

Rationalization of the Croatian Human Rights Protection System

Report of Expert Team

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1 EXECUTIVE SUMMARY

This report is an investigation, with recommendations, into the organizational, financial, and political effectiveness of the Croatian human rights system. The study focused on the work of four Ombudsman institutions, three government offices with responsibilities in the human rights field, and the Human Rights Centre.

It is apparent that the human rights system in Croatia is seriously underfunded. While there are clearly ways in which resources could be used more efficiently, it is important that any savings generated by rationalization be retained within the human rights protection system and used to expand substantive work.

We approached the issue of cooperation between human rights institutions from a primarily functional perspective. We believe that practical cooperation between the various bodies on substantive activities is more important than formal incorporation or merger of different institutions.

INTERNATIONAL COMPARISONS

Neither international nor European standards provide very clear guidance on the issue of whether the independent national human rights institutions should be divided into separate institutions by mandate, or amalgamated into a single institution. Some international treaty bodies, notably the Committee on the Rights of the Child, stress the importance of separate institutions, but there is far from being a consensus on this. At the European Union level there is a trend towards merging anti-discrimination bodies. However, there is no formal requirement to do so.

Four European countries have approached this issue in a variety of ways. The United Kingdom has merged existing anti-discrimination bodies into a single Equality and Human Rights Commission, but without harmonizing legislation governing the different anti-discrimination protection. The experience has been largely negative. Sweden has dissolved several anti-discrimination Ombudsman institutions, creating a new institution with a harmonized law. Although this is a very recent development, the experience appears to be positive. Lithuania has three separate Ombudsman institutions and has resisted proposals to merge them. In an example that seems of particular relevance to the Croatian situation, Hungary has four Parliamentary Commissioners for different human rights issues. These are completely autonomous from each other, but share a building and support staff, often working in collaboration.

The international and European experience, while inconclusive as far as any particular organizational solution is concerned, did provide several principles to be kept in mind in rationalization of the Croatian system:

- The importance of financial and organizational efficiency.
- The need to learn and cross-fertilize between different human rights issues.
- The capacity to address cases involving multiple discrimination or human rights violation.

- The need to retain both a clear public profile and one that is sympathetic and accessible to vulnerable groups.
- The need to retain and develop specific expertise on different issues and sectors.
- The importance of concerted and articulated action where necessary.

FINANCIAL AND ORGANIZATIONAL ANALYSIS

The finances of the human rights sector were analysed over a three-year period 2006-2008, during which some 85 million HRK were transferred from the state budget to the human rights institutions and offices. This amounted to just 0,07% of the overall state budget. The largest recipients of funds were the Croatian People's Ombudsman and the government Human Rights Office.

The human rights sector is highly labour intensive, given the character of the work, with staff costs constituting a very large proportion of the budget, particularly in the Ombudsman offices. However, the shortfall in financial support means that the planned capacity of a further 30 staff members (28%) in the Ombudsman offices has not been met.

The physical locations of the Ombudsman offices are generally unsatisfactory and unsuitable for their purpose. In addition, only the Children's Ombudsman has offices outside Zagreb. The national visibility of all institutions is correspondingly low.

All Ombudsman institutions have spent heavily on information technology (IT) and office equipment. Government offices, by contrast, have lower spending in this area because of their use of government infrastructure and IT. Savings of up to 4.5% annually could be generated by sharing in this area between Ombudsman offices.

Government offices are recipients of funding for various programmes in addition to donations, hence the average amount spent on programmes and per staff on average is significantly higher in government offices. This applies to the cost of intellectual services as well. The Ombudsman's offices on the other hand are evenly financed over the period, although the CPO's office has the lowest level of spending per employee; this is partially a reflection of the largest number of staff employed at that office.

Efficiency gains, in terms of location and organizational issues, are possible without a substantial level of investment. Joint use of resources, considering that this is mainly an intellectually intensive sector, means that economies of scale could be achieved through cooperation in the cost structure. For instance, an allocation of a single devoted facility for all four Ombudsman institutions would generate possibilities for savings in terms of maintenance and use of administrative functions. Additionally, a large proportion of the existing equipment can be reused at the new location.

An immediate rationalization measure could be the reorganization or merging of some bodies, particularly in the group of government offices. An example is the office for human rights and the minorities office, due to the similar functions in other branches of government, namely the Parliament.

POLICY ANALYSIS

The institutions of the human rights system are not the primary determinants of enjoyment of human rights, nor are they the main protectors and enforcers of rights. These responsibilities rest with a variety of state and public bodies. Ombudsman institutions monitor the performance of these bodies and attempt to exercise a form of “soft” power to ensure compliance with human rights standards, both in individual cases and as a matter of policy. Rationalization of the human rights system should be understood not primarily as an organizational question, but as a means of reinforcing that “soft” power through collaboration and an increase in the social and political weight of the human rights institutions.

There are strong arguments both for and against multiple human rights institutions. Undoubtedly particular measures are needed to facilitate access to the rights machinery by particular vulnerable groups such as children and people with disabilities. However, the underlying human rights issues are indivisible and, crucially, all the Ombudsman institutions confront similar obstacles in attempting to secure compliance with their recommendations.

Given the starting point, where multiple institutions already exist, the preferable solution is not to merge these institutions, but to create a framework for far greater functional cooperation. This would include a common building, a shared database, and joint reporting and campaigning.

The Human Rights Centre offers a range of activities that complement those of the Ombudsman institutions, with their focus on complaints-handling. Closer ties and continuous cooperation are clearly required. The activities of public promotion of human rights, initiating debates and research of sensitive and critical issues, require autonomy and independence. Promotion of human rights can best proceed not as propaganda or “frontal” education, but as social learning, that is, acquiring understanding of human rights through confronting obstacles and dealing with problems. Organizational culture and capacities suitable for such mission have already developed in the Centre and should be preserved.

Our preferred solution would be to merge the Human Rights Centre with the Croatian People’s Ombudsman, retaining its separate identity as a department headed by a director who would have the status of Deputy Ombudsman. Failing this, it is important that the HRC acquires independent legal status and solidifies its cooperation with the CPO and the other Ombudsman institutions through formal agreements.

SUMMARY OF RECOMMENDATIONS

General

- The level of funding of the human rights protection system (as defined in this study) should in no circumstances fall beneath its current level in real terms. Any savings made through the rationalization measures proposed should be retained within the human rights system. We would strongly recommend that there be a significant increase in expenditure on the human rights system, at a minimum to allow the institutions to fill their existing staff establishment and to create regional offices.

Ombudsman institutions

- All Ombudsman institutions should retain complete independence from each other in all substantive matters relating to their mandates.
- All Ombudsman institutions should move towards occupying shared premises. (A probable exception would be the Ombudsman for Children, given the recent acquisition and current refurbishment of new premises. Nevertheless, where possible, they should participate in the common functions – from accounting to the database.) The building would need to be converted to meet the standards of access specified by the Ombudsman on the Rights of Persons with Disabilities.
- All Ombudsman institutions should share offices at the regional level. All requirements of accessibility to persons with disabilities, as well as the “children-friendly” environment, should apply. (A possible model would be for premises to be operated by one of the Ombudsman institutions but to accept complaints for all four.)
- Those Ombudsman institutions occupying shared premises should also initiate a progressive staff rationalization, whereby certain administrative functions could be shared and savings put towards the creation of additional posts for programme staff.
- All Ombudsman institutions should operate a shared database for complaints-handling and general information. The database should record not only data on cases of human rights violation, but also data indicating responsiveness and responsibility of the state and public institutions.
- All Ombudsman institutions should explore the possibility of a single web portal for the independent Croatian NHRIs.
- The parliamentary majority required for the appointment of Ombudsmen should be increased from the present simple majority. The current procedure of nomination, with the Government as the sole proposer, should be replaced by nomination through open competition, and the whole procedure should be run by the Parliamentary Committee for Human Rights and Rights of National Minorities.
- The Ombudsman institutions should take joint public action as appropriate.
- The Ombudsman institutions should cooperate in handling complaints involving multiple discrimination.
- The Ombudsman institutions should report jointly on matters that relate to all institutions.

Human Rights Centre

- The Human Rights Centre should be constituted as a department of the Croatian People’s Ombudsman, with responsibility for strategic planning, as well as for its range of current activities. The head of the department should have the status of an additional Deputy Ombudsman. Whatever arrangement is adopted, it is important that it guarantees the existing character of the Centre, including its ability to take the initiative in raising human rights issues and its capacity to attract funds from independent sources.

Government human rights offices

- There should be regular coordination meetings between the Ombudsman and government offices with a view to maximizing effectiveness and eliminating duplication of activities.
- In particular, there need to be discussions about whether the Human Rights Office should continue with its current complaints-handling function.
- The government offices should see as one of their primary functions the generation of information, including statistical data, for the Ombudsman institutions, as well as the general public.
- The government should consider the merger of the Human Rights Office with the Office for National Minorities.
- The government should designate its focal point for the implementation of the Convention on the Rights of Persons with Disabilities, probably nominating the Human Rights Office.
- The government should continue the formation of a single unit for the management of EU-funded activities across the three offices.

2 INTRODUCTION

2.1 UNDERLYING ASSUMPTIONS

This study builds upon the work of a capacity assessment of the Croatian People's Ombudsman conducted by a team from the United Nations Development Programme Regional Centre in Bratislava, in November 2008. One of the key recommendations of that assessment was that the CPO needed to shift its focus away from complaints-driven work to systemic programming on the most important human rights issues in Croatia. This recommendation was based upon the general observation that the most effective national human rights institutions (NHRIs) are those that employ such a systemic approach, as well as the new obligations placed on the CPO under the Anti-Discrimination Act and because of its recent accreditation as an A Status NHRI by the International Co-ordinating Committee for NHRIs.

The 2008 capacity assessment report made a series of recommendations relating to both the functioning and legislative basis of the CPO, aimed at making it more of an active rather than reactive institution. The report also noted that there appeared to be inefficiency and duplication of resources in the existence of four separate Ombudsman institutions. While the report did not question the continued existence of four independent institutions, it did recommend the adoption of a common complaints-handling database and advised that there should be further consideration of rationalization of the infrastructure of the human rights protection system. This present study flows directly from that recommendation.

It is important at the outset to clarify the research team's understanding of the term "rationalization" as applied to this exercise. The usage of the word in financial and economic discourse generally comes with a heavy implication that cost-cutting should be the outcome of a rationalization exercise. We were initially concerned that our research might be used as an argument for reducing the resources available to the human rights protections system. As our work proceeded, it became clear that human rights institutions in Croatia are systematically underfunded. While there is no doubt that, to some extent, funds could be spent more efficiently, we strongly believe that any savings should be retained within the human rights protection system and used to expand substantive work.

It is also important to stress that, while much of our analysis addresses issues of finance and organizational structure, our approach to the question of cooperation between the various human rights institutions is primarily *functional*. Although international law lays down certain basic principles for the structure and mandate of NHRIs, the strength of such institutions is precisely that they are *national*. States are free to determine the most appropriate organizational model to conform with their own political culture and specific needs. Hence there is no obstacle, in principle, to Croatia designing a human rights protection system in which organizational issues can be determined by the needs and priorities of human rights, rather than the reverse. Concretely, for example, we believe that practical cooperation between the various bodies on substantive activities is more important than formal incorporation or merger of different institutions.

2.2 METHODOLOGY

This study was conducted by a team of three: Richard Carver of Oxford Brookes University (international law), Srđan Dvornik, an independent consultant (sociology, political science), and Denis Redžepagić of the Institute of Economics, Zagreb (economics). Carver and Dvornik each have a long record of human rights activism, and the former was the principal author of the UNDP capacity assessment report discussed above. In the early stages of the study, the authors also received advice from Igor Palija, of the Serbian Democratic Forum. The study was overseen by a steering group that comprised representatives of the Croatian People's Ombudsman, Human Rights Centre and UNDP.

The team studied sources of international and European law for guidance on international standards relating to the harmonization of different human rights institutions within a single state. We also researched four other European case studies where different approaches have been adopted to cooperation between national human rights or anti-discrimination institutions.

The team collected data in the course of two visits to Zagreb by Richard Carver in November-December 2009 and February 2010, in which the team conducted a series of interviews with members and staff of the various human rights institutions.¹ In addition, the institutions were all requested to provide financial and organizational data, which constituted the basis for the cost-benefit analysis contained in this report. We are extremely grateful to all for the patience and co-operation that they showed towards us.

All the offices and institutions being studied were asked for detailed information about their mandate, functioning and finances. The data collected was used in order to complete the assessment in terms of: a) analysis of service and activity type; b) financial structure and c) expenditure structure.

Some data covering these topics is available from public sources, such as annual reports and legislative documents – both of which are available on the Internet. The aim, however, was to collect reliable and comparable data as well as include the institutions themselves in the process, thus raising awareness about the project.

It is important to note that the publicly available data is not uniformly reported, partly a reflection of the financial crisis and its effects on the state budget, as well as the particularities of state accounting practices and planning procedures. Additionally, we worked on the premise that a methodology for the evaluation of the public service cannot be based solely on financial parameters. Hence, the broad scope of data collected is aimed at identifying potential comparable variables that will enable rationalization measures that may not be financial in nature but merely administrative. These may, however, result in system-wide savings and thus improve the efficiency of the service as a whole. The analysis shows that the commonly used parameters of comparison cannot be applied to the whole group of analysed institutions. The differences in the scope of activities and the services provided render the outputs incomparable. The methodology applied in this analysis therefore uses trends over a three year period in order to identify potential areas for efficiency gains. However, because of the nature of the financial crisis

¹ A list of interviewees is included as an Appendix to this report.

over this period, as well as the dependency on external factors, which can greatly influence the overall system, the exact figures should be used as guidelines only.

2.3 ORGANIZATIONAL AND INSTITUTIONAL FRAMEWORK OF THE HUMAN RIGHTS SYSTEM

This analysis covers the three main elements of the Croatian human rights system: the government offices for human rights provision (namely the human rights office (HRO), the national minorities office and the gender equality office), the Ombudsman's offices, and the Human Rights Centre.² Different considerations apply to each of these three sets of institutions, for organizational, legal and financial reasons. The government offices are part of the administrative and support network of the government, whilst the Ombudsman's offices are given their mandate and consequently their independence by the Croatian Parliament. The sources of funding for the three groups are based on three generally different principles.

The government offices assume the more administrative role of monitoring and supporting the human rights system in Croatia, in addition to communicating between the NGO sector and the national administration. The Ombudsman offices on the other hand have a more operative role, as they are primarily charged with dealing with the complaints of the citizens. They serve independent monitors of how far the public authorities respect, protect and fulfil human rights. The Human Rights Centre, despite its undisputed role as a research facility, does not benefit from a stable organizational and statutory environment. It is not funded directly from the state budget or parliament, but is officially part of the financing for the HRO. While this is still state support, it reflects the ad hoc approach to support and planning in the national budget.

There are a number of relevant legal documents, primary and secondary legislation that underpins the human rights system, the majority of which has been listed in the appendix to this document. This section outlines the main aspects of these documents and codes, which influence the system as a whole.

