Lovrinčević attacked Šušak Živković, the same was done by Tonći Ćukušić and Antonio Ćukušić. They were initially sentenced with seven and eight months of imprisonment, however their sentence ended

up being replaced with community service – one day of prison translated to two hours of service. Šušak Živković was not dissatisfied with the change of sentence; she claims that her goal was never to send those young men to prison but to demand from the legal system to help them get on the right track.<sup>93</sup>

As far as law enforcement is concerned regarding the Perinić case (also mentioned above), the District Attorney's Office pressed charges against Marko Lisica for the threats he directed to the young journalist. The unlawfully used tourist accommodation object that Perinić informed about has been closed by inspection. Perinić claims<sup>94</sup> that he is happy with that turn of events and emphasises how journalists must never keep quiet because that way things will never change for the better.

***Lawsuits and prosecutions against journalists, including SLAPPs, and safeguards against abuse***

Lawsuits against journalists in Croatia are continuously growing in number.<sup>95</sup> In 2022 at

90 Croatian Journalists' Association, "[The court proceedings of HRT against CJA president Hrvoje Zovko continues](#)".

91 Croatian Journalists' Association, "[Zovko – HRT 7:0 - the president of CJA was acquitted of defaming HRT](#)".

92 Croatian Journalists' Association, "[The first conviction for an attack on a journalist under the new Penal Code - the attacker of the N1 cameraman was sentenced to six months in prison](#)".

93 Croatian Journalists' Association, "[For the attack on the journalist, they received a prison sentence, which was replaced by community service](#)".

94 Croatian Journalists' Association, "[The Municipal State Attorney's Office filed an indictment for threats against a Zadar newspaper journalist](#)".

95 Croatian Journalists' Association, "[HND research: the number of lawsuits against journalists and the media is increasing, at least 951 of them are active](#)".

least 951 lawsuits were active against media outlets and individual journalists. The total amount of payoff demanded by the prosecutors of all lawsuits combined reached almost 10.3 million EUR. Hanza Media, the publisher of *Jutarnji list*, *Globus*, *Slobodna Dalmacija* and other newspapers, was the target of the largest number of lawsuits, 443 in total. Amounts of financial compensations demanded by prosecutors range from a couple of hundred euros to hundreds of thousands of euros. The longest trial has been in progress for more than 32 years. From the 951 lawsuits in total, 928 of them concern civil procedures demanding compensation of damage to honour or reputation of prosecutors. The remaining 23 lawsuits are criminal procedures. Most of the prosecutors are public persons, politicians (some of them currently in governing positions), legal persons, and judges.<sup>96</sup> The working group recently founded by the Culture and Media Ministry to tackle the issue of SLAPPs still hasn't succeeded in making significant changes to the status quo in Croatia. An official definition of a SLAPP hasn't been decided on, and courts do not identify and classify SLAPP lawsuits as such. Several workshops for judicial authorities and journalists about SLAPPs were organised in 2022.<sup>97</sup> Another safeguard against

abuse is the Center for Protecting Freedom of Expression, founded by the Croatian Journalists' Association. Work in the Center is done by lawyers specialised in media who offer free legal advice and even representation in court to journalists.<sup>98</sup> However, a worrying number of lawsuits and prosecutions against Croatian journalists remains.

One of the internationally acknowledged lawsuits in 2022 was the one against Telegram. Reporters Without Borders (RSF) called on the Zagreb Court dismiss charges<sup>99</sup> filed by judge Zvonko Vrban against the news site Telegram, its journalist Drago Hedl and editor in charge, Jelena Pavić Valentić. Hedl wrote a series of articles about the judge's property, and was consequently sued for 100,000 EUR in a typical SLAPP.

Another SLAPP, filed by judge Ivan Turudić against *Novi list* journalist Dražen Ciglenečki, ended up in Ciglenečki being found guilty and fined a 1,062 EUR indemnity. The basis of the lawsuit were claims that Ciglenečki made in an opinion piece where he criticised the judge. Turudić found the statements written in 2014 offensive and sued the journalist. Unfortunately, the court didn't acknowledge

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96 Croatian Journalists' Association, "[HND research: the number of lawsuits against journalists and the media is increasing, at least 951 of them are active](#)".

97 Ministry of Culture and Media, "[Expert Working group for Development of the SLAPP combating Policy](#)".

98 Croatian Journalists' Association. "[Vanja Jurić: SLAPP lawsuits harm not only journalists and the media, but also society as a whole](#)".

99 Croatian Journalists' Association. "[Reporters Without Borders highlighted the problem of SLAPP lawsuits in Croatia and called on the court to dismiss Judge Vrban's lawsuits against Telegram](#)".

Ciglencečki's claim<sup>100</sup> that his goal wasn't to harm the judge's reputation but to simply express his own personal beliefs.

A problematic and precedent-setting verdict was brought by judge Berislav Zaninović of the Novi Zagreb Municipal Court. The verdict orders Nova TV, a large TV company, to pay 3,982 EUR in compensation to Damir Škaro, the ex-head secretary of a large Zagreb automobile club. Nova TV aired a story of the auto-club secretary, who accused Škaro of raping her. The argument for Škaro's lawsuit<sup>101</sup> was that at the time of the TV broadcast he was not yet proven guilty. The verdict against *Nova TV* thus presents a dangerous precedent that allows for control of free speech and limits the media's role as a watchdog, which is especially relevant in Croatia, considering its problematic justice system.