2.3.1 Government offices

The government of the Republic of Croatia is supported by thirteen government offices, serving as the information and administrative function of the executive branch of government³. While there is no human rights ministry, one of the Vice Presidents of the Government is charged with human rights issues in Croatia⁴. Out of the offices that have direct or indirect involvement in the human rights system, three are included in this analysis, namely: the human rights office, gender equality office and the minorities office. There is another potential office which could be included in the research, the NGO office, but its functions and mandate exceed the scope of this study.

² We generally follow the usage of the UNDP, which maintains that the word *Ombudsman* is gender-neutral in its original Swedish. No gender bias is intended by this usage. Three out of the four current incumbents in the Croatian Ombudsman institutions are, in fact, women.

³ Complete list can be found on the web pages: http://vlada.hr/hr/naslovnica/o_vladi_rh/uredi_vlade

⁴ Currently, there are 20 cabinet members, of whom five hold the post of vice president. The vice-president in charge of social activities and human rights system is Professor Uzelac, more on http://vlada.hr/hr/naslovnica/o_vladi_rh

The Human Rights Office⁵ was established as a “professional service of the Government of the Republic of Croatia for performing professional and administrative jobs connected with the protection and promotion of human rights in the Republic of Croatia.” (HRO, 2010.)

The official and publicly available documents establishing the Office are the various versions of the Decree on the Office for Human Rights, Official Gazette, nos. 22/01, 70/01, 3/06, 100/07, 15/09.

The office has an important role in the Croatian human rights system, as its activities fall into three main categories. First, staff in the office advise on the development of solutions specific to the human rights system, including cooperation with various branches of government, and monitor and evaluate existing national initiatives. Finally, the office finances the activities and initiatives of the NGO sector, with 1,6 million HRK allocated to various users in 2008, and 1,3 million in 2009.

The Gender Equality Office⁶ is a relatively new office of the government, established in 2004 on the basis of the Decree of the Gender Equality Office (Official Gazette, nos. 18/04, 131/05, 58/09). It is an expert service of the government charged with establishing gender equality in the Republic of Croatia, outlined by the Gender Equality Act (Official Gazette, 82/08). The primary activity of the office is implementing and monitoring the Act, including its national and international ramifications. It maintains contact with relevant international bodies and provides regular progress reports. It is also able to promote its agenda through the activities of a number of committees and gender equality boards in several counties and towns throughout Croatia, thus maintaining a national profile⁷. Finally, the office annually allocates funds aimed at supporting the NGO sector⁸.

The National Minorities Office is charged with expert support to the national policy of enabling equality for the national minorities in Croatia, as well as the rights guaranteed though the Constitution and various legislative documents. In addition, it serves as a source of proposals for improving the environment of the minorities as well as proposing activities and evaluating applications for funding from the NGO sector. It actively cooperates with various governmental units as well as the Council of Europe in monitoring the implementation of the Councils documents on the subject of national minority rights. The office’s advisory role to the National Minority Council is very important, since the budget of the council exceeds the funds allocated to the activities of the office itself.

There is another office within the government, namely the office of the associations⁹, but its activities involve support for a number of organizations and NGO’s, through the implementation and promotion of international funding opportunities for a number of sectors, ranging from human rights to culture. Since its mandate goes far beyond human rights, this office is not included in this analysis.

⁵ <http://www.ljudskaprava-vladarh.hr/Default.aspx>

⁶ Web page, www.ured-ravnopravnost.hr

⁷ Detailed list and media presence overview can be found on <http://www.ured-ravnopravnost.hr/page.php?id=287>

⁸ „The cooperation of the Gender equality Office of the Government of Croatia and the civil society organisations“, [http://www.ured-ravnopravnost.hr/slike/File/NGO/CARE-PP%20\(3\).ppt](http://www.ured-ravnopravnost.hr/slike/File/NGO/CARE-PP%20(3).ppt)

⁹ www.uzuvrh.hr

Table 1 below provides an overview of the responsibilities and specific programme involvement of the offices.

Table 1. Scope and programme activity of the various human rights offices, Government of the Republic of Croatia.

	National programmes	International role	Interaction with the public
Human Rights Office	<ul style="list-style-type: none"> • 2008-2011 National human rights protection and promotion programme • Anti Discrimination Act • National anti discrimination plan for the period 2008-2013 • Secretariat of the human rights commission • Collaboration with country human rights coordination • National plan for combating human trafficking in the period 2009-2011 • Secretariat of the national committee for combating human trafficking • National strategic documents 	<ul style="list-style-type: none"> • Role as the expert body in three negotiating chapters in the EU accession process. • Reporting to UN bodies • Collaboration with international institutions • Implementation of regional and international projects 	<ul style="list-style-type: none"> • Collaboration with the NGO sector • Handling specific queries and complaints of the citizens • Public information and expert publication and promotions • Grants for projects of non-governmental organizations

Gender Equality Office	<ul style="list-style-type: none"> Monitoring implementation and compatibility of the gender equality Act on a national level, including proposing legislative changes to existing practices National strategic documents National policy of promoting gender equality National strategy on the protection from domestic violence National equality promotion policy for persons with disabilities in the period 2007-2015. County and city presence 	<ul style="list-style-type: none"> Transnational project of the Republic of Malta: taking gender equality to local communities 	<ul style="list-style-type: none"> Publications and promotional activities aimed at gender equality, for instance increasing the role of women in politics and the labour market Grants for projects of non-governmental organizations
	<ul style="list-style-type: none"> Role in implementation and monitoring of the national minority programme Roma support programme implementation and support Advisory role to the National Minority Council 	<ul style="list-style-type: none"> PHARE 2005/2006, Roma support programme Organization of the regional conferences on national minority rights 	<ul style="list-style-type: none"> Monitoring and advisory role in finance of various organisations and associations in the NGO sector

Source: HRO, 2010., GEO WebPages, Budget report for 2007-2009.

2.3.2 Ombudsman's offices

There are four main independent offices charged with the protection of citizens' rights in Croatia. These Ombudsman's offices are an informal and non-judicial means of protecting and promoting citizens' rights and are a vital part of the human right sector in the country. As independent institutions, they are legally obliged to present their annual reports to the Parliament. The offices are the following:

a) Croatian People's Ombudsman (CPO)¹⁰:

Established by the Constitution¹¹, CPO is charged by the Croatian Parliament to protect the constitutional and legal rights of the Croatian citizens in relation to the state administration, bodies with public responsibilities, defence ministry, armed forces and

¹⁰ Web page, www.ombudsman.hr

¹¹ English version of the Constitution can be found on http://www.usud.hr/default.aspx?Show=ustav_republike_hrvatske&Lang=en

local government. In 2008, the International Coordinating Committee for National Human Rights Institutions accredited the CPO with “*A status*”, meaning that it was fully compliant with the standards of the “Paris principles¹²”. With the implementation of the Anti Discrimination Act in 2009, the CPO is the central body for the prevention of discrimination, including by non-state bodies.

b) Ombudsman for Children¹³:

Established in 2003 on the basis of the recommendation of the UN Children’s Fund (UNICEF), the Ombudsman for Children is a specialized, independent institution for the protection and promotion of children’s rights and interests, as stipulated by the Law on Children’s Ombudsman (Official Gazette 96/03). It monitors the violations of children’s rights and acts as a preventive and general interest body following international and national children’s rights principles.

c) Gender Equality Ombudsperson¹⁴:

The office of the Gender Equality Ombudsperson was established following the Gender Equality Act (Official Gazette 116/03, 82/08) as means of implementation of the law. As an independent body, the office acts to promote gender equality through handling direct complaints, judicial assistance, research, data collection and independent research and publication on questions of discrimination in addition to cooperation with relevant international bodies. Some aspects of its activities have been supplemented by the Anti Discrimination Act (see CPO section above).

d) Ombudsman for Persons with Disabilities¹⁵:

The office of the Ombudsman for Persons with Disabilities is the latest office to be established, following the Ombudsman for Persons with Disabilities Act (Official Gazette, 107/07), and based on international conventions and the national strategy on equal opportunities for persons with disabilities in the period 2007-2015. Under the Convention on the Rights of Persons with Disabilities, the state is required to establish an independent body to monitor compliance with the rights contained within the treaty, a role that the Ombudsman for Persons with Disabilities fulfils. The office was established in 2007, and it became fully operational in 2008, following the appointment of the Ombudsman by the Parliament.

2.3.3 Human Rights Centre¹⁶

Established in 2003 as a technical cooperation project between the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) and the Government of the Republic of Croatia, the Human Rights Centre registered as a public institution in 2005 with the goal of independently promoting human rights in the Republic of Croatia. The HRC is a focal point for close cooperation between government officials, academia, national human rights institutions, NGOs and others in activities related to the protection and promotion of human rights in Croatia. The main HRC activities are implemented within two departments, and a specialized human rights library.

¹² In brief: independence, autonomy, membership pluralism, necessary responsibilities, resources for independent work and authority, see <http://www2.ohchr.org/english/law/parisprinciples.htm>

¹³ Web page, www.dijete.hr

¹⁴ Web page, www.prs.hr

¹⁵ Web page, www.posi.hr

¹⁶ Information from the HRC webpage: <http://www.human-rights.hr/en/general/about-us/about-us.html>

The Human Rights Centre offers free use of its facilities and equipment to human rights-related organizations and groups, cooperates with similar human rights centres and specialized libraries worldwide. The HRC actively participates in digital human rights organizations' networks. This includes exchange of information, documentation and data, as well as study visits and cooperation on different research projects and the organization of seminars. According to its mandate, the HRC cannot provide direct, concrete and legal protection to individuals who raise allegations about human rights violations, but can direct individual cases to relevant organizations and institutions.

3 INTERNATIONAL STANDARDS AND COMPARATIVE EXPERIENCE

3.1 INTERNATIONAL STANDARDS

National human rights institutions are, by definition, institutions whose exact form and structure is determined at the national level. Nevertheless, in the past two decades the development of NHRIs has become a central part of the international human rights agenda, with such institutions seen as a bridge between international law and its implementation at a domestic level. Consequently a variety of norms and standards have developed to guide the functioning of NHRIs, at least in their contacts with the international and regional human rights systems. We consulted these to see how far, if at all, they provide guidance on the advantages of a single or multiple institutions.

The key international document in this regard is the Paris Principles, adopted by an international conference of NHRIs in 1991 and subsequently endorsed by both the United Nations Commission on Human Rights and the UN General Assembly.¹⁷ Although often cited, the Paris Principles give no explicit guidance on this issue. They do state that the human rights mandate of a NHRI should be “as broad... as possible,” which might suggest that it should cover all human rights issues. Of particular relevance to the Croatian situation is the emphasis that the Principles place upon a variety of functions that go beyond the mere handling of complaints from the public.

It should be noted that the Paris Principles are now regarded as a set of guidelines to direct the status and practice of human rights institutions, even if they are not a single internationally accredited NHRI. Both the Optional Protocol to the Convention against Torture and the Convention on the Rights of Persons with Disabilities cite the Paris Principles with reference to the creation of national monitoring bodies that need not themselves be formally accredited NHRIs.¹⁸

Although the Paris Principles do not explicitly align themselves with either single or multiple human rights institutions within a state, the policy of the International Coordinating Committee of NHRIs, which accredits NHRIs according to the standards in the Principles, appears to favour a single institution. The ICC has determined that only one NHRI may be accredited from each state. The rationale for this is primarily to prevent multiple representation from federal states that may have general human rights institutions at a sub-national level, and provision is made in the ICC’s rules for a single national representative to speak on behalf of multiple institutions. However, the effect, in

¹⁷ Principles relating to the status and functioning of national institutions for protection and promotion of human rights (endorsed by UN Commission for Human Rights Res 1992/54 and UNGA Res A/RES/48/134 20 December 1993)

¹⁸ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) art 18(4); Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008), art 33(2)

the opinion of some observers, has been to privilege the single institution model at the expense of multiple institutions.

Further elaboration (if not necessarily clarification) can be found in the comments and practice of the various human rights treaty bodies. Of particular interest are those bodies responsible for the specialized, sectoral treaties.

The Committee on the Rights of the Child has argued forcefully for the importance of NHRIs as a means of protecting the human rights of children and, of all the various UN treaty bodies, has issued the most comprehensive and sophisticated General Comment on NHRIs. It points out that there are specific and additional justifications for “ensuring that children’s human rights are given special attention.” These include children’s age, the lack of opportunity to express their opinions, and lack of access to political and judicial remedies. The CRC clearly favours a specialist independent human rights institution for children where possible. However, where resources are limited, “development of a broad-based NHRI that includes a specific focus on children is likely to constitute the best approach.” This should include either an identifiable commissioner responsible for children’s rights or a specific division that has that responsibility.¹⁹ What the CRC’s General Comment does not address, of course, is what should be done where there is a prior existing children’s ombudsman. It is a broad comment that assumes that institutions are being established from scratch.

The Committee on the Elimination of Racial Discrimination issued a General Recommendation as long ago as 1993 on the role of NHRIs in implementing the Convention. In retrospect it is mainly noteworthy for the fact that it takes a different position on the role of NHRIs in treaty-body reporting to that commonly held today by UN treaty bodies. (Not a relevant point in this inquiry.) It talks about “national institutions to facilitate the implementation of the Convention,” which probably, but not certainly, refers to specialized rather than general institutions. It states that the establishment of such bodies should “take account of” the Paris Principles.²⁰

The Committee on the Elimination of Discrimination Against Women has not made a general comment on NHRIs, but has made a statement on its willingness to work with such institutions. In this, it is clearly referring to non-specialized institutions.²¹

The Convention on the Rights of Persons with Disabilities is one of only two UN human rights treaties (the other being the OPCAT) to designate a monitoring role to a national human rights institutions. The CRPD does not specify whether this body should be a specialized disability rights body, whether it should be a newly created institution, or whether it may be a pre-existing general human rights or anti-discrimination body.²²

To summarize, in relation to these four specific sectoral treaties, the CRC and CERD marginally, but not decisively, favour the existence of separate human rights institutions, while CEDAW and CRPD are agnostic on the question.

¹⁹ CRC General Comment No 2 ‘The role of independent national human rights institutions in the promotion and protection of the rights of the child’ CRC/GC/2002/2 2002

²⁰ CERD General recommendation XVII ‘On the establishment of national institutions to facilitate the implementation of the Convention’ UN Doc A/48/1993

²¹ “Results of the fortieth session of the Committee on the Elimination of Discrimination against Women” UN Doc E/CN/.6/2008/CRP.1 2008

²² CRPD, art 33(2)

3.2 EUROPEAN STANDARDS

If the position of international bodies on the question of single or multiple human rights institutions is inconclusive, the position at the European level is even less clear. The Council of Europe has made no clear statement on the matter, although the conclusion of a meeting between Central and East European Ombudsmen and the CoE Commissioner for Human Rights concluded that the existence of specialized ombudsmen might weaken the general ombudsman and cause confusion with the public. It was also observed that:

In a period of transition and financial insecurity, it would be more rational to concentrate all available resources on the office of the existing national ombudsman and, where appropriate, appoint deputies to deal with specific issues...²³

Notwithstanding this view, several Central and East European states do have multiple ombudsman institution, as illustrated by the Hungarian and Lithuanian examples discussed below.