On another occasion, however, the Zagreb Municipal Civil Court dismissed the accusations of the Split judge Mario Franetović against the newspaper 24sata. The court dismissed Franetović's claims, ruling that the paper's freedom of expression is more of a priority than the prosecutor's right to

privacy protection and personal reputation.<sup>102</sup> The articles published in the paper criticised Franetović's verdict that sentenced a disabled young man to prison.

In February 2022, the Zagreb Municipal Court brought a verdict against Hanza Media, according to which the media company had to pay 33,178 EUR to judge Ivan Marković as compensation for emotional distress.<sup>103</sup> Judge Marković was deciding on the sentence of five young men accused of rape, sexual abuse, and filming of a 15-year-old girl. Right after interrogation, the accused were released by the judge. This decision was later revisited by the Indictment Division of the Court and the young men were sent to detention prison. Marković sued Hanza Media after some of its authors questioned his initial verdict.

In two other cases, lawsuits against journalists were dropped. Željka Markić, a conservative anti-LGBTIQ activist, lost the lawsuit<sup>104</sup> she initiated against journalist Boris Dežulović and the publisher of one of his critical articles; similarly, the judgement that initially ruled against journalist Ante Tomić for writing critically about the then newly selected minister of

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100 Croatian Journalists' Association. "[Another scandalous verdict against journalists - Dražen Ciglencečki was judged for expressing his opinion, which is extremely unacceptable](#)".

101 Croatian Journalists' Association. "CJA: the scandalous verdict against Nova TV abolishes freedom of speech", available at: <https://www.hnd.hr/hnd-skandalozna-presuda-protiv-nove-tv-ukida-slobodu-govora>

102 Croatian Journalists' Association. "The court rejected the claim of the Split judge against 24 hours".

103 Croatia. Croatian Journalists' Association. "CJA: The verdict against Hansa media is dangerous for journalism!".

104 Croatian Journalists' Association. "[Željka Markić lost the case against Dežulović and will have to pay the costs of the litigation](#)".

culture Zlatko Hasanbegović was annulled<sup>105</sup> after Tomić appealed to the Constitutional Court.

The president of the Croatian Journalists' Association, Hrvoje Zovko, has warned against censorship practices enforced by the political establishment and has announced a large journalist protest if the prosecutions continue at this pace. One of the problems that Zovko underlines<sup>106</sup> are so-called serial prosecutors. An example is Romana Nikolić, a member of Parliament, who sued the publisher of a small non-profit site, Virovitica.net, for 1,000 EUR. But this was only one of her targets – she demanded, in a series of lawsuits, more than 2,654 EUR, and won all of them in court.

Croatia continues to rank among the worst countries in the EU when it comes to the number of SLAPPs filed by judges against journalists, according to a press conference held by the Croatian Journalists' Association on 30 November 2022. The association further warned about the latest judicial hit against the journalist profession by a verdict of the Zagreb County Court according to which journalist

and association member Davorka Blažević must pay compensation to Supreme Court judge Senka Klarić Baranović of 5,308 EUR in the name of the provision of “violation of honour and reputation.” The association has been recording SLAPP lawsuits for years, and for that purpose it has established the Centre for the Protection of Freedom of Expression,<sup>107</sup> which brings together the best lawyers specialised in media law who *pro bono* represent all members and members of the associations confronted with SLAPP lawsuits.<sup>108</sup>

## ***Freedom of expression and of information***

### ***Restrictions on access to information***

In April 2022, the competent committee of the Parliament accepted the final version of amendments<sup>109</sup> to the Right to Access to Information Act. One of the amendments prescribes financial penalties to responsible persons in public bodies that don't act in accordance with the decision of the Information Commissioner. Another alteration of the Act makes the implementation of decisions made by the Information Commissioner obligatory.

105 Croatian Journalists' Association. “[The Constitutional Court decided - Hasanbegović will have to return the money to Tomić](#)”.

106 Croatian Journalists' Association. “[Judicial-political attack on journalists: HND announces a protest if the serial lawsuits are not stopped](#)”.

107 Croatian Journalists' Association. “[Centre for the Protection of Freedom of Expression](#)”.

108 Croatian Journalists' Association, “[CJA: we will publish a shameful list of judges against journalists, we call for solidarity with colleague Blažević](#)”.

109 Croatian Journalists' Association, “[The Parliamentary committee accepted changes to the Right to access to information Act: fines for those who withhold the requested information](#)”.

According to the Report on the Implementation of the Right to Access to Information Act,<sup>110</sup> in 2021 there were 18,576 requests for access to information, which is similar to previous years. Public authorities provided the information 88.54% of the times it was asked. The largest amount of irregularities was identified in the disclosure of information that is of most interest to citizens: lists of donation users, sponsorships and other payments from public funds; outcomes of competition processes and public calls; names and contacts of executives and managers of organisational entities. It is problematic that the Croatian Parliament hasn't discussed either this report or the one from 2020.

One of the organisations identified in the report as making unlawful use of the limitations to the rights on access to information is the Croatian Bank for Reconstruction and Development.<sup>111</sup> For the most part, this applies to withholding information due to professional secrecy by the bank.

Furthermore, throughout 2022, the Centre for Peace Studies has been experiencing continuous difficulties in obtaining information from the Ministry of the Interior. Information that

should be publicly available has often been withheld after inquiries, and answers to formal requests for access to information have been delayed or denied without a valid explanation.