In addition, the Council of Europe's European Commission Against Racism and Intolerance (ECRI) has called for the establishment of specialized national bodies to combat, racism, xenophobia, anti-semitism and intolerance.

In European Union states there has been considerable movement in recent years on the question of whether issues of discrimination and equality are best addressed through a single body addressing all grounds for discrimination, or multiple specialized bodies. EU directives are agnostic on this issue and, indeed, some do not even require the creation of an equality body.

The Racial Equality Directive (2000/43/EC) requires member states to "designate an independent body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin." This body "may form part of agencies charged at national level with the defence of human rights or the safeguarding of individual rights." Similarly a gender equality body is required. Likewise the Framework Directive on discrimination on grounds of religion or belief, age, disability, or sexual orientation does not, however, require member states to establish an equality body for monitoring and implementing non-discrimination on these various grounds.

A recent study of the structure of equality bodies in the EU made several observations relevant to the debate over single or multiple institutions. First, that since 2000 (coinciding with the Racial Equality Directive) change has occurred in a majority of EU states with regard to the format of equality bodies. Second, it is more common to find bodies, including ombudsman institutions, mandated to promote equality than it is to find them within a body with a wider brief, such as a general human rights institution.

²³ Council of Europe, Office of the Commissioner for Human Rights, "Conclusions of the Meeting Between the Ombudsmen of Central and East Europe and Mr. Alvaro Gil-Robles, Commissioner for Human Rights" (Budapest 23-24 June 2000, para 2)

Thirdly, there are more instances of bodies covering several grounds of discrimination than bodies that deal with only one ground. Fourthly, bodies addressing multiple grounds of discrimination are often required to enforce a series of laws and different standards of protection against different grounds of discrimination.²⁴

3.3 FOUR COUNTRY CASE STUDIES

3.3.1 United Kingdom

A single Commission for Equality and Human Rights was created by the Equality Act 2006, replacing three specialized commissions working against discrimination on grounds of sex, racial or ethnic origin, and disability.²⁵ The Equality Act does not harmonize the pre-existing legislation against discrimination on these three grounds, but expands the scope of anti-discrimination law to the grounds of sexual orientation, age, and religion or belief. In addition, the new body was given broad human rights functions relating to the Human Rights Act 1998.

The arguments in favour of the establishment of this new body were several. First, from a purely practical point of view, some new enforcement mechanism was required for the three new equality grounds established in the 2006 Act. It was argued that a single commission would be better able to address multiple and overlapping instances of discrimination and would be able to carry good practice over from one ground of discrimination to others. It would create simpler access for both the public wishing to file complaints and public or private bodies seeking advice on non-discriminatory practice.

At the same time, various reservations were expressed. There were fears that the new commission would concentrate on “soft” promotional activities rather than controversial enforcement work and that it would be more vulnerable to government pressure. It was feared that there would be a loss of specific expertise for the different grounds of discrimination and that the new body would become detached from its various “stakeholder” communities.²⁶

Non-governmental organizations active on the new equality grounds greeted the proposals for a single commission positively. The existing three commissions were sceptical. The warmest of these was the Equal Opportunities Commission (which dealt with gender discrimination). The Disability Rights Commission was hostile. The Commission for Racial Equality was initially non-committal, but later highly critical, under pressure from organizations in the ethnic minority communities.

In the Commission as finally established, the government conceded to some of the criticisms of the DRC by designating a specific Disability Committee within the

²⁴ Jan Niessen and Janet Cormack, “National specialised equality bodies in the wake of the EC anti-discrimination directives,” 2004

²⁵ The new Commission’s mandate applies to England, Wales and Scotland. In Northern Ireland there is a separate Northern Ireland Human Rights Commission (the UK’s internationally accredited NHRI) and the Equality Commission for Northern Ireland.

²⁶ Colm O’Cinneide, “The Commission for Equality and Human Rights: A New Institution for New and Uncertain Times,” *Industrial Law Journal*, 36, 2, 2007, 142-3

Commission. It resisted pressure for similar committee on racial equality on the grounds that it was difficult to disentangle issues of race and religion. Attempts to amend the draft law to guarantee quotas of women, ethnic minorities and people with disabilities among the commissioners failed.

The balance sheet on three years of the Commission on Equality and Human Rights has been largely negative. The institution has been bedevilled by poor management, which has resulted in the resignation of several commissioners and the chief executive and allegations of government pressure on the institution. The chairperson of the commission, who is generally held responsible for this situation, currently faces the threat of investigation for contempt of parliament.

There is no evidence to suggest that the malaise at the CEHR is a *result* of it having merged the various pre-existing mandates. However, the *effect* of its malfunctioning has been to have a negative impact on anti-discrimination work and protection of human rights across the board. To that extent at least, the British experience would tend to support the argument for retaining separate institutions.

3.3.2 Sweden

Recent developments in Sweden have followed a similar pattern to the United Kingdom, but with rather more positive results. In 2008, after a two-year consultation, the Swedish Parliament passed the Discrimination Act. The new Act replaced four specialized Ombudsman institutions with a single Equality Ombudsman. The Equal Opportunities Ombudsman, the Ombudsman Against Ethnic Discrimination, the Disability Ombudsman and the Ombudsman Against Discrimination because of Sexual Orientation were all dissolved.

Unlike in the United Kingdom, the new institution was created as part of a new law that harmonized the substantive protections against discrimination among the different groups. Previously these had been contained in seven different Acts, some of which related to grounds for discrimination and some to specific social sectors. The levels of protection provided on the various grounds of discrimination were different and the mandates of the four Ombudsman institutions varied. In the new law all this was equalized, with a common protection provided and a common mandate for the Equality Ombudsman across all grounds for discrimination.

There was some opposition to the dissolution of the old institutions and the creation of the new Ombudsman, primarily from the Ombudsman for Gender Equality. The main reason for this was that the mandate of the Ombudsman for Gender Equality was broader than just non-discrimination, including, for example, different attitudes and organizational cultures. It should be noted that the office of the Children's Ombudsman, which is not an anti-discrimination body, was never considered for incorporation in the new institution.

When the new institution was established, its initial budget was equal to the sum of the four Ombudsman offices that had been abolished. Staff were incorporated into the new institution, although there was a single new Ombudsman, appointed in an open recruitment process. (The appointee was, in fact, the former Ombudsman against Ethnic Discrimination.)

The initial assessment of the functioning of the Equality Ombudsman, after its first year, is a generally positive one. Staff feel the benefits of cross-fertilization between specialists in different types of discrimination and it has proved particularly effective in addressing areas of multiple discrimination. For example, there has been a significant increase in the number of complaints from Roma women. On the other hand, some NGOs have complained that they have lost the close relationship that they previously enjoyed with the specialized Ombudsmen. As before, the greatest fears about the future work of the Equality Ombudsman come from those concerned with gender rights.

3.3.3 Hungary

Hungary provides an interesting example of separate, but connected, specialized Ombudsman institutions. Hungary has four Ombudsmen: the Parliamentary Commissioner for Civil Rights, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, the Parliamentary Commissioner for Data Protection, and the Parliamentary Commissioner for Future Generations.

The Law on the Parliamentary Commissioner for Civil Rights provides the general legal basis for all the Ombudsman institutions.²⁷ The different institutions share an office building, with a combined budget, and have some staff in common.

Active collaboration between the three institutions has functioned well.²⁸ Each institution is sovereign within its own area of competence and it is common for a complaint addressed to one Ombudsman to be forwarded to another (facilitated by the fact that they share premises). Some cases may initially fall within the mandate of one Ombudsman, but subsequently prove to have other aspects that require the involvement of another Ombudsman. Each Ombudsman signs off on a case separately and there have been instances where they have reached different conclusions. The institutions have carried out joint investigations and, on at least one occasion, the Parliamentary Commissioners for Civil Rights and National and Ethnic Minorities have made a joint submission to the Constitutional Court.²⁹

3.3.4 Lithuania

Lithuania provides a contrasting example where there are three Ombudsman institutions, which operate almost entirely separately. The Seimas (Parliamentary) Ombudsman is a multi-member institution with two incumbents (recently reduced from five, primarily on financial grounds). In addition, there is an Ombudsman for Equal Opportunities and Ombudsman for the Rights of the Child.

Each institution is established by separate statute and has different, though similar, powers. Budgets and office premises are completely separate. Cooperation between the

²⁷ Specific legislation on national and ethnic minorities, data protection, and future generations enumerates the power and functions of the other three institutions in greater detail.

²⁸ Although recent media reports have suggested there are tensions between the current Parliamentary Commissioner for Civil Rights and his two counterparts.

²⁹ Gusztav Kosztolanyi, "An Ombudsman to protect Us," *Central Europe Review*, 3, 24, 2001

different institutions is largely confined to the exchange of information and forwarding of complaints in instances where a matter falls outside the mandate of a particular institution. Occasional proposals for merging the different institutions have been rejected.

One member of the research team has first-hand experience of the work of one of these institutions, the Ombudsman for the Rights of the Child, which is a well-organized, active and highly effective body for the promotion and protection of children's rights. The reputation of the general Seimas Ombudsman is not high, although there is no available evidence for this opinion.

3.4 SUMMARY OF ARGUMENTS

The above discussion indicates that both the international and European standards are inconclusive on the merits or otherwise of a single human rights or anti-discrimination institution. Likewise, the country experiences discussed point in very different directions, so lessons from them must be selected with care.

The table below summarizes the arguments most commonly advanced in favour or against a single anti-discrimination body. The same arguments largely apply when a broader human rights function is added to the institution, although it is worth bearing in mind that one persuasive argument *against* a single institution comes in relation to issues such as gender, where the functions of an institution go beyond just anti-discrimination.

Table 2: A single anti-discrimination body – advantages and disadvantages

Advantages	Disadvantages
More coherent support to victims	Problem of juggling monitoring of different grounds of discrimination
Work of practitioners more coherent – easier to cross-fertilize. Carry over good practice	In case of merger, may not be corresponding raise in budget and staff
Recognizes multiple identities of victims – multiple discrimination easier to handle	Inappropriate “one size fits all” approach
Easier for victims of discrimination to approach single body	Balance must be struck between horizontal implementation of equality and addressing particularities of particular grounds
More effective for authorities to relate to a single body	Need to counter instances of grounds of discrimination working against each other
Stronger impact on decision makers because body is more powerful	Danger of one or two grounds receiving more attention (and budget)
Stronger message to public	Danger of concentration on soft promotional activities
Public support greater because everyone can identify with at least one discrimination ground	Danger of not providing for specific needs of some groups (eg children)
Cost-effective use of resources	Body appears more remote and less sympathetic to some groups (children, women, people with disabilities)
Legal powers may end up being the highest common factor	Legal powers may end up being the lowest common denominator

To summarize still further, the arguments in favour of a single institution fall into three groupings. First, there is an argument that this constitutes the most effective use of material and human resources, including financial savings and a transfer of expertise between staff working on different issues and cases. Second, there is an argument that the public profile of the institution is clearer, more comprehensible and ultimately more powerful and effective. Third, it is argued that cases and human rights issues do not neatly break down into the categories that are implied in the existence of separate institutions. A single institution allows these to be addressed in all their complexity.

The arguments against a single institution are, to some extent, a mirror of these. While it can hardly be denied that there would be financial savings, opponents of a single institution would maintain that it is misleading to assume that expertise can be transferred neatly from one type of issue to another. Separate institutions are important precisely because of the need for these separate specialisms. Savings in financial resources may just mean a budget cut, not the more rational and effective spending of the budget on human rights. Equally, an independent public profile is important to maintain the priority to be accorded to issues such as children’s rights, gender equality, and the rights of people with disabilities. Individual members of these vulnerable groups, as well as organizations working with them, need to relate to a body with which they can identify and which seems responsive to their needs.

These two sets of arguments are impossible to resolve in the abstract, as the four country examples indicate. There is also an unfortunate tendency in much of the discussion to proceed on the basis that institutions are being designed from scratch, rather than being adapted from existing institutions established by laws that may not directly correspond to each other, or even be downright contradictory.

It can be concluded, however, that any human rights institution, or set of institutions, needs to be designed taking into account the following considerations:

- The importance of financial and organizational efficiency.
- The need to learn and cross-fertilize between different human rights issues.
- The capacity to address cases involving multiple discrimination or human rights violation.
- The need to retain both a clear public profile and one that is sympathetic and accessible to vulnerable groups.
- The need to retain and develop specific expertise on different issues and sectors.
- The importance of concerted and articulated action where necessary.

4 FINANCIAL AND ORGANIZATIONAL ANALYSIS

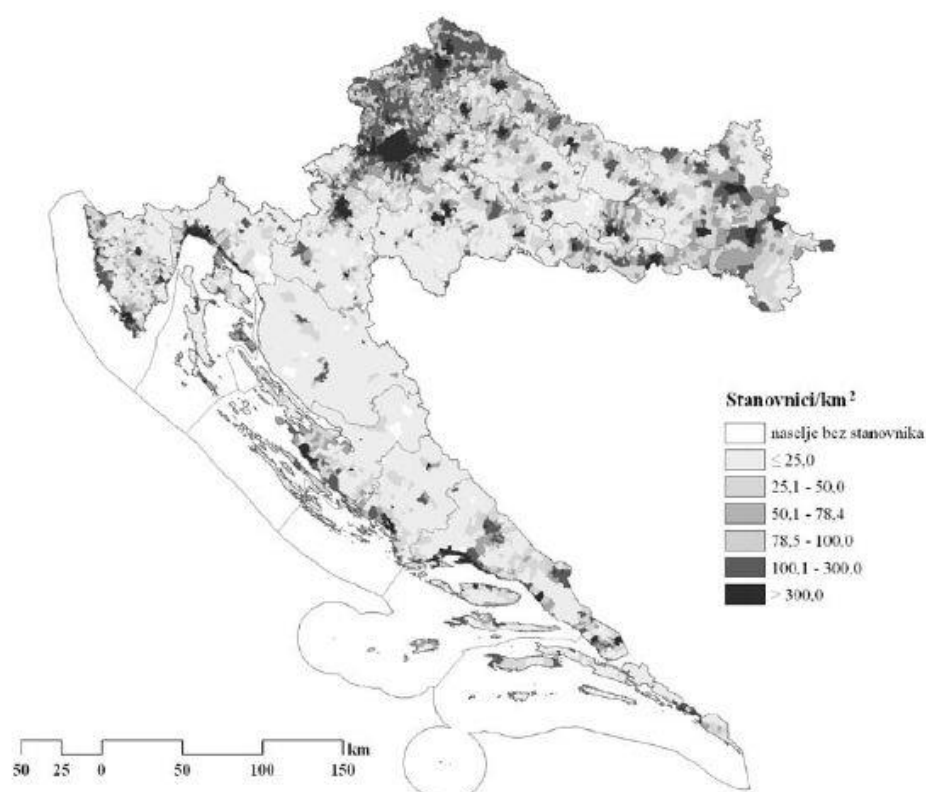
4.1 LOCATION AND VISIBILITY

The Human Rights Office maintains contact and coordinates with county human rights coordinators, but overall the Croatian human rights system is centrist, heavily biased towards the administrative centre of the country, the capital city of Zagreb. There are several reasons for this, namely the centralization of the administrative system overall in Zagreb, and the fact that the majority of direct complaints, as received by the Ombudsman's offices, originates in Zagreb³⁰. However, there are a number of indicators that an increased national reach of the Ombudsman's offices would result in an increase in the volume of public contacts with the institutions of the human rights system and would improve the visibility of the Ombudsman's offices. The direct impact of the enhanced activities in the counties on a national level is elaborated in the next section. At this point, we would simply stress that locating representative offices (dedicated or in cooperation with other ombudsman's offices) in population clusters across Croatia should form a part of a long term development strategy.

The expansion of the national reach of the CPO in particular, relating to its new function with respect to the Anti Discrimination Act, undoubtedly represents a financial obligation in the future period. However, it is evident that the spatial and financial restraints at this point mean that it is difficult to pursue such a strategy in the short term. On the other hand, it is clear that there is scope in the Ombudsman's offices, particularly CPO, for an expansion of the capacities in the medium and long term. The statutory documents of the CPO envisage an expansion in staff by an additional 20 (see table 3).

³⁰ The annual reports for 2008 to the Croatian Parliament show that for instance the CPO's office received more than 300 individual citizen's complaints in Zagreb, while the remainder originated in areas containing detention facilities (second most important was Lepoglava with slightly more than 50 complaints – reflecting the issue of detention centres across Croatia). The Children's ombudsman, which operates a network of centres in major cities, received 50 complaints in Zagreb, compared to 47 „unknown“ and 27 in Split, showing statistically even distribution according to population density.

Figure 1. Population density in the Republic of Croatia, 2008.



Source: Croatian Chamber of Commerce, 2008.

The exception is the active role of the Ombudsman for the protection of children, with offices in Split, Osijek and Rijeka. The decentralization of the functions of the Ombudsman's offices is credited with an increase in the number of contacts made by the citizens, and the higher public profile of the Ombudsman herself. In fact, the office is not simply able to decentralize its operations, but is able to create "knowledge centres" nationally, who are consulted in individual cases as well as on the initiatives stemming from the central office.

4.2 CAPACITIES AND RESOURCE INVENTORY

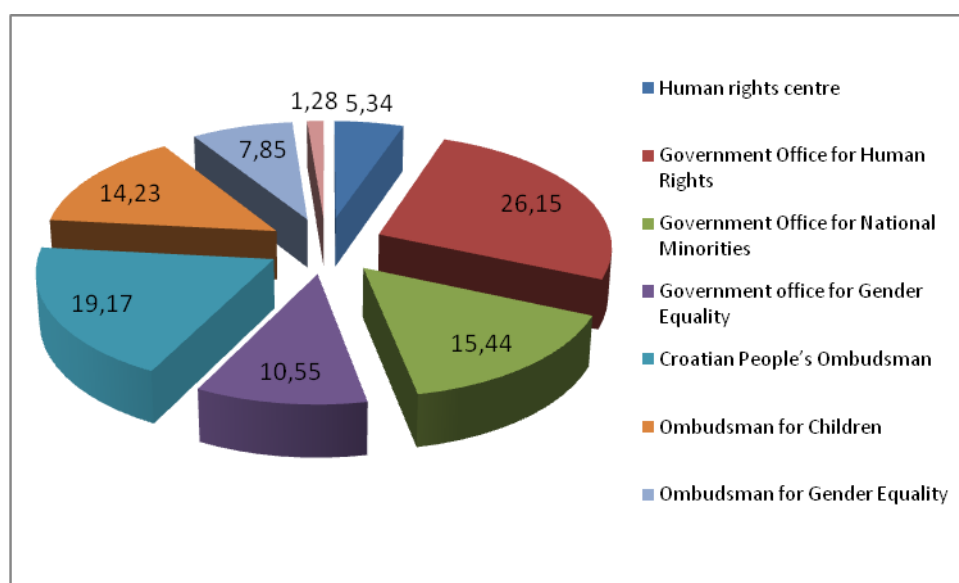
Over the period 2006-2008, the Croatian government transferred more than 85 million HRK³¹ to the human rights institutions. According to the data, (see also Figure 2 below) apart from the Ombudsman for Persons with Disabilities as the outlier, the distribution of funds over the period followed a uniform pattern with two institutions spearheading – the Human Rights Office and the CPO. In terms of the governmental offices, their functions rely heavily on the implementation of specific programmes.

³¹ Around €11,6 million (see previous footnote).

Table 3. Finance of the Human Rights system, in Croatian Kuna (HRK).

	2006	2007	2008	TOTAL	2009 PLAN
Human Rights Centre*	910.637,30	1.625.209,00	2.000.776,00	4.536.622,30	2.041.504,00
Government Office for Human Rights	4.553.290,12	9.398.769,16	8.272.170,17	22.224.229,45	5.875.825,72
Government Office for National Minorities	2.315.380,82	2.884.731,06	7.924.805,04	13.124.916,92	23.374.920,00
Government office for Gender Equality	2.724.127,75	3.099.778,68	3.145.544,63	8.969.451,06	3.783.110,00
Croatian People's Ombudsman	4.345.896,71	5.634.666,47	6.311.584,82	16.292.148,00	7.257.039,00
Ombudsman for Children	2.709.863,97	4.076.502,14	5.287.664,54	12.074.030,65	5.994.083,00
Ombudsman for Gender Equality	1.954.911,40	2.202.098,33	2.546.265,27	6.703.275,00	3.020.123,00
Ombudsman for People with Disabilities	0	0	1.086.514,46	1.086.514,46	3.016.932,00
TOTAL	19.514.108,07	28.921.754,84	36.575.324,93	85.011.187,84	54.363.536,72

*Includes donations from the non state sector. *Source: Execution of the State Budget, official figures from the Ministry of Finance of the Republic of Croatia.*

Figure 2. Distribution of support to the human rights sector, average proportion in period 2006-2008, %.

Despite the relative uniformity in the distribution of resources over the analysed period, the total investment in human rights amounted to 0,07% of the overall state budget³², or 0,03% in 2008. Indeed, as a reference, in comparison to the total amount invested into the human rights sector over the period 2006-2008, 86,3 million HRK was allocated to the National Foundation for Civil Society Development and the National Council for Minorities jointly – in 2008. Therefore, the human rights aspect is only a proportion of the overall civil society funding in Croatia.

³² The total budget in 2008 amounted to 115 billion HRK (cca €16 bn).

An analysis of the resources and the inventory of the various institutions of the human rights system in Croatia can be broken down into three main aspects. The first and most important resource is staff, because of the expert and intellectually intensive nature of the service provided. The particular point for analysis is the difference between actual employment levels and the needs of the overall system based on the plans as stated in the various strategic documents developed by the institutions. Secondly, the locations and office compatibility in relation to the requirements of the services provided. Finally, an overview of the IT capacities and, vitally, databases and records kept in each agency in addition to a tentative insight into the communication levels within the human rights sector. While equipment is certainly a prerequisite for efficient service provision, the data bases are perhaps strategically more important since they serve to provide the basis for potential monitoring and evaluation activities in addition to providing the necessary input for strategic long term planning.

Formally, there are distinctions between types of employees in the public sector. The most common type is the state employee. The other is the state official, which refers to the officials selected and confirmed by the Parliament. This is relevant in the Ombudsman's offices, where the Ombudsman and their deputies have the status of State officials. For the purposes of this analysis, the distinction did not enter the calculation. Table 4 provides an overview of the employment levels in offices analysed.

Table 4. Employment in the human rights agencies

	No. OF EMPLOYEES IN 2009	Of which State Officials	NUMBER OF ADDITIONAL EMPLOYEES PLANNED
Government Office for Human Rights	15		
Government Office for National Minorities	12		
Government Office for Gender Equality	6		2
Croatian People's Ombudsman	31	4	20
Ombudsman for Children	19	3	7
Ombudsman for People with Disabilities	7	1	1
Ombudsman for Gender Equality	10	2	
Human Rights Centre	7		
TOTAL	107		

Source: public documents, internal data submitted by agencies.

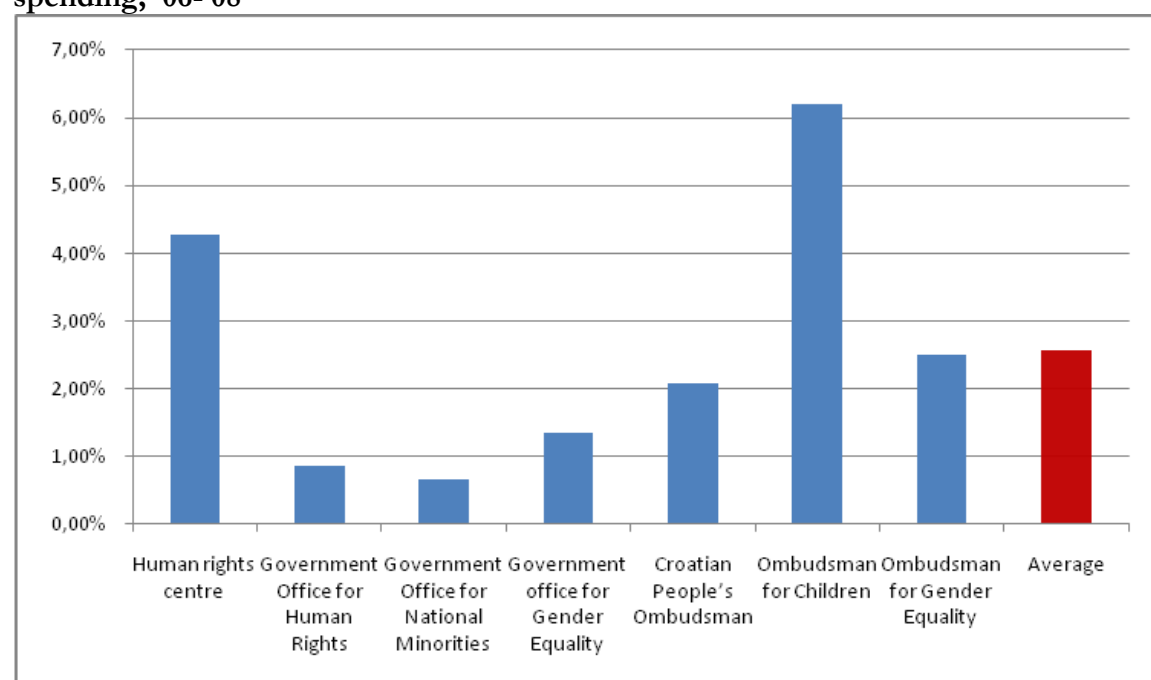
Some 62,6% of the current employees in the human rights sector work in one of the four Ombudsman's offices. This is to be expected, given the scope of activities of the Ombudsman's offices. Interestingly, the planned capacity for the Ombudsman's offices is an additional 30 staff (additional 28%), which is partly a reflection of the shortfall in financial support for the Ombudsman's offices (and CPO in particular), but also the procedures involved in planning and hiring new staff in the system. The government offices are essentially advisors to the government; hence the allocation of the necessary staff is a more flexible procedure. In terms of Ombudsman's offices, the administrative procedure states that each new employee has to be planned for in the statutory

documents, in addition to the formal process, which translates into a negotiating procedure with the Ministry of Finance, whereby the institution in question needs to seek authorization for the new position. The idea is that the plan for the new budget needs to include the necessary resources for new staff, but this also means that the procedure is in practice slow and affects the strategic planning of the Ombudsman's offices.

In terms of the locations, the previous section indicated that the national reach of the human rights system is limited and resources are required to increase the capabilities of the system to increase its public presence. Additionally, the limitations of the existing office space and the current working environment are an issue that has been noted in many progress reports to the Parliament. The main issue is the current status of the Ombudsman's offices, since the government offices use available and suitable resources in the governmental buildings. The Ombudsman's offices are considered to be unsatisfactory and unsuited for the public functions of the Ombudsman's system. Most notably, the CPO's offices are dislocated, separated into various office spaces which hamper efficiency. Officially, there has been an initiative to find suitable office space for the institutions, but this is an additional administrative procedure involving the Central Office for State Property Management. While the slow progress made in this respect is understandable, it illustrates the obstacles to efficient provision of services in the human rights system.

Finally, all the analysed institutions in the human rights system have invested allocated resources into IT and other office equipment. On average, the eight institutions analysed have spent 3,6% of their total expenditure on IT and office equipment. This is the average for the institutions over the three-year period. Figure 3 below gives the amount spent on office equipment in each institution, calculated as a simple average for each institution over the three-year period. In the case of the Ombudsman for Persons with Disabilities, this only represents initial investments into new office space, hence the outlier was not used in the diagram. As stated above, the proportion for the Human Rights Centre includes the income generated from private or institutional donors; hence the actual figure representing the amount spent as a proportion of the allocated funds from the State budget would be too disproportionate in comparison. This is the only figure which is largely dependent on the capacity of the HRC to attract and maintain financial support outside the system.

Figure 3. Average expenditure, office and IT equipment, proportion of overall spending, '06-'08



Source: Authors' calculations.

The figure above indicates that the government offices have a lower level of dependency for IT and office equipment as a result of joint use of office space with the remaining offices and services directly connected with the government. This is confirmed by the higher overall levels of spending in the Ombudsman's offices. Here, substantial proportion of the allocated budget has been used on essential office inventory, for instance in the case of the newly founded Ombudsman for persons with disabilities.

It has to be noted, however, that these ratios are an indicator only, since some necessary equipment may be purchased in the course of programme work and within the implementation of specific measures. They are nevertheless sufficient to indicate trends in the system. However, the actual expenditure involved represents a relatively modest amount. For instance, the large proportion of the average ratio in the case of the Children's Ombudsman originates from the purchase of new IT software and equipment in 2006. This amounted to 271.100 HRK³³, which was nevertheless some 10% of the overall expenditure in the office. The HRC on the other hand has large costs relating to IT equipment because of the requirements of the human rights digital library available to the general public. Should these calculations include the donations from the government only, the ratio of expenditure on IT and office equipment would amount to almost 10% of the state finances received over the period. The detailed ratio of expenditure on IT and office equipment is provided in the table below.

³³ Or €37.140 – using the average exchange rate of €1=7,3HRK.