### **Legislation and practices on fighting disinformation**

Sanctions for spreading disinformation (fake news) are elaborated in the Act on Misdemeanors against Public Order and Peace<sup>112</sup> in Article 16. This law was adopted in 1977 and it has been amended several times, most recently in 1994, but, despite this, it has not undergone significant changes, which is why it is justifiably considered an obsolete regulation. There is no information on whether sanctions have been applied for the spread of disinformation based on this Article.

As previously mentioned, on 16 December 2022, the Agency for Electronic Media publicly presented the call for tenders from the fund for the 'fact checking' projects<sup>113</sup> under the measure "Establishment of media fact-checking and public data publication system" of the National Recovery and Resilience Plan.<sup>114</sup> The general goal of the measure to establish the accuracy of information, which

110 Croatian Journalists' Association, "[The Parliamentary committee accepted changes to the Right to access to information Act: fines for those who withhold the requested information](#)".

111 Croatian Journalists' Association, "[Pičuljan: HBOR illegally uses restrictions on the right to access information](#)".

112 Act on Misdemeanors against Public Order and Peace. Official Gazette (Narodne novine) 41-323/1977, article 16., available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/1990\\_02\\_5\\_59.html](https://narodne-novine.nn.hr/clanci/sluzbeni/1990_02_5_59.html)

113 Agency for Electronic Media. A public call was presented as part of the measure "[Establishment of media fact-checking and the system of public disclosure of data](#)".

114 Government of the Republic of Croatia, [National Recovery and Resilience Plan 2021-2026](#).



is carried out by the Agency for Electronic Media and the Ministry of Culture and Media, is to strengthen society's resistance to misinformation. This is done by reducing the amount of misinformation in the public space, strengthening information reliability and security when consuming media content and using social media networks, strengthening the quality of journalism and credible reporting, and strengthening media literacy.

## Checks and balances ➔

### Key recommendations

- Prescribe an automatic suspensive effect of the legal remedy against expulsion and return orders of third-country nationals.
- The government needs to take concrete and systematic steps to ensure that the recommendations of the Ombudsperson are taken into account and implemented.

### **Process for preparing and enacting laws**

**Framework, policy and use of impact assessments, stakeholders'/public consultations and 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 short deadlines, so the public has little time to react.

In 2022, a total of 467 proposals were voted on, including legislative acts and various technical and procedural decisions, as well as reports. Out of those, 301 (64%) acts were sponsored by the government.<sup>115</sup> It is important to note that almost none of the proposals or amendments made by opposition parliamentary groups were supported.

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

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

115 Croatian Parliament, available at: <https://www.sabor.hr/hr/sjednice/pregled-dnevnih-redova>

be enacted under urgent procedure when this is required on particularly justified grounds, which have to be clearly explained”).<sup>116</sup> During 2022, a total of 256 legislative bills were voted on. Out of those, 96 (37.5%) were discussed under urgent procedure.<sup>117</sup> This represents an increase compared to the previous year.

### ***Independent authorities***

The Ombudsperson’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 Ombudsperson 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*,<sup>118</sup> 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).<sup>119</sup>

Also, in their report on Croatia, the Council of Europe’s Anti-Torture Committee (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 necessary for the delegation to carry out the Committee’s mandate.<sup>120</sup>

There is a clear need for strengthening implementation of recommendations of the Ombudsperson’s Office, as well as the recommendations of other ombuds institutions.

### ***Accessibility and judicial review of administrative decisions***

#### ***Powers accorded to the courts to carry out judicial review***

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

117 Croatian Parliament, available at: <https://www.sabor.hr/hr/sjednice/pregled-dnevnih-redova>

118 *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.

119 Judgement in the case of *M.H. and Others v. Croatia*, par. 336.

120 Council of Europe, “Croatia: anti-torture Committee publishes report on 2020 ad hoc visit”, 3 December 2021.

As a rule, judicial review of the administrative action is carried out through an administrative dispute, which is the supervisory activity of the courts when assessing whether state administration bodies act in accordance with legal norms. Article 3 of the Act on Administrative Procedure provides the scope of administrative dispute where its paragraph 2, wherein “the subject-matter of an administrative dispute is assessment of the lawfulness of a general act of the local and regional self-government legal persons vested with public powers and legal persons performing public services.”<sup>121</sup>

In principle, however, an administrative lawsuit does not have a suspensive effect. It will have a suspensive effect only in specific cases stipulated in the law. Also, the administrative courts have the authority to decide that a particular lawsuit should have suspensive effect, under certain preconditions.<sup>122</sup>

However, as once the lawsuit is filed with the request to ensure suspensive effect, it usually takes excessive time for the administrative court to reach its decision, which leaves the party in a legal void, where the administrative decision has become executive, but the court has not yet reached the decision on their

lawsuit and the request for a suspensive effect. Moreover, the deadline for the administrative decision to become executive is in most cases equal to one’s deadline to file the administrative lawsuit (and the request for a suspensive effect). This understandably creates a lot of uncertainties for the party.

Especially problematic is the absence of a suspensive effect of the administrative lawsuit filed against the decisions on the return and expulsion of third-country nationals (TRCs), with the exception of TRCs who are asylum seekers and whose request was refused on the merits. Even in the cases where one was forcefully removed from Croatia following the legal procedure prescribed in the Law on Foreigners, there is no legal remedy that would have a suspensive effect available, and therefore one does not have an available remedy with the power to prevent refoulement. Furthermore, both the Law on Foreigners<sup>123</sup> and the Law on international and temporary protection<sup>124</sup> provided that there is no avenue for lodging an administrative complaint against a detention order in a reception centre but the administrative lawsuit may be initiated in front of the competent administrative court.