Table 5. Expenditure on IT and office equipment, amount and proportion of expenditure

	2006		2007		2008	
	HRK	%	HRK	%	HRK	%
Human Rights Centre	66.924,00	7,35	77.302,00	4,76	14.254,00	0,71
Government Office for Human Rights	79.300,83	1,74	37.303,18	0,40	34.850,46	0,42
Government Office for National Minorities	25.799,55	1,11	16.138,02	0,56	21.748,59	0,27
Government Office for Gender Equality	45.792,58	1,68	32.013,85	1,03	41.902,61	1,33
Croatian People's Ombudsman	76.546,17	1,76	139.107,11	2,47	124.818,99	1,98
Ombudsman for Children	271.106,93	10,00	230.314,24	5,65	156.288,56	2,96
Ombudsman for Gender Equality	61.454,19	3,14	33.821,49	1,54	71.977,19	2,83
Ombudsman for People with Disabilities	0,00	0,00	0,00	0	364.836,33	33,58

The total expenditure is, on average, higher in the Ombudsman's offices. The primary reason is the benefits of the economies of scale found in the government offices, resulting from the location benefits and the joint functions with other government offices. The additional reason, simultaneously an important issue in terms of rationalization and efficiency increases is the fact that the Ombudsman's offices currently invest in computer software and database maintenance independently of each other. The software and maintenance requirements of each office are separate and judging from the trends apparent in the table above, significant savings may be generated in this segment through joint action and procurement.

Additionally, significant funds are allocated to licences and software registration, which is also subject to economies of scale should these functions be integrated into a single software requirement. The information collected in the individual databases of the various offices presents a valuable source of information but the current network organization and the scattered information throughout the system results in inefficient use of the existing sources of information. The potential for more use of the Internet as a tool for facilitating cooperation and information exchange is at this point, undervalued, and is in any case hampered by location and compatibility issues.

An accurate estimate for the exact gains from the joint use of resources, particularly for the Ombudsman's offices, is not feasible. The reason is that the current expenditure structure reflects the lack of overall strategic planning during the establishment of various Ombudsman's offices and simultaneously reflects the nature of financial planning in the public sector. The existing offices were established to function as autonomous segments of the government, but little attention was given to equipment and other demands. Understandably, the Ombudsman's offices were always going to be staff intensive, but the fact that the substantial resources for office equipment and locations were not planned for in the first place meant that they are forced to plan for some new equipment each year, hence increasing the cumulative cost of office and IT equipment.

If one assumes that the group of government offices is the segment where all operational and equipment requirements are met and the optimal office functions have been established, the average amount spent each year for office and IT equipment comes to 0,95% over the period³⁴. This is an average for the analysed three-year period and serves as an indication only, since there are no comparable benchmarks. This is in effect a benchmark, as the assumption is that the government offices were able to take advantage of the available spaces and have managed to secure the necessary preconditions for optimal performance given the situation.

In other words, a comparable office, performing similar functions in the system should be able to achieve expenditure close to 1% of income on office and IT equipment, particularly considering that this sector does not require specialized equipment apart from computers and similar communications equipment. Crucially, the government offices are practically merged – but duplications have to be noted such as the specialists for international projects. The comparable average for the Ombudsman's offices over the same period is 5,49%³⁵. The conclusion is therefore that the potential savings on a system level can amount to 4,5%³⁶ annually in terms of the Ombudsman's offices. This translates into saving up to 685.441 HRK in 2008³⁷, or 1.627.018 HRK over the three year period. The implication here is that were the office and location requirements met during establishment, a comparable amount would have probably been spent. However, on a longer time line, the average annual office and IT equipment and maintenance costs could be reduced and similar resources channelled to other uses. This is an estimate only, but it is also an indication of the potential for savings through the joint use of some functions.

4.3 FINANCIAL ANALYSIS

This analysis covers the period 2006 – 2008, with an indicative planned figure for 2009. The data for 2009 were not available for all institutions in question, thus the last three relevant periods were used in order to generate comparable and uniform data. The bulk of the funding for the system originates from the state budget, either as a direct donation or as the vehicle for funds from international donors. The final official figure for the execution of the 2009 budget was not available at the time of this report. In addition, it is important to note that there have been a number of changes to the State budget over the period 2008-2009 because of the financial crisis. The analysed data, however, provides an useful insight into the financial capabilities of the system.

Despite the public availability of these figures, there are a number of discrepancies in the amounts reported in the official documentation as well as the annual reports of the Ombudsman's offices submitted to the Croatian Parliament. This is due to the specific nature of the financial transactions in the public sector, where annual transfers of funds are possible. Hence, these figures differ from official figures, but not by a factor significant for the purposes of this analysis, although data redundancy has to be noted. Additionally, while the planned figure for 2009 is presented, there is a significant degree of misalignment between the planned and the actual figure in each year of analysis for

³⁴ Specific values: 2006=1,51%; 2007=0,66%; 2008=0,67%, or 37.200 HRK on average annually.

³⁵ Specific values: 2006=3,73%; 2007=2,42%; 2008=10,34%, or 127.500 HRK on average annually.

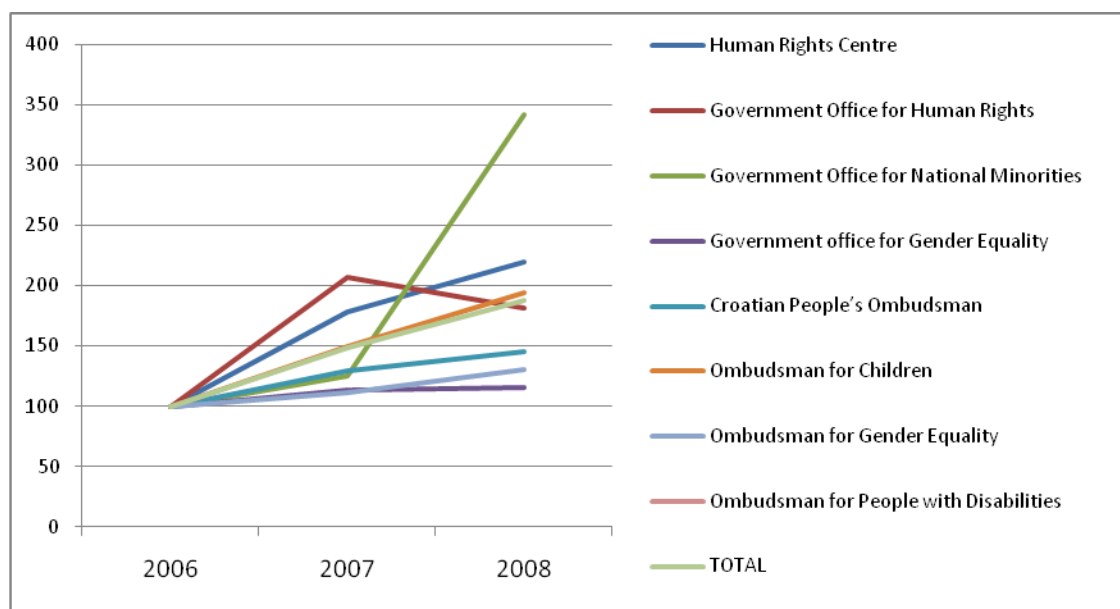
³⁶ Estimate based on the difference between the two averages.

³⁷ Based on the assumption that 4,5% can be saved from overall expenditure, i.e. 4,5% of 15,2 million HRK which is the cumulative expense of all four Ombudsman's offices in 2008.

each segment. One of the reasons for this is the difference between the planned number of employees in the system and the actual number of staff. What is more, the inability by some segments of the human rights system, most notably the CPO's office, to resolve the issue of adequate office space implies that the employment targets will not be met in the future should the matter not be resolved, which has a clear financial consequence.

Over the three-year period, the indexed values of the allocation of the funds from the state budget followed a similar pattern, as visible from Figure 4 below. The biggest oscillations can be observed in the government offices, reflecting the dependence of these offices on programmes and specific initiatives for the promotion of human rights. For the Ombudsman's offices, the overall trend indicates a slight annual increase each year, but considering the low initial levels of funding, this is not a surprise.

Figure 4. Support to the human rights sector, transfers from the State Budget, (Index, 2006=100)



The protection of human rights is a labour-intensive activity that consequently entails larger proportions of wages and labour costs in the cost structure. In order to estimate a reliable indicator of the relative efficiency of the various institutions in this analysis, the total amount of expenditure on labour was calculated, including wages, as well as additional labour costs, such as overtime pay and health and pension insurance premiums. Other costs relating to labour such as travel expenditure were not included in the calculation because of their variable nature. Additionally, the extent to which government offices are involved in the provision of specific programmes means that the resulting figures would be heavily biased as a result of promotional activities and the related labour expenditure in comparison to the Ombudsman's offices.

Table 6. Proportion of labour in overall spending, individual and group level

	2006		2007		2008	
	HRK	%	HRK	%	HRK	%
Human Rights Centre	511.742,30	56,20	968.933,00	59,62	1.080.552,00	54,01
Government Office for Human Rights	1.117.769,83	24,55	1.188.506,42	12,65	1.425.712,12	17,24
Government Office for National Minorities	674.000,00	24,79	579.261,84	20,08	816.678,32	10,31
Government office for Gender Equality	585.000,00	15,81	699.679,97	22,57	777.051,83	24,70
Croatian People's Ombudsman	3.473.708,90	79,93	4.437.697,26	78,76	5.344.048,45	84,67
Ombudsman for Children	1.687.420,61	62,27	2.597.372,05	63,72	3.180.917,09	60,16
Ombudsman for Gender Equality	1.308.827,91	66,95	1.480.816,00	67,25	1.593.268,72	62,57
Ombudsman for People with Disabilities	0,00	0,00	0,00	0,00	231.781,91	21,33

A notable trend in the data is the significant difference in average labour expenditures between the governmental offices and the Ombudsman's offices in the analysed period. The average wage proportion in the government offices is 17,42% in 2008, with 57,18% in the Ombudsman's offices. Overall, the ratio of wages in total spending is around 40% although it reduces to 35% when the new Ombudsman for people with disabilities is included in the calculation.

Hence, the Ombudsman's offices, and the CPO in particular are heavily reliant on staff and the labour expenditure pattern reflects the dependency on state finance of their activities.

This is particularly evident from the analysis of spending per employee. The data in Table 7 provides an overview of staff expenditure in 2008 and over the analysed period.

Table 7. Spending per employee in 2008, and over the total period

	Number of employees	Expenditure per employee, 2008	Total expenditure per employee over period
Government Office for Human Rights	15	551.478,01	1.481.615,30
Government Office for National Minorities	12	660.400,42	1.093.743,08
Government Office for Gender Equality	6	524.257,44	1.494.908,51
Croatian People's Ombudsman	31	203.599,51	525.553,16
Ombudsman for Children	19	278.298,13	635.475,30
Ombudsman for People with Disabilities	7	155.216,35	155.216,35
Ombudsman for Gender Equality	10	254.626,53	670.327,50
Human Rights Centre	7	285.825,14	648.088,90
TOTAL	107	341.825,47	794.497,08

Government offices are recipients of funding for various programmes in addition to donations, hence the average amount spent is significantly higher in the government offices. The Ombudsman's offices on the other hand are evenly financed over the period, although the CPO's office has the lowest level of spending per employee; this is partially a reflection of the largest number of staff employed at that office. Interestingly, the HRC follows the finance trend of the Ombudsman's offices, but this figure includes the international donations to the Centre. Should the figure include the State transfers only, it would show significantly lower levels of investment per employee. Hence, without international donations, the operational capacities of the HRC would be severely reduced.

In terms of the specific programmes and initiatives, the government offices are essentially the only group active in this field. There have been specific initiatives in the Ombudsman's offices, for instance the EU donation for national reach of the CPO's office, but this is not comparable in scope or financial value to the activities in the government offices. Figure 5 shows the relative expenditure on specific programmes in three government offices as a proportion of the overall budget present. Notably, the activities of the gender equality office are expanding over the period. All offices are heavily reliant on these programmes, and have been throughout the analysed period, showing the development of organizational skills specific to these requirements. In terms of rationalization, similarities in expenditure trends indicate that compatibility exists hence closer cooperation or eventually mergers are feasible.

Figure 5. Proportion on spending on specific programmes and initiatives, government offices.

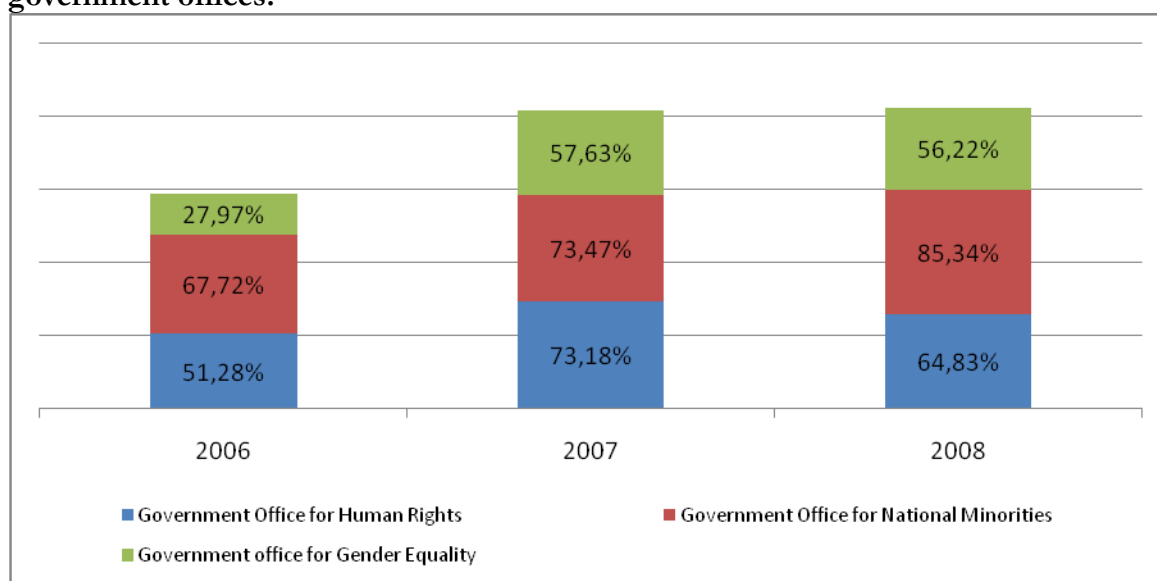


Table 8. Examples of specific programmes in the period 2006-2008

	2006	2007	2008
Government office for human rights TOTAL BUDGET	4.553.290,12	9.398.769,16	8.272.170,17
Human rights NGO support	1.552.447,81	2.944.431,77	1.903.083,00
Implementation of the human trafficking prevention plan	633.497,69	390.453,03	455.897,16
National Youth action programme	32.400,29	0,00	0,00
CARDS 2004 – Human trafficking prevention	0,00	3.402.053,01	2.387.072,88
CARDS 2004 – Human trafficking prevention	0,00	104.190,03	124.048,30
Asylum Commission	0,00	0,00	284.238,23
Conference organisation	0,00	0,00	173.664,66
Government office for national minorities TOTAL BUDGET	2.315.380,82	2.884.731,06	7.924.805,04
National minorities programmes	236.565,18	400.699,26	274.889,28
Roma specific programmes	1.205.569,04	1.625.810,05	1.558.198,17
PHARE 2005 – Roma community support	0,00	0,00	4.830.417,17
Regional conference on national minority rights	100.021,71	76.895,12	77.787,24
Government office for gender equality TOTAL BUDGET	2.724.127,75	3.099.778,68	3.145.544,63
National gender equality policy implementation	264.693,10	1.405.249,88	1.440.017,40
Community gender equality programmes	171.044,49	163.594,38	
Implementation of the national strategy for the prevention of family violence	60.000,00	185.526,76	121.600,42
Equality for disabled persons – national strategy implementation	0,00	0,00	165.000,00
PHARE 2005 – Community programmes – gender equality	220.403,25	0,00	0,00

The data in table 8 emphasizes the caution necessary when analysing the financial structure and the presented ratios. The increase in the budget of the national minorities office is threefold, largely as a result of the implementation of the PHARE programme for the support of the Roma community. Therefore, the differences in the organizational approach and culture between the government offices on one hand, and the Ombudsman's offices on the other are evident and imply that closer cooperation is possible, but that vertical cooperation is likely to be feasible on a agreement level or on specific programmes.