121 Administrative disputes act Official Gazette 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/2021, Article 3, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_02\\_20\\_483.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2010_02_20_483.html)

122 Administrative disputes act Official Gazette 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/2021, Article 26, available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_02\\_20\\_483.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2010_02_20_483.html)

123 Act on Foreigners, Official Gazette 133/2020, Article 135, para. 3., available at: [https://mup.gov.hr/UserDocsImages/zakoni/ALIENS%20ACT%20\(Official%20Gazette%20No%20133\\_2020\).pdf](https://mup.gov.hr/UserDocsImages/zakoni/ALIENS%20ACT%20(Official%20Gazette%20No%20133_2020).pdf)

124 International and Temporary Protection Act, Official Gazette 70/2015, Article 5, para. 12., available at: [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_06\\_70\\_1328.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_06_70_1328.html)

A legal remedy against the expulsion orders that does not have an automatic suspensive effect means the risk of the breach of the Articles 2 and 3 of the Convention, and therefore does not meet the standard of effective legal remedy in accordance with Art. 13 of the Convention. The said legal remedy against expulsion orders in Croatia is therefore contrary to the standards set by the Court's case law in determining their effectiveness. Precisely in situations related to violations of the rights guaranteed by Art. 2 and 3 of the ECHR, in cases of the breach of the principle non-refoulement, and in cases of collective expulsion, the Court has clearly established that an effective remedy must have a suspensive effect and that a person must have access to such a remedy in accordance with Art. 13 of the ECHR.<sup>125</sup> Violations of Article 13 were found due to the lack of an automatic suspensive effect of the remedy in *Gebremedhin v. France* (para. 66), *Baysakov and Others v. Ukraine* (para. 74), *M.A. v. Cyprus* (para. 133), *D and Others v. Romania* (paras. 128-130).

Moreover, Article 13 (1) and (2) of the EU Return Directive (2008/115/EC) provides that third-country nationals subject to a return decision must have the right to an appeal or review of a return-related decision before a competent judicial or administrative authority or other competent independent body with the power to suspend removal temporarily while any such review is pending.

## Enabling framework for civil society –

### Key recommendations

- Ensure quality access and participation in decision-making processes for citizens and civil society in Croatia.
- Stop the formal and informal criminalisation of CSOs that are active in the field of protecting the rights of refugees and other migrants, and of citizens who offer humanitarian aid to irregular migrants, by adequately limiting the scope of the prohibition to aid migrants in the Law on Foreigners, as well as clearly differentiating between the acts of solidarity for humanitarian reasons and the smuggling of migrants.
- Adopt a National Plan for Creating an Enabling Environment for Civil Society Development that will systematically tackle the issues faced by civil society, such as a sustainable financing framework, proper access and participation in decision-making processes and an institutional framework for civil society.

125 *Čonka v. Belgium*, paras 81-83, *Gebremedhin v. France*, paras 66-67.

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## Regulatory framework

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### Financing framework, including tax regulations

The programming documents for EU funds for the financial period 2021-2027 – the Efficient Human Resources Programme,<sup>126</sup> along with the Programme for Competitiveness and Cohesion 2021-2027<sup>127</sup> and Integrated Territorial Programme 2021-2027<sup>128</sup> – were introduced in 2022.

As the Efficient Human Resources Programme<sup>129</sup> is particularly important for civil society, several civil society organisations (CSOs) warned the Representation of the European Commission in the Republic of Croatia of the problematic access to participation and transparency regarding its adoption, as well as the key issues from the content side. The content of the document is problematic primarily because CSOs have been specifically included or mentioned in only a few limited actions. This is contrary to the recommendations by the European code of conduct on partnership in the framework of the European Structural and Investment

Funds to include civil society in all appropriate aspects. Compared to the financial period 2014-2020, where 94 million EUR had been allocated to civil society, for the period 2021-2027 only 64 million EUR has been allocated for civil society (54 million EUR for civil society, and 10 million EUR for social partners), which is the mandatory minimum. The significantly lowered amount for civil society will have a negative impact on the sector. It is also problematic that civil society is mentioned seemingly arbitrarily in the Programme, for example in science, technology, engineering, and mathematics (STEM), while it is not mentioned in the areas such as implementation of civic education, working with young people who are not in employment, education or training (NEETs) and unemployed youth, social inclusion of certain persons and groups at risk, social innovations, promotion of public participation etc., where civil society is highly active and productive. Furthermore, the Programme, in its introduction, emphasises good cooperation with civil society in the previous period 2014-2020, while it completely ignores the government contracted external evaluation of European Social Fund implementation for the 2014-2020 period<sup>130</sup>

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126 Programme Efficient Human Resources 2021 - 2027, available at: [http://www.esf.hr/wordpress/wp-content/uploads/2022/10/PULJP2021-2027\\_hrv\\_sfc2021-PRG-2021HR05SFPR001-1.2.pdf](http://www.esf.hr/wordpress/wp-content/uploads/2022/10/PULJP2021-2027_hrv_sfc2021-PRG-2021HR05SFPR001-1.2.pdf)

127 Programme for Competitiveness and Cohesion 2021-2027, available at: <https://strukturnifondovi.hr/wp-content/uploads/2022/11/PKK-2021-2027.pdf>

128 Integrated Territorial Programme 2021-2027, available at: <https://strukturnifondovi.hr/wp-content/uploads/2022/12/ITP-odobreni.pdf>

129 Programme Efficient Human Resources 2021 - 2027, available at: [http://www.esf.hr/wordpress/wp-content/uploads/2022/10/PULJP2021-2027\\_hrv\\_sfc2021-PRG-2021HR05SFPR001-1.2.pdf](http://www.esf.hr/wordpress/wp-content/uploads/2022/10/PULJP2021-2027_hrv_sfc2021-PRG-2021HR05SFPR001-1.2.pdf)

130 Ministry of Labour, Pension System, Family and Social Policy, Evaluation of the effectiveness, efficiency and impact of the Operational Programme Effective Human Resources 2014-2020. Group 4: Evaluation of Priority Axis 4 “Good governance”.

and its main findings, which highlight serious problems with the implementation by the implementing bodies, calls that were prepared but never published, significant administrative burden placed on civil society organisations implementing projects, etc.