Additionally, a higher proportion of programmes and activities is likely to generate a higher proportion of intellectual services and expert outsourcing. As presented in Table 8, the government offices as a group have a higher average proportion of outsourced intellectual services, 18,3% over the analysed period – a direct consequence of the higher proportion of programmes in their income structure. On the other hand, the CPO is outsourcing the smallest proportion of income for intellectual services (7,1% on average on a group level, i.e. all Ombudsman's offices). This is an indication of the scope of activities, which are relatively less expert in terms of specific skills – in comparison to the children's ombudsman for example. Additionally, the CPO budget is larger; hence the relative amounts involved are not entirely different. The proportions in Table 9 indicate that there is scope for development in the CPO's office, in terms of the additional funding required to extend the level of integration with the experts outside the system. What is more, this is indicative of the limited scope the CPO's office has in allocating

finance for cooperation and research projects, hence rationalisation in this segment is unlikely if unadvisable.

Table 9. Intellectual services expenditure, proportion of total expenditure, 2006-2008., %.

	2006	2007	2008
Human Rights Centre	11,98	4,22	9,63
Government Office for Human Rights	7,59	41,42	34,85
Government Office for National Minorities	9,38	13,91	5,07
Government office for Gender Equality	16,60	19,80	16,13
Croatian People's Ombudsman	1,13	2,10	0,53
Ombudsman for Children	3,36	3,38	2,58
Ombudsman for Gender Equality	8,02	12,22	11,73
Ombudsman for People with Disabilities			18,84

An analysis of the absorptive capacity on a system level, i.e. the capacity to generate alternative sources of income apart from the transfers from the national budget highlights some of the analysis throughout this section. There are two institutions that can be excluded as demonstrating a noticeable level of competence for attracting alternative sources of income – the government Human Rights Office³⁸ and the Human Rights Centre. The CPO's office was the recipient of some aid outside the state budget, as shown in Figure 6, but this expired in 2007. While the HRO and the remaining government offices are expected to attract some alternative income, based purely on the activities and scope of services provided, the Human Rights Centre was able to consistently generate over 60% of income from other donors throughout the analysed period. This implies that on one hand, the Centre would not be able to function without its capacity to gain alternative income, and that the merger of this institution into the current system would generate significant increases in the necessary budget for normal operations, since the income from donors from outside the system could potentially change should the institution change its form or organizational shape. Additionally, this means that in terms of management, the HRC possesses distinctive capabilities that cannot be easily replicated in other institutions in the system. The nominal figures for the three analysed institutions are provided in Table 10.

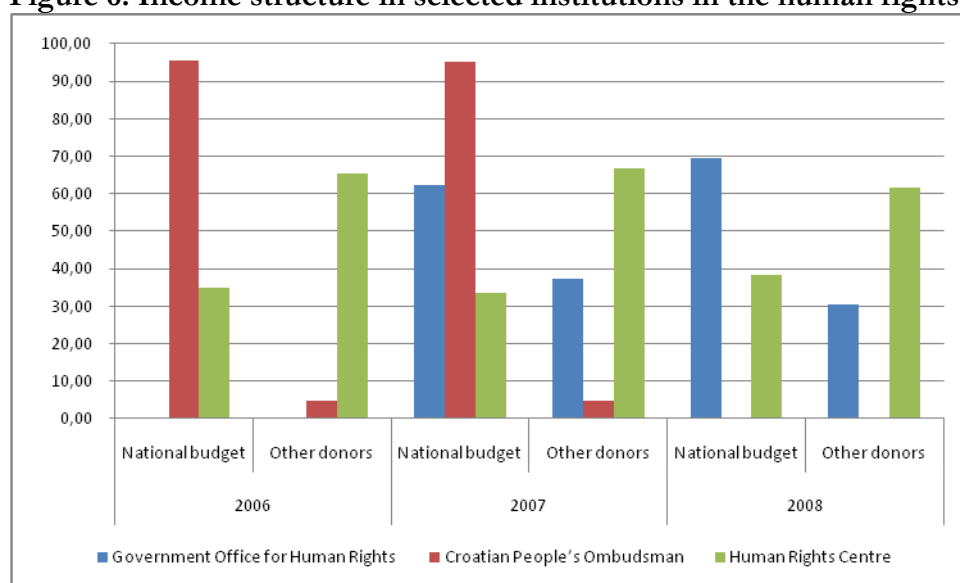
³⁸ This could apply to the government offices overall, but the HRO has the largest overall budget, and has provided the most detailed figures.

Table 10. Absorptive capacity of the HR system

	2006	2007	2008
Government Office for Human Rights			
TOTAL		9.398.769,16	8.272.170,17
Transfers from the state budget		4.862.868,35	5.303.146,10
EU assistance		3.506.243,04	2.511.121,18
Donations from the National Civil Society Development Trust		1.000.000,00	
Reserves			457.902,89
Human Rights Centre			
TOTAL	934.473,00	1.842.858,00	2.084.574,00
Transfers from the State budget	325.000,00	615.000,00	800.000,00
Other donors	609.473,00	1.227.360,00	1.284.834,00
Croatian People's Ombudsman			
TOTAL	4.369.526	5.472.533,00	
Transfers from the State budget	4.167.013,00	5.205.963,00	
Other donors	202.471,00	266.570,00	

Figure 6 gives a graphical representation of the proportions of alternative income raised in the three institutions. The government offices, particularly the Human Rights Office, display a higher level of absorptive capacity compared to other institutions in the system. However, the Human Rights Centre is consistently able to generate the necessary alternative income in order to finance its operations and development. This means that on the one hand the Ombudsman's offices do not possess the skills and resources necessary for increasing their absorptive capacity. On the other hand, the specific set of skills and operational flexibility which is implied in the process means that this could be a factor specific to the HRC.

Figure 6. Income structure in selected institutions in the human rights system.



In conclusion, the financial analysis of the human rights system in Croatia shows that the state has consistently financed the institutions in the system throughout the analysed period. The differences in the data indicate that the three groups of institutions – the

government offices, the Ombudsman's offices and the Human Rights Centre – have performed very differently. The comparison between the groups indicates that the Ombudsman's offices do not enjoy the benefits of state funding, but rather the disadvantages of the distinctively administrative system of finance and support in the Croatian public sector as a whole. While the government offices managed to develop a certain level of flexibility and extend their budgets and efficiency through their focus on specific programmes and initiatives from the government, the Ombudsman's offices are reliant on the annual reviews and long term planning and lobbying required to implement their expansion strategy. Despite the consistent support from the state, some essential capabilities are hampered by the existing procedures in place, and the negotiating leverage of major institutions of the government are indirectly affecting the ability of the Ombudsman's offices to increase their influence and improve their efficiency.

The current system is funded on a relatively stable level at this point, but the issues facing specific offices, particularly the Ombudsman's offices, reflect the lack of a coherent establishment strategy, which should have been present in the very beginning. The current system needs a higher degree of flexibility and cooperation from the state, not only in terms of finance but also to resolve some of the essential administrative obstacles that are reducing efficiency and undermining the authority of the system. The potential merging of various institutions could generate efficiency gains. However, given the nature of the organizational cultures and the specific expertise and practices present in each of the institutions, it seems that a more effective method for rationalization would be the merging of specific segments, such as the IT and other administrative functions. Estimation of the potential gains is based on data in Table 4, with a 1-3% saving to be expected. Importantly, should these reductions be offset by additional unforeseen costs of the reorganization process, efficiency gains will be generated as a result, which, although difficult to calculate, will contribute to the overall quality of the service provided. However, without a solution to the location problems efficiency gains cannot be expected.

4.4 VISIBILITY AND OTHER MEASURES OF EFFICIENCY

Apart from the relative measures of success, the issue of evaluating service delivery of agencies with deep social impacts, including the human rights sector, is generally regarded as “quite difficult³⁹”. The notion of evaluation implies the existence of a comparable set of indicators that may provide a benchmark with which meaningful and relevant measurements can be made. While this may hold true in the sense that various aspects of public services are subject to evaluation such as the provision of social rights, health protection, etc., the human rights sector is in many respects, specific.

The extent to which enjoyment of human rights is susceptible to measurement by quantitative indicators is a matter of considerable debate. Even more problematic is the issue of how far interventions by human rights organizations have an impact in improving respect for human rights. Human rights interventions are not comparable to the activities of social services in, for example, the health or education sectors, where expenditure and output can be fairly directly linked to changes in society. The status of human rights in a country cannot be simply attributed to the actions of a limited number

³⁹ World Bank, Public sector governance guidelines: „Operational inefficiency and Poor service delivery“, Internet; <http://go.worldbank.org/Q0PAZZAOG0>

of agencies, although they undoubtedly have a cumulative effect. As the World Bank has stated⁴⁰: *“Efficiency in the provision of public services is a measure of resources expended relative to the outputs produced by these resources. For the reasons noted, efficiency targets are likely to focus on relative measures of performance improvements over time, or a comparison of actual performance relative to performance targets, rather than absolute measures of ideal ratios.”*

Indicators in evaluating national human rights institutions may be broken down into three types: indicators of output, performance, and impact.⁴¹ Output is typically easy to measure. It might consist, for example, of the number of complaints handled or other simple measures of activities undertaken. However, as discussed below, they are generally a poor measure of the effectiveness of an institution. Indicators of impact, except at the project level, are so difficult to define that they are, for practical purposes, not useful to undertake. It may, however, be possible to evaluate performance – not just what activities are undertaken, but how well they are performed.

In the Croatian context, this severely reduced the scope for evaluation of the individual agencies in the human rights system, given the limitations of the current financial planning procedure and the impact of the financial crisis on the overall national accounts. Hence, in this study the chosen approach is to evaluate the impact of the expenditure over a period of three years. Despite the fact that some agencies have been in existence for a number of years, with the CPO’s office established in 1992 for example, there are a number of relatively new agencies (the Disabilities Ombudsman was established in 2008), which meant that the three-year period is the optimum measure for evaluation considering the average age of the institutions and the impacts of the financial crisis since 2008.

There have been attempts, and indeed the official method for the evaluation of the Ombudsman’s offices follows this pattern, to evaluate the relative impact of the Ombudsman’s offices based on the number of complaints in an individual year. The rationale is that the complaint encapsulates the efforts and the work of an individual agency in the process of solving and dealing with the case. Others have followed suit, for instance the Human Rights Office keeps a record of all incoming documentation which is similar in substance to the reports that the Ombudsman’s offices submit to the Parliament annually. Table 11 below provides a summary of the submitted reports in the period 2006-2008.

⁴⁰ Ibid., „Measuring operational efficiency“.

⁴¹ Richard Carver, *Assessing the Effectiveness of National Human Rights Institutions*, (Geneva 2005), p.33.

Table 11. Cases handled by the Ombudsman's offices, 2006-2008.

	CPO			Children's Ombudsman			Gender equality ombudsman		
	2006	2007	2008	2006	2007	2008	2006	2007	2008
New cases	1655	1878	1560	828	1737	2075	1175	968	937
Cases transferred from previous years	826	190	559	231	347	504	1257	228	72
Total cases in period	2481	2068	2119	636	1194	1493	2432	1196	1009

Source: Annual reports to the Croatian parliament, various years, Ombudsman's offices.

There are a number of issues which make this approach a questionable method for comparison and evaluation. Primarily, there is no official criterion or a monitoring process for the evaluation of the selection or the validation for the grouping. Each institution bases its selection criteria on an internal set of procedures which are entirely valid, but provide no basis for a comprehensive comparison, as they do not represent a universal set of comparable variables which would justify evaluation based on these parameters. For instance, a case involving severe violations of the rights of a child cannot be compared in its sensitivity and complexity to a complaint about local administrative procedures. The relative amount of expertise and the related expenses in terms of labour, staff education costs and the long term effects and needs are intuitively going to be increased in severe cases of human rights violations. Nevertheless the measure for both is going to be a single statistical entry, which makes an objective comparison redundant.

Secondly, the use of documented cases reflects the activity of the Ombudsman's office to an extent only. Media coverage of an incident or a NGO promotional campaign may increase the number of cases, which may not necessarily reflect the activities of the Ombudsman's offices. Thus, the external environment influences the number of cases in a particular year. Examples are the targeted funds for the CPO tour of the counties in Croatia, which generated an increase in the number of cases, but as soon as the donation expired in 2008, the overall figure fell. While this certainly emphasises the need for additional funding for a national presence of all Ombudsman's offices, it shows that the reporting figure does not reflect the overall state of the system.

Finally, there is a high level of discretion in the process of registration of cases. The lack of a common database means that each institution does this by a different process, which makes it impossible to establish a common measure of the efficiency of the process. The current system is evaluated and examined on a basis of a questionable set of parameters. The use of the individual complaints and cases has limited relevance and although necessary with no alternative present, should be examined further. Methodologically, the number of complaints is a relative measure since parties which have additional queries will be recorded as a single complaint. In addition, a single complaint may be representative of a joint complaint. Additionally, the main issue, as far as the Ombudsman's offices are concerned is longevity of court processes. Evaluating the system based on the failings of other segments of government is not a viable process. This is a reflection of a system for evaluation which undervalues and misrepresents the specific nature of the cases involved and the resources used in the process.

According to a recent survey⁴² on a national representative sample, 45% of the respondents are not aware that there is an institution which can aid in the protection of their human rights. Additionally, only 3% responded that they would seek the assistance of the Ombudsman's office, which raises the question of the visibility of the human rights agencies in Croatia. However, 65% are aware that CPO actually exists, but 96% are not aware who the CPO is. 59% do not know how to contact the CPO and only 8% believe that the CPO is an independent office. Despite the fact that this survey focused on the CPO's office, this is a reflection of the systemic issue of inefficient visibility levels. While certainly low, these findings show that the institutions of the human rights system have still to increase their efforts to generate recognition in the public. One of the characteristics of the Croatian administrative system is the multitude of institutional solutions addressing citizen's needs. Thus higher levels of visibility are an effective way of improving the provision of human rights protection in Croatia. This requires additional funds, making a coherent evaluation difficult.