## ***(Un)safe environment***

### ***Criminalisation of activities, including humanitarian or human rights work***

Organisations and activists who are active in the field of protecting the rights of refugees and other migrants are experiencing the criminalisation of their activities, as are regular citizens who offer humanitarian aid to irregular migrants in Croatia. This criminalisation involves formal criminalisation (with drastic fines) and informal criminalisation (using harassment and intimidation). The current Law on Foreigners does not clearly differentiate between the acts of solidarity for humanitarian reasons and the smuggling of migrants, which gives the wide margin of interpretation to the authorities and has been misused on several occasions to criminalise persons who, for humanitarian reasons and without any personal gain or interest, helped a refugee or migrant.<sup>131</sup>

In 2022, activists providing humanitarian assistance to people on the move in Rijeka experienced intimidation and harassment

by police officers and security guards at and around the main railway station in Rijeka.

### ***Access and participation to decision-making processes, including rules and practices on civil dialogue, rules on access to and participation in consultations and decision-making***

Access to and participation in decision-making processes for citizens and civil society in Croatia is still facing negative trends, as shown by a study conducted by the Centre for Peace Studies in the first half of the year.<sup>132</sup> Public consultations are mainly held online, via the portal [esavjetovanja.gov.hr](http://esavjetovanja.gov.hr), but this is largely pro-forma, as comments and proposals by citizens and other actors are rarely really taken into account or accepted. CSOs have their representatives in the working groups for drafting certain public policies or legislation, and their representatives are elected and appointed through the Council for Civil Society Development. However, 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 the CSOs with insufficient expertise and track record in a topic that the working group is dealing with are represented in the working groups, because they are less critical of the government.

131 [Act on Foreigners, Official Gazette 133/2020](#).

132 Centre for Peace Studies, [“New beginning - a platform for discussion about a new approach to the positioning and work of progressive human rights organisations in Croatia”](#).

The new National Plan for Creating an Enabling Environment for Civil Society has still not been adopted, despite the fact that the last one expired in 2016. The working group for the design of the national plan met twice in 2022, according to the information of the Centre for Peace Studies. In July 2022, several members of the working group, representatives of civil society, wrote to the Government Office for Cooperation with NGOs, complaining that the process is not participative and that the prepared materials for the working group are not based on the analysis of the situation in the civil society. Therefore, they demanded that the Government Office create an analysis of the problems in the sector, which will be the basis for the creation of the objectives and measures of the national plan; that it delivers all the relevant data that it already obtained to the members of the working group; that it makes a clear timeline and a plan for the working group; and that it ensures the process is participative and transparent. In November 2022, a coalition of CSOs organised a round-table on the national plan, in which most of the participants criticised the delays in the process. The Head of the Government Office did not give any plausible explanations for the significant adoption delay, and said that the national plan will be adopted in May 2023.<sup>133</sup> The absence of this document makes it impossible to establish an environment for sustainable funding and other measures needed to create the necessary conditions for a regional and geographical development of civil society.

The process of designing the Efficient Human Resources Programme 2021-2027, a programming document for the new EU funding financial perspective, was especially problematic from the point of public participation, access to information, timely and quality informing of the public and transparency, as several CSOs warned in July 2022. Firstly, the representatives of the CSOs were only included in working groups for drafting the programming document late in the process. The representatives in the Working Group Solidary Croatia (responsible for drafting the programme) complained to the Council for Civil Society Development in 2021 that the process was unclear and that their proposals were not taken into account. Furthermore, the Efficient Human Resources Programme, the Programme for Competitiveness and Cohesion 2021-2027 and Integrated Territorial Programme 2021-2027, have been accessible for public consultations for only 15 days each. The Right to Access to Information Law prescribes that the public consultations must be open for at least 30 days and can only be shorter in limited circumstances, or if another legal document prescribes a different amount of time. This was echoed by the Information Commissioner, to whom several organisations reached out on this issue, and who officially demanded more information about the reason for this from the relevant public body, the Ministry of Labour, Pension System, Family and Social Policy. The Ministry replied that public bodies shortened the 30-day procedure

133 See: <https://udruga.org/2022/11/15/zar-smo-nakon-trideset-godina-jos-u-fazi-stvaranja-poticajnog-okruzenja-za-razvoj-civilnog-drustva/>

in public consultations to meet the delivery deadline for the Programme, by 15 July, and that the shortened period of consultations was approved by the Office of the President of the Government, which is not within its official jurisdiction as it is contrary to the Right to Access to Information Law, whose purpose is to prevent misuse by the government. The Information Commissioner stated that being late in finishing the final draft is not a valid reason to shorten the consultation period, especially since the document has been in its final form since April. The government provided no substantive justification for the delay in the consultation document and accompanying public announcements. Hence this shortened consultation procedure fell well below the minimum legal standard for public consultations.