Given the current situation, the applied method in this case was the identification and analysis of trends within the various institutions of the human rights system in Croatia, compared to the relative outcome. Considering the overall impression that the system initially receives the minimal resources for optimal performance, monitoring developing trends within the institutions may be the most relevant indicator of the efficiency of the overall system at this point. Therefore, a long term evolution of the human rights system in Croatia should be geared towards the development of country specific indicators of performance and efficiency which will arise from practice and expertise of the actors involved. This is not a result of the inadequacies of the system at this point as much as a reflection of the early stage of development of the human rights system and institutional capacity in Croatia.

4.5 CONCLUSIONS AND RECOMMENDATIONS FOR SYSTEM RATIONALIZATION BASED ON FINANCIAL AND ECONOMIC EFFICIENCY INDICATORS

The level of funding to the human rights system has remained stable throughout the period 2006-2008. However, given the budgetary restrictions expected with the economic crisis, significant increases in funding are not to be expected in the short run.

Based on our analysis of the system, rationalization should not follow the principle of outright reduction of the overall system resources as there are many internal generators of inefficiency. If these were addressed, this could improve the overall system. Organizational aspects and the communication structure are the main areas for improvement.

Organizational aspects are a key area for improvement. Substantial resources are spent on basic office maintenance and rent. Considering the spatial potential and the availability of governmental offices, rationalizations can be aimed towards improvements in location, sharing of joint functions and investments into a joint support network. Currently, information is scattered and disorganized, and resources are spent on

⁴² HRO, (2009), „Istraživanje o stavovima i razini svijesti o diskriminaciji i pojavnim oblicima diskriminacije“ (eng. *Research on attitudes and awareness on discrimination and discriminatory manifestations*), Bestias dizajn: Zagreb.

administrative tasks that serve a support function, often leading to overlapping and unnecessary repetition.

4.5.1 Financial aspects

There are several conclusions in terms of the current state of support from the state budget. First, it is evident that the funds are stable, but are not sustainable in terms of the system requirements. Current distribution of resources reflects the functions and the operations of the individual segments in the system. However, considering the virtually nonexistent evaluation or monitoring procedure for the overall system, the allocation of additional resources into the system is likely to be a lengthy procedure which will not reflect the actual requirements.

4.5.2 Organization and location

Location and organization issues are not solved and improvements are possible without a substantial level of investment. Joint use of resources, considering that this is mainly an intellectually intensive sector, means that economies of scale could be achieved through cooperation in the cost structure. For instance, an allocation of a single devoted facility for all four Ombudsman institutions would generate possibilities for savings in terms of maintenance and use of administrative functions. Additionally, a large proportion of the existing equipment can be reused at the new location.

Zagreb is the main source of complaints to the Ombudsman institutions' offices. However, this is a relatively small number in comparison to the overall number of inhabitants. In addition, the attempts from 2006 (see report to Parliament) to reach out to various counties demonstrated that interest exists, but the CPO office is not accessible enough. Additionally, segments of population have no or limited access to internet, and yet the promotion activities at this point are aimed at internet resources.

An immediate rationalization measure could be the reorganization or merging of some bodies, particularly in the group of government offices. An example is the office for human rights and the minorities office, due to the similar functions in other branches of government, namely the Parliament.

4.5.3 Coordination and integration

Communication levels between agencies are low and crucially, not institutionalized. Despite obvious signs of a willingness to cooperate on a more official level, this is hampered by location and administrative obstacles. A higher degree of flexibility is required by the offices, something which has only been achieved in the Human Rights Centre, due to its dual role as the research and education institution, as well as a focal point for activists. Therefore, there is a danger that the merger of the CPO and the HRC would yield a decrease in social capital, primarily due to the differing organizational nature of the two institutions. HRC has demonstrated a superior ability to communicate with potential donors and generate long term ideas and programmes. The independence from the remainder of the system seems to have generated positive results in terms of its capacity to provide independent input into the national human rights policy and

monitoring. Certain agencies, such as the Children's Ombudsman have demonstrated a capacity for knowledge de-concentration, an advantage which could provide spill over benefits should closer cooperation be possible, but it is hard to envisage how this could be executed at this point, except if a research body such as the Human Rights Centre and similar institutions which could be considered to be independent of the system become interested in the issue.

Despite the undisputed functions of the various offices of the system, both governmental offices and the Ombudsman's offices, the information concerning their work is scattered, fragmented and not systematically compiled. The Internet as the powerful tool for the presentation of progress in human rights protection has evolved into an internal bulletin board, whereby the actual stakeholders are unable to identify the required information. The progress so far has concentrated on consolidating the internal capacity to provide the mandated functions, without prior strategic planning aimed at user friendliness, which should be a characteristic of a human rights institution. Therefore, in terms of rationalization, efficient use of resources and focus, efforts should be made to integrate the information and competencies of the various agencies towards a common goal. Such a function could be achieved through the development of a single information point for stakeholders on the internet and in terms of initial contact – a single telephone contact and information point for instance. A single web page would require the joint efforts and resources of all agencies and could initiate the optimal use of strategic advantages found in each agency. Should such a development be preceded by an endowment of a dedicated location for several agencies, this would present a logical step forward.

The level of funding in each agency is relatively low, therefore such initiatives could serve the multifaceted goal of using the existing resources in the system, increasing the negotiating position of each institution, and creating positive synergy between the capacities of each institution. There are both internal and external improvements to be made in the system; hence rationalization in the traditional sense should not be conceived as a cost reduction exercise, rather a consolidation of the strengths identified in the system followed by an internal initiative towards a long term development strategy.

5 RATIONALIZATION AND EFFECTIVENESS: A POLICY ANALYSIS

Any analysis of a system of human rights protection and rationalization thereof must start from an understanding that the core of such a system is the mainstream set of institutions and agencies that belong to the state or are vested with public authority, such as the police, judiciary, social welfare, public administration, education, and health care. It is those institutions that protect people against violence or theft, redress damage they have suffered from violation of their rights, and provide due assistance and services. The reason why we tend to immediately focus on other institutions when it comes to analysing the performance of the system is that the very same state- or public institutions are at the same time the most frequent sources and culprits of violation of human rights, by action or inaction.

5.1 THE SIGNIFICANCE OF THE OMBUDSMAN IN THE SYSTEM OF HUMAN RIGHTS PROTECTION

This is precisely the reason why independent statutory institutions of protection and promotion of human rights are also needed. While voluntary civic organizations do much work in that field, their involvement and impact are not constant enough to provide sufficient and dependable protection. The institution of ombudsman combines public authority, bestowed on it by the parliament, and independence from the structures of political power. Although they lack powers of enforcement, ombudsman institutions are entitled to get all relevant information. However, they can only give proposals, suggestions and warnings against practices that threaten human rights. Dealing with individual cases based on complaints received, an ombudsman institution just sends a signal to the responsible authorities that the right is very likely on the side of the complainant, thereby discouraging the misuse of power stemming from the disequilibrium between the system and the individual.

The influence of ombudsman thus rests on informal, “soft” authority, which implies a general prevalence of the rule of law and a considerable level of public support for human rights. In countries where political power is not sufficiently bound by legal norms, which are often formality without substance, those conditions are not fulfilled, which further reduces the impact of the ombudsman. Croatia is a case in point: the ability of the office of the People's Ombudsman and the three special Ombudsman institutions to influence the relevant institutions of the system is limited by the two key deficits, which undermine the “soft” authority of ombudspersons:

1. The systemic lack of political accountability of the government (in the broadest sense)⁴³, which is manifest on different levels: from low responsiveness of public administration and passivity of the welfare system, through lack of independence of the judiciary and its inefficiency, to refusal of politicians in top positions to take responsibility for corruption and similar affairs in their institutions.

⁴³ See, among others, the Croatia Progress Reports by the European Commission, <http://www.delhrv.ec.europa.eu/?lang=en&content=65>

2. The low level of public culture of rights⁴⁴, manifest in the low awareness of discrimination, in ethnic intolerance and xenophobia, and in inability of the general public to distinguish particular needs/interests of certain groups, communities or social categories from abstract and general principles of equal rights for all.

When questioning the rationality and efficiency of the system of protection of human rights, we can approach the issue from the viewpoint typical for rationalization in any field of human activity, namely the one that checks the ratio between the resources engaged and the output achieved. In the previous section of this report it is explained that protection of human rights cannot be measured by quantifiable statements. There is no direct connection/dependence between the action of institutions such as ombudsman and the effective protection of human rights, since the ombudsman is a facilitating, rather than an enforcing agent. It is true that there is room to improve efficiency and rationalize their performance, which results in the number of cases processed, number and type of interventions etc., but the actual protection and remedy in case of violation are beyond reach of the ombudsman institution. It depends on responsiveness and effectiveness of institutions which implement the law directly and provide protection, remedy and assistance.

5.2 EMPOWERMENT OF OMBUDSMAN INSTITUTIONS AS A CONTRIBUTION TO RATIONALIZATION

Hence, the question of rationalization should include not only the internal rationalization of the ombudsman's office as a given institution in a given political and legal environment, but also how the ombudsman is positioned in relation to other stakeholders in protection and promotion of human rights. This determines its indirect impact on the efficiency of implementation and protection of human rights. In other words, what is at stake is not only the quality of internal organization or the “productivity” of activities therein, but also the relative strength of the ombudsman in relation to other agents relevant for human rights.

Hence, the interpretation of the project task should include not only institutional rationalisation and internal capacity strengthening, but also measures of *empowerment* of the ombudsman institutions in relation to the political and public environment – within the existing constitutional and legal mandate (including the Anti-Discrimination Act). If the current position of the People's Ombudsman and the special ombudsman institutions is taken as given and immutable, the analysis may easily end up in a kind of institutional optimism and overlook how deep the gap is between the normative world and the world of real life.

Under the current legislation (leaving aside certain differences between different offices), the ombudsman institutions can intervene in the implementation of human rights by suggestions, proposals, warnings, and recommendations. They do not have the power to

⁴⁴ A recent example is the Research report on the attitudes and level of awareness of discrimination: *Istraživanje o stavovima i razini svijesti o diskriminaciji i pojavnim oblicima diskriminacije*, <http://www.ombudsman.hr/dokumenti/istrazivanje.pdf>. The research is the product of the joint project of the Government Office for Human Rights, the Centre for Peace Studies (NGO), and the Office of the People's Ombudsman.

issue binding instructions. In cases of inadequate response of the responsible institutions, they can call for administrative inspection and notify the government and/or the parliament. They can also inform the public. The reports of the ombudsman institutions submitted annually to the parliament (Sabor) do not show the frequency of various kinds of response of the responsible institutions. Only indirectly, from the information about individual cases, is it possible to see that the state administration, the centres for social care, the agencies of health and pension insurance and other implementing institutions often ignore requests of the ombudsman institutions, or respond inadequately or with considerable delay. Nevertheless, the reports seldom express open criticism of the conduct of the governmental and public institutions. Indeed, the summary critical remarks are presented only in the annual reports of the People's Ombudsman; moreover, the report for the year 2008 states that the critical conclusions from the previous year had to be reiterated, because they were not followed by any action of the government.

However, when such critical objections are pronounced (as in the two last annual reports of the People's Ombudsman), they are “punished” by refusal of the parliament to endorse the report, which was instead merely acknowledged. Possible consequences of such seemingly formal nuance become apparent if we look at the provisions on appointment and removal from office of the ombudspersons: under the provisions of the respective legal acts on all the ombudspersons except the People's Ombudsman, rejection of their report by the Parliament entails their removal from the office. The People's Ombudsman can be dismissed before the expiration of the 8-year term simply by the decision of the Parliament⁴⁵, without any statutory reasons or conditions.

Although it is highly improbable that the Parliament would actually use these powers, this indicates an important weak spot in the legal position of the ombudsman institutions in the Croatian system. They are appointed, and may be dismissed, by a simple majority, which theoretically means that as little as 25% + one MP would suffice. In practice, the Parliament has endorsed a customary rule to appoint the People's Ombudsman by consensus of all parliamentary party factions, but it is not a legal guarantee. However, given that the Government is the sole proposer of the ombudspersons (except the People's Ombudsman, for whom there is no provision on the nomination procedure), their independence is lower than it should be. The whole procedure of nomination and selection of candidates should be placed in the Parliamentary Committee for Human Rights and Rights of National Minorities.

Therefore, one of the main changes should contribute to the independence of the ombudspersons from party-politics in the Parliament. The measures to such effect should include both those that increase their impact and those that increase their independence from party politics (for instance, by increasing the parliamentary majority required for appointment of the ombudspersons).

⁴⁵ The Act on the People's Ombudsman (1992), article 19, paragraph 3, Narodne novine (the official gazette) no. 60, 1.10.1992., http://narodne-novine.nn.hr/clanci/sluzbeni/1992_10_60_1581.html

5.3 OMBUDSMAN – ONE OR MANY?

Apart from the legal position, there remains the question of the relative strength of the ombudsman institutions. A telling detail came to the surface in an interview during the preparation of this report: the Government Office for Human Rights, among other activities, also receives individual complaints about violation of human rights. Although it seems odd that an institution dependent on the government should perform such function, which is more appropriate for the independent actors (ombudsman institutions or civic associations), according to the head of the office, the experience shows that their interventions are probably more efficient than those of the Ombudsman, precisely because of the connection between the office and the government. This should be interpreted as an indication that it is political authority rather than authority of law that moves the wheels of the mechanisms of implementation of human rights.

On the other hand, in many exemplary cases included in the reports of the ombudsman institutions there is no information on the final outcome because of lack of response from institutions in charge. When the Parliament endorses or acknowledges the reports, the decision is accompanied with the conclusion that the government should look into objections to the conduct of the relevant institutions, rectify the practices which are not in accordance with human rights provisions, and report back to the Parliament. That never happens.

The question of the relative weight of the ombudsman institutions in the Croatian system includes the question of rationality of the structure/division of the four separate ombuds-offices. In principle, there are reasons both in favour of special ombudsman institutions and for their integration.

There is a tacit assumption underlying the concept of human rights in the modern era: that they are to a significant extent self-implementing, in the sense that their bearers are free human beings capable of defending their freedom and willing to demand legal guarantees thereof. In terms of social roles, that means that human rights are tailored for middle-class men with some education and property. However, certain categories of beneficiaries are not equally capable of defending their own rights, which requires special sensitivity in approaching them, specific ways of active outreach, information, education and encouragement for them to actively use their rights. In the existing system, such specific categories include those vulnerable to discrimination based on gender and sexual orientation; children and youth; and persons with disabilities. This selection was not a result of an overall strategy; it was dictated partly by the real vulnerability of the categories in question, partly by obligations under corresponding international treaties and conventions, and partly by internal relations, lobbying capacity of particular groups, etc. In any case, although there are other categories of persons or human rights defined by specific vulnerability to discrimination or violation, no additional special ombudsman institutions will be established. Although the right to a healthy environment is becoming increasingly critical, it will not be protected by a special ombudsman, nor will the rights of old people, or the right to free access to information⁴⁶. The particularly sensitive rights of ethnic (and religious) minorities will also stay under protection of the system as is, without a special ombudsman institutions.