### **Other**

Upon establishment of the Independent Monitoring Mechanism (IMM) in 2021, there was no public call for the participating organisations and members, nor information about the selection criteria. Members of the IMM have been lacking political and financial independence from the Ministry of the Interior, and the mechanism's financial

independence has been undermined by the EU's 2021 Emergency Funding (EMAS) grant being processed through the Ministry of the Interior, instead of being directly granted to the mechanism, as demanded by human rights organisations.<sup>134</sup> In November 2022, the Ministry of the Interior announced the signing of the new Cooperation Agreement<sup>135</sup> for the IMM, whose activities will be carried out for a period of 18 months with automatic extension, through announced and unannounced visits carried out by monitoring implementers to police stations, police administrations, the external border, including the green border and border crossings, as well as reception centres for asylum seekers and reception centres for foreigners. However, despite the advisory board's recommendations to the Coordination Committee to reflect on the selection of new/additional members, on the basis of a public call of interest and following established objective criteria, to take part in monitoring activities,<sup>136</sup> the agreement was renewed without the public call for CSOs experienced in monitoring human rights violations. Furthermore, financial means for IMM activities also continue to be managed by the Ministry of the Interior, the very body that should be monitored by the IMM.

134 See: <https://www.ecre.org/wp-content/uploads/2021/05/NGO-Letter-Croatia-Border-Monitoring-Mechanism-March-2021.pdf>

135 Cooperation agreement to implement an independent monitoring mechanism on the protection of fundamental rights in actions of police officers of the ministry of the interior in the area of border surveillance, irregular migration and international protection, available at: [https://www.hck.hr/UserDocsImages/Nezavisni%20mehanizam/22\\_146%20Sporazum%20NMN-final\\_EN.pdf?vel=217379](https://www.hck.hr/UserDocsImages/Nezavisni%20mehanizam/22_146%20Sporazum%20NMN-final_EN.pdf?vel=217379)

136 [Recommendations of the Advisory Board on the Annual Report of the Independent Monitoring Mechanism \(June 2021 – June 2022\)](#).



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## **Attacks and harassment**

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### ***Intimidation, negative narratives, smear campaigns and disinformation campaigns***

In December 2022, on a dark afternoon, police illegally entered the premises of Green Action – FoE Croatia, a free bicycle repair shop, intimidating their employees and creating an atmosphere of fear and hostility towards civil action. More than five plainclothes police officers entered the premises without a warrant or identification, looking for “migrants and people of poor financial status”. They came in and intimidated a Green Action’s employee, taking his data and instructing his colleague not to enter it in the database, but “on the side.” When asked to leave, they did not want to do so. Luka Tomac, President of FoE Croatia, emphasised that at first they didn’t know who the group of men were, so they called the police to investigate the situation. “The police quickly responded to our call, talked to that group outside, but did not come to us. In a return call to the police, we found out that the first group was actually the criminal police, but they did not want to reveal the purpose of their actions in our space”, Tomac added.<sup>137</sup>

### ***Verbal attacks and harassment by private parties or public entities***

The 15-year-long battle of Nikola Tesla, a professional tourist guide and trainee speleologist, began in March 2007, when the Municipality of Starigrad allocated a plot of land right next to his house to a local utility company for waste management. Nikola’s family’s life turned into daily harassment and abuse by local officials – from the inability to get a job due to the criminal proceedings initiated by the municipality against him to insults by employees of the municipal utility company. Since 2009, he has been addressing various institutions – the police, the Environmental Inspectorate, the Ministry of Administration, the Ministry of Environmental Protection, and the Croatian Forests Company. Even when he managed to prove that the environmentally harmful waste was being dumped illegally and right next to his house, and when the competent institutions ordered a return of the site to the previous state, nothing happened, which is why in 2012 Nikola sought judicial protection through the institute of free legal aid and sued the municipality. Although the site was never restored to its original condition, it was rehabilitated and the utility company no longer uses it for its heavy machinery. However, Nikola lost the court proceedings and was obliged to pay immense and ever-growing court costs, currently 11,500 EUR.<sup>138</sup> The charity action for Nikola Tesla, organised by FoE Croatia

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137 Green Action, Friends of the Earth Croatia, “The police illegally entered Zelena akcija!”, available at: <https://www.hck.hr/UserDocsImages/Nezavisni%20mehanizam/Recommendations%20of%20the%20Advisory%20Board.pdf?vel=149016>

138 Green Action, Friends of the Earth Croatia, “Donate for Nikola Tesla - environmental defender”.

in 2022, raised a total of 9,370 EUR out of the target amount of 11,500 EUR. However, the collected donations will undoubtedly help Nikola Tesla and his family.<sup>139</sup>

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

Environmental organisations in Croatia continue to face Strategic Lawsuits Against Public Participation (SLAPPs) aimed to silence, censor and intimidate the work of human rights defenders in the field of environmental protection. Legal proceedings against FoE Croatia initiated in 2017 by a private investor in relation to the planned construction of a golf resort on Srđ mountain above Dubrovnik are still ongoing. The investor is claiming over 26,552 EUR from the organisation in criminal proceedings for defamation and civil proceedings for damages. Meanwhile, the investor requested that the commercial court issue a provisional measure prohibiting activism and the right to freedom of expression against FoE during the realisation of the project on Srđ mountain. Consequently, FoE experiences financial burden because of the duration and delays in the proceedings, consumption of the organisation's capacities, as well as the general public's negative perception of the organisation.<sup>140</sup>

## **Disregard of human rights obligations and other systemic issues affecting the rule of law framework** 🟡

### **Key recommendations**

- Conduct efficient investigations of human rights violations; implement decisions by supranational courts timely and efficiently.
- Ensure accountability of the officials involved in systematic human rights violations.