⁴⁶ The Croatian Freedom of Information Act does not include provision on a commissioner for access to information, unlike some neighbouring countries (e.g. Slovenia and Serbia).

All special ombudsman institutions insist on keeping their offices separate and independent, because of the specific needs of their respective constituencies of beneficiaries, as well as because of the different legal mandates of their offices. The ombudsman for children pointed out the importance of the children-friendly design of the office space, because her legal mandate includes meeting children and direct work with them. Furthermore, in the course of this year the new office space will be ready, which Ms Jelavić deems a long-term solution. The ombudsman for persons with disabilities warns that a possible office in a building shared with others should be accessible to persons with moving difficulties, who should be able to visit the office using their cars and wheelchairs. The furniture, equipment and facilities inside the office also have to be adjusted to persons with disabilities. There is the closest relation between the two central bodies against discrimination: the People's Ombudsman and the Ombudsperson for Gender Equality. However, opinions of the special ombudspersons about sharing facilities and other resources are not identical.

On the other hand, universality and indivisibility of human rights have specific practical implications, which point in the direction of a unified approach. Apart from more rational utilization of resources, there are important systemic sources of violations of human rights, which are common to all areas of rights. It is significant that all ombudspersons singled out the same sectors of the system that generate problems of human rights, notably the social welfare system, judiciary, etc. which require joint action and a much stronger impact by the defenders of human rights. They all agreed that in such instances their joint action would significantly increase their impact and contribute to the relevance of their interventions. This is not limited just to interventions in individual cases. All ombudsman institutions participate in the legislative process, either with their own policy initiatives or as participants in working groups. However, although they complain that the government is not consistent and often fails to include them in the early stages of drafting bills for the government and the Parliament, they participate selectively, lest their participation be misused to legitimize bills on which they could not exercise any real impact.

Given the differences between the current legal positions of different ombudsman institutions and between modes of operation that have taken shape so far, as the first step we do not recommend their immediate integration, but measures of closer cooperation, coordination and resource-sharing. It should be guided by functional, rather than by formal concerns.

Effective sharing of costs of facilities, resources and supporting personnel would require to place all ombudsman institutions in the same building (with a possible exception of the ombudswoman for children), where they could share accounting, computer network, cleaners, drivers, etc. The rationale for such a move has been explained in greater detail in the preceding section. What is more important, such a common “national institutions centre” would symbolically contribute to their visibility and authority as defenders of human rights. The closer cooperation and coordination of joint activities between the ombudsman institutions should include:

- Regular consultations among the ombudsman institutions on the most burning issues of human rights and the problems with the (non)cooperation of the government bodies and public institutions.

- Joint reporting on the cross-field (common to gender, disability, young age, ethnic, and other human rights) aspects of human rights in the country.
- The joint database - infrastructure for storing, processing and sharing data within the common structure. The database should enable comprehensive overview of the situation of human rights in the country, including the systemic sources of problems, which could be best captured by including data on perpetrators (or alleged perpetrators, according to complaints) by type and individually, as well as on the responsiveness of the institutions in charge during the work on each case. It should thereby keep record of indirect perpetrators, i.e. institutions in charge which fail to take due action and uphold legal guarantees of human rights.

The joint reporting supported by the comprehensive database with the elaborate structure will enable much more specific critical analysis of the weaknesses of the system of human rights protection.

Having emerged in different circumstances, different ombudsman institutions also have different legal mandates. The most poorly defined is the mandate of the People's Ombudsman, which was established a long time before the others. Under the Anti-Discrimination Act the People's Ombudsman office has already broadened its scope, which should be extended to all areas of human rights that the office handles. Moreover, as a designated A status national human rights institution, the office of the People's Ombudsman should increase its capacity to include

- public promotion of human rights;
- research into relevant human-rights issues;
- education in human rights for groups relevant in protection and promotion thereof: journalists, teachers, civic activists, and so on;
- public outreach in advocating accountability and responsibility of governmental bodies.

Such a great step would take a long time if taken by the office itself. However, keeping in mind the complementarity with the Human Rights Centre and its activities, the most obvious solution seems to be establishing closer ties and continuous cooperation of the two institutions. Implementation of such solution, though, is not simple and straightforward. First, the People's Ombudsman's office is an independent body, established by the Constitution, whose head is appointed by the Parliament, while the HRC is a public institution established by a government decree.

Secondly, apart from the differences in the formal status, the connection between the two institutions should be defined so that it provides both for close coordination of activities and for maintenance of the character of the institutions which makes them valuable. The activities of public promotion of human rights, initiating debates and research of sensitive and critical issues, require autonomy and independence. Promotion of human rights can best proceed not as propaganda or "frontal" education, but as social learning, that is, acquiring understanding of human rights through confronting obstacles and dealing with problems. Organizational culture and capacities suitable for such mission have already developed in the Centre and should be preserved. In turn, the practice and commitment of the People's Ombudsman's office provide rich empirical evidence of the real-life problems of human rights, which should serve as source of topics and information for promotional and educational activities, for public debate and research.

Two institutional solutions are possible:

(a) Following the suggestion of CPO to form a new department as a form to merge with the Human Rights Centre, whose head should be appointed by the parliament, with the same rank as the deputy-ombudspersons, whereby the Human Rights Centre would retain its mode of operation, which has made it successful in performing the above mentioned functions so far. The department would autonomously perform public activities; the topics would be determined by the strategy of the People's Ombudsman's office, in accordance with priorities in protection of human rights, while the Centre would develop the programme and time-frame, select participants etc. Furthermore, the Centre would coordinate the strategic planning of the People's Ombudsman's office and development of project proposals for funding – as the coordinator and educator, rather than a “service” (both planning and project development must be performed on an inclusive participatory basis).

(b) Provided the Parliament endorse an act by which the Human Rights Centre would be transformed from a government institution into a public institution in its own right, the functions listed in the previous paragraph could be performed in the basis of a binding agreement between the Centre and the People's Ombudsman's office.

Disadvantages of the (a) solution are (i) a possible loss of independent sources of funding that the Centre has enjoyed as a separate, though technically governmental institution (notably the East-East programme of the Open Society Institute) and (ii) possible loss of the specific mode of operating and character of the team. Regarding the (b) solution, it is questionable how long it would take to have the act passed by the Parliament, which would turn the Centre into an autonomous public institution.

5.4 GOVERNMENT OFFICES

The government has formed a number of offices and individual positions on the national, regional, and local levels to take care of implementation of human rights, antidiscrimination policies, gender equality etc. Their role is to facilitate implementation of the major legal acts relevant to human rights and the fight against discrimination, such as the Anti-Discrimination Act, the Act against Gender Discrimination, National Programme of Human Rights Protection, and the similar, as well as the international human rights instruments to which Croatia is a party. The mission of the government offices is manifold. It includes:

- drafting national policies, programmes and platforms for implementation of respective regulations relevant for specific fields of human rights and human rights in general;
- coordination of various commissioners and other officers and coordination groups responsible for implementation of human rights, equality etc. in the ministries, regional and local authorities;
- approval of plans of such officers;
- monitoring of implementation of regulations, programmes and policies;

- production of national reports to international bodies under human rights conventions, treaties etc.;
- certain offices are charged with particular responsibilities (e.g. the Office for Human Rights is the focal point for fight against trafficking in human beings, while the Office for National Minorities is responsible for coordination of activities within the Decade of Roma and the National Programme for Roma).

Additionally, some of the government offices disburse grants to projects of nongovernmental organisations and perform other activities.

Therefore, their rationalization would require a separate study of coherence of government's strategies, programmes and policies, as well as of the structures of councils, coordinating bodies and officers for various aspects of human rights on various levels. It is also worth looking into the real meaning of such networks of officers and coordinating bodies – whether they are necessary only in the transition period, to facilitate the adoption of many entirely new areas and forms of regulation, for which the system was not prepared, or this structure is meant as a permanent arrangement. Furthermore, is it a formal or a really working arrangement?

Thus, the government offices are in principle neither implementing nor facilitating bodies of protection of human rights. They assist the government in developing the system and in monitoring its performance.

However, although the tasks the government offices perform for the government could not be entirely included into the current analysis, there is room for improvement and rationalisation in their relation with the ombudsman institutions.

Given that one of the major functions of the government offices is monitoring of implementation of legal acts, strategies and programmes relevant to human rights, their findings and reports should be a matter of public domain, which would contribute to make the monitoring a real tool of evaluation of performance of the system, rather than a merely formal exercise in checking the list of measures fulfilled, or classified information for exclusive use of the government. There is room for rationalization if the monitoring and reporting are planned and designed in coordination with the ombudsman institutions, who would be able to utilize the findings in their work.

The importance of cooperation with the ombudsman institutions could be illustrated on a specific case of monitoring function that is sometimes unexplainably partial: for instance, the Office for National Minorities does not monitor the implementation of the Constitutional Act on the Rights of National Minorities. Therefore, nobody can tell the extent of implementation of representation and proportional representation of ethnic minorities in the local and regional councils and assemblies, or about the extent of implementation of the provisions on proportional employment of minorities in the public sector.

There are also inconsistencies in the formal definition of disabilities, and the feedback from the Ombudsman could help improve the system. We also learned that the government has failed to designate a focal point on the implementation of the Convention on the Rights of Persons with Disabilities, as required in Article 33(a) of the treaty.

On the other hand, the government offices and the government itself should include the findings in the reports of the ombudsman institutions when developing national policies, strategies and legal changes relevant for human rights (Paris Principles, Competence and responsibilities, 3 (d)).

There is also a possibility of rationalization of the staff of government offices dedicated for EU funds, by forming one (small) team for all three offices.

6 SUMMARY OF RECOMMENDATIONS

6.1 GENERAL

- The level of funding of the human rights protection system (as defined in this study) should in no circumstances fall beneath its current level in real terms. Any savings made through the rationalization measures proposed should be retained within the human rights system. We would strongly recommend that there be a significant increase in expenditure on the human rights system, at a minimum to allow the institutions to fill their existing staff establishment and to create regional offices.

6.2 OMBUDSMAN INSTITUTIONS

- All Ombudsman institutions should retain complete independence from each other in all substantive matters relating to their mandates.
- All Ombudsman institutions should move towards occupying shared premises. (A probable exception would be the Ombudsman for Children, given the recent acquisition and current refurbishment of new premises. Nevertheless, where possible, they should participate in the common functions – from accounting to the database.) The building would need to be converted to meet the standards of access specified by the Ombudsman on the Rights of Persons with Disabilities.
- All Ombudsman institutions should share offices at the regional level. All requirements of accessibility to persons with disabilities, as well as the “children-friendly” environment, should apply. (A possible model would be for premises to be operated by one of the Ombudsman institutions but to accept complaints for all four.)
- Those Ombudsman institutions occupying shared premises should also initiate a progressive staff rationalization, whereby certain administrative functions could be shared and savings put towards the creation of additional posts for programme staff.
- All Ombudsman institutions should operate a shared database for complaints-handling and general information. The database should record not only data on cases of human rights violation, but also data indicating responsiveness and responsibility of the state and public institutions.
- All Ombudsman institutions should explore the possibility of a single web portal for the independent Croatian NHRIs.
- The parliamentary majority required for the appointment of Ombudsmen should be increased from the present simple majority. The current procedure of nomination, with the Government as the sole proposer, should be replaced by nomination through open competition, and the whole procedure should be run by the Parliamentary Committee for Human Rights and Rights of National Minorities.
- The Ombudsman institutions should take joint public action as appropriate.
- The Ombudsman institutions should cooperate in handling complaints involving multiple discrimination.

- The Ombudsman institutions should report jointly on matters that relate to all institutions.

6.3 HUMAN RIGHTS CENTRE

- The Human Rights Centre should be constituted as a department of the Croatian People's Ombudsman, with responsibility for strategic planning, as well as for its range of current activities. The head of the department should have the status of an additional Deputy Ombudsman. Whatever arrangement is adopted, it is important that it guarantees the existing character of the Centre, including its ability to take the initiative in raising human rights issues and its capacity to attract funds from independent sources.

6.4 GOVERNMENT HUMAN RIGHTS OFFICES

- There should be regular coordination meetings between the Ombudsman and government offices with a view to maximizing effectiveness and eliminating duplication of activities.
- In particular, there need to be discussions about whether the Human Rights Office should continue with its current complaints-handling function.
- The government offices should see as one of their primary functions the generation of information, including statistical data, for the Ombudsman institutions, as well as the general public.
- The government should consider the merger of the Human Rights Office with the Office for National Minorities.
- The government should designate its focal point for the implementation of the Convention on the Rights of Persons with Disabilities, probably nominating the Human Rights Office.
- The government should continue the formation of a single unit for the management of EU-funded activities across the three offices.

7 APPENDICES

7.1 LITERATURE, SOURCES OF INFORMATION AND OTHER REFERENCES

1. Literature:

Croatian Chamber of Commerce, (2008) *Useljenička Politika u Funkciji Razvoja Hrvatskoga Gospodarstva (Immigration policies as a function of the Croatian economic development)*, International conference proceedings, GIPA: Zagreb.

Human Rights Office of the Government of Croatia, (2009) „Istraživanje o stavovima i razini svijesti o diskriminaciji i pojavnim oblicima diskriminacije“ (eng. *Research on attitudes and awareness on discrimination and discriminatory manifestations*), Besitas dizajn: Zagreb.

2. Internet sources:

Ministry of finance, reports on the Budget of the Republic of Croatia, various dates, <http://www.mfin.hr/hr/drzavni-proracun-arhiva>

Croatian People's Ombudsman, annual reports to the Croatian Parliament, various dates, <http://www.ombudsman.hr/hr/izvjesca-o-radu-pravobranitelja.html>

Ombudsman for children, annual report to the Croatian Parliament, various dates, <http://www.dijete.hr/index.php/en/reports/reports-of-the-ombudsman-for-children.html>

Ombudsman for gender equality, annual report to the Croatian Parliament, various dates, <http://www.prs.hr/content/section/11/45/>

Ombudsman for persons with disabilities, 2008 report to the Croatian Parliament, <http://posi.hr/izvjesca.php>

Human Rights Centre, annual reports, various dates, <http://www.human-rights.hr/opce/godisnji-izvjestaji-o-radu-centra/>

Government of the Republic of Croatia,

- Office for Human rights, <http://www.ljudskaprava-vladarh.hr/Default.aspx>

- Office for national minorities,
http://www.vlada.hr/hr/naslovnica/o_vladi_rh/uredi_vlade/ured_z_a_nacionalne_manjine
- Office for gender equality, <http://www.ured-ravnopravnost.hr/>

Official gazette of the Republic of Croatia, web archive available at www.nn.hr – several sources.

3. Other references:

Republic of Croatia, Office for Human Rights, (2010) Activity report, unpublished, internal use.

Survey feedback – collection of information and documents from the institutions in the Croatian human rights system in preparation for the project, including statutory documents, financial data and information relating to internal and external communication.

7.2 LIST OF INTERVIEWEES