### **Systemic human rights violations**

#### ***Widespread human rights violations and/or persistent protection failures***

Following several events that happened at the end of 2021 – the public display of police violence footage, judgement of the European Court of Human Rights in *M.H. and others v. Croatia*, and the Council of Europe's Anti-torture Committee report on Croatia – police conduct in 2022 appeared to become less violent and more legal. Since spring 2022, Croatian police have started excessively issuing

139 Green Action, Friends of the Earth Croatia, "9,370 EUR collected for Nikola Tesla! Many thanks to everyone!".

140 Human Rights House Zagreb, "Human Rights Defenders in Croatia - Challenges and Obstacles", available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP\\_Tematski-Branitelji-FIN-3.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/12/KLJP_Tematski-Branitelji-FIN-3.pdf)

most persons entering Croatian territory with the so-called 7-day papers, that is return decisions ordering them to leave the European Economic Area (EEA). A return decision can, when certain requirements have been met, legally be issued to persons who enter Croatia, do not have regulated stay and do not wish to ask for international protection. Based on that document, the persons can stay in Croatia for a maximum of seven days, the state is obliged to guarantee their human rights from the European Convention, and they are obliged to leave the territory, i.e. the EEA, within the specified period. The circumstances in which these decisions have been issued throughout 2022 in Croatia, however, took place under inhumane conditions. In the second part of the year, more people were passing through Croatia and staying in public areas, sleeping in unsafe buildings, with no humanitarian response from competent institutions. Further on, there were also testimonies of persons who were denied access to asylum and were handed this document in exchange, as well as those who were illegally expelled across the green border after their return decision was issued.

According to the Danish Refugee Council's reports, 3,461 pushbacks from Croatia to Bosnia and Herzegovina were recorded in 2022.<sup>141</sup> Furthermore, in March 2022, the initiative Protecting Rights at Borders recorded testimonies of a vulnerable family of three from

Afghanistan (a mother and two children) and a student from India who travelled together after fleeing Ukraine and were illegally expelled from Croatia to Bosnia and Herzegovina on 18 March 2022.<sup>142</sup> According to the Border Violence Monitoring Network,<sup>143</sup> as well as victims and other volunteers in BiH, another practice started taking place in autumn 2022: People have been detained in police vans for up to eight hours without access to food, water or toilet, sometimes with strong air-conditioning on (cooling).

### ***Impunity and/or lack of accountability for human rights violations***

In cases of illegal expulsions, victims have limited access to remedies for several reasons: lack of familiarity with the legal system in the Republic of Croatia, language barriers and the fact they had been expelled outside of the Croatian territory. Most importantly, in the case of illegal expulsion, persons have no access to an effective remedy according to the standards established by the case law of the ECtHR. This case law states that in the context of collective expulsions and related torture, even if criminal proceedings were accessible after the expulsion itself, this is not sufficient to meet the criteria for the effectiveness of a remedy. On the contrary, in order for a remedy to be effective in these cases, it must necessarily have a suspensive effect - that is,

141 Danish Refugee Council, Border Monitoring Factsheet, available at: <https://pro.drc.ngo/resources/documents/border-monitoring-factsheet-november-2022/>

142 Protecting Rights at Borders, Report #4: *When there's a will, there's a way to protect*.

143 Border Violence Monitoring Network, *Balkan Regional Report - September 2022*.

the person has to have the possibility to use the remedy before they are expelled from the country. Given that the above-mentioned illegal expulsions from Croatia take place outside the scope of any legally prescribed procedure, there is no remedy which a person could use to prevent police officers, under whose control the person is, from illegally expelling them.

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 they 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. Results of the conducted investigations remain unknown to the public and to the Ombudsperson. Low number of investigations shows unpreparedness of the government to stop the violence and assure the rule of law, while the lack of independent investigations is further worrying and further undermines the rule of law and functioning of the legal state.

In 2022, the Centre for Peace Studies received a rejection letter issued by the Croatian State Attorney's Office for a criminal complaint<sup>144</sup> from June 2020 related to a degrading treatment and torture of 33 people and their

violent, illegal expulsion from the territory of the Republic of Croatia to Bosnia and Herzegovina. These were four separate cases combined into one criminal complaint due to similarities in treatment. In particular, among other, all victims suffered torture and degrading treatment: according to their testimonies, the police marked them with permanent, orange spray all over their heads. The reasons outlined in the rejection letter of the State Attorney's Office are poorly substantiated, which further fuels concerns over the absence of effective investigations in Croatia related to pushback cases.

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

In 2022, OSCE Office for Democratic Institutions and Human Rights (ODIHR) in its report on Croatia<sup>145</sup> noted that, based on the available information, Croatia's hate crime recording and statistics do not sufficiently distinguish hate crimes from other crimes. In addition, ODIHR notices that Croatia would benefit from raising awareness among and building the capacity of criminal justice officials to address hate crime.

In 2023, a country monitoring visit from the Council of Europe's ECRI is planned. From the two interim follow-up recommendations

144 Centre for Peace Studies, "[Criminal complaint against Croatian policemen for inhumane treatment of refugees](#)".

145 OSCE ODIHR, Hate crime database for Croatia, available at: <https://hatecrime.osce.org/croatia>

issued after the 5th country visit in 2018,<sup>146</sup> one recommendation was implemented (National Roma Inclusion Strategy) and one is only half implemented (introduction of compulsory human rights education as part of civic education into all school curricula). The rest of ECRI's list of 21 recommendations are as well half-way implemented.

### **Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights**

Recognising the importance of the proper implementation of ECtHR judgments, the European Implementation Network (EIN) has created a website with statistical data of each country on the percentage of successful and unsuccessful implementation of ECtHR judgments. The map of Europe shows the 47 signatory states of the European Convention on Human Rights and the number of

unexecuted ECtHR judgments that have not yet been implemented. According to the map, in 2022, Croatia had 25 leading judgments pending implementation; the average time leading cases have been pending in Croatia was four years four months and 21 days; and the percentage of leading cases from the last 10 years still pending was 25%.<sup>147</sup>

In April 2022, the Grand Chamber Panel of the ECtHR rejected the referral request of the Republic of Croatia in the case *M.H. and Others v. Croatia* (Applications nos. 15670/18 and 43115/18). Thus, the ECtHR recognised in its judgement<sup>148</sup> against Croatia, violations of the right to life, freedom from torture and inhuman treatment, the prohibition on collective expulsion, the right to security and liberty, and the right to individual petition.<sup>149</sup>

In September 2022, the Centre for Peace Studies and the Human Rights House Zagreb filed a submission<sup>150</sup> to the Committee

146 Council of Europe. ECRI report on Croatia (fifth monitoring cycle), available at: <https://rm.coe.int/fifth-report-on-croatia/16808b57be>

147 European Implementation Network, [Country Map](#), and [Data for Croatia](#).

148 European Court of Human Rights, *CASE OF M.H. AND OTHERS v. CROATIA* (Applications nos. 15670/18 and 43115/18) JUDGEMENT, 4 April 2022.

149 Centre for Peace Studies, "[The ECtHR ruling in the Hussiny family case is final - We demand an urgent dismissal of the top of the Croatian Ministry of the Interior!](#)".

150 Council of Europe, Secretariat of the Committee of Ministers, Communication from NGOs (Human Rights House Zagreb (HRHZ) and Centre for Peace Studies (CPS)) (22/09/2022) and reply from the authorities (29/09/2022) in the case of *M.H. and Others v. Croatia* (Application No. 15670/18), available at: [https://hudoc.exec.coe.int/eng#%7B%22display%22:%5B%22%5D,%22tabview%22:%5B%22document%22%5D,%22EXECIdentifier%22:%5B%22DH-DD\(2022\)1039E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22display%22:%5B%22%5D,%22tabview%22:%5B%22document%22%5D,%22EXECIdentifier%22:%5B%22DH-DD(2022)1039E%22%5D%7D) and Centre for Peace Studies, Recommendations of the Centre for Peace Studies and the Human Rights House Zagreb for the execution of the judgement of *M.H. and Others against Croatia*, available at: <https://www.cms.hr/en/azil-i-integracijske-politike/preporuke-centra-za-mirovne-studije-i-kuce-ljudskih-prava-za-izvršenje-presude-m-h-i-drugi-protiv-hrvatske>

of Ministers of the Council of Europe in accordance with Rule 9.2. of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements in the case, a proposal of measures for the execution of the judgement *M.H. and Others v. Croatia*. After the organisations gave constructive proposals for adequate measures to execute the judgement and prevent further violations of the human rights of refugees and other migrants in the Republic of Croatia, the government failed (twice) to submit an action plan<sup>151</sup> that would include general measures aimed at stopping systemic irregularities.

Furthermore, in November 2022, Gong called on the Ministry of Economy and Sustainable Development and the government of the Republic of Croatia to stop ignoring the obligations from the judgement of the European Court of Justice and to protect the health and lives of citizens of Biljan Donji, as well as the environment of that region. Although the Republic of Croatia has been a member of the European Union for almost a decade, it is still struggling with the implementation of European regulations in the national legislation. There are numerous procedures for violations of Union rights that the European Commission has opened against Croatia, and it has been brought before the Court of the

European Union four times. For three years now, the Republic of Croatia has refused to fulfil its obligations under the judgements of the Court of the European Union, the highest court for EU law and whose main task is to interpret Union law and ensure its equal application in all Member States. At the end of 2022, the black mountain of waste slag still stands in the same place as 12 years ago, with no concrete plans to finally remove it. In accordance with their powers, the next step that the Court of Justice of the European Union and the European Commission can take is to determine a lump sum or fine that the state must pay for failure to fulfil its obligations from the judgement.<sup>152</sup>

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151 Council of Europe, Committee of Ministers, Action Plan (01/12/2022) - Communication from Croatia concerning the case of *M.H. and Others v. Croatia* (Application No. 15670/18), available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a94857](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a94857)

152 Gong, “[Gong called on the government to stop ignoring the judgement of the EU Court and protect citizens](#)” (Gong pozvao Vladu da prestane ignorirati presudu Suda EU i zaštiti građane i građanke).

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## Contacts

### ***Centar za mirovne studije (CMS)*** *Centre for Peace Studies - Croatia*

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.

Kuća ljudskih prava  
Selska cesta 112a  
10000 Zagreb  
Croatia  
cms@cms.hr  
[www.cms.hr/en](http://www.cms.hr/en)

### ***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.

Ringbahnstrasse 16-18-20  
12099 Berlin  
Germany  
info@liberties.eu  
[www.liberties.eu](http://www.liberties.eu)



